

they excerpted the interior portion of one paragraph which formed their quotation. Had they done so,^{10/} they would have enabled their audience to find quickly that in the very next paragraph, Sharfman explains that --

"The considerations set up for the Commission's guidance are stated in very general, and somewhat vague, terms. The Commission is directed to approve the application and authorize the proposed transaction only if it finds it to be, first, for some lawful object within the carrier's corporate purposes, compatible with the public interest, which is necessary or appropriate for or consistent with the proper performance of service to the public as a common carrier and will not impair its ability to perform that service, and second, reasonably necessary and appropriate for this purpose. It thus appears that large discretionary control is vested in the Commission not only over the amount and character of new issues of railroad securities and of new assumptions of financial responsibility, but over the uses to which the proceeds of securities are to be put and over the direction of intercorporate agreements involving financial liabilities. In other words, the purposes as well as the expedients of permanent financing are subjected to the Commission's approval and authorization, with provision for following through the disposition of the proceeds. In order that essential financial projects may not fail for want of complete compliance with the statutory standards, the Commission is empowered not only to grant or deny any particular application, but to grant it in part and deny it in part, or to grant it with such modifications and upon such terms and conditions as it may prescribe." (emphasis supplied.)

(2) The second answer to the majority's misreading of the law on this matter, is that the Interstate Commerce Commission has the power to issue certificates of convenience and necessity, and in the exercise of that power it holds extensive hearings before approving each certificate application for railroad construction. Consequently a proposed construction undertaking has been thoroughly investigated (under a different section of the Act) before that Commission is called upon to approve the issuance of securities to finance it, and the results of that prior investigation substitute for or supplement the investigation that it makes under Section 20 (a). In other words, the scope of an actual inquiry by the ICC under Section 20 (a) is not necessarily a measure of the scope of the inquiry authorized thereby;

^{10/} Specifically, I. L. Sharfman, The Interstate Commerce Commission, Vol. 1 at p. 190.