

The forwarding letter of the Report of investigation signed by Robert Cox and Barry Berkson gives a clue to that which follows. In one of the greatest misstatements of the decade these gentlemen state:

"Due to the volume of the material reviewed and information received, the Exhibit or Exhibits used in support of a given finding may not necessarily be exhausted."

Not only are the Exhibits and Schedules not exhaustive, they are inaccurate, misleading, and in some instances, as will be pointed out later, libelous, were it not for the immunity granted to Mr. Cox. The Report itself, in the section headed "Background", sets forth the inability of the Bureau to follow the direction of Congress as set forth in the Equalization Act.

After initiating the Conservatorship and Guardianship Program in the California Courts the Bureau has abandoned its responsibilities and has left the appointment of the Conservators and Guardians to the Courts. (last sentence, page 6).

In a letter dated September 17, 1963 a copy of which is now handed to you as a next Exhibit, the policy of the Bureau in regard to the establishment of Conservatorships was set forth. As pointed out in the Report of complaints to the Conservatorship commenced almost as soon as the Equalization Act had been adopted. In a mis-classification of the nature of the investigation, defined by Messrs. Cox and Berkson as "truncated", the Department of Interior, at the instigation of Congress, submitted a report on July 9, 1963, which was contained in Exhibit 2 to the Report of March, 1968 wherein the nature of the investigation was certainly not defined as "truncated". Mr. John A. Carver, Jr., then Assistant Secretary of the Interior states:

"In this interchange of correspondence we agree that in making use of existing administrative facilities offered by the California Courts, we have the responsibility of ascertaining that the fees and other expenses charged against Indian Estates were not excessive or unreasonable. To that end, representatives of the Department were instructed to conduct the necessary studies which would enable us to make an enlightened review of the matters outlined as items 4, 6, 7, 8 and 9 of your letter of July 5th and to determine whether there is occurring any waste or dissipation of the Indian Trust Estates. We now have had an opportunity to complete our study. . . ."

At that time and following the "enlightened" review of matters the Department of the Interior specifically found "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, 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 incomes 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, that he may be called upon anytime 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 re-instatements, seeking proper occupational training facilities for wards, providing psychiatric care for wards, and involvements with the Selective Service. None of these responsibilities is a part of the management of Trust property and yet innumerable hours of the Guardians or Conservator's time is spent on such matters."

The report then continues: "Finally, the fees in Indian Conservatorships and Guardianships are 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."