

MRS. NERLICH ACQUITTED ON ORDER OF COURT

Sir William Mulock Decides There is No Evidence to Support Charge — Sym- pathies Are Not Indictable —Crown Counsel Com- plains of Threats.

The trial of Emil Nerlich and his wife, Hedwig Nerlich, took an unexpected turn yesterday afternoon, when, following the argument of opposing counsel as to whether or not the case should go to the jury, Chief Justice Sir William Mulock decided that there was no evidence against Mrs. Nerlich to warrant this as far as the charges against her were concerned.

"I have to instruct you," said his Lordship, addressing the jury, "to find Mrs. Nerlich 'not guilty,' and proceed with the case against Mr. Nerlich."

His Lordship pointed out that the evidence which had been admitted showed Mrs. Nerlich to be guilty of sympathizing with the enemy, but this was not an indictable offence.

Acts Count, Not Words.

"In a court of law we are held responsible for our acts only."

Referring to three letters from Carl Hoerl in Germany, which the Crown argues should be put in as evidence, the Chief Justice told the jury that the statements in these letters could not be allowed as evidence, although they might have a bearing on the case if they could be submitted as such. His Lordship held that the Crown had not laid a stable enough foundation to warrant the use of these letters; letters which came from a third person in Germany and which had been intercepted and opened by the police before they reached the Nerlichs.

"No matter what is in the letters," said the Judge, "it is not admissible against the addressee so long as they are in transit. You must establish some connection. What has Mrs. Nerlich done up to the present moment which would show any object on her part to aid and assist the enemy?"

Mr. DuVernet asked the Judge for a stated case on the point, which was granted.

"Regarding Mr. Nerlich," said his Lordship, "I think there is evidence to go to the jury." His case will accordingly be submitted to their consideration on the resumption of the hearing to-day.

Threats for Crown Counsel.

In the course of yesterday's proceedings Mr. DuVernet announced that since the case started he had received numerous threats by mail and by telephone, particularly from points in the United States. Not a few of these messages, he explained to The Globe subsequently, were in connection with conditions prevailing in the detention camps. Relatives of interned prisoners complained of the cold and discomfort. With these camps, however, he, of course, had nothing to do.

Mrs. Nerlich's Sympathies.

The first witness called to the box yesterday was James Carruth, a postman. Mrs. Nerlich complained to him, he said, that she was not getting her New York Zeitung regularly. The postman explained that it had been stopped from coming into the country. Mrs. Nerlich said it was strange that she was not getting any mail. And then they had argued about some aspects of the war, Mrs. Nerlich opining that there could be no truth in the stories about the Germans mutilating children, the postman maintaining a contrary view, which he made plain. Mrs. Nerlich claimed that Russia and Great Britain had started the war, the postman maintaining that it was not so. The French had dropped bombs on her brother's palace, said Mrs. Nerlich. The Germans had bombed Paris, retorted the postman.

Nerlich "Looked Scared."

John Bushell, a German in the employ of the police, said he had known Zirzow for seven months. He was employed to watch him, and while doing so acted as his confidential friend. He had helped Zirzow sell the contents of his trunk to raise money. Bushell testified that when Zirzow was arrested he went and told Mr. Nerlich, and charged the latter with giving Zirzow \$10. He said Mr. Nerlich looked scared, and said he should not have done it, adding: "Well, I leave town anyway to-night." Bushell had said "not to be afraid, as it wouldn't be much." He told of Zirzow receiving \$20 from Mr. Peters, the German Consul, and \$10 from Kleinz, the waiter at the Krausman House. He said he knew Mr. Kleinz never charged Zirzow a cent for his lodgings for the last five months.

"Why did you go to Nerlich's house without being invited?" asked Mr. Hellmuth.

"To find out whether Nerlich was afraid or not."

"You were anxious to get a countryman in trouble?"

"Never mind the country. I stick up for Canada. I am in the secret service and do my duty. My duty is to get anybody anywhere."

"And in any way?"

"Only a straight way."

Nerlich's German Business.

Henry Nerlich, brother of the accused, gave evidence in regard to the charge of trading with the enemy. He said the goods in question, forty-

four barrels, alleged to have been shipped from Germany to Canada after the war started, had been shipped before the war broke out, and had been stalled in Rotterdam. He had seen the customs officials at Montreal about the goods, and received permission to get them up to a certain date. To his knowledge no goods were purchased in Germany after the war broke out, and no money had been sent from Canada after that date, as far as he knew.

The Toronto manager of the Nerlich firm, Karl Storms, stated that Emil Nerlich paid his accounts in Germany by means of post-dated cheques, which he made out on his periodical visits to that country. A bank at Dresden assumed responsibility for the payments.

Watching the Nerlichs.

Inspector of Detectives George Kennedy was subjected to a grueling at the hands of Mr. Hellmuth.

"You had been searching for Nerlich on Wednesday, Thursday and Friday?"

The inspector said he had instructed his officers to do so. He couldn't say that Nerlich was not back from Montreal on Wednesday, and admitted that it was not a very active search, if this was so. Nerlich had gone to Montreal on the Sunday night, and both Henry Nerlich and Mr. Storms, the manager, testified he was back in his office on Wednesday and Thursday. The police, he said, had begun to watch Nerlich's home prior to Christmas.

Mr. Hellmuth then called the inspector's attention to a passage in a morning paper of the Saturday of that week to the effect that Nerlich "had bolted, and was now in parts unknown," and wanted to know if the inspector had anything to do with the supplying of this information. Inspector Kennedy admitted that he may have had.

"You never went to his office or house to ascertain if it was true?"

"No."

Did Not Influence Zirzow.

Sergeant Lees of the Royal Canadian Dragoons denied absolutely the allegation of influencing Zirzow. He had told Zirzow that he could not discuss the case with him at all, as he was not allowed to do so.

The case against Emil Nerlich will go to the jury to-day.