

# EMIL NERLICH IS SENT TO A JURY, BAIL PROBABLE

Toronto Merchant Committed  
for Trial on Charge of  
High Treason.

## GERMAN APPEARS TO GIVE EVIDENCE

Emil Nerlich, of 16 Dunbar road, was to-day committed for trial on the charge of aiding and abetting a common enemy of his Majesty the King to leave the country. The case will be brought before the Grand Jury of the Assizes right away, and it is probable that the trial will take place next week in the higher court. In the meantime an application for bail will be made to a high court judge at Osgoode Hall. Both Col. Denison and Crown Attorney Corley expressed the opinion that on the evidence given to-day there would be no difficulty in getting bail. In fact, Mr. Corley promised to tell the Provincial Attorney-General that bail should be allowed. Mr. Nerlich was also told that every facility would be given him while he remained in jail, for the conduct of his large business.

The only witness heard to-day was Arthur Zirzow, the German lieutenant whom Mr. Nerlich is charged with assisting. He swore that the money given by Mr. Nerlich was to pay his laundry bill. He further swore that J. Henry Peters, former German consul in Toronto, gave him \$20 to assist him. The hearing lasted 45 minutes.

Mr. Nerlich arrived from the Don jail with the other prisoners. He took his place in the dock, third from the end, carrying his overcoat on his arm. He looked eagerly around the crowded courtroom, and smiled a greeting to a friend. Calling Mr. G. W. Mason, his counsel, over, he handed him a letter, nodding and smiling to the lawyer after the latter had read it. Later he called Mr. Mason over to the dock for a consultation, which was rudely interrupted by Staff-Sergeant D. McKinney's loud call for order.

Nine cases were heard before Mr. Nerlich's was reached, and the accused man took a lively interest in the proceedings. Just before he was called, Lieutenant Zirzow entered the courtroom in the custody of Sergeant Leas, of the Royal Canadian Dragoons.

Zirzow was plainly nervous when he entered the witness box, and his hands shook when given various papers to identify. He gave his evidence in quaint broken English, and at times had difficulty in grasping the meaning of questions put to him. The frankness of his replies brought forth commendation from the magis-

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strate and the crown attorney. When asked to tell the name of a German friend who had assisted him, he flatly refused, and was not pressed; in fact, Mr. Corley referred to it as "a chivalrous reply."

### Says He's Lieutenant.

"How long is this case likely to last?" asked Colonel Denison when the witness entered the box to be examined by Mr. Corley. The magistrate announced that he would postpone the hearing if it was not over at 12.30, as he was very anxious to attend the funeral of the late Deputy Chief Stark.

"Are you a German soldier?" asked Mr. Corley.

"I have been a German officer."

"What was your rank in the German army?"

"Lieutenant."

"Are these your papers?"

"Yes."

"They show that you were an officer in the infantry?"

"Yes. I have no rank, but I have that title."

"You still have that rank?"—

"Yes."

"Do you know Mr. Nerlich?"—

"Yes."

"Did you meet him in his office at Front street?"—"Yes."

"How long ago?"

"I don't know for sure. The end of October, I guess."

"Did you tell him that you were an officer?"—"Yes."

"What did you tell him?"

"That I had served in the German army and had been an officer."

### Threw Letter Away.

Zirzow stated that Mr. Nerlich gave him a letter.

"Where it is?"

"I don't know. I think I threw it

away."

Mr. Corley: "Now I suppose I can ask him what was in it?"

Col. Denison: "Is there any chance of finding the letter?"

Witness: "I don't think so."

Mr. Mason objected to any reference to the letter being made as it could not be produced. Mr. Corley

maintained that he was within his rights in submitting secondary evidence as the witness had said he had

thrown the letter away.

"We can remand it a week to see if the letter can be found," said Mr.

Corley.

Mr. Mason: "I don't think that is a fair alternative. The Winter Assizes are going on and we are very

anxious for the case to go to trial.

Mr. Corley: "I am not in a hurry."

