

DUVERNET SAYS HE HAS RECEIVED MANY THREATS

Crown Prosecutor Tells of Letters Coming From the United States. SAYS HE DOESN'T BLAME ACCUSED

The feature of to-day's session of the trial of Emil Nerlich and his wife Hedwig, charged with conspiring to commit an indictable offence, was the statement of Crown Prosecutor DuVernet, K.C., that he ~~had~~ "been threatened since the case began." Shortly after the trial was resumed Mr. DuVernet made this public announcement. Interviewed after court adjourned, he said: "I have received bundles of letters and telegrams and telephone calls. The letters came mostly from the United States. They have threatened me with all sorts of things. I do not believe these people (the accused) are responsible for it."

Postman On The Stand.

James Carruth was the first witness called. He gave his occupation as "postman." Mr. Hellmuth objected to the witness on the ground that his name had not been put on the indictment paper. Mr. DuVernet replied that he had already conceded to the defence more than they were entitled to. The accused were now being tried under a lesser charge, and the Crown counsel thought he could not be doing his duty if he yielded any further. The court permitted Carruth's evidence to be taken.

Carruth deposed that he knew the Nerlichs quite well through delivering mail to them. Mrs. Nerlich complained of the non-delivery to her of the New Yorker Staats Zeitung, to which she was a subscriber. She had not received her copy of the paper for the last three or four mornings, she said.

"Mrs. Nerlich," said the witness, "claimed that the paper was in the Post-Office, and said that I was not bringing it to her. I told her that the paper had been stopped the day before from entering the country. She said that there were letters as well as papers for her detained in the Post-Office. I explained that I couldn't bring the letters or papers, if there were any, as I didn't receive them myself."

On the following day, witness had spoken with Mrs. Nerlich on the verandah of the Nerlich home. Mrs. Nerlich had remarked that it was very funny that no mail was reaching her. The talk had veered to the subject of Canadian papers, Mrs. Nerlich remarking that there could be no truth in the stories printed about Germans mutilating children. The postman had held a contrary view, which he expressed. Mrs. Nerlich remarked that the French had dropped bombs on her brother's place. Carruth replied that the Germans had bombed Paris. Mrs. Nerlich claimed that Russia and Britain had started the war. The postman denied it, and the conversation ended. "I delivered all the letters I got for Mrs. Nerlich till I received orders from the Post-Office to stop them," witness concluded.

Know Zirzow Wanted To Fight.

John Herschel, an official of the Canadian Secret Service, was the next witness. He told Mr. DuVernet that he had known Mr. Nerlich for about seven months, having met him three or four times. He also knew Lieut. Zirzow, with whom he had come into contact before the war broke out.

"Did you know Zirzow was an officer?" "Yes."

"Did Zirzow tell you he wanted to get back to Germany to fight?" "Yes."

"He wanted to get to New York?" "Yes."

At this point Mr. Shepley objected

to the recital of conversation Zirzow had had with the witness. Mr. DuVernet combated the objection: In reply to the court, Crown Counsel declared that Zirzow was held to be one of the "conspirators," inasmuch as the Nerlichs, he alleged, conspired to help the lieutenant out. The Crown was allowed to proceed.

"You knew about Zirzow going away and about his being a reservist?" "Yes."

The witness stated that he had gone to Mr. Nerlich after Zirzow had been arrested, and acquainted Mr. Nerlich with that fact. Mr. Nerlich had replied that he had seen it in the papers. "I said: 'Zirzow was arrested yesterday,'" declared the witness. "He said: 'I'll leave the town.'"

Witness further stated that he told Mr. Nerlich that the police had said that he, Mr. Nerlich, had given Zirzow \$10. Nerlich said, according to the witness: "For heaven's sake! I shouldn't have done it! Maybe I'll get into trouble." There was some further evidence which the witness' broken English rendered it difficult to understand. Mr. DuVernet summarized it: "He told you about the money first and then he told you he would go out of town." "Yes." Mr. Nerlich had not revealed his destination, however.

"What was Mr. Nerlich like when he said, 'I shouldn't have given Zirzow the \$10'?" "His face was terrible to see. I could see he was scared." Mr. Nerlich and his counsel here exchanged laughs.

Herschel said that he had been ten years in Canada. He had got a note in September notifying him that he was engaged for the "secret service." In this new capacity he was told to watch Zirzow closely, which he proceeded to do.

"What took place between you and Zirzow?" "I saw him nearly every day. He said he was trying to get out, to go away. He wanted to go to the war. He said: 'My sister and father like that I go. I show my papers to steamship captain at New York. If he don't take me, I pay \$5 to fireman. Maybe he take me.'"

Counsel Clash Again.

