

tunity for investment for the fellow who wants to get in on this good thing, that is the growth of industry and the development or the subsequent improvement in equity.

Judge FRIENDLY. That I think is the substantive question which I think I ought not speak to, but which you have.

Mr. KEITH. Well, we are looking for all the advice that we can get. I would only entertain any further comment that you wanted to make philosophically or economically on the subject. I am rather sorry that you haven't felt free to do that.

Judge FRIENDLY. Well, I would go this far. It seems to me very hard for anyone to say that there is anything wrong in a requirement that fees should be reasonable. In fact, as I understand it, the industry doesn't challenge that at all. What they are fearful of is that courts will in fact produce fees that are unreasonable, unreasonably low, and that they will be subject to a great deal of harassment, and I can perfectly well understand why they feel that way. In my judgment, their fears are exaggerated, but perhaps if I were sitting where they do, I would feel the same way as they do and prefer to have things remain as they are. You will have to decide who is right.

Mr. KEITH. Do you feel that the usual pattern of stockholder protection exists in this industry as in other industries?

Judge FRIENDLY. I don't think it exists in this industry. It might be an interesting philosophical speculation as to how far it really exists in some others, but I don't think it exists in this from what I have seen of it.

Mr. KEITH. Have State courts shed any light on this subject do you know?

Judge FRIENDLY. All of the decisions have, I think, been in State courts, nearly all certainly, and they haven't shed very much light, because they have felt that this matter of stockholder ratification has taken this situation out of the ordinary rule that where a director is on both sides of the situation he must sustain the fairness of the arrangement, and have put it into the area where the plaintiff has to prove waste, which is a much heavier burden.

Mr. KEITH. How would the stockholders in the management companies be protected in this legislation?

Judge FRIENDLY. You mean the companies that have gone public, where the adviser has sold stock to the public?

Mr. KEITH. Yes.

Judge FRIENDLY. Well, I think they are going to have a real problem if it should turn out that the results would be a downward revision of fees. Of course, I am not saying that they would or wouldn't. If they did, undoubtedly those companies would be somewhat less profitable than they now are. On the other hand, these people bought stock in those companies, knowing that these management contracts were of short duration, were subject to revision, or to cancellation, and they also knew that the Congress of the United States was still sitting and could change the law when it saw fit.

Mr. KEITH. If you were a trustee of an estate, the portfolio of which was \$10 million, would you feel that a fee of one-half of 1 percent for the management of that portfolio was unreasonable?

Judge FRIENDLY. Well, I certainly would, in view of the existing scale.