

over security issues" and that it "used that power to prevent construction." The majority in this case were not willing to use that power to initiate an inquiry. There is the difference between the two cases.

The majority opinion includes numerous statements irreconcilable with the facts, which I have neither the time nor the inclination to comment on in detail. The following sentence is selected only as an example. In it the majority assert: "The record indicates that the [applicant's] new intertie will provide for the exchange of energy between the two systems and will be available for use by the Bonneville Power Administration or other utility companies in the Pacific Northwest."

In the first place there was and is no "record" indicating the foregoing, or, for that matter, anything else. In the second place there is only one intelligible reading of that sentence, particularly the portion I have emphasized. It indicates that P.P.&L. and P.G.&E. have offered to allow the use of excess line capacity by other public and private power agencies for wheeling their own power to their own wholesale customers over the companies' line. I have made every possible effort to substantiate this statement, including discussions with company officials, and every effort has ended in a finding that the statement was and still is in flat contradiction of the facts. The companies have, indeed, offered to be the sole purchasers and sellers of power between the two regions but they have not made the line available to other agencies in a genuine wheeling agreement. At this date there appears to be every reason to believe they never will. Let me add that the public interest would probably benefit materially if this prognostication should later prove to be wrong, but as of now it is very far from wrong. Construction of the line has not yet begun, more than eight months after hurried approval of securities, because of the companies' inability to obtain permits to build across public lands, and there is reason to believe that the permits are being withheld as the direct result of the companies' refusal to share costs and benefits of the line in the public interest. This is not the impression conveyed by the sentence I have quoted from the majority's opinion.

The foregoing is set forth as a caution to attorneys and scholars reading this case, so that they may examine asserted facts with care. As can be seen, some of them are not facts.

The majority make much of the undeniable fact that our jurisdiction over security issues of electric companies is limited by the peculiar wording of the Federal Power Act. It is certainly true that many electric companies are required to expose their security issues -- and the projects to be financed thereby -- to our scrutiny either not at all or only because of rather irrelevant factors having to do with place of incorporation and the like. But that is no reason for us to refuse to exercise the jurisdiction, spotty and sketchy though it may be,