

REPORT
OF
THE COMMISSION OF INQUIRY
INTO
THE COMMUNAL DISTURBANCES
AT
BHIWANDI, JALGAON AND MAHAD
IN MAY 1970

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VOLUME I—PARTS I TO III
(CHAPTERS 1 TO 32)

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VOLUME I—PARTS I TO III
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ABBREVIATIONS

Addl.D.M.	..	Additional District Magistrate.
Addl.I.G.P.	..	Additional Inspector-General of Police.
Addl. S.P.	..	Additional Superintendent of Police.
A.H.P.C.	..	Armed Head Police Constable.
A.I.R.	..	All-India Reports Series.
A.P.C.	..	Armed Police Constable.
Asst.I.G.P.	..	Assistant Inspector-General of Police.
Asst.S.P.	..	Assistant Superintendent of Police.
Bom.L.R.	..	Bombay Law Reporter.
B.S.F.	..	Border Security Force.
Cal.	..	Calcutta.
Cal.L.J.	..	Calcutta Law Journal.
Ch.	..	Chancery.
C.P.I.	..	Circle Police Inspector.
Cr.L.J.	..	Criminal Law Journal.
Cr.P.C.	..	The Code of Criminal Procedure, 1898.
D.I.	..	Detective Inspector.
D.I.G. (Crime)	..	Deputy Inspector-General of Police (Crime & Railways).
D.I.G. (Int.)	..	Deputy Inspector-General of Police (C.I.D.) (Intelligence).
D.M.	..	Collector and District Magistrate.
D.Ms.	..	Collectors and District Magistrates.
Dy.S.P.	..	Deputy Superintendent of Police.
D.S.B.	..	District Special Branch.
D.S.I.	..	Detective Sub-Inspector.
H.C.	..	Head Constable.
H.P.C.	..	Head Police Constable.
I.A.	..	Indian Appeals.
I.L.R.	..	Indian Law Reports.
I.P.C.	..	The Indian Penal Code.
I.R.	..	Irish Reports.
Jamaat-E-Islami	..	Jamaat-E-Islami-E-Hind.
Jan Sangh	..	Bharatiya Jan Sangh.
L.C.B.	..	Local Crime Branch.
L.I.B.	..	Local Intelligence Branch.
L.R.	..	Law Reports Series.
Mad.	..	Madras.
M.T.M.	..	All-India Majlis Tamir-E-Millat.
Mushavarat	..	All-India Muslim Majlis-E-Mushavarat.
P.C.	..	Privy Council.
P.C.	..	Police Constable.
P.I.	..	Police Inspector.
P.S.I.	..	Police Sub-Inspector.
R.S.S.	..	Rashtriya Swayam Sevak Sangh.
R.T.M.	..	Shree Ram Tarun Mandal.
R.U.M.	..	Rashtriya Utsav Mandal.
S.B.	..	Special Branch.
S.C.	..	Supreme Court.
S.D.P.O.	..	Sub-Divisional Police Officer.
S.P.	..	Superintendent of Police.
Ss.P.	..	Superintendents of Police.
S.P.I.	..	Sub-Inspector of Police.
S.R.P.	..	State Reserve Police.
S.R.P.C.	..	State Reserve Police Constable.
S.R.P.F.	..	State Reserve Police Force.

PART I

THE INQUIRY

CHAPTER I
THE SCHEME OF THE REPORT
CONTENTS

Paragraph

- 1.1 Division into parts.
- 1.2 Abbreviations.
- 1.3 Appendices.
- 1.4 References to designations of officers, political parties. etc.
- 1.7 References to witnesses and exhibits.
- 1.9 Underlining and italics.

CHAPTER 1

THE SCHEME OF THE REPORT

Division into parts

1.1 This Report is divided into seven parts. Part I deals with introductory and procedural matters such as the appointment of the Commission, its terms of reference, the scope, nature and mode of the Inquiry, the procedure adopted by the Commission, the reasons which prompted it to do so and the statistical details and particulars of the proceedings before the Commission. Part II deals with certain important aspects of communalism and the measures taken by the Union Government and the Government of Maharashtra to combat them and the implementation of these measures at State and district levels in the State of Maharashtra with particular reference to the three areas which form the subject-matter of the Inquiry. Parts III, IV and V deal with the communal history and the causes and course of the communal disturbances in Bhiwandi (including Khoni and Nagaon), Jalgaon and Mahad and with other matters specified in the terms of reference relating thereto. Part VI contains a summary of the facts established before the Commission and the conclusions arrived at by it. Part VII, the last part, contains the recommendations made by the Commission.

Abbreviations

1.2 For the sake of convenience a number of abbreviations have been used in this Report. A list of these abbreviations is given at the beginning of the Report.

Appendices

1.3 Instead of burdening the body of the Report with long lists such as of affidavits filed before the Commission, witnesses examined before it, documents exhibited before it, dates of its sittings, etc., these lists are included in separate appendices to this Report. Similarly sketches showing the topography and communal geography of the areas which form the subject-matter of this Inquiry and the places in these areas where incidents took place and the police opened fire during the disturbances have been annexed to the Report as appendices instead of being placed in the body of the Report.

References to designations of officers, political parties, etc.

1.4 A number of Government and police officials gave evidence before the Commission. Some of them had retired from the service

or been promoted or transferred to different places at the time when they gave evidence before the Commission and some others might not have been holding the same post or might have retired when this Report was written. To refer to them by the designation of the office they held at the time when they gave evidence would therefore be misleading. The important point is the office they held during the period to which their evidence related. Accordingly, the designations of all officers referred to in the Report are of the offices held by them during that period.

1.5 There were also a number of local leaders and workers of political parties who gave evidence before the Commission. The names of some of these political parties have changed, for example, the P.S.P. has split into two groups. The names of political parties used in the Report and in the evidence are, therefore, the names which these parties bore at the relevant time. Office-bearers of political parties do not continue to hold the same office year after year nor are they in office all the time. Some of them who gave evidence before the Commission had even left the political party to which they belonged at the time of the disturbances or during the period to which their evidence related and joined another party. The references in the Report to offices held by them are, therefore, to the offices which they held at the relevant time.

1.6 Similarly in the case of Ministers the references in the Report are to the particular portfolio held by them at the relevant time.

References to witnesses and exhibits

1.7 In view of the large number of witnesses whose evidence was recorded by the Commission and the mass of documents exhibited before it, to refer to a witness's evidence or to an exhibit every time in the usual manner would have been to add unnecessarily to the length of the Report. Further, not all facts placed before the Commission were in dispute. Many of them formed part of *res gestae* and a large number of these facts were not disputed. Therefore, except where it became necessary to discuss the evidence of a witness in detail or to refer to any specific admissions made by him or for some other reason it was desirable so to do, it was found convenient to refer to the part of a witness's evidence under discussion merely by stating in brackets the code letters and number given to the witness followed by the paragraph or paragraphs which contained that particular portion of his evidence and the page or pages of the notes of evidence at which these paragraphs are to be found and the same system has been adopted with respect to the statements made in the affidavits of witnesses which have been made part of their deposition. Thus, for example, "(N.H.W. 42/2/2034)" would mean that the evidence relating to the particular statement or statements after which this notation occurs is to be found at page 2034 of the notes of evidence in paragraph 2 of the evidence of witness No. 42 called by the Nagarik Hitarakshak Mandal and "(P.W. 4/8/241-3)" would mean paragraph 8 of the evidence of the fourth witness

called on behalf of the Executive Magistrates and Police Officers at pages 241 to 243 of the notes of evidence and “[G.W. 2/1(14)/70(5)]” would mean paragraph 14 of the affidavit of witness No. 2 called on behalf of the Government of Maharashtra, which affidavit has been made part of that witness’s deposition and its paragraphs serially numbered 1(1), 1(2), etc.

1.8 The references to exhibits in the Report have been given in the same way as references to witnesses. The bulk of the documents exhibited before the Commission consists of copies of originals and translations of originals. To state each time a document is mentioned whether it is the original document or a copy thereof or an English translation of the original would have been tiresome, repetitious and unnecessary and has not been done except in a few instances where such mention was thought necessary.

Underlining and italics

1.9 Unless otherwise stated, any underlining in the Report, by way of italicizing or for giving emphasis, in quotations from a witness’s evidence or from a document is mine and not reproduced from the original.

* * *

CHAPTER 2
THE APPOINTMENT OF THE COMMISSION
AND THE TERMS OF REFERENCE

CONTENTS

Paragraph

- 2.1 The appointment of the Commission
- 2.4 The notification appointing the Commission.
- 2.5 The amendment of the notification.
- 2.6 Extension of time.
- 2.7 The Secretary and the staff.

