

# JUDGE ASHFORD NAMES C. E. KING AS TRUSTEE OF BISHOP ESTATE

(Continued from page one)

of the justices of the supreme court appointed William Williamson to fill the vacancy. The matter then was taken before Judge Ashford for approval and confirmation. He took the matter under advisement and his findings and actions are noted in today's decision.

**Supreme Court Loses Power**  
Although the wife of the late Mrs. Bishop provided that the filling of vacancies in the board of trustees should be done by a majority of the justices of the supreme court, Judge Ashford holds that, by statutory enactment, in 1892, that power has been lost. In concluding his decision, Judge Ashford goes very fully into the merits of the case, summarizing the reasons for his findings and actions as follows:

"1. That the power of appointment of trustees to fill vacancies in the board created in and by the will of Mrs. Bishop was, in and by said will, conferred upon the supreme court of the Hawaiian Islands as a judicial tribunal and acting in its judicial capacity;

"2. That, at the date of said will, and thence until January 1, 1893, said supreme court was invested with all the jurisdiction and powers necessary to the choice and appointment of such trustees;

**Power Not in Individuals**  
"3. That said power of appointment was not conferred upon the individuals who might, at any given period, chance to fill the offices of a majority of the justices of the supreme court, acting in their individual, as distinguished from their judicial, capacity;

"4. In the alternative, that if said power was so conferred upon such justices as individuals, it extended and extends, by virtue of said Judiciary Act, only to the point of choosing and nominating trustees to fill such vacancies for approval or disapproval, by the circuit court, or a judge thereof, sitting in equity;

**Equity Jurisdiction Changes**  
"5. That by virtue of the transfer from the supreme court to the judges of the several circuit courts of equity jurisdiction previously existing in said supreme court, and its several justices, which transfer was effected by said Judiciary act, said supreme court has not, since December 31, 1892, possessed the jurisdiction or authority to choose or appoint such trustees;

"6. That the jurisdiction and authority to appoint such trustees having been lost by the supreme court, by statutory enactment it is now vested in the judges of the first circuit court, sitting in equity, as a part of their general equity jurisdiction;

"7. That as the judge of said circuit court now having charge of the equity cases and sitting in equity, said jurisdiction and authority per-

tains and belongs to me; **Disapproves Appointment Offered**  
"8. In the alternative, if a majority of said justices of the supreme court, acting individually, and not judicially, were invested with, and still retain the jurisdiction and authority to choose and nominate to this court, sitting in equity, for its approval or disapproval, a trustee or trustees to fill such vacancy, and if the naming of William Williamson be regarded as such a choice and nomination, then said choice, and nomination, are hereby respectfully disapproved;

"9. That inasmuch as a vacancy in said board of trustees now exists, owing to the resignation of Samuel M. Damon as such trustee, and the judicial acceptance thereof, and as this court has acquired jurisdiction in the premises by virtue of the petition or request of the remaining trustees for the confirmation of Mr. Williamson, it is appropriate that this court should now make an appointment of such trustee to fill said vacancy; **Appoints Charles E. King**

"10. Wherefore, by virtue of all the rights and powers me in anywise enabling in this behalf, I do hereby appoint Charles E. King, an alumnus of said Kamehameha school, of the first class graduation therefrom; to wit, the class of 1891, his appointment, to become effective upon said appointment, furnishing proofs satisfactory to the court that he is a person of the Protestant religion, and upon his qualifying for said position by entering into a joint and several bond to and with his associate trustees herein, in the sum of \$100,000. A decree to this effect will be signed upon presentation."

After taking up and commenting, to some extent, on the making of the trust deed by the late Mrs. Bishop, and the filling of vacancies on the board since the creation of the trust, Judge Ashford refers to oral evidence regarding the personal, moral and business qualifications of Mr. Williamson as trustee. He says, in the decision:

**Discusses Qualifications of Williamson**  
"As to this feature the court desires to express entire satisfaction with the qualifications of Mr. Williamson for such appointment in all respects except one, namely, that it has not been made to appear that he is so qualified, by length of residence in Hawaii, or by familiarity and sympathy with the history, manners, customs, language, ideals and aspirations of the Hawaiian people as to mark him out as a fit and suitable person to be appointed to an office where he would be authorized and expected to exercise a wide, benevolent and sympathetic discretion, with reference to the education of Hawaiian youth, or either of the other matters, or concerning the general scheme, system and regulations to be adopted and observed during their attendance at the schools in question."

