

HEINL RADIO BUSINESS LETTER

INSURANCE BUILDING

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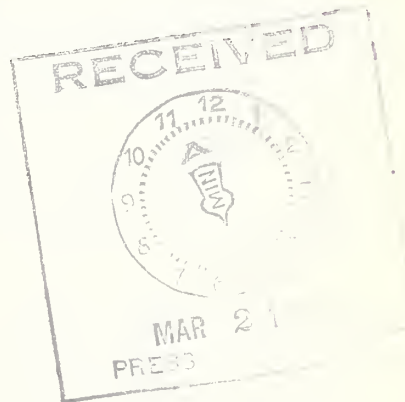
ISSUED TWICE A WEEK AND CONTAINING THE LATEST INFORMATION REGARDING THE RULINGS OF THE FEDERAL RADIO COMMISSION, RADIO LEGISLATION, DEPARTMENT OF COMMERCE REGULATIONS, CHANGES IN WAVELENGTH, CALL LETTERS AND POWER, PATENTS, EXPORTS, FEDERAL TRADE COMMISSION RULINGS AND OTHER MATTERS OF INTEREST TO BROADCASTERS AND MANUFACTURERS. :: :: **CONFIDENTIAL—NOT FOR PUBLICATION.** :: ::

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No. 600



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N.A.B. DIRECTORS TO DISCUSS COPYRIGHT SITUATION

Oswald F. Schuette, in charge of copyright activities for the National Association of Broadcasters has just sent a bulletin (No. 12) to all co-operating broadcasters which reads, in part, as follows:

"A series of conferences dealing with the legal, economic and musical aspects of the copyright problem has been held in New York and Washington, in which I have canvassed all phases of the situation created by the present attitude of the American Society of Composers, Authors and Publishers. It was the purpose of these negotiations to coordinate all the interests involved and further to mobilize all the resources of the broadcasting industry.

"I expect to discuss the entire situation with the Board of Directors of the National Association of Broadcasters when it meets in Washington on February 20. Important developments should result from that meeting.

"In the meantime, the controversy between the broadcasters and the American Society of Composers, Authors and Publishers has become a matter of wide public discussion. From various sources I have received requests for an authoritative explanation of our position to answer questions asked by advertisers, by the press, and by listeners. I am therefore sending you this frank statement of the matter:

"The copyright controversy between the broadcasting stations of the United States and the American Society of Composers, Authors and Publishers has become a matter of so much public discussion that it seems appropriate to make a frank statement of the position of the broadcasters.

"Music - classic and modern - comprises a large portion of the radio programs which are furnished free to the public each day by more than 600 broadcasting stations throughout the United States.

"Inasmuch as music is so important a part of radio entertainment, the broadcasters of the United States have a vital interest in the encouragement of the musical genius of the Nation. Unless this creative ability is properly rewarded, the steady flow of new music which radio needs will not long continue. Probably more than any other interest in the United States, radio thrives upon the continued creation of new and inspired musical compositions. It is therefore the prime interest of radio that composers and publishers of music should be fairly paid.

"The St. Louis Convention of the National Association of Broadcasters emphasized this position by the unanimous

adoption of a resolution which declared that "the composers and publishers of music are entitled to fair compensation, measured in proportion to the actual use of their compositions.

"That statement sums up the controversy between the broadcasters and the American Society of Composers, Authors and Publishers. The latter organization, with something over 100 publishers and about 700 composers has insisted upon a royalty contract from the broadcasting stations in the United States which would require them to pay a percentage of their receipts from programs of all kinds, whether they contained music written or published by members of the American Society or not, or whether they contained any music at all. In addition to this percentage, each station is required to pay a sustaining fee.

"Unfortunately, one result of this contract is that it practically excludes from the air music written or published by composers or publishers who are not members of the Society. For, if the station uses much independent music, it must pay a double fee. Having already paid a percentage of the receipts from every program for the use of music of the American Society, the use of independent music imposes a double cost. It is the position of the broadcasters that the Society should not ask royalties from a program unless its music is actually used in it.

