

1 Record Giants Blink

On February 16, 1944, a dozen jazz musicians met at a New York studio to record three songs for Apollo Records. The band's leader was the tenor saxophonist Coleman Hawkins, who at age thirty-nine was the oldest jazz musician present and easily the most famous. Almost five years earlier, Hawkins had recorded "Body and Soul," on which he seemed to improvise seamlessly for about three minutes without once playing the famed song's original melody—except for the opening four bars. Hawkins's brash reworking of the Tin Pan Alley standard had become a jukebox hit for RCA Victor and made Hawkins a saxophone sensation. But jazz reputations in the 1940s required reinvention and fresh achievement. To remain ahead of the creative curve, Hawkins frequently invited younger jazz musicians to challenge him in clubs—a risky move because it exposed him to a possible besting by up-and-comers. But the open invitation also allowed Hawkins to stay sharp and remain in control. The musicians who assembled that day for the Apollo Records session were both his admirers and his stylistic rivals.¹

The February 16 gathering at Apollo was the label's very first recording session. Apollo had been founded just weeks earlier by Teddy Gottlieb, the white owner of the Rainbow Music Shop on 125th Street, one of Harlem's most popular record stores.² With the Apollo label, Gottlieb hoped to create a pipeline for his record store by having musicians re-create on disc the excitement of Harlem's after-hours clubs. He also fully expected the label's records to sell well in the store's neighborhood, particularly among younger buyers, who weren't old enough to gain entry to the clubs. In Gottlieb's favor was the Rainbow Music Shop's regular sponsorship of the *After Hours Swing Session*, an overnight radio show on WHOM hosted by "Symphony Sid" Torin.³ The animated disc jockey had been on the air

in New York since 1937, spinning jazz records by black musicians, and the show was revered by Harlemites.⁴

What Gottlieb did not know—and could not have known on February 16, 1944—was that Apollo Records was about to make history. On that day Hawkins and the other musicians—the trumpeters Dizzy Gillespie, Vic Coulsen, and Eddie Vanderveer; the saxophonists Leo Parker, Leonard Lowry, Don Byas, Ray Abrams, and Budd Johnson; the pianist Clyde Hart; the bassist Oscar Pettiford; and the drummer Max Roach—would take part in what is now considered the first commercial bebop recording.⁵ The music they recorded that February wasn't known officially then as "bebop"—it was too new, and the word *bebop* wouldn't be used in print to describe the new style of jazz until later in the year, when magazine writers needed a snappy word to summarize the animated style. But the musical language of bebop—with its strange-sounding notes and breakneck tempos—had been developing aggressively over the preceding years, at jam sessions and in black big bands.

To the average ear, bebop sounded significantly different from the more predictable "swing"—the most popular jazz style in 1944. Swing was primarily dance music; black big bands had first developed it in Kansas City in the late 1920s and early 1930s before it was leveraged by white bands in the mid-1930s. Swing's crossover to national prominence began in 1935 when Benny Goodman's band appeared at the Palomar Ballroom in Los Angeles, met there by frenzied local teens who had heard the band play on NBC's *Let's Dance* radio broadcasts.⁶ For the most part, swing featured a less frantic tempo than earlier jazz styles, often with an emphasis on the second and fourth beats.

Bebop, initially, was everything swing was not. Its explosive excitement centered on individual musicians, who took turns playing improvised solos. Often bebop was performed at a pace far too fast for dancing. And while swing relied predominantly on parts written for a large group of musicians—with an occasional space for a brief solo or two—bebop was intended to be played by small groups that joined together only briefly at the beginning and end. Bebop was so intricate that most musicians—even experienced jazz musicians—could not imitate it with ease.

The sound of bebop resembled that of no other form of jazz previously played or recorded. There was a happy urgency and sly hipness to it, a bouncy, slippery informality and liberated feel that left listeners excited and energized. The secret of the new music rested in soloing musicians' interpretations of the song's chords—they added notes in some cases and left out notes in others.⁷ Speed, improvisational risk taking, and on-the-

fly harmonies also played big roles in the music's high-wire act. This was music for showing off the talents and dexterity of the individual, not the whole ensemble.⁸

"Bebop wasn't a secret language," said the pianist Billy Taylor, one of bebop's early practitioners. "It was an expansion of many aspects of the complex musical language that already was being played at the time by Art Tatum and others. In 1944, Dizzy demonstrated bebop to me on the piano of the Onyx Club on New York's 52nd Street. He said, 'Look, if you play this chord and add this note, this will happen. Then if you leave this note out, it will take you in a different direction.' Dizzy had spent years working this out."⁹

