

HEINL RADIO BUSINESS LETTER

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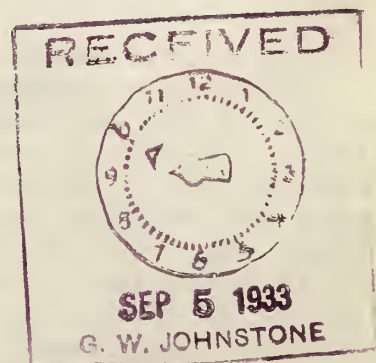
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No. 653



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WMCA DECISION WILL AWAIT CONSIDERATION BY ENTIRE COMMISSION

Because of the hubbub created by the Legal Division of the Federal Radio Commission in passing informally upon the leasing of Station WMCA in New York to the Federal Broadcasting Corporation without bringing it to the attention of the Commission, there will probably be some delay in final action being taken in the matter. The chances are that the leasing of the New York station will now await consideration of the entire Commission. This will probably be sometime after Labor Day.

Chairman E. O. Sykes and Commissioners Hanley and Lafount are at present in Washington and Commissioners Brown and Starbuck are expected to return at an early date.

When Commissioner Lafount found that he had not been consulted in the matter of the transfer and that the Legal Division had notified the Knickerbocker Broadcasting Company, of which Donald Flamm is the head, that the transaction was of "no interest" to the Commission, he called for all the papers in the case and demanded that it be reconsidered and this time brought formally to the attention of the Commission. When this was done, Mr. Lafount protested to the Commissioners because he had not been consulted with regard to the leasing of the New York station. Whereupon the Commission (there were three members present - Messrs. Sykes, Lafount and Hanley) ordered that the case be referred to the Legal Division for an opinion.

Whereupon Judge Sykes addressed the following letter to Mr. Bethuel M. Webster, Jr., of New York, a Director in the new leasing company, which cancelled the prior informal action of the Legal Division:

"Your letter of August 15, 1933, and a document enclosed therewith entitled 'Agency Agreement between Donald J. Flamm, Knickerbocker Broadcasting Company, Inc., et al, and State Broadcasting Corporation' have been formally brought to the attention of the Commission.

"It is noted from your letter that copies of the contract were forwarded so that the Commission may determine whether any action by the Commission is necessary or so that you may be advised whether the contract is in violation of the law, Commission regulations or Commission policy. In view of this request, the Commission has decided to consider the matters to which you address its attention. Under date of August 16, 1933, two letters were sent under the signature of the Secretary of the Commission, addressed to Messrs. Webster and Spearman, in reply to your letter of August 15, 1933. These two letters, prepared and sent prior to Commission consideration of the questions involved should be disregarded by you.

"When a determination is reached by the Commission relative to the request contained in your letter of August 15, you will be advised."

The matter is now under consideration by George B. Porter, Acting General Counsel of the Radio Commission. Mr. Porter was absent from Washington at the time the Legal Division informally approved the transaction. Although it cannot be said for a certainty, the expectation is that the Commission will pass favorably upon the deal.

It was emphatically denied in representations made to the Radio Commission that WMCA is to be the key station in a chain. This was said not to be a part of the present plan which is to develop WMCA into the most outstanding independent station in the country.

Likewise, Bethuel M. Webster, formerly Chief Counsel of the Radio Commission, laughingly said that it was not true that the Board of Directors consisted of 13 millionaires.

"I am on the Board", Mr. Webster remarked, "and I am not a millionaire."

There was, of course, considerable comment upon the fact that former Governor Alfred E. Smith had joined the new group operating WMCA, as Chairman of the Board. According to information reaching Washington, Mr. Smith is to receive no retainer but is to identify himself with broadcasting "for the wonderful opportunity to do some good."

Mr. Smith's entry into the ranks of the broadcasters follows closely that of Curtis C. Dall, son-in-law of President Roosevelt, who is to be the Chairman of the Board of the Amalgamated Broadcasting System, Ed Wynn's new chain, according to reports from New York.

Another notable who joined the industry not long ago was Newton D. Baker, former Secretary of War, who is a member of the Board of Directors of the Radio Corporation of America and legal adviser for the National Association of Broadcasters in their copy-right fight with the Composers.

