

fornia, the code provisions dealing with guardianships and conservatorships merely provide for 'reasonable' fees." Then, he goes on and states that the "reasonable" fees is left up to the discretion of the court. In fact, if any extraordinary services are performed in decedents' estates, the person performing those services are entitled to extraordinary reasonable fees which is left to the determination of the court and therefore, in that aspect, the two programs, the conservators and guardians are identical.

Mr. EDMONDSON. Let me say in commenting upon your notation on that, that counsel for our committee had noted this particular language in the report, and indicated that he felt evidence was needed to support the very paragraph to which you made reference.

Mr. CLEARY. Fine.

Mr. EDMONDSON. The paragraph including the language, "In the Indio court this means practically automatic approval of fees requested by fiduciaries and their attorneys in Indian estates unless objections are made."

Mr. CLEARY. That's the next point I was going to.

Mr. EDMONDSON. It's the feeling of our counsel that evidence should have been supplied to document this point. It was not supplied, and on this one, I think, you have some concurrence, at least, by the man who's supposed to give us legal advice.

Mr. CLEARY. Thank you, Mr. Sigler. The next appears on page 14. My objection is to the language appearing in the first paragraph, fourth line:

Accounting reflect, however, that clearly routine services such as purchasing cars or securities, preparing income tax returns, attending meetings, or consulting—

and this is where I object

consulting with wards or conservatees are frequently classified as extraordinary.

I cannot object necessarily to that first blush ordinary nature of the services. Certainly, the purchase of an automobile should be classified as an ordinary service by a fiduciary, but it has been pointed out today by testimony that some of the conservators kept their accounting in their hip pocket and the attorney had the problem of income tax returns from slips of paper. If the books were kept by a certified public accountant, there would have been no problem and it would have been very easy to prepare income tax returns, and that would have been an ordinary service. However, when you have to spend, as some of these people did, 2, 3, 4 days just deciphering figures then it changes in that particular instance from an ordinary to an extraordinary service.

Similar with conversing with the wards or conservatees. Conference once, or maybe three times a week for brief periods of time, this cannot be classified as extraordinary, but again, I'll draw your attention to a letter written in 1963 by Under Secretary of the Interior Carver when he classified the types of consultation, and I'm quoting from that letter:

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