"The court reserved its ruling upon the petition because of doubts which it entertained concerning the authority of the justices of the supreme court to make such an appointment, and the validity of the appointment as so purporting to have been made, and arranged for argument upon those points."

**Believes Hawaiian is Needed**  
"Going more deeply into arguments either supporting or against the question of the power of appointment by the supreme court, and the questions of the moral and other qualifications of the trustee placed in the vacancy, as well as commenting at some length on his personal beliefs that one of Hawaiian blood should have a seat on the board, Judge Ashford says:

"Assuming, for the purpose of this argument, but not conceding or deciding, that the justices of the supreme court may still exercise the right of choice and of nomination of a new trustee to the circuit judge sitting in equity, and treating the proposed appointment of Mr. Williamson as such a choice and nomination, this court respectfully declines to confirm, or to appoint, Mr. Williamson to the position to which he has been thus ostensibly chosen and nominated. **Understanding Race is Essential**

"As above expressed, there are no objections to the moral, intellectual or business qualifications of Mr. Williamson, but this court feels that, in the administration of a quasi public trust of this magnitude, which has undertaken and is conducting a comprehensive scheme and system of education of the Hawaiian youth of both sexes, and resident in all parts of the territory, it is at least reasonable even if not locally imperative, that the Hawaiian race should be represented in the administration of such trust, and granted the privilege of those expressing, advocating and promoting the ideals, ambitions and aspirations of the Hawaiians as a people, with respect to the manner in which their attendance at school shall be conducted, there is no evidence of record to show that Mr. Williamson possesses any of the peculiar qualifications herein recited."

"It has been urged upon argument that Mrs. Bishop, the donor of this trust, herself a Hawaiian of the Hawaiians, made no choice of an abor-

## Warships Carry Message To Honolulu

The great fleet is all ready for launching! Every one of the seventy-five gigantic warships that will take to the water next Tuesday flying the naval flag of the Star-Bulletin gleams and glistens on the ways with the polish and paint of absolute newness.

It's a fine fleet, and should represent Honolulu well in the voyage it will take during the next four weeks.

One of the first purposes of this fleet is to carry a worth-while message into every Honolulu home, and as it plows by next Tuesday every man, woman and child in the city will have a chance to find out what that message is.

Every ship will have painted on her side a single word of that message and it should be an easy matter to piece it together at once.

However, it's a difficult thing to manage the sailing schedule of seventy-five speedy vessels. Thus the last word of the message might sail before the first word—in fact, the whole message might get all mixed up. So the Star-Bulletin, to reward your efforts, is going to offer a generous cash prize in connection with the successful unraveling of the mystery that may surround the words on the sides of the ships.

We will tell you what the reward will be, and how it may be obtained next Monday, so be sure to get a copy of the Star-Bulletin and read it.

## RUSSIANS SMASH WAY FURIOUSLY

(Associated Press by Federal Wireless)  
**BERLIN, Germany, July 29.**—The Russians have penetrated the German lines in the region of Tristyn, causing the Germans to abandon their advanced positions. west of Lutsk a German counter-attack halted the Russians. North of Brody 1000 Russians were captured today.

(Special Star-Bulletin Correspondence)  
**PETROGRAD, Russia, July 29.**—The Teutons in Galicia have been driven from the Kovel-Aojitche railway line to Brody, and in this drive 400 officers and 20,000 men were captured. South of the Dneister river the Russian troops under Gen. Letchitzky have been victorious in the direction of Stanislaw.

## NEW TALENT AT HEINIE'S

Heinie's Tavern will have its usual gala time tonight and to add to the festivities the popular entertainer, Miss Kyra Gibbons, has been engaged by the management. Come and have a dinner by the sea and listen to the new songs and enjoy the dancing.—AGV.

