

Power Commission is a political entity; its seats are occupied by political appointees; and they serve for the purpose of deciding matters affected by and affecting public policy. If this is a bad thing, which I deny, it is very late in the game to begin worrying about it now.

Next, the majority say they did not hold hearings because "no objections were raised to the proposed issue." The answer, as the majority explain, is that the public and its officials were not notified.

Next, the majority say that the Chairman of the Washington Utilities and Transportation Commission withdrew the strong request for safeguarding conditions which he immediately filed after learning that, in this innocuous "securities" matter, the FPC proposed to determine whether the substitute line was "compatible with the public interest." Specifically, the majority say that his telegram was "superseded and withdrawn" by a later letter. The answer to this is that it is simply not true. No such letter is in the docketed files on this matter, and it is hard to see how one ever could have been, because the Chairman of the Washington Utilities and Transportation Commission never wrote such a letter.

Next, the majority say that a hearing would have been inappropriate because "procedures for considering securities issues must be expeditious." (But they "reject" any suggestion that their expedition was indistinguishable from haste.) The answer is that Congress directed this and other regulatory agencies to hold hearings, if necessary, to determine whether an undertaking to be financed with the proceeds of security issues is "compatible with the public interest"; and that other agencies do so.

Finally and principally, the majority seek to clothe their refusal to investigate in those respectable outer garments which, though threadbare, are sought after more avidly than sables in situations such as this. I refer to legalisms. Specifically the majority allege that, because the Interstate Commerce Commission interprets Section 20 (a) of the Transportation Act of 1920 narrowly, this Agency must therefore interpret Section 204 (which is patterned after Section 20 (a)) in a narrow fashion. Arguing their point, the majority quote "the leading historian" of the ICC as stating that the: " . . . dominant purpose [of Section 20 (a)] was to maintain a sound structure for the rehabilitation and support of railroad credit . . ."

There are several answers to this claim, but two will do.

(1) In the first place, when they issued their opinion the majority refrained from saying that it was Sharfman they were quoting; or from what part or portion of his massive multi-volume work on the ICC