

# NERLICH ACQUITTED DISPLAYS EMOTION

## Almost Collapsing, Recovers His Composure With Difficulty

### AFTERNOON OF SUSPENSE

#### Kisses His Brother and Shakes Hands With Crown Prosecutor

Emil Nerlich is free of the charge of committing treason by assisting Arthur Zirzow, a retired lieutenant in the German army, to rejoin the forces of that public enemy, the Emperor of Germany.

The jury in the case were out for almost five and three-quarter hours. At noon they left the courtroom of the Assizes where the case was being tried before Mr. Justice Sutherland. They were recalled a quarter of an hour later to receive further instruction from his Lordship. They then remained out until 38 minutes past five, when they returned to court. The foreman rose, "We find the accused, Emil Nerlich, not guilty," said he.

#### Called for Water.

The foreman had been nervous and excited. His utterance was not clear. The accused was not sure in which way his fate had been decided. Mr. W. G. Mason, his counsel, rose to congratulate him. Mr. Nerlich almost fainted under the nervous strain. He grasped the side of the dock called for water and tugged at



Mr. Emil Nerlich

his collar as if he were choking. The strain of waiting, inactive in the courtroom for nearly six hours, had almost broken his nerve. Water was given him. He took a sip and handed the glass back. Thinking he was free at last, he commenced to leave the dock. He was recalled. The judge had not yet formally discharged him. Tears were running down his cheeks as he stood to hear from the judge's lips that he was acquitted. Someone in the court started to clap. A dozen constables shouted for order. The disturbance was quelled immediately. The judge made no comment on the decision of the jury.

#### Bail Renewed.

As Nerlich went to the Clerk of the Court to renew his bond, for two charges still stand against him, his brother Henry embraced him. The bail was on two securities of \$50,000 each, by himself and his brother.

No other cases will be tried at this sitting of the Assizes. Mr. Justice Sutherland returned to the courtroom at ten minutes to four while the jury were still out and stated since the jury in the present case had left the courtroom he had discussed the matter with counsel for the accused and for the Crown and it had been agreed all round that no matter what the disposition of this case it would not be necessary for the rest of the jury to remain. Any questions that might be discussed at this sitting of the court would be entirely on matters of law.

The jurymen not empaneled in the present case were therefore dismissed.

This meant that had the jury disagreed in their verdict, the case could not be tried again before the fall.

#### Two Other Charges.

The two other charges are hanging over Nerlich—for giving information to and for trading with the enemy contrary to the Criminal Code.

His Lordship said, after Nerlich had been discharged, that though he might bring a charge of contempt of court against Arthur Zirzow for attempting to tear up a document, he would not do so, as the prisoner was interned. He would have instructed such a charge to be brought had he not feared it might prejudice the jury against the accused.

"It seems to indicate what we have heard so much about lately—the absolute disregard of officers trained in the German army for all civil rights and customs."

"You do not mind shaking hands with Mr. Nerlich?" said Mr. L. F. Hellmuth, K.C., as he brought the liberated man to meet his erstwhile prosecutor.

"Why, not at all," said Mr. W. C. Mikel, K.C., warmly shaking Mr. Nerlich by the hand.

Congratulations followed Mr. Nerlich until he left the building.

"It is all right now," said his brother in the ante-chamber, and Mr. Nerlich nodded, too much overcome for speech.

#### Sergt. Lees Vindicated.

Before the court adjourned Mr. Mikel said that Sergeant Lees, of the Royal Canadian Dragoons, desired publicly to refute the accusation made against him by Zirzow that he (Zirzow) had been influenced by the Sergeant to make false statements.

"This," said Mr. Mikel, "might be detrimental to the sergeant's military standing."

His Lordship gave public utterance to the fact that though the Sergeant had not been permitted to give evidence, he was present in the

court to refute the statement made by Zirzow.

Mr. Nerlich, as he stood on the steps of the City Hall waiting with his grip to go home after being in custody during the trial, told The Daily News that he had no intention of going away for a while. He would remain in town.

### Watched Jurors' Door.

As the afternoon of suspense in the court-room wore on, Mr. Nerlich sat within the rail of the court-room, glancing anxiously towards the door of the room behind which the jurors were arguing what they ought to do with him, when ever any unusual noise in the court-room indicated that the jury might be about to return.

When his Lordship returned to court to dismiss the jury not empannelled in that case, Mr. Nerlich returned to the dock, where he remained for 25 minutes after the trial judge had returned. At 4.25 Mr. Mason touched him on the arm, and Nerlich left the dock to sit beside his counsel at the lawyers' table till the jury returned to give their verdict.

### Crown Counsel Guarded.

Throughout the trial the greatest care was taken to avoid any disturbance. No one suspected of pro-German sentiment was allowed in the court-room. Following an anonymous threatening letter to one of the Crown officials, Mr. Mikel and Mr. R. H. Greer, County Crown Attorney, appearing with Mr. Mikel, were guarded by secret service men. Other counsel retained in the case were, for the accused, Mr. I. F. Hellmuth, K.C., Mr. George F. Shepley, K.C., and Mr. W. G. Mason, and assisting Mr. Mikel, Mr. Gordon Shaver.

### Three Days of Trial.

The trial, traversed from the Winter Assizes, and postponed several times during the spring sitting, commenced on Wednesday, when, with numerous objections from counsel for the accused, the Crown presented its case through its witnesses: Rev. Dr. Hoffmann, Mr. Otto Hoppe and Mr. Henry Peters, all of the German Relief Committee, which had given aid to Arthur Zirzow to go to New York, believing that his only object was to get work; Arthur Zirzow, for giving \$10 to whom Mr. Nerlich was tried for treason, as Zirzow confessed his intention of rejoining the German army; Detective Maurer, who had arrested Zirzow at the Union Station, and Chief of Detectives Kennedy, to whom Mr. Nerlich had come when he read in a morning newspaper that the police were searching for him. The only witness for the defence was Mr.

Nerlich himself, who entered the box on Thursday afternoon. Addresses by counsel to the jury were concluded before the end of the second day of the trial. His Lordship exhaustively reviewed the evidence in a two hours' summing up yesterday morning. The jury left the court-room at noon, and brought in their acquitting verdict a few minutes after half-past five.

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