

NERLIGHS ASK PARTICULARS :
OF HIGH TREASON CHARGES

Make Application For Details of Two Counts in the Indictment

CROWN COUNSEL OPPOSES REQUEST

Affidavits to be Fyled and Ar- gument Will be Heard To-morrow

Application was made to-day in the Criminal Assize Court before Chief Justice Mulock for an order instructing the Crown to furnish the defendants with particulars in two counts of the indictment of Emil Nerlich and his wife for high treason in comforting and assisting Arthur Zirzow, an enemy of the King, and aiding him in an attempt to join the army of the enemy now in the field.

The application was made by Mr. I. F. Hellmuth, K. C., and the granting of the order was opposed by the Crown Prosecutor, Mr. Du Vernet, who, however, admitted the right of counsel to apply since Mr. Nerlich and his wife were present in Court.

To Prepare Defence.

Mr. Hellmuth said that in the indictment there were three counts, the first of which, that of inciting and assisting Arthur Zirzow, had been gone into so fully in the Police Court proceedings that no further particulars were required by the defendants to prepare their case. Two other overt acts had been charged, however, particulars in regard to which were sought; they were: giving information and trading with the alien enemy. As far as these charges were concerned, the accused were unaware of what they were to meet and rebut. Mr. Hellmuth said that it was clear that the Code contemplated supplying to the defendants in all such cases particulars of offences charged against them. He referred to Section 353, which said that so much information should be imparted as would enable the accused to make a reasonable answer. Section 359, too, placed it in the discretion of the court to order the prosecution to furnish particulars that were necessary to the preparation of the defendants' case. Accordingly he applied to his Lordship for an order for such particulars as would enable his clients to know what means they were accused of adopting in aiding Zirzow, and what their "trading" consisted in.

Specific Charges.

Crown Counsel DuVernet is opposing the granting of the order

said that the Crown had indeed to supply the accused with a copy of the indictment stating specifically what the charges were, but that it was never contemplated that documentary evidence which had been collected by the Crown should be placed at the disposal of the defence and complete warning of all that would be urged against them given. He urged that affidavits should be filed by the defence showing that they did not possess information of points material to their case. As it was in the present action the fullest particulars necessary to defence had been furnished by the Crown.

His Lordship decided that he would hear argument in support of and in opposition to the application in Chambers to-morrow morning and in the meantime affidavits regarding the need for particulars could be filed.