

162<sup>c</sup>

IN THE CRIMINAL COURT OF E. CLEMENTS ESQ,  
MAGISTRATE, FIRST CLASS, IN THE DISTRICT OF  
POONA.

—  
CASE NO. 2 OF 1902.

SEC. 193 I. P. CODE.

          
EMPEROR vs. BAL GANGADHAR TILAK.

JUDGEMENT.  
—

S. B. Upes

Rs 13-10-

M. Parasani  
14-10-28



162  
C

V2wM56

D3

63948

In the Criminal Court of E. Clements Esq., Magistrate,  
First Class, in the District of Poona.

**Case No. 2 of 1902.**

**Section 193 I. P. Code.**

**EMPEROR vs. BAL GANGADHAR TILAK.**

**JUDGMENT.**

The accused, Bal Gangadhar Tilak, Brahmin, aged 46, newspaper editor, residing at Poona, is charged under Section 193, Indian Penal Code, with intentionally giving false evidence in a judicial proceeding, in that he made the following statements while under examination as a witness during the hearing of Miscellaneous Application No. 112 of 1901 in the District Court of Poona :—

1. "The boy was formally placed by his father on the lap of Tai Maharaj and Tai Maharaj gave him sweetmeats, and then the father said to Tai Maharaj 'Now you should protect the boy, the boy has now become your son whether good or wise, he is yours'."

2. "We never kept her under restraint nor intended to do so."

These statements are taken from the Marathi record of the accused's deposition (Ex. 3). They correspond with those to be found on pages 30 and 23 of the District Judge's English notes as printed under his orders. A copy of these notes is appended to my judgment; all mention of pages of the deposition are to be taken as referring to this printed copy, which has been carefully compared with the Marathi records.

The context will show that the first passage above is an assertion that Tai Maharaj performed, on the 28th June 1901, the ceremony of *dánpratigraha*, or the symbolical gift and acceptance in adoption of Jagannath, son of Malhar Manohar alias Bhau Saheb Dev, of Nidhone. The second passage is a denial of the alleged confinement of Tai Maharaj in her own Wada in Poona between the 16th and 20th July 1901.

The Court has to decide among other points whether these statements were made by the accused intentionally in a judicial proceeding when he was bound by law to speak the truth. There can be no possible doubt on this point, and holding this to be proved, I pass on to the other points which are :—

(1) Whether the passages bear the meaning assigned to them and set out in the charge.

(2) Whether they are false.

(3) Whether the accused at the time of making them knew or believed them to be false or did not believe them to be true.

The first point may be decided at once in the affirmative as far as the first of the passages is concerned; various fine distinctions suggested as to the meaning of the second passage will be considered later on.

Before examining the evidence on the first item of the charge, I shall deal as shortly as possible with the following subjects :—(1) introductory matter; (2) the proceedings before the Honourable Mr. Aston etc., showing how this case arose; (3) certain misrepresentations and other matters. I will then consider the arguments of the defence which relate to the whole of the charge.

#### INTRODUCTORY.

2. This prosecution is a sequel to a quarrel about an adoption which began in 1901 between Tai Maharaj and her Karbhari Nagpurkar on the one hand and Khaparde, a pleader of Amraoti, Kumbhojkar, the Karbhari of Tai Maharaj's Kolhapur Estate, and the accused on the other. The last three and Nagpurkar have styled themselves 'trustees' since February 1898 when they took out probate of the will of Tai Maharaj's husband, Baba Maharaj, who died in August 1897.

The estate is a large one, and Baba Maharaj represented an important branch of the Sidheshvar family of Kolhapur. This family was founded by Sidheshvar Pandit, a Brahmin of Babre near Aurangabad. He came to the banks of the Krishna, became renowned as a holy man, and was made Guru to the Maharaja of Kolhapur in 1779 and given an estate together with the title and insignia of royalty. His descendants, of whom the late Baba Maharaj was one, are hereditary Gurus or spiritual advisers to the Maharaja of Kolhapur.

The accused was a friend of Baba Maharaj. Khaparde (see his deposition) made his acquaintance in the Law Courts in 1893. Three years later Khaparde's son was married to Baba Maharaj's daughter Manutai. Tai Maharaj was Baba Maharaj's second wife. Her parents were people in a comparatively humble position in Poona.

The will, Ex. 8, was drafted by the accused. As Baba Maharaj was leaving a widow of sixteen whose relatives might be considered hardly competent to advise her, it was natural that he should leave directions as to the management of his property. The will appoints 5 persons as Trustees or puchas to look after the estate and household in every way as the testator used to do. It goes on to say that the whole management should be conducted 'with the advice' of these gentlemen, and that if no son was born to Tai Maharaj (who was then pregnant), or if one was born and died prematurely, a son should be given to her in adoption 'with the advice' of the Puchas who should manage the property on behalf of that son till he attained majority. It must be noted (1) that the fact of Tai Maharaj being a minor is not mentioned, nor is any thing said as to how long the trustees should be entitled to give advice, if she did not adopt as desired; and (2)

that the deceased had no power to dispose of his property by will. Of the five purchasers, four, namely, the accused, Khaparde, Kumbhojkar, and Nagpurkar accepted the trust and took out probate of the will on the 16th February 1898. The effect of probate (S. 4 of the Probate and Administration Act) is to vest the property of the deceased in the executors appointed by the will, except in cases where the property would otherwise have passed by survivorship to some other person. Now a son was born to Tai Maharaj in January 1898 and died in the following March. By Hindu Law the property passed to that son and on his death to Tai Maharaj. The fact that probate had been granted to the four trustees of Baba Maharaj's will could make no difference. In spite of this, the accused and Khaparde claim power to manage the estate until it passes into the hands of a male person who has attained his majority; they also put forward the extravagant claim that they were guardians of Tai Maharaj's person until the age of 21. I mention this as it is part of the defence to the second portion of the Charge.

#### ORIGIN OF THIS CASE.

3. The proceedings before the Honourable Mr. Aston began with Tai Maharaj's Application No. 112 of 1901 (Ex. 44) dated 29th July 1901, against the four trustees for revocation of probate. In it she contends that after the death of her son she is heir to the estate, and sets out the following facts as to the conduct of Tilak and Khaparde (opponents 1 and 2):—

“Opponents Nos. 1 and 2, taking advantage of petitioner's weakness as a woman, induced her to go to Aurangabad and forced her to sign some documents relating to adoption. After her return to Poona she took legal advice, and was about to take steps to protect her rights, when the accused, by unlawful acts, prevented her, and ultimately, by keeping her in confinement for six days, attempted to coerce her into consenting to certain matters. Fortunately an event occurred which put an end to her confinement.”

For Opponents Nos. 1, 2, 3 it was contended that the adoption at Aurangabad was made with the will and consent of the petitioner, but that the question was not relevant in proceedings for revocation of Probate. Mr. Aston, against this view, went into the allegations made by Tai Maharaj, and the accused was examined at great length as to what occurred at Aurangabad and afterwards in the Wada in Poona. On the 3rd April 1902 probate was revoked and the following day an order was passed under Section 476 Criminal Procedure Code ordering the accused's prosecution for certain offences. This order was forwarded to the City Magistrate on the 5th April. On the 9th September the case was transferred to this Court, meanwhile (1) a Police investigation apparently under the orders of Government was held by Mr. Brewin and Mr. Page of the Criminal Investigation Department, (2) the Bombay High Court reversed Mr. Aston's decision in Miscellaneous

Application No. 112 on 19th August. As the accused evidently desires to misrepresent the nature of the High Court's order on appeal, I quote the concluding sentence of their judgment :—

“ On these grounds, we consider that there was no sufficient cause within the meaning of the explanation to Section 50 for revoking the grant of Probate. The mere fact that the estate has now devolved on the widow as heir of her deceased son does not by itself render any revocation of Probate necessary, as the widow is at liberty to apply for letters of administration to the estate of her deceased son.”

#### MISREPRESENTATIONS ETC.

4. There are two points of an incidental kind on which I wish to record my opinion. They are first, the insinuations made in and out of Court on behalf of the accused that this prosecution is a vindictive one; and secondly, as to the manner in which this case has been reported in the Press. As regards the first, I need only mention the edition of the 7th November last (No. 31) of the *Kal* newspaper and the remark made by Mr. Karandikar in Court on the 27th July and noted in the proceedings. I think it my duty to state that the evidence before Mr. Aston was overwhelming; and the important part consisted of documents and the accused's own admissions. The suggestion that Mr. Aston sanctioned the accused's prosecution for perjury simply because he took Tai Maharaj's word against that of the accused, is a 'suggestio falsi' of the most dishonest kind. If it had been found impossible to procure Tai Maharaj's attendance in this Court, the case against the accused, on the first and most important part of the charge, at any rate, would have lost none, or practically none of its strength. It would still be absolutely convincing. As regards the conduct of the case in this Court, it seems necessary to point out that the public prosecutor or Mr. Strangman only represents the Crown, and that it was desirable in dealing with people who are not above making the most malicious insinuations, that the Crown should be so strongly represented as to render unnecessary any interference by the Court in the prosecution.

As regards newspaper reports, it seems to me an anomaly that Courts and especially Criminal Courts have not been given the power to protect themselves against deliberate contempt, as in the edition of the *Kal* newspaper above noted or carelessness and inaccuracy. During the examination of Tai Maharaj, the reporters of two English papers admitted in Court that they did not understand Marathi, the language of the Court. They, therefore, did not understand the questions or the answers; neither could they see the witness as she was screened from view. In spite of this, one paper that I noticed, printed columns of inaccurate reporting interspersed with notes on the witness as demeanour. This is a serious matter as it tends to discredit a witness in the eyes of the public.



5. Mr. Karandikar has addressed the Court at great length as regards the omission of the Prosecution to call (1) certain witnesses, and (2) the Police Officers who were deputed to make a preliminary inquiry into this case. He has also referred to their omission to call for certain documents and their dropping from the charge some of the statements mentioned in Mr. Aston's order of sanction.

(1) AS TO WITNESSES.

As regards the first, it is undoubtedly the duty of the prosecution to see that justice is done and the only valid reason they can give for not calling a witness is that they believe he would not speak the truth. The defence in their application for summonses ( p. 173 Miscellaneous Papers ) mentioned three witnesses who had not been called although they were known to have accompanied Tai Maharaj to Aurangabad. They now say that the witnesses examined by the Police at Aurangabad ( See Mr. Brewin's evidence Ex. D. 84 ) should also have been called. The three first named witnesses are—

1. Shankar Hari Gurav.
2. Laxman Shivram Mhasvade.
3. Anant Narayan Bele.

Now there are facts in this case which strongly support the prosecution in saying that these witnesses would not speak the truth.

(a) There is the extraordinary popularity and influence of the accused. Ex. D. 16 a letter sent by Nagpurkar to Khaparde in September 1898 describes the rejoicings which took place at his release from jail, how he was fêted and garlanded for three days and nights, and how his condescension in visiting her was appreciated by Tai Maharaj. Then there is the Aurangabad evidence which shows that he was regarded there, on his visit in 1901, as a great man, every one striving to do him honour, and all, including Vakils, School Masters and Karkuns, ready to serve him for nothing.

(b) Secondly, there is evidence which suggests the inference that when the accused found that Nagpurkar's views about the adoption did not coincide with his own he took steps to undermine whatever authority Nagpurkar had over the establishment at the Wada. Tilak says ( p. 88 ) :—“ Four estate Karkuns gave in their resignation to Nagpurkar on 14th May 1901. The trustees did not support Nagpurkar and the four resigned Karkuns were kept on by decision of the meeting.” At the meeting in question ( See Ex. 62 ) Nagpurkar's powers were considerably curtailed. The establishment was ordered to be reduced, and it was resolved to appoint an independent Karkun under Tilak's orders to exercise a check over the management. Then reverting to the same passage in Tilak's deposition,—“ Nagpurkar gave the Karkuns the general warning of impending reduction. That

notice came before the meeting on 18th June 1901 but we did not support Nagpurkar. We decided to keep on the same establishment and the aforesaid four Karkuns have been with me at the *Kesari* Office since 4th or 5th August." Yet D. 13 shows that Nagpurkar on the 30th June 1901 brought forward very strong grounds for not reducing the establishment of Karkuns, and Tilak's opinion recorded upon this report on 4th July was that the Budget as settled should be brought into force at once. The result seems to be that Nagpurkar was given orders and, when he attempted to carry them out, he was 'not supported.'

(c) *Thirdly*, there are facts which show interference on the part of the accused with witnesses and persons who might have given evidence for the prosecution. Besides Tai Maharaj, her two female attendants, Nagpurkar and his nephew, the only residents of the Wada who gave evidence as regards the events of 15th to 20th July, 1901 were Ashtekar ( 12 ), Ganeshbhat ( 16 ), Gangaram Mali ( 13 ), and Satyappa, watchman ( 18 ). Of these the first two state that they were turned out of the Wada by the accused's orders on 16th July because they were on Tai Maharaj's side, and the second two did not seem particularly to enjoy being witnesses against the accused. Two persons, Mendargikar and Prabhune gave untruthful evidence on the accused's behalf. They had evidently been told what to say. The former was an old servant, and used to recite prayers in the Wada. He suddenly left when the dispute assumed an acute form, and was employed for six months at 8 Rupees a month to recite prayers for the accused and Khaparde. The latter was a tutor who used to go to the Wada and coach Nagpurkar's son. Narayan Rango ( witness D. 11 ) was also an Estate Karkun. He came into Court and deliberately gave false evidence on the accused's behalf with regard to the handwriting of a remark written on Ex. 63.

(d) *Fourthly*, there is a very instructive example of the accused's methods in the case of Parvati ( W. 21 ) one of Tai Maharaj's female attendants. She was examined on the 31st October 1902, and cross-examined on the 28th November. In the meantime she left Tai Maharaj's service. She gave her evidence in October reluctantly, and pretended to be very stupid. In cross-examination her demeanour was the exact counterpart of this. She had evidently come into Court prepared to tell a new story in the accused's favour, and to suggest to the Court that the prosecution had tutored her. It was noted during her re-examination that she continually looked towards the accused before answering questions. This is the most flagrant instance that has ever come to my notice of witness being won over to the other side and tutored during the progress of a case. Apart from her demeanour, I consider that her deposition proves this

completely as she did not tell the story she had been taught to tell without mistakes. I note for instance her putting the facts regarding the corporeal giving and taking as having taken place on Ekadishi or the 27th June. Mr. Karandikar then put the question to her 'are you describing the events of Ekadishi or Dwadashi?' and she immediately remembered and said 'dwadishi.' In spite of this, Mr. Karandikar has had the audacity to suggest that she was originally tutored for the prosecution, and told the truth in cross-examination.

(e) *Fifthly*, it is in evidence (1) (Tai Maharaj, p. 45) that Shankar left his place in the Wada without notice while this case was going on; and (2) (Nagpurkar, back of pages 30, 42) that Anant Bele has deserted Tai Maharaj and pays the revenue of that part of the Estate which is in his charge to the accused instead of to her. There is nothing on record about Laxuman except that he was still in service in the Wada in November last. It is stated for the prosecution that none of these witnesses would speak the truth, and this seems a just conclusion under the circumstances. As regards the Aurangabad witnesses examined by the Police, I consider the evidence recorded on Commission at Aurangabad amply shows that the truth is not to be obtained from Aurangabad witnesses.

#### (2) AS TO THE POLICE INQUIRY.

The object of the Police inquiry made under Mr. Brewin's orders has not been disclosed in evidence. No inquiry was necessary after Mr. Aston had passed his order under S. 476 Cr. P. C. It therefore cannot be regarded as an ordinary Police investigation and the orders of the High Court as to the summoning of investigating Police officers to give evidence do not apply. The only statement recorded by the Police which I have read through is that of Tai Maharaj. It goes over the same ground which had been covered in her examination by Mr. Aston, and is in my opinion worthless for any purpose. Some of the questions asked partook of the nature of cross-examination. How can one tell whether questions were fairly put or were understood by the witness? Moreover there was no re-examination. These remarks apply to the whole of the statements taken and take away all their value as evidence.

#### (3) AS TO DOCUMENTS.

There is no truth in the suggestion that Exs. D. 40 to 46 were not called for by the prosecution. The prosecution was not conducted as thoroughly as it might have been before Mr. Strangman was appointed. One of the first steps he took was to call for all letters and telegrams from the accused to the Kolhapur Durbar. On their arrival Exs. D. 40 to 46 were first shown to Mr. Karandikar and he was invited to put

them in. Had he not done so, the prosecution certainly would, as they constitute some of the most important evidence against the accused.

(4) AS TO THE CHARGE.

It has been ruled that only one offence is committed in telling several lies in the same deposition. The two items in the charge were picked out by the Prosecution as they are the most important and raise the clearest issues. The fact that other statements appearing in the order of sanction are omitted in the charge, has no bearing on the value of the evidence recorded in the case.

SUMMARY OF EVIDENCE AS TO ADOPTION.

6. I now come to the evidence bearing on the first item of the charge. The issues raised are very clear. On one side the accused asserts that a corporeal giving and taking in adoption took place on the 28th June 1901 at Aurangabad; on the other side it is denied that any ceremony of the kind was performed. The story of the defence is that Tai Maharaj accompanied the accused and Khaparde to Aurangabad intending, if a suitable boy were found in the Babre branch of the family, to adopt him there and then; and that she so adopted Jagannath of her own free will. The story of the Prosecution is that she had the strongest reasons for not wishing to adopt any boy not descended from Sidheshvar Maharaj, that she had already decided in her mind to adopt Bala Maharaj, the boy whom she actually adopted in the following August, that she went to Aurangabad unwillingly as she was pressed to see the boys there, that great pressure was brought to bear upon her by the accused when he had her in his power at Aurangabad, but that she resolutely refused to go through any adoption ceremony and only obtained the accused's consent to return to her Wada in Poona by signing three papers, of the contents of which she was totally ignorant. The evidence led for the Prosecution therefore deals with events prior to the 28th June as showing what the state of Tai Maharaj's mind must have been, with the events of the 28th June, and with the subsequent conduct of the chief persons concerned. Evidence of the years 1898, 1899, 1900 and the early part of 1901 has been adduced by Mr. Strangman (see Tai Maharaja's deposition) yet in arguing on the case he has chosen to ignore this as irrelevant. This evidence has been made use of by both the defence and prosecution in testing the credibility of witnesses, and is in my opinion relevant. I will therefore consider it with the other evidence more directly bearing upon the occurrences at Aurangabad.

I propose to deal with the evidence in the following order.

Sec. 7.—The oral evidence up to June 28th except that contained in Secs. 11 and 12.

Sec. 8.—Subsequent conduct of the accused.

Sec. 9.—Subsequent conduct of Tai Maharaj and Bhau Saheb Dev (father of Jagannath.)

Sec. 10.—The probabilities with regard to the alleged adoption.