CHAPTER 2

THE APPOINTMENT OF THE COMMISSION AND THE TERMS OF REFERENCE

The appointment of the Commission

2.1 On May 7, 1970 communal disturbances broke out in Bhiwandi as the Shiv Jayanti procession was passing through the town. From Bhiwandi the disturbances spread to other parts of Thana District and about 235 other places in that District were affected. In the afternoon on May 8, 1970 communal disturbances took place in Jalgaon. These disturbances led to tension in some places in the Jalgaon District, but apart from a minor riot at Patonda in Amalner Taluka no incident took place in any other part of that District. Communal disturbances also took place in Mahad in the Kolaba District in the afternoon of May 8, 1970 and spread to 53 other places in that District.

2.2 Copies of news-reports relating to these disturbances published in English newspapers and of translations of such news-reports in vernacular newspapers published between May 8, 1970 and May 13, 1970 have been exhibited before the Commission. These news-reports show that following upon the disturbances there was a public demand for a judicial inquiry. The Government, however, declined to agree to it but announced in the Maharashtra Legislative Council that it had appointed the Commissioner, Bombay Division, with special magisterial powers to conduct an inquiry. Thereupon all the members of the opposition staged a walk-out. The Maharashtra Pradesh Bharatiya Jan Sangh decided to observe a protest week by holding meetings, taking out processions in breach of prohibitory orders and observing hartals throughout the State to protest against these disturbances and in support of its demands including its demand for a judicial inquiry. In pursuance of this call, hartals were observed in several places including Thana, Kalyan, Dombivli and processions were taken out at some of these places. At a press conference held at his residence on May 10, 1970 the Chief Minister announced that he had requested the Chief Justice of the Bombay High Court to make available a Sitting Judge to act as a Commission of Inquiry and that I would be appointed the one-man Commission of Inquiry. The Jan Sangh thereupon called off the protest week.

2.3 On May 12, 1970 the Government of Maharashtra issued a notification under the Commissions of Inquiry Act, 1952 (LX of 1952), being Government Notification, Home Department (Special) No. SB. VI/FIR. 1870, dated the 12th May 1970, published in the Maharashtra Government Gazette, Extra-ordinary, dated the 12th May 1970

at page 132, appointing me as a Commission of Inquiry to inquire into and report on "the causes and course of the communal disturbances which occurred at Bhiwandi in the Thana District on and after the 7th May 1970, at Jalgaon on the 8th May 1970 and at Mahad in the Kolaba District on the 8th May 1970" and on other matters specified in the said notification.

The notification appointing the Commission

2.4 The complete text of the notification appointing the Commission is as follows :—

"HOME DEPARTMENT (SPECIAL)

Sachivalaya, Bombay-32, 12th May 1970

COMMISSIONS OF INQUIRY ACT, 1952.

No. SB. VI/FIR. 1870.—Whereas communal disturbances occurred at Bhiwandi in the Thana District on and after the 7th May 1970, and at Jalgaon in the Jalgaon District and at Mahad in the Kolaba District on the 8th May 1970 in which there was an outbreak of mob violence, incendiarism, looting, stabbing, etc., on a large scale, resulting in loss of lives and damage to property ;

And whereas, in quelling these disturbances the police opened fire which resulted in loss of some lives and injury to certain persons ;

And whereas, the Government of Maharashtra is of the opinion that it is necessary to appoint a Commission of Inquiry to enquire into and report on the disturbances at the aforesaid three places ;

Now, therefore, in exercise of the powers conferred by sections 3 and 5 of the Commissions of Inquiry Act, 1952 (LX of 1952), and of all other powers enabling it in that behalf, the Government of Maharashtra hereby appoints a Commission of Inquiry consisting of Shri Justice D. P. Madon, Judge of the High Court of Judicature at Bombay to enquire into and report on—

- (a) the causes and course of the communal disturbances which occurred at Bhiwandi in the Thana District on and after the 7th May 1970, at Jalgaon on the 8th May 1970 and at Mahad in the Kolaba District on the 8th May 1970 ;
- (b) the adequacy of the administrative measures taken to prevent and deal with the said disturbances ;
- (c) whether there is any organisation or group at the said places or outside which has fomented communal tension or directly or indirectly provoked these communal disturbances ;
- (d) whether the firings by the police at the said places were justified or not ; and
- (e) on such other matters as may be germane to the above.

(2) The Government of Maharashtra hereby directs that having regard to the nature of the enquiry to be made by the Commission and other circumstances of the case, the provisions of sub-section (2), sub-section (4) and sub-section (5) of the said section 5 shall apply to the said Commission.

(3) The Commission shall submit its report to the State Government within a period of four months from the date of its appointment.

By order and in the name of the Governor of Maharashtra,

L. G. RAJWADE,

Secretary to Government."

The amendment of the notification

2.5 At the very first preliminary hearing held by me on July 7, 1970 Mr. A. A. Peerbhoy, learned Counsel for the Bhiwandi Relief Committee, raised a contention that the word 'Bhiwandi' in clause (a) of the terms of reference included not only the municipal limits of Bhiwandi-Nizampur Municipal Council but also all the surrounding suburbs and villages. The Commission accordingly directed Mr. Peerbhoy to make a written application setting out his contention with liberty to other parties to file their replies and fixed a special meeting on July 30, 1970 to decide this question. From the evidence of the then Home Secretary L. G. Rajwade it appears that representations were also made to the Government by the Muslims to include the revenue villages of Khoni and Nagaon (the Muslim localities of which are known as Rasulabad and Gaibi Nagar respectively) and other areas in Thana District within the scope of the Inquiry (G.W. 1/71/56). Thereupon by the Home Department (Special) Notification No. SB. VI/FIR. 1870/35941, dated July 22, 1970 the Government amended the terms of reference contained in the notification appointing the Commission and included within the scope of the Inquiry the revenue villages of Khoni and Nagaon and prescribed the limits of the Bhiwandi-Jalgaon and Mahad Municipal Councils as the areas in which the Inquiry was to be held by this Commission. The part of the said amending notification is as follows :—

of the said notification,—

of the for clause (a), the following shall be substituted, namely :—
Bhar (a) the causes and course of the communal disturbances which
meet occurred—

ob- (i) within the limits of the Bhiwandi-Nizampur Municipal Council, and in the revenue villages of Khoni and Nagaon (which are on the outskirts thereof), in the Thana District on and after the 7th May 1970.

(ii) within the limits of the Jalgaon Municipal Council in the Jalgaon District, on the 8th May 1970, and

(iii) within the limits of the Mahad Municipal Council in the Kolaba District, on the 8th May 1970 ;

(2) in clause (d), for the words "at the said places" the words "in the said areas" shall be substituted."

The amendment of the terms of reference by the said notification rendered a decision on Mr. Peerbhoy's application unnecessary.

Extension of time

2.6 The time for the Commission to submit its Report was from time to time extended, the last extension being up to November 16, 1974.

The Secretary and the staff

2.7 After the consent of the President of India under Paragraph 11(b)(i) of Part D of the Second Schedule to the Constitution of India read with section 2(1)(c)(i) of the High Court Judges (Conditions of Service) Act, 1954, was received, the Commission appointed its Secretary and staff. Mr. V. R. Gadkari, retired Additional Registrar of the Bombay High Court, who had acted as Secretary to several Commissions of Inquiry, namely, the Commissions of Inquiry into food poisoning cases in the States of Madras and Kerala, police firings at Ahmedabad, causes of failure of the Panshet and Khadakvasla Dams and the oil companies and refineries, was appointed Secretary to the Commission. Mr. Gadkari discharged his duties to my complete satisfaction and I must express my appreciation of the very able and conscientious manner in which he did so.

2.8 The rest of the staff of the Commission was taken on deputation from the High Court and for this I am deeply grateful to the then Chief Justice of the Bombay High Court, the Honourable Mr. S. P. Kotval. Not only did he place at my disposal the staff I wanted but also rooms in the High Court building for use as the office of the Commission. Moreover, he made available for the sittings of the Commission the Court-room selected by me. The entire staff of the Commission has carried out its duties faithfully and zealously. In this connection particular mention must be made of Mr. M. S. Pai who was appointed Associate to the Commission and who was in charge of the voluminous records of the Commission and of the two interpreters, Mr. S. G. Godbole, Interpreter-cum-Translator (Senior) and now Assistant Chief Translator and Interpreter, and Mr. P. V. Apsingekar, Translator-cum-Interpreter (Senior), in the Office of the Chief Translator and Interpreter, High Court, Bombay, who not only translated into English a mass of vernacular documents but also during the course of the hearings interpreted the oral evidence of a large number of witnesses many of whom deposed in Marathi and some in Hindi and some others in Urdu.

2.9 It is not possible to conclude this chapter without a special word of appreciation for my P. As., Mr. D. N. Dhargalkar and Mr. M. A. Alavani. Mr. Dhargalkar took down almost single-handed the entire oral evidence recorded by the Commission while Mr. Dhargalkar and Mr. Alavani shared the task of taking down the dictation of the entire Report and transcribing it. Both of them, and particularly Mr. Dhargalkar, had on several occasions to work overtime for long stretches and did so loyally and conscientiously and not only uncomplainingly but willingly and cheerfully. They also shared along with Mr. L. N. Naik and Mr. V. J. More, Clerk-Typists in the Office of the Commission, the burden of typing out in fair the manuscript of this Report.

