

TREASON CONSPIRACY APPEAL IS HEARD

Case of Emil Nerlich and Ger- man Reservist Aired in Court

Hearing of argument in the appeal against the conviction of Emil Nerlich on a charge of conspiracy to commit treason began yesterday in the First Divisional Court at Osgoode Hall after several postponements. The case will be finished in time to begin on Monday next the trial of Emil Nerlich on a charge of committing treason, it is expected.

Chief Justice Sir William Meredith presided, and with him on the Bench were Justices Garrow, Hodgins, MacLaren and Magee. Messrs. I. F. Hellmuth, K.C., G. F. Shepley, K.C., and G. W. Mason appeared for Mr. Nerlich, and Messrs. J. R. Cartwright, K.C., Deputy Attorney-General; E. E. A. Du Vernet, K.C., and E. Bayly, K.C., for the Crown.

Mr. Hellmuth was on his feet most of the day presenting the argument for Mr. Nerlich, who had not asked Arthur Zirzow to leave Canada for the purpose of returning to Germany to fight, he contended. If he had done so, argued Mr. Hellmuth, he would be guilty of treason, and not of conspiracy, of which he was found guilty by a jury under Sir William Mulock. He contended further that Arthur Zirzow had enough money to get away without assistance.

"My first submission is that there is no evidence whatever to submit to the jury that Emil Nerlich did conspire or did assist traitorously Arthur Zirzow to leave Canada to join the enemy's forces. My second submission is this: that under the indictment there could be no charge that Emil Nerlich had conspired with Arthur Zirzow to do this."

A letter to Arthur Zirzow from his sister expressing regret that he had not smuggled his way back to Germany to fight, and advising him to go to the United States to work when the war is over, was read by Mr. Hellmuth. He said he would have understood the letter to mean "Don't come home," and said that Zirzow was not a reservist, and not obliged to go to Germany. Mr. Shepley said there was doubt that Arthur Zirzow wanted to go back to fight.