

**NERLICHS FACE ONLY
CONSPIRACY - CHARGE**

**Chief Justice, After Debate of Counsel,
Decides on This Course—Mrs. Nerlich,
the Crown States, Sent Goods to Ger-
many**

Under interpretation of the charge against Mr. and Mrs. Emil Nerlich, as made by Chief Sir William Mulock to-day, as agreed to by counsel, no treason is implied; and if the accused are found guilty they will not be given sentence under that section of the Criminal Code covering treason, but under the section dealing with conspiracy to commit an indictable offence, the extreme sentence possible for which is seven years, as light a sentence as one day being possible.

The other chief feature of to-day's sitting was in the examination of the first witness, acting Detective Maurer, Swiss by birth, who read in court the translation from German of a letter which he found in the possession of Mrs. Nerlich on February 8th. This is alleged to be one of the many letters which the prosecution will bring, and which are supposed to have been written by a German woman to Mrs. Nerlich, being posted from a point in Holland just across the line from Germany.

In the letter read to-day, mention was made of the writer being suspected by the pro-British Hollanders of being a spy. She also asked whether or not it was true that two million Canadian soldiers had been sent to Europe.

The prisoners made their appearance in court a full hour before the case opened. They spent the long wait chatting with friends and with their counsel, and seemed to be in the best of spirits. After a few passages-at-arms when court opened, the jury was chosen without a challenge being made. One juror asked to be excused.

Counsel for the defense are Mr. L. F. Hellmuth, K.C., Mr. G. F. Shepley, K.C., and Mr. G. W. Mason. Mr. Du Vernet is alone for the Crown.

Attitude of Crown.

The attitude which the Crown is taking in the case was summed up in an address to the jury by Mr. Du Vernet in the following words. "It is a hard thing that people of respectability should be brought in to a criminal court just because they love the country of their birth, but on the other hand it is hard on us if they are permitted to live here, doing us whatever injury they can by giving assistance to a country with which we are at war."

The appearance of the Chief Justice in court was the signal for a skirmish between the defence and the Crown over the question: if the accused were found not guilty of treason, could they be found guilty of conspiracy? The Chief Justice held that there was no inconsistency in such being the case.

The prisoners were put in the box and answered not guilty to the charge of conspiracy to aid an enemy of his Majesty the King.

Then his Lordship put a puzzling question which threatened to open another controversy. Was conspiracy to commit treason, he asked, in itself a treasonable offence? He explained that the matter was important in that, under the section of the code covering treason there

were certain points which would not apply if the offence were tried under other sections of the criminal code.

Mr. Hellmuth was very strongly of the opinion that the offence charged was not treasonable. Mr. E. E. A. DuVernet, after some argument, expressed himself as being quite willing to accept whichever view was more favorable to the defence.

Would Limit Challenges.

Sir William Mulock replied that in this case they would take the view of the charge as coming under section 573, which covers conspiracy to commit an indictable offence. This, he pointed out, would limit the number of challenges to twelve each and would dispense with certain restrictions made in the section governing treason.

On the charge as it stands, therefore, the prisoners are not accused of treason, but merely with conspiracy to commit a certain indictable offence, namely, to give aid to an enemy of the king.

Not in Prisoner's Dock.

Mr. Hellmuth requested and was granted permission to have the prisoners removed from the dock and sit with their counsel at the desk.

"The accused are placed upon trial on a less serious charge, as far as the consequences are concerned, although the offence is the same."

explained Mr. Du Vernet in outlining the case to the jury.

"They have not done it for money," continued Mr. Du Vernet, discussing the crime of which the prisoners are accused. "They have done it for love of the Fatherland." He pointed to the great numbers of Germans in Canada. All the ties of their hearts were pulling against us, but when they came over here and were naturalized they should not try to do us an injury. They must be punished for this. It was not spite to punish them. The laws must be obeyed. "If they break the laws of the country that protects them," he said, "they must answer the consequences."

Mr. Du Vernet asked the jurors to take particular note of the attitude of the German officer whom the prisoners had attempted to assist to return to his home country. "Look at this product of German militarism," he exclaimed.

