

Mr. Moss. Our second witness this morning is Judge Henry J. Friendly, of the United States Court of Appeals for the Second Circuit. Prior to his appointment to the bench in 1959, Judge Friendly was for 30 years engaged in private practice of law. He has had a distinguished career as scholar, lawyer, jurist, and author. Judge Friendly has examined the administrative process, with particular emphasis on the regulation of business by the Federal regulatory agencies.

While in private practice, especially during the years he was general counsel to one of the large companies, Judge Friendly had an extensive administrative law practice. As an appellate judge in the circuit which includes a major business and financial center, he has participated in many decisions involving the statutes administered by the Federal regulatory agencies, including the Securities and Exchange Commission. Judge Friendly wrote the opinion in two important cases involving the Investment Company Act of 1940, *Brown, Bullock & Whilhelm vs. Merchison*.

As an author, Judge Friendly has contributed many articles to legal journals on the administrative process and other topics, as well as a much heralded book entitled "The Federal Administrative Agencies, The Need For Better Definition of Standards."

Judge Friendly's breadth of experience makes him particularly qualified to comment upon certain of the matters which are before this subcommittee, and it was for that reason that I invited Judge Friendly to appear here, and I am very pleased, sir, that you were able to respond to the committee. I want to thank you especially in view of the fact that I understand the air transportation broke down this morning and you had to leave at a very early hour from New York in order to reach us.

STATEMENT OF JUDGE HENRY J. FRIENDLY, U.S. COURT OF APPEALS, SECOND CIRCUIT, NEW YORK, N.Y.

Judge FRIENDLY. Thank you, Mr. Chairman, I think I should apologize to the committee for not having been here at 10 o'clock. Perhaps it was my previous experience as general counsel for an airline that gave me more faith in that medium of transportation than proved to be justified this morning.

As the chairman has stated, I have been a judge of the U.S. Court of Appeals for the Second Circuit for some 8 years. We sit in New York City, and because of its position as the country's largest financial and investment center, we have had rather more than our share of proceedings relating to the statutes administered by the SEC, including the Investment Company Act.

I was asked last spring by Senator Sparkman and have been asked by Chairman Moss to express my views as to the feasibility of the proposal in the bills which you have before you, that there be added a new subsection 15(d), which requires that all compensation for services to a registered investment company by an investment adviser or other specified persons shall be reasonable, with that requirement to be enforceable in an action by the Commission or by an interested party.