

NO EVIDENCE OF CONSPIRACY
FOUND AGAINST MRS. NERLICH

Chief Justice Sir William Mulock Orders Her Release

EMIL NERLICH IS STILL BEING TRIED

Evidence Was Considered Sufficient to Lay Before the Jury

At the conclusion of the Crown's evidence on the charge of conspiracy against Mr. and Mrs. Emil Nerlich, the case against the latter was withdrawn yesterday afternoon by Chief Justice Mulock, on motion by Mr. Hellmuth, K.C., representing the defendants. To all intents and purposes, Mrs. Nerlich is freed on the charge.

Mr. Hellmuth's motion included both accused, and came near the end of the afternoon. His Lordship decided, however, that there was enough evidence to take to the jury for decision in the case of Mr. Nerlich, and the court was adjourned until this morning, with the defence still to be heard from.

Case Was Halted.

Shortly after three o'clock the case, as far as the jury was concerned, came to an abrupt halt, the jury leaving court while argument was heard as to the admissibility of two letters to Mr. Nerlich and one to Mrs. Nerlich from Carl Hoeri, manager of the Berlin office of the Nerlich firm.

The Crown desired to show by these letters that one of the employees, named Howold, was at the front with the German army. In the financial statements of expenditures by this office, put in earlier in the day, it was shown that Howold had been drawing a salary of about 160 marks up to November. In the November statement, however, appeared instead the name Frau Howold and the sum of 50 marks.

The Chief Justice objected, however, that this would not prove that the Nerlichs had been giving aid to the enemy, as the November statement had not been opened by the firm until this morning.

Not Compromised.

He also refused to allow the letters in evidence. His Lordship took the view that, as the letters had not been delivered by the post office to Mr. and Mrs. Nerlich, the latter were not compromised by any statements which might be contained in them.

"Not compromised, my Lord, but required to explain," suggested Mr. Du Vernet.

"Not unless he received the letters and treated them as authentic," ruled the Chief Justice.

The jury then returned.

Rev. Mr. Hoffman was called and testified that he had written a letter, asking that Zirzow be granted an exeat. Zirzow had told him he was not on the reserve list, and was no longer liable to serve his country.

Suspicious Letter.

He gave an altered translation to a letter put in in evidence yesterday which mentioned letters from Nerlich & Co. as being "very suspicious." This, he said, should read "which might be considered very suspicious."

Carl Hoppe, sworn, denied that he had said to Zirzow, when the latter was going to New York, that he "hoped he wouldn't be shot." Neither had Zirzow made such a remark to the witness.

At this point Mr. Hellmuth moved that the case be taken from the jury, and the latter again filed from court while argument was heard.

Claimed Evidence Lacking.

Mr. Hellmuth submitted that there was not sufficient evidence against the accused to submit to the jury. He argued that there was absolutely no evidence of trading by either of the accused with Germany. Nor were the accused giving assistance to the enemy in that a bank in Dresden was paying money on post-dated cheques to the enemy. No money had passed from Canada to this bank in Germany. It was also impossible for the accused to be co-conspirators with Carl Hoeri, as the latter was a German subject and owed no allegiance to the British Crown. The latter could not be regarded as a conspirator, and the former could not therefore be conspirators with him.

Letters Proved Nothing.

As concerned the letters which had been admitted in evidence, he held that none of these even suggested in any way that Mrs. Nerlich had given any information of any kind to the enemy. They were but natural letters between mother and daughter. Nor had there been conspiracy on the part of the accused, "between each other and others" to aid in the escape of Zirzow. Husband and wife could not conspire with each other, and Zirzow could not be the "others," as he was the man who was to be helped.

"I wish to draw your attention," he continued, "to the pitiable sight to which we were treated in the attitude, appearance and demeanor in the witness box of Zirzow. The evidence of Zirzow was that of a man who admittedly had little or no regard for the truth."

He submitted that there was no evidence, and asked that the case be taken out of the hands of the jury.

Mr. DuVernet replied briefly.

Wanted to be Shown.

"I would like you to point out to me any evidence that Mrs. Nerlich conspired with anyone to assist the enemy," remarked his Lordship, as Mr. DuVernet closed.

Mr. DuVernet, in reply, made reference to several phrases in letters which had been put in evidence, which, he claimed, were indisputable evidence of information being given. There was the reference to two million Canadians going to the front, practically asking for the correct information. There was the query as to whether Emil was coming over in the spring. Several others were referred to.

No Evidence Shown.

His Lordship, however, was still of the opinion that no evidence of giving information to the enemy had been submitted.

Nerlich. The letters in question had not shown this. Nor had it been shown that she had had anything to do with the giving of money to Zir-zow. He therefore decided that her case should not be submitted to the jury.

That of Nerlich, however, was slightly different. Evidence had been given of assistance given Zir-zow in the way of money, which had not been challenged so far. Without passing upon the merits of this evidence he thought there was sufficient to warrant the jury having to decide whether or not Mr. Nerlich was guilty of conspiracy.

The jury was at once called in and informed of the decision of the court, which was then adjourned, with the defence next to be heard from.