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THE TIMES

Port Limon, Costa Rica (G. A.)

Decision in the Election Petition.

Full Text of Judgment Given.

HIS HONOUR'S FINDING.

I determine and declare that the said Solomon Alexander Gilbert Cox was not duly returned or elected and I do further declare that the said Henry Cox was duly elected and ought to be returned as the member for the electoral district of St. Thomas instead of the said Solomon Alexander Gilbert Cox and a certificate will issue accordingly.

I order and adjudge that the respondent do pay to the petitioner the costs of, and incident to this petition.

Text of the Judgment.

His Honour the Chief Justice said:

This is an election petition presented by Mr. Henry Cox against the return of the name of Mr. Solomon Alexander Gilbert Cox as the member elected in January 1911 for the electoral district of St. Thomas and claiming that his name may be so returned. The petitioner and the respondent were the only two candidates nominated at the said election.

The Court has been informed that the respondent does not rely on the alternative property qualification in section 10 of the order in Council of the 3rd day of October 1895, but solely on the residential qualification and in all other respects it is admitted that the requirements of the law for the present purposes may be assumed to have been fulfilled. The question at issue therefore turns upon the meaning of the word "resided" in section 10 of the order in Council and on the weight to be attached to the evidence adduced. Section 10 reads as follows: "No person shall be capable of being elected a member of the Legislative Council of Jamaica, for any Electoral District, or having been elected shall sit or vote in the Council, unless he either has resided in that Electoral District for twelve months immediately preceding the day of Election or possesses a clear annual income arising from lands in that district belonging to him in his own right or the right of his wife."

Different meanings have been placed by the Courts on the word "resided" according to the intention of the Statute they were deciding, and it is this

DUTY OF THIS COURT

applying the legal rules of interpretation to construe the word "resided" so as to give effect to the object and intent to the order in Council, which was evidently to make the member truly representative of the district by requiring a substantial local interest and, in the absence of the property qualification, by providing that no one should be eligible for election unless for the period mentioned he actually resided in the district. By that I understand a real, bona fide residence, which need not be continued, but the mere sleeping in a place would not constitute a residence.

The respondent from time to time visited the district professionally, and for political purposes. He was sometimes accompanied by his wife and by one of his children on two

or three occasions. The stay as a rule was not of long duration, and when the business which apparently caused the visit was finished the Respondent and the members of the family who were with him returned to Kingston where he and his family ordinarily reside. The permanent residence in Kingston would not preclude the Respondent from having a residence elsewhere. It is a question of fact whether he had such a residence. What does that respondent's case amount to? That feeling doubtful whether he could rely on Mr. F. H. Cox and the property qualification obtained through him by the transfer of Mount George, he decided to acquire.

A RESIDENTIAL QUALIFICATION

in Morant Bay, and for that purpose through his brother, Mr. E. F. H. Cox, he rented for £3 a month the whole of "Retreat" with the exception of two rooms retained by Mrs. Marshall the landlady. The specific object for which this was to be done would be no objection but the fact must be taken into account in considering the intention. That he then sublet the upper part to Mr. E. F. H. Cox, who shared for a time the occupation with Mr. Trench, and later in the year, when Mr. E. F. H. Cox left the parish, to Mr. Trench, for the same rent so that no money was payable by him and that he also allowed Mrs. Marshall to let a portion of the lower part and to dispose of the pasturage, reserving to himself however a room in the upper part, and a general power over the lower portion of the premises so that he might live in the house when he thought proper. But in fact the respondent was unable to occupy when he desired to do so the room which he claimed was his in the upper part, and which in his absence was left unoccupied so far as he was concerned, and was inhabited by the so-called sub-tenants apparently without even the previous sanction of the respondent. Judging from the notification of an intended visit which he sent to Mr. Trench, and on some of the occasions when the respondent came to Morant Bay, Mrs. Marshall had to

vacate HEROWN ROOM, or to make other arrangements in one instance with the consent of Mr. Wells, so that he might be lodged. The number of rooms at Retreat is so limited that it is difficult to conceive during the joint occupation of Mr. E. F. H. Cox and Mr. Trench and especially later when Mr. Trench, his family and Mr. Cooper came into the house, what accommodation was available in the upper part, and as to the lower part, not before one of the rooms was afterwards the end of the year repaired and made habitable, matters were not much better in this respect. Can these facts, even assuming them to be as stated, be said to substantiate in common sense to show a residence within the meaning of the order in Council, and do they indicate an exclusive occupation and a permanent right of enjoyment during the prescribed period? The answer in my opinion must be in the negative, and I find that a residence is NOT IN FACT ESTABLISHED. Under these circumstances, it is unnecessary for me to decide whether the alleged tenancy by the respondent did in fact exist. Having come to the conclusion that the respondent did not at the time of election possess the requisite qualifications, I determine and declare that the said Solomon Alexander Gilbert Cox was not duly returned or elected, and I do further declare that the said Henry Cox was duly elected, and ought to be returned as the member for the electoral district of St. Thomas instead of the said Solomon Alexander Gilbert Cox and a certificate will issue accordingly.

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MESSAGE OF SYMPATHY.

The following sympathetic telegram was received by Mr. S. A. G. Cox, from the electors at Ewarton, yesterday afternoon: "Regret and sympathy decision. We are prepared to stand by you. Subscription list started."