"On the other hand, the Society contends that it has a right to ask arbitrary fees from the broadcasters because the music of its members is copyrighted and because the law makes each copyright a monopoly. We do not question the monopoly rights of the individual copyright owner in his copyrighted work. We admit that the owner of an individual copyright is entitled to fix any fee he pleases for the use of his copyrighted composition. In that case, the user simply does not have to use the work unless he wishes to. And if he wants to use it, he must pay for it.

"That is true so far as the single owner of an individual copyright is concerned. But when the owner of such a copyright joins with the owners of several hundred thousand other copyrights, as in the case of the American Society, then the public is entitled to protection against such a combination of copyright monopolies. When such a combination of copyright owners says to the broadcaster, who may wish to use only a single piece by a single composer, you must pay a percentage of all your receipts from every source, then both the broadcaster and the public - for it is the public that suffers - are entitled to protection."

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DUKE PATRICK LEAVES COMMISSION FOR PRIVATE PRACTICE

Duke M. Patrick, general counsel of the Federal Radio Commission, resigned yesterday, effective March 1, to engage in private practice. He will enter the law firm headed by Frank J. Hogan, well known Capital lawyer. Karl A. Smith, an assistant counsel in the legal division, also turned in his resignation, effective the same date.

Mr. Patrick was appointed assistant general counsel of the Commission January 27, 1930, and served in that capacity until March 28, 1932, when he was appointed general counsel to fill the vacancy created when Col. Thad H. Brown was appointed a Commissioner.

As general counsel, Mr. Patrick has appeared frequently before the Court of Appeals of the District to defend decisions of the Commission and in the majority of cases the Commission has been upheld by that Court.

Since Mr. Patrick is a Republican and there are any number of worthy Democrats who would not look askance at a \$10,000 yearly income as general counsel for the Commission, he heeded the handwriting on the wall and made arrangements for his return to private practice.

Mr. Patrick is a native of Indiana, having been born July 3, 1900, at Paragon, Morgan County, the son of Kathryn M. and Bruce T. Patrick. He attended the public schools of Indiana and was graduated from Purdue University in 1921 with the degree of Bachelor of Science. In 1924 he was graduated at the University of Michigan Law School.

Mr. Smith is 29 years old and is a native of the District of Columbia. He attended the public schools of Washington and received part of his early education at Mt. Hermon, Mass. He was graduated at the National University Law School in 1928, and was admitted to the bars of the Supreme Court and the Court of Appeals of the District in 1929.

There is little doubt but that several of the minor officials of the Federal Radio Commission will be replaced by Democratic appointees. The exact number of Republicans holding subordinate places is not recalled offhand, but there are several of them.

There is some talk about the new administration making at least one change in the personnel of the Commission. It is regarded as likely that there will be no delay on the part of President Roosevelt in reappointing Judge E. O. Sykes, who will probably become chairman. However, there is a rumor that Commissioner W.D.L. Starbuck, who is a Democrat, representing the Eastern zone, may be replaced by another Democrat.

"There have been press reports that C. C. Brown, vice president of the Quigley Publishing Co., Los Angeles, but a legal resident of New York, may be considered for the first zone commissionership now held by W.D.L. Starbuck, Democrat, under an appointment that does not expire until Feb. 23, 1934", says the current issue of "Broadcasting" magazine. "Mr. Brown is understood to be intimate with certain New Yorkers who were instrumental in financing Mr. Roosevelt's pre-convention campaign."

All of the Commission examiners are Republicans, so all may be replaced. They are Chief Examiner Ellis A. Yost, R. H. Hyde, and E. W. Pratt.

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ARCTURUS APPOINTS NEW CHIEF ENGINEER

The Arcturus Radio Tube Company has appointed John J. Glauber as chief engineer. Having been with Arcturus since its early days, Mr. Glauber has developed many of the new tubes pioneered by that company.

Graduate of Stevens Institute of Technology, Mr. Glauber has had extensive experience in the radio and mechanical fields. After a short career in the laboratory of the U.S. Tool Company, he entered radio in its early days. For the past five years he has been with Arcturus as assistant chief engineer.