There was another slight clash between counsel. Then the examination proceeded, Mr. DuVernet enquiring whether Herschel had discussed the von Huenten matter with Mr. Nerlich. The reply was in the negative.

The witness had never held conversation with Mrs. Nerlich personally.

Witness had discovered that on January 12 Mr. Peters, the German consul, had given Zirzow \$20. Zirzow had told him so. Mr. Nerlich, Zirzow had also said, was with the couple at the time, to say "good-bye" to him. Zirzow had declared that Mr. Nerlich had promised to remit him \$10 by a waiter in the Krausman Hotel on the following day. Mrs. Nerlich had told Zirzow that if he wrote to her from the trenches, he should sign only his initials to the letter.

Witness said he entered the secret service in September, but knew Zirzow before that time. When he applied for a position in the secret service he saw Mr. Kennedy and another man. Asked who the other man was witness demurred. "I don't think I should tell you," said he.

Mr. Hellmuth abruptly demanded the information. Mr. DuVernet was at once on his feet. "I don't think," said the Crown prosecutor, "that my learned friend is entitled to ask that question. We have enough difficulty in this country without having our secret service revealed."

The Chief Justice concurred in the Crown's view.

"Did you in any way," pursued Mr. Hellmuth, continuing his examination, "suggest to Zirzow that he had better abandon his intention of going?" "I didn't tell him anything,"

"You still went on talking to him about going away?" "Yes. I said: 'Do as you like. If I were you I would stay here.'"

"You had him more or less under surveillance?" "Yes. I had strict orders to watch him, and I did."

"Did you offer to sell some of his goods?" "No. Zirzow sold his goods; not me. And Zirzow received the money."

At this point quite a hubbub arose. Witness endeavored to persist in explanations, while Mr. Hellmuth endeavored to stop him. "I came here as a witness," said Herschel finally, almost shouting. "I'll tell you all I know!"

The Chief Justice obtained order, explaining to Herschel his duties as a witness. The Crown counsel remarked that while Merschel certainly should not be allowed to supplement his answers, as he had been doing, he nevertheless ought not to have his legitimate answers broken in on by Mr. Hellmuth.

Planned Meeting at King Edward.

Herschel proceeded to state that

he had told Zirzow, when the latter was about to leave, that he could meet him at the King Edward Hotel, from which place they could proceed together to the Union Station. Zirzow did not meet him because he had been arrested before the time came.

Zirzow's goods were at present in witness' possession because he had bought them back from the man to whom Zirzow sold them. There was another outburst of explanations, which Mr. Hellmuth sought to check. "Well," said Herschel, "I have to tell you that!"

Herschel admitted that he had telephoned Mrs. Nerlich a few days before her husband was first arrested. "You thought," said Mr. Hellmuth, "you might find out something by ringing up Mrs. Nerlich, not letting her know who was speaking?"

"Certainly," was the prompt answer.

He had not discovered much, he admitted. He had wanted to find out whether Mr. Nerlich was in town. He had thought Mr. Nerlich was in Montreal, staying at the Windsor Hotel, and he wanted to know whether he had yet arrived home.

"Mr. Nerlich was not out of the city. He had come back and was in his office before any steps were taken. You know that?" Herschel was understood to acquiesce.

"Why didn't you arrest him on Wednesday?" "We couldn't get a hold of him."

"You mean to say that without going to his house or his office on Wednesday, Thursday, Friday, or Saturday, you come here and say you couldn't find him?" "No. I don't say that."

"No. I thought not. Why did you go up to the Nerlich house uninvited on January 15 or 16?" "To see if Nerlich was afraid or not."

"And was he?" "Yes, very much afraid."

"He said he might get into trouble because Zirzow was arrested?" pursued Mr. Hellmuth.

Herschel endeavored to explain at length, and when Mr. Hellmuth wanted to know why he, a German, seemed so anxious to investigate a fellow-countryman, he grew furious.

"I stick up for Canada!" he cried. "I am in the secret service and I do my duty against anybody, I don't care who he is. I have my duty and I do it anywhere."

"And, I suppose, in any way?" "No, only in a straight way!"

"Did you tell Mr. Nerlich that you had been at Stanley Barracks and that you had had a conversation in German with Zirzow? Will you swear you didn't tell Mr. Nerlich that?"

"Well, I wouldn't say that." I remember I told Mr. Nerlich I had talked with Zirzow in German, but I was never at Stanley Barracks."

"Will you swear you didn't tell Mr. Nerlich that?" "No; I can't remember everything I told him."