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CHAPTER 3
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CHAPTER 3

THE SCOPE OF THE INQUIRY

Matters for Inquiry

3.1 The matters into which the Commission was required to inquire and on which it had to submit its report to the Government are to be found in the terms of reference contained in the said notification No. SB. VI/FIR. 1870, dated May 12, 1970 as amended by the said notification No. SB. VI/FIR. 1870/35949, dated July 23, 1970. The terms of reference as so amended read as follows :—

“(a) The causes and course of the communal disturbances which occurred—

- (i) within the limits of the Bhiwandi-Nizampur Municipal Council, and in the revenue villages of Khoni and Nagaon (which are on the outskirts thereof), in the Thana District, on and after the 7th May 1970 ;
 - (ii) within the limits of the Jalgaon Municipal Council in the Jalgaon District, on the 8th May 1970 ; and
 - (iii) within the limits of the Mahad Municipal Council in the Kolaba District, on the 8th May 1970 ;
- (b) The adequacy of the administrative measures taken to prevent and deal with the said disturbances ;
- (c) Whether there is any organisation or group at the said places or outside which has fomented communal tension or directly or indirectly provoked these communal disturbances ;
- (d) Whether the firings by the police in the said areas were justified or not ; and
- (e) Such other matters as may be germane to the above.”

3.2 Thus, though communal disturbances took place on and after May 7, 1970 not only in Bhiwandi, Mahad and Jalgaon but in a number of places in the Districts of Thana and Kolaba and in one other place in the District of Jalgaon, under the terms of reference the scope of the Inquiry was confined to the communal disturbances which occurred within the following three areas only :—

- (1) within the limits of the Bhiwandi-Nizampur Municipal Council and in the Revenue Villages of Khoni and Nagaon on the outskirts thereof in the Thana District on and after the 7th May 1970 ;
- (2) within the limits of the Jalgaon Municipal Council in the Jalgaon District on the 8th May 1970 ; and
- (3) within the limits of the Mahad Municipal Council in the Kolaba District on the 8th May 1970.

3.3 The matters which form the subject-matter of the Inquiry with respect to the communal disturbances in the said three areas, as set out in clauses (a) to (e) of the terms of reference, can conveniently be divided into the following eight heads :—

- (1) the causes of the communal disturbances which occurred within the said three areas, being the first part of clause (a) of the amended terms of reference ;
- (2) the course of the said communal disturbances, being the second part of clause (a) ;
- (3) the adequacy of the administrative measures taken to prevent the said disturbances, being the first part of clause (b) ;
- (4) the adequacy of the administrative measures taken to deal with the said disturbances, being the second part of clause (b) ;
- (5) whether there was any organization or group within the said three areas or outside which had fomented communal tension, being the first part of clause (c) ;
- (6) whether there was any organization or group within the said three areas or outside which had directly or indirectly provoked the said communal disturbances, being the second part of clause (c) ;
- (7) whether firings by the police in the said three areas were justified or not, being clause (d) ; and
- (8) such other matters as may be germane to the above, being clause (e).

**Causes of the communal disturbances—
the first part of clause (a)**

3.4 'Cause' and 'effect' are co-relative terms and the Shorter Oxford English Dictionary defines 'cause' as that which produces an effect. Communal disturbances have become a regular feature in the life of India, causing grave concern not only to the agencies responsible for preserving law and order but also to all right-thinking people who have the welfare and future of this country at heart. Unlike some other disturbances, communal disturbances do not take place spontaneously or on the spur of the moment. The underlying or basic cause of communal disturbances is the communal tension built up over the years between the Hindu and the Muslim communities resulting in mutual distrust, suspicion and antagonism, so that at times the most trivial incident is enough to spark off a communal conflagration. This incident, which is the proximate or immediate cause of the disturbances cannot, however, be taken as its real cause. Communal tension between the two communities is the result of the history of India and of the events which culminated in the partition of the country in 1947 and the atrocities attendant thereon. It was further acerbated by the influx of refugees from what was formerly East Pakistan and is now Bangla Desh ; the tales of atrocities, both real and exaggerated, about the treatment of Hindus in Pakistan ; the repeated occurrences of communal disturbances in different parts of the country ; and the constant

harping on these matters by political leaders anxious to secure votes on communal basis by sowing seeds of communal hatred.

3.5 An inquiry into the causes of communal disturbances in the said three areas is, therefore, closely related to, and to a considerable extent overlaps, the inquiry under clause (c) of the terms of reference, namely, the inquiry into the organizations or groups within the said areas or outside them which have fomented communal tension or directly or indirectly provoked these communal disturbances. The question is, how far back in point of time is the Commission to go in investigating these matters? An attempt was made by some of the Hindu parties—an attempt not countenanced by the Commission—to induce the Commission to go into the doctrines and tenets of Islam and the manner in which the true Islamic teachings have, according to them, been misinterpreted; their submission being that this misinterpretation has induced in the Muslim mind an attitude which makes it look upon the world as divided into two parts, Dar-ul-Islam (the abode of Islam) and Dar-ul-Harb (the abode of war), the first being a country ruled by Muslims and the second a country in which Muslims only reside but over which they do not rule, and which state of affairs, therefore, imposes upon them a religious duty to carry on 'jihad' or holy war against non-Muslims or in the alternative 'hijrat' or migration to countries under Muslim rule. Along with this an attempt was also made to induce the Commission to go into the history of Muslim rule in India right back to the first advent of the Muslims in this country. This attempt too was not countenanced by the Commission. The historical causes of communal tension in India are well known and so is the course of Indian history, though certain sections of both communities may seek to misinterpret them to suit their own purposes. An inquiry into these historical causes by this Commission was, therefore, unnecessary and not called for nor was the Commission on a proper construction of the terms of reference required to embark upon it. It is no part of this Commission's function to write a historical or sociological thesis. Causes of communal tension so far removed in time cannot form part of this Inquiry. There is communal tension all over India and particularly in those places where we find a mixed Hindu-Muslim population, but communal disturbances do not take place, and have not taken place, in all these places. In the context of this Inquiry what is relevant is not the history of India nor the teachings of any particular religion but the efforts made to fan communal passions and build up communal tension in the said three areas within a reasonable period preceding these disturbances. The real touchstone of how far any particular matter is relevant can only be common sense. In determining the relevance of any matter it must also be borne in mind that under the terms of reference the Commission is required to inquire into the causes of communal disturbances within the said three areas only and not the causes of communal disturbances which have occurred in other parts of the country nor the causes of Hindu-Muslim disunity.

This Commission is, therefore, required to consider only such communal activities as have ultimately led to communal disturbances within the said three areas and is not concerned with other communal activities whatever their impact might have been on other parts of the country.

3.6 While dealing with this part of the Inquiry the Commission will, therefore, have to consider both the basic or underlying cause as also the proximate or immediate cause of the communal disturbances in each of the said three areas.

**The course of the communal disturbances—
the second part of clause (a)**

3.7 The course of communal disturbances means the successive stages through which the disturbances in these three areas have passed. Under this term the Commission is, however, not required to go into each and every individual act of rioting, murder, arson or looting nor to determine who the actual culprits were nor pronounce upon their guilt or innocence. The function of the Commission under this head is to ascertain the manner in which the said disturbances developed and spread. What is, therefore, required to be considered is the spread of the disturbances locality-wise, the general pattern of the incidents which took place, the weapons and the missiles used and which community was the aggressor and which the sufferer or the greater sufferer. These are also some of the factors which would help the Commission to determine whether the said disturbances were pre-planned or were the result of communal tension sparked off by some communal incident.

**Administrative measures to prevent the disturbances—
the first part of clause (b)**

3.8 The matters required to be considered under the first part of clause (b) are the measures adopted by the administration during the past few years to prevent the outbreak of communal disturbances and the manner in which the administrative machinery of the State has been geared for this purpose. An inquiry into these matters would include a consideration of the instructions issued by various departments of the Government and the police, the manner in which recommendations for preventing communal disturbances (as for example, those made by the National Integration Council or the Raghubar Dayal Commission) have been implemented, the steps taken on receiving representations regarding grievances from members of either community from or relating to the said three areas, and the measures taken to remove in these three areas those factors which constitute the causes of communal disturbances. Under this head the Commission will also have to ascertain whether the administration took effective steps to curb elements which were fomenting communal tension within these three areas, made proper efforts to foster co-operation and goodwill amongst members of both communities, whether there

was proper and efficient collection of intelligence, whether effective preventive measures were taken to forestall the outbreak of communal disturbances by issuing prohibitory orders under the Bombay Police Act and the Code of Criminal Procedure, whether there was proper enforcement of such orders, whether rumour-mongering was sought to be curbed by disseminating correct information and bringing to book the offenders, whether there was any effort made to counteract communal propaganda, and whether effective steps were taken to deal with the situation whenever more than ordinary tension was noticed. In order to ascertain whether the measures taken in this behalf were adequate or not, not only the measures taken at the State level but also those taken at different district levels will have to be considered ; for while it is for the Government to issue instructions, it is for the district authorities to implement them.