Sec. 11.—The accused's story.

Sec. 12.—That of his witnesses.

It will be convenient to note here that Mr. Karandikar has indulged in many sneers at the use of the word corporeal with reference to the alleged ceremony of the 28th June. The word or its equivalent does not appear in Bala's adoption deed. The explanation is not far to seek. It was the accused's brain which invented the idea of separating the ceremony of giving and taking into two parts, the oral and corporeal portions, a proceeding which appears extraordinary and is possibly unprecedented.

(a) CREDIBILITY OF WITNESSES.

7. (a) The chief witness in this part of the Evidence is *Tai Maharaj*. It is necessary to consider not only her credibility but her character as well. The defence to this case, particularly as regards the adoption, is that *Tai Maharaj* was easily led and that after she had of her own free will adopted *Jagannath*, she was persuaded by *Nagpurkar* and *Pandit Maharaj* to turn completely round. It will be abundantly clear, however, when the facts of the case, including those relating to the question of restraint, are considered, that *Tai Maharaj* has shown great strength of character throughout, and that a weaker or more vacillating person than *Nagpurkar* could hardly be conceived. Her letters do not betray any weakness of mind. Her tenacity in persisting in her intention of adopting *Bala* during the month of July 1901 was remarkable. Although the accused and *Khaparde* managed to get *Nagpurkar* to write out a retraction during the days they kept the *Wada* shut, all they could get from *Tai Maharaj* was the diplomatically worded document Ex. D. 48. I do not lay much stress on anything appearing in any of *Khaparde's* flowery letters to *Tai Maharaj*, but the following passage from Ex. 85 is significant and seems to be something beyond mere flattery.—“At such a tender age, God has given you a mature and sound judgment and your resolution is so strong that your own mother could not change it.” As to her credibility, the defence say that her evidence is wholly true or wholly false. I cannot accept this view. With few exceptions all the witnesses in this case have embroidered their evidence to some extent, and although I regard *Tai Maharaj* as truthful witness, as the witnesses in this case go, she has not spoken the truth in every detail. Considering that she is a woman of little education she can only write *Balbodh* and that not in the most polished style and considering that she is very mindful of her dignity as a First Class *Sirdar*, I think her cross-examination was conducted on the most unfair lines. At the outset practically, she was confronted with Ex. D. 19 and forced to admit that she invented parts of that letter in order to get permission from the accused as trustee to go to *Kolhapur*. When that

part of the evidence is dealt with it will be seen what a trivial matter this is. Yet Mr. Branson who was then Counsel for the defence assumed his sternest manner, and the letter was referred to again later on as a means of making the witness uncomfortable (pp. 23, 24, 32 of Tai Maharaj's deposition.) To heighten the effect, Mr. Karandikar spoke to the witness in a tone which seemed to me impertinent, and was more than once reminded by the Court that he was addressing her as "tumhi" a word which he would not use to her in private life. After all, the discrepancies in her evidence are not very numerous. First of all, she denied having written the letter D. 64. No reason can be assigned as to why she should do so, the letter, according to the defence who say it was written in answer to Ex. 85 belongs to the year 1898 and contains nothing of any importance. I can only regard her denial as a caprice, as she probably did not want to be bothered with a string of questions about the letter. I imagine she was given to understand that these tactics were not advisable as they were not repeated. Secondly, she says (p. 25) "I heard of Babre first at Sinbgad—I did not know before that that there were any '*Bhaubands*' there." The defence point out from Ex. D. 54 and Mendargirkar's evidence (witness D. 7) that Babre is mentioned in the family prayers which Tai Maharaj used to recite. This is trivial. Thirdly, witness is accused of giving a disingenuous interpretation of passages in Exhibits D. 20 and 14, and of giving an inconsistent account of the circumstances under which the letter Ex. 15 was written at Aurangabad. This and the alleged untruthfulness of her story as to the social and other pleasures she enjoyed at Aurangabad will be dealt with later on. On the other hand, it is noteworthy that the witness was examined at length on many occasions by Mr. Aston, by the Police and in this Court, and no inconsistencies have been pointed out except the one noted above as to the writing of Ex. 15. Witness' statement before the police has been put in as Ex. 89 and D. 62. Out of that lengthy statement the defence have picked out one short passage, which it will be seen later on, does not contradict the witness in the least. Another remarkable fact is that they have omitted to cross-examine her on almost all the leading points in the case. If as they allege, they honestly believed that her story about the Aurangabad events was an invention, surely they would have tested it in every detail. Instead of that, they have picked out (1) the events of 18th and 19th June, (2) the circumstances attending the writing of Exhibits 14 and 15, (3) the facts as to sight-seeing &c. and have questioned her at some length as to the position of rooms in the Mandir in which the party put up at Aurangabad; but otherwise, except for a question here and there, have left her story severely alone. The last remark applies equally to Godubai's cross-examination. She was Tai Maharaj's companion and is the only corroborating witness as to the events at Aurangabad. Parvati the other female servant as I have pointed out (*cf* 5 above) is an un-

truthful witness and her evidence should, I think, be ignored altogether. Godubai, I consider, one of the most straightforward witnesses in the case. The defence lay great stress on a discrepancy as to the writing of Ex. 14. In examination-in-chief, considering that she is entirely uneducated, she was asked too many details as to the writing of the letter. Being illiterate she would not notice or remember details of the kind. The result was that she said Tai Maharaj dictated the letter and only signed it. In cross-examination about a month afterwards she qualified this statement. Nagpurkar's evidence is not of very great importance. As I have pointed out he is weak and vacillating, but it must be said to his credit that he remained faithful to Tai Maharaj through a period of trial. He has admitted writing two letters (Ex. D. 7 and D. 8) deceitfully, and the defence has endeavoured to make the most of this admission. It must be remembered that the people one has to deal with in this case, do not show in their conduct towards one another the candour and veracity one would expect to find among Englishmen. A more glaring example of deceit than the Trustees' Resolution of 18th June 1901 it would be hard to find. *Khaparde*, who would not take the risk of appearing in this Court but preferred to be examined at Amraoti, is a perjurer. The following passages in his deposition are examples of quibbling and evasion, almost childish in their frivolity.—Pages 83 to 85. (This is a feeble attempt to explain away the obvious meaning of Ex. 86.) Page 106, page 109 and onwards. Pages 121, 122. From Page 126. There are other passages of a similar kind which deal with the second portion of the charge. A very untruthful passage is that on pages 137 to 139. Pages 177 to 179 give a typical series of quibbling answers which lead to the absurd contradiction that the witness only had the question of adoption in his thoughts, and yet his mind did not advert to the Aurangabad adoption or that of Bala Maharaj. He came into Court with a carefully prepared version of the circumstances existing before Tai Maharaj was taken to Aurangabad. Tai Maharaj and Nagpurkar were then strongly opposed to Bala Maharaj as a candidate for adoption and witness had all along been against every Kolhapur boy. He was forced in cross-examination by the apparently unexpected production of letters written by himself to modify this story. After that he was careful to qualify his answers with the phrase "as far as my present impression goes" or words to that effect. Another typical phrase continually in his mouth was "My mind did not advert to etc."

#### WHAT WERE THE DECEASED'S WISHES AS TO ADOPTION ?

7 (b) It is alleged for the Prosecution that the deceased Baba Maharaj wished that no adoption should be made except from the Sidheshwar family and that Tai Maharaj knew of this. Considering that the Maharaj's, as descendants of Sidheshwar, are hereditary Gurus of the Maharaja of Kolhapur;

it becomes almost certain that he must have entertained such a wish. There is nothing to show that there has ever been any intimacy with the Babre relatives, and it is strongly denied by the Prosecution witnesses that there has been such intimacy within their memory (see Ex. 55 Tai Maharaj also) Bhau Saheb Dev has produced a letter thirty years' old (Ex. 65 D) which proves nothing, and has made obviously false statements as to his previous acquaintance with Tai Maharaj.

Then there is a mass of evidence recorded in this case as to whether the deceased on his death-bed expressed this wish. Leaving out contentious matter there are the following facts :—(1) In D. 16 a letter from Nagpurkar to Khaparde dated 12th September 1898 occurs this passage: "Tilak says a boy from the Bhaubands and no other should be taken. They said that the late Sri also spoke to that effect." (2) On 18th June before Tai Maharaj went to Aurangabad Nagpurkar wrote in a letter to the accused "You are aware that the sole object of the late Sri Baba Maharaj was to take a boy in adoption from the family of Sri Bua Maharaj; not only that, but it was clearly said at the time of making the will;" and in a letter to Khaparde "at the time of making the will I undertand that the deceased Sri expressed a wish to have the adoption made from the Maharaja family." (3) Below the minutes of the meeting of Trustees held on 18th June, Nagpurkar wrote a minute of dissent in which he made the same statement. The accused on seeing that minute of dissent wrote "the last words of Sri as written by Balvantrao are not true. As a matter of fact the words were purposely not inserted in the will." Then the accused wrote D. 14, his 'report' against Nagpurkar, in which he says: "Baba Maharaj said an adoption should be made from the family." The accused repeated this story in his evidence in the District Judge's Court drawing a distinction between 'the family' and 'the Sidheshwar family.' The accused's account of the matter seems to me highly improbable, in fact absurd. In any case there can be no doubt that Tai Maharaj was reminded frequently of Nagpurkar's version of Baba Maharaj's wish before she went to Aurangabad. She states also (deposition Page 1) that she heard Baba Maharaj express this wish and in her statement to Mr. Aston, in July, after the dispute (D. 22) she said my husband wanted to take a boy of the family. I wish so too. It is not right to go against his wishes. Otherwise there would be no pleasure in living."

EVIDENCE BELONGING TO THE YEARS 1898, 1899, 1900  
UPTO MARCH 1901.

7 (c) Upto May 1898 Tai Maharaj was in Kolhapur, from then till October in Poona, and from October till April in the following year 1899 in Amraoti. While she was in Kolhapur after the death of her son Pundit Maharaj and Nana Maharaj also began intriguing (Pundit Maharaj evidence, page 7 Exhibits D. 52 and D. 53.)



*Note* the passage about the *bhaubands* running Baba Maharaj into debt. This and the following sentence must refer to Nana Maharaj's family.

On her arrival in Poona her mother attempted to procure her brother's adoption. Khaparde and Durge Shastri, his protegee, allege that Tai Maharaj asked for Khaparde's son. Nagpurkar says (page 21, 22) 'Tai Maharaj in order to stop the Khatpat about Nana Maharaj's asked Khaparde to give his son to her.' Tai Maharaj was not asked about this. About this time also, Nagpurkar wrote D. 7 and D. 8, 'deceitfully' in which he states that Tai Maharaj is determined not to adopt from the *bhaubands*. What does all this show, except that the young widow who was then sixteen or seventeen was pestered with proposals for adoption on all sides? There is nothing to show that she thought seriously of adopting at all. In June 1899 a meeting was held at Vithalvadi, and the list of boys (Ex. 76) and the horoscopes were taken away by Khaparde. The latter wrote '*pasant*' or 'approved' against the name of Bala, son of Nana Maharaj. He subsequently came to a decided opinion in favor of this boy and went so far as to draft a deed for his adoption (See Ex. 86, 87 and Khaparde's deposition). The position is this: Khaparde and Kumbhojkar are working together to bring about the adoption of Bala, son of Nana, a member of the Siddheshwar family; Nagpurkar and Tai Maharaj are against the boy, on account of family disputes. Tai Maharaj held out, and next year, 1900, nothing was done. In the early part of 1901 Tai Maharaj paid another visit to Kolhapur for the Prayag pilgrimage and stayed in Kumbhojkar's house. She seems to have seen the Kolhapur boys on that visit. She states most emphatically that she then made up her mind to adopt Bala Maharaj, brother of Pandit Maharaj. (The evidence is Nagpurkar pages 40, back of 25. Tai Maharaj pages 2, back of 23, 41.) Taking into account what followed in March, I think, there is every reason to believe her statement.

#### BALA MAHARAJA'S MARRIAGE.

7 (d) In March 1901 Bala Maharaj (Witness 17) who was eventually adopted by Tai Maharaj was married in the Vada in Poona. Tai Maharaj (page 2 back of page 23) says, she told the trustees before the marriage that she intended to adopt Bala, and told Pandit Maharaj at the time of the marriage. Then there is the very significant fact that a message was sent to the accused through one Bhingarkar (Witness D. 8) about the adoption three or four days before the marriage took place. Nagpurkar says (page 2). 'She sent a message to the accused to his house in Poona, by one Bhingarkar. The same man brought a message back: "let the marriage take place. After assembling together, will consider the matter. Tai Maharaj says (back of page 29) 'before Bala's marriage I sent the message through Nagpurkar to Tilak saying that I wanted to adopt Bala. Nagpurkar

went himself. He returned and gave me the answer. As to what said: the answer was she says (page 2) :—‘ I told the accused. He said “ We’ll do what you like; let the marriage take place first. The accused said in his deposition (page 16) that Tai Maharaj never indicated any desire to adopt Bala Maharaj before the journey to Aurangabad. Then he was ill advised enough to produce Bhingarkar, a great religious and literary celebrity, to put the matter beyond doubt. Bhingarkar told an elaborate story about Nagpurkar and Pandit Maharaj urging him to win the accused over to their views. He put appropriate words into Nagpurkar’s mouth to prove beyond doubt that the two conspirators had not consulted Tai Maharaj on the subject. Considering Tai Maharaj’s force of character the whole story is absurd. My notes on the deposition suggest that the accused did not wish to spoil this holy man’s evidence by mixing him up with the ordinary witnesses as to the question of restraint. He was therefore asked nothing further. In answer to the Court though he told the same story as the others about visiting the Vada and finding the doors open. Taking all this into consideration I have no doubt that Tai Maharaj formed the resolve at this time to adopt Bala, and that she communicated her wish to the accused. The fact of the marriage taking place in the Vada shows that very friendly relations had sprung up between Tai Maharaj and Pandit Maharaj’s family, there was no reason whatever why the Vada should have been considered an appropriate place for the ceremony. After his marriage Bala stayed 10 or 12 days in the Vada.

#### THE SINHGAD MEETING, MAY 1901.

7 ( e ) Godubai ( Witness 22 ) gives the clearest account of the sequence of events after this. It seems that Tai Maharaj went to Amraoti for the marriage consummation of Manutai, Khaparde’s daughter-in-law and Baba Maharaj’s eldest daughter. She returned to Poona and went to Sinhgad where the accused was. Khaparde came after her. The next thing to consider is the meeting of Trustees at Sinhgad which lasted seven days towards the end of May 1901. A budget was framed, alterations were made in the establishment and in the last resolution the adoption was considered. ( See Ex. 62. ) While discussions were going on Khaparde wrote the letter Ex. 80 to Tai Maharaj telling her that the time taken for consideration was up and that she should communicate her decision. She answered in D. 20 in which she says, “ What should be done about adoption. I am confused by thought of this. I cannot suggest any thing. Have not been well two days. In the current budget expenses are cut down. The boy’s expense is to be on top of this. I shall be put to great difficulty. What should be done? There are boys in Babre village ; after first seeing some of them and then after seeing all the boys, a decision should, I think, be made.” This is the important part of the letter. The meaning of the

last sentence is perfectly clear, yet Tai Maharaj and Khaparde have both been asked to give their views about it. Tai Maharaj's view (p. 25) seems to me incorrect, but I do not think it is disingenuous, as suggested, as it comes to the same thing in the end. Khaparde's view that only Babre boys are referred to and none others is ridiculous. (Khaparde page 95). Khaparde says (page 24 and onward) that before writing Ex. 80 he told Tai Maharaj how the land lay. He pointed out that Pandit Maharaj's family was out of the question, and that she herself objected to Nana Maharaj's family, and suggested that they might have to have recourse to Babre people. Tai Maharaj says: "Khaparde and Kumbhojker were saying that I should take Nana Maharaj's son. Tilak was saying the same. They were pressing hard and so I wrote that I was confused." The chief points to be noted about the minutes (Ex. 62) are (1) that there is no indication of great hurry or urgency in the matter of adoption. The last resolution runs:—'A trustworthy man should be sent to Babre to inquire of ancestors of the Sri &c. If no trustworthy man is found, Nagpurkar should go without waiting; (2) That decided interference in the affairs of the Estate was here shown for the first time. The two leading spirits among the trustees, namely, Khaparde and the accused were beginning to assert themselves more than they had done hitherto. I note here that it is certain that as early as 1898 Tai Maharaj had been informed that she was full owner after her son's death. (Page 1 Tai Maharaj, Phadke, Witness 24). Ghotavadekar says (Witness 27): 'I had a conversation with Tai Maharaj after her son's death. She said, she was proprietor and asked me what arrangements should be made. I said, the management should be carried on with the four trustees' advice, as they would be better than others who might be rascals.' The position at this time is therefore as follows. Tai Maharaj wants to adopt Bala, but Khaparde and the accused, who want a long minority and object to a boy of eighteen, won't hear of it. They and Kumbhojkar want her to adopt Nana Maharaj but she firmly refuses shewing in this matter as in many others her strength of will.

#### TAI MAHARAJ'S EFFORTS TO GET TO KOLHAPUR.

7 (f) The next resolution of the trustees (Ex. 13) is passed only twenty days afterwards; yet there is a striking difference in its tone. The explanation is, I think, to be found in Pandit Maharaj's visit to Poona and Sinhgad after Tai Maharaj's return from the latter place to her Vada. (Pandit Maharaj's evidence.) The object of his visit was to invite Tai Maharaj and the Trustees to Kolhapur for his brother Taty's marriage. Tai Maharaj had promised him that she would go and although she had already verbally asked for permission she wrote to the accused and to Khaparde asking their permission again. There is nothing to show that

the accused gave any answer. Khaparde answered, but has not produced Tai Maharaj's letter to him. Only Tai Maharaj's letter to the accused (D 19) and Khaparde's reply to her letter to him (Ex. 88) are in evidence. Khaparde (pages 5, 26) says that Tai Maharaj pleaded hard to be allowed to go. He refused because there was no budget provision, it would cost too much, and would raise Pandit Maharaj's hopes. None of these reasons, in fact no reasons at all, are mentioned in Ex. 88. In D 19 is the passage on which the defence have laid so much stress as described above. It is as follows : " Pandit Maharaj has written a letter to the effect that he is pressing me, not on account of the adoption as he gave up his hopes from the time of the boy's marriage." This only shows that Tai Maharaj was so anxious to be allowed to go, that she did not mind practising a little deception on the Trustees. Khaparde and Tilak were still in Sinhgad. I think, it is evident that they put their heads together at this time and planned to take Tai Maharaj off to Aurangabad and if possible make her adopt a young boy from the Babre family and so prevent the adoption of Pandit Maharaj's brother.

