

CHAPTER 33

BISHOP ESTATE

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“Are we adequately compensating the Bishop Estate trustees?”

I hope you're kidding.

First of all, it's not the most important question to be asked about the Bishop Estate. Second, it's not even the second most important question. Finally, it's obvious to everyone except perhaps the trustees themselves that their compensation is way out of line. I'll explain why this is so and then talk about more important matters.

Adequate compensation? The trustees think of themselves as undercompensated because they give back some of the fees to which they're entitled by law. They can't seem to understand why people aren't more impressed by their generosity.

The truth is, the law does not set their fees; they do. All the law establishes is a maximum. The governing statute says commissions “shall be *limited* to”

The trustees point to that figure and say, “That's what we're entitled to.” Baloney. It's a legal maximum and nothing else. Corporations can *legally* pay their executive and directors billions in salary. Does that mean they should? Of course not. The fact that an amount can legally be paid doesn't begin to address the issue of reasonableness.

The trustees paid themselves a salary of \$860,652 for the year ended June 30, 1992. That's \$860,652 *each*. Most major foundations, univer-

sities, hospitals, museums, and other nonprofit organizations pay their trustees *nothing*. That's right, most are unpaid volunteers. (Some nonprofit organizations use terms other than "trustee," but the responsibility and liability are those of a trustee so I'll use that term for the sake of consistency.)

In a 1990 foundation report—which did not include information on the Bishop Estate, since it is not technically a foundation but rather a charitable estate—the Council on Foundations noted that the highest fee paid to a foundation trustee in the nation, to their knowledge, was \$74,000. A 1989 article on trustee compensations at the country's ten wealthiest foundations indicated that the highest 1988 trustee fee was \$56,200. By contrast, each Bishop Estate trustee made \$659,558 that year.

Most Fortune 500 companies pay their directors—*de facto* trustees responsible for setting policy—annual fees in the range of \$20,000 to \$50,000. Once in a while one hears of fees as high as \$80,000—an amount that is less than 10 percent of the fees received in 1992 by each Bishop Estate trustee.

Five CEOs. Bishop Estate trustees consider such comparisons invalid since directors and other trustees aren't as active as they are in actually running things. Unfortunately, they're right. It's unfortunate because the Bishop trustees, as a group, don't seem to have the strongest possible credentials to run the Kamehameha Schools or manage upwards of \$10 billion in assets. And yet, perhaps in an attempt to justify their astronomical salaries, the Bishop Estate trustees don't confine themselves to setting policy and overseeing the work of skilled managers the way a board of directors, for example, might do. Instead, they function as five separate chief executive officers (CEOs).

If they were volunteering their time, I'm sure they would delegate more to a professional staff that would actually run things. As it is, the trustees want their hands on everything, perhaps to help explain why their fees are so much higher than those of directors and other trustees.

How much does it take to attract top-notch staff? The two highest-paid Bishop Estate employees—other than the trustees—are paid less than \$200,000 per year, despite having outstanding credentials. One has to wonder: are they underpaid . . . or are the trustees overpaid?

A 1992 issue of the *Chronicle of Philanthropy* reported that salaries

of CEOs at major charities and foundations ranged from \$200,000 to a high of \$509,000 (which went to the CEO of the J. Paul Getty Foundation). Not only does the Bishop Estate pay far more than that highest amount, it pays it to each of five trustees.

It would be interesting to see what kind of job each of the estate's trustees could get outside Hawai'i. Oswald Stender was the only one earning a "big league" salary prior to his appointment.

Any way you cut it, the Bishop Estate trustees are grossly overcompensated. They should be ashamed. *Someone* should be outraged.



More important issues. Much more important than the adequacy of compensation is the issue of to whom the trustees are accountable. Who is that someone who should be outraged?

The five justices of the Hawai'i Supreme Court select the trustees, but they make no effort to oversee their performance. The selection process itself has been rather unstructured. Up until the last two appointments, the justices did not even interview the candidates. There have been no written selection criteria (at least none were advertised) despite the fact that each trustee sits atop wealth measured in *billions*, with a responsibility to a group of people (native Hawaiians) who collectively are at the bottom of every have-not list in the state of

Hawai'i (see Chapter 30 of *The Price of Paradise*, Volume I).