The musicians who recorded for Apollo Records in February 1944 weren't strangers. They knew one another and had performed with each other since late 1943 at New York's Onyx Club and Kelly's Stable.¹⁰ In addition, several of the musicians were already established jazz stars. Some weeks earlier, for example, two of twelve musicians—Coleman Hawkins and Oscar Pettiford—had been named top artists on their respective instruments by *Esquire* magazine's jazz critics' poll. But of all the musicians present that day, Gillespie was far and away the one who had done the most to develop and codify the new style of jazz they were recording. His nickname, Dizzy, was perfect—describing how the spiraling music made listeners feel while also fooling rivals into underestimating his extraordinary skills. The nickname had been given to him in the late 1930s, while he was in Teddy Hill's band. "Dizzy stayed up there [in the trumpet section] with his overcoat on—in fact he did everything in an unorthodox fashion," said Hill in an April 1947 interview in *Metronome* magazine. "Embarking on a new arrangement, he was as likely as not to start reading an interlude or the last chorus instead of taking it from the top. I said to him, 'Boy, you're really Dizzy.' 'Yes,' said Gillespie cheerfully. 'That's right.' I said, 'I think I'm going to call you Dizzy.' And that's the way it has been ever since."¹¹

Gillespie had also been the most articulate explainer of how the new jazz should sound, often teaching fellow musicians to play it. "Dizzy tried to hum everything to everybody to get them to see what he was still talkin' about," tenor saxophonist Budd Johnson told Ira Gitler. "Diz would sing, and actually that's how I think the music got its name, bebop. Because he would be humming this music, and he'd say, 'Ooop bop ta oop a la doo bop doo bad.' So people said, 'Play some more of that bebop'. . . and actually I think that's how it got its name, because that's the way he would have to sing it to make you get the feeling that he wanted you to play with."¹²

But if Gillespie and other bebop pioneers—including the alto saxophonist Charlie Parker, the drummer Kenny Clarke, and the pianist Bud Powell—had been developing the jazz form since 1941 and 1942, why did it take until February 1944 to record the music? And how did a frantic form of improvised music played mostly by black musicians in dimly lit nightclubs for audiences seated in chairs rather than moving about on dance floors manage to become a national sensation four years later, not to mention jazz's predominant style?

SWING AIN'T THE THING

The recording of bebop in February 1944 occurred largely because Decca and smaller record companies had settled with the American Federation of Musicians in late 1943, ending a recording ban by musicians that had started in the summer of 1942. All the labels that signed with the union in the months that followed hoped to take advantage of a marketplace without new releases from RCA Victor's and Columbia's star bandleaders. Those two major labels refused to settle with the musicians' union and would hold out until late 1944. With Victor and Columbia idle, small independent labels were able to rent studio time and record on a shoestring budget. Many of these smaller labels in New York turned to musicians who could assemble groups and record exciting music at a high level. Apollo was among these microlabels, but the number of new record ventures multiplied quickly as Victor and Columbia held out.

When Dizzy Gillespie and Charlie Parker began to record bebop, other musicians bought their records and transcribed their notes to figure out what exactly they were doing. "How did I learn bebop? There was no school to learn," said the clarinetist Buddy DeFranco. "You had to figure out what was going on musically. In 1944, I was in Charlie Barnet's band. Dodo Marmorosa, the piano player, and I collaborated quite a bit during our down time. One day we ran into trumpeter Charlie Shavers. He said, 'There's a guy up in Harlem who plays alto saxophone. His name is Charlie Parker. You have to go hear him.' . . . So on a night off, we went up there. We were dumbstruck by what he was doing on his instrument. We spent as much time as possible there but we only picked up so much. It wasn't long after that night that Parker started making records with Dizzy Gillespie, introducing the idea of bebop. We played their records over and over again when we began to figure out what they were doing. Dodo said to me, 'Why don't you try to play the clarinet like Parker?' I said, 'That's exactly what I was thinking.' So I did."¹³

Bebop's roots can be traced back to the early 1940s, when black big-band musicians began experimenting with new ways of playing improvised solos. From the start, their goals were to gain the admiration of their audiences with these solos and to achieve a level of fame and respect from their peers. A black musician who became a renowned soloist could start his own band or land a coveted record deal with a major label. By 1940, several black jazz musicians, including Louis Armstrong, Art Tatum, Fats Waller, Lionel Hampton, Teddy Wilson, and Coleman Hawkins, had already reached star status by having commercial crossover success as soloists. For young black musicians in bands in the 1940s, the only way out was up, and the only way up was to stand out by being exceptional.

But from the perspective of bandleaders, the success of individuals in their bands was bad for business. Running a swing orchestra was a daily challenge requiring entrepreneurial skill. Bandleaders had to resort to managerial and psychological tricks to retain top young talent. The stakes were highest for the major swing bandleaders who had lucrative contracts with record companies and appeared on the labels' radio networks. Similar contracts did not exist between the bandleaders and the musicians they hired and had to retain. Without formal contracts with bandleaders, musicians in swing orchestras typically remained with a band until they received a better offer from another one or were fired—a frequent occurrence, since bands were constantly being overhauled and fine-tuned by bandleaders. Musicians who wanted to break free of this hired-fired cycle and improve their job security had to develop a distinct sound on their instrument. In other words, their performances had to wow audiences without eclipsing the talent and egos of bandleader bosses.

