

UNWILLING TO PUT OFF NERLICH CASE

Mr. Justice Lennox Discusses Matter With Chief Justice

AWAIT DECISION IN APPEAL

Judge, However, Sees No Reason For Postponement in Present Case

"There is no reason why this court should not be adjourned for a week or two to hear this very important case. It is a national matter," replied his Lordship to Justice Lennox in the Assizes to-day to a motion to postpone the trial of Emil Nerlich till the Fall sitting of the Assizes that the appeal in the former trial for conspiracy to commit treason had been decided. Many of the points to be decided in the appeal were relevant to this case, said Mr. Mason.

"Nothing has been shown here this morning to justify me in putting this very important case over to the fall," said his Lordship, after he had heard Mr. W. A. Mason's remarks to the motion. "I am very very strongly opposed to postponing it till October. That the basic facts are the same does not mean that the trial will be the same or that the evidence will be the same. The case shall not be traversed by me unless it is shown to me to be an injustice to the accused not to do so. It is in the public interest to have the case tried and disposed of.

Ask Chief Justice.

"I will tell you what I will do, I will speak to the Chief Justice of the Appellate Division at luncheon to-day to see what the probabilities are, as far as he is disposed to disclose them, as to the probable time at which this appeal will be heard. I will allow the motion to be spoken

to this afternoon. In the meantime I should like to see the reserved case."

Mr. Mason handed his own copy to his Lordship.

Mr. W. H. Mikel, Crown Counsel, said the Crown was ready and willing to go on with the case. The decision of the trial for conspiracy to commit treason did not affect the trial for committing treason. At any rate the appeal might be disposed of before this court was adjourned.

The principal grounds in the appeal were that the trial for treason should have preceded that for conspiracy to commit that offence; that the evidence produced did not disclose conspiracy or treason, and that the address of the Crown to the jury had been inflammatory and prejudicial to a fair trial. All these points might be decided in favor of the accused without of necessity answering the present case, said he.

Evidence Is Bulky.

Mr. Mason gave the voluminous nature of the evidence as an excuse for the delay in the appeal. There were three or four hundred pages of typewritten evidence, he said. While in the ordinary course of events the trial would come on in June. They expected it to come on this month. The filings would be made to-day or to-morrow. They were arranging to expedite the hearing as much as they could.

Mr. Nerlich was in court during the discussion of the motion.

The Emil Nerlich case comes up for argument before the Court of Appeal on Monday next.