**Administrative measures to deal with the disturbances—
the second part of clause (b)**

3.9 The question of the adequacy of administrative measures to deal with the communal disturbances which took place within the said three areas involves an inquiry into the manner in which the authorities handled the situation when these disturbances broke out. This term of reference necessarily involves an inquiry into the conduct of the executive magistrates and the police in relation to the communal disturbances in these three areas and an investigation into the allegations of their shortcomings, inaction, acts of commission or omission, negligence, and partiality towards any one community either in dealing with the disturbances or in the investigation of offences committed during the course of these disturbances. The measures taken with respect to providing relief to those who had suffered in these disturbances and to rehabilitate them and the efforts made to restore normalcy and bring about a feeling of security would also fall within the ambit of the second part of clause (b).

Fomenting of communal tension—the first part of clause (c)

3.10 Under the first part of clause (c) of the terms of reference the matter for inquiry is, "Whether there is any organisation or group at the said places or outside which has fomented communal tension ?" This part of the clause as worded does not restrict this Inquiry to the fomenting of communal tension within the said three areas only. The context, however, requires that it should be so read as not to apply to fomenting communal tension in the entire country or throughout the State of Maharashtra, but only to fomenting communal tension in the said three areas. The fomenting of communal tension in the said three areas may, however, be by an organization or group operating either within any of these areas or outside and clause (c) provides for this. Communal tension is created by the commission of certain acts as also by spoken or written propaganda. The spoken word may be uttered in a public speech or at a private meeting or spread by rumours. The

report of a speech or of a communal act or incident, even though the speech may have been delivered or the act or incident taken place outside any of these three areas, would reach these areas or some of them through the media of newspapers and journals. The matters for consideration under this head are, therefore, the activities of various groups and organizations and their publications and the utterances of their leaders, whether inside any of these three areas or outside them, which have had an impact on the communal atmosphere and have fomented communal tension within these areas. Communal tension is not fomented overnight but over a period of time. This term of reference, therefore, necessitates an inquiry into the communal history of the said three areas.

3.11 A group or organization would include not only local groups and organizations but political parties as also organizations styling themselves as religious or cultural or religious and cultural organizations. A branch or unit of an all-India party formed in any of the said three areas would be covered by this clause. A question which arises in this context is, how far is an all-India party to be held responsible for the communal acts, utterances and publications of its local branches or local leaders in any of these three areas? If an all-India party is aware of such activities of its local branch and local leaders and takes no steps to disapprove of them or to disassociate itself from them, the responsibility for the communal tension fomented by such activities must also fall upon its shoulders, for by its acquiescence it must be taken to have given its approval to these activities. Another question which arises in this context is, whether the communal acts, utterances or publications of an individual, who is not a member of any such party, group or organization, can be considered under this head? If a party, group or organization sponsors such activities, as by making its platform or paper available to him, it must be taken to be the act of such party, group or organization. Even where there is no sponsoring party, group or organization, if the activities of an individual have fomented communal tension in any of these three areas, his activities still fall within the purview of the inquiry into the causes of the disturbances, being the subject-matter of the first part of clause (a), or into other matters germane to the matters set out in clauses (a) to (d), being the subject-matter of clause (e).

3.12 Under this clause this Commission is, however, not concerned with the political philosophy, ideologies and activities of all-India parties or the activities and utterances of their leaders unless they have affected the communal situation in any of the said three areas or are relevant for understanding any of the events which had an impact on the communal situation in any of the said three areas.

**Provoking of the communal disturbances—
the second part of clause (c)**

3.13 The first part of clause (a) and the two parts of clause (c) overlap to a certain extent. There is, however, a difference between

the two parts of clause (c) *inter se*. The first part of clause (c) which refers to the fomenting of communal tension deals with a different aspect from the second part which refers to the provoking of communal disturbances. The fomenting of communal tension under the first part of clause (c) refers to the basic or underlying cause of the said communal disturbances, while the direct or indirect provoking of communal disturbances under the second part of clause (c) refers to the proximate or immediate cause of the said disturbances.

Justification of police firings—clause (d)

3.14 None of the parties in this Inquiry have contended that the situation was such that the police were not justified in opening fire. What has, however, been contended is that in some cases the police opened fire only on mobs of one community and not on those of the other or opened fire upon innocent members of a community or were remiss in opening fire. Where the police fired upon innocent members of a community deliberately, such firing cannot be held to be justified and would have to be considered under this head; but where the police opened fire only upon rioting mobs of one community and not upon those of the other community or failed to open fire promptly or were remiss in opening fire, the matter will have to be considered under the second part of clause (b), namely, the adequacy of administrative measures taken to deal with the said disturbances, read with clause (e), namely the matters germane to those set out in clauses (a) to (d).

Germane matters—clause (e)

3.15 By clause (e) the Commission is required to inquire into "such other matters as may be germane to" those set out in clauses (a) to (d). The Concise Oxford Dictionary defines 'germane' as "relevant, pertinent, to the matter or subject". Thus, under this term the Commission is empowered to inquire into all matters which are relevant or pertinent to the other matters for inquiry referred to it. A question of relief to and rehabilitation of the sufferers in the communal disturbances would be one of the matters which in addition to falling under the second part of clause (b) would also fall under this clause.

3.16 On the interpretation of this clause an argument was advanced before the Commission by Mr. Jethmalani, Counsel for the Jan Sangh, that the Commission had no power to make any recommendations to the Government; while Mr. Rajni Patel, Counsel for the Government, submitted (in which submission he was supported by all other parties) that the Commission had the jurisdiction to do so. Mr. Rajni Patel also made a statement from the Bar that the Government of Maharashtra invited the Commission to make recommendations with respect to the steps to be taken by the Government at all levels in order to prevent the outbreak of similar disturbances in the future and to deal with them most effectively if they do happen to occur. On the other hand, Mr. M. K. Joshi, Counsel for Brahmachari Vishwanathji of

Masurashram, while he supported Mr. Rajni Patel's submission that the Commission had the jurisdiction to make recommendations, made a statement that his client was not willing that it should do so. Relying upon the fact that both in the terms of reference of the Raghubar Dayal Commission and of the Commission of Inquiry into the communal disturbances at Ahmedabad and other places in Gujarat in September 1969 there was a specific term which required the Commission to recommend measures to be adopted for preventing the recurrence of such disturbances, Counsel for the Jan Sangh submitted that by reason of the absence of a similar term in the terms of reference of this Commission, this Commission had no jurisdiction to make any recommendations.

3.17 In my opinion, the contention raised on behalf of the Jan Sangh is without any substance. A proper reading of the terms of reference leaves no doubt that the power to make recommendations is implicit in the other terms of reference even if clause (e) were not there. No finding can be given on quite a few of the matters into which the Commission has to inquire without first considering what was required to be done or ought to have been done. For example, a finding on the question whether the administrative measures taken to prevent or deal with the communal disturbances in the said three areas were adequate or not must necessarily involve a consideration of the measures which should be considered adequate, for adequacy of measures taken can only be judged against a norm and the Commission must first ascertain what that norm is. Similarly, a finding on the question whether the police firings were justified or not involves the consideration of the question when firing by the police can be said to be justified. In any event, the steps to be taken to prevent the recurrence of similar disturbances in the future and to deal effectively with them if they take place is a matter germane to the other matters set out in clauses (a) to (d) of the terms of reference and the Commission would have jurisdiction under clause (e) to make recommendations. For the above reasons, the conclusion I have come to is that this Commission has the jurisdiction under the terms of reference to make recommendations to the Government with respect to all matters which form the subject-matter of inquiry by this Commission.

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CHAPTER 4
THE NATURE OF THE INQUIRY

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CHAPTER 4

THE NATURE OF THE INQUIRY

Statutory provisions relating to procedure to be followed by a Commission of Inquiry

4.1 The first question which the Commission had to consider was of the procedure to be followed by it. At the time when the Commission began its work the only statutory provision in this behalf was section 8 of the Commissions of Inquiry Act, 1952. That section provides :

“8. *Procedure to be followed by the Commission.*—The Commission shall, subject to any rules that may be made in this behalf, have power to regulate its own procedure (including the fixing of places and times of its sittings and deciding whether to sit in public or in private).”

The section as originally enacted also made provision for the contingency of one of the members of the Commission being temporarily absent or there being a vacancy amongst its members. By the Commissions of Inquiry (Amendment) Act, 1971 (79 of 1971), these provisions were deleted from section 8 and were made the subject-matter of a new section, section 8A.