For an individual musician, quitting a band without having lined up another offer was risky. Leave a band to do what? Without star power and sizable capital from a backer, forming one's own band was a challenge for the novice. Record companies were few during the 1930s, with Columbia, RCA Victor, and Decca making up 85 to 90 percent of the market by 1940.¹⁴ From the record company's standpoint, recording, to be cost-efficient, required perfection. The odds were slim that one of these record companies would take a chance on an unknown musician or a band whose errors could result in cost overruns and subpar music. Though a handful of smaller jazz labels existed before World War II, they recorded primarily older styles, and their products were marketed to record clubs and collectors and other enthusiasts of traditional jazz.

If you were a jazz musician in the late 1930s and early 1940s, you had little choice but to cling to the swing bands that recorded and toured. In

turn, bandleaders constantly had to develop ways to feed the egos of their talented sidemen—without overinflating them. As many bandleaders discovered, a fine line existed between recognizing talent and heaping on too much praise. Keeping star musicians happy compelled swing bandleaders to order up arrangements that provided solos for them. Bandleaders also formed small groups within their bands to give their best musicians a chance to shine.

For a time, these spotlight opportunities satisfied the ambitions of many leading band musicians. But by 1941 the novelty of playing in a big band's small breakout group began to wear thin for younger and more talented sidemen, particularly in black bands. With 78-rpm records able to hold only about three minutes of music on each side, solo time was minimal. Increasingly, this spare solo space failed to satisfy the creative spirit and abilities of top talent. These musicians came to realize that they had only one shot: to stand out with hopes of developing a following and being discovered by record companies. It was a risk, but a risk many felt they had to take. As a result, more ambitious artists began to experiment with new ways of playing solos, to make them memorable.

Chief among these musicians was Gillespie. Born in Cheraw, South Carolina, Gillespie had attended a nearby music school on scholarship and studied piano and trumpet.¹⁵ In 1937 he traveled to New York and joined Teddy Hill's band, emulating the famed trumpeter Roy Eldridge's fiery style. In 1939 Gillespie joined Cab Calloway's orchestra, one of the most successful black bands in the country. But the bandleader didn't particularly appreciate Gillespie's approach to soloing, calling the unorthodox notes "Chinese music."¹⁶ In March 1941, Calloway hired the more traditional trumpeter Jonah Jones to handle the solo parts. In addition, Gillespie was increasingly excluded from the band's small group, the Cab Jivers. Gillespie's frustration grew, and in response he boldly exhibited his penchant for sophomoric pranks.¹⁷ In September 1941, the two men came to blows. Calloway, after a performance during which he thought Gillespie had thrown a spitball, took the trumpeter to task. Words were exchanged, and when Calloway reached out to strike Gillespie, the trumpeter reportedly pulled a knife. The bassist Milt Hinton interceded, but Calloway grabbed Gillespie's wrist, and the two men scuffled until other band musicians pulled them apart. But by then, the knife had cut Calloway, and Gillespie was fired.¹⁸

After Gillespie left Calloway's band, he began to freelance in New York, playing at clubs in Harlem. Jam sessions at Minton's Playhouse, Clark Monroe's Uptown House, and other establishments typically featured

small clusters of musicians, mostly horn players, backed by an aggressive rhythm section. At these clubs, musicians played extended improvised solos based on blues and Tin Pan Alley standards, competing for peer and audience approval. The musicians in the house rhythm sections prodded and provoked soloists with unexpected piano chords, bass lines, and drum patterns, hoping to egg them on to even more exciting results—or failure and humiliation. Gillespie, during the months after he left Calloway's band, sharpened his ideas at these clubs and in the sextet of the alto saxophonist Benny Carter. In early 1942 Gillespie subbed in Woody Herman's band and sold several of his arrangements to Herman and Jimmy Dorsey. In May 1942 Gillespie joined Les Hite's band in New York and recorded a brief solo on "Jersey Bounce" using his new style. The record was a hit, and Gillespie was only too happy to share his new musical discoveries with other musicians.¹⁹

The trumpeter Joe Wilder, who sat next to Gillespie in Hite's band, recalls that Gillespie's bebop style was already in place in 1942: "We didn't call it bebop then, of course. It was just a new way of playing, and Dizzy had already recorded some of those new things months earlier in Cab Calloway's band. Instead of playing the chords that were written, Dizzy was into flatted fifths and ninths, and harmonic playing. What was fascinating was that Dizzy could be both precise and loose. Between songs, Dizzy would start telling me jokes and cracking me up. Then Les would give a downbeat and I couldn't stop laughing. Les would say, 'Hey Junior—that was my nickname—you had better play and stop fooling around back there.' Dizzy, of course, would have an innocent expression on his face, as if he had no clue why I was laughing. He wasn't trying to throw me. Dizzy wasn't competitive like that. He was happy to show me things all the time on the trumpet and he also had solos on songs, just like I did. Dizzy's humor kept him relaxed, and his style of playing in Les' band was very different."²⁰ By July 1942, Gillespie recorded with Lucky Millinder's band, and his solo on *Little John Special* demonstrated that his new jazz ideas were developing rapidly.²¹