Herschel said that he knew that the Krausman waiter, Kainz, was Zirzow's landlord. He also knew that Kainz had not charged Zirzow anything for the last six months prior to the lieutenant's arrest. He had heard it from Kainz's own lips that Kainz had told Zirzow that he could stay in his house so long as he liked, free of charge. Later Kainz had declared that Zirzow had been there long enough, and that he was going to "throw him out."

Henry Nerlich, brother of the prisoner Emil, called as the next witness, said that his other brother Hermann, called upon by the German Government, had gone to Germany shortly before the war broke out, had taken out his papers, and became a naturalized German citizen. Shown the pocket-book taken from Emil Nerlich, he was unable to identify it. The writing in the book, however, was Emil's. From Carl Hoerl, the Berlin gentleman, two of whose letters to Mrs. Nerlich, intercepted in the post, were refused as evidence yesterday, Henry Nerlich testified to the receipt of a Christmas booklet addressed to himself at 16 Dunbar road, dated October 29, 1914.

German Merchandise Received.

Mr. Henry Nerlich told of 168 packets of merchandise of German and Austrian origin being received in Toronto. The goods, he said, were purchased for the firm in July but were held up because of the war and shipped from Rotterdam October 21 on the ship "Amsterdike." His Lordship said there was no evidence to show that the goods were bought after the war.

Mr. DuVernet then endeavored to prove that the Berlin agent of the Nerlich Company, a man named Karl Hoerl, now at war, was receiving assistance from the company. The witness denied this.

At the request of the Chief Justice Henry Nerlich went to his office to secure the statements of the disbursements made by the Berlin branch.

Mr. Hellmuth agreed to this suggestion, and declared that the production of the statements would meet with no objection from him.

Inspector of Detectives George Kennedy called to the stand again said Zirzow's testimony that he had been influenced by detectives was "untrue."

"I asked him if he knew Zirzow

was an officer in the German army, and he said he did. He said: 'I gave him \$10 through a man sometimes known as Bismarck.'

Mr. Kennedy stated that some of the facts in a newspaper article might have been gathered from information given to reporters by him. Mr. Nerlich, he said, was arrested at the time he came into the office of the Detective Department.

"When did you formulate the charge against him?" asked Mr. Hellmuth. "Previous to his going away."

Further cross-examination brought out the fact that the police had watched the Nerlich house before Christmas.

At one stage the cross-examination grew so strenuous that Mr. DuVernet rose in protest.

"I must protest against the abuse of this witness. Mr. Hellmuth will have a good chance when he addresses the jury."

Sergeant Lees Called.

Following the putting in of proclamations by way of formal proof of the existence of a state of war and the regulations against assisting the enemy thereby imposed, Acting-Sergeant C. W. Lees, of the R.C.D., who has had charge of Zirzow, was called.

After some argument amongst counsel, it was explained that the soldier was called because Zirzow in the witness box yesterday stated that he, Lees, had told him that if he would give stronger evidence against Nerlich he would be allowed to go free.

The Chief Justice undertook to question the witness, asking if he, Sergeant Lees, had in any way tried to indicate the course Zirzow should take in giving his evidence against Nerlich, either before or after the Police Court proceedings.

"Absolutely no," replied the sergeant. "On the adjournment of court I took charge of Zirzow. On the way from here to the barracks nothing whatever was said. While we were marching along the Old Fort road, however, I happened to be beside Zirzow. He said to me: 'I let Nerlich down too lightly.' I said: 'Don't discuss this case with me. I am not allowed to say anything to you about it.'"

When Mr. Hellmuth took the witness there was excitement. Mr. Hellmuth wanted to know if anyone had seen the prisoner without his knowledge. The sergeant took this personally, and told Mr. Hellmuth very pointedly that the question ought not to have been asked. After considerable animated discussion, Mr. Hellmuth said that he had had absolutely no intention of reflecting upon Sergt. Lees' efficiency as Zirzow's custodian. Sergt. Lees thereupon stated, in answer to a question, that Zirzow could only be seen by any civilian if an officer or himself were present, and that if any language other than English were spoken the interview would at once be terminated. To Mr. DuVernet the sergeant said that any letters sent out or received by Zirzow had to be first examined.

Mr. DuVernet then produced a letter and handed it to the sergeant. "Is that one of the letters sent out by him and examined by you?"

Sergt. Lees carefully scrutinized the missive, two sheets of closely-written notepaper. "No, sir; it's not."

The Crown prosecutor explained to the court that this letter had never been censored. The implication was, apparently, that Zirzow had means of getting letters out secretly from the internment camp.

Detective Maurer, recalled to the box, said that in the Police Court Zirzow had kissed the Bible in the course of the proceedings, which yesterday he refused to admit constituted an oath.

At one o'clock the court adjourned for luncheon.