

Mr. CLEARY. Could I reserve my comments on the charge until the conclusion of my testimony? I go into that in a little bit of detail.

Mr. EDMONDSON. Right. You will not, I think, disagree with the statement that they are contending that the situation became worse as you moved along into the sixties.

Mr. CLEARY. Yeah, it had to become worse because there was on money at all available in the fifties, so of necessity, it became worse as money became available and started coming in, worse from one point of view. I don't agree with the classification.

Mr. EDMONDSON. Mr. Carver's judgment in 1963 would not necessarily be controlling as to what the facts were in 1967 when the task force made its studies.

Mr. CLEARY. I think you will find many substantial fees had been awarded prior to Mr. Carver's letter. I think you will find the nature of the services rendered both before and after are substantially similar. There have been more charges in the, say, 2 years after 1963 and in the most recent 3 years been very few negotiations. I'd like to offer into evidence Mr. Cox's exhibit 15.

Mr. EDMONDSON. If there is no objection to each of the exhibits which have been specifically referenced by Mr. Cleary in his statement, they will be made a part of the record at the appropriate point. Hearing no objection, it is so ordered.

All right, Mr. Cleary.

Mr. CLEARY. I had a specific point on that if I can find it in my notes.

Mr. EDMONDSON. It appears on page 18 of your statement, Mr. Cleary, with reference to exhibit 15.

Mr. CLEARY. Yes, sir. I state:

The authors criticize alleged extraordinary fees by attorneys for services normally performed by a fiduciary but fail to give any instances in which this situation has occurred.

Then I go on—

If an attorney is representing three clients each of whom are involved in a transaction, the attorney will represent each of the three clients to the best of his ability. For each of the three clients he must perform some services. If the three clients happen to be estates and the transaction necessitates the obtaining of a Court Order for the completion of the transaction the attorney must perform services in connection with the obtaining of court orders for each of the three estates.

The example used in the report, i.e., exhibit 15, is a classic example. Each of the four estates referred to therein necessitated work by the fiduciary and the attorney. The time devoted to all of the problems involved was divided by the number of estates involved and each estate was charged for its aliquot proportion of the total services. There was no duplication of fees.

In exhibit 15, it has been brought out, I believe, rather consistent. An examination by the audit team of the exhibit would indicate that each estate was charged for a certain number of hours. The examiners have said, "Well, because there's 20 hours in each"—now, I'm pulling the figure out of the air. I don't know how many hours they charged the estate, but because 20 hours was charged to one estate, and 20 hours charged to the other, obviously was spent and there's a duplication of fees. Now, had they gone back to check that statement, behind that statement, they would have found that there were 40 hours spent, and the time was evenly divided between the first two. Not having gone