Every boy and girl, every mother and father, every aunt, uncle, grandmother and grandfather in Honolulu is invited to stay home Tuesday evening and watch the naval pageant in the pages of the Star-Bulletin.

iginal Hawaiian to serve upon the board of trustees, but selected only those of foreign blood or birth. **Points Out Changed Conditions**

"It may be said that this argument should have been accorded decisive weight in the years that are gone, at least during the first, or possibly, during the second decade of the existence of the trust. But it must be remembered that the Boys' school in question has been in practical operation some 29 years; that it has graduated no less than 26 classes, containing many hundreds of Hawaiian boys; that the first of those classes has now been graduated 25 years, and that its members, as well as scores of members of succeeding classes have, since this trust was established, had, since their graduation, many years of intercourse not only with the members of their own race, but with the community in general, in which, as we are proud to claim, Anglo-Saxon ideals of life and government have been and are being most satisfactorily observed. **Hawaiian Should Be Competent**

"It would therefore, in my opinion, be a gross slander upon the Hawaiian race, and especially upon the hundreds of male alumni of Kamehameha school, to assert that no member of that race is now fitted to discharge the duties which devolve upon a trustee under the will of Mrs. Bishop. "If, as has not been shown and I am unwilling to believe, that school, so conducted by a board of Anglo-Saxon trustees during a period of 29 years has not succeeded in producing one man who is mentally and morally fitted for the discharge of the duties of such trusteeship, then, in my opinion, it is high time to inaugurate such a revolution in the personnel of the board as will insure the adoption of such a course of education at the school in question as will more nearly conform with the objects of its most generous founder."

Near the conclusion of his decision Judge Ashford says: **Explains Disregard of Advice**  
"Realizing the magnitude of the interests at stake, and appreciating that my conclusions herein 'fly in the face' of all procedure and precedent that have been observed in the filling of previous vacancies (since the going into operation of the Judiciary act of 1892) and being further mindful of the fact that these conclusions are opposed to those reached and submitted to the court by the amici curiae, friends of the court, who so courteously and ably examined and argued the question at bar, I have felt it due not alone to myself but to the opinions of these gentlemen to examine these matters at length and to point out to the best of my ability the reasons which induce me to disregard their advice as to the condition of the law involved."

## WATER IN NO. 4 PURER WHEN NO RAIN IS FALLING

Health Board Tests in Times of Heavy Rains Show Very High Bacteria Count

When seen today by a Star-Bulletin representative, Dr. J. S. B. Pratt, president of the territorial board of health, declined to make any comment on the statement Friday by Harry Murray, manager of the city water department, that water rates would have to be increased 50 per cent if artesian water is substituted for water from Nuuanu reservoir No. 4 as advocated by the board.

"Nuuanu reservoir water contains a great many more bacteria than allowed by the bacteriological standard for water maintained by the U. S. Public Health Service," said the board's president. "Our tests show that the purity of water from reservoir No. 4 is generally far below the standard for good water."

According to board of health records examined today, recent tests of water from Nuuanu reservoir show the water to be much purer now than it was when heavy rains fell in that region washing down surface water from the Fall road. A storm ditch to keep this water from running into the reservoir has been advocated as a remedy.

The latest test made was on June 7 when the tests showed bacteria colonies of only 20 each. This is the purest state the water has been in for many months, and is due to the fact that at the time of the test there had been dry weather and no rain preceding it. The count at that date shows a purity above the government standard.

Going further back, however, tests made May 11 showed 50 times as much bacteria in the reservoir water as were found in June. The May 11 test showed 1100 and 500 colonies. The U. S. Public Health Service standard for pure water is 100 colonies.

May 4 tests showed bacteria contents of 450 and 425. April 4 the count was 100 and 100, following a dry spell, showing how dry weather with no surface water flowing in from the road greatly reduces the number of bacteria.

Last winter, however, with frequent rains, the count averaged from five to 10 times the government standard. March 22, it was 550 and 420; February 23, 1000 and 1100; and February 16, 1916, 490 and 550 colonies. Two separate tests, under different conditions, are made to obtain the counts each time.

The Health Service bacteriological standard for water approved October 21, 1914, reads: "The total number of bacteria developing on standard agar plates, incubated 24 hours at 27 degrees C., shall not exceed 100 per cubic centimeter."

## DAILY REMINDERS

Round the island in auto, \$4.00. Lewis Etanbles. Phone 2141.—Adv.

You are invited to hear Dr. Brooks Sunday night at the Opera House.

Exclusive corset shop, "The Goodwin," rms. 21-22, Pantheon bldg.—Adv.

