

and substance of their argument is they don't want anybody reviewing the situation.

There are, however, ways—if this is a problem—of avoiding unwarranted litigation and I am informed that in his testimony on Wednesday Judge Friendly pointed out some of them, and his suggestions certainly merit the most serious consideration by the industry and by us. And I am sure they will receive the consideration of the committee. But there may be additional steps which could be taken which we could develop if the subcommittee so wishes, although we have some reservations whether some of them go too far in protecting the managers at the expense of the shareholders of the fund.

Now in summary, industry witnesses have misrepresented this entire proposal. We do not urge ratemaking. We are not against profits. We do not wish to injure the investment advisory industry, and certainly none of our proposals would hurt the mutual fund industry, or even drastically alter the existing level of management compensation, generous as it may be. Indeed, we are not even suggesting a change in the structure of the industry, which in a large sense gives rise to the problems which we are discussing here today.

We have, however, a situation where the investment advisers can, and as I indicated in some instances have, enriched themselves at the expense of those to whom they stand in a fiduciary relationship free of any effective control or independent or impartial scrutiny. I want to make it perfectly clear that this is not true of all of them. Many of them have made an effort to share the economies of scale with their shareholders and have done so for many years. And they have not suffered in terms of sales, profits, or what have you.

Our purpose here is to restore to this area the traditional check on overreaching by fiduciaries, and that is impartial review in the courts of the United States.

Mr. Chairman, there were a few other questions that were suggested to which I might address myself. I will be glad to do that now or take your advice as to how to proceed. There were a few questions raised by some of the witnesses that I understood the subcommittee was interested in having some reaction from the Commission on. I can deal with those right now.

Perhaps I should make that clear. The subcommittee did receive a number of suggestions from other witnesses which relate to the matters I have just discussed, and it has been suggested that it would be helpful to the subcommittee for me to address myself to those matters. I don't think they will take a great deal of time, but I am at your suggestion.

Mr. KEITH. Could you ask, Mr. Chairman, as to the nature of those questions?

Mr. COHEN. Yes.

Mr. MOSS. Those questions were raised by the witnesses?

Mr. COHEN. Right.

Mr. MOSS. And for which answers on the part of the Commission would be supplied?

Mr. KEITH. I would suggest that we go ahead and try to comment on the statement he has made and then if time permits have further comments.

Mr. MOSS. All right, you may proceed at your pleasure.