

EXTRAORDINARY CASE.

**CHARGE AGAINST A LANDS
RANGER.**

**ALLEGATION OF FAKING A
BALLOT.**

**PREFERENCE TO GERMANS
INFERRED.**

A FRESH BALLOT ORDERED.

A case having some extraordinary features came before the Hon. Dr. Kidston in the Land Court at Roma last week, when Alfred George Nason appealed from the decision of the Deputy Land Commissioner at Surat in refusing his application to select portion 3, parish of Donga, as a grazing homestead. Mr. C. Martin appeared on behalf of the Crown, Mr. R. H. Dyball for the appellant, and Mr. Mayne for the respondent, J. F. W. Henning.

The case had been decided before Sergeant Kelly, as Deputy Land Commissioner, at Surat, on November 5 last. There were 39 applications for this portion. In conducting the ballot, Land Ranger Tardent occupied the bench, and Sergeant Kelly occupied a seat at the table near the ballot boxes. The latter stated that this arrangement was made by him just before the court sat as being more convenient. Into the ballot box there were placed 38 blank envelopes and one stamped with the word "accepted." This was stamped and sealed by Tardent, and not initialed by the Deputy Commissioner before being placed in the box.

The sergeant stated that from where he was sitting he could not see an envelope on the sloping desk in front of Tardent. The applicants in turn pulled out an envelope and handed it to Tardent, who cut it open with a knife, exhibiting the envelope to the court. Tardent put the envelopes on the desk to open them with a knife. Henning's turn was fifth. Tardent took the envelope and cut it open, and held up, apparently the same

Tardent took the envelope and cut it open, and held up apparently the same envelope, marked "accepted."

The appellant gave evidence in which he said that Henning laid his envelope on the desk where it sloped down towards Tardent, that Tardent took up an envelope, ran the knife round three sides of it, and without looking inside it, held it up and said "accepted."

Alexander Simpson, commission agent at Surat, stated that about a week before the court Tardent visited his office, and he told him that he had several applications to lodge; that Tardent said, "There is not much use your putting in applications for portion 3. Henning will get that if I run the court. You might have a chance for portion 4." A couple of days later Tardent came in again, and said, "I have perpetrated (?) my plans, and can fix it up all right." Witness said he informed Sergeant Kelly of what Tardent had said. After the court witness had a conversation with Tardent, and remarked that it was strange that those two men drew the two blocks. He replied, "I faked both ballots; the accepted envelope was never in the box." While they were having a drink at the hotel subsequently Tardent said it was as good as £350 to him. Tardent called at witness's office two days later, and the latter said he could not understand how he had worked the ballot. He then said, "You get 38 envelopes; they are closed and put in the box. You have a dummy envelope on the desk; you then get another envelope blank, and stamp it 'accepted,' and show it to the public. You then close the envelopes on the bench, and pick up the dummy envelope and hand it to the man to put in the box. Then afterwards when the right man comes along you pick up the stamped envelope, open it, and show it to the public."

Emile Auguste Tardent denied that he had handed a blank envelope to Sergeant Kelly, and said that if after he had taken the envelope from the packet he had reached out to take another every one in court would have seen him. His hands while opening envelopes were in full view of those at the back of the court, though not perhaps the

in full view of those at the back of the court, though not perhaps the those sitting at the table. When opening Henning's envelope he happened to notice the stamped word on it, so that he turned it up to the full view of the court without apparently looking at it. As to Simpson's statement, his version was that when Simpson told him he had several applications to lodge he said, "It is no use you fellows coming along with your applications because your brother Charlie said he was going to draw the block; but it strikes me that Henning will get it on a German's luck." It was simply a jocular remark. He denied the use of the words attributed to him by Simpson, suggesting that he faked the ballot. On the contrary both Simpson and Nason had said the ballot was fair.

Henning, a naturalised German, gave evidence denying that he had promised or given any consideration to Tardent. Edward S. Juchau, son of the successful applicant for block 4, in which there was also an appeal, also gave evidence.

In giving judgment Dr. Kidston said: "During the hearing of this case a charge has been made that an officer of the Lands Department had 'faked' the ballot in order that a certain applicant should be declared the successful applicant. This charge is of so extreme a character that if it is true the officer should be dismissed from the public service. On the other hand, if the charge is untrue the person making such a charge without justification against a public officer deserves to be severely dealt with. There can be no doubt that either Alexander Simpson or Kanger Tardent was guilty of gross and wilful perjury. As this aspect of the case does not come within the grounds of the appeal I do not consider it essential to fully investigate the charge made."

Dr. Kidston was also reported to have said it was quite inexplicable what motive a man of the business standing of Mr. Simpson could have in making such statements as those mentioned by him, but it was no more inexplicable than that Mr. Tardent had gone to Mr. Simpson and made statements regarding the ballot. It was only fair for him to

Simpson and made statements regarding the ballot. It was only fair for him to say that there was no evidence to show that Tardent did anything with corrupt intention.

Dr. Kidston said he found that as regards the following facts the evidence of all the witnesses was identical—“(1) The tickets required to be placed in one of the ballot boxes had written on them in addition to the number of the selection the number of the portion applied for and the name of the applicant. (2) The Deputy Commissioner did not write the word 'accepted' upon one of the envelopes, nor is there any certainty that he put an envelope with that word on it, either written or stamped, into the ballot box. These facts show that the ballot was not conducted in accordance with the regulations, and the importance of such want of conformity as took place lies in this, that all assurance as to the honesty of the ballot was thereby destroyed.” The appeal was therefore sustained, the ballot held on November 5 was declared informal, and the Land Commissioner was directed to proceed with the holding of a fresh ballot. Each side was ordered to pay its own costs.

John William Hodgson appealed from the decision of the Deputy Land Commissioner at Surat, refusing his application to select portion 4, parish of Donga, the grounds of the appeal being that the ballot for the said portion was not conducted in accordance with the provisions of the Land Act of 1910 and the land regulations of 1912. The court found that as regards the facts the evidence of all the witnesses was identical, and a decision was given similar to that in the preceding case.