4.2 Although the Central Government and some State Governments have made rules relating to the procedure to be followed by a Commission in respect of the proceedings before it, no rules in this behalf have as yet been made by the State of Maharashtra. The rules of the Central Government and the other State Governments are on the same pattern. They deal with issuing of notice to persons who, in the opinion of the Commission, should be given an opportunity of being heard in the inquiry, such notice being to furnish to the Commission statements relating to such matters as may be specified in the notice as also issuing a notification inviting persons acquainted with the subject-matter of the inquiry to furnish statements to the Commission, prescribing the mode of filing such statements and affidavits in support of the facts set out therein and the filing of documents and the recording of oral evidence by the Commission. These rules also provide for a reasonable opportunity of being heard and of producing evidence to be given to any person whose conduct the Commission considers necessary to inquire into or where the reputation of any person in the opinion of the Commission, is likely to be prejudicially affected by the inquiry and to afford to such person and, with the permission of the Commission, to any other person whose evidence is recorded by the Commission an opportunity to

cross-examine witnesses other than those produced by him and to address the Commission and be represented by legal practitioners or with the consent of the Commission by any other person.

4.3 By the Commissions of Inquiry (Amendment) Act, 1971 (79 of 1971), the Commissions of Inquiry Act, 1952, was extensively amended and a number of lacunae therein removed. An important amendment was the insertion of sections 8B and 8C in the Act. These sections are as follows :—

“ 8B. *Persons likely to be prejudicially affected to be heard.*—If, at any stage of the inquiry, the Commission,—

(a) considers it necessary to inquire into the conduct of any person ; or

(b) is of the opinion that the reputation of any person is likely to be prejudicially affected by the inquiry,

the Commission shall give to that person a reasonable opportunity of being heard in the inquiry and to produce evidence in his defence :

Provided that nothing in this section shall apply where the credit of a witness is being impeached.

8C. *Right of cross-examination and representation by local practitioner.*—The appropriate Government, every person referred to in section 8B and, with the permission of the Commission, any other person whose evidence is recorded by the Commission,—

(a) may cross-examine a witness other than a witness produced by it or him ;

(b) may address the Commission ; and

(c) may be represented before the Commission by a legal practitioner or, with the permission of the Commission, by any other person.”

4.4 Although sections 8B and 8C were not on the statute-book when this Commission commenced its sittings, the Commission acted upon the same principles as were subsequently enacted in these sections and gave a right to every person and party appearing before it to be represented by a legal practitioner and to cross-examine witnesses produced by other parties and to address the Commission. It also issued notices to a number of persons giving them an opportunity of being heard in the Inquiry and of meeting the allegations made against them and of producing evidence in their defence.

Powers of a Commission of Inquiry

4.5 Section 4 of the Act confers certain powers upon Commissions of Inquiry. That section provides as follows :—

“ 4. *Powers of Commission.*—The Commission shall have the powers of a civil court, while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely :—

(a) summoning and enforcing the attendance of any person from any part of India ;

(b) requiring the discovery and production of any document ;

(c) receiving evidence on affidavits ;

- (d) requisitioning any public record or copy thereof from any court or office ;
- (e) issuing commissions, for the examination of witnesses or documents ;
- (f) any other matter which may be prescribed.”

Clause (a) was substituted by the Amending Act of 1971 to make it clear that the power of summoning and enforcing the attendance of any person extended to the whole of India and it is the substituted clause which is reproduced above.

4.6 Section 5(1) gives a right to the Government appointing a Commission to confer upon it, by notification published in the Official Gazette, certain additional powers set out in sub-sections (2) to (4) of section 5. The relevant provisions of the said section are as follows :—

“5. *Additional powers of Commission—*

- (1) * * *
- (2) The Commission shall have power to require any person, subject to any privilege which may be claimed by that person under any law for the time being in force, to furnish information on such points or matters as, in the opinion of the Commission, may be useful for, or relevant to, the subject matter of the inquiry ; (and any person so required shall be deemed to be legally bound to furnish such information within the meaning of section 176 and section 177 of the Indian Penal Code).
- (3) The Commission or any officer, not below the rank of a gazetted officer, specially authorised in this behalf by the Commission may enter any building or place where the Commission has reason to believe that any books of account or other documents relating to the subject matter of the inquiry may be found, and may seize any such books of account or documents or take extracts or copies therefrom, subject to the provisions of section 102 and section 103 of the Code of Criminal Procedure, 1898, in so far as they may be applicable.
- (4) The Commission shall be deemed to be a civil court and when any offence as prescribed in section 175, section 178, section 179, section 180 or section 228 of the Indian Penal Code is committed in the view or presence of the Commission, the Commission, may, after recording the facts constituting the offence and the statement of the accused as provided for in the Code of Criminal Procedure, 1898, forward the case to a magistrate having jurisdiction to try the same and the magistrate to whom any such case is forwarded shall proceed to hear the complaint against the accused as if the case had been forwarded to him under section 432 of the Code of Criminal Procedure, 1898.
- (5) Any proceeding the Commission shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code, 1860.”

The portion in brackets in sub-section (2) above was inserted by the Amending Act of 1971.

4.7 By the notification appointing this Commission the Government of Maharashtra conferred upon it the powers contained in sub-sections (2), (4) and (5) of the said section 5.

4.8 Section 5A of the Act, inserted by the Amending Act of 1971, confers power upon a Commission to utilize the services of officers and investigation agencies of the Government for conducting investigation pertaining to the inquiry. It may be mentioned that even before this section was put on the statute-book, the Government of Maharashtra made available to this Commission every facility to enable it to inquire properly into all matters before it in order to arrive at the truth.

Safeguards for witnesses

4.9 In order to enable witnesses to give evidence freely before a Commission and not feel afraid to tell the truth, the Commissions of Inquiry Act provides certain safeguards for them. These safeguards are enacted in section 6 of the Act. That section provides as follows :—

“6. *Statements made by persons to the Commission.*—No statement made by a person in the course of giving evidence before the Commission shall subject him to, or be used against him in, any civil or criminal proceeding except a prosecution for giving false evidence by such statement :—

Provided that the statement :—

- (a) is made in reply to a question which he is required by the Commission to answer, or
- (b) is relevant to the subject matter of the inquiry.”

Difference between an inquiry under the Commissions of Inquiry Act and a trial in a Court of Law

4.10 In the absence of any statutory provisions in this behalf the Commission had to formulate its own procedure. A Judge appointed as a Commission of Inquiry would naturally prefer to assimilate the inquiry as far as possible to a judicial process. The nature of the inquiry to be conducted by a Commission set up under the Commissions of Inquiry Act, 1952, however, is fundamentally different from the trial of either a civil or a criminal case. Under section 3 of the Commissions of Inquiry Act, a Commission of Inquiry is appointed by the Central or State Government, as the case may be, by a notification published in the Official Gazette, “for the purpose of making an inquiry into any definite matter of public importance and performing such functions and within such time as may be specified in the notification.” Thus, unlike in the case of a trial in a Court of Law, a Commission has itself to hold an inquiry into the matters referred to it by the notification appointing it, arrive at its findings thereon and submit its report to the Government.

4.11 A Commission of Inquiry differs from a judicial tribunal in three important respects. The first point of difference is that while a Court of Law decides purely on the rival cases presented before it by the litigating parties and on the evidence led by them before it, a Commission of Inquiry, even though parties may appear before it and lead their evidence, cannot rest content with this. Its function is not merely to hear the rival cases, consider the evidence led by the contesting parties and then pronounce upon it; it has itself to ascertain the truth on matters referred to it. In order to do so, in addition to the evidence which may be led before it by the parties, the Commission must make its own inquiries. As was observed by Lord Denning in his report on the Operation of the Security Service arising out of the Resignation of the U.K. Secretary of State for War, Mr. J. D. Profumo, the appointment of a Tribunal under the Tribunals of Inquiry (Evidence) Act, 1921, of England "is an elaborate and costly machine, equipped with all the engines of the law—counsel, solicitors, witnesses on oath, absolute privilege, openness to the public (so far as possible) and committal for contempt—but it suffers from the invincible drawback, in doing justice, that there is no prosecution, no charge, and no defence" Lord Denning pointed out that in carrying out the inquiry he had to be detective, inquisitor, advocate and judge; capacities, he said, he found difficult to combine. The second point of difference is that a Commission of Inquiry has no power to make an enforceable order, neither can it impose any penalty nor award any damages or costs. The only power which the Commission has is to inquire and make a report and embody therein its recommendations without having any power to enforce them [*Ram Krishna Dalmia & others v. Justice S. R. Tendolkar*, A.I.R. 1958 S.C. 538, 546(1)]. The report of a Commission of Inquiry is not binding upon the Government and the Government is not bound to implement the recommendations made in the report; though now under subsection (4) of section 3 inserted by the Commissions of Inquiry (Amendment) Act, 1971, the Government is bound to lay before the House of the People in the case of a Commission appointed by the Central Government, or the State Legislative Assembly in the case of a Commission appointed by the State Government, the report of the Commission together with a memorandum of the action taken thereon within a period of six months of the submission of the report by the Commission. The third point of difference is that there is no set procedure prescribed for a Commission of Inquiry. Neither the Civil Procedure Code nor the Criminal Procedure Code applies to its inquiry and each Commission is left to formulate its own procedure. Under our jurisprudence a hearing before a Court of Law is based on the adversary system; but in the case of an inquiry conducted by a Commission of Inquiry, even where parties with conflicting interests appear before it and thus lend to its inquiry the flavour of the adversary system, basically the inquiry is inquisitorial in its nature. If the Commission were merely to rest content with such evidence as the

parties produce before it and not itself summon such witnesses as it thinks will be useful for shedding light on the matters into which it has to inquire, the truth will never emerge in many an inquiry.