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UNTIL OCTOBER TO ANSWER NBC SUIT

The District Supreme Court has granted the Federal Radio Commission until October 6th to file its answer in the suit brought by Gerald V. Moore. The action is to compel the Commission to cancel the permit issued to the NBC for operation of Station WMAL in Washington. Moore's petition charged that the RCA, of which the NBC is a subsidiary, was found guilty of obtaining a monopoly for sale of radio apparatus by a Federal Court in Delaware. An action similar to Moore's was filed by C. Wood Arthur in Washington but was thrown out of court.

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BROADCASTERS PAY COPYRIGHT INCREASE

With what the late President Woodrow Wilson used to call "mental reservations", the broadcasters met the 1 per cent increase September 1st of the American Society of Composers, Authors and Publishers for the privilege of broadcasting their copyrighted music.

Since September, 1932, broadcasters have paid the Society, approximately \$750,000 in sustaining fees, plus 3 per cent of their net receipts (the stations' sale of time, with the exception of political addresses) for the right to perform the copyrighted music. Stations were given the choice of accepting three-year percentage contracts or facing the withdrawal of the Society's music from the air.

The contracts provided for an increase in the royalty to 4 per cent for the second year, which began today (September 1) and to 5 per cent for the third year, which begins September 1, 1934, plus the sustaining fees.

The "mental reservations" of the Broadcasters are the advantage they hope to gain as a result of the efforts to be made by Newton D. Baker, of Cleveland, who has been retained as copyright counsel in addition to Oswald F. Schuette, their copyright director, whose "trust busting" activities are well known. Also the Composers are hopeful of the investigations which the Department of Justice and the Federal Trade Commission are making to ascertain whether or not the American Society of Composers has a monopoly on music and whether or not it is an illegal combine. It is the expectation of the Broadcasters in their fight for a reduction of the copyright fees that a government suit may eventually be filed against the Composers.

It was also said that the attention of Assistant to the Attorney General Keenan and Senator Copeland of New York, in charge of the "anti-racketeering" drive, had been called to the situation. Sometime ago there was an explosion when Mr. Schuette characterized the American Society of Composers "as a bunch of racketeers". E. C. Mills, General Manager of the Composers retorted by saying, "If the Society are racketeers, then Secretary of the Treasury Woodin must be a racketeer because he is a member of the Society."

Also the attention of General Hugh Johnson and General Counsel Richberg of the NRA has been called to the Composers. The Borah Amendment of the Recovery Act prohibits the approval of Codes "which would sanction monopolies or monopolistic practices."

It was the suggestion of Mr. Schuette to the NRA that to protect itself against possible violations of the Borah Amendment, Codes before approval should be submitted to the Department of Justice, the Federal Trade Commission or any Government agency which had previously investigated monopolistic practices in any

given industry. The Borah Amendment itself, however, doesn't call for such submission.

Among the Codes which might come into question, according to Mr. Schuette, were those of the radio and the music publishing industries. Also that of the Mellon "aluminum trust" which Schuette is likewise trying to have dissolved.

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RADIO INDUSTRY REEMPLOYMENT AGREEMENT APPROVED

The National Recovery Administration has formally approved the application of the National Association of Broadcasters to have substituted in the President's Reemployment Agreement certain provisions from the proposed Code of Fair Competition for the Broadcasting Industry which was filed on Tuesday (August 29).

This means that all stations who can comply with the agreement as modified may sign the President's Reemployment Agreement and the Certificate of Compliance, and obtain the Blue Eagles at once.

The President's Reemployment Agreement, as modified through the granting of the National Association of Broadcasters' application for substitution, should not be confused with the Proposed Code of Fair Competition for the Broadcasting Industry which was filed on August 29. This Code must be the subject of a public hearing and it is likely that this hearing will be held about the middle of September. Following the hearing and after the President has finally approved the Code of Fair Competition for the Broadcasting Industry, the approved Code will supersede the President's Reemployment Agreement and stations will operate under the approved Code.

The substitutions in the President's Reemployment Agreement which were approved are as follows:

For Paragraph 3 of the President's Agreement:

"No factory or mechanical worker or artisan (other than radio operators, control men, announcers, production men, and employees on special event programs) shall be employed more than a maximum of 40 hours per week, nor more than 8 hours in any one day. Radio operators, control men, announcers, production men, and employees engaged on special event programs, shall not be employed more than a maximum week of 48 hours."