Halfway across the country, the saxophonist Charlie Parker also was experimenting with a new solo approach for many of the same reasons as Gillespie. Born in Kansas City, Kansas, Parker began by playing baritone horn in a school marching band and eventually picked up the alto saxophone. In 1936 the fifteen-year-old Parker was urged to sit in with seasoned members of Count Basie's band, including the tenor saxophonist Lester Young and the drummer Jo Jones. But Parker played "Body and Soul" in the wrong key and was so lost in thought that the didactic Jones

tossed one of his cymbals at Parker's feet to get his attention. The brass disc fell with a deafening crash and Parker, humiliated, packed up his instrument and departed.²²

Discouraged but undeterred, Parker spent the next year practicing intensively—mastering scales and blues runs in every key.²³ Because jazz in Kansas City in the mid-1930s relied more on improvisation than on elaborate arrangements, Parker was forced to develop fingering for speed and an ear for inventing blues riffs.²⁴ In 1937, when he returned to the jazz scene in Kansas City after his self-imposed exile, he was a more mature and confident player. During the next three years, he moved from Kansas City to Chicago and then to New York in search of playing opportunities—at one point washing dishes at a Harlem club just to hear the pianist Art Tatum.²⁵

But by 1939 Parker had become bored with the static music he had been playing in bands: "I kept thinking, there's bound to be something else. I could hear it sometimes but I couldn't play it. Well that night I was working over 'Cherokee,' and as I did I found that by using the higher intervals of a chord as a melody line and backing them with appropriately related [chord] changes, I could play the thing I'd been hearing. I came alive."²⁶

Parker returned home to Kansas City in 1940 for his father's funeral and soon took a job in Harlan Leonard's band. But Parker's chronic lateness forced Leonard to fire him. Parker joined Jay McShann's swing band and toured the Southwest with the blues orchestra for the next year and a half. When McShann arrived in New York in January 1942, the band appeared at Harlem's Savoy Ballroom opposite Lucky Millinder's orchestra, which at the time featured Dizzy Gillespie in the trumpet section.²⁷ Like Gillespie, Parker also played jam sessions at after-hours clubs. During one of these appearances, in 1942 at Clark Monroe's Uptown House, Parker's improvised performance of "Cherokee" was captured on an acetate disc recorded by Jerry Newman, a Columbia University student. As evidenced by the recording, Parker's solo was breathtakingly fast and fluid, demonstrating an unrivaled feel for the new modern sound that Gillespie and his disciples were crafting separately in Harlem clubs.²⁸ By the summer of 1942, Gillespie was experimenting with new chord voicings and harmony while Parker was exploring how to phrase solos differently and infuse the blues into virtually every one he played.

Both Parker and Gillespie had just about perfected their new approaches to jazz when their ambitions to record were halted. In August 1942 the American Federation of Musicians launched a job action against record

companies that prohibited all union musicians from recording. The ban was the culmination of a fifteen-year battle the AFM had been waging over new sound-recording technologies that had displaced thousands of musicians. Bebop in 1942 would have to wait a little longer to be recorded.

DIALS, NICKELS, AND PINK SLIPS

In the years preceding World War II, music had become the country's most affordable form of entertainment. Movies were popular, too, of course, but they had two big drawbacks: They could not be viewed at home, and you had to pay each time you wanted to see them. By contrast, music could be heard free—again and again—after the initial purchase of a radio or a phonograph and records. As radio networks expanded their reach nationwide, music became an even more popular Depression-era pastime, with millions of Americans listening to the same programs at the exact same time, often in the comfort of their living rooms.

As the quality of recorded music improved, starting in the late 1920s with the introduction of the electronic microphone, the recording and radio industries prospered. Network radio featured live studio performances of musicians while records allowed consumers to hear favorite artists on their home phonographs and on jukeboxes in public. The two media—radio and records—worked hand in hand, and sales of both soared. From 1927 to 1930, the bandleader Duke Ellington appeared more than two hundred times on the radio,²⁹ establishing himself as a formidable recording artist and major crossover attraction. But radio and records spelled trouble for the vast majority of average musicians who earned a living performing in theaters, taverns, and other public places in America's small towns and big cities. Owners of bars or restaurants who added a radio, phonograph, or jukebox to their establishments no longer had to worry about musicians' salaries or the rules imposed by the musicians' union. They simply flipped a switch and turned up the volume.

In 1926, soon after radio sets began to be mass-produced, the American Federation of Musicians' president promised members that there was "absolutely nothing to fear from radio. Radio will have the same result as the phonograph . . . it will ultimately increase the employment of musicians."³⁰ In all fairness, recording and playback technology was in its infancy, and music performed onstage or live over the radio sounded far superior to the scratchy, coarse results coming through phonograph horns. But after the development of electric recording equipment in the

mid-1920s, the sound of records began to improve dramatically, as did the at-home phonograph.

