And for that reason, you know at least 30 years ago in California the Commissioner of Corporations decided it was not fair, just, and equitable and simply prohibited it, and the industry has grown enormously as a result of that.

Mr. WATKINS. You talk about the industry growing enormously in California, which I think it has. California is a big State and it is certainly still a growing country. The State of Pennsylvania hasn't had that experience. It has been a growing industry there.

Mr. JENNINGS. I beg your pardon.

Mr. WATKINS. What is that?

Mr. JENNINGS. What has happened in Pennsylvania?

Mr. WATKINS. I am saying it has been a growing industry. It has been accepted and approved by the State laws, by the Securities Commission. We don't have any trouble there.

I would like to know myself what the investors say about this. You have explained the law in California very nicely and I appreciate it, but I don't agree with a lot of your statements and a great many of your thoughts on it. I think this is good and I am just wondering if you can answer this question. I think this is a very good one. Do you think that the SEC should propose a 5-percent rate on this industry? Do you think that is proper?

Mr. JENNINGS. I think that since you have in this industry resale price maintenance by Government action, if that is continued, then it is necessary to have some control of the reasonableness of the sales commissions just as the Government maintains control of the reasonableness of stock exchange commission rates.

Stock exchange commission rates are fixed by the stock exchange, the New York Stock Exchange, subject to oversight by the SEC.

Mr. WATKINS. That is true.

Mr. JENNINGS. In this case it is left to the courts to determine.

Mr. WATKINS. Let me ask you this question. Do you know of any other industry other than those operating under Government franchise, a public utility, that——

Mr. JENNINGS. Well, this is a regulated industry.

Mr. WATKINS. I understood you to say, too, that you considered this not a competitive industry.

Mr. JENNINGS. Not competitive at the retail sales level, that is correct, and I think this was admitted by the industry representatives this morning. Now, when it is a question of whether you have freedom of entry into the industry, there is freedom of entry into the industry, probably more than in most, and a wide range of products of different character offered. That is not the issue.

But the question is whether, for instance, if I want to sell my mutual fund shares, I have to sell those back to the company or if I want to buy, I can't buy them on the open market. If you repeal 22(d), there would develop a market by buyers and sellers of mutual fund shares which would cut that cost.

Mr. MURPHY. Would the gentleman yield?

Mr. WATKINS. Yes.

Mr. MURPHY. Professor, you said you didn't feel that there was retail competition in the sale of mutual funds.

Mr. JENNINGS. On price.