And for Paragraph 4 of the President's Agreement:

"The maximum hours fixed in the foregoing paragraphs shall not apply to employees in establishments employing not more than two persons in towns of less than 2,500 population which towns are not part of a larger trade area; nor to managerial, executive and supervisory employees and production men and announcers who receive \$35.00 or more per week; nor to employees on emergency maintenance and repair work; nor to very special cases where restrictions of hours of highly skilled workers on continuous processes would unavoidably reduce production but, in any such special case, at least time and one-third shall be paid for hours worked in excess of the maximum. Population for the purposes of this agreement shall be determined by reference to the 1930 Federal Census."

To obtain the Blue Eagle, each station may secure from its Postmaster a copy of the President's Reemployment Agreement and Certificate of Compliance. The President's Reemployment Agreement must be signed and the Certificate of Compliance must also be signed with the following paragraph written thereon:

"To the extent of N. R. A. consent as announced we have complied with the President's Agreement by complying with the substituted provisions of the Code submitted for the Radio Broadcasting Industry."

When this has been done, the copy of the Agreement should be mailed in an envelope which is provided for that purpose. The Certificate of Compliance should be delivered to the Postmaster who will present the signer with Blue Eagle insignia. Stations may then display the Blue Eagles.

There is enclosed a printed copy of the "Code of Fair Competition for the Broadcasting Industry" as submitted on August 29th.

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ARMSTRONG HELD INVENTOR OF REGENERATIVE CIRCUIT

Maj. Edwin H. Armstrong, inventor of the superheterodyne was sustained as the inventor of the regenerative circuit by the United States Court of Appeals, Second District, last Tuesday (August 29).

Major Armstrong and Dr. Lee de Forest, inventor of the three-element vacuum tube, have long contended over which was the first to discover the regenerative or "feed-back" circuit, called "the heart of all modern radio communication."

Several months ago de Forest patent holders sued the Radio Engineering Laboratories, Inc., alleging infringement. Major Armstrong financed the case for the Laboratories. Judge Marcus B. Campbell in Eastern District Court of New York said he would have to abide by a 1929 decision of the United States Supreme Court, which invalidated the Armstrong patents on regeneration.

Major Armstrong took the case to the Circuit Court of Appeals, which had previously rendered the decision to Armstrong, later to be reversed by the Supreme Court.

Justice H. B. Chase said there was no reason for the Circuit Court of Appeals to change the decision it made prior to the Supreme Court's reversal. It is pointed out that the Supreme Court's decision did not deal with the technical merits of the case but on rules of law.

"The radio world has never had any doubt", said Major Armstrong, "who was the inventor of the feed-back circuit. Nevertheless, during the past nine years, I have been defeated in six courts on questions of law or fact in this contest. In all that time I have never lost faith that sooner or later the controversy would come before a court with sufficient knowledge of the radio art to understand the fallacies of the de Forest case."

"The decision of the U. S. Circuit Court of Appeals seems in sharp conflict with decisions of the Court of Appeals of the District of Columbia and the Court of Appeals of the Third Circuit each of which has held that DeForest is the originator of the feed-back invention. This invention is regarded by engineers as the line of demarcation between old time and modern radio", a statement by the Radio Corporation of America sets forth.

"Although the United States Supreme Court affirmed the decision of the Third Circuit, the majority of the judges of the Second Circuit are now of the opinion that in its affirmance the Supreme Court did not decide on matters of fact, but held its decision to matters of law peculiarly applicable to interference suits.

"It is anticipated that the Supreme Court, if asked, will grant a petition for a writ of certiorari and thereby clarify the situation so that the owners of the respective patent rights and the radio industry may know how to deal with the conflicting decisions.

"Radio Corporation of America is licensed under both the DeForest and Armstrong patents through agreements with American Telephone and Telegraph Company and Westinghouse Company."

Dr. Lee DeForest said that he was not informed as to the action involved, but that it had little significance.

"That question has been decided by the Supreme Court of the United States in my favor", Dr. DeForest said, "so this action must be merely a reversal on some minor angle of the patent litigation."

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RADIO TELEGRAPH INDUSTRY CODE AGREED UPON

Announcement was made by the National Recovery Administration of its agreement with the Telegraph Communication Industry covering minimum wages and maximum hours. This included also the radio-telegraph industry.