Procedural considerations before the Commission

4.12 The procedure to be adopted by each Commission of Inquiry must necessarily depend upon the nature of the matters referred to it for inquiry. In some inquiries the matters may be such that some persons, parties or organizations appear in the role of an accused. Such would be the case where the conduct of a Minister or a high official is to be inquired into or the inquiry relates to a fraud on the public exchequer. In cases where the inquiry is into communal disturbances and its causes, from the nature of things not only are there two contesting parties before the Commission and, where there are allegations against the Government or the Police, even more, but each of them very often plays the dual role of both the accuser and the accused. It is for these reasons that no fixed procedure has been prescribed for a Commission of Inquiry and in each case it is left to the discretion of the Commission what procedure it considers best suited for the inquiry before it.

4.13 So far as the Inquiry by this Commission was concerned, this Commission had *inter alia* to inquire into not only the causes of the communal disturbances in the three areas specified in the terms of reference but also to determine whether there was any organisation or group at these places or outside which had fomented communal tension or directly or indirectly provoked the said communal disturbances. From the wide scope of the Inquiry it was obvious from the very beginning that a number of political parties and organizations would appear before the Commission, each accusing the other and some of them accusing the Government and the Police, as did in fact happen. A Commission of Inquiry when first appointed would not, however, know the nature of the specific allegations which are going to be made before it by interested parties. It can only come to know this when statements and affidavits are filed before it. Therefore, it is only after statements and affidavits are filed and the respective cases of the parties concerned in the inquiry clearly emerge that the procedure for the conduct of the inquiry and the order in which evidence is to be heard can be decided upon.

Whether hearings to be public or in camera

4.14 One of the first questions to which the Commission had to direct its mind was whether its hearings should be in public or *in camera*. Section 8 of the Commissions of Inquiry Act leaves the matter to the discretion of the Commission. There are precedents for following either course. In deciding whether the hearings should be open to the public or not a Commission of Inquiry cannot lose sight of the fact that it is appointed as provided by the Act for the purpose of making an inquiry into a "definite matter of public importance."

The matters into which a Commission inquires being definite matters of public importance, one of the requisites of such an inquiry should be that the public must have confidence in the Commission and in its impartiality and fairness. To hold sittings behind closed doors without any access being afforded to the public and the Press may at times lead to loss of public confidence in the work of the Commission. The Radcliffe Tribunal established in England to inquire into the circumstances in which offences under the Official Secrets Acts were committed by William John Christopher Vassall held a considerable part of its proceedings *in camera* as it involved a detailed examination of such subjects as the security procedure in force in the Admiralty and in the Embassy of United Kingdom at Moscow and similar matters. The Chagla Commission, the Kotval Commission on the police firing at Ahmedabad in August 1958 and the Commission of Inquiry into the communal disturbances at Ahmedabad and other places in the Gujarat State which took place in September 1969 presided over by the Honourable Mr. Justice P. Jaganmohan Reddy held their sittings in public. On the other hand, the Raghubar Dayal Commission into the communal disturbances at Ranchi-Hattia, Jainpur and Suchetpur, Ahmadnagar, Sholapur, Malegaon and Sursand appointed by the Central Government held all its sittings *in camera*. The Raghubar Dayal Commission took the view that as under the Central Commissions of Inquiry (Procedure) Rules, 1960, a person examined as a witness had the right to cross-examine other witnesses and to be represented by a legal practitioner and as the possibility of this right being exercised could not be excluded, the exercise of this right implied the presence of the person concerned throughout the proceedings which would render the proceedings *in camera* futile. It, therefore, decided that no legal practitioner would be allowed to any person examined as a witness. With the same object it also did not issue to any person a notice under Rule 4 of the Central Commissions of Inquiry (Procedure) Rules, 1960, for the said Rule provides that a Commission should give to a person, whose conduct it considers necessary to inquire into or whose reputation would in its opinion be likely to be prejudicially affected by the inquiry, a reasonable opportunity of being heard in the inquiry and of producing evidence in his defence, while Rule 5 gives such a person a right to cross-examine other witnesses and to be represented by a legal practitioner.

4.15 The procedure adopted by the Raghubar Dayal Commission was not one which commended itself to this Commission. Even the Raghubar Dayal Commission felt itself hampered in its task by reason of the absence of Counsel, for in paragraph 2.13 of its report on the Ranchi-Hattia disturbances it observed. "It must be noted, however, that the absence of Counsel made the task of the Commission more difficult in marshalling and checking up the evidence." The handicap under which that Commission laboured is obvious, for the true facts would be known to the parties alone. When a witness comes forward to tell lies or to suppress the truth, it is only an effective

cross-examination of that witness by those properly instructed that can expose him. A Commission cannot be in possession of all the facts until apprised of them and this can only happen through evidence tested by cross-examination, for a method more effective than cross-examination has not as yet been devised for ascertaining the truth.

4.16 Today the communal virus has spread to almost all walks of life and communal bias has become a disturbing feature of the country. In all inquiries into communal disturbances it is, therefore, requisite that members of both communities should feel that the inquiry is conducted in a manner wholly free from any communal bias and that the Commission is holding the scales evenly and impartially between the two communities. Where there are serious allegations against the Government and the Police, the exclusion of the public and the Press tends to give rise to a further suspicion, however unjustified, that the administration is sought to be shielded. Unless a feeling of confidence is created in the public, the whole object of setting up a Commission of Inquiry would be nullified. This confidence can only be created if the public and the Press are allowed to remain present at the hearings and daily reports of the proceedings allowed to be published in the newspapers. In this connection, the following observations in paragraphs 39, 40, 115, 116, 117, 118 and 119 of the Report of the Royal Commission on Tribunals of Inquiry, 1966, of England are relevant :—

“39. We do not believe that it can ever be right for any inquiry of this kind to be held entirely in secret save on the grounds of security. It is true that a Tribunal does not hold a trial but only investigates and reports. Nevertheless reputations and careers may depend upon their findings, e.g., in the Budget leak Tribunal which was held in public the Tribunal found that there had been an unauthorised disclosure by Mr. J. H. Thomas to Sir Alfred Butt of information relating to the Budget and that use was made by Sir Alfred Butt of that information for private gain; thus ended both their political careers.

“40. It is said that sometimes witnesses are willing to give evidence only if they are allowed to give it in private or in confidence. This is no doubt true. But such evidence in matters of this kind is treated as suspect by the general public and, in our view, rightly so. Secrecy increases the quantity of evidence but tends to debase its quality.

“115. As we have already indicated it is, in our view, of the greatest importance that hearings before a Tribunal of Inquiry should be held in public. It is only when the public is present that the public will have complete confidence that everything possible has been done for the purpose of arriving at the truth.

“116. When there is a crisis of public confidence about the alleged misconduct of persons in high places, the public naturally distrusts any investigation carried out behind closed doors. Investigations so conducted will always tend to promote the suspicion,

however unjustified, that they are not being conducted sufficiently vigorously and thoroughly or that something is being hushed up. Publicity enables the public to see for itself how the investigation is being carried out and accordingly dispels suspicion. Unless these inquiries are held in public they are unlikely to achieve their main purpose, namely, that of restoring the confidence of the public in the integrity of our public life. And without this confidence no democracy can long survive.

“117. It has been said that if the inquiry were held in private some witnesses would come forward with evidence which they would not be prepared to give in public. This may well be so. We consider, however, as we have said in paragraph 40, that although secret hearings may increase the quantity of the evidence they tend to debase its quality. The loss of the kind of evidence which might be withheld because the hearing is not in secret would, in our view, be a small price to pay for the great advantages of a public hearing. Moreover, experience shows that the Tribunals of inquiry which have sat in public have not been hampered in their task by lack of any essential evidence.