During this period, the simplicity and affordability of the radio made it a family necessity. In 1925 there were 571 radio stations in operation in the United State, and radios in more than four million households, or about 10 percent of the total, leaving enormous room for growth.³¹ In November 1926 RCA launched its NBC radio network by broadcasting a dance-band program from New York that reached twenty-five stations as far away as Kansas City. Consumer demand for radio programming was so strong that by January 1927 the United Independent Broadcasters (UIB) radio network was formed in Chicago. That same month, RCA launched a second network, renaming its existing one the Red Network and the new one the Blue Network. In 1929 the struggling UIB was sold and renamed CBS by its new owner, which expanded the network by emphasizing dramatic programming for the at-home market.

In its infancy, radio was a mess. Signals weren't uniform, causing one station to override another on the dial as the number of operators increased. With the passage of the Radio Act of 1927, the government began to license stations, bringing order to the near-chaotic market and the signals beamed by stations. With efficiency came a well-ordered radio dial, leading to a surge in sales. In 1927 three hundred thousand employees worked in twelve hundred radio plants, most of them in seven major cities. By 1929 some plants were producing a thousand radios a day.³²

The first significant threat to musicians from technology came in 1926. That year, Warner Brothers introduced its Vitaphone sound-picture system in short-subject films, laying the groundwork for the "talkie" movie. From the start, music for talkies was recorded at movie studios in California and then synchronized to the action in films. The new technology's impact took a little time but ultimately proved devastating for movie theater organists and orchestras. The number of musicians employed to accompany silent films in movie houses around the country began to drop precipitously. Within a few years of the Vitaphone's launch, an estimated twenty-two thousand musicians—half of the instrumentalists employed by movie theaters at the time—were out of a job.³³

"Sound movies didn't start all at once across the country," said the saxophonist Lennie Niehaus. "Talkies were something of a novelty early on. Smaller movie theaters continued to play the older silent movies with live music behind them. The big theaters got the new movies with the sound. But as the years went on and talkies took hold, the live orchestras were cut down to smaller groups, and then to just a violin and piano and drums

for local theaters. Finally, the work just dried up. As soon as talkies began to take hold, the Hollywood studios started to hire their own orchestras. My dad heard about opportunities in the studio orchestras out there, so he packed up our family and moved us to Los Angeles."³⁴

The trend toward recorded music only accelerated with the repeal of Prohibition in 1933. As the number of bars proliferated, so did the number of jukeboxes installed. The modern commercial coin-operated machines had first emerged in 1927 after electronic microphones improved the fidelity of recordings and the electric amplifier made built-in speakers possible. The jukebox's popularity surged during the 1930s—not only in bars but also in restaurants, hotel lounges, and anywhere people ate and drank. By 1936 Wurlitzer alone was earning a net annual profit of about \$500,000, and by the following year the company held a 50 percent market share. In the late 1930s, the company was rolling out up to seven new models a year.³⁵

During the Depression, as the popularity of radio, records, talkies, and jukeboxes continued to grow, unemployment among musicians increased. For the American Federation of Musicians, fewer musicians collecting wages meant fewer members paying union dues, and a decline in membership meant the AFM would have less clout. The federal government tried to aid musicians with the Works Progress Administration's Federal Music Project (FMP), which from 1935 to 1939 employed nearly 12,500 musicians in symphonies, small orchestras, brass bands, and opera or choral groups.³⁶ But the effort led by Washington did little for musician employment overall. By 1942 an estimated 50–60 percent of the AFM's 138,000 members were unemployed.³⁷

No other occupation in America had ever faced such a threat from technology. In most industries, technology helped workers make more products faster. For example, a car built on a newly outfitted Detroit assembly line required the labor of autoworkers to operate the machinery. With the radio, records, the phonograph, and the jukebox, however, a single master recording made by musicians could be used to press millions of copies of the same song with no further participation by the original workers—in this case the musicians—in their production.

In addition, consumers could play those recordings repeatedly at home with no need for a new copy, no further payments to make, and no new efforts on the part of the musicians who made the original recording. In other industries, workers could be retrained to operate new methods of automation. But the new recording and playback technologies produced no alternative jobs for musicians. Instead, jobs that had been available to

musicians, in silent-movie theaters, on the radio, and in other public places, simply disappeared as recorded sound made those positions unnecessary. By the 1930s radio posed the largest threat to musicians' jobs, especially as records began to be played on the air.

The AFM had little choice but to either fight the trend or face the real threat of marginalization and diminished power. Many of the tactics that the AFM would implement had been used by the American Society of Composers and Publishers (ASCAP) in earlier battles against radio. ASCAP was formed in 1914 after the composer Victor Herbert heard the unlicensed performance of his music at a New York restaurant. After complaining to the restaurant's owner that the unauthorized performance was in violation of the copyright law, Herbert was told there was no copyright infringement because no admission had been charged at the door. In retaliation, Herbert and 170 composers and 22 music publishers formed ASCAP, which would be responsible for collecting fees from orchestras, theaters, and anyone else who wanted to perform members' compositions in public for profit.³⁸ In the 1920s the courts extended the composers' right to collect such fees to radio.

