

rights were enacted in the United States in 1790, in France in 1791. The reproduction of music by machine was not considered at that time. In the early days of the phonograph, the only musicians paid were the performers, not the composers. For over two decades, musicians regarded the phonograph as a toy, not to be taken seriously. By the 1900s, however, the popularity of phonograph recordings was evident, and some composers became concerned.

In 1905 the French courts strengthened the copyright laws to cover performances by others and the mechanical reproduction of copyrighted material. The French composers society SACEM (founded in 1851) demanded a royalty on every record sold. In the same year, the Italian performing-rights society SIAE won a similar lawsuit. These events stimulated Sousa to seek stronger copyright protection.

Thus in 1906, the year Sousa wrote this article, lawmakers in Washington, D.C., were debating the concept of composers' rights to their music reproduced by mechanical means, such as phonograph records, piano rolls, or metal disks. The manufacturers of mechanical instruments argued that composers had no right to be paid for reproduction of their music. Sousa disagreed and testified vehemently against this concept before the United States Congress. Two years later, the Congress enacted legislation granting a composer royalty on every record sold. This, of course, did not settle the question of composers' rights, which remain an open topic. Laws governing composers' rights function well in only 15 countries in the world.

Regardless of the content of his positions, we have to admire Sousa's rhetorical flair. Polemical statements such as "If children listen only to phonograph recordings, will they not become human phonographs?" have a certain charm, as does his observation that the sportsman with his "canned music" is "as incongruous as canned salmon by a trout brook." But Sousa's quasi-philosophical arguments against mechanical reproduction lose steam when we realize that he was a savvy businessman as well as a musician. Despite his rancor against music recordings, for years before and after he wrote this article he sent musicians in his band into the studio to make recordings under his name, for which he was paid a fee. Sousa recordings issued under the Columbia, Edison, and Berliner labels served to greatly augment his

popularity. Not only did he sell the rights to use his name in record catalogs and advertising, but he also licensed his signature, which appeared as a stamp of authenticity on his band's recordings. Ironically, Sousa was rarely present at these sessions. He inevitably sent someone else to conduct the band (Read and Welch 1976). Sousa apparently never objected philosophically to photographic reproductions of his portrait or mechanical reproduction of his writings in magazines. Behind the high-flown rhetoric, Sousa knew an obvious business opportunity when he saw one. One can only wonder if Haydn, Mozart, and Beethoven, who wrote original music expressly for automatic performance via mechanical instruments, made out as well as Sousa!

Sousa's efforts to strengthen copyright protection were ultimately successful, though the debate over music royalties is far from resolved in our time. As for his attempt to curb the spread of music machines, history's answer was swift. In the same year that "The Menace of Mechanical Music" appeared, Lee DeForest invented the vacuum tube. This opened the way for a flood of *electronic* devices for music recording, playback, and perhaps most importantly, broadcasting (simultaneous reproduction on a mass scale).

And an entirely new type of music machine was about to be revealed. On 26 September 1906 the doors of "Telharmonic Hall" opened at 39th Street and Broadway in New York City. An audience of 900 listeners entered to hear a concert by a new electrical synthesizer, the massive Telharmonium of Thaddeus Cahill, the first and largest synthesizer ever developed.

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## References

- Bierley, P. 1980. "Sousa, John Philip." In S. Sadie, ed. *New Grove Dictionary of Music and Musicians*. London: Macmillan, pp. 755-757.
- Read, O., and W. Welch. 1976. *From Tin Foil to Stereo: Evolution of the Phonograph*. Indianapolis: Howard Sams.

## Machine Songs IV: The Menace of Mechanical Music

Sweeping across the country with the speed of a transient fashion in slang or Panama hats, political war cries or popular novels, comes now the mechanical device to sing for us a song or play for us a piano, in substitute for human skill, intelligence, and soul. Only by harking back to the day of the roller skate or the bicycle craze, when sports of admitted utility ran to extravagance and virtual madness, can we find a parallel to the way in which these ingenious instruments have invaded every community in the land. And if we turn from this comparison in pure mechanics to another which may fairly claim a similar proportion of music in its soul, we may observe the English sparrow, which, introduced and welcomed in all innocence, lost no time in multiplying itself to the dignity of a pest, to the destruction of numberless native song birds, and the invariable regret of those who did not stop to think in time.