#### THE MEETING OF JUNE 18TH.

7 (g) The result arrived at by the Trustees at the last meeting (29th May) was that information should be obtained about Babre boys, and that, if necessary, Nagpurkar should go himself and make inquiries. Nothing of course was done, as Tai Maharaj and Nagpurkar were in favour of Bala Maharaj. Tilak and Khaparde in pursuance of a plan of their own came into Poona and convened the meeting of June 18th at which they dictated to Nagpurkar the minutes contained in Ex. 13. These minutes pass in review the Kolhapur and Sarapur families in connection with the adoption, and end as follows :—

" Para 5. Now there remains the descent of Sri Sidheswar Maharaj's brother at Babre. It is not yet known whether there is any boy in that family ; but it is the opinion of all that a boy suitable for adoption according to age &c. in that family should be taken and not from any other family. That also is the opinion of Tai Maharaj.

6. Tilak and Khaparde should both go to Babre and should approve of boys and should dispose of the matter relating to the branch of the family on that side. This is the opinion of Tai Maharaj.

7. It is accordingly resolved that Tai Maharaj should go and see boys and approve of them."

Signed by Tilak, Khaparde, Kumbhojkar,  
on 18th June 1901.

Then follows Nagpurkar's dissenting minute :—

" In this connection the deceased Sri Baba Maharaj distinctly said to Tilak in his last moments, while the will was being written, that if it were necessary to adopt a boy,

one should be adopted from Sri's family and not from outside. This was agreed to by Tilak, but has not been taken into consideration, notwithstanding that Sri Tai Maharaj expressed her opinion that she preferred Sri Bala Maharaj and that he should be taken in adoption. The above three gentlemen, having refused to accept her opinion, the fact has not been reduced to writing. I have written as was dictated to me by Tilak, and therefore at the time of making my signature, I am obliged to make this endorsement. It is evident that the Babre family is not connected with the Sri's family and I have informed the Trustees of this."

Date as above.

(Signed) B. M. Nagpurkar.

Below this are the following two endorsements by the accused :—

"The above matter was not written by Nagpurkar at the time the resolution was passed at the meeting. He found an opportunity to write it subsequently as the paper was with him. The matter referred to in his endorsement was considered at the meeting of Trustees. The last words of Sri Maharaj as written by Balvantrao are not true. As a matter of fact the words were purposely not inserted in the will at the time it was written at Tilak's dictation.

29th June 1901.

(Signed) B. G. Tilak.

The matter is reported to the other Trustees on 5th July 1901. See report."

(Signed) B. G. Tilak.

These minutes have led to an enormous amount of discussion. To understand the accused's arguments it is necessary to note the following facts. Immediately after Tilak and Khaparde had signed the minutes, they left the Vada with Tai Maharaj. Khaparde took the latter to Kirkee and from there direct to the Poona station. They missed that evening train, Tai Maharaj returned to the Vada, and the next evening Tilak, Khaparde, Tai Manaraj and servants went to Aurangabad. Tai Maharaj and the accused returned to Poona from Aurangabad on June 29th. During their absence Pandit Maharaj paid a visit to the Vada and saw Nagpurkar.

The accused contends (page 71 of deposition) that Tai Maharaj went to Aurangabad for the purpose of adopting a boy of the Aurangabad branch of the family and finally disposing of the adoption matter. He also said in his deposition 'The whole object of the journey was entered in the minutes and there was no purpose of that journey not entered in the minutes and nothing was concealed from Tai Maharaj &c.' Khaparde is more explicit still. He repeats Tilak's far-fetched interpretation of these minutes (pages 102, 103.) Both Tilak and he admit that they intended that Tai Maharaj should make an adoption before returning to Poona. The passage in the accused's deposition (page 72) is :—' Yes, I do admit that my object when I left Poona on that journey was that an adoption should take place from the

Aurangabad branch before we returned to Poona and that we should so arrange as to make it beyond the power of Tai Maharaj or the father to retract.' These contentions introduce three stumbling blocks. The first is :—Why was the purpose of the journey not clearly stated in the minutes? The second :—if Tai Maharaj was willing to adopt from Aurangabad what was the reason for hurry? The third :—Why did Tai Maharaj as Khaparde (page 119) and the accused (page 22) admit, change her mind on the 20th June on arrival at Aurangabad, and why did she take steps to adopt Bala subsequently when she returned to Poona? The first and second are really insurmountable. However that did not prevent the accused from wasting time in three Courts by an attempt to prove that the minutes mean something different from what they state. The perusal of Ex. 68 A and D 45 which were written by the accused before he had thought these matters out, should silence all such nonsense. Time was wasted in a similar way by arguing from D 16, a letter written by Nagpurkar in 1898, that no time was to be lost in adopting when once a boy had been settled upon. The third objection is the origin of the accused's theory that Tai Maharaj was easily led, a theory which I consider untenable.

I think it is obvious from what had recently taken place, that Tilak and Khaparde were alarmed at the possibility of Tai Maharaj adopting Bala. They therefore resolved to take her to Aurangabad under pretext of seeing and selecting boys and there endeavour to bring about an adoption. Ex. D 40, which is a letter written by the accused on the 18th June, without any authority from Tai Maharaj or the meeting of Trustees, to the Divan of Kolhapur asking for a ' general sanction, ' shows clearly that secrecy and despatch were the main objects held in view.

The next point to consider is the behaviour of Tai Maharaj. This involves a consideration of the question whether the minutes are an accurate record of the discussion at the meeting.

The minutes are not a complete record, as the discussion as to Baba Maharaj's wishes is not alluded to. Nagpurkar and Tai Maharaj state that they both expressed an opinion in favour of Bala Maharaj ( Tai Maharaj back of Page 2, Nagpurkar Page 3 ). Nagpurkar's dissenting minute is strong corroboration of this. The accused alleges that this minute was concocted subsequently, with the assistance of Pandit Maharaj. The fact that it is written with the same ink and pen apparently (Nagpurkar Page 41) as the signature of Kumbhojkar goes against this view. Moreover, Nagpurkar wrote the letters D 11 and D 12 to Tilak and Khaparde immediately after the meeting, and put forward in detail the grounds which in his opinion made it advisable to adopt Bala Maharaj. The accused contends that these letters do not mention that Tai Maharaj was in favour of Bala. The answer is obvious. Nagpurkar was not manufacturing evidence ; he

was only attempting to persuade, and had no reason to remind them of what had just taken place in their presence. The fact that he does not mention his minute of dissent does not prove anything. His forwarding letter attached to Ex. 76 and asking Tilak to return to Ex. D 11, and begging him not to be angry, only shows that he had not the courage to fight against Khaparde and the accused openly. His writing the minutes, when he disapproved of them and knew them to be false, as his minute of dissent shows, only adds to the evidence as to the weakness of character. The reason why Tai Maharaj went to Aurangabad is given in her evidence ( back of Page 2 ). She is corroborated by Godu ( witness 22, Page 1 ) and Nagpurkar ( Page 2 ). It must be remembered that Khaparde was on very intimate terms with her and had apparently treated her kindly up to this time. She could not have guessed what his secret intentions were, or that he contemplated abandoning her in a cowardly manner in Aurangabad. Therefore when he pressed her, enjoined her to humour the accused who was an obstinate man, by seeing the boys,—there was no necessity to approve of them,—and when he pointed out that she could see the Ellora Caves, she yielded. It is significant that she was taken off at once by Khaparde to Kirkee. If she had not missed the train that day, she would not have had an opportunity of speaking to Nagpurkar again before her departure. This seems to show that the accused and Khaparde took every precaution to prevent their plot from miscarryng. About evening of the 18th June, Nagpurkar says ( Page 27 ) “ I was in the Vada that night and the next day. I may have spoken to Tai Maharaj about the Aurangabad journey. She said I must pay attention to what Khaparde says, and so I shall go. ”

**TAI MAHARAJ'S STORY AS TO WHAT HAPPENED AT AURANGABAD.**

7 ( h ) Tai Maharaj's story about the events at Aurangabad has been told to Mr. Aston, to the Police and in this Court. The only corroborating witness is Godubai. One would have expected a minute cross-examination with the object of discovering discrepancies. However the accused was evidently not anxious to have too many details as to these occurrences on the record. I will give as briefly as I can a summary of the account given by these two witnesses including corroborative passages from the depositions of Tilak and Khaparde and the evidence as to sight-seeing. The party arrived at Aurangabad on the 20th June and put up in the Sikh Mandir, a plan of which is put in as D. 59. Tai Maharaj and her two servants and daughter Shantaka had the top storey on the south side over what is known as the marble-hall. The accused and Khaparde had the upper rooms on the north and the hall beneath them. Between these two sets of rooms is a garden with a cistern and trees in it, as will be seen from the plan. The accused and Khaparde went up and talked to Tai Maharaj from 1 to 8 p. m. and

again after their evening meal. They were trying to persuade her to adopt a boy from those parts. At night they told her they were going to fetch the boys. Tilak says ( Pages 32-33): "Tai Maharaj and I and Khaparde discussed the matter for about two hours. She wanted her way to bring boys to Poona and then choose. We wanted giving and taking to take place at Aurangabad. \* \* \* I cannot explain why the discussion arose if Tai Maharaj had already consented to this before we left Poona etc. We did say, we would not bring any boys to Aurangabad if the matter was not be settled before our return to Poona. This was on the 20th at 3 p. m. There was a discussion all day. Then at 10 p. m. Tai Maharaj said as stated in the printed account. The printed account, Ex. 11, states : "Tai Maharaj told Khaparde and Tilak that they and Durge should go to Nidhone and bring her all the minor boys that might be fit for adoption and that she would then finally decide." Khaparde says ( Page 119 ) : ' on the 20th June, when we began our conversation with Tai Maharaj, she appeared to be in a queer mood. She was agreeable to our fetching boys but wanted them brought to Poona for her to make her choice there. I can account for this change of attitude. Nagpurkar had probably spoken to her and got her to change her mind.' To revert to Tai Maharaj and Godubai's account :—

21ST JUNE.

On the 21st June at 1 p. m. Khaparde and the accused left for Nidhone to fetch the boys of the Babre family. Tai Maharaj's account begins with this statement. Godubai states that before going they had had an interview of twenty minutes with Tai Maharaj in her room. ( Godu witness 22 page 2 ). As they were about to go, Tai Maharaj and Godu went across the Mandir and upstairs into Tilak's room. While they were there Anant Bele, a Bhikshuk, who had accompanied them to Aurangabad, brought a letter from Nagpurkar which the accused had opened. Tai Maharaj and Bele then wrote the reply, Ex. 14. The cross examination as to *Sight-seeing* refers to this time. The suggestion appeared to be from the nature of the examination that Tai Maharaj was continually going out on excursions during her stay in Aurangabad. Parvati indeed was actually taught to say this, another glaring instance of tampering with this witness. Tai Maharaj says ( Page 42 ) : ' I went to see a mosque. On it being suggested to me that it was a tomb, I say it was a Mahomedan tomb. It is not my custom to walk out. I always drive. I went to this tomb once only. Besides driving to and from (1) the station, (2) the tomb, (3) the Ellora caves, I never got into a carriage while I was at Aurangabad.' The witness also denies having gone to the house of one Keshav Bhide. I think that the written account of expenses incurred on this Aurangabad journey ( Ex. 63 ), and Bhide's evidence, taken at Aurangabad, prove conclusively that these statements are true. As regards the account, it will be seen that Tai Maha-



raj's personal expenses are always described as for 'Sri'. Thus there is an entry on the 21st June of Rs. 2 'tanga-hire incurred by 'Sri' when going to see the Bibi's Makbar,' and on the 24th 1 anna 6 pies for letters sent to Poona by 'Sri'. The evidence of Krishna Kale ( Aurangabad witness No. 6 Page 34 ) shows that the entry of Rs. 3 tanga hire on the 26th was for Tilak. This entry, is not described as for 'Sri'. Similarly it is reasonable to suppose that the entry of 8 annas on the 25th as ' carriage hire ' to go to Keshavrao Bhide's house does not refer to Tai Maharaj. Bhide ( Aurangabad witness No. 13 ) was one of the most untruthful witnesses examined at Aurangabad. Yet he did not venture to allege that Tai Maharaj went out sight-seeing more than once. The accounts together with Kale's evidence, and the known fact that Tai Maharaj does not go about on foot, probably had an effect in restraining him from doing so. I regard his story as to her going to his house ( p. 108 ) as a pure invention. His evidence is at variance with that of his corroborating witness ( witness 3 ) and considering the time Tai Maharaj spent in his house, the tanga-hire in the accounts is insufficient. His evidence shows that he is a follower of the accused. Considering the relative position of Tai Maharaj and the accused at Aurangabad, it is impossible to believe that she would go so far as to pay a visit to Bhide's house. In fairness to the accused, I note that Godubai ( p. 2 ) admits that Bhide invited Tai Maharaj to his house, but denies that she went. On the 22nd June, Tai Maharaj visited the Ellora caves, and returned to Aurangabad on the 23rd, which was Sunday. It is alleged that she might have found an opportunity on this occasion of slipping back to Poona. On the other hand it must be noted that the accused provided Bhide, his own friend and two sepoys to look after her. It would have been a very strong step to take, and matters had not then arrived at such a pass as to render the lady desperate.

On the 23rd Tai Maharaj arrived at the Mandir at 2 P. M. After she had bathed and taken her meal, the accused and Khaparde took some fathers of boys up to her and stayed in her room till evening. Then she wrote Ex. 15 to Nagpurkar. Her account of the events of this day in cross-examination is somewhat confused. Godubai's account (Witness 22 page 2) is perfectly clear. The whole matter will be considered below. On this day Tai Maharaj was ill with diarrhæa. Even Parvati admits that she was unhappy as she was unwell.

On the 24th Khaparde went to Amraoti after saying goodbye to Tai Maharaj in the presence of Godubai, Parvati and the accused. The two servants both corroborate Tai Maharaj in her statement that she begged Khaparde to take her with him. In the morning a telegram ( Ex. 71 ) was received from Nagpurkar. This telegram was called for by the prosecution and produced by the accused. It is addressed to Tai Maharaj and runs : " No letter, anxiety. Obtain Tilak's permission for me to Nasik if you stay longer." The accused answered it in Ex,

16: 'Maharaj well. Khaparde left to-day. We leave Thursday. Stay till our arrival.' The accused had another 'discussion' with Tai Maharaj that evening. At night he sent for her and made her sleep in a room in his hall downstairs, away from her servants. Tai Maharaj says, 'for three days, except for meals, I was in that room, and the accused in the hall. From Monday night (24th) till Thursday afternoon (27th). + + Shankar used to make my bed. A man of Aurangabad used to light the lamp. A Brahmin, Laxuman, who went with us, used to put water for me.' Witness was cross-examined at length as to the position of this room. A reference to the plan shows that she answered all the questions correctly.

On the 25th (Tuesday) Tai Maharaj was kept day and night in that room and a sepoy had orders not to let her go upstairs. She had fever and dysentery. A man from Poona, sent by Nagpurkar, was not allowed to see her (See Tilak's admission page 48, and his ridiculous statement that Tai Maharaj did not wish to see the man). This man is a witness, (witness 19).

On Wednesday the 26th, the accused resumed his attempts at persuasion. Tai Maharaj was ill and was treated with the same brutality. She says (page 7), I told him (the accused) that I was suffering from dysentery and fever. He said: You are well and pretending to be ill. I asked for medicine. He said, he would not give me any and that I must sign the papers etc.' Godu says that Tai Maharaj was very angry that day.

Thursday the 27th was Ekadashi, a fast day. Tai Maharaj's story is that in the afternoon when she was in the same room downstairs, people began to assemble in the hall outside. She went away apparently with the sepoy's permission, and stayed a short time in the marble hall opposite. From there she sent Bele to ask the accused's permission to go to Rama's temple. Permission was refused. Then she went upstairs. The accused came up with a man whom he introduced as the father of the boy. He said "we have two horoscopes which we approve of, you must take one of these two". She said "I don't want any one's father and don't want any of the boys." She was very angry and went away to Vithoba's temple outside the Mandir. Her two servants accompanied her, and one of the accused's sepoys followed. About 7 P. M. she went to the marble hall and the accused resumed his efforts at persuasion. She remained firm and went upstairs. He went to her room again at 12 o'clock at night and made another attempt and frightened her by pointing out to her his sepoys in the garden below. Finally he said: "Why do you cry? Sign the papers and all will be well." She replied: "Show me a carriage to go to Poona and I will sign." Witness had no food all that day.

On the 28th June, the accused came into Tai Maharaj's room with three papers, and after ascertaining through Parvati that a tanga was ready to take her to the station, Tai

Maharaj who had not yet risen from bed affixed her signature to all three, without being allowed to read them or being informed of their contents. She then returned to Poona. There was a crowd at the station. There was no crowd in the Mandir that morning. The evidence for this day is Tai Maharaj (pages 10, 11, 36, 38. On the last two pages are the only two questions asked in cross-examination.) Also Godubai pp. 5, 10, 12.

I have one or two remarks to make about the evidence above summarized. First there is no doubt that two Arab Sepoys were employed by the accused. The kind of Sepoy can be gleaned from Bhide's statement ( Aurangabad Commission page 101 ) that they were engaged when the accused went to Nidhone because travelling was unsafe. This witness swore falsely that they were discharged on the 23rd ( page 106 ). His account is not clear ( see his re-examination ) and is contradicted by Ex. 63 ( the memo of expenses ). The accused has produced two witnesses at Aurangabad, Kale ( witness 6 ) and Dhongde ( witness 10 ) to prove that all the rooms, which might answer to the description Tai Maharaj gives of the one she was confined in, were locked during her stay in Aurangabad. I do not believe these witnesses. They had no object in 'putting aside the curtains' and looking, their accounts do not tally with one another ( See witness 10 page 83 ), and neither the land-lord nor the care-taker have been called to give evidence. Then as to the events of the 27th, Tai Maharaj's account can be reconciled with that of the defence witnesses if it is assumed :—(1) that they are adding falsely to their story when they state that the accused and Bhausahab Dev, father of the boy, were accompanied by Durge Shastri and others, when they went from the meeting to Tai Maharaj. In his deposition the accused states that he and the boy's father went and no one else ( see top of p. 29 ); (2) That the accused and Bhau Saheb Deo fraudulently misrepresented to the meeting what took place in their interview with Tai Maharaj. Another item of corroboration as to the 27th is afforded by Krishna Kale ( Aurangabad witness 6 ) who states that Tai Maharaj went, during the meeting, to Vithoba's temple; and by the accused himself (page 33). As regards the latter passage it is noteworthy that Tai Maharaj admittedly goes to Rama's temple on Thursdays not to Vithoba's. There is a vast difference between the two.

