Mr. Moss. Thank you, sir. Mr. Keith.

Mr. Keith. Thank you, Mr. Chairman. I think that the professor has sort of polarized the point of view of the SEC in this matter. We on this committee have to make our judgment as to whether or not you are right and that the industry and the capitalist system and the individual benefit as the result of this legislation as suggested or, as is anticipated by those who are 180° from you, that the legislation will adversely affect our system and the individual who shares in its bounty.

Have you any private practice at the moment, Professor?

Mr. Jennings. No. I am presently special counsel to the attorney general of the State of California, in a case now before the courts, but other than that, I am a law professor. I occasionally serve as a consultant both to government and to private parties; that is, attorneys, in a case that is related to my field.

I should have added that I am appearing here not as a representative of any private clients, but on the invitation of the committee, as I indicated. I was a consultant for the Securities and Exchange Commission for 1 month during the special study, and I am coauthor of the leading casebook in securities regulation, and in that capacity I am interested in regulation, and I have regular contact with the Securities and Exchange Commission, and I am not hostile to regulation. But I am not, other than that I am not in any way connected with the Commission.

I may say that, as a matter of principle, I have tried to maintain a position of public interest rather than developing a consulting practice on the side that might make it difficult for me to appear before a committee like this in the way that I would like to do, and I feel that I have been able to maintain that.

But if I do have a bias, I may say that as a professor I am interested in seeing an improvement of the security markets and a fostering of free competition in the United States, and I am a strong believer in our free enterprise system. I think we have a great securities industry. The New York Stock Exchange is the finest auction market in all the world for securities, and I would like to see us foster and preserve that.

Mr. Keith. I certainly sense that attitude on your part, but I did want the record to show if there was a background which might indicate a bias.

As you have described what has happened in this industry, it seems to me that as it has been outlined by myself and others here earlier, that money managers in seeking ways to get more money to manage, dreamed up the mutual fund approach, and it has been lucrative, and other entrepreneurs have seen the good thing and gotten in on it. It is about as simple as that, both at the management level and at the sales level. If we adopt the suggestions and recommendations that you and the SEC have, it is going to be a less lucrative field. There will certainly still be management companies but there won't be the incentive to start funds that there has been.

In my view thus far it seems to me that the public has benefited by this incentive to get in because of the profits that could be made. I think that the statute with which we are dealing here is wide open to profitable relationships between the fund and the investment company.