On a matter upon which I feel so deeply, and which I consider so far-reaching, I am quite willing to be reckoned an alarmist, admittedly swayed in part by personal interest, as well as by the impending harm to American musical art. I foresee a marked deterioration in American music and musical taste, an interruption in the musical development of the country, and a host of other injuries to music in its artistic manifestations, by virtue—or rather by vice—of the multiplication of the various music-reproducing machines. When I add to this that I myself and every other popular composer are victims of a serious infringement on our clear moral rights in our own work, I but offer a second reason why the facts and conditions should be made clear to everyone, alike in the interest of musical art and of fair play.

It cannot be denied that the owners and inventors have shown wonderful aggressiveness and ingenuity in developing and exploiting these remarkable devices. Their mechanism has been steadily and marvelously improved, and they have come into very

extensive use. And it must be admitted that where families lack time or inclination to acquire musical technic, and to hear public performances, the best of these machines supply a certain amount of satisfaction and pleasure.

But heretofore, the whole course of music, from its first day to this, has been along the line of making it the expression of soul states; in other words, of pouring into it soul. Wagner, representing the climax of this movement, declared again and again, "I will not write even one measure of music that is not thoroughly sincere."

From the days when the mathematical and mechanical were paramount in music, the struggle has been bitter and incessant for the sway of the emotional and the soulful. And now, in this the twentieth century, come these talking and playing machines, and offer again to reduce the expression of music to a mathematical system of megaphones, wheels, cogs, disks, cylinders, and all manner of revolving things, which are as like real art as the marble statue of Eve is like her beautiful, living, breathing daughters. . . .

It is the living, breathing example alone that is valuable to the student and can set into motion his creative and performing abilities. The ingenuity of a phonograph's mechanism may incite the inventive genius to its improvement, but I could not imagine that a performance by it would ever inspire embryotic Mendelssohns, Beethovens, Mozarts, and Wagners to the acquirement of technical skill, or to the grasp of human possibilities in the art.

Elson, in his "History of American Music," says: "The true beginnings of American music—seeds that finally grew into a harvest of native composition—must be sought in a field almost as unpromising as that of the Indian music itself—the rigid, narrow, and often commonplace psalm-singing of New England."

Step by step through the centuries, working in an atmosphere almost wholly monopolized by commer-

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cial pursuit, America has advanced art to such a degree that today she is the Mecca toward which journey the artists of all nations. Musical enterprises are given financial support here as nowhere else in the universe, while our appreciation of music is bounded only by our geographical limits.

This wide love for the art springs from the singing school, secular or sacred; from the village band, and from the study of those instruments that are nearest the people. There are more pianos, violins, guitars, mandolins, and banjos among the working classes of America than in all the rest of the world, and the presence of these instruments in the homes has given employment to enormous numbers of teachers who have patiently taught the children and inculcated a love for music throughout the various communities.

Right here is the menace in machine-made music! The first rift in the lute has appeared. The cheaper of these instruments of the home are no longer being purchased as formerly, and all because the automatic music devices are usurping their places.

And what is the result? The child becomes indifferent to practice, for when music can be heard in the homes without the labor of study and close application, and without the slow process of acquiring a technic, it will be simply a question of time when the amateur disappears entirely, and with him a host of vocal and instrumental teachers, who will be without field or calling.

Great Britain is experiencing this decline in domestic music and the English press is discussing it seriously in its editorials. A recent writer in the *London Spectator* dwells at considerable length upon the prevailing condition, and points to the novel as a sign of the times. The present-day fashionable writer of society fiction, he declares, does not find it necessary to reenforce his heroine with vocal accomplishment, "as in the good old days." He ascribes the passing of home performance, both vocal and instrumental, to the newborn love of athletics among the maids of Albion, together with the introduction of the phonograph as a mechanical substitute for amateur performances.

He believes that the exclamation of the little boy who rushed into his mother's room with the appeal:

"O mamma, come into the drawing-room; there is a man in there playing the piano with his hands," is far less extravagant than many similar excursions into the domain of humorous and human prophecy. He states from observation, that music has been steadily declining in Great Britain as a factor in domestic life, and that the introduction of machine-made music into the household is largely helping to assist in the change.

While a craze for athletics may have something to do with the indifference of the amateur performer in Great Britain, I do not believe it is much of a factor in this country. It is quite true that American girls have followed the athletic trend of the nation for a long while; at the same time they have made much headway in music, thanks to studious application. But let the mechanical music-maker be generally introduced into the homes; hour for hour these same girls will listen to the machine's performance, and, sure as can be, lose finally all interest in technical study.