Pro-German Circulars.

He told of a number of letters which had come to Mrs. Nerlich by a round-about route from Germany to Holland, and thence to New York where they were remailed to Toronto. Some were personal, others of interest in the case. Some circulars were included in the mail matter, very pro-German in character. One letter asked for certain information which would be of great help to the Germans. Some of the literature was very seditious, blaming England for everything, probably to be distributed in Canada or the United States.

"It will be said that Mr. Nerlich gave himself up," he continued, "but the police will show that, after he had been heard to say, 'I gave that man ten dollars; I'd better get out,' he motored down to Scarborough, and took the train to Montreal, where he waited a few days. But when he came back and gave himself up to the police every letter and every document received since the war began was gone."

Goods to Germany.

Mr. DuVernet also expressed the belief that Mrs. Nerlich had been responsible for sending goods over to Germany through the United States and Holland. Evidence would be produced, he said, to show that Mrs. Nerlich had been doing this when the neighbors were supposed to be asleep—"but sometimes neighbors sleep with one eye open," he concluded.

These goods, he said, were chiefly in the nature of Red Cross supplies.

Search at House.

Acting Detective Maurer was the first witness called. He described the search made of the Nerlich house and their place of business. In the former place was found nothing of date subsequent to the outbreak of war. In the business house, however, he had found a scrap of paper bearing the name and rank of the German officer, Zirnow. Mr. Hellmuth took objection to placing this in evidence, but his Lordship admitted it.

A pocket-book was also spoken of, which had been found on the person of Mr. Nerlich when the arrest was made. In this was a note reading "Baunache's account will be paid in Berlin. Have sent cheque to Carl Hohl."

Asked for Letters.

On the 8th of February witness and Detective Murray had gone to Mrs. Nerlich and asked for her private correspondence, especially those letters received since the beginning of the war. Mrs. Nerlich had offered to read the letters to the detectives, but they had not time to wait.

Once more Mr. Hellmuth was on his feet, arguing that these letters were not admissible in evidence to prove a conspiracy until conspiracy had been proved. Once more his Lordship decided in favor of the Crown and the letters were put in evidence.

The first of these, dated Nov. 37 and addressed to "My Dear Hedy," read as follows:

Letter Is Read.

"I received your letter of October 20th on Monday morning. It has been a long time on the way. The letter for Victor I send direct to Limberg."

"You are well so far, but your situation must be unpleasant. I can imagine it a little, for here also the Hollanders are anti-German, wherefor I am in the same situation if war should continue. They will wonder yet what Germany can do."

"Just think, Hedi, since Sunday I am under suspicion of espionage in Elten. You know I handle letters for Emil's business from Berlin to Toronto. Last Sunday came an inquiry from the postoffice from Emmerlich as to who a certain Mrs.

Utta from E. was. It was understood that this had to do with a spy, because the Post had intercepted two letters sent by Nertich & Co., the contents of which were very suspicious. The man that discovered this heroic deed must have been as mad as a March rabbit. What can all happen to a man.

"In eight days I was not in Elten any more, because I might finally be taken by the neck. That would be absolutely unseatable for me, for I have this week two little pigs in to sausage. It is impossible for me to leave them behind. I think that these unpleasant affairs will be shortly cleared up with good will. Have you always received the letters and papers from Holland?"

Canadian Soldiers.

"Tell me, is it true that the Canadians sent 2,000,000 soldiers here. I read it in the Holland newspapers, and if one believed those reports there would not be a single German left in all Germany. Many Holland Newspapers are backed up with English money, therefore they must lie. How could they otherwise exist. You want to know whether the stork is soon coming here. There is no question of being wise and stupid. Hedi, it is just a chance. I said, 'Why not, dear stork.' Louis, what is not will be. I am inquisitive as to who is right, otherwise you could give me a recipe from your practice. What do your youngsters do? They play war and naturally none of them will be French or English because they are always getting licked.

"Will Emil come to Germany in the spring, or will it not go now? Write me soon, it always gives me pleasure to hear from you. Louis sends greetings and declares she saw you once in Nieubush. Hearty greetings to you and Emil.

"From your

"Utta."