Mr. Mason: "I am in a great

hurry."

Mr. Corley: "I want to help Mr. Mason all I can. He has the alternative of giving the man an opportunity to find the letter."

Col. Denison: "What do you say?"

Mr. Mason: "I want it to go on to-day."

Mr. Corley: "He may find it in his trunk."

Col. Denison: "I can take the case on to-morrow morning."

Mr. Mason: "Rather than let it stand another day, I will let Mr. Corley take his course."

Col. Denison: "We can have a search made for it."

Mr. Mason: "Was there not a search made?"

Mr. Corley: "I won't answer that."

Mr. Mason: "Because if so, that must be the most obvious way to answer the question."

Col. Denison: "Did the police get it?"

Mr. Corley: "No, the police did not see it."

Zirzow said that the purport of the letter was that Mr. Nerlich

would send the money to Mr. Kainz (a waiter in Krausmann's Hotel), to pay the laundry bill, which was \$4.

Col. Denison: "That doesn't amount to much. That would just show friendliness."

"Did you tell him about having letters from your sister?"

"Yes, but that was some time before."

"Since the war?"

"Yes."

"Did you say what was in the letter?"

"Mr. Nerlich read it."

"What was the date of the letter?"

"October 9, I guess."

"Is this it, dated October 8?"

"Yes."

### Invited Back To Germany.

Mr. Corley: "I will put in what purports to be a translation. My

learned friend can have the translation verified. The purport of the letter is an invitation to come back to Germany, and that his sister had no money to send him for his passage. That is the part we object to."

