

the judge, and I don't know what he intended or to what he was referring when he made it.

Mr. TUNNEY. You stated previously that it was a good statement of law.

Mr. EDMONDSON. Yes, a good statement of law, and also it appears on the letterhead of James Hollowell, attorney at law, indicating that it was probably drawn by Mr. Hollowell for the court to sign.

Mr. CLEARY. It would appear so.

Mr. EDMONDSON. Something picked up from the judge's extemporaneous statements on the bench and reported by the reporter.

Mr. CLEARY. Seeing the paper you held up, it is obvious—I was under the impression it was a minute order. The document you have isn't a minute order. It is a prepared order, so my remarks on that are out of order. However, it does appear to be a good statement of law, and I can't argue with it.

Mr. EDMONDSON. I agree that it has validity as far as I am concerned. I just can't understand why it wouldn't apply in the case of conservators the same as with guardians.

Mr. CLEARY. I don't see why it shouldn't apply either. The only thing I can say is, you have to look at the specific case that is being assigned to the attorney in the specific instance to ascertain whether it is one that can best be served by the fiduciary or best performed by the attorney. I don't think that at this time or at any time, we can formulate rigid rules for the application of this principle. It is a good principle, but its application must depend upon the circumstances.

Turning now to the inadequacy of records, which appears on page 17, as Mr. Hollowell has pointed out, 23 or 25 of the 47 audited reports, only 36 of which are included here—43 audited reports rather, bear the notation "Inadequate supporting documentation." Having seen only one audit, and I didn't see that completely, the conservatorship made a portion which related to his records and it indicates that his estate was classified as one having inadequate supporting documentation, and in his statement there were two prior fiduciaries, one of whom died in 1961 and one of whom died in 1962. This particular conservator was complimented or, if those are the words, commended, let's say, in the audit report. His records were complete and exhaustive, he had documentation for everything; unfortunately some of the—either one or both of the two decedents' records couldn't be found and therefore, his estate—the living conservator of his estate was classified as having inadequate records. In essence they did, but the records go back 10 years and nobody that I know of keeps records for 10 years, even though the Internal Revenue only asks you to keep records for 4 or 5. So, why, after the court has approved the accounting after the conservator or fiduciary has died and some—what is it?—7 years after, should the estate be classified as one having inadequate records. It would be certainly unusual under those circumstances for the estate to have all of the adequate records of two previously deceased fiduciaries, and in that classification, in 13 of the estates the prior fiduciaries had passed away.

Mr. TUNNEY. You say you only saw one accounting?

Mr. CLEARY. Yes. The Bureau wrote me a letter—as attorney for the association, I asked permission to examine the accounting of the audits, and I was told they were personal in nature and that only the