

E. NERLICH ON STAND IN HIS OWN DEFENCE

Trial Judge Refuses to Withdraw Case From the Jury.

TREASON IS CHARGED

All Evidence and Addresses by Counsel Completed Yesterday Afternoon.

After Mr. Justice Sutherland had refused to withdraw the case from the jury, although granting a reserved case on the point, Emil Nerlich, charged with treason, testified in his own defence yesterday afternoon, and the counsel reviewed the evidence. Then the trial was enlarged until this morning, when the judge would charge the jury.

Accused on the Stand.

Mr. Nerlich, to his counsel, I. F. Hellmuth, K.C., said he came to Canada 25 years ago, and was engaged in a wholesale business with his brother. Last October he met Lieut. Zirzow, who had been sent to him for work. Nerlich noted down such particulars as Zirzow's address, etc.

"I was on a committee trying to find employment for Germans," said the witness, when shown the card. "I had many applications. Zirzow never told me that he was going back to Germany to fight. He told me he wanted work, and I told him I would do what I could for him. When he came to the warehouse I asked him if he had had breakfast and he said 'No.' I told him I would take him to lunch. It was an everyday lunch at the Prince George, and cost fifty cents. I have no recollection of having any liquor. There was no conversation about the war."

Letter From Mother.

Nerlich said that here Zirzow showed him the letter he (Zirzow) had received from his mother. "I told him to take his mother's advice, and stay where he was," said Mr. Nerlich. "Zirzow said he would."

"What was his financial condition?"

"He had hardly any money."

"What did he come to your house for?" "To get his meals."

"When did you begin to advance money to him?" "He brought me a bill for dancing lessons, and I paid the amount, \$5."

"What about the laundry bill?"

"He came to my house and said he would not pay for his laundry. Mrs. Nerlich told him to get it washed. I paid the money to Mrs. Keinz."

The first the accused knew of Zirzow's possession of an exeat was when he called at his house. He told Nerlich that he wanted to go to New York to get work, and asked the accused if he would give him money to pay his debts.

"I asked him to whom he owed. He gave me three names. The first one was Keinz. I said I would think the matter over, and I would send any money to Keinz."

"What about his writing to you?"

"I asked him to write me a postcard from New York. I believe he was absolutely sincere that he was going to New York to get work."

Gave \$10 to Keinz.

"I went to Keinz on my way home and gave him \$10 to pay the debts. I have no recollection of telling him that I was watched by the police. Zirzow would telephone my house. I would give him no reason why I did not want him."

After seeing an article in a Toronto newspaper January 27, Nerlich said he went to the Detective Department to complain. Here he was arrested. Before this he had some suspicions that the police were watching him.

County Crown Attorney Greer took up the cross-examination. To him, the witness said he was 20 years of age when he came to Toronto, 25 years ago.

"You have always gone to Germany and looked after that side of the business?" "Yes."

"Where were you married?" "In Germany, 13 years ago."

"Are you a member of the German club?" "The Deutscher Verein Club."

"At the outbreak of war this club helped Germans and Austrians?"

"No."

"It formed a committee?" "That is different."

Since the war broke out, the German Relief Committee had assisted Germans and Austrians.

"But why the Austrians?" "There was no special reason."

"If a poor Russian came to the committee would he have received assistance?" "If his character and appearance warranted it."

Nerlich knew that Zirzow had been an officer in the army. Zirzow came to Nerlich's house. "He was always in need of food. I think," said Nerlich.

Case of Charity.

In his address to the jury Mr. Hellmuth said that the crime alleged was one of the gravest ever charged.

"We would be a poor people indeed if we were not a patriotic people," declared the lawyer. "When war was declared Mr. Nerlich must have felt himself rent in two. Part of his feelings were in the country he was born and part in the land of his adoption. Is he going to hang because he thought that alien officer a 50-cent dinner?"

Mr. Hellmuth characterized the whole proceedings as a tale of charity.

Crown Prosecutor Mikel said that Nerlich confided sufficiently in Zirzow to inform him that he (Nerlich) was being watched by the police, but made no mention of it to his own brother.

"While Zirzow might be a capable military officer, yet he posed as a laboring man. My impression is that he belonged to a higher sphere, and was loitering around until he could make his escape to Germany for the purpose of taking up the cudgels of war against the allied forces."

Makes Protest.

Interrupting, Mr. Hellmuth declared Mr. Mikel was exceeding his jurisdiction when he urged the jury to form a conclusion upon the basis that Nerlich was recognized as the head of an organization fostering German officers until such time as they could get back to Germany.