

**APPEAL COURT FINDS
INDICTMENT INVALID**

Conviction is Quashed on the Grounds That No Conspiracy Was Alleged to Which Arthur Zirzow Was a Party--Mr. Justice Hodgins Dissents from the Ruling

The conviction of Emil Nerlich, late in February, of conspiracy to commit high treason, was quashed in the Court of Appeal to-day, Mr. Justice Hodgins dissenting.

Mr. Nerlich still faces the charge of treason, on which he is to be tried on Tuesday next.

At the time of the conspiracy trial, counsel for the defence, Mr. I. F. Hellmuth, K.C., made extended argument on the point that Arthur Zirzow, to whose escape Mr. Nerlich was alleged to have conspired, was not named as a co-conspirator. It was on these grounds that the conviction was quashed.

Mr. Hellmuth, as soon as the verdict of the jury had been registered, asked Sir William Mulock to grant him a reserved case, as he intended to appeal on the summing up of His Lordship. His claim was that the case had not been properly presented to the jury, in that they were allowed to find a conspiracy between the accused and Zirzow, which, he claimed, was not alleged in the charge.

The finding, which is signed by Chief Justice Meredith and Justices Magee, Maclaren and Garrow, reads in part as follows:

"The Court is of opinion that the conviction should be quashed upon the grounds that the indictment does not allege a conspiracy to which Arthur Zirzow was a party. Mr. Justice Hodgins dissents."