“118. We appreciate that publicity may be hurtful to some witnesses who are called before the Tribunal and indeed to some persons who are mentioned and perhaps not called to give evidence. But this is a risk which, on the rare occasions when such inquiries are necessary, must be accepted in the national interest

“119. It has been suggested to us that the Press should be prohibited from reporting the proceedings day by day and that the evidence should be made public only after the publication of the Tribunal's report. This would no doubt eliminate the pain sometimes caused to innocent persons by the glare of publicity. On the other hand we are satisfied by the evidence that on balance it is in the interest of innocent persons against whom allegations have been made or rumours circulated to have the opportunity of giving their evidence and destroying the evidence against them in the full light of publicity. If, as we believe, it is essential for the inquiry to be held in public, it seems to us that those members of the public who are not able to attend the hearing in person are entitled to be kept informed through the national Press of what is taking place. Moreover, if the evidence is not published daily and the public has to wait for weeks or months for authentic information about what is occurring before the Tribunal, rumours will grow and multiply and the crisis of public confidence will be heightened.”

4.17 These observations of the Royal Commission on Tribunals of Inquiry coincided with the view of this Commission and, accordingly, in exercise of the discretion vested in it by section 8 of the Commissions of Inquiry Act, 1952, it decided that, subject to certain exceptions to be mentioned in the next Chapter, all its hearings should be held in public and not only full access should be allowed to the public but the Press should also be given liberty to publish its proceedings.

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CHAPTER 5

THE MODE OF INQUIRY

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CHAPTER 5

THE MODE OF INQUIRY

The procedure formulated by the Commission

5.1 Bearing in mind the principles and considerations set out in the preceding chapter the Commission formulated the procedure for the conduct of the Inquiry, assimilating it, as far as possible, to the basic and essential features of the trial of cases in a Court of Law and at the same time not overlooking the inquisitorial nature of an inquiry under the Commissions of Inquiry Act. With a view to ascertain what the rival cases of the parties appearing before the Commission were, the Commission first issued a notification inviting statements and affidavits. The Commission also decided to hold all its sittings in public and allowed the Press to publish its proceedings. At the same time in order to ensure that publicity would not deter any witness from giving evidence before it, the Commission made it clear that if any witness desired that his evidence should not be taken in public, or if any party desiring to call a witness made such a request in respect of that witness, the request would be granted and the public and the Press excluded while the evidence of that witness was recorded. It may be mentioned that two lady witnesses, both of them called in evidence by the Commission, namely, Bahinabai Kisanrao Kale (C.W. 8) and Banoobai Nomanbhai Ujjainwalla (C.W. 35), made an application that their evidence should be recorded *in camera*.

5.2 The Commission held preliminary hearings at which directions were given with respect to inspection, the order in which witnesses would be examined and other procedural matters. The Commission felt that unless and until the parties appearing before it were allowed to be represented by legal practitioners of their choice and knew in advance before the actual hearing of the Inquiry commenced what case was going to be presented against them, no party would be able to take an effective part in the hearing. Accordingly, subject to certain safeguards which will be mentioned hereafter, the Commission permitted all parties appearing before it to take inspection of the statements, affidavits and documents filed by other parties. The Commission also allowed all parties and witnesses, who so desired, to be represented by legal practitioners of their choice and gave them a full opportunity to cross-examine witnesses deposing against them. It can confidently be stated that a number of facts would not have come to light but for the presence at the hearing of the parties and their Counsel. Further, in order to ensure that no person was condemned unheard, even though sections 8B and 8C were not on the statute-book

when the Commission commenced its work, the Commission issued notices to a number of persons setting out the allegations made against them and giving them an opportunity of appearing before the Commission and of being heard by it and leading their evidence. The Commission itself summoned and examined several persons as witnesses when it felt that their evidence would materially help in the ascertainment of truth. Throughout the proceedings the Commission endeavoured to see that at the end of the Inquiry no party should be left with a grievance that its case was not properly heard or that it did not have a proper opportunity either of presenting its case or of meeting the case made against it. Accordingly, the Commission gave all parties appearing before it a full and complete opportunity to produce evidence, oral and documentary, and to cross-examine witnesses.

Pleadings

5.3 In order to invite persons who had any relevant information relating to the Inquiry to communicate it to the Commission, the Commission by its notification dated June 5, 1970 invited all such persons to file before the Commission statements supported by sworn affidavits as also to furnish along with such statements a list of documents on which they proposed to rely and to forward to the Commission, wherever practicable, the originals or true copies of such of the documents as might be in their possession or power and to state the names and addresses of the persons from whom the remaining documents could be obtained. The statements and affidavits were directed to be filed not later than June 27, 1970. This notification was published between June 8, 1970 and June 10, 1970 in various English and vernacular newspapers. A list of the notifications and the notices about the dates of commencement of hearings with respect to different parts of the Inquiry issued by the Commission and of the newspapers in which they were published is given in Appendix A to this Report.

5.4 By its order, dated July 3, 1970 made in exercise of the powers vested in the Commission by section 4 of the Commissions of Inquiry Act, 1952, read with section 3 of the Oaths Act, 1969, the Commission empowered Mr. M. S. Pai, Associate of the office of the Commission, to administer oaths and affirmations to witnesses before the Commission and for the purpose of affidavits to be filed before the Commission.

5.5 By a notification in the Revenue and Forests Department No. STP. 1770/115574-N, dated July 22, 1970 issued in exercise of the powers under clause (a) of section 9 of the Bombay Stamp Act, 1958, the Government of Maharashtra remitted with effect from May 12, 1970 the stamp duty chargeable in the whole of the State of Maharashtra under the Bombay Stamp Act in respect of any affidavit filed or to be filed by any person for making statements in answer to any notice issued by this Commission.

5.6 In view of the amendment of the terms of reference by the notification, dated July 23, 1970, the Commission issued a fresh notification, dated July 30, 1970 inviting statements and affidavits in

respect of the amended terms of referenc. This notification was also published in various English and vernacular newspapers as set out in Appendix A to the Report.

5.7 At the request of the parties the time for filing statements and affidavits and lists of documents was from time to time extended and 590 affidavits were filed before the commencement of the regular hearings. In order to ensure that no injustice was done and no relevant matter left out, the Commission in certain circumstances permitted affidavits to be filed even subsequently as also directed Counsel and parties appearing before it to file affidavits of certain individuals.

5.8 There were in all 637 affidavits filed before the Commission, the total number of pages aggregating to 4,032. A list of the affidavits filed before the Commission is given in Appendix B to this Report. The affidavits when filed in the office of the Commission were numbered serially and the references in this Report to the numbers of affidavits is to those given by the office of the Commission.

5.9 As a large number of these affidavits were filed through various political parties, organisations and groups of individuals, in order to crystallize their respective contentions the Commission at its preliminary hearing held on July 30, 1970 directed all parties appearing before it to file before the Commission on or before September 2, 1970 a concise statement of case which they desired to present and prove before the Commission. At the request of the parties the time for filing the concise statements was extended from time to time. On a perusal of the affidavits filed on behalf of the Government and of the Executive Magistrates and Police Officers of the Districts of Thana, Jalgaon and Kolaba it, however, appeared that no concise statement of their case was necessary and accordingly at the preliminary meeting held on October 15, 1970 their concise statements were dispensed with. Twenty-one such concise statements aggregating to 106 pages were filed before the Commission, the parties who filed them being :

- (1) the Nagarik Hitarakshak Mandal, Bhiwandi,
- (2) the Maharashtra Prantik Hindu Mahasabha,
- (3) the Maharashtra Pradesh Jan Sangh,
- (4) the Rashtriya Utsav Mandal, Bhiwandi,
- (5) Baliram More, the Shakha Pramukh of the Bhiwandi Branch of the Shiv Sena,
- (6) the Jalgaon Janadhikar Saunrakshan Samiti,
- (7) Shantaram Shridhar Adivarekar and 13 other Hindus from Mahad,
- (8) Brahmachari Vishwanathji of Masurashram, Goregaon, Bombay,
- (9) the District Congress Committee, Thana,
- (10) S. B. Savant, Advocate, the then M.L.A. and now M.P. from Mahad,
- (11) the Maharashtra State Muslim League,
- (12) the Chief Organizer, Majlis Tameer-E-Millat, Maharashtra State Branch,

- (13) Mr. M. A. Rahim-Quraishi, Joint Secretary, All India Majlis Tameer-E-Millat,
- (14) the Bhiwandi Relief Committee,
- (15) the All India Sunni Jamiet Ulema Bhiwandi Relief Committee,
- (16) Hasan Shahabuddin Pansare and 14 other Muslims from Mahad,
- (17) the Jamiet-ul-Ulema-E-Hind, Jalgaon District,
- (18) Dy. S. P., V. R. Ghorpade, S. D. P. O., Chalisgaon Division, under suspension,
- (19) Police Inspector B. R. Sawant, Police Inspector-in-charge, Jalgaon City Police Station, under suspension,
- (20) Police Sub-Inspector S. P. Bhalerao of Jalgaon City Police Station, under suspension, and
- (21) Police Sub-Inspector K. B. Karhadkar of Jalgaon City Police Station, under suspension.