#### TAI MAHARAJ'S TWO LETTERS TO NAGPURKAR.

7 ( i. ) I now come to the letters Exhibits 14 and 15. If genuine they afford the strongest possible corroboration to Tai Maharaj's story, and entirely demolish the theory that Tai Maharaj gave her free consent to every thing at Aurangabad. The accused is therefore forced to denounce them as 'clumsy forgeries.' It is not denied that they are in Tai Maharaj's handwriting, but it is suggested that they were concocted

presumably with the assistance of Anant Bele. When or where is left to the imagination. Exhibit 14 is dated, Aurangabad 21st June. The cover attached to it bears the Aurangabad post-mark of the 22nd. It was received in the Camp office Poona, 1st delivery 24th June, and seems to have been sent to the City office as it bears the 1st Delivery post-mark of that office. Hence the letter sent in this cover was posted after 5-45 p. m. on the 21st June or before 5-45 p. m. on the 22nd ( See witnesses D. 1, D. 12 ). Now, after the receipt of Nagpurkar's letter on the 21st, Tai Maharaj spent the afternoon up till about 4 o'clock in the Wada and was also there that night after her return from sight-seeing. The following morning early she left for the Ellora Caves. The letter Ex. 14 must have been written on the 21st. Tai Maharaj was never asked when it was posted. There is nothing therefore in the cover to support the accused's theory. Nagpurkar's telegram Ex. 71 was sent on the 24th at 9-18 A. M. In it he says 'no letter, anxiety.' The defence say that he could not have sent that wire without waiting for the morning's post and therefore presumably had not received Ex. 14. Against this is the irresistible argument that the cover to Ex. 14 with its post-marks could not have been manufactured. Even if it had only contained a letter from Anant Bele, he could not have wired as he did 'no letter, anxiety.' It is simpler to assume that the peon sent to fetch letters from the Post office loitered on the way. Moreover, the fact that the letter was sent by mistake to the camp office first, most probably delayed it. The defence must therefore fall back upon their last line of argument, namely, that from internal evidence it is impossible to believe that the letter was written at the time alleged. There is nothing in this contention. First of all if the letter is a fabrication, it is not clumsy but extremely clever. It contains brief feminine forms of expression which had to be explained by Tai Maharaj in court.

The following is a literal translation of the letter :—

*Dated 21st, Aurangabad.*

To,

R. R. Balvantrao Nagpurkar, after innumerable blessings. The reason for writing this letter is that your letter has been received and the contents noted. After leaving Poona, we arrived here yesterday morning. The place is good. The cause of sadness is understood. You were told that you need not be anxious about your service. I shall tell Dadasaheb and Tilak at a convenient opportunity. Do not go to Kolhapur. Do your work. Both have very bad opinion about you. They were saying that you would bring Bala Maharaj to Poona and would send Pandit Maharaj here. I told them you would not do so. Discussions about adoption were going on from yesterday noon till night. If it were my desire to adopt Bala Maharaj, then we will not take up the question until you agree, (literally 'say'). Such a difficulty has arisen. Excessive annoyance is caused. There is no one to advise, as the trouble

was with him, I was obliged to agree. They went to see boys this very day. I cannot tell what is in my fate. I, therefore, am sleepless day and night. There is no knowing when I shall get out of this difficulty. Other details you will be certain to hear at our meeting; have no anxiety, what more should be written. Blessings.

Shri Tai Maharaj.

This was clearly written on the 21st.

Below it, two long post-scripts are written in pencil in Anant Bele's hand-writing. As the accused objects to their going in for their contents I do not transcribe them here. The passages relied upon by the defence to show that the letter could not have been written on the 21st, are—

(1) There was great perplexity here one day ( first ' two day ' was written apparently and then ' one ' was written over the word ' two ' ). I would like to adopt Bala Maharaj, I don't approve of the boys of these parts ( ' ikadil mule ' ) and I don't want them ; such was the dispute.

(2) I am absolutely against a boy of these parts etc. ( ikadil mulga nakoch ).

(3) On Thursday in fact ( tar ), the ' Committee ' was sitting a long time.

One argument is that Tai Maharaj could not have used the words ' ikadil mule ' as the boys had not yet been brought to the Mandir. To any one acquainted with Marathi this is obviously a fallacious argument, as my translation will show. The second argument is that the reference to ' one day ' and ' Thursday ' shows that the letter was not written on Friday the 21st. It must be borne in mind that Khaparde and the accused were talking to Tai Maharaj all day, Thursday, and had another interview of twenty minutes on Friday morning. I fail to see any force in this contention.

The letter was folded after being written. Inside the fold is written in Tai Maharaja's hand-writing: ' See that they are not informed here that I have sent letters because they open your letters. ' I believe this is in her hand-writing from a general comparison and in particular form

- (1) The ' i ' in ' ikade '
- (2) The ' ph ' in ' phodatat '
- (3) The fact that ' ase ' is written ' âse, ' a trick of Tai Maharaj's.

This passage seems to me to show that the letter was all written on the 21st, remembering that Nagpurkar's letter to Tai Maharaj was opened by the accused that day, and that this was written in a fold of the letter in pencil, in all probability after it was finished and folded up. On the outside of the fold is the address in pencil in Bele's hand-writing, and the cover itself is also addressed in his hand-writing. If the defence wished to base any argument upon the fact of the address being written on the folded letter they should have questioned Tai Maharaj on the point.

I now come to Exhibit 15, which I translate as follows :—

*Aurangabad 23rd.*

To,

“ R. R. Balvant Martand Nagpurkar. My innumerable blessings. It is well with us. I did not think that a man like Tilak could be so hard-hearted. Through coming here, it is as if I had fallen into a trap. What shall I do? I have fallen into great difficulty. The hard words which Tilak speaks are cutting my heart. I can't write them in a letter. You will know when we meet. Five boys have been brought. I don't approve of them. They are black and stupid. Extreme pressure is brought to bear on me to pass one of these. He says: We have come here; our fame has spread on every side; that fame is waning through your not approving of a boy; therefore you are bound to pass a boy of six years of age, and to sign the papers, we tell you to, otherwise we won't let you go to Poona nor will we go. It is not my intention in the least. Without signing, there will be no escape, such is the annoyance. Khaparde says: it is not proper to disregard Tilak's opinion, so you must agree with him. I pleaded persistently for coming there, but neither of them listened. What should be done? A great difficulty has occurred. They are to place a guard with drawn swords over me and they will do so without any doubt. It has been arranged that your letters shall not reach me, nor mine you. What should be done? Let us see what happens. I cannot tell what may happen hereafter. Be it known. These are the blessings.”

Now a reference to the same evidence as was mentioned in connection with Ex. 14 shows that according to the cover this letter was posted late on the 23rd or before 5-45 p. m. on the 24th. It arrived in Poona in time for the 3rd delivery of the 25th. Internal evidence shows clearly that it was written after seeing the boys and before Khaparde left, and after Tai Maharaj's interview with the accused and Khaparde, that is in fact after 7 p. m. on the 23rd June. The letter and cover therefore agree. The letter is in Tai Maharaj's hand-writing and there is absolutely no reason for supposing that the contents do not give an accurate description of Tai Maharaj's state of mind on the evening of the 23rd June.

Tai Maharaj was cross-examined at length as to when this letter was written without the letter being shown to her ( p. 34 ). This was on the 6th December 1902. When the letter was shown to her, her answers become clearer, but after much hesitation she said the boys' fathers were not brought to her. She was then confronted with a passage from her deposition in the District Court, upon which she stated as follows: “ What I stated is true that they went at 7 p. m. I do not know the hour. I remember perfectly now, at least I think I wrote the letter then! She then proceeds to give a confused account which simply shows that her memory was not quite clear. The main points about this examination are

(1) Before Mr. Aston, witness said she had not seen the boys before the interview with the accused and Khaparde.

(2) She contradicted herself in this Court as to whether the fathers were brought up by the accused and Khaparde.

(3) She gave a confused account generally as to when the letter was written.

As regards the first, it must have been a mistake, as witness did not go downstairs after the interview. Godu's account ( w. 22 p. 2 ) given on 1st November is perfectly clear; so is Tai Maharaj's in the examination ( p. 43 ) on 9th December. I have dealt with this point at length as the defence lay great stress upon it, but I do not consider it of the slightest importance as far as Ex. 15 is concerned, and of very little importance in connection with Tai Maharaj's credibility as a witness. It is remarkable that Godubai was not asked in cross-examination whether she remembered anything about this letter.

I have not yet considered all the evidence as to these two letters. When Nagpurkar received them he took the precaution of showing them to certain witnesses whose evidence it is impossible to disbelieve. They are witnesses 7, 11 and 15. One of them is Rao Bahadur B. B. Onkar, a very old friend of Tai Maharaj. None of these three witnesses have any personal interest in the case; they all swear that exhibits 14 and 15 are the letters shown to them, and R. B. Onkar identifies Tai Maharaj's handwriting. Finally there is the entry in the accounts ( Ex. 63 ) on the 24th June of '1 anna 6 pies for 'letters sent to Poona by Sri.'

#### OTHER CORROBORATION.

7 (j) I think Tai Maharaj's answer to the court on p. 45 at the end of her re-examination, an answer given without hesitation to an unexpected question, goes a long way to support her evidence. It is this:—" I take my meals twice in the day at 10 or 11 a. m. and at 7 or 3 p. m. When I was at Aurangabad, I used to come down to meals. I only took one meal in the day because I was not well and because I was not pleased. I did not want to go to Aurangabad at all."

On her arrival in Poona she very naturally told Nagpurkar and some of her friends what had happened. This corroborative evidence is Ghotavadekar's ( w. 27 p. 188 ), Onkar's ( w. 7 p. 2, he was not cross-examined on the point ) and Nagpurkar's ( p. 5 ).

#### SUMMARY.

7 (k) This finishes the evidence up to the 28th June ( the date of the alleged ceremonial gift and acceptance in adoption ), with the exception of the accused's story and that of his witnesses as to the events of the 27th and 28th. It will be more convenient to consider that evidence after the subsequent conduct of Tai Maharaj, Bhau Saheb Dev and the accused. I think the result of the evidence above dealt with is to prove conclusively

- (1) That the deceased Baba Maharaj expressed a wish that the adoption should be made from the Sidheshvar family to which he belonged;
- (2) That Tai Maharaj has throughout been mindful of his wishes;
- (3) That in June 1901 she was desirous of adopting Bala Maharaj;
- (4) That she accompanied the accused and Khaparde unwillingly to Aurangabad;
- (5) That they grossly deceived her as to their intentions in taking her there;
- (6) That after Khaparde abandoned her, the accused resorted to refinements of brutality to bend her to his wishes, that is to say, to force her to adopt Jagannath, son of Bhan Saheb Dev;
- (7) That, in this way, she was driven to signing three documents.

As pointed out above, the defence to this portion of the charge is that Tai Maharaj went willingly to Aurangabad and gave her free consent to the adoption of Jagannath. It is impossible to believe that story in the light of the evidence now examined. The letters, Exs. 14 and 15, the genuineness of which it is impossible to doubt, are sufficient by themselves to show that Tai Maharaj was in favour of Bala Maharaj and against making an adoption from the Babre branch. The evidence as to Bala's marriage in the Wada in March, and as to the message delivered to the accused by Bhingarkar, together with the wording of the minutes of the Sinhgad meeting and that of 18th June lend additional strength to Tai Maharaj's story.

So far, as regards the alleged adoption of Jagannath, Tai Maharaj's story only has been considered. She denies that she was frightened into doing more than sign three papers. It is necessary to decide whether, taking the remainder of the evidence into consideration, her story is true beyond the possibility of doubt. I think the events which occurred and the documents which were written subsequently to 28th June make it impossible to disbelieve her.

#### SUBSEQUENT CONDUCT OF THE ACCUSED.

8. It will appear that Tilak's conduct was profoundly influenced by—

(1) Tai Maharaj's application made on the 10th July to the Kolhapur Durbar for permission to adopt Bala Maharaj ( Ex. 69 );

(2) Tai Maharaj's application to the District Judge for revocation of Probate ( Ex. 44 ) made on the 29th July. It will therefore be convenient to deal with the accused's conduct in three periods :—

#### (a) THE ACCUSED'S POSITION ON 29TH JUNE CONSIDERED.

(a) To understand the position, it will be convenient to summarize very briefly the accused's story as to the events of the 27th and 28th June, pointing out where it is in direct



conflict with Tai Maharaj's evidence. A meeting of Shastris and others was held from 3 p. m. on the 27th. One of the boys' horoscopes was approved at the meeting, whereupon, the accused and Bhau Saheb Dev, the boy's father, went to Tai Maharaj who was in the marble hall, in view of the meeting. Oral gift and acceptance of the boy having been performed, these two returned and reported the fact to the meeting. Documents were drawn up that night and early the following morning Tai Maharaj signed them in the presence of several people and took Jagannath on her lap, thus finishing the ceremony of gift and acceptance. This is the accused's story (Deposition p. 28). One item in it is undoubtedly false, namely that Tai Maharaj was in full view of the meeting. I think it also necessary to note that Bhau Saheb Dev and the rest of the accused's witnesses state that Durge Shastri and two or three others, including the boy Jagannath accompanied the accused and Bhau Saheb when they went to the Marble Hall to see Tai Maharaj. This is obviously an embellishment. Tai Maharaj's story has been given above. It is that she was furious when Tilak brought the father of one of the boys to her room and told her she was to take one of two boys that had been approved at the meeting. She left the Mandir at once and went to Vithoba's temple outside. On the following day she signed the three documents in bed, and went through no ceremony at all. A brief description of the documents signed by Tai Maharaj on the 28th is also necessary to describe the accused's position. One was a '*Datta Patra*' or deed of adoption dated the 27th although admittedly signed on the 28th; the second was a duplicate of this and the third a letter from Tai Maharaj to Bhau Saheb Dev. The adoption deed (Ex. 66 and 67) is executed by Bhau Saheb. Beneath it is an endorsement in the accused's hand-writing: 'I agree to this' and below that endorsement is Tai Maharaj's signature. In the deed appear the words 'I have willingly given in adoption my son Jagannath.' Further down is 'you have accepted him as your son. Henceforth he has become your and the deceased Sri's son. The ceremonies of Datta hom, etc you may perform at your leisure at any place you may like. By this writing I have willingly given my son Jagannath in adoption as stated above.' I must note that there can be no such thing as adoption by registered deed. Ceremonies are necessary to constitute an adoption and the deed as a rule is intended to be evidence that the ceremonies were performed. Therefore one would not be justified in putting this document higher than as 'an agreement to adopt.' The letter to Bhau Saheb is Exhibit D. 57. It begins with the sentence 'you honoured my request and gave me your middle son Jagannath in adoption etc.' It states that Jagannath is the real person in authority having the same authority as a begotten son; that as everything is mentioned in the *Datta Patra*, it is unnecessary to say any more; and in it Tai Maharaj promises not to adopt any other boy. This document does not therefore take the case any further than the adoption deed.

## THE FIRST PERIOD.

(b) In the first of three periods above described, the predominant idea is that a boy has been finally selected and will shortly be adopted. The accused seems to be sanguine of pushing his scheme through. He first sends his nephew Dhondopant to distribute sweetmeats in the Wada. Tai Maharaj herself puts a stop to this (Ghotavadekar witness 27 page 7; Godu page 11). Then in the afternoon he brings a Marathi Yadi and an English letter, both to the same effect and addressed to the Agent for Sirdars in the Deccan for Tai Maharaj to sign. She signs them. The English letter, which is in the accused's handwriting (accused's deposition page 30) runs as follows :—

Bhau Maharaj Wada, Poona City, 29-6-01.

Sir,

In accordance with the conditions in the will of my deceased husband, the late Sri Baba Maharaj, a First Class Sirdar, and agreeably to the resolution of the Trustees appointed therein, I went to Aurangabad accompanied by Messrs Ganes, Srikrishna Khaparde and Bal Gangadhar Tilak, two of the four trustees, to see and select a boy eligible for adoption from among the descendants of the full brother of the original founder of our family who live in a village near Aurangabad. Five boys were brought to me for selection and from amongst them *I have with the advice of several respectable gentlemen selected one Jagannath aged six years, the middle son of Mr. Malhar Manohar Deo, a respectable gentleman in those parts and one who is descended from the same ancestors as ourselves. Preliminary documents have been executed and the ceremony of adoption will be shortly celebrated in Poona, when due intimation and invitation will be formally given to your honour. I returned from Aurangabad this morning and have written this letter to give you an early information of what has been done in the matter upto the present time. A formal Yadi in Marathi has also been addressed and forwarded to you this day to the same effect.*

Hoping to be excused for the trouble,

I beg to remain

Yours respectfully.

TAI MAHARAJ.

I have italicised the important passages. This letter seems to me to create an overwhelming presumption in favour of Tai Maharaj's story and the accused's assertion, after having written it, that the most important part of the ceremony of adoption actually took place on the day before this letter was written can only be described as stupendous folly and audacity. The Marathi Yadi is to the same effect as the English letter. The accused's attempt on p. 30 of his deposition to twist its meaning for his own purposes is ridiculous to any one having any knowledge of Marathi. About this time the accused saw Nagpurkar's minute of dissent. He was doubt-



less much annoyed as it marred the record which was intended to assist his scheme. He made great efforts with the help of Bala Saheb Natu ( witness D. 4 ) to induce Nagpurkar to withdraw this minute but was unsuccessful ( See Exhibits 17, 18, 19 Nagpurkar p. 5, 29, 33, 34. The accused p. 79, Natu's evidence ). Having failed in this, he cancelled, as far as he was concerned, his power of attorney to Nagpurkar, and wrote the report D. 14 dated 5th July against him. This report was sent to Khaparde, and its main intention was to throw mud at Nagpurkar. Incidentally it mentions that the provisions of the Resolution of 18th June were carried out finally, in that "we went to Aurangabad, gave in adoption on her lap, and returned." Here another attempt is made by the defence to attribute an obviously incorrect meaning to a Marathi phrase. The expression 'Mādivar,' literally 'on the thigh,' is used metaphorically in a colloquial Marathi phrase meaning to adopt. An example of it is to be found in the will (Ex. 8 ). The expression above simply means 'we went to Aurangabad, gave her a boy in adoption and returned.' To say that it means 'we put a boy on her knee' is absurd. As far as that passage goes, all that the report D. 14 shows is that the accused when writing to a fellow conspirator described the events at Aurangabad in a loose phrase as an adoption. There are also many indications in the report which suggest that it was written with an eye to the future, to furnish a kind of evidence, which would be available in case of necessity.