The probate court makes sure the trustees do not violate the law, but it doesn't seem to concern itself with the quality of the job being done. Do the Kamehameha Schools produce superior graduates? Is everything possible being done to resolve the educational problems of *all* native Hawaiian children? These are just a few of the many important questions that need to be asked. Unfortunately, the probate court doesn't ask them.

No "standing." The probate court does appoint a master to review the Bishop Estate's annual report in accordance with certain guidelines. The master's report is then reviewed by the state attorney general on behalf of the Kamehameha Schools. Interested individuals can attend certain hearings but can't intervene since they lack what lawyers call "standing." That means they don't have the legal right to represent the estate's beneficiary, the Kamehameha Schools. Other than to write letters (to the trustees, the governor, the master, the probate court, the attorney general, the supreme court), citizens—including native Hawaiians—are powerless.

Much of the public discussion about the Bishop Estate is ill informed, mostly because the estate makes little effort to provide information about the quality of its work. I'm talking *information*, not the slick propaganda one sees in the newspapers.

Political plum. The governor appoints the people who select Bishop Estate trustees. He also appoints the attorney general, who represents the public interest in the proper administration of charitable trusts. It's all a bit cozy—too cozy. Nobody is really watching out for the people Bernice Pauahi Bishop had in mind when she established this trust more than a century ago. Rather than ask who can do the most for Hawaiians, the question on some people's minds seems to be "who's next in line for this political plum?"

Are you surprised to hear that the legislature never finds enough time to debate the issue of compensation of trustees? This was particularly maddening in 1992, when a resolution calling for a study of the trustees' compensation died somewhere between two Senate committees—nobody would admit to killing it—and then a few months later Senate president Richard "Dickie" Wong was appointed a trustee.

Representative Henry Peters (also a trustee) and Senator Milton

Holt (a Bishop Estate employee) have been accused by some observers of being overly active in defending the interests of the estate whenever they arise in the legislature, which is often. And yet, the Bishop Estate did not report any amount spent on lobbying when it filed its most recent tax return. It maintained that it had not attempted to influence legislation or to influence public opinion on a legislative matter.

Hawaiians. The native Hawaiian community has not been particularly critical of the Bishop Estate trustees. Many Hawaiians say it's difficult to attack something that's uniquely theirs, especially if it would have to be done in full view of non-Hawaiians. Many Hawaiians value the institution not just from a practical viewpoint but as a symbol of what little is left of their heritage and their land. Besides, they don't have "standing" to really do anything.

Aimoku McClellan, a 1966 Kamehameha Schools alumnus, was outraged upon returning from many years on the mainland and finding the appalling conditions of Hawaiian children on the Wai'anae coast. According to him, "the real accountability is to the children of Hawaiian ancestry who are often at the bottom of the educational and social scale, and if that is the criterion then the trustees are not doing their job. The only way to get out of the mire today is education, and the focus should also be on the public schools which are not doing an adequate job." McClellan has suggested criteria for the selection of Bishop Estate trustees. He and many others feel that the selection of well-qualified trustees is the most significant improvement that can be made to the estate.

Office of Hawaiian Affairs (OHA) trustee Rowena Akana has also voiced concerns: "Compared with OHA the estate has a smaller mandate but bigger bucks, and I am tremendously disappointed that more Hawaiian children are not better educated, especially with the resources of the estate."

Oswald Stender is the only trustee who is universally considered to be up to the job. He was quoted in the spring 1990 issue of *He Aha Ka Meahou Me Kamehameha* as saying, "I want people to love Kamehameha Schools/Bishop Estate. It has a great story behind it and a mission, yet it has the worst image of any large business in Hawai'i. Bishop Estate has a major influence in the community and we're not meeting this challenge." Amen.



"TO THINK JUST YESTERDAY WE WERE THE HEALTHIEST STATE IN THE NATION..."