At first, ASCAP had given radio a pass on these fees, since the airplay of members' songs by live orchestras meant strong sales of sheet music and records, resulting in ASCAP royalties. But as the popularity and profits of radio climbed in the 1930s, ASCAP reversed itself, demanding not only a fixed royalty fee but also a percentage of a station's commercial income. Fearful of depending on songs written by ASCAP composers and having to pay royalties with no end in sight, the radio industry formed Broadcasters Music Incorporated (BMI) in 1939 to generate its own inventory of songs and to form a lower-cost alternative to ASCAP's near-monopoly over radio.

But in March 1940 ASCAP's newest fee hike became the final straw. Although ASCAP proposed a substantial reduction in the fee it was charging smaller stations, it announced a new 7.5 percent fee on the income of the major radio networks. The networks viewed this fee as a tax, and when the ASCAP royalty agreement with radio networks expired at the end of 1940, the networks refused to renew it under the new terms. For ten months—from January to October 1941—the country's three existing radio networks subsisted entirely on live and recorded music written by BMI composers or tunes in the public domain.³⁹

Phonograph records and radio transcriptions—recordings of performances for replay on the air after their initial airing—had been used during the 1930s by radio stations. But court cases during the decade continu-

ally attempted to halt or restrict the on-air use of records. In 1941, with war looming in Europe and the Pacific, the government moved to resolve ASCAP's battle with the radio industry. By then nearly nine hundred radio stations were in existence, with five hundred of them representing more than 90 percent of the income of the broadcasting industry.⁴⁰ As the industry's regulator, the government believed that ASCAP was putting radio in a bind. When the government threatened to hold ASCAP in violation of antitrust laws, ASCAP dropped its 7.5 percent fee and agreed to allow the government to review its financial records.⁴¹ Despite all the fuss, ASCAP's battle with radio had barely made a dent in the profits and expansion of the radio industry. From 1930 to 1935, radio industry jobs doubled, and by 1938 both RCA Victor and CBS owned movie studios as well.⁴²

Throughout the 1930s the AFM had waged its own war with radio and the recording industry to try to slow the erosion of jobs. The AFM's battle in Chicago was particularly heated. Since the 1920s, the city had been an entertainment and recording center, and a hotbed of union activism. In 1935 the Chicago local even secured a deal with the radio industry ensuring that all recordings would be destroyed after a single broadcast. Additional airplays of records were allowed only after a station hired a "stand-by" orchestra whose number was equal to that of the musicians on the record.⁴³

Inspired by the Chicago local's success, the national AFM in 1936 filed lawsuits in an attempt to limit the play of records to home phonographs only and prohibit their repeated on-air use by radio stations. When the courts failed to rule on the litigation, the more militant Chicago local, in February 1937, forbade its members from recording, stating that the prohibition was needed to halt the "menacing threat" of recorded music. Although a nationwide ban of records and radio was also considered, it was averted when the networks and their affiliates agreed, in August 1938, to increase their budgets significantly over the next two years to hire studio musicians.⁴⁴

The AFM may have been winning small battles here and there, but the union had dramatically overstepped its bounds. In 1940 the Department of Justice declared that the collective agreement between the AFM and radio was illegal, an incursion on radio's freedom of speech. As a result, the AFM's favorable agreement with radio was not renewed.⁴⁵ After ASCAP lost its own battle with radio in 1941, the AFM also realized that any assault on radio in the future was unlikely to succeed in Washington, especially after America entered World War II in December and radio was increasingly viewed as essential to national communication and security.

But in other efforts, the AFM was undaunted. In 1940, with the naming of James Petrillo, the former Chicago union leader, as the new national president, the AFM embarked on a series of moves to consolidate its power. It annexed other musicians' unions around the country and successfully pressured the Boston Symphony Orchestra, which was the country's largest nonunion orchestra, to join. And while radio presented the greatest threat to AFM jobs and clout, the union needed to aim at a softer target. So in 1942, the AFM went after radio's most profitable source of content: the record industry. The AFM's position was that unless the recording industry was stopped, radio would continue to find ways to play records instead of airing live music, resulting in a steady drain of dues-paying musicians.

MUSICIANS PULL THE PLUG

In 1942, if you flipped on a radio to listen to music, chances were about fifty-fifty you would hear a record playing. Although today such an occurrence hardly seems worth noting, the trend back then was worrisome. In the 1930s recorded music had rarely aired on the radio during the day. Most radio stations had employed orchestras full-time to generate much of the music they broadcast. But as records became more popular, more radio stations began spinning them.

When the Federal Communications Commission conducted a survey of 796 of the 890 radio stations in operation in 1942, it found that while the average station devoted 76 percent of its broadcast time to programs containing music, more than 55 percent of those programs used recorded or transcribed music. What's more, 230 of the 298 stations that were unaffiliated with the networks relied on recorded music for over 80 percent of their musical programs.⁴⁶ Increasingly, the only jobs available to musicians who weren't employed by bands, radio stations, and movie recording studios were low-paid teaching jobs and local gigs.

From the union's standpoint, unless something was done to stanch the decline of dues-paying members, it would have diminished strength to enforce the rules governing pay, hours, and staffing—and record companies and other employers would surely flout them. More important, the smaller the union's membership, the less influence it would have lobbying in Washington. From the AFM's standpoint, the only way to halt the drain was to slow the growth of radio, records, and jukeboxes. The most effective way to accomplish this goal, the union believed, was to prohibit its elite members from recording.