Meanwhile on the 30th June, three letters had been sent out from the Wada. Tai Maharaj says she was asked by the accused to sign them but refused. Nagpurkar says that the accused induced him deceitfully to sign them as by order of Tai Maharaj. ( Nagpurkar pp. 31, 32, Tai Maharaj p. 12 ). One of them has been produced ( Ex. D. 63 ). It is signed by Nagpurkar, Karbhari of Sri, 'by order,' and contains a postscript in the accused's hand-writing. The purport of the letter is to inform Bhau Saheb of Tai Maharaj's safe arrival, to send him a copy of the will and order of probate and to send blessings to 'Chiranjiv' or 'Son' Jagannath. The letter is of no importance in itself, but it was evidently intended for Tai Maharaj's signature, from the wording, and the accused had the chief hand in sending it, from the postscript. The other two letters have not been produced. This I regard as one of the most significant facts in the whole case. Ex. 11 the accused's printed account of the adoption, dated 1st August 1901, shows what the other two letters were. The passage in Ex. 11 is as follows :—" Next day, Sunday the 30th she sent a letter of thanks to Mr. Khaparde at Amraoti, also a letter to Mr. Kumbhojkar at Kolhapur, giving a full account of what took place at Aurangabad, also a copy of the will was sent the same day to Bhau Saheb Dev, the father of the boy to be adopted.

All three letters were signed by Mr. Nagpurkar, by order of Sri Tai Maharaj in the presence of Mr. Tilak." Where is

the letter to Kumbhojkar giving a full account of the events at Aurangabad? The Court is quite justified in assuming that like Ex. 68 it would be extremely damaging to the accused's case if produced.

The accused contends that Nagpurkar's report to the Trustees dated 30th June (Ex. D. 13) is in his favour. As it belongs to this period, it will be convenient to mention it here. The report is concerned with the budget and establishment. It contains the following passage :—"My second request is that as the adoption ceremony is soon to take place, whatever is resolved upon should be carried out after it is over." As Exhibit 68 shows, the accused was thinking of having an adoption ceremony in the Wada. This must have been known to all including Nagpurkar. The passage, therefore, only proves that Nagpurkar had not yet on the 30th June taken up a position of defiance and open opposition.

#### THE SECOND PERIOD.

8(c) The second period opens with Tai Maharaj's application to the Kolhapur Durbar for permission to adopt Bala Maharaj. Tai Maharaj had begun to assert her rights. She had sent for Pandit Maharaj and after consulting him, and after having an interview with the Agent for Sirdars in the Deccan, she sent this application. On hearing of it, the accused sent the following telegram to Kolhapur (Ex. D. 10, dated 11th July 1901) :—

"Please postpone granting permission for adoption in the Tai Maharaj's case till receive my letter as Trustee. Giving and acceptance of a son by Tai Maharaj has been completed by registered deed at Aurangabad with trustees' consent. Tai Maharaj has no power to adopt under will. Convey above request to His Highness. Details posted."

There are four other telegrams of the same date (Exs. D. 41 to 44). It is not necessary to consider them in detail as they contain nothing more than is in Ex. 10. One of them, Ex. D. 41, ends thus 'representation posted.'

These two words and 'details posted' in Ex. 10 refer to the letters D. 46 and D. 45 respectively.

D. 45 is a letter to the Diwan of Kolhapur. It recites the facts of the meeting of 18th June and details the resolutions alleged to have been unanimously passed. It then goes on to describe what happened at Aurangabad. The important passages are the following :—"Thereupon a registered deed was passed by the father of the boy to Tai Maharaj giving his son in adoption, and Tai Maharaj accepted the gift by a shera on the document. She has also passed a separate document to the father of the boy to the effect. All this had been done with the sanction of the trustees and openly in the presence of hundreds of people amongst whom the leading gentry of the place were present." I note that the last statement is admittedly half-exaggeration and half-falsehood. (See Au-

rangabad evidence). Then follows the passage :—“The adoption business is thus practically completed so far as the giving and receiving of a boy is concerned, and no other boy can be adopted according to law. What remains is the ceremony’ etc.” This letter is, equally with Exhibit 68 A, a strong contradiction in his own handwriting of the accused’s assertion of a corporeal giving and taking. It also shows that the accused, at this time, had very bazy ideas on the law of adoption, or else was endeavouring to mislead the Divan of Kolhapur.

The next letter, Ex. D. 46, dated the 12th July, goes more into detail as to Tai Maharaj’s alleged inability to adopt without the Trustees’ consent, and alludes to an ‘obiter dictum’ contained in a Privy Council Judgment ( I. L. R. 27 Calc. p. 1002. ).

The accused had been consulting a pleader (witness D. 5). This letter was not the only result. The plaint in suit 237 in the 1st Class Subordinate Judge’s Court, Poona ( Ex 42 ) was also lodged the same day. That suit is for an injunction to restrain Tai Maharaj from adopting Bala Maharaj.

Meanwhile Tai Maharaj had received sanction to adopt Bala Maharaj by telegram on the 11th July ( Nagpurkar’s page 6. ), Pandit Maharaj had arrived on the morning of the 12th and his brother Bala by the evening train. Invitations were issued and arrangements were made for an adoption to take place the next morning.

The object of suit 237 is therefore clear. An application for an immediate injunction was made at the same time, upon which the Sub-Judge granted a notice to the Defendants to show cause. As this was not sufficient for his purpose, the accused effected an entrance into the Vada late at night with a large number of people and eventually after four hours spent in threatening and persuading, induced Nagpurkar to send telegrams to Kharparde and Kumbhojkar inviting them and stating that the adoption was postponed for a week. Tai Maharaj was not a party to this ( Nagpurkar page 6, Tai Maharaj page 13, the accused page 22, Ex. 20). The next day, the application for an immediate injunction was withdrawn.

There are some very important observations to be made as to these doings of the accused. The first is that the plaint in suit 237 is silent as to the fact of a previous adoption. The only ground given is want of the trustees’ consent. The pleader whom the accused engaged stated in answer to the Court : ‘ I think want of consent a very special ground. I rely on 27. Calc. This is a Privy Council Ruling. It relates to Bengal where the husband’s express consent is necessary for a widow to adopt. No such consent is necessary in Bombay. I have not come across any rulings against that view.’ Now, a reference to the case mentioned shows the passage relied upon is not a ruling at all, but a mere ‘ obiter dictum.’ Against it, is the well-known case of *Surendra vs. Sailaja* I. L. R. 18 Cal. p. 391. This only makes it the more remarkable that the much stronger ground of a previous

adoption was not mentioned. The inference is obvious : namely that the accused had learnt that an adoption could not be effected by registered deed. His letters show conclusively that he had not yet decided to allege anything beyond gift and acceptance by registered deed. If the ceremony of gift and acceptance had taken place, all this excitement would have been unnecessary. The accused had only to produce his documentary evidence, including the letter to Kumbhojkar ' giving a full account of what took place at Aurangabad ' and sue for a declaration, to upset any second adoption.

At this time, 13th July, the accused sent a letter (D. 36) to the Agent for Sirdars in the Deccan. This letter adds nothing to the case. The important passage is : ' And as a matter of fact the giving and receiving in adoption of such a boy has been effected with the full consent of Tai Maharaj at Aurangabad. After returning from Aurangabad, Tai Maharaj sent a Yadi to you regarding what took place at Aurangabad. \* \* \* The adoption now proposed is virtually a second adoption and therefore void in law.' Ex. 74 is the office copy of this letter. This letter affords an additional proof that the accused did not yet intend to allege anything further than what was contained in Ex. D. 45.

The accused's next letter is D. 47 dated 14th July and addressed to the Divan of Kolhapur. It harps on the subject of want of Trustees' consent and makes no mention of the Aurangabad adoption.

The Maharajs were now in the Vada, and Tai Maharaj ordered arrangements to be made for the adoption to take place on the morning of the 16th July. On the afternoon of the 15th Khaparde came to the Vada. He was visited by the accused later on. Then about midnight, the accused effected an entrance with a crowd of friends and accomplices. The events of the following five days will be considered in detail when dealing with the second portion of the charge. I will only note the leading facts which appear to me to be proved. First of all the Maharajas, Pandit, Bala, their mother Radhabai, and attendants are turned out by force or show of force into the street. Then the outside doors of the Vada are locked and Tai Maharaj and Nagpurkar are kept there as prisoners until the 20th. The object of Khaparde and the accused is clearly shown by the ' Minutes ' written during this time, and by the ' retractation ' extorted from Nagpurkar. The latter document speaks so eloquently as to what was desired by the conspirators that I transcribe it below.

" First I objected to the Aurangabad affair but on reflection I find it beneficial to the estate and so give my consent. I will not help Pandit Maharaj or Tai Maharaj to cancel the Aurangabad adoption, nor act against the trustees. My health is bad, so I will take four months' leave and keep quiet. I did not give my consent to the Aurangabad transaction but now after reflection I do so, *and will write to the Agent Sahab to that effect.* When Tai Maharaj returned from

Aurangabad, she did not seem displeased at what had occurred and I cannot tell why she subsequently changed her mind.”

The passage italicised shows the immediate object in view. This statement was made by Nagpurkar at a meeting held on the 18th July. The following resolution was then passed amongst others,—“The Trustees should meet Mr. Aston and give an account to him orally or in writing.”

That night the accused and Khaparde wrote out this account. It was according to the accused ( p. 113 ) substantially the same as Ex. 11—the account printed on the 1st August and afterwards sent to Kolhapur. The next day Nagpurkar was in a different frame of mind. He seems to have actually lost his temper. The minutes ( Ex. D. 15 ) put it mildly thus—‘ Nagpurkar says he does not agree to what he stated in writing yesterday and that the statement should be returned to him, and does not wish to be present at the meeting.

*Note.*—Talking thus aloud, and showing his readiness to quarrel, Nagpurkar went away. ’

The Trustees’ history of the Aurangabad transaction was never presented to the Agent for Sirdars. The reason is obvious. Nagpurkar would not sign it. The reason given by the accused is falsified by his own statement on p. 113, that the letter from the Agent refusing an interview was not received until Saturday night ( the 20th ). The conspirators now bethought themselves of another means of bringing pressure to bear on Nagpurkar, namely a false complaint of a criminal offence. The next day a complaint of Criminal breach of trust was lodged against him by the accused. But the visit paid to the *Vāda* that afternoon by the Nazir and Shirastedar of the District Court put an end suddenly to all this plotting. The same night the accused left the *Vāda* and Khaparde went back to Amraoti.

The objects of Tilak and Khaparde in these Criminal acts seem to me to have been as follows :—First and foremost to prevent the adoption of Bala Maharaj ; secondly, to get Nagpurkar to withdraw his dissenting minute to the Resolution of the 18th June ; thirdly, to pave the way for the adoption ceremony of Jagannath by preparing a false history of the events at Aurangabad. The second object was not quite attained ; Nagpurkar’s retractation was not quite all that was wanted ( see the accused’s deposition p. 78 ). The false history was prepared ( that it was false will be seen later on ), but as Nagpurkar could not be got to sign it, no use was made of it. As regards the first object, I have stated that the Maharajas were turned out. As a result of the confinement of Nagpurkar and Tai Maharaj the letters D. 48 and D. 49 were written. D. 48 is signed by Tai Maharaj. It asks the Maharaja of Kolhapur to postpone consideration of her application for sanction to adopt Bala Maharaj. This was all that the conspirators could extort from Tai Maharaj.



## THE THIRD PERIOD.

8 (d) So far, in the accused's many letters to public offices, nothing has been alleged beyond a gift and acceptance by registered deed. The accused at one time apparently considered that this constituted a valid adoption. His letters contain references to the proposed adoption of Bala Maharaj as 'virtually' or 'practically' a second adoption, after his consultation with a pleader before filing suit No. 237, and after Khaparde's arrival, his views appear to change. Then the efforts made by Tai Maharaj to get rid of the 'trustees', including the filing of application No. 112 of 1901 for revocation of probate, stir him into renewed activity. The result is an assertion of oral gift and acceptance, that is to say, half the ceremony of gift and acceptance.

The first assertion seems to have been made in an interpolation in Ex. 63, the memo of accounts. It will be seen from Nagpurkar's evidence (p. 37,) and the accused's deposition (p. 11,) that the accused and the Karkuns who worked for him had access to the Vada until the 4th or 5th August. This interpolation was made some time before that date. In the printed notes of the accused's deposition (p. 33) occurs the passage : ' My attention being drawn to an alteration *which is in my own handwriting*, no, not in mine, in a Karkun's, I can't say whose, as to item Rs. 15-13-6, etc.' The part italicised does not appear in the Marathi record. Nagpurkar ( pages 16-17 ) says he thinks it is the accused's handwriting. The accused called Narayan Rango who was formerly an estate Karkun ( witness D. 11 ) to prove that the alteration was in Yeshwant Ganesh Karkun's handwriting. The latter is apparently the accused's confidential Karkun. He accompanied him into Court practically every day of the proceedings. He has not been called. Now Exhibits 82, 83 contain Yeshwant Ganesh's handwriting. I have compared this writing with that of the alteration and find them utterly dissimilar. Yeshwant Ganesh writes ' va ' in Balbodh. There are many instances in Ex. 83. In the interpolation ' va ' is written in Modi. Yet Ex. 83 is written in a regular Modi hand while the interpolation is written roughly without the top line. There are other instances such as the way ' ra ' is written. Above the interpolation occurs the word ' rupaya ' in the same hand. I am convinced that Yeshwant Ganesh did not write this, unless he disguised his handwriting. Therefore when Narayan Rango says that he identifies the handwriting, I can only regard him as a perjurer. The result is that as regards the date of the interpolation, Nagpurkar's evidence contradicts that of the accused. Under these circumstances one can only guess at the date. I would put it after the filing of suit 237 and before the 5th August.

The account, which was prepared under the accused's orders and signed by him on the 4th July, is headed thus :—

“Tasalmat account of expenditure incurred when Tai Maharaj etc. went to Nidhone near Aurangabad on 19th June 1901 to see a boy for adoption in the family of Sri, and returned on 29th June 1901 after fixing upon a boy.” The last expression is, in Marathi, ‘Mulga Kayam Karun,’ and cannot mean anything beyond a final selection. The entry of Rs. 15-13-6 is for ‘charity for the meeting of Brahmins held when the final selection of a boy for adoption was decided upon.’ Parts of this have been crossed out and an alteration written which changes the meaning to the following.

‘Charity for the meeting held for a final selection of a boy in adoption and for his oral gift and acceptance before four people, ( i. e. in public ).’

Considering that the letters 68 A. and B. and D. 45 were in existence, this alteration is very foolish, whoever made it.

Ex. 11, the printed account, is the next assertion of oral gift and acceptance. It is dated August 1st and was sent to the Kolhapur Durbar on the 13th of that month ( see Ex. 12 the covering letter ). The Maharaja of Kolhapur seems to have given the accused a hearing. The next letter is from the accused to the Diwan dated 21st August ( Ex. D. 50 ). In it he states in reference to Bala Maharaj’s adoption which took place at Kolhapur on the 19th of the same month,— ‘This is practically a second adoption and therefore invalid in law.’

The accused was now foiled and defeated completely. He therefore played his last card but one, in suit 358 of 1901 in the Sub-Judge’s Court that is to assert in a Court of Law that Jagannath had actually been adopted at Aurangabad, by oral gift and acceptance. The plaint is dated 23rd September. It merely asserts the fact of an adoption.

The detailed assertion was not made until the 15th November, when the printed account was filed as a declaration, and the adoption deeds were also filed in Court. The plaint and the printed account both state that the adoption took place on the 27th June, which is the date on which the deeds purport to have been executed; the plaint gives no details, which the printed account which is a full and minute description, is silent as to any corporeal gift and acceptance or as to any other occurrence on the 28th June connected with the adoption. The accused attempts on pages 35 and 38 of his deposition the impossible task of reconciling the language of these documents with his evidence before Mr. Aston. It would be mere waste of time to go into this quibbling. Ex. 11 speaks for itself. As it is at complete variance as regards the main facts in issue with all the oral evidence given in my Court, or on Commission at Aurangabad, or before Mr. Aston, I can only regard it as a false history. On the 21st November, that is to say, six days afterwards, the accused played his last card by asserting the second half of the ceremony of gift

and acceptance, the half which for want of a better word has been described as corporeal as distinct from oral. That assertion forms the basis of the first item of the charge.

It is remarkable that the assertion of the first half was made reluctantly. Although the plaint in suit No. 358 was filed in September, the printed account was not filed until November. Moreover, if there had been no reluctance to make this assertion, the suit for declaration would have been made on the 13th July instead of suit No. 237, and the assertion of oral gift and acceptance would have been made then. It is also very significant that when describing the events of 28th June in Mr. Aston's Court, the accused reluctantly brings in this story as to the corporeal gift and acceptance at the end ( pages 30-44 ).

The last link in this chain of evidence is afforded by the proceedings in Application No. 112 in the District Judge's Court. It was ruled by the court at the outset, that is to say, on the 16th November, against the arguments of opponents 1, 2 and 3, that the facts relating to the alleged adoption of Jagannath were relevant. The High Court afterwards held them to be irrelevant. Therefore it is reasonable to suppose that this action on the part of the District Judge was unexpected.

This in its turn leads to the conclusion that the accused, in setting up the adoption of Jagannath as a defence to that application, did not contemplate that he would be examined on the subject in Mr. Aston's Court. When he was examined he had either to give the lie to his statement that a valid adoption had taken place, or he had to swear to the ceremony of gift and acceptance. If he had made the former choice, he would have been self-convicted as an unprincipled person, and would have been obliged to withdraw from suit No. 358 before the Subordinate Judge. He therefore chose the latter course.

#### SUMMARY.

8 (e) The accused's conduct may be briefly summarised thus :—On the 29th June he was in possession of documents which, legally speaking, amounted to no more than an agreement on the part of Tai Maharaj to adopt Jagannath. He felt sanguine of forcing on the actual adoption ceremony and in his letters stated nothing beyond the fact that preliminary documents had been executed. Tai Maharaj, however, began to oppose him openly, and took active measures with the object of adopting Bala Maharaj, the boy she had already determined upon. Her application of the 10th July to the Kolhapur Durbar for sanction to the adoption led the accused to send a multitude of letters and telegrams to the Durbar alleging as objections (1) want of the Trustees' consent, (2) the fact of a previous adoption 'by registered deed.' He also filed suit No. 237 for injunction to prevent Bala's adoption. In that the 'adoption by registered deed' was not mentioned, but only the want of

consent. He was unsuccessful in both these applications. He therefore, with the assistance of Khaparde, took the very strong step of turning Tai Maharaj's guest out of her Vada, and of imprisoning her there for five days, during which time he resorted to every possible expedient help on his scheme. He was defeated by the visit of officials of the District Court on the 20th July. It had now become evident to him that he would be totally foiled unless he could prove a valid adoption of Jagannath. Therefore Tai Maharaj's application for revocation of Probate, and her adoption of Bala Maharaj in Kolhapur, were eventually followed, after delay and hesitation, by his assertion of a corporeal giving and taking.

I think this examination of the accused's conduct furnishes the strongest possible corroboration to Tai Maharaj's evidence and proves up to the hilt that no corporeal gift and acceptance took place and that the accused, after months of hesitation, deliberately committed perjury. The evidence which remains only adds additional strength to the force of this conclusion.

