

are open to audit by representatives of the Bureau of Indian Affairs and should the collection of these fees prove excessive or produce no real benefits within a reasonable period, the Bureau has been directed to so advise this Department and we can at that time again review our position on this matter.

*Items 6, 7, and 9* all involve the question of the reasonableness of the fees being allowed to the conservators and guardians and to their attorneys, and will be treated together.

Our study covered an examination of the court files for all pending estates, with a compilation of the amounts of the fees allowed the fiduciaries and their attorneys and a compilation of the names of the persons or corporations to whom the fees were paid.

Approximately one out of four of the pending cases, selected at random, were then subjected to a detailed examination which included an analysis of the work involved on the part of the fiduciary and his attorney, the fees allowed, and the factual showing submitted in support of the fees requested. In addition, every non-Indian conservatorship or guardianship proceeding instituted in Riverside County in the past five years was examined to ascertain the comparability of the fees allowed as against those allowed in Indian estates.

Although, just by looking at the bare record, there may be a number of instances where fees appear to be high, yet after a close analysis of the services in fact rendered, it cannot be said that they are unjustifiably so. The services, the fiduciaries and their attorneys are called upon to perform are, on the whole, far from routine. They involve the exercise of land development and land management skills, the exercise of sound judgment in advising on problems arising from the operation of business enterprises, the prudent handling of funds for persons unaccustomed to income of the size they have suddenly begun to enjoy, the consumption of endless hours attending meetings of public and semi-public bodies, and, in many cases, almost daily consultations with beneficiaries and members of their families. Intricate legal problems are oftentimes involved.

One important difference present in these proceedings but absent in the ordinary non-Indian estate proceeding, is that more often than not the guardian or conservator of the Indian estate finds himself acting unofficially in the capacity of a personal guardian and he may be called upon any time of the day or night to assist the ward in resolving personal difficulties. These extra services have involved, among others, such matters as traffic and criminal law violations, marriage annulments, charges of breach of peace, finding foster homes and providing for the future welfare of minor children neglected or even abandoned by parents who are under conservatorship, school reinstatements, seeking proper occupational training facilities for wards, providing psychiatric care for wards, and involvement with the Selective Service. None of these responsibilities is a part of the management of trust property and yet innumerable hours of the guardian's or conservator's time is spent on such matters.

In hearing petitions for the allowance of fees, the investigation disclosed that the court was fully informed as to the nature and extent of the services performed. In practically all instances, the record is fully documented with detailed itemizations, some running ten to twelve pages in length. Hearings have been set by the court seeking expert evidence as to the value of some of the more technical services for which fees were claimed. There are instances in the court records where after the hearing, the court has reduced the amount of the fee requested. It was also found that despite the volume of work involved or the extent of the responsibility exercised by the fiduciary or his attorney, annual fees of a rather nominal amount were allowed by the court during those periods when the assets or the income of the Indian beneficiary were insufficient to permit the payment of any greater amount. It might be added further that there was no discernible difference in the setting of fees, irrespective of which one of the three Riverside County Superior Court Judges made the allowance. Finally, the fees in Indian conservatorships and guardianships were found to be generally commensurate with the fees allowed in non-Indian cases involving comparable values.

From all of this, it is our conclusion that a charge that the fees are unreasonable or excessive cannot be supported.

A considerable proportion of the estates are being administered by corporate fiduciaries. These are expert facilities and offer the most experienced estate management services available. There are only a limited number of these institutions having offices in the area. In all cases, corporate or individual, in selecting a representative, the court must give consideration to the nominations made by adult Indians, both for themselves and for the estates of their minor children.