

NERLICH CONVICTION QUASHED AT OSGOODE

Means That Trial on High
Treason Charge Will Be
Proceeded With.

ONE JUDGE DISSENTS

Conviction Was Made on Charge
of Conspiring to Commit
Indictable Offence.

The conviction of Emil Nerlich on a charge of having conspired to commit an indictable offence, in connection with the attempt of a German lieutenant, Arthur Zirzow, to leave Toronto, was quashed to-day by the majority judgment of the First Divisional Court.

The judges favoring this decision are Chief Justice Sir Wm. Meredith, Mr. Justice Garrow, Mr. Justice McLaren, and Mr. Justice Magee. Mr. Justice Hodgins dissents. Their Lordships will give reasons later.

This means that the Crown will proceed with the charge of treason. It had been announced that should the conspiracy conviction be sustained, the prosecution on the treason count would not be proceeded with. The judgment follows:

"The court is of opinion that the conviction should be quashed on the ground that the indictment does not allege a conspiracy to which Arthur Zirzow was a party."

Nerlich Witnesses Summoned.

The decision of the Court of Appeal will now promptly bring on the trial of Emil Nerlich on the charge of committing high treason.

The witnesses who will give their testimony are being summoned to-day to appear in the Criminal Assize Court at the City Hall on Tuesday next, June 8. The jurors, who have been granted a week's leave of absence, have been notified to be ready and all preparations for the trial have been completed. Mr. W. C. Mikel, K.C., of Belleville, as Crown prosecutor, will conduct the prosecution.

"As far as we know the decision of the Appeal Court does not affect the case," said an official of the Attorney-General's Department. "There have been many delays, but the trial will likely go on at once."

Emil Nerlich was found guilty of conspiring to commit an indictable offence by assisting an enemy, on the afternoon of February 24th, after the jury had considered the evidence for nearly two hours. The trial judge was Chief Justice Sir Wm. Mulock. The trial had lasted two days.

Nerlich was first arrested on January 23, and was committed for trial on January 28. Heavy bail was granted after the accused had spent a short time in jail. A true bill was returned against him on two charges of treason and conspiracy on February 8, Mrs. Nerlich being included in the latter charge. Both were arrested the same day, but the charge against Mrs. Nerlich was thrown out at the trial.