

done that. If the particular terms which is delegated to the conservator could best be handled by an attorney, then I think the conservator would be remiss if he attempted to do it himself.

Mr. EDMONDSON. Well, this allegation says "... normally performed by the fiduciary."

Mr. CLEARY. I'm sorry, sir, but what Mr. Cox classifies as normal is so far from my definition of it that that statement means very little to me, and we'll go to the sentence preceding that one, "In many instances, the attorney's services are purely routine, such as obtaining ex parte orders." I find it difficult to believe that an attorney wrote that sentence. Ex parte orders are frequently routine, but many times they are not. As Mr. Hollowell pointed out to you in the case of Mr. Fey, they are anything but routine and involve complete separation. I know from discussing matters with the trust officers at one of the local banks that quite frequently they, as fiduciary, have to keep an eye on the stock market and when it looks like the stock is going one way or other, they need that order now, not 2 weeks from now, not 10 days from now, or they would lose the estate—half the estate, or lose the advantage of making a considerable amount of money so the obtaining of an ex parte order is not a routine matter. Sometimes it is, but not every time, therefore, Mr. Cox doesn't know what he's talking about.

Mr. TUNNEY. Did he ever indicate what his classification of normal services were? You said that you have a different understanding of normal services from Mr. Cox. What is his classification of normal services? Did it, or does it appear anywhere?

Mr. CLEARY. Well, specifically, I think he somewhere let it escape that all conferences with a ward are ordinary, regardless of how many and how much. Specifically, he states that obtaining of routine ex parte—not routine, but ex parte orders, the obtaining of ex parte orders because they are routine, which is not true, or normal, and I disagree with him. I don't know if he spells out any place an exhaustive list of what he considers to be ordinary, but that is a matter of disagreement that's been going on for some time down in Indio in the courts.

Mr. EDMONDSON. You may find some comfort in the fact that once again our counsel has indicated that the key question is, the fee reasonable with the job in connection with the job performed.

Mr. CLEARY. On that question, I'd like again to refer to Under Secretary Carver's letter wherein he concludes—

Mr. EDMONDSON. Do you know that Mr. Carver is not with them any more?

Mr. CLEARY. No, sir, I don't; but he was at the time and I believe he was acting in his official capacity when he says, "From all of this, it is our conclusion that a charge that the fees are unreasonable or excessive cannot be supported." I don't believe the program has changed that much in the last 5 years.

Mr. EDMONDSON. I think that it is a very large part of the charge in the task force report that it has changed considerably in the later years of the operation. If I read correctly, the general conclusions are that there had to have been a worsening of the situation from a standpoint of the charges against the Indians and the percentage of their income that was being put into charges.