Parties and Counsel appearing before the Commission

5.10 Unlike in an ordinary litigation there is no *lis* before a Commission of Inquiry and, therefore, strictly speaking it is inappropriate to apply the word 'parties' to those persons, political parties and organizations who appear before a Commission and participate in its proceedings by filing affidavits, leading evidence and cross-examining witnesses produced by others. It is, however, convenient to refer to them as 'parties', and the words 'party' and 'parties' have been used throughout this Report in this sense. A number of persons, political parties and organizations aggregating to 79 appeared before the Commission and participated in its proceedings, all except two of them, through Counsel and Advocates. The number of Counsel and Advocates, who at one stage or the other of the Inquiry appeared before the Commission, including the two Counsel for the Commission, totalled 53. Some of these parties filed affidavits and statements of case with respect to the entire Inquiry while some were concerned only with the Inquiry relating to one or the other of the three areas which formed the subject-matter of the Inquiry. It will, therefore, be convenient to list the appearances under four headings, namely, (A) Appearances in the entire Inquiry, (B) Appearances in the Inquiry into the Bhiwandi disturbances, (C) Appearances in the Inquiry into the Jalgaon disturbances, and (D) Appearances in the Inquiry into the Mahad disturbances.

Appearances in the entire Inquiry

5.11 The following parties appeared in the entire Inquiry, all of them except one, being represented by Counsel and advocates as mentioned below :—

- (1) The Government of Maharashtra represented by Mr. Rajni Patel, Mr. V. D. Mengde and Mr. Y. S. Murudkar.
- (2) The Executive Magistrates and Police Officers of the Thana, Jalgaon and Kolaba Districts represented by Mr. M. A. Rane and Mr. J. V. Rajadhyaksha.

- (3) The Maharashtra Prantik Hindu Mahasabha represented by Mr. M. D. Pathak.
- (4) The Bharatiya Jan Sangh, Maharashtra Pradesh, represented by Mr. R. B. Jethmalani, Mrs. R. Jethmalani, Mr. S. G. Samant, Mr. S. B. Jaisinghani, Mr. Kumar Mehta, Mr. P. M. Pradhan and Mr. V. G. Dharap.
- (5) Brahmachari Vishwanathji of Masurashram, Goregaon, Bombay, at first represented by Mr. M. K. Joshi and Mr. H. R. Kabra who thereafter withdrew and then from January 12, 1971 by Mr. T. W. Wagle.
- (6) The Maharashtra State Muslim League represented by Mr. A. N. Banatwalla and Mr. M. A. Panna.
- (7) The Jamiet-ul-Ulema, Maharashtra, at first represented by Mr. Gulam Mohamed M. Zaveri and Mr. A. Y. Kazi both of whom with the Commission's permission withdrew their appearances on October 12, 1970, and from December 7, 1970 by Mr. A. G. Noorani and Mr. M. N. Chauhan and from August 1, 1972 also by Mr. V. Momin.
- (8) The Chief Organizer, Tameer-E-Millat, Maharashtra State Branch, Mohammadalikhani Isakhan, represented by Mr. S. A. Pathan.
- (9) Mr. M. A. Rahim-Quraishi, Joint Secretary, All India Majlis Tameer-E-Millat, who appeared in person.

Appearances in the Inquiry into the Bhiwandi disturbances

5.12 The following parties appeared only in the Inquiry relating to the Bhiwandi disturbances represented by Counsel and Advocates as mentioned below :—

- (10) The Nagarik Hitarakshak Mandal, Bhiwandi, represented at first by Mr. S. S. Kavalekar and Mr. K. V. Kanitkar. From November 23, 1973 Mr. Kanitkar ceased to appear on account of illness. On December 11, 1970 Mr. Kavalekar died in an unfortunate car accident and from December 15, 1970 the Nagarik Hitarakshak Mandal was represented by Mr. P. M. Pradhan and from September 17, 1971 also by Mr. G. R. Kunte.
- (11) The Rashtriya Utsav Mandal, Bhiwandi, represented at first by Mr. K. V. Kanitkar and, on account of Mr. Kanitkar's illness, from November 27, 1970 by Mr. D. M. Pinge and Mr. S. V. Nevagi.
- (12) Baliram Mahadeo More, Shakha Pramukh, Shiv Sena Bhiwandi Branch, represented by Mr. A. K. Chaphekar.
- (13) The District Congress Committee, Thana, represented by Mr. P. M. Hegde.
- (14) Deputy Superintendent P. J. Saraf represented separately with the Commission's permission with effect from August 9, 1972 by Mr. G. V. Limaye.
- (15) The Bhiwandi Relief Committee represented by Mr. A. A. Peerbhoy, Mr. Mustafa M. Shaikh and Mr. A. M. Salik and

- from August 21, 1970 also by Mr. M. N. Chauhan.
- (16) The All India Sunni Jamiet-ul-Ulema Bhiwandi Relief Committee represented by Mr. A. S. Zariwala and from April 6, 1971 also by Mr. A. M. Salik.
 - (17) Ibrahim Mohd. Hussein Maddu.
 - (18) Gulam Mohammad Momin, B.A.,
 - (19) Imamuddin Mohd. Amin Kharbe,
 - (20) Abdul Gafoor Abdul Latif *alias* Gafoor Murshad, and (21) Abdul Aziz Lal Mohamed, being accused Nos. 1, 8, 9, 14 and 15 in Criminal Case No. 610 of 1970 in the Court of the Judicial Magistrate, First Class, Bhiwandi (being Bhiwandi Town Police Station C.R. No. I. 177 of 1970), to whom notices were issued by the Commission to appear before it if they so desired, all five represented by Mr. A. M. Salik.
 - (22) Kamrujama Mohd. Murtaza Ansari, (23) Mohd. Umar Musa Memon, (24) Malik Gulam Hussein Aga, (25) Najim *alias* Najimuddin Mainuddin Faki and (26) Mustaq Ahmed Mohd. Hussein Momin, being accused Nos. 5, 10, 11, 12 and 16 in the said Criminal Case No. 610 of 1970, to whom notices were issued by the Commission to appear before it if they so desired, all five represented by Mr. H. A. Solkar.
 - (27) Abdul Khaliq Mohd. Ibrahim Momin, (28) Mohd. Jasim Abdul Rashid Sardar, (29) Sikandar Mehboobkhan *alias* Sikandar Leader, (30) Anis Ahmed Sikandar Patel and (31) Abdul Majid Mohd. Hanif Zamindar, being accused Nos. 2, 3, 4, 6 and 7 in the said Criminal Case No. 610 of 1970, to whom notices were issued by the Commission to appear before it if they so desired, all five represented by Mr. S. A. Pathan.
 - (32) Ramesh G. Sambhus, to whom notice was issued by the Commission to appear before it if he so desired, represented by Mr. M. D. Pathak.
 - (33) Purushottam Bhaskar Bhave, to whom notice was issued by the Commission to appear before it if he so desired, represented by Mr. M. D. Pathak.

Appearances in the Inquiry into the Jalgaon disturbances

5.13 The following parties appeared only in the Inquiry relating to the Jalgaon disturbances represented by Counsel and Advocates as mentioned below :—

- (34) The Jalgaon Janadhikar Saunrakshan Samiti, Jalgaon, represented by Mr. P. M. Pradhan.
- (35) The Central Relief Committee, Jalgaon, represented by Mr. J. S. Akarte and Mr. S. G. K. Hussaini. With the Commission's permission Mr. Akarte and Mr. Hussaini obtained their discharge on September 10, 1970 and October 15, 1970 respectively.
- (36) The Jamiet-ul-Ulema-e-Hind, Jalgaon District, represented at first by Mr. J. S. Akarte and Mr. S. G. K. Hussaini who with

- the Commission's permission obtained their discharge on the 10th September and 15th October 1970 respectively. Mr. H. I. Kalyani filed his Vakalatnama on behalf of this organisation on October 7, 1970 and on October 13, 1970 Mr. M. M. Shaikh and Mr. M. N. Chauhan also filed their joint Vakalatnama for this organization.
- (37) The Anjuman of Riot-Affected Muslims, Jalgaon, represented by Mr. Bashiruddin Ahmed.
 - (38) Sayyad Chand Sayyad Amir, (39) Sayyad Nazir Inayatulla and (40) Abdul Samad Shaikh Nadar, all three represented by Mr. A. M. Salik.
 - (41) Deputy Superintendent of Police V. R. Ghorpade, S.D.P.O., Chalisgaon Division, who was put under suspension pending an inquiry into his conduct during the communal disturbances in Jalgaon, represented by Mr. P. T. Patil and Mr. V. N. Ganpule. Mr. Ganpule obtained his discharge on April 6, 1972.
 - (42) Police Inspector B. R. Sawant, Inspector-in-charge, Jalgaon City Police Station