#### TAI MAHARAJ'S CONDUCT.

9 (a) On the day of her return from Aurangabad Tai Maharaj signed Ex. 68 B. She then began to seek the advice of her friends. She apparently refused to sign the three letters on the 30th. On the same day she sent for Pandit Maharaj. About the same time she saw Ghotavadekar and Rao Bahadur Omkar and complained to them of the way she was treated in Aurangabad. After seeing Pandit Maharaj she had an interview with the Hon. Mr. Aston, Agent for Sirdars in the Deccan. She was asked to put her statement in writing. That statement is recorded in this case as Ex. D. 22. Mr. Karandikar suggests that the first sentence shows that an adoption had taken place. It is a vague and inaccurate phrase and means literally 'I do not approve of the boy made by Tilak.' 'The boy I was made to adopt by Tilak, would be a very strained and free translation. Besides it is impossible to conceive that Mr. Aston was informed by her that she had actually made an adoption. The object of Tai Maharaj in this interview moreover was to repudiate the letter 68 B. When one reads 68 B. it is evident that the words above cannot mean more than the boy selected by Tilak.

The next step Tai Maharaj took was to apply to the Kolhapur Durbar for sanction to adopt Bala Maharaj.

Telegraphic sanction was received the next day (July 11th). The Maharaj arrived on the 12th July, and hasty arrangements were made for an adoption ceremony to take place the next day. That Tai Maharaj showed wisdom in acting quickly is amply proved by the accused's violent conduct in forcing a postponement and finally in turning her guests out of the Vada.

As Pandit Maharaj was leaving, Tai Maharaj contrived to speak to him and to ask him to obtain for her, a second

interview with the Agent for Sirdars. This was partly the means of her gaining her freedom. Having obtained her release, she took strong measures against the accused in the beginning of August by shutting the Vada door against him and his Karkuns and bhayas. Meanwhile she had on the 29th July applied in the District Court for revocation of probate. Finally, on the 19th August, she adopted Bala Maharaj in Kolhapur where she was secure from molestation. It is not at all creditable to the Police or the City Magistrate that she obtained no protection from the law in Poona.

#### CONDUCT OF BHAU SAHEB DEV.

9 (b) For Bhau Saheb Dev's movements after 28th June, there is only his statement on Commission to go upon except in respect of one fact. His statement speaks for itself, it is a mass of contradictions, evasions and absurdities. After 28th June he seems to have stayed a few days in Aurangabad for the Registration of the Deed. In the following October, he came to Poona, saw the accused, and borrowed money of him, (page 137 Aurangabad evidence).

With reference to his visit he says: "When I went to Poona in October 1901 I heard that Tai Maharaj had adopted Bala. I did not hear she had disputed the Aurangabad adoption; as far as I know she admitted it. I sent word to the Vada that I had come and was ready to call. I was told I would be sent for. I was not sent for and I did not go." This is the gentleman to whom Tai Maharaj is alleged to have promised of her own free will not to adopt any other boy but his.

Above this passage the witness says: "I hear for the first time to-day that the sanction of the Kolhapur Durbar is necessary as far as the Kolhapur estates are concerned to an adoption. I took no steps to have the adoption sanctioned by the Kolhapur Durbar."

It is on record that on the 6th July last at Aurangabad Mr. Kelkar, the accused's pleader, admitted before the Magistrate hearing the evidence, that Bhau Saheb made an affidavit on the 30th April 1902. Bhau Saheb was cross-examined to discover what information he was prepared to give as to his affidavit made on the accused's behalf. He could not say when it was made, whether two years or two days before. (page 146.) When making it, he was told that the 'physical giving and taking were denied by Tai Maharaj'

On page 137 he makes the significant statement that he did not go to Poona to give evidence in this case because he was not asked. 'Neither Tilak nor any one on his behalf, ever asked me to give evidence in Poona.'

#### SUMMARY.

9 (c) Comment is almost superfluous on these facts. The conduct of Tai Maharaj shows that she was determined upon adopting Bala Maharaj. There is nothing in her con-

duct or that of Bhau Saheb inconsistent with her own story while the conduct of the latter is wholly inconsistent with the attitude taken up by the accused.

THE PROBABILITIES WITH REGARD TO THE ALLEGED  
ADOPTION.

10. There are certain facts which make it highly improbable that Tai Maharaj performed the ceremony of gift and acceptance at Aurangabad.

(1) TAI MAHARAJ NOT A PARTY TO THE DEED.

First is the fact that Tai Maharaj was not a party to the adoption deed. It was first intended that she should be, as will be clearly seen from the draft deed (Ex. 73). If she had been made a party it would have been necessary for her to admit execution when the deed was registered. It is not alleged that there was any obstacle to this. There is evidence to show that attempts were made to call the Registrar to the Mandir on the 28th June (Aurangabad evidence back of page 15.) The only inference possible is that the accused knew that Tai Maharaj would not admit execution.

Witnesses have been examined on this point. The first one was Rale, one of the pleaders who had been engaged by the accused specially to draft the deed. His explanation which was dragged out of him piecemeal, and gives the impression that he was thinking it out all the time, is that Bhau Saheb insisted on having a separate letter from Tai Maharaj, although he was assured that a deed executed in duplicate would be much better. (page 24-26). The other pleader, Parnaik (page 57) gives a different explanation. He also contradicts Rale (back of page 54). Bhau Saheb is the other witness. His evidence (pages 141-42), considered in the light of the ignorance he displayed generally as to the draft, shows that he had learnt a passage from the accused's deposition by heart, I mean the passage on page 34 as to the alterations made by witness in the draft. This witness completely fell to pieces on the point I am now considering (pages 141-44.) He finally said that he preferred a letter to a deed admitted by Tai Maharaj before the Registrar. He says: 'I preferred the letter. It was a sentiment of mine.'

(2) DEED CONTAINS NO REFERENCE TO ANY CEREMONY HAVING  
TAKEN PLACE.

Secondly, the deed as was admitted by the pleaders examined on Commission, was primarily intended to serve as evidence of the adoption. Such a deed should contain a recital of what took place. Bala's adoption deed is an example (Ex. D. 1). It states 'I have therefore this day taken you in adoption. . . . after performing gift and acceptance, Hombavan duly according to the Shahastras, If the accused's story were correct, the adoption deed would undoubtedly have stated that the ceremony of 'Dana-pratigraha' or gift and acceptance, which is the essential

ceremony, had been performed 'according to the Shastras.' Of this there cannot be the slightest shadow of doubt. It might also have stated that the boy was given and accepted orally on the 27th, and that the ceremony was performed on the 28th. I do not myself attach any importance to the erasure of the words 'I have placed him as your adopted son on your lap,' from the draft. It seems to me that that is a mere colloquialism for an adoption, as was pointed out above when dealing with (Ex. D. 14). Some of the witnesses say that these words were not considered elegant. That is very possible. What is astounding is the omission of the words 'Dan. pratigraha Yatha Shastra,' or 'ceremony of gift and acceptance according to the Shastras' from both the draft and the deed. The inference is irresistible that no such ceremony took place.

(3) IMPROBABILITY THAT TAI MAHARAJ WOULD SURRENDER  
ALL HER RIGHTS.

Thirdly, it is impossible to believe that a woman of Tai Maharaj's spirit would deliver herself to the accused bound hand and foot of her own free will. The passage I am referring to in the deed is 'I have given in adoption my son to you after agreeing to manage things according to it (the will) and agreeing that the boy should continue whatever arrangements the Trustees will make with regard to you hereafter. It must be remembered that above Tai Maharaj's signature are the words 'I agree to this!' The letter to Bhan Saheb is to the same effect, namely, Jagannath is master. He is the same as my begotten son. That is to say Tai Maharaj is to abide by the trustees' arrangements. The adoption agreement passed by Bala Maharaja's mother to Tai Maharaj's on the 19th August (Ex. D. 17) is in striking contrast to this.

(4) IMPROBABILITY THAT ADOPTION CEREMONY WOULD BE  
PERFORMED IN A HOLE AND CORNER WAY.

Fourthly, if, as the accused alleges, Tai Maharaj consented to an actual adoption at Aurangabad, surely the ceremony would have been made as imposing as possible under the circumstances, and the leading gentry of the place would have been invited. It was quite otherwise according to the story told by the accused's Aurangabad witnesses. No invitations were issued, and not more than thirty persons were present. I am referring to the 28th June. There is nothing in the Aurangabad evidence to show that any one besides the following attended :—

1. The people staying in the Mandir.
2. Three pleaders and two writers, whose attendance was necessary.
3. Kale, who admits he went uninvited. Bhide, who used to visit the *Vada* every day. He cannot remember who invited him. Dhongade, who went to take charge of furniture. Pophle, who went to find Kale to help him

buy cloth !

Hariram Shastri, who went for a subscription and did not look on at the ceremony.

Joglekar, who is dead.

Purshottam who would not attend and give evidence although warned to do so.

Balkrishna Pandurang, who is mentioned by the accused, and by no one else.

Two Marvadis, mentioned by only one witness, Pophle.

The context shows that this was an effort of imagination on his part.

#### THE ACCUSED'S STORY.

11. The accused's story has been summarized above (page 84); it has also been noted that his statement that Tai Maharaja was in full view of the meeting on the 27th is not true, leaving out of account Tai Maharaj's own story and is not borne out by his witnesses; it has also been mentioned that his witnesses have improved on his story that only he and Bhau Saheb went from the meeting to Tai Maharaj. It is only necessary here to point out general considerations which affect this evidence, and to mention the passages in which the accused's story is to be found. That may be done first. They are on pages 27 to 30, 33, 34, 36 to 39, 42 to 44, 105 to 108. The observations to be made on this account are :—

- (1) It was given four months after the event, and the witness had full notice that the petitioner wished to go into these facts; yet his memory of details is far inferior to that of his Aurangabad witnesses who were examined two years after the event.
- (2) He was given every opportunity of giving a complete account, yet he showed a manifest reluctance to give details, especially with regard to the corporeal giving and taking.
- (3) His story is at complete variance with the false history, Ex. 11, which he had filed as a declaration a short time previously.
- (4) The statement that Bhau Saheb Dev accompanied him to Tai Maharaj's bed-room at 11 p. m. on the 27th to be found on page 29, is contradicted not only by Bhau Saheb but by the witness himself on page 43 and is an obvious falsehood.
- (5) There is another obvious falsehood on page 38. The witness could not say whether he remembered having written any thing on the deed of adoption. He fenced with this question until the deed was shown to him. The Aurangabad witnesses to a man remembered this point distinctly.
- (6) Many parts of the accused's story do not tally with the accounts given by his witnesses. For instance, I take the 'negotiations' mentioned at the top of page 28. According to his witnesses, the accused was out all day on the 25th. There are very many other instances; it would be tedious to enumerate them.



## THE STORY OF THE ACCUSED'S WITNESSES.

12. It has been contended for the accused that it is absurd to suppose that he could get a large number of respectable people in Aurangabad to perjure themselves for him. I propose to consider this point in detail. First of all, there was very little risk incurred in giving false evidence on Commission. The accused never took the trouble to ask any of his Aurangabad friends to give evidence in Poona. Secondly the witnesses are all Brahmins. Thirdly, their evidence shows that Tilak was treated with the greatest deference on his visit to Aurangabad. Parnaik, one of the pleaders, says he was glad of the opportunity of giving his services free to a great man. I have not the slightest reason to suppose that the accused betrayed his duplicity at Aurangabad to any one but Bhau Saheb in June 1901. He was too careful of his reputation and popularity which seem to be very dear to him. I believe that there was a meeting of Shastris on the 27th and that Bhau Saheb and the accused went to Tai Maharaj's room from the meeting and having been roundly abused by her returned to the meeting, and falsely stated that she had accepted Jagannath. Then, as Tai Maharaj says, Tilak frightened her into signing the documents in her room. When he found it was impossible to force her to go through an adoption ceremony, he contented himself with the signing of these documents. The deed and draft deed show plainly that there was never any intention of performing a ceremony. I think Mr. Strangman has been misled as to the meaning of the expression 'to put on the lap' which appears in the draft. I have already mentioned this point but I repeat it as it is very important. The accused, I am convinced, did not enter into any elaborate conspiracy at Aurangabad in June 1901. He thought that the execution of these documents would put Tai Maharaj under his influence. In this he was mistaken. When, eventually, his prosecution for perjury was sanctioned, he took steps to procure false evidence at Aurangabad. The dates of the affidavits taken on his behalf from witnesses, as admitted by Mr. Kelkar, are as follows :—

RAJARAM DEV 30th APRIL 1902.  
 Bhau Saheb Dev 30th April 1902.  
 Pujari Vakil 9th May 1902.  
 Nathu Vaman 8th May 1902.  
 Raghunath D. Vaidya 9th May 1902.  
 Rale Vakil 19th May 1902.

Only three of these witnesses have appeared in Court. The object of these affidavits is perfectly clear, namely, to have statements in writing as to the alleged corporeal giving and taking on the 28th June. The accused's pleader, Mr. Kelkar, refused to produce any of these affidavits. Mr. Strangman, therefore, asked to be allowed to put in a copy of Vaidya's affidavit which is admitted to be correct. This copy ( Ex. 90 ) shows what was wanted by the accused. Yet Rale Vakil ( Witness 5 ) never mentioned the ceremony of gift and acceptance.

Another point to be remembered is that these affidavits were admittedly taken soon after the sanction was given to prosecute. The inference is that Rale had not made up his mind so soon to commit himself. There is one other point to be mentioned in this connection. That is, that the accused has done every thing in his power to enlist the sympathy of the public on his side. Assuming that he has succeeded in this, his false witnesses would incur no public odium even if their guilt were brought home to them.

Leaving these general considerations I proceed to an examination of the kind of evidence adduced. I think this will show that the list of witnesses actually examined compares very unfavourably with the list of witnesses originally cited. I must note first of all that at the meeting of Shastris on the 27th June, a Sanskrit certificate ( Ex. D. 51 ) was written and signed by the Shastris present. That certificate, which is not very accurately worded, as it says ' the oral giving and taking took place in our presence, ' a statement only to be met with elsewhere in the ' false history ' ( Ex. 11 ), is useful only as giving a list of the Shastris and Bhikshuks present. All these Shastris and Bhikshuks were included in the list of witnesses. That list included 47. Of these two were disallowed, the evidence of one became unnecessary, two were Arabs whose whereabouts are unknown and one is dead. There remain 41; of these :—

- 8 are Shastris ( I mean those who signed Ex. D. 51 )
- 6 are employed at the Aurangabad College. One of them is the Principal. One of these is also one of the Shastris.
- 3 are Vakils of Aurangabad.
- 4 belong to the Cotton Mill.
- 2 are clerks in the Educational Inspector's Office.
- 2 are formal witnesses, namely the Registrar's clerk and Drawing master.
- 6 belong to the Dev family, including Bhau Saheb Dev.
- 3 also come from Nidhone.
- 7 do not come under any classification.

Of these only 15 were examined. The remainder, except 6, were dispensed with. It is very significant to note the kind of people dispensed with. The numbers include :—

- (1) 7 of the 8 Shastris.
- (2) 1 of the 4 from the Cotton Mill. This witness' evidence was unimportant and he has gone to Surat.
- (3) 4 out of 6 of the Dev family.
- (4) 1 of the 3 others of Nidhone.
- (5) The unclassified 7.

The 6 persons, whose attendance the accused did not dispense with, include one Shastri, one Vakil, one from the mill, one of the Dev family and two others from Nidhone. These witnesses, I am positive, purposely kept out of the way. I have dealt with the point already ( page 114 miscellaneous papers ). The witnesses, actually examined, include one

Lakshuman Mahadev Bhikshuk ( witness 12 ) whose name is not on the list. There is nothing to explain why he was examined unless he was mistaken for No 5. Sakharam Mahadev who might be his brother. In any case, his evidence is not worth taking into consideration. There remain 15. It is instructive to tabulate them in the same way as above :—

1. One of the Shastris.
2. All the 6 persons employed in the Aurangabad College, including the Principal. One of them is a Shastri.
3. Two of the 3 Vakils. One kept away.
4. Two of the 4 from the Cotton Mills. The only important one would not attend.
5. Both the clerks in the Educational Inspector's Office.
6. Both the formal witnesses.
7. Only one of the 6 Devs.
8. None of the 3 others from Nidhone.
9. None of the others.

Some of these witnesses are called on unimportant points, such as the visit of Tai Maharaj to the mills etc. ; some only speak to the events of Thursday the 27th. The witnesses who falsely swear to the corporeal giving and taking are :—

- (1) 2 of the 3 pleaders.
- (2) 4 of the 6 persons employed in the Aurangabad College including the Principal's son.
- (3) Bhau Saheb Dev, the only person of Nidhone examined.
- (4) The two clerks in the Educational Inspector's Office.

This shows that the Educational Department supported the accused in a most thorough manner. Further comment is superfluous.

As the evidence already examined proves beyond a doubt, that there was no ceremony of gift and acceptance on the 28th June, I do not propose to consider this evidence at any great length. The witnesses whose evidence is to be dealt with are

Rale Vakil	No. 5
Krishna Kale	„ 6
Parnaik Vakil	„ 7
Hariram Shastri	„ 8
Dhongde	„ 10
R. D. Vaidya	„ 11
Keshav Bhide.	„ 13
Shankar Phople	„ 14
Durge Joshi ( Amraoti evidence )	
Bhau Saheb Dev	„ 15

I have named them in the order in which they were examined. The first point to notice is that although none of them except the last had any personal interest in what took place, they remembered little details with surprising uniformity. The first four state that they have had nothing to help their

memory ; they never discussed the adoption with any one. Then the defence seem to have awoke to the fact that this was not possible. The remaining witnesses aver that they talked the matter over many times, with strangers not with each other. Bhide is the only exception. He acknowledges having discussed these matters with other witnesses, including Parnaik, thus contradicting the latter. The second point is that the story was improved as the examination of witnesses proceeded. It began with a description of Tai Maharaj as being cheerful and contented to adopt. Then Durge Shastri gave evidence to the effect that she was greatly taken with Jagannath and desired to adopt him. Then Bhau Saheb Dev went further still and attributed everything to her immediate orders. The third point is that the story was patched up as it proceeded. For instance Rale, in describing the ceremony, omitted to mention the conversation between Tai Maharaj and Bhau Saheb. In cross-examination he admitted that he did not remember hearing it, although sitting close by. Krishna Kale explained this in Re-examination by stating that Rale was moving about all the time. Then Parnaik added a new explanation that the conversation was in a low tone and that Rale could not hear as he was dictating a letter. Phofe corroborated Parnaik in a most artistic manner by stating that he saw 'the lips of Bhau Saheb move but not those of Tai Maharaj.' They spoke in too low a tone for him to hear. Bhau Saheb completely spoilt all this. I have mentioned all the witnesses to the ceremony except the two Educational Inspector's clerks, Bhide and Vaidya. Hariram Shastri sat in the hall opposite; he had come for a subscription; and Dhongade was engaged in collecting furniture. As one might expect, the two clerks gave the same account as to the actual ceremony. Bhide, however, was considered so wanting in intelligence apparently that he was told to remember as little as possible, and was not examined at any length by the defence. There is a most subtle idea in the evidence of Kale and Parnaik, copied to a certain extent by the two clerks. I will illustrate this by a quotation from Kale's evidence: "After the first signature of Tai Maharaj, a letter was placed before her. She read it, and before signing it put Jagannath down." This is the graphic way in which the fact is introduced that Jagannath was on her lap. Remembering that these witnesses are giving evidence of an event two years old which had no importance for them, the absurdity of these little details becomes obvious. There are a few other points to notice:-

1. This evidence does not agree with the 'false history' Ex. 11 or with the accused's story. The important embellishment is the statement that the accused and Bhau Saheb were accompanied by Durge Shastri and others when they went to Tai Maharaj. It may be noted that Durge Shastri is stone-deaf and very old.