If a good stenographer is advertising for a position today, isn't that interesting to you?

Through Want Advertising you may find that your services are desired by more than one employer.

For Distilled Water, Hire's Root Beer and all other Popular Drinks, try the Con. Soda Water Works Co.—Adv.

Flat rate charges for water and sewer service will be delinquent on August 1. Why pay 10 per cent penalty?—Adv.

Exceptions to the decision of Judge W. S. Edging in the case of Charles Reinhardt against the county of Maui have been filed in the supreme court by the defendant. Reinhardt asked \$15,000 damages for alleged injuries received on property of the county and was awarded \$2000 by the Maui court.

## DANCE AT NATIONAL GUARD ARMORY

Hawaiian Music—The best that has ever been furnished at any of our dances. The music alone will be worth the admission. **Saturday, July 29th** AT 8 P. M. **Benefit Dance for Enlisted Men's Clubrooms** Admission 50c (Ladies Free)

## LOCAL AND GENERAL

WHEN YOU DO NOT GET YOUR PAPER

Call Phone 4911, ask for the Circulation Department, and make the complaint. Serving so many thousands of homes every afternoon makes occasional lapses possible. The Star-Bulletin maintains, until 6:30 p. m. each day, a special city service for any customer the carrier may have missed.

You are invited to hear Dr. Brooks Sunday night at the Opera House.

Alleging non-support, Nabe Hanagasuku has filed in circuit court a suit for divorce from Selahu Hanagasuku.

The Kalhi orphanage, upper Kalhi valley, will be the scene Sunday of the annual picnic of the Society of the Apostleship of Prayer of the Catholic cathedral.

Theodore Roosevelt Camp No. 1, U. S. W. V., has regular meeting at 7:30 tonight in Mansfield Hall, Fort Shafter.

The Right Reverend Lemuel H. Wells, the retired Bishop of Spokane, will preach at the 11 o'clock service tomorrow morning in St. Andrew's Cathedral.

Circuit Judge Whitmer has refused Helen Wong Hoy a divorce from Wong Hoy, the former having alleged non-support. The suit was contested by the husband.

Governor Lucius E. Pinkham has appointed Dr. Ormond E. Wall to the board of dental examiners, to succeed Dr. M. E. Grossman, who has resigned and is at present in the states.

The Boy Scouts realized several dollars last night from the dance given in the Lihoukalan school assembly hall by the Kaimuki troop. The money will increase the fund for the proposed scout house.

The funeral of Mrs. Augustus Gomez, who died Friday at the Oahu Insane Asylum, is this afternoon and burial will be in the Catholic cemetery. Deceased was born in Hilo 20 years ago.

Because the police are unable to locate the defendant, who is out on bail, the case of Ned Kaimal, charged with second degree burglary, has been continued in Circuit Judge Ashford's court until 1:30 o'clock next Tuesday afternoon for arraignment.

The funeral of little Yelverton Oliver, who died Wednesday after a brief illness at the home of his parents, Mr. and Mrs. Charles W. McCannahan, 1929 Kalaheua avenue, was Friday afternoon. Burial was in the Catholic cemetery.

Funeral services will be held Sunday afternoon at Silva's undertaking parlors for Joaquim de Silva Cabral, who drowned last Sunday at Waimea, Kauai. Burial will be in the Catholic cemetery on King street under direction of the Santo Antonio Society.

## PACIFIC TENNIS CLUB ENTERTAINS FOR C. W. DICKEY

A number of members of the Pacific Tennis Club gathered at the clubhouse at noon today to honor C. W. Dickey, a member of the club who has been absent from the city for some time. Poi, salmon, bread and jam were among the goodly things placed before the members.

The Pacific Tennis Club is the oldest tennis organization in Hawaii, having been founded 21 years ago. Among the members present was Walter Dillingham, who won the finals in the first tournament held in Hawaii. In 1895 he defeated G. W. Smith for number one honor. Playing with the late W. T. Conroy, Dillingham also shared the honors in the doubles, defeating J. O. Wood and E. H. Wodehouse.

We have a New Stock of **Japanese Cotton Crepes** Entirely new pattern—Price 25c per yard **Japanese Bazaar** Fort Street Opposite Catholic Church

Oh, It's a Good Place to Lunch, Is **Quality Inn** Hotel, west of Fort

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