

DUVERNET TELLS JURY HE FEARS NO INTIMIDATION

Says Military Law May Over-
ride Powers of Jury Sooner
Than Is Expected.

CROWN TO APPEAL MRS. NERLICH'S CASE

Hedwig Nerlich, freed of the charge of conspiracy to commit an indictable offence, by aiding the King's enemy, was not present in the Criminal Assize courtroom to-day when the case was proceeded with against her husband, Emil Nerlich. A stated case has been granted E. E. A. DuVernet, Crown prosecutor, who believes that, when the court ruled out the alleged Nerlich-Germany correspondence, the point of law was really on the Crown's side. He will, therefore, in all probability, take the case before a Court of Appeal.

When the hearing began this morning, Mr. L. F. Hellmuth stated that, now that Emil Nerlich was the only one left charged with "conspiracy," he could not be held to have conspired. The jury was sent out of the room, and Mr. Hellmuth proceeded to elaborate on the point. Mr. Nerlich might be said, be guilty of treason, if the matter of Zirzow was proven by the Crown; but under the circumstances there was no conspiracy. He asked that, if his Lordship could not agree with him that the conspiracy case should be dropped, he would grant a reserved case as to whether there was any evidence of any person at all having conspired with the prisoner.

Chief Justice Sir William Mulock said that he would not at present decide on granting the reserved case, but would deal with the point involved when he addressed the jury.

Mr. Hellmuth also suggested that there was no evidence to go to the jury as to the "trading" and "giving information" charges embodied in the indictment. His Lordship held otherwise.

There was nothing further submitted by way of defence. The addresses to the jury were then in order. Mr. Hellmuth said that, as he had put in no defence at all, Mr. DuVernet should give his address first. The court held that in examining two of the Crown's witnesses, not called by the Crown, and in putting in a document as evidence, Mr. Hellmuth had submitted a defence. Therefore Mr. Hellmuth took the floor first.

Hellmuth Attacks Prosecution.

Mr. Hellmuth first leveled an attack at the prosecution. He asked if the jurymen thought that any stone would be left unturned to convict the accused by a detective officer who stated to the press that the whereabouts of a man were unknown when that man had for three days been in his office and his usual place of residence. The Crown prosecutor, he declared, had played upon the jury's perfectly loyal feelings. As for aiding an enemy deserving of all that was coming to him, the charge was unfounded.

"He," said Mr. Hellmuth, "speaking through me, repudiates with all the force of which he is capable any charge of attempting to be traitorous or to conspire."

This country was not, in times of war, like Germany or Austria. "We say that a British court of justice is governed by exactly the same rules, no matter who the accused may be."

A man with a German name, who has for 25 years been a resident of Canada, is the object of suspicion. The police think he is trading with the enemy. Yet, as a matter of fact, he has observed every point of the law in this respect.

You would have expected to find a man, whose business had been checked by the war, willing to take the risk, and hope to get something in by hook and crook, said the lawyer. But in this case there was not one single act of the sort even purporting to have been shown. Not a thing came into the Nerlich office after the outbreak of war except goods shipped previously, and even in the case of these Mr. Nerlich first interviewed the Inspector of Customs.

If, again, money was paid out by way of wages to clerks in Berlin, that money was drawn from a German bank, by Germans in Germany on post-dated checks left here by Mr. Nerlich on the occasion of his last visit, which was prior to the opening of hostilities.

As to the charge of giving information to the enemy, how feeble it was! What sort of information had been given? Location of filtration plant or waterworks, or the number of men in the first and second contingents? Nothing, Mr. Hellmuth declared, had been divulged to the enemy; nothing had been adduced to show that anything had been divulged.

Blames Local Gossip.

What was the reason that all these charges had been laid against the accused? Evil-minded and gossiping people were at the bottom of it. "Fancy," said Mr. Hellmuth, "the result of a month's watching of the house thus thrown before you! How little can be brought against him!"

Mr. Hellmuth then referred to the Zirzow charge. "My learned friend," he said, "would like to tie us up with