Under such conditions the tide of amateurism cannot but recede, until there will be left only the mechanical device and the professional executant. Singing will no longer be a fine accomplishment; vocal exercises, so important a factor in the curriculum of physical culture, will be out of vogue!

Then what of the national throat? Will it not weaken? What of the national chest? Will it not shrink?

When a mother can turn on the phonograph with the same ease that she applies to the electric light, will she croon her baby to slumber with sweet lullabys, or will the infant be put to sleep by machinery?

Children are naturally imitative, and if, in their infancy, they hear only phonographs, will they not sing, if they sing at all, in imitation and finally become simply human phonographs—without soul or expression? Congregational singing will suffer also, which, though crude at times, at least improves the respiration of many a weary sinner and softens the voices of those who live amid tumult and noise.

The host of mechanical reproducing machines, in their mad desire to supply music for all occasions, are offering to supplant the illustrator in the class

room, the dance orchestra, the home and public singers and players, and so on. Evidently they believe no field too large for their incursions, no claim too extravagant. But the further they can justify these claims, the more noxious the whole system becomes.

Just so far as a spirit of emulation once inspired proud parent or aspiring daughter to send for the music teacher when the neighbor child across the way began to take lessons, the emulation is turning to the purchase of a rival piano player in each house, and the hope of developing the local musical personally is eliminated.

The country dance orchestra of violin, guitar, and melodeon had to rest at times, and the resultant interruption afforded the opportunity for general sociability and rest among the entire company. Now a tireless mechanism can keep everlastingly at it, and much of what made the dance a wholesome recreation is eliminated.

The country band, with its energetic renditions, its loyal support by local merchants, its benefit concerts, band wagon, gay uniforms, state tournaments, and the attendant pride and gayety, is apparently doomed to vanish in the general assault on personality in music.

There was a time when the pine woods of the north were sacred to summer simplicity, when around the camp fire at night the stories were told and the songs were sung with a charm all their own. But even now the invasion of the north has begun, and the ingenious purveyor of canned music is urging the sportsman, on his way to the silent places with gun and rod, tent and canoe, to take with him some disks, cranks, and cogs to sing to him as he sits by the firelight, a thought as unhappy and incongruous as canned salmon by a trout brook.

In the prospective scheme of mechanical music, we shall see man and maiden in a light canoe under the summer moon upon an Adirondack lake with a gramophone caroling love songs from amidships. The Spanish cavalier must abandon his guitar and serenade his beloved with a phonograph under his arm.

Shall we not expect that when the nation once more sounds its call to arms and the gallant regiment marches forth, there will be no majestic drum major, no serried ranks of sonorous trombones, no glittering

array of brass, no rolling of drums? In their stead will be a huge phonograph, mounted on a 100 H. P. automobile, grinding out "The Girl I left Behind Me," "Dixie," and "The Stars and Stripes Forever." . . .

It is at the fireside that we look for virtue and patriotism; for songs that stir the blood and fire the zeal; for songs of home, of mother, and of love, that touch the heart and brighten the eye. Music teaches all that is beautiful in this world. Let us not hamper it with a machine that tells the story day by day, without variation, without soul, barren of the joy, the passion, the ardor that is the inheritance of man alone.

And now a word on a detail of personal interest which has a right to be heard because it voices a claim for fair play, far-reaching in its effects beyond the personal profit of one or many individuals. I venture to say that it will come as an entire surprise to almost every reader to learn that the composers of the music now produced so widely by the mechanical players of every sort draw no profit from it whatever. Composers are entirely unprotected by the copyright laws of the United States as at present written on the statute books and interpreted by the courts. The composer of the most popular waltz or march of the year must see it seized, reproduced at will on wax cylinder, brass disk, or strip of perforated paper, multiplied indefinitely, and sold at large profit all over the country, without a penny of remuneration to himself for the use of this original product of his brain.

It is this fact that is the immediate occasion of the present article, for the whole subject has become acute by reason of certain proposed legislation in Congress at Washington. The two phases of the subject—fair play to music and fair play to musicians—are so naturally connected that I have not hesitated to cover the legal and the artistic sides of the question in a single discussion. . . .

I was among those present [when a new copyright bill was introduced in Congress at the last session], and became particularly keen on the efforts of opposing interests to impress upon the committee by specious argument and fallacious interpretation that the composer of music had no rights under the Constitution that they were bound to respect; and that reme-

dial legislation was wholly out of the question until the Constitution had first been amended.

