

JUDGMENT RESERVED IN NERLICH CASE

Court Will Take Time to Con- sider Alleged Conspiracy Evidence

Judgment in the appeal of Emil Nerlich from the verdict of the High Court jury, finding him guilty of conspiracy to assist an **alien enemy** to leave the country with a view to taking up arms with the **enemy**, has been reserved. At the conclusion of two days of forensic argument before the Appellate Division at Osgoode Hall, Chief Justice Sir William Meredith, who presided, intimated that the court would take time to consider evidence and argument more fully.

The suggestion that it was desired to dispose of the appeal before the appellant was placed upon trial on the pending second charge of treason was not met by any assurance from the court. Justices Maclaren, Garrow, Magee and Hodgins all intimated their concurrence with Sir William Meredith in the view that the proceedings in the ensuing jury case were not dependent upon the judgment of the Appellate Division on the appeal, although Mr. I. F. Hellmuth, K.C., who appeared with Mr. G. F. Shepley, K.C., for the appellant, argued that certain of the evidence to be submitted by the Crown in the treason case would be the same as that used in the conspiracy case now under appeal.

Deputy Attorney-General J. R. Cartwright, K.C., and Mr. E. A. A. DuVernet, K.C., represented the Crown and argued that the conviction verdict of the jury should be sustained. They maintained that in advancing money to Arthur Zirzow, a Prussian officer, who had succeeded in securing an exeat from the Registrar of Aliens to leave the country for the United States, Nerlich had conspired to assist the **alien** to return to Germany with a view to entering the army of the **enemy**.

Legal Citations Made.

The argument throughout was largely technical in character. Many legal citations were made. On behalf of the appellant, it was argued that conspiracy to assist could not be established unless it be shown that more than one participated in the alleged conspiracy. The Crown argued that the indictment was sufficient to include Zirzow. "If two people come together," said Deputy Attorney-General Cartwright, "and one of them says, 'I want to commit burglary and I haven't the tools,' and the other says, 'I'll buy them for you,' surely they are conspiring?" Mr. Hellmuth, however, repudiated the idea that Nerlich was not absolutely loyal to the land of his adoption.