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G.E. AND WESTINGHOUSE MUST SELL STOCK UNDER COURT ORDER

Judge John P. Nields in the Federal Court, Wilmington, Delaware, vacated an order he made in January enjoining the General Electric Company and the Westinghouse Electric and Manufacturing Company from making any disposition of the stock of the Radio Corporation of America under the consent decree entered in the anti-trust suit last November.

The provisions of the consent decree regarding the disposition of 7,500,000 shares of the Radio Corporation of America stock by the General Electric and Westinghouse companies must be carried out, Judge Nields said.

The Torquay Corporation, an RCA stockholder, petitioned the court in January for modification of the consent decree and/permit ~~an~~ inquiry into the fairness of the consideration (to) said to have been given RCA by General Electric and Westinghouse Corporation for the 7,500,000 shares of RCA stock. Other questions raised by Torquay are held for further consideration by the court.

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DEPLORES RADIO COMPETITION OF THEATRES

Staying away from the theater a couple of nights is as good a way as any of finding out what ails the theater. And then you don't know whether hard times makes us listen to the radio, or listening to the radio makes hard times, observes Ashton Stevens, veteran Chicago dramatic critic.

"But there's no doubt that the free shows which are brought to your fireside or to your very bedside are the most unmeetable competition faced by theatrical business", Mr. Stevens continues.

" 'Why', you can hear the former patron of the drama argue, 'should I pay even a cut price and risk rheumatism and flu to see this broadly acclaimed "The Cat and the Fiddle" when I can sit here by the gas log and summon Rudy Vallee to serve me not only his band and himself, but Leontovitch and Moffat Johnston in their wildest comedy scene from Broadway's new "Twentieth Century"? '

"Other former clients of the box office likewise wonder why they should leave their happy, mortgaged homes to pay for operetta in the great palace that Samuel Insull built, when without moving more than the dial on the receiving set they can listen to the distinguished singers of the Metropolitan Opera House or the accomplished bandsmen of the Philharmonic and the Boston Symphony orchestras?

"The admirers of the colored brother think not twice but thrice before they buy a cut-rate to the Darktown revue at the Garrick, knowing that punctually at 10 p.m. they will hear gratis those synthetic and matchless Afro-Americans whose real names are all but lost in the fame of Amos 'n' Andy.

"Why, even the surviving vaudeville goer hesitates to pay the paltry price of his loyalty when for nothing he can listen to half the four Marx Brothers, the entire Kate Smith, everything that remains of Morton Downey and all that is palatable of the medicinal "Chic" Sale.

"What chance does an ordinary revue at any price stand against the shyly submitted wisecracks of Ben Bernie for nothing? Or again Eddie Cantor with or without Mr. Jessel? Or Graham McNamee assisted by the untameable Ed Wynn? Or the revival of the Germaniac rolling "r" by Jack Pearl?

"And even if you had to drop a dime for him in the slot, Al Jolson still would be a menace to the stage any night he went on the air. And I have heard friendly listeners say that Harry Richman is no minor menace.

"To say nothing of Burns and Allen. Or Myrt and Marge, or the Mills Brothers, or the Sisters of the Skillet, or Jesse Crawford, the direful discoverer of the palsy stop", Mr. Stevens concludes.

"I am confident that James Gleason and his Hollywood broadcasters keep thousands of people from patronizing the principal product of Hollywood. And I am not so sure that night clubs and public ballrooms do not suffer with the theaters when brilliant bands go on the air under the batons of Weems, Whiteman, Lopez, King, Arnheim, McCoy and Calloway.

"I read in the paper the other day that Herbert Hoover, instead of driving me and my kind out of business by writing a column, will help close the playhouses by doing a broadcast for General Motors.

"You see, it's in the air that radio is killing the theater. Even if you can turn it off when you don't like Bing Crosby".

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SUPREME COURT REFUSES REVIEW OF SHULER CASE

The fight which the Rev. Robert P. (Fighting "Bob") Shuler has been making to force the Federal Radio Commission to renew the license of broadcasting Station KGEF, at Los Angeles, ended in defeat Tuesday when the Supreme Court refused to reconsider its recent action declining to review the case.

