

JURY ACQUITTED MRS. NERLICH BY ORDER OF JUDGE

Not Sufficient Evidence Against
Woman, Said Sir Wm.
Mulock.

HENRY NERLICH IS NOT NATURALIZED

After hearing argument from both sides, Chief Justice Sir William Mulock, in the Criminal Assizes at 5 o'clock yesterday, withdrew the case of Hedwig Nerlich from the jury, ordering, however, that there was enough evidence to warrant the further hearing of the case against Emil Nerlich. The jury, which had been sent from the room while argument was heard on Mr. I. F. Hellmuth's motion to have the case summarily disposed of, was called back and under his Lordship's direction returned a verdict of "Not Guilty" against the lady, whose name, however, remains on the record until the complete case of conspiring to commit an indictable offence, by aiding the enemy, is disposed of.

The Crown closed its case suddenly and Mr. Hellmuth's motion preceded the putting in of the defence. The latter will probably be proceeded with to-day.

Mr. Hellmuth, supporting his motion stated that the Crown had completely failed to make out a case against either of the defendants. Even the indictment was not properly drawn up, being based on the Imperial Act and not in conformity with the Canadian code.

Letter To The Judge.

During Mr. Hellmuth's argument Sheriff Mowat handed the Chief Justice a communication. His Lordship glanced at it for a moment and then declared that some one had taken liberties and sent him a communication signing the name of Mr. Peters. The contents of the letter were not disclosed.

Mr. DuVernet, replying, said that counsel for the defence absolutely misapprehended the charge and the evidence. Now, he declared, was not the time for Mr. Hellmuth to object to the indictment. In his opinion, it was regular and there was ample and abundant evidence to sustain it and a complete case to go to the jury.

"Is there any evidence to show that Mrs. Nerlich aided, abetted, or assisted the enemy?" asked Sir Wm. Mulock.

The Crown prosecutor replied that her desires and sympathies were all to assist the enemy. He said:

"This woman who wrote to Mrs. Nerlich, received her letters in such a way that even the sleepy Dutch officials became suspicious. This woman wanted to know if Canada sent 2,000,000 troops. The answer will not be amusing, when they give the number of troops sent and other information. Then it will not be a laughing matter. You do not get conspirators and traders coming out and announcing themselves. It is done in the dark."

Sir William Decides.

"Mrs. Nerlich's case," said his Lordship, rendering his decision, "is different from that against her husband. The charge is that of conspiring to assist the enemy in certain ways. There has been evidence submitted to show that she had sympathized with the enemy. But sympathy is not an indictable offence.

"I admitted as evidence three letters. I did so, although they were not evidence, although they might have been material evidence if another case had been made out.

"The only evidence submitted is that of assisting Zirzow, let us say, for argument's sake, to join the enemy. There is no evidence to show that Mrs. Nerlich had any part in what occurred regarding the ten dollars. The only thing Mr. Nerlich himself did, so far as the evidence shows, was in respect of this ten dollars.

"I fail, therefore," continued his Lordship, "to discover, so far as Mrs. Nerlich is concerned, any evidence of conspiring with her husband and others to assist the enemy. To conspiracy a third person is necessary.

"As regards Mr. Nerlich, I think there is sufficient evidence to go to the jury."

Henry Nerlich Not Naturalized.

Mr. Henry Nerlich stated that money used by the Berlin (Germany) branch of Nerlich & Company came from accounts in a bank in Dresden. Since the war began the Toronto head office had sent no remittances. In Berlin there was really only an agency.

To Mr. Hellmuth, witness said that to the best of his knowledge no goods were purchased by the firm in Germany since the war began.

Mr. Hellmuth then read a report in reference to Arthur Zirzow.

Carl Storms, business manager of Nerlich and Co., explained that by post-dated checks left in Germany, Mr. Emil Nerlich's salaries were paid. Payments to one Howole, two of whose letters to Mrs. Nerlich were intercepted, were dealt with by Mr. DuVernet, but the Chief Justice would not allow the letters to be put in evidence as they were in transit.

Mr. DuVernet did not press his point and the Crown's case was closed.

"Are you naturalized?" asked Mr. DuVernet of the witness suddenly. "I am not naturalized," replied Nerlich. "I always thought I was an English subject until a few days ago."