Mr. S. A. G. Cox asks the "Gleaner" to thank the electors at Ewarton for their kind telegram and offer to subscribe.

Current Items.

The S. S. "Siberia" arrived early yesterday morning with mails and passengers.

The United Fruit Company steamer "Heredia" arrived on Friday from Colon with the following passengers: Mr. and Mrs. M. Eckstein, T. E. Vendigis, Mr. and Mrs. Meyer, J. Madison, F. E. Felice, H. E. Price, Antonio Valle, Ricardo Casasa, E. A. More and 30 deck passengers.

The following is taken from "La Republica" of the 10th inst. To-day sentences will be given for the explosion of the Jamaica Negroes, Washington, Sterling, Charles Ferguson and Francis as a result of the evidence against them for various serious charges, among which is that of "Quack doctors." In accordance with the laws of the country touching "unscrupulous foreigners" these men have been given every opportunity to defend themselves. The sentence will be given in conformity with the request of the British Vice, and Consul of Limon and San Jose. In a later issue we will give a full history of the life and work of operation of the parties referred to.

To our Subscribers.

We could not arrange our press in time to publish our Saturday's number, but we will give in exchange a special number on Monday the 13th inst., and we will also publish a special illustrating number on Wednesday. May to our subscribers and advertisers free of charge.

AMERICAN WINE

Genuine Spanish wine; the best tonic for the stomach and nerves. Imported only for JULIAN PAGAN, from the market. Proof it and you will always drink it.

CHINAMAN KILLED.

Shot in Back While Counting Day's Sale.

LARGE SUM OF MONEY TAKEN FROM IRON CHEST.

DEATH A MYSTERY.

A dastardly murder was committed on Thursday night last on Camp On Road, a quarter mile from the railway crossing, the victim being a Chinaman named Thomas. The deceased was a young man and was not more than 27 years of age and of ordinary height. From information gathered in the vicinity of the place it appears that Thomas was the proprietor of a well stocked dry goods and salt provision shop, and on the night of the alleged murder and previous to his receiving the ill-fated bullets he closed his shop at about ten o'clock, barring the front door and windows and repaired to a back room attached to the shop. He kept a table in the room to which he sat before in a chair, presumably counting up the day's sale. Behind the chair where he sat was a door which must have been open whilst John Chinaman was counting his day's earning. It is supposed that some vicious and covetous parties thirsting after blood and money aimed at him through the open door and shot him through his back.

The first news of the man's death was when the man that served him with bread knocked at the shop early on Friday morning and not receiving an answer entered through the back door where he found him sitting in a chair with his face downwards on the table and his arms hanging down at his side. His two trousers pockets were turned out and a gold watch which he carried on him was missing, only the chain that was attached remained. On the table before him was a small parcel that contained a goodly number of ten cents, on the floor was the key of his large iron chest, where it is said he had a great away a large sum of money—gold and the country's currency.

On searching the iron chest it was discovered that every cent was taken from it and only a few scraps of paper that is of no value was left. Thomas was quite a popular man among the Jamaicans and other people. They had much confidence in his integrity and as a consequence many of them made him their banker. One man, named Bogle, a native of Jamaica, had \$550.00 in his bank, several other parties had

smaller amounts, and was only left to mourn their loss.

Dr. Cespedes was early on the spot and examined the deceased man when it was discovered that he had received 38 buck shots in his back, three of which was taken from beneath the outer skin of his stomach.

The criminal judge and the Court's interpreter were on the spot a couple of hours, taking the statements of persons living nearby. All of them declared that they never heard the sound of any firearm; although some of them lived only about 8 or 10 feet apart. One woman named Tait was taken up and carried to the court. It seemed as if her statements were stricken with mysteries.

Much sympathy was expressed by all in the neighbourhood for the deceased, as he was very courteous to his patrons and those who made him their banker. Many of his countrymen were on the premises yesterday morning sorrowing and discussing the situation. The police took charge of the body and later on it was interred at Camp One.

Last Cheers for the Kaiser.

German Imperial Party Leaves London for Home—Invitation for Wales.

London.—The Emperor William, the Empress Auguste Victoria and the Princess Victoria Louise of Germany, who have been spending a week with their royal English cousins, left on their way home. They were accompanied from Buckingham Palace to the railway station by King George, Queen Mary and other members of the British royal family. The streets along the route from the palace to the station were filled with cheering crowds. There were affectionate farewells between the emperors as the German party bade the train. The Emperor will spend Saturday night on board the imperial yacht Hohenzollern at Sheerness, in the Medway, and will sail for Flushing, the Netherlands seaport at the mouth of the Scheldt, to-morrow. The Kaiser has invited the Prince of Wales to visit him at Potsdam.

Notice.

Miss Ellen M. Saw of Old Harbour, leaves home on the 12th inst. for Jamaica leaving her positions under the supervision of Mr. D. A. Sherrill.

Special Coronation Meeting.

Representatives of the various Fraternal Societies, the Linnæus Literary Association, Members of the Linnaus Display and other members of the Coronation Committee are requested to attend a special meeting at the Mrs. J. C. Poynter Hall at 6.30 this evening when Charles M. George, Esq., British Vice-Consul and the Rev. Archdeacon Robinson will meet the Committee to arrange finally for the Coronation Programme. Please attend.

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Port Limon, C. R., 1911.

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