2. The pleaders whose chief business was with the draft knew less about that, than about details which they had no reason to remember.

3. Most of the depositions speak for themselves, especially those of Bhide and Bhau Saheb whose lack of brains led them into a hopeless muddle.

4. Durge Shastri made the following statement in examination-in-chief—'Soon after (in 1899.) the horoscopes were shown to me. I found one boy 8 or 9 years old to be fairly fortunate not especially so.' This was said in order to clear up a point in Khaparde's cross-examination. It is contradicted in one direction by Khaparde (page 19) and in a totally different direction by Ex. 86. It was, therefore, presumably a false statement intended to reconcile a contradiction. This witness is a dependant of Khaparde's.

5. On page 28 of his deposition, the accused mentions Kelkar as a friend who could give information as to what happened. Kelkar is witness 3. He gave no information whatever bearing on the points in issue.

#### RECAPITULATION.

13. I have now examined minutely all the evidence bearing directly or indirectly on the first item of the charge. I propose now to sum up the results of this examination. When Baba Maharaj died, although he had no power to dispose of his property by will, he left a will indicating the way in which his property should be managed, and giving directions as to adoption. The trustees named by the will, of whom the accused was one, took out probate and Tai Maharaj acquiesced in their exercising a general control over the estate. As regards the adoption, it was known to Tai Maharaj that the deceased wished that a son from his own family should be adopted. For three years there were discussions about adoption. Then, in the early part of 1901, Tai Maharaj who had now arrived at an age when she could choose for herself, formed the desire of adopting Bala Maharaj. The important evidence to prove this is (1) the fact of Bala being married in the Wada in March 1901, and of a message being sent to ask the accused's permission to his adoption; (2) Tai Maharaj's letters to Nagpurkar from Aurangabad (Exhibits 14 and 15); (3) the sudden change of plan on the part of the accused when Pandit Maharaj, Bala's brother, came in May 1901 to invite Tai Maharaj to Kolhapur. At the beginning of June, the accused and Khaparde (two of the four trustees), fearing that Tai Maharaj would slip off to Kolhapur and adopt Bala, plotted to take her to Aurangabad. They disapproved of Bala as she was of age; they wished a young boy to be adopted, in order that their management might continue under the will. They came from Sinhgad to Poona, held a trustees' meeting, and ignoring Tai Maharaj's protests, wrote out a resolution that she should go to Aurangabad to select boys for adoption. That Nagpurkar, her Karbhari, was opposed to this is shown by his dissenting minute. Yet the resolution is styled 'Unanimous.' Tai Maharaj was persuaded by Khaparde, who had hitherto been her friend, to go. On her arrival in Auranga-

bad she found to her consternation that Khaparde and Tilak proposed that she should adopt, before returning to Poona, from the Babre family. She was greatly opposed to this (1) as it was against her husband's wishes, and (2) as she wanted to adopt Bala Maharaj. When Khaparde saw that strong measures were necessary to overcome her strength of will, he found that he had pressing business in Amraoti. She was, therefore, left in the accused's power, in a strange country. He eventually forced her by acts of cruelty to yield so far as to sign three documents. This she did on the 28th June. On the previous day a meeting of Shastris was held, and the horoscope of one, Jagannath, son of Bhau Saheb Dev, was approved. The latter and the accused went from the meeting to Tai Maharaj's room and told her she was to accept Jagannath as her son. She lost her temper and left the building, going to Vithoba's temple outside. The accused and Bhau Saheb returned to the meeting and announced falsely that she had accepted Jagannath. The deeds were then drawn up, as well as a letter purporting to be from Tai Maharaj to Bhau Saheb promising not to adopt any other boy. The deeds and the draft deed which are in evidence show that no actual adoption took place. They amount to nothing more than an agreement to adopt. On their return to Poona, the accused obtained Tai Maharaj's signature to a *Yadi* addressed to the Agent for Sirdars in the Deccan informing him that she had selected Jagannath, had executed preliminary documents, and would invite the Agent to the ceremony which would shortly take place. She took advice the next day, and began to take steps to adopt Bala Maharaj, ignoring the documents she had been forced to sign. One of these steps was to interview the Agent for Sirdars and inform him that she wished to repudiate the *Yadi* above mentioned. It is not necessary to describe subsequent events in detail. They show with wonderful clearness how the accused was led on by his own obstinacy, and possibly solicitude for his reputation, to falsely swear that an adoption ceremony was actually performed on June 28th, 1901.

#### THE SECOND PORTION OF THE CHARGE.

14. The second part of the charge is that the accused falsely stated as follows :—' We never kept her under restraint nor intended to do so.' The charge contains a clear statement of what the prosecution hold this passage to mean. Many of the arguments for the defence bear upon this point. I propose to consider (1) The general arguments of the defence; (2) The admitted facts, in the light of what has already been held proved; (3) The remaining evidence.

#### GENERAL ARGUMENTS OF THE DEFENCE.

15. The first argument for the defence bears on the meaning of the word ' we ' in this passage, the second is that the passage is not a statement of fact but an expression of opinion only. I will take these two arguments in order.

(a) When the evidence is considered, it will be seen that Kumbhojkar was aiding and abetting the accused and

Khaparde throughout. The main part, however, was taken by the last two in keeping the Wada closed. Page 66 of the accused's deposition shows clearly that as far as the question of restraint was concerned, Kumbhojkar, after the 17th July when he arrived in Poona, was included in the word 'we'. Before his arrival only the accused and Khaparde were meant. This has been set out in the charge. Even if it is held that, in the passage mentioned in the charge, only the accused and Khaparde were intended to be included, that cannot affect the merits of the case. In either case, the statement would be false, and false to the accused's knowledge.

(b) In his second argument the accused relies upon the English notes taken by Mr. Aston. The passage (page 23) is as follows :—

*Court* :—The suggestion appears to be that you were locking in the lady Tai Maharaj and preventing egress or ingress as far as that lady is concerned, and I do not gather from your answers how you answer that imputation.

A.—We never kept her under any restraint, nor intended to do so.

*Court*.—Your previous answers do not show that, and this is why I made the above remark.

A.—I can explain any of the answers which may appear to go against this view."

The accused contends that this was a 'view,' that is to say, that it amounted to no more than saying that if he were prosecuted for wrongful restraint he was confident he would be acquitted.

However it will be seen from the accused's deposition as a whole that he strenuously denied having restrained Tai Maharaj's movements in any way. There is nowhere an admission of restraint coupled with a justification of it. There are two passages which show very clearly that he denied the fact of restraint whether wrongful or otherwise. These passages are, moreover, contained in the same part of his deposition. On page 18 he says 'I mean to say she was not confined at all.' On page 21.—

A. 'The boy was turned out, but Tai Maharaj not prevented from leaving the Wada.'

Q.—Why not ;

A.—'Because we could not legally prevent her, and had not the power to do so.'

Q.—Do you say that?

A.—'And we never wished to.'

This passage is sufficient in my opinion to demolish this argument.

I do not think I need go into the merits of the justification now put forward. Mr. Karandikar took up an enormous amount of time in labouring the point. I think it is sufficient to say that the trustees may have considered themselves in legal possession of the estate, as Tai Maharaj had hitherto acquiesced in their continuing as executors. They had, how-

ever, absolutely no reason to consider themselves as guardians appointed by Will. Both the accused and Khaparde are men of legal education. It is impossible to conceive that they ever honestly believed that they had been appointed guardians of the person of Tai Maharaj.

As an offshoot of the same contention, Mr. Karandikar has argued that Tai Maharaj, if confined at all, was confined by the moral influence of the accused and Khaparde. The latter has quibbled to an absurd extent in the witness box at Amraoti on the subject of moral influence. This argument is ridiculous. Tai Maharaj was confined by locks and bars, not by moral influence; she was never consulted as to the shutting of the doors, and never acquiesced in it; on the contrary she did everything in her power to circumvent the accused and Khaparde.

#### THE ADMITTED FACTS.

16. The facts before the 15th July have been detailed above ( Sections 8, 9 ). On the 15th, Khaparde arrived in the Vada and the same evening had an interview with the accused. The position was then as follows:—Tai Maharaj was determined upon adopting Bala Maharaj. She had received Kolhapur Durbar's sanction by telegram on the 11th. She had purposed adopting Bala on the 13th, but the accused had procured a postponement by persuading and frightening Nagpurkar. She had now got Pandit Maharaj, his brother Bala, and mother Radhabai into the Vada, where they were her guests, and meant to adopt Bala on the morning of the 16th. Khaparde and the accused were strongly opposed to this adoption. The latter had done everything in his power to prevent it, by sending letters and telegrams to Kolhapur, and by filing a Civil Suit for Injunction (No 237). He had failed in both.

After Khaparde's arrival, the accused had an hour's interview with him at the Vada between 8 and 9 p. m. ( Tilak page 20 ). Khaparde in his anxiety not to admit that the accused informed him of every thing, contradicts both the accused and himself on this point. (Pages 137 to 139). He also fences with the question whether he was informed that night that Tai Maharaj had received sanction to adopt.

The accused admits (pages 18-22) that he went to the Wada at midnight and stayed up all night, eventually turning the Maharajs out at 5 a. m. on the 16th. From midnight till 2 a. m. he, Khaparde, Nagpurkar, Pandit Maharaj and Tai Maharaj held a meeting. The accused says (page 20); "The whole position was explained to her, what the legal effect would be of her action." Tai Maharaja's answer was that she had made up her mind to adopt and had issued invitations. When Bala Maharaj went, Tai Maharaj said (page 22). "I am not willing that he should go. Do not turn him away." The accused on Page 19 gives a list of the friends he had introduced into Vada. Ex. 21 is the notice given to the Maharajas to leave the Vada. It is signed by the accused, Khaparde, and by Nagpurkar 'for' Kumbhojkar.



If the Vada, or any part of it, was considered by the Trustees as Tai Maharaja's private residence, they, not being guardians of her person, had no right whatever to interfere with her guests, against her will. On Page 26, the accused states that the Vada was her private residence; he qualifies that statement on page 48, by adding that the Trustees had a right to live there. Khaparde goes much further and makes the extraordinary statement (page 146) that Tai Maharaja had no authority at the time to invite guests without the Trustees' consent. Therefore in turning Tai Maharaj's guests out of the Vada, it seems to me that, assuming the accused and Khaparde to be reasonable men, they were distinctly guilty of the offence of being members of an unlawful assembly, whether they actually used force or not.

I now come to the accused's admissions as to the restraint. On page 17 he says :—'The front door of the Vada was kept locked on 16th, 17th, 18th, 19th, 20th July by order of myself, Khaparde and Kumbhojkar who came on the 17th July. But I say only for a portion of those days—generally, it was closed from 9 a. m. to 3 p. m. No one was allowed to come in without Khaparde's permission. (Note. This includes servants—See page 65). The front door was again closed at 8 or 9 p. m. until daybreak and even then no one could enter without Khaparde's permission.' The following passage from page 23 makes the meaning of the above perfectly clear : 'When we were in the Divan-Khana and within reach of the front door, we ordered it to be kept open, and when we went to sleep or went to dine or were engaged in some other part of the Vada, we kept the front door closed.'

Khaparde's account differs in many important respects. It is contained in pages 63, 176. His chief addition is that persons who usually came and went, such as boys going to school, people bringing vegetables, people coming for water, priests coming for prayers, had not to ask his permission. It may be noted that he has contradicted himself. He first made this statement generally as to the whole time the door was shut, and afterwards described it as a relaxation introduced from the 17th. The statement cannot be believed; it only shows that Khaparde had notice of the evidence of the accused's witnesses before he was examined.

The passage on page 23 shows that the accused could not give any adequate reason for keeping the door shut after Bala Maharaj had left for Kolhapur. Khaparde had more time to invent explanations. His account is that, as Bala Maharaj had left Poona and Pandit Maharaj had left Ranade's house, he relaxed the rules about the door on the 17th. He is prepared with an explanation, never before suggested, as to why the door was ever locked at all. It is that he noticed some 'gymnasts' among Pandit Maharaj's attendants, and feared a forcible entry on Pandit Maharaj's part. This is ludicrous.

Pandit Maharaj did what he could with the help of the Police to effect an entry on the day ' was turned o' The accused's version of what took place ' page 18.

Q.—Did you say to Inspector Jeffries :—Our house is one ourcastle. We can lock it up at any time. The widow of Baba Maharaj is a minor. We are her guardians. She is our ward. We do not let Pandit Maharaj or any one see the lady ?

A.—‘The first part I said to Chief Constable Kamthe, the middle part or something similar to Inspector Jeffries, and the third part to Pandit Maharaj.’

On that occasion ? ‘Yes.’ And then they went away ? Yes. ‘When this occurred the front door was locked, but the wicket was open, and the Police and Pandit Maharaj stood outside and Khaparde and myself and perhaps one or two Karknns were inside at the wicket.’

The important part of the accused’s statement on that occasion is :—“We do not let Pandit Maharaj or any one see the lady.”

It will be seen that this intention was carried out to the letter. The accused, as I have already remarked, could not have considered himself as a guardian of the person of Tai Maharaj. He, therefore, warded off the efforts of the Police to protect Tai Maharaj by a false assertion.

The accused’s admissions as to the dismissal of servants are important. On page 12 he says “I say that some of the old servants of the estate were dismissed by me, they were about 2 or 3, they were rakhvaldars. I considered them unreliable because I suspected they might go over to Tai Maharaj’s side in the dispute. They were dismissed a few days after the 20th July last.” On page 81 “3 new servants were engaged by us three trustees between the 15th and 20th July in lieu of three old servants of the estate dismissed by us three Trustees. They were gate-keepers who kept the street door of the Wada, and we three Trustees substituted three new gate-keepers, Pardeshis called ‘Bh ayas’.” Further down in the Marathi record is the sentence:—“I do not know whether the ‘Bhayas’ were engaged on high er pay, because they were engaged by Khaparde.” Khaparde was examined on this point. His answers show that he had probably not seen the accused’s deposition in Marathi. He knew nothing about the engagement of ‘bhayas.’

The accused has said nothing in his deposition as to the 17th July. Khaparde, however, gives a long narrative describing Kumbhojkar’s efforts to bring Tai Maharaj and Nagpurkar round to the ‘views’ of the accused and Khaparde. As to their ‘views’ he would not commit himself to any statement beyond this :—“my views were that the estate should not be involved in heavy litigation on account of adoption. A meeting was called on the 17th which Tai Maharaj attended. “She said she wanted to upset the Trust.” Nagpurkar after hesitating said he did not want to serve the Trustees. Eventually time was given till the next day” (Khaparde page 54). Khaparde refused to be less vague than this. The idea of using the phrase ‘upset the t rred to the conspira-

tors on the 20th July, after the visit of District Court officials. (See Resolution 3, Ex. 42.) Before that they did not conceal the fact that their only solicitude had to do with the matter of adoption.

The important evidence as to the 18th July is contained in Exhibits 22 and 23. The former is copied in extenso above (page 102); the latter is as follows:—Read Tilak's report dated 5th July in connection with the endorsement by Nagpurkar below the Resolution of 18th June 1901 regarding the adoption of a boy. On being asked about it Nagpurkar has made a statement which is annexed to these papers. On perusal, it appears satisfactory and nothing further need be done. Resolution.—The Trustees should meet Mr. Aston and give an account to him orally or in writing. It is not convenient to give four months' leave; three months' leave on full pay is given. As Tilak lives in Poona he should be given full power of attorney. As arranged on the 18th June Tilak and Khaparde have been to Aurangabad and have made arrangements for the adoption. They told the Trustees about it and their arrangement is accepted. Expense passed. The power of attorney granted to Nagpurkar is withdrawn, and is not to be exercised until he returns and takes over charge.

SIGNED BY ALL FOUR TRUSTEES ON THE 18TH JULY 1901.

This with Exhibit 22 shows the objects aimed at by the accused and Khaparde so clearly that oral statements on the subject are entirely superfluous. All I need note is that the accused on page 78 admits that he did not consider Nagpurkar's retraction 'quite satisfactory,' and on page 68 admits that there was no talk on that day of a criminal complaint against Nagpurkar. There was merely a suggestion that he should be dismissed for adding his dissenting minute to the Resolution of June 18th.

Pandit Maharaj was still in Poona. He made an application to the Agent for Sirdars on the 18th July (Ex. 31), which was partly the means of effecting Tai Maharaj's release. The accused (page 75) admits that the three Trustees prepared an account of the Aurangabad journey on the 18th and that it was ready on the 19th. He has also stated that it was similar to Ex. 11 (page 113.) He states on page 76 that on the 19th there was a discussion in Nagpurkar's rooms at which Kumbhojkar and Khaparde were present. This must have been before the meeting at 11 A. M. and, therefore, Nagpurkar is probably correct when he says (page 11): 'on the 19th July at 6 or 7 A. M. Kumbhojkar brought me the draft of the letter to Mr. Aston. I refused to sign it.—Then I was called to the Divankhana. This explains the minutes of the 19th which are as follows:—

*BEGINNING* at 11 A. M. Nagpurkar says he does not agree to what he stated in writing yesterday, and that the statement should be returned to him, and that he does not wish to be present at the meeting.

*Note*—Talking thus aloud, and showing his readiness to quarrel, Nagpurkar went away. Although called back several times he did not return. As it is late, the meeting is adjourned.

RESUMED at 7 P. M. 3 Trustees present. Nagpurkar was invited to attend but has not come. His leave is cancelled. He is dismissed as karbhari and Trustee. He is to give over charge before 3 P. M. tomorrow and leave the Wada. He will get formal intimation of Trustees' meetings. Under the circumstances it is not safe to keep the Jewellery in the Wada. It is, therefore, resolved that the jewellery be sent to the Bank of Bombay, except Shantaka's which should be given into Tai Maharaj's possession. Tilak lives in Poona. All the establishment should act under his orders. &c. Appended are (1) a letter asking Nagpurkar to attend, and his reply; (2) a notice to be published regarding his dismissal. A notice (Ex. 25) was sent to Nagpurkar the same night informing him that he was dismissed.