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OF RADIO INTEREST IN A. T. & T. DIRECTORS' REPORT

The report of the directors of the American Telephone and Telegraph Company contained the following information which may be of interest to the radio industry:

"On December 31, 1932, there were 17,500,000 telephones interconnected in the United States and, in addition, due to transoceanic radio-telephony, these were connected with some 13,200,000 telephones outside the United States. About 92 per cent of the 33,400,000 telephones in the world are now interconnected and all countries with more than 100,000 telephones except New Zealand, Japan, China and Russia can be reached by telephone from any part of the United States.

"Ship-to-shore telephone service was extended to nine additional liners, making 15 in all at the end of the year.

Each vessel, while at sea, is able to reach all Bell System telephones, as well as those connecting with the System in the United States, Canada, Mexico and Cuba.

At the end of 1932, 110 airport ground stations in the United States had been supplied with Western Electric radio-telephone equipment. A considerable number of private aircraft, formerly having only one-way equipment for receiving beacon signals and weather reports, now have been equipped with two-way radio-telephone equipment.

Due to general business conditions, the activities of the wholly owned subsidiary, the Electrical Research Products Company, were likewise greatly curtailed. This company was organized in 1926 to make available for commercial use inventions and developments that have application in fields outside of communications. The most notable of these developments has been sound recording and reproducing apparatus used in the motion picture industry.

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METROPOLITAN OPERA TO RADIO CITY?

James McMullin writes in the National Whirligig, published by the McClure Newspaper Syndicate, New York:

"The Metropolitan Opera crisis looks like a prelude to a move to Radio City. The radio interests could cover the deficit by selling a few broadcasts to sponsors or could remote control the performances to other cities. This may be the next step if the drive for \$300,000 in public contributions flops - which now seems probable.

In a confidential note (not for publication), Mr. McMullin writes:

"Roxy is reported on the inside to be on his way to the nearest exit. It seems he was given a free hand with certain arrangements in Radio City and that he exceeded his budget by several hundred thousand dollars. This has not made him popular with those who pay the bills".

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The members of the National Electric Light Association, in convention in the Hotel Biltmore, voted unanimously Wednesday in New York to dissolve the organization. The dissolution was undertaken because of the formulation of the Edison Electric Institute, whose membership will be drawn from members of the old association.

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COMMISSION SPENDS TIME ON DISTRICT STATION PROBLEMS

The Federal Radio Commission has devoted itself to the task of straightening out a couple of problems in connection with stations in the District of Columbia the last couple of days.

Yesterday, with Commissioner Sykes acting as chairman and Commissioners Lafount and Brown sitting, the transfer of Station WMAL, owned by M. A. Leese, a local business man, to the National Broadcasting Company, under a five year lease, for the purpose of bringing Blue network programs into Washington, was heard.

The transfer was halted and the case cited for hearing the latter part of January when Joy Elmer Morgan, of the National Committee on Education by Radio, addressed an open letter to all members of Congress, charging that the Commission's approval of the new arrangement would result in a practical monopoly of District of Columbia radio facilities by the two chains, leaving only one 100 watt independent station in the field here.

However, Tracy F. Tyler, of the National Committee on Education by Radio appeared at the hearing as a witness in place of Joy Elmer Morgan. He said that his Committee is an endowed organization, backed by nine educational associations, including the National Education Association. He said that the five year lease just entered into by Mr. Leese with the NBC was not the only means of bringing Blue network programs to Washington and pointed out that the NBC could have purchased the time, leaving control in local hands. Mr. Tyler expressed fear that there would be a decrease in local material broadcast.

He said that if the purpose of the Federal Radio Commission was to give tacit approval to the two national chains then the transfer should be approved, but if it was the desire of the commission to maintain independent stations, this transfer should be denied. He admitted that his relations with the chains had been excellent, but said he feared WMAL would no longer be able to devote time to broadcasts prepared by educational institutions if it were under the chain banner.

Thomas P. Littlepage, attorney for Station WMAL, questioned the right of the National Committee on Education by Radio to intervene in the case.

