

admitted might have chiefly influenced the jury to return a verdict of guilty, and the rest of the evidence, which might appear to the Court sufficient to support the conviction, might have been reasonably disbelieved by the jury, in view of the demeanour of the witnesses. It is clear that neither of these considerations could have any special application to the circumstances of this case. Very probably they were expressed in the light of the testimony which was objected to in the case before them. It is impossible to suppose in this case that the jury might have reasonably disbelieved all the other evidence and rendered their verdict upon the evidence of a threat to shoot Aggi Radzig.

Section 1019 of the Code declares that "no conviction shall be set aside nor any new trial directed, although it appears that some evidence was improperly admitted or rejected or that something not according to law was done at the trial or some misdirection given, unless, in the opinion of the Court of Appeal, some substantial wrong or miscarriage was thereby occasioned on the trial."

This enactment imposes on the Court the duty of considering the probable effect of the evidence improperly admitted, and to say whether, in its opinion, any substantial wrong or miscarriage of justice was occasioned by its admission. The Court is thus placed in a position quite different to that occupied by the Court in the case before the Judicial Committee. This was pointed out by Osler, J.A., in *Rex v. Drummond*, 10 O. L. R. at p. 549, 6 O. W. R. 211. And, in view of all the evidence and the whole facts and circumstances of this case, there is no good ground for the opinion that any substantial wrong or miscarriage of justice was occasioned on the trial by reason of the evidence in question. And that should be the answer to the second question.

MACLAREN and MEREDITH, JJ.A., each gave reasons in writing for the same conclusions.

OSLER and GARROW, JJ.A., also concurred.