One gentleman went the length of declaring that he would never have worked out his reproducing apparatus, had he not felt confident that the Constitution gave him the right to appropriate the brightest efforts of the American composer, and he voiced the belief that any act giving the composer ownership in his own property would be most unconstitutional.

Asked if he claimed the right to take one of my compositions and use it in connection with his mechanical device without compensation to myself, his unselfish reply was: "Under the Constitution and all the laws of the land, I say Yes, decidedly!"

Asked if he was not protected in his patents, his answer was promptly in the affirmative, but he seemed wholly unable to grasp the proposition that a composer should ask for similar protection on his creative work.

Asked finally if he desired the Constitution amended, he replied magnanimously: "No, sir, I want the Constitution to stand as it is."

Of course it must not be overlooked that in the United States Circuit Court of Appeals a case has just been decided adversely to the composer's rights in the profits accruing from the use of his compositions on the talking and playing machines, but this case awaits final adjudication, on appeal, in the United States Supreme Court. Judges Lacombe, Coxe, and Townsend rendered a decision as follows:

"We are of the opinion that a perforated paper roll, such as is manufactured by defendant, is not a copy of complainant's staff notation, for the following reasons:

"It is not a copy in fact: it is not designed to be read or actually used in reading music as the original staff notation is; and the claim that it may be read, which is practically disproved by the great preponderance of evidence, even if true, would establish merely a theory or possibility of use, as distinguished from an actual use. The argument that because the roll is a notation or record of the music, it is, therefore, a copy, would apply to the disk of the phonograph or the barrel of the organ, which, it must be admitted, are not copies of the sheet music. The perforations in the rolls are not a varied form of symbols substituted for the symbols used by the author. They

are mere adjuncts of a valve mechanism in a machine. In fact, the machine, or musical playing device, is the thing which appropriates the author's property and publishes it by producing the musical sounds, thus conveying the author's composition to the public."

May I ask, does this machine appropriate the author's composition without human assistance? Is the machine a free agent? Does it go about to seek whom it may devour? And if, as quoted above, the machine "publishes it," is not the owner of the machine responsible for its acts?

Is a copyright simply represented by a sheet of music? Is there no more to it than the silent notation? The little black spots on the five lines and spaces, the measured bars, are merely the record of birth and existence of a musical thought. These marks are something beyond the mere shape, the color, the length of the pages. They are only one form of recording the coming into the world of a newly fashioned work, which, by the right of authorship, inherent and constitutional, belongs to him who conceived it. They are no more the living theme which they record than the description of a beautiful woman is the woman herself.

Should the day come that the courts will give me the absolute power of controlling my compositions, which I feel is now mine under the Constitution, then I am not so sure that my name will appear as often as at present in the catalogues of the talking and playing machines. . . .

The English court says:

"The composition of a new air or melody is entitled to protection; and the appropriation of the whole, or of any substantial part of it, without the license of the author, is a piracy, and the adaptation of it, either by changing it to a dance, or by transferring it from one instrument to another, if the ear detects the same air, in the same arrangement, will not relieve it from the penalty."

The section of the Constitution on which my whole legal contention is based provides:

"The Congress shall have power to secure for limited time to authors and inventors the exclusive right to their respective writings and discoveries."

And my claim is that the words "exclusive" and "writings," particularly the latter, are so broad in their meaning that they cover every point raised by existing copyright laws, even to the unauthorized use of musical compositions by mechanical-reproducing apparatuses, and all this because these two words deal, not alone with the letter, but with the spirit as well.

But let the ambiguities in the text of law be what they may; let there be of legal quips and quirks as many as you please, for the life of me I am puzzled to know why the powerful corporations controlling these playing and talking machines are so totally blind to the moral and ethical questions involved. Could anything be more blamable, as a matter of

principle, than to take an artist's composition, reproduce it a thousandfold on their machines, and deny him all participation in the large financial returns, by hiding back of the diaphanous pretense that in the guise of a disk or roll, his composition is not his property?

Do they not realize that if the accredited composers, who have come into vogue by reason of merit and labor, are refused a just reward for their efforts, a condition is almost sure to arise where all incentive to further creative work is lacking, and compositions will no longer flow from their pens; or where they will be compelled to refrain from publishing their compositions at all, and control them in manuscript? What, then, of the playing and talking machines?