

3. By giving ultimate control of fees for management of Trust property to those Guardians who are entrusted with the management by the Secretary capable and competent business advisors would be subjecting themselves to the whim of the Secretary of Interior and I doubt that many persons of competency would be willing to submit to the arbitrary establishment of fees by the Secretary of Interior. Witness the chaotic state of affairs which has resulted since the Secretary's intervention in the current proceedings.

Point 4 requires an accounting by any Guardian and the return of any Trust property. The Secretary now has the right, by intervention in any Court proceeding to receive copies of any Accountings. By authorizing the Secretary to undertake Court action to require return of Indian property and not directing the Secretary to intervene in any Guardian proceedings, the legislation would promulgate the confusion that now reigns supreme. No act of a Conservator even if approved by Court after notification to the Secretary would ever become a final act. The Secretary could, by the proposed legislation, at any time, as much as fifty years later, move to set aside some Court approved transaction.

Point 5 allows the Secretary to use his discretion in suspending direct rental payments and to initiate Court action to recover funds used in an unauthorized manner. This is what the Secretary has unilaterally commenced to do. It solves none of the problems now in existence, it continues the uncertainty of the validity of any transaction and merely adds another reason to have competent fiduciaries refuse to engage in the business of assisting the Indians.

Mr. EDMONDSON. Mr. Cleary, you may proceed to comment on highlights or points you feel should be underscored, and we appreciate very much your cooperation on that.

Mr. CLEARY. Thank you, Mr. Chairman.

STATEMENT OF HENRY V. CLEARY, ATTORNEY FOR THE ASSOCIATION OF CONSERVATORS, GUARDIANS, AND ALLOTTEES OF THE AGUA CALIENTE INDIAN LANDS AND ESTATES

Mr. CLEARY. Mr. Chairman, Congressmen of the committee, briefly, as you know, the history of this band for a little over 50 years, the Bureau of Indian Affairs has held their land in trust. Up until the Equalization Act, or shortly before that, virtually nothing had resulted in substantial benefits to the members of these bands, this band of Indians.

In the late 1950's, Mr. Emmons of the Bureau contacted Judge McCabe with a request that he commence utilization of the guardianship and conservatorship laws of the State of California, only not on a strictly impartial or extended practice that would be applied to non-Indians. It was Mr. Emmons' request that these programs be applied to the members of this band on the basis of total employment. The letter so requesting Judge McCabe to initiate that practice is before you by way of transcript.

Mr. EDMONDSON. You speak of Mr. Emmons; you're talking about the former Commissioner of Indian Affairs?

Mr. CLEARY. Yes, sir. At the time Judge McCabe had this request presented to him, and at the time the program was commenced, there was no similar program anywhere in the United States. For that reason, among other practical reasons, there were no guidelines. There were no established policies. It was a question of "Let's try this and see if it works." The program has been in operation now for approximately 10 years.

You have heard from Mr. Kettmann the practical changes in the human situation of the tribe now, instead of living in slums. I know