

ing this law. The conservatorship law was to cover a situation where the individual, although competent, did need assistance, where the guardianship law of California, of course, required an adjudication of an incompetency.

In section (a) of Mr. Tunney's latest bill, it is proposed that the Indians be given the benefit of what we might term due process of law, because it makes mandatory that they be entitled to the presumption that when they reach 21 years of age, they are, in fact, competent so that any person asserting incompetency on the part of the Indian would, of necessity, be required to assume the burden of proof in this, which would, of course, restore the Indians to the same status that all of the other citizens of the State of California now enjoy. This, we feel is what we would loosely characterize as the restoration of human dignity for the Indian, because as has been pointed out by Mr. Patencio, when the Indian has reached 21 years of age, it has been almost automatic as a practice to have a conservator appointed on the premise that he was just too young to handle the estate that was coming to him.

This particular law has no application to anybody in California but Indians. The Indians have felt strongly that they should have a chance to at least stand on their own two feet, and if they fell flat on their face, then you could talk about the appointment of a fiduciary to handle the estate.

We further point out that most of this estate is in trust anyway, very well supervised by the U.S. Government as trustee, but section (a) accomplishes one of the most important things for the Indians by entitling them to the same rights as all other citizens in the State of California, the presumption that they are competent.

Section (b) we might call the act of trust section. Unfortunately, after the passage of the equalization laws, it was believed by the tribal members and the tribal council as expressed in the petition of grievances filed with the Commissioner in 1964 that the Bureau of Indian Affairs really abdicated its responsibility, they more or less passed the ball to the superior court and said, "You take care of it from here on out." The supervision, surveillance, and control which it previously had been exercising was, in fact, disregarded. Under section (b) of the proposed bill, if a guardian of an Indian estate endeavors to participate in the development and management of that property and he has special abilities, he may be compensated for that provided he has approval of the Indian and approval of the Secretary of the Interior in doing this. This is considered, indeed, a vital step in putting the Secretary back into the business of being an active as opposed to a trustee. In addition to that, there is something else in the language of section (b) which I think is most important, and that is, in the last sentence thereof, on page 3, it is pointed out that the act of the Secretary would have legal effect. If you are having leases approved, if you have rights-of-way or easements, this is extremely important because some people have raised the question that if you have a guardian of an estate of a minor Indian, or a guardian of an estate of an adult Indian, and this guardian has been appointed by the superior court, of necessity, you would have to have the signature of that guardian or title companies would find it most difficult to come up with title insurance to protect the leasehold interest. This has been a practical consideration.