The AFM had begun to explore the possibility of a nationwide ban on recording at its 1941 convention, winning a green light from members a year later at its 1942 summit. In June 1942 the president of the AFM, James Petrillo, fired the first salvo, sending a letter to all the record companies, stating that “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 American Federation of Musicians will not play or contract for any other forms of mechanical reproductions of music.”⁴⁷

With America at war on two fronts, the Department of Justice tried to head off the AFM’s planned job action by filing an antitrust suit against the union. But a federal district court and then the Supreme Court dismissed the suit. Once the ban started, on August 1, 1942, Congress tried to force the AFM’s hand by claiming that World War II had created a national need for recorded music. But in truth, there was little Congress could do, especially when the influential American Federation of Labor, in October 1942, endorsed the boycott and the collective struggle of musicians at its annual convention.⁴⁸

What made the AFM’s recording ban particularly ingenious was the union’s lack of stated terms for a resolution. Rather than issue a document outlining what it wanted, the AFM merely banned all recording by its members and remained mum on the conditions that needed to be met for recording to resume. Given the union’s volatile history with radio, part of its initial strategy was to see whether a ban would force radio to increase its use of live musicians. By remaining silent, the union also hoped to dodge Congress’s growing animus toward labor and unions in general.

The timing of the AFM’s move was brilliant. Just after the start of World War II, America’s unions collectively had promised Washington that there would be no strikes against wartime manufacturing. But because the AFM did not issue the terms of its job action, it technically was not on strike. Union members could still play in orchestras and bands, and their performances often were carried live on the radio. From the AFM’s strategic standpoint, musicians simply had chosen not to work for the record industry, which didn’t technically employ them full-time anyway. Record companies were perfectly free to issue records they had recorded before the ban began, so the AFM wasn’t standing in the way of an industry’s ability to produce or its ability to distribute the result. From the AFM’s standpoint, the union was simply choosing not to perform as another industry’s labor force—which is why it was known as a recording ban rather than a strike.

But perhaps the shrewdest move of all was the union's decision to target the record industry rather than radio. Regulated by the government since 1927, radio was untouchable during the war. The record industry did not share the "essential industry" status enjoyed by radio. Rather than take action against the companies whose labor practices it wanted to change, the AFM simply decided to stop making a product—records—that it felt was doing more harm than good to its membership.

In the fall of 1942 the Department of Justice tried a new tack against the AFM. It argued that the union, by banning recording, was attempting to prevent radio and jukeboxes from acquiring records, thereby eliminating competing forms of music production. Thus the ban, according to the Department of Justice, was in violation of the Sherman Antitrust Act. But that convoluted line of reasoning was a stretch. A district court in 1943 dismissed the complaint, but the Supreme Court took up the case on appeal. During the Supreme Court's review, the AFM grew uncharacteristically edgy. It had no idea how the court would decide, fearing the AFM could be viewed as taking an industry hostage because no terms for resolution had been put forward. Four days before the Supreme Court's decision was handed down, the AFM announced publicly its terms for ending the recording ban. The court wound up deciding in favor of the union.

For musicians to return to the recording studios, the AFM said, the record companies and radio transcription firms would have to sign a contract with the AFM agreeing to pay royalties to the union for each record and transcription made with AFM musicians.⁴⁹ The royalties, according to the AFM's terms, were to be used "for the purposes of reducing unemployment which has been created in the main by the use of mechanical devices and for fostering and maintaining musical talent and culture and music appreciation; and for furnishing free, live music to the public."⁵⁰

All of the record companies refused to consider such terms, objecting publicly that contributions made to a fund "disbursed at the Union's uncontrolled discretion" would not be financially transparent and thus would be open to corruption. They also argued that being forced to make royalty contributions to a fund for musicians who never worked for them would set a bad precedent. Having previously failed to make its case using anti-trust laws, the record industry took its argument to the War Labor Board (WLB), which had been established under the War Labor Disputes Act of 1943 to step in when business disputes interfered with the war effort. Once again, the recording industry hoped to use the law as leverage to break the AFM ban.

Then something surprising happened. Just as the WLB began to consider the case, in the late summer of 1943, Decca Records threw in the towel. Unlike RCA and Columbia, Decca did not have a massive stockpile of recordings to release as the ban wore on, nor did it have coast-to-coast radio networks to keep it flush or a warehouse of higher-priced recordings by classical artists to release. Decca reaped nearly all its profits from popular music and in mid-1943 it was close to bankruptcy.⁵¹ Hamstrung by the halt in recording, it could make no new records. And yet it had just purchased the World Broadcasting System for its recording studios and lucrative radio transcription business.⁵² Even though Decca itself held no interests in radio networks, transcriptions were lucrative when leased to radio stations for broadcast at their convenience.