Frank M. Russell, vice president of the NBC in charge of Washington affairs, made it plain that the civic and local organizations would be allowed as much time on the air as they have had in the past under the new arrangement and added that the talent is not available in Washington

to develop high-grade local programs sixteen hours daily.

Several civic leaders appeared and testimony was offered in support of the transfer.

The other case before the Commission is the WJSV-Navy tangle. For the first time, as far as can be recalled, the Commission held the hearing behind closed doors. The Navy Department asked to be allowed to present its case privately because of the secret nature of some of the matters to be discussed.

The matter under discussion is the interference caused by WJSV with the United States Naval Research Laboratory. They are separated by about a mile, the former on the right bank of the Potomac River, the latter on the left bank, between Washington and Alexandria, Va.

The only part of the hearing open to the public was the testimony of A. B. Chamberlin, chief engineer of the Columbia Broadcasting System, that he had not been aware that the Bellevue station was so close by when he inspected the site for the new transmitter.

The question to be decided is who is to blame for this powerful commercial broadcaster being built within the shadow of the government's radio experimental laboratory, in which millions are said to be invested, and what is to be done about. Since the Naval Research Laboratory is permanently located, the only solution would seem to be the removal of WJSV to a new site.

It is contended by the Commission that the Navy Department is partly to blame because it had been fully notified that the new WJSV would be located on its present site. The Navy Department replied that the proper officials were not notified. If the blame is put upon WJSV, the Commission itself cannot be wholly exonerated, because its engineers approved the choice of that particular transmitter site.

While the officials of Columbia will not discuss the matter until after the Federal Radio Commission has handed down its decision in the matter, it is quite likely that damages will be sought if WJSV is required to move, since Columbia had the sanction of the Federal Radio Commission when it located on Mount Vernon Boulevard.

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Another hearing in progress before Examiners of the Federal Radio Commission is that of Station WWL, which has applied to the Radio Commission for the broadcasting facilities of Station KWKH, of Shreveport, La. Mayor I. S. Talmaley, New Orleans, appeared as star witness for WWL. KWKH is applying for renewal of its license on half time and specified hours. W. K. Henderson was present Wednesday and today to defend his claims.

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DECISIONS OF THE FEDERAL RADIO COMMISSION

Applications Granted

KTRH, KTRH Brdcastg. Co., Houston, Tex., granted 60-day auth. to increase power from 500 watts to 1 kw. exp. in order to make certain tests in territory in which this station is located; WLS, Agricultural Brdcastg. Co., Chicago, Ill., granted auth. to use auxiliary transmitter of Station WENR, pending action on application; KFRU, KFRU, Inc., Columbia, Mo., granted renewal of license, 630 kc., 500 w., shares with WGBF and WOS as follows: KFRU and WOS half time, and WGBF half time. Also simultaneous daytime operation with WGBF.

New, City of New Bedford, Fairhaven, Mass., granted CP for police service, 1712 kc., 100 w.; KGZB, City of Houston, Texas, Police Dept., granted license for police service, 1712 kc., 100 w.; W7XL, Northern Radio Company, portable in State of Washington, granted gen. exp. license, freqs: 1594, 2398, 3492.5, 4797.5, 6425, 8655, 12862.5, 17310, 23100, 25700, 26000, 27100, 34600, 41000, 51400, 60000 to 400,000, 401,000 kc. and above, 100 w.; W7XK, same, granted same as above, exc. 1 kw. power;

KIEF, Missouri Brdcastg. Corp., portable in St. Louis, Mo., granted lic. for temp. brdcast. pickup service, 2342 kc., 50 w.; KIED, Warner Bros. Brdcastg. Corp., portable, granted license to replace one which has expired, for temp. brdcast. pickup service, 1518, 2342 kc., 250 w.; VLEA, Radiomarine Corp. of America, New York, granted temp. auth. (60 days), to operate station aboard Vessel "Santa Elena", pending receipt of formal appl. freqs. 375 to 17150 kc., 500 w.; 375 to 500 kc., 50 w.; KOGL, same Company, New York, granted 60 day auth. to operate addl. transmitter aboard vessel "West Ira", pending receipt of formal appl. freq. 8200 to 17100 kc., 50 w.; KGDL, same Company, New York, granted 60 day auth. to operate addl. transmitter aboard vessel "Steel Ranger", 375 to 500 kc., 50 w.; W5CBU, Paul L. Carriger, Shreveport, La., granted spec. auth. to operate amateur station at Slattery Bldg., Shreveport, for 30 days.