With the exception of certain specified classes of employees, the maximum week of work is fixed for all others at 48 hours averaged over a 4-week period. The excepted classifications are those in executive capacities receiving more than \$35 a week, those engaged in emergency or maintenance work "making longer hours temporarily necessary to prevent interference with public service", commission salesmen, employees on cable ships, employees outside of continental United States, line patrol and repairmen in isolated places, employees including messengers in cities or towns or isolated places where there not more than three employees, exclusive of messengers, provided that the last two exceptions shall not total more than 10 percent of all employees. Service operations shall not be reduced below 52 hours per week, except where offices are temporarily opened to meet seasonal or emergency conditions.

The minimum wage rate is fixed at \$15 per week in cities of over 500,000 population, graduated down to \$14 a week in cities of between 2,500 and 250,000 population, and in towns of less than 2,500 population, wages are to be increased by not less than 20 percent, provided this increase does not make wages in excess of \$12 a week. The minimum wage fixed allows a differential of \$1 a week in favor of the South. Salesmen, employees on cable ships and messengers whose zone rates are not to be reduced, are not included in these minimum figures.

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WBAL INTRODUCES NEW HIGH CAPACITY CROWN

In keeping with this "Century of Progress", Station WBAL, of Baltimore, reports that it has recently improved its service 200 per cent with the development of a new "High Capacity Crown". Frederick R. Huber, Director of WBAL, gives the details of the reconstruction of WBAL's transmitting station through which he declares this 10,000 watt broadcaster is actually realizing the radio engineer's dream - perfect transmission.

"When the original WBAL transmitting station was installed in 1925, it embodied the most modern ideas in radio engineering at that time", Mr. Huber said. "However," he continued, "the past eight years have brought many technical changes in radio transmission methods, many of which show such a radical departure from the old engineering ideas that WBAL felt it was no longer being fair to its listeners to continue in the old methods, the primary aim having always been to give the radio public the very best service, in transmission as well as in programs. With this idea solely in mind, we decided several months ago to re-locate our transmitting station 12 miles closer to Baltimore and to install a Vertical Type Antenna System, which experiments have found the most efficient type of modern radio equipment. One of the features of which we are justly proud is the 'High Capacity Crown' which tops the Vertical radiator; this unique development, which is being used for the first time in the entire country, is the produce of WBAL's own research laboratory, having been designed and developed by G. W. Cooke, Chief Engineer. The new WBAL has improved its service 200 per cent, its signal being strikingly clear and powerful."

As the most important part of a radio station is the antenna and radiating system, the design of which determines how much of the energy supplied by the transmitter actually reaches listeners through their radio receiving sets and also how far from the transmitter fading of signals begins, the aim has been to obtain the ideal type of antenna, which is a vertical conductor freely supported in space. Due to the fact that steel tower supports have a strong tendency to absorb and distort the radiation pattern produced by the antenna, it was decided to use wood as the supporting structure for the antenna conductor. However, the design of a wood mast, 200 feet high, was quite complicated and much original work was done to obtain a mast of these proportions.

The masts at WBAL are built of square wood timbers all of which are 20 feet long, four timbers arranged to form a square 24-inch cross section at the base of the mast and a 20-inch cross section at the top 200 feet from the ground. The timbers are cross bolted and the joints staggered with the result that quite a rigid structure has been secured. Steel guys pulling four ways are arranged in three sets up the pole to hold it erect. These guys are insulated into 25-500t sections by porcelain insulators to eliminate absorption of the radiation.

The antenna consists of a 3/4 inch copper tube carried vertically up the mast by large stand-off insulators to a height of 150 feet. At this point there are four wires connected which extend up the remaining 50 feet to the 20-foot cross arms at the 200-foot elevation. At the end of each cross arm there is a large copper arch 20 feet in diameter connected to the antenna to form the "High Capacity Crown" to the vertical radiator.

The "High Capacity Crown", Mr. Cooke, its inventor, believes plays an important part in the antenna design to minimize the high angle sky wave radiation and thus strengthen the ground wave radiation. This eliminates fading of signals over a much greater territory around the station and results in a stronger and steadier signal in the service area of the station. The "High Capacity Crown", plus the vertical radiator, gives results equivalent to the high steel tower radiators now being used by three of the largest stations in the United States, while the use of wood instead of steel as a supporting medium still further increases the efficiency of WBAL, according to Mr. Huber.