So in September 1943 Decca accepted the AFM's terms and signed a deal set to run until midnight on December 31, 1947. Within a month, twenty-two smaller record and transcription firms signed the same deal as Decca—including Capitol, which had been formed just before the ban started in 1942. In the next few months, seventy-six newly formed record companies accepted the Decca terms. For its part, the AFM agreed that it would not seek wage increases during the term of the contract and that it would keep royalty payments in a separate fund, to be used "only for purposes of fostering and propagating musical culture and the employment of live musicians, members of the Federation."⁵³

None of these agreements swayed Victor or Columbia, which refused to sign. They hoped that if they sat on the sidelines, the WLB would continue its review and rule in their favor. And Victor and Columbia's gambit nearly paid off. In March 1944 the WLB advisory panel reviewing the case issued its report. While the panel had no problem with the AFM's control of its royalty fund, it questioned the union's complaint, saying that the AFM had failed to prove definitively that the employment of its members had suffered as a direct result of the success of records and radio. The panel also noted that while a third of AFM's members were able to find full-time employment as musicians, the remaining two-thirds supplemented part-time musical work with other forms of employment. So technically AFM's members weren't unemployed. The advisory panel recommended that the full WLB order the AFM to end its recording ban.⁵⁴

But the full WLB did not follow its panel's recommendation. It accepted the principle of the union's fund but urged an end to the recording ban so that the issue of royalty payments could be resolved in arbitration. The AFM, however, refused to comply, noting that Decca and other record companies had already signed a union agreement. The WLB then referred

the matter to Washington's Economic Stabilization Director, who had the power to seize control of the union if he found cause. But in the fall of 1944, the director decided that the continued ban against Victor and Columbia would not impede or delay the war effort. President Roosevelt wired the AFM, informing Petrillo of the favorable decision, but he asked the union to comply voluntarily with the WLB's recommendation. Petrillo refused. Then, in November, with Decca busy recording Jascha Heifetz—who had just left Victor to join Decca and resume recording—and President Roosevelt reelected to a fourth term, Victor and Columbia grudgingly signed the AFM's royalty contract, ending the twenty-seven-month ban.

As for the AFM, the union had scored a major victory for its newly established fund: all companies were now on board to pay royalties on records sold.⁵⁵ Payments ranged from a quarter-cent on a thirty-five-cent record to 2.5 percent of the sale price of records selling for more than two dollars. On transcriptions, the royalty was 3 percent of the transcription company's gross revenue from the sale, lease, or license of recordings, except those used only once, which were royalty-free.⁵⁶

The rapid rise of record sales in the years that followed the lifting of the ban meant increased royalty payments and a fatter AFM fund. In 1945 the industry sold 165 million records; in 1946, the number rose to 275 million; in 1947, it was 350 million. In addition, hundreds of small record companies had emerged during the months that Victor and Columbia refused to sign an agreement with the AFM.⁵⁷ These small companies were helped by the government's easing of restrictions on shellac—an ingredient essential to the manufacture of records. They also benefited from the relatively low cost of renting time at record and radio studios. As for the AFM's royalty fund, it would accumulate more than \$4.5 million during the contract's three-year term.⁵⁸

Although radio wasn't a direct target of the AFM ban, it was nonetheless affected by the job action. The massive profits earned in 1941 by NBC, CBS, and the Mutual Broadcasting System raised worries at the FCC, which decided that RCA's ownership of the Red and Blue Networks represented an unfair slice of the market. A court battle followed, and in July 1943 RCA agreed to sell its newer Blue Network to Edward Noble, chairman of the Life Savers Corporation.⁵⁹ The sale of RCA's Blue Network to Noble closed on October 12, 1943, a month after the AFM-Decca settlement. Clearly by 1944 RCA, with one radio network less, was under economic pressure to either take legal action to end the AFM recording ban or settle. The company needed to air newly recorded music and resume the sale of more lucrative classical albums.

During the period from September 1943, when Decca signed with the AFM, to November 1944, when Victor and Columbia finally gave up the fight, jazz thrived. In these fourteen months, many new smaller independent record labels gained a foothold in the marketplace, recorded new music, and won over music-hungry consumers. Because many of the big-name swing bandleaders were already signed to Victor, Columbia, and Decca, the smaller labels turned to jazz combos featuring musicians who weren't part of big bands whose leaders were under contract to the major record labels.

By the time Coleman Hawkins and the other 52nd Street musicians recorded "Woodyn' You," "Bu-dee-daht," and "Yesterdays" on February 16, 1944, and "Disorder at the Border," "Feeling Zero," and "Rainbow Mist" (a reworking of "Body and Soul") on February 22, the record industry had already begun to change. Competition was increasing for the first time—particularly in the jazz category. During this period of industry transition, Apollo Records was first to record Dizzy Gillespie's revolutionary new approach to jazz—soon to be called bebop. Going forward, jazz would emphasize the soloist and his or her spectacular skills and ability to improvise—not the orchestra as a whole or its singers. But bebop's story was far from over. Recording the music was an accomplishment, but turning bebop into a cultural phenomenon with national appeal was another matter. Bebop in 1944 was known only to a handful of musicians, club-goers, and critics in New York. Spreading the word and generating interest and demand would require passionate champions and a marketable mystique.