Miscellaneous

New, City of St. Louis, St. Louis, Mo., appl. for CP to construct airport station, heretofore granted, was retired to files because no application for license has been filed, nor any extension of time to complete construction; W2XDM, W2XDN, H. Curab, Inc., New York City, denied request that Commission reconsider its action in designating their applications for hearing.

Applications Received

New, Portland Maine Publishing Co., Portland, Me., CP for new station to use 1340 kc., 500 w., unlimited time - amended as to equipment to be used; WNBW, WNBW, Inc., Carbondale, Pa., mod. of CP granted Aug. 18, 1932 to extend dates of commencement and completion to Feb. 15, 1933 and June 15, 1933, respectively, mod. of CP to change transmitter and studio location to U.S. Route No. 6, Jermyrn, Pa., changes in eqpt.; WROL, Stuart Brdcstg. Corp., Knoxville, Tenn., CP to change eqpt., change frequency, power and hours from 1310 kc., 100 w. unlimited hrs. to 1240 kc., 250 w., one half time, with WKAQ, San Juan, Puerto Rico; WKEU, Allen Wright Marshall, Sr., Allen Wright Marshall, Jr. and Guy Aaron Malcolm, La Grange, Ga., mod. of CP granted Jan. 20, 1933 for changes in eqpt; WTRC, The Truth Publishing Co., Inc., Elkhart, Ind., license to cover CP granted January 4, 1933; KGFX, Dana McNeil, Pierre, S. Dak., CP to make changes in equipment.

Applications - Other Than Broadcasting

New, Dr. George W. Young, Minneapolis, Minn., CP for a visual broadcasting station, 2000-2100 kc., 500 w.; WSDG, Aeronautical Radio, Inc., Chicago, Ill., license to cover CP for an aeronautical station: 3222.5, 3232.5, 3257.5, 3447.5, 3457.5, 3467.5, 3485, 5602.5, 5612.5, 5632.5, 4917.5 kc., 400 w.; W6XK, Don Lee Brdcstg. System, Los Angeles, Calif., renewal of spec. exp. station. Frequencies in amateur bands assigned, 500 w.;

KGSF, Aeronautical Radio, Inc., Seattle, Wash., license to cover CP for an airport station, 278 kc., 15 w.; Transpacific Communication Co., Dixon, Calif., license to operate the six pt. to pt. telephone station licenses located at Dixon, Calif., as coastal telephone stations from Feb. 15 to April 15. To furnish radiotelephone service to the S.S. Empress; New, Glenn D. Gillett, portable and mobile, CP for a special experimental station, 555 to 1495 kc., 100 w.;

New, City of Santa Barbara, Santa Barbara, Calif., CP for a new municipal police station. Frequency to be assigned by the Commission, 100 w. power; New, M. & H. Sporting Goods Co., portable in N.Y., Pa., N.J., Conn. and Va., CP for a new gen. exp. station, 40,000, 55,000, 60,000 and 81,000 kc., 100 w.; New, M. & H. Sporting Goods Co., 512 Market Street, Philadelphia, Pa., CP for a new gen. exp. station, 40,000, 55,000, 60,000, 81,000 kc., 200 w.; New, Michigan Brdcstg. Co., 7310 Woodward St., Detroit, Mich., CP for a new gen. exp. station, 51400-60,500-80,000 kc., 15 to 100 w.; W1XP, Massachusetts Institute of Technology, South Dartmouth, Mass., ren. of spec. exp. station lic. Frequencies in amateur bands, standard frequencies based on U.S. standard maintained by Bureau of Standards, in accordance with Rule 274, 1 kw.

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