The conclusions to be drawn from the evidence of 18th and 19th July above described are :—

(1) As to the objects of Khaparde and the accused. They wished to prevent the adoption of Bala Maharaj and force upon Tai Maharaj the adoption of Jagannath. To attain the latter end, they wished first to get rid of Nagpurkar's dissenting minute, secondly to obtain his signature to a false history of the Aurangabad transaction, alleging a partial ceremony of adoption, so as, if possible, to tie Tai Maharaj's hands, and thirdly to get Nagpurkar out of the way by giving him leave.

(2) As to the means employed to attain these objects—Nagpurkar was threatened with dismissal as Karbhari. This could easily have been effected by turning him out as the Maharajs had been turned out. This threat induced Nagpurkar to write Ex. 22, which was not quite satisfactory as he did not withdraw his dissenting minute. Nagpurkar also signed the resolution about sending an account to the Agent for Sirdars. When, however, he saw the next morning the nature of this history, he was stirred into something like anger, and according to his own account, actually abused Tilak at the meeting. He was ill the rest of the day. Khaparde and the accused adjourned the meeting, presumably to think over the next move. Then they held the meeting at 8 P. M., dismissed Nagpurkar, and ordered him to hand over valuable ornaments belonging to Tai Maharaj. The deep cunning of this move is remarkable. They knew he would refuse, and intended to bring further pressure to bear on him by lodging a false complaint of Criminal Breach of Trust, hoping that he would eventually sign the false history of the adoption.

I use the word false in reference to this complaint advisedly, because I consider that it was a false complaint. Mr. Aston also held the same view. I have not seen the proceed-

ings in the matter of sanction given by the City Magistrate, but there are reasons for believing that the whole of the evidence on the point was not before the Courts concerned.

The evidence of the 20th July begins with Exhibits 26 to 29, which prove beyond a doubt that Nagpurkar was then a prisoner in the Wada. I note also that there was no demand for inspection of the ornaments. The next event is the filing of the false complaint. On their return from the City Magistrate's Court, Khaparde and the accused were met at the door of the Wada by the Nazir, Shiristedar and a clerk from the District Court, who had been sent by Mr. Aston. They could not refuse them admittance. The result was that Tai Maharaj had an interview with these officials. Khaparde admits (page 194) that he and the accused were told to withdraw by the Shiristedar. At that interview Tai Maharaj endorsed Pandit Maharaj's petition Ex. 31 to the effect that the contents were correct. That petition states amongst other things that Tai Maharaj is imprisoned in her Wada, and that she wants an interview with the Agent for Sirdars. She actually asked Pandit Maharaj to procure an interview (see the end of her deposition). She also made an endorsement on Ex. 35 to the effect that she had signed an application dated 10th July to the Kolhapur Durbar for permission to adopt Bala Maharaj. There is a passage in this endorsement which was begun and then crossed out. It evidently refers to Ex. D. 48 which with Ex. 49 were sent that day to Kolhapur. They are both applications, one from Tai Maharaj to the Maharaja, and the other from the Trustees to the Darbar, asking that consideration of the adoption matter be postponed. As above mentioned this was all the Trustees could get Tai Maharaj to agree to. After the Court officials had gone, the accused and Khaparde called another meeting, at which the mildly worded minutes in Ex. 49 were put on record. Their plotting suddenly ceased. Nagpurkar was kept on and counselled not to 'work against the resolutions of the Trustees or the Trust, and a ceremony of inspection of ornaments was gone through to save the face of the prime movers in all this 'Karkuni,' to use an apt word taken from the accused's own report against Nagpurkar. The same night Khaparde went home to Amraoti and the accused to his house in Poona.

I think this undisputed evidence by itself is almost conclusive as to the fact of Tai Maharaj being confined. The confinement was intended to prevent her seeing her friends and taking advice, to prevent her from going away and adopting Bala Maharaj in Kolhapur as she eventually did, and to help in bringing pressure on her and Nagpurkar to agree to the adoption of Jagannath. That these were the objects of the accused and Khaparde at this time cannot be doubted when the whole of the evidence already dealt with is taken into consideration.

THE REMAINING EVIDENCE AS TO THE MATTER  
OF RESTRAINT.

17. The remaining evidence refers to :—

- (1) the condition of the doors and locks in the Wada &c.;
- (2) Tai Maharaj's conversation from a window with Ghotavdekar and Phadke on the 18th July ;
- (3) her efforts to leave the Wada that afternoon ;
- (4) attempts on the part of her friends to see her ;
- (5) the visit of the Court officials on the 19th ;
- (6) Statements in writing by Tai Maharaj.

(1) Tai Maharaj's statement as to the condition of the doors in the Wada is on the back of page 15 of her deposition. Two rough plans are amongst the papers in this case (Ex.57-58). It will be seen, on comparing them with her statement, that according to her, all doors were locked leading from her room to those occupied by Bala and Pandit Maharaj. There is no reason to doubt this. They were probably locked while the Maharaj were being turned out. The locks were not removed as long as the Trustees remained in the Wada. The other doors that were locked were all those leading out of the back 'chawk' or quadrangle into the courtyard. In order to get into the courtyard therefore, Tai Maharaj would have to pass through the front chawk or Divankhana, both of them occupied by the Trustees and Estate servants. In cross-examination, page 38, Tai Maharaj says 'I did come as far as the open door leading to the court-yard (downstairs) and was turned back. This was Wednesday evening. I was going to see Nagpurkar...Again on Friday, I came as far as that door. I was going to Nagpurkar...I was turned back. These are the only occasions I did not try to go out of the Wada. I did not see Nagpurkar on Tuesday or Wednesday. I saw him once on Thursday, once on Friday and once on Saturday. On page 18, Tai Maharaj says, referring to the adjourned meeting on the evening of the 19th July "I sat in the chiruti." Kharparde said: "we have kept you in confinement for 3 or 4 days; will you listen to what we say or not? I said: No. I got up."

The corroboration to Tai Maharaj is as follows Nagpurkar page 10, Godu (witness 22), Gangaram Mali (witness 13 cross-examination and re-examination). As regards the condition of the outer door, it must be remembered that the accused's version in his deposition was that except when he or Kharparde were in a position to watch the door, it was kept locked, and no one could come in or out at any time without Kharparde's permission. Afterwards he had to state that this did not apply to Tai Maharaj or the Trustees, although it did apply to Nagpurkar as a servant of the Estate. His witnesses, Bala Saheb Natu (D. 4), Sahasrabudhe (D. 6), Mendargikar (D. 7), Prabhune (D. 9), Matange (D. 10) are all untruthful. They all contradict the accused as to Kharparde's permission being necessary. The first and Bhingarkar (D. 8) were not questioned on the subject of restraint by the defence although it was known that they had been to the Wada between the 15th

and 20th July. This is remarkable. Their evidence on the point was elicited by the Court. The reasons for disbelieving these witnesses are evident from their depositions. The accused's statement as to the Wada door being 'generally' open during certain hours has been magnified into a fixed law applicable to every day (Sahasrabudhe apparently includes the 16th as well as the days from 17th to 20th). Khapode has followed these witnesses. On the other side there is very clear evidence that the door was almost continually shut. It was shut on Tuesday morning when Onkar visited it at 7 A. M., also at 8 or 9 A. M. when the Police went there, also at 4-30 P. M. when Onkar went again. It was also shut on the 20th at 2 P. M. when the Nazir of the District Court went. These facts can hardly be disputed. Ghotavadekar (W. 27) says the door was shut continuously from the 15th to the 20th. Gangaram Mali (witness 13) and Satyappa watchman (witness 18) both servants in the Wada give the same account. The former's account is perfectly clear. He says that, except for bringing grass in and throwing rubbish out in the morning, and except for allowing Ranade's people to fetch water in the evening, the Wada door was kept closed. Ranade (witness 11) is a very important witness and there is no reason to doubt his credibility or disbelieve his story. His servants fetch water from a hand in the Wada-compound. On the 16th July he first had difficulty in getting water. He had to go himself and shout to the accused every day to have the Wada door opened. The last evidence I have to consider on this point is that brought forward as to boys going to school. On page 36 of his deposition Nagpurkar says, "They were all 3 (*i. e.* boys attending school) in the Wada when it was shut. On the 16th were not allowed out at all. On the 17th, they went to school as usual as Kumbhojkar at my request obtained permission for them." One of these boys (witness 28) was called to prove this statement. He stated that he was not allowed out on the 16th or 20th, and that the accused refused to let him attend extra lesson on the 18th or 19th. The accused called two headmasters (D. 2 and D. 3) who proved conclusively from school registers that this boy was present from the 16th to 19th inclusive, and that the other two boys attended school from the 15th till the 20th inclusive. This is incomprehensible. One can hardly conceive Nagpurkar bolstering up a strong case with evidence which it was perfectly easy to refute. He may have forgotten; he may have been trying to introduce a discrepancy. I am not at all inclined to think that he wishes that the accused should be convicted. His conduct of the sanction matter in the case of the alleged false complaint does not seem to point in that direction. The accused's deposition, which was the most important piece of evidence, was not placed before the City Magistrate.

(2) Tai Maharaj (page 17) says that on the 18th July at 1 P. M. she was standing at a window in the Wada. A

reference to the plan shows that this window is on the south-side overlooking a lane. She sent a woman whom she saw in the lane to fetch Phadke who used to be Karbhari of the Estate. She first saw him and then Ghotavadekar and arranged to see them when she went to Rama's temple that day. She complained to both that she was imprisoned, she is corroborated by both (witnesses, 24 and 27). She was not cross-examined on the point. The Defence ask why these two witnesses took no steps to obtain her release. The answer is obvious. They could do nothing. The Police would give no assistance, as Ghotavdekar knew Pandit Maharaj was doing every thing possible to obtain relief from the authorities.

(3) That afternoon Tai Maharaj asked for permission to go to Rama's temple. There is a mass of evidence to show that it was her custom to go on Thursdays ( see witnesses D. 11, D. 7, amongst others. ) The accused admits nothing about the custom or the request made on this day, but Khaparde has made the very important admission that she asked to be allowed to go ( Khaparde pages 56, 186 ). He has contradicted himself as to details in his evident desire to make out that Tai Maharaj was not anxious to go. His story as to her sitting down with him and the accused while they wrote out the Aurangabad history is evidently false. However, there remains the important fact that she asked to be allowed to go out and that permission was refused.

(4) Nagpurkar says ( page 15 ) " during the period 15th to 20th July I saw Tai Maharaj twice. I wanted to see her but was not allowed to by the accused and Khaparde and their men." The accused states ( page 68 ) that he does not know of any interviews between Tai Maharaj and Nagpurkar except at meetings. Rao Bahadur Onkar ( witness 7 ) went to the Wada on the 16th at 7 or 7-30 A. M. ( 5 ) door and wicket were shut. He shouted. Some one inside said : ' There is no order. ' He then went to Phatak's house and informed the latter. He went again at 4 or 4-30 P. M. The door was shut. He heard people talking inside. He shouted and received no answer. He sat in Ran- ( 6 ) house opposite and watched the door for some time. When he went to the door and shouted again, some one said ' give your name and business. ' ' He said : ' I am Onkar and want to see Tai Maharaj. ' After two or three minutes the reply came ' there is no permission. '

There is absolutely no reason to disbelieve this, Khaparde says ( page 159 ) : ' If any body came to see Tai Maharaj between the 16th and 20th July inclusive he was at liberty to do so, ( adds ) provided he had my permission to enter the Wada. '

Q.—You have stated that Tai Maharaj was at liberty to go out as she liked, why then was it necessary that persons who wished to see her should obtain your permission when she could see them outside the Wada without your permission ?



A.—Because I was afraid of a forcible entry or other disturbance, I made it a rule that no stranger should come into the Wada without my permission. Khaparde then proceeds to swear an obvious falsehood, namely that Bala Saheb Natu came to the Wada on Wednesday and was allowed in to see Tai Maharaj. On being confronted with Bala Saheb's evidence he says. "I say either Bala Saheb's or my memory is at fault." Another obvious falsehood is the allegation that Ranade went to see Nagpurkar.

There can be no doubt that no one was allowed to see Tai Maharaj. The scene that took place when Inspector Jeffries went to the Wada makes this fairly obvious (See witness 8.) There is no doubt also, that one friend made an effort to see Tai Maharaj on the 16th but without success.

(5) The evidence as to the visit of the Nazir, Shirastedar and clerk Athavle, is contained in their depositions (witnesses 6, 9, 10) The two important witnesses Nos. 9 and 6 were not cross-examined. Their evidence, I believe, to be strictly true to the best of their recollection. The important point to notice is that an attempt was made to interfere with Tai Maharaj during the interview. The Shirastedar says: "while the Yadi from the Kolhapur Durbar was being read Tai Maharaj was called away and went outside. She returned in a few minutes and a Karkun came after her with a draft in his hand. When I asked her if her application was correct and bore her signature, and ask her to state that in writing, this Karkun interposed and said 'write as I dictate to you. She hesitated and refused to do so. Then she wrote what she had to say and I told the Karkun he had no right to force her to write against her wishes while this was being done. Khaparde was standing at the door of the room. I asked him to go away."

(6) Tai Maharaj's statements are:—first the endorsement on Ex. 31 to the effect that it is correct. This shows that at the time of the Nazir's visit on 20th July she considered herself to be a prisoner. Second, her petition to the District Superintendent of Police dated 28th July (Ex. 70) in which she states that she was shut up. Third, her statement before Mr. Aston; fourth, her statement to the Police; fifth, her statement in this Court.

The defence have not made any use of the fourth statement as far as this part of the charge is concerned; from the fifth they have picked out the following passage (D. 62) which is nowise contradicts Tai Maharaj.

'I did not take meals on Tuesday the 16th. I did not ask any body to allow me to go out nor did I attempt to go out of the Wada, nor did I inform any body of my intention to go out, nor did any body obstruct me from going out of the Wada, on Tuesday and Wednesday the 16th and 17th July.'

## FINDING.

18. I consider that, it is proved beyond reasonable doubt that the Wada was kept closed practically for the whole of the period from 16th to 20th July inclusive, and that Tai Maharaj was not allowed to go out when she desired to do so, and that her friends were, against her wishes, prevented from communicating with her. Therefore, when the accused said: 'we never kept her under restraint, nor intended to do so,' he made a false statement, and one that was false to his knowledge. I have already shown that the statement that Jagannath was placed on Tai Maharaj's lap &c. as detailed in the charge, was false, and false to the accused's knowledge; and I have given my reasons for finding that the meaning of the two phrases is correctly set out in the charge. I, therefore, record a finding in the affirmative on all the points for decision mentioned at the beginning of this judgment, and find the accused guilty of an offence under the first part of Section 193 Indian Penal Code.

## REASONS FOR SENTENCE.

19. For the offence of which the accused has been found guilty, the punishment may extend to seven years' imprisonment as well as fine. In estimating the punishment to be awarded the intention must be taken into account. Section 194 says that when the intent is to procure a conviction of a capital offence the punishment may extend to transportation for life or in some cases to death. Section 195 says that when the intent is to procure a conviction of an offence punishable with imprisonment for seven years or upwards the punishment shall be commensurate with that prescribed for the offence in question.

Now the accused's intention was primarily (as far as the first portion of the charge is concerned) to secure the continuance of the management of the Estate by the Trustees, as guardians of Jagannath. Management by the Trustees meant, for all practical purposes, management by the accused and Khaparde. The question arises, did they seek any personal profit to themselves in this? There seem to be evidence and reasons sufficient to raise suspicion, but not enough to preclude reasonable doubt. On page 110 of his deposition, the accused states: 'There has been loss to the Estate since the deceased died. I don't mean damage. The Estate has suffered. I mean that there has not been so much benefit as we expected. I mean it could have been managed better. The statement of account I filed in suit No. 358 shows that the liabilities of the Estate increased by about Rs. 15000, so that there was such an increase in liabilities (Note by Mr. Aston. It took ten minutes questioning witness before this was admitted by him.) There is also the Rs. 14000 about, missing out of money borrowed by the Trustees, as I have already admitted.' His statement on page 13 shows that he is not prepared to hold Nagpurkar responsible for this. He never ascertained how this missing amount had been spent. Considering his animus towards Nagpurkar, he would have ascertained it at once if Nagpurkar had been to blame. I have now to consider the accused's plea that all he did was 'for the good of the Estate.' This is an empty phrase. Men do not

plot for the benefit of an abstract idea of this kind. The accused's conduct shows that it was not Tai Maharaja's welfare that he had in view. It could not have been that of Jagannath, the son of a foolish Tahasildar of Nidhne. What was the result of the accused's conduct? Simply to involve the Estate in litigation. His obstinacy and perseverance must also be noted. After he and his followers in August had been refused admission to the Wada, he set up an Estate of his own and collected revenue belonging to the Estate. He had previously abstracted from the Wada the accounts etc. necessary for this purpose. He then made several attempts by invoking the aid of the City Magistrate and Police on various pretexts to obtain possession of the Estate records and jewellery. All this is proved by his own admissions. (Pages 80, 93 to 98) I think the accused may be given the benefit of what doubt there may be regarding his intentions. The only alternative is to regard these acts, and the act of perjury of which he has been found guilty, as the demented acts of an obstinate man who had been completely defeated by people whom he apparently made the mistake of despising. His original motive in working for the adoption of Jagannath may have been compounded of feelings of jealousy towards Nagpurkar, wounded self-esteem, and a desire to continue his position of power with regard to the Estate. He was evidently edged on by Khaparde in every step he took. The latter discreetly removed himself, when on two occasions, the situation gave signs of becoming dangerous; and feeling safe in the witness-box in Amraoti, showed his disposition by telling falsehoods freely, and making a cowardly insinuation against Tai Maharaj's character. I do not think the fact that Khaparde has abetted the accused can make any difference to my estimate of the latter's intentions.

If it had been clear that the accused's intentions were dishonest, that he desired to obtain profit for himself from the Estate, I could hardly have given sufficient punishment. As it is this offence is a serious one and was committed in a most deliberate manner. These remarks apply more particularly to the 1st part of the charge; the latter part a defence to an imputation.

SENTENCE.

20. I sentence the accused, Bal Gangadhar Tilak, to rigorous imprisonment for eighteen months, and a fine of one thousand rupees; in default further rigorous imprisonment for 2 (two) months.

POONA,  
24th August 1903. }

(Sd.) E. CLEMENTS.  
F. C. MAGISTRATE.

*True Copy.*

SESSIONS JUDGE.

V2wM56  
D3  
63948