Because of possible interference to air travel, the masts at WBAL's new transmitting station have been colored black and orange in alternate stripes, and for night flying a large rotating beacon throws a four million candlepower red beam around the vicinity of the antenna and transmitting station.

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UNION MUSICIANS TO OPPOSE CODE

When the code for the broadcasting industry comes up for a hearing before Sol Rosenblatt, NRA deputy administrator, the American Federation of Musicians are expected to ask that a clause be inserted banning phonograph records for broadcasting unless used for incidental effects. They will declare that phonograph records come under the head of unfair competition.

Argument that the union plans advancing is that the heavy use of phonograph disks not only keeps musicians out of work but is unfair to those stations that maintain a staff of instrumentalists through all hours of the broadcasting day. The Union musicians will contend that the smaller stations use phonograph records for anywhere from 30 to 100% of their programs.

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MEXICAN AGREEMENT DETAILS OUTLINED

The Radio Commission has issued a seven-page mimeographed statement setting forth the items on which agreement was reached at the North and Central American Regional Conference held at Mexico City. It explains in detail the recommendations submitted unanimously to their various governments. This includes services other than broadcasting and the distribution of frequencies to the latter services; a table of assignable frequencies based on radiotelegraph emission; also a tolerance table, definitions of terms, etc.

A copy of this document may be had upon request to Mr. Franklin Wisner, Press Representative, Federal Radio Commission, 18th and E Streets, N. W., Washington, D. C.

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WILL BROADCAST BLUE EAGLE SCREAM

It is reported to be in the scheme of things of Station WJSV in Washington to really put the scream of a blue eagle on the air after the broadcasters have been granted the Blue Eagle privilege. It is an easy matter for merchants and others to display the Blue Eagle poster but the question is said to have arisen as to how a station could broadcast it.

Apparently the answer was found in Percy Patrick Posey, a bird and animal imitator, who is now said to spend considerable time in the Washington Zoo listening to the blue eagles. WJSV, according to current report, plans not only to put Posey on the air with his imitation but to have an electrical transcription made and put the Blue Eagle cry on at the beginning and end of the day's broadcasting.

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WKBF, INDIANAPOLIS, IS ADDED TO NBC NETWORK

WKBF, Indianapolis, was welcomed into the National Broadcasting Company network last evening (August 31). Meredith Nicholson, Indiana novelist and newly appointed Minister to Paraguay, and Frederick Landis, well known Hoosier editor spoke.

Joseph Littau's orchestra featured selections by Cole Porter, a Hoosier by birth, including numbers from "Fifty Million Frenchmen" operetta, "Monsieur Beaucaire", based on the novel of the same title by Booth Tarkington, Indiana author.

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NO LABOR DAY ISSUE

Because of the closing of the Federal Radio Commission and Government Department on Labor Day, there will be no issue of the HEINL RADIO BUSINESS LETTER on TUESDAY, SEPTEMBER 5, unless something of especial importance should transpire.

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DECISIONS OF THE FEDERAL RADIO COMMISSION

Applications Granted (September 1, 1933)

KFWI, Radio Entertainments, Ltd., San Francisco, extension of authority to remain silent for 30 additional days from August 31st; WNYC, City of New York, Dept. of Plant & Structures, New York City, authority to operate from 8:30 to 10 P.M. EDST, Sept. 4, 1933; WESG, Cornell University, Elmira, N. Y., extension for the month of September of special authority to reduce hours of operation to specified; WSOC, WSOC, Inc., Charlotte, N. C., modification of C.P. approving transmitter and studio sites; extending commencement date to 10 days from this date and completion date to 70 days from this date; WQDM, A. J. St. Antoine & E. J. Regan, St. Albans, Vt., C.P. to make changes in equipment; WJBW, Chas. C. Carlson, New Orleans, La., C.P. to move transmitter and studio locally; WCAE, WCAE, Inc., Pittsburgh, Pa., modification of C.P. to install vertical radiator.