"Did you have a talk with Mr. and Mrs. Nerlich?"  
"Yes."  
"What did you tell them you wanted to do?"  
"I told them I would like to go to fight if I could."  
"Where?"  
"To Germany."  
Mr. Mason: "To whom was this told?"  
Mr. Corley: "He says it was in conversation with Mr. and Mrs. Nerlich."  
Mr. Mason: "I want to be sure that Mr. Nerlich was there."  
Mr. Corley, to witness: "Did you tell him whether you had any money or not?"  
"Yes, I said I had no money to go over."  
"Mr. and Mrs. Nerlich were there?"  
"Yes."  
"What did Mrs. Nerlich say?"  
Col. Denison: "Nerlich would not be responsible for what his wife said."  
Mr. Corley: "The conversation would show that Nerlich knew he wanted to go to Germany, and it would be evidence that Nerlich knew at the time. The Crown's case is that Nerlich gave money to this soldier who wanted to go back to Germany to fight. What Mr. Nerlich heard would show what he knew when he gave him the money."  
Col. Denison: "Was it said in his presence?"  
Mr. Corley: "Yes."  
Col. Denison: "All right, let us hear exactly what was said."  
Mr. Mason: "My objection is that no statement made by the wife in the presence of the husband can affect the husband whatever, and cannot be accepted as evidence."  
Mr. Corley to the witness: "What did Mr. Nerlich say?"  
"Mr. Nerlich told me that they would not do anything at all, that they would not help me because he is a Canadian citizen."  
Mr. Corley: "Foreigners use the term 'Canadian citizen' when they mean a British subject."  
Col. Denison: "I suppose they do."  
"Did you have a talk with him on January 12?"  
"Yes, I said good-bye."  
"Did you tell him if anyone else had given you money?"  
"I begged him to give me money to pay my debts."  
"Did you tell him anything else?"  
"I told him that Mr. Peters had given me \$20."  
"Is that so?"  
"Yes."  
"How much were your debts?"  
"About \$8."  
"Were you given any advice as to which way to go to Germany?"  
"I was told . . . . ."  
Mr. Mason, interrupting: "Surely we must know who told him."  
Witness: "I mean I told him that I would like to go by way of Sweden."  
"Who did you tell?"  
"Mrs. Nerlich."  
"Was Mr. Nerlich there?"  
"I guess he was there."  
"Are you sure?"  
"I was only talking to Mrs. Nerlich, but I guess he was there."  
"At this time did you show them your sister's letter?"  
"No, I did not show her."  
"Was Mr. Nerlich there when you talked about Sweden?"  
"I think so."  
Mr. Corley: "That is enough to let that in."  
Mr. Mason: "Absolutely not."  
Zirzow: "Mr. Nerlich was not talking at all. I was talking to Mrs. Nerlich."  
"Was he in the room?"  
Witness Wouldn't Say More:  
"Maybe, and maybe not."  
That was all Mr. Corley could get the witness to say on that point, although he remarked that he thought the witness was absolutely frank in his answers, to which the magistrate agreed.  
Col. Denison: "Mr. Peters gave you \$20. Who gave you more?"  
"Nobody else for going to New York."  
"You only got \$20 from Mr. Peters?" "Yes."  
Left Money With Mr. Kainz.  
Mr. Corley: "Did Mr. Nerlich tell you where he left the money?" "He said it was with Mr. Kainz."  
"Is he a German?" "Yes."  
"Is he at the Krausman Hotel?"  
"Yes."  
"Did you get the money?" "Yes, I paid my debts."  
"Did you see him before you went away?" "Yes, on Tuesday, the 12th."  
"Did you tell him what you were going to do?" "I told him I had got my exeat and would go to New York."  
"Was anything said about a letter?" "I told him that I had got a letter from my sister."  
"Did he ask you to write a letter?"  
"Yes. Mr. Nerlich said to write to him."  
"Where from?" "He didn't say anything about it."  
"At that time you say you had \$20 from Mr. Peters, \$8 from Mr. Nerlich, and you sold some of your goods, making \$38. How did you spend the money? Are these figures right?" (holding a sheet in front of the witness). "Yes."  
Mr. Mason: "I am going to object to any statement that Mr. Corley makes going in."  
Mr. Corley: "Suppose you take the witness and cross-examine him. That will waste an hour or two."  
The Crown Attorney having sat down in a huff, Mr. Mason arose to cross-examine Zirzow.  
In Great Need And Hungry.  
"You were in great need and sometimes were hungry and had to go without meals?" "Yes."  
"He invited you to his house for meals?" "Yes."  
"You knew why he invited you?" "Yes."  
"He gave you \$5?" "Yes from the German relief fund."  
"Who got rid of your trunk for you?" "It was a friend of mine."  
"Who was it?" "I won't say," said the witness smiling. "That is my own business."  
Mr. Corley: "I don't think you can make him." Col. Denison: "No."  
Mr. Mason: "Perhaps Mr. Corley knows why he should not say it."  
Mr. Corley: "I think my learned friend should have thought better before he said that. He is young, and will learn. I think it was a chivalrous answer."  
Mr. Mason: "The exeat states that you were leaving to get employment. Was that true?" "Yes."  
"And that your proposed destination was New York. Was that true?" "Yes."  
"Is that what you told Mr. Nerlich?" "Yes."  
"You thought you would get employment in New York?" "Yes."  
"And that is what you told him?" "Yes. I never told him that I would go to fight."  
Mr. Corley: "He has made both statements now."

Col. Denison: "How did you get this exeat?" From the judge?"

"Yes."

"He examined you as to why you were going?" "Yes. I told him I was not a reservist at all. I am not?"

"And that you were a laborer?" "Yes."

"Did you tell him that you are a retired officer?" "No."

"You kept that secret?" "Yes."

"Were you intending to get to Germany as soon as you could?" "I don't know."

Mr. Corley: "You should not press him on that."

Witness: "If I got an opportunity I would go to fight."

Col. Denison: "Oh, yes."

This ended the examination. Mr. Corley said that although he had no rights in the question of giving bail, he did not see anything in the way to prevent it. Col. Denison said Mr. Mason would have to go to a High Court judge.

Mr. Mason: "This man is suffering in mind, body, soul, and estate." He expressed the wish to get a speedy trial, and the Crown Attor-

ney promised to do all he could to get one. Magistrate Denison remarked that he did not think Mr. Mason would have any difficulty in getting ball.

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