Also, WOS, Missouri State Marketing Bureau, Jefferson City, Mo., modification of license to change name to Missouri State Highway Patrol; WSB, The Atlanta Journal Co., Atlanta, Ga., authority to determine power by direct measurement; WSB, The Atlanta Journal Co., Atlanta, Ga., license, covering increase in power, installation of new equipment and move of transmitter, 740 kc., 50 KW, unlimited time; WORC, Alfred Frank Kleindienst, Worcester, Mass., extension of special experimental authority to operate on 1280 kc., with 500 watts power, from September 9 to 90 days thereafter; WGCM, Great Southern Land Co., Gulfport, Miss., authority to remain silent from October 1 through Dec. 29, on account of business conditions; WBAL, Consolidated Gas & Electric Light & Power Co., Baltimore, Md., extension to Sept. 10 on special temporary authority to operate auxiliary 1 KW transmitter at new site; WAGM, Aroostook Broadcasting Corp., Presque Isle, Maine, special temporary authority to operate from 10 to 11 A.M. and 1 to 4 P.M. EST, on Sept. 5, 6, and 7; WCAX, Burlington Daily News, Inc., Burlington, Vt., special temporary authority to operate from 8:30 P.M. to 12 midnight, EST, Sept. 5.

Also, Aeronautical Radio, Inc.: KGTF, Fort Worth Texas, C.P. to move transmitter from Dallas to Fort Worth; KGTT, Cheyenne, Wyo., C.P. to increase power from 50 to 100 watts; WPFV, City of Pawtucket, Pawtucket, R. I., license for police service, 2470 kc., 50 watts; WPGB, City of Port Huron, Port Huron, Mich., license for police service, 2414 kc., 50 watts.

Also, Superior Portland Cement, Inc., View Cove, Alaska, C.P. for fixed public point-to-point tel. service, 3092.5 kc., 50 watts; City of Albuquerque, Albuquerque, N. Mex., C.P. for police service 2414 kc., 50 watts; KIGW, Iowa Broadcasting Co., Portable on truck, broadcast pickup license, 2390 kc., 20 watts; WPF, United States Liberia Radio Corp., Akron, Ohio, modification of C.P. to extend completion date to Sept. 5, 1933; Pan American Airways, Inc.: WMDU, San Juan, P. R., modification of two licenses for additional frequency 5375 kc., and modification of frequency range of transmitter, aviation aero. license and aviation aero. pt. to pt. license; KGJW, Brownsville, Texas, modification of license (aviation) for additional frequency 5357, same for aviation aero. pt. to pt. license.

Miscellaneous

City of Atlantic City, N. J., granted permission to intervene in application of WLWL, New York, for modification of license so as to operate full time on 1100 kc., Station WPG now operates on that channel. Atlantic City is the owner of the equipment and property of WPG, which has been leased to WPH Broadcasting Corp., licensee of WPG. (Set for hearing Sept. 6; WHDL, Tupper Lake Broadcasting Co., Inc., Tupper Lake, N. Y., denied special authority to operate until 8 PM during September and Oct.

Applications Dismissed

The following cases, heretofore set for hearing, were dismissed at request of applicants: WKZO, WKZO, Inc., Kalamazoo, Mich., modification of license 250 w. 1 KW LS, 590 kc., unlimited time; WPTF, WPTF Radio Co., Raleigh, N. C., modification of license 680 kc., 1 KW, unlimited time; WJAR, The Outlet Co., Providence, R. I. modification of license 890 kc., 500 w., unlimited time; WMT, Waterloo Broadcasting Co., Waterloo, Iowa, modification of license 600 kc., 500 w., 1 KW LS, unlimited time.

Oral Argument Granted

Oral argument, before the Commission en banc, will be held on October 11, 10 A.M. involving stations WIP, WFI and WLIT in Philadelphia.

Set For Hearing

KFEQ, Scroggin & Co. Bank, St. Joseph, Mo., modification of license to change hours of operation from daytime to local sunset to: 6 A.M. to 7 P.M. and operate during night hours with $2\frac{1}{2}$ KW power Central Broadcasting Co., Davenport, Ia., C.P. 1310 kc., 100 watts, unlimited time (facilities of WIAS); The Journal Co. (The Milwaukee Ellis, Wis., C.P. 900 kc., 1 KW night, $2\frac{1}{2}$ KW day (facilities of WHA and WLBL, to consolidate WHA and WLBL into new station); Frank Wilburn, Prescott, Ariz., C.P. 1500 kc., 100 watts, unlimited time (facilities of KPJM); KIEM, Harold H. Hanseth, Eureka, Cal., modification of license to increase daytime hours to unlimited using same power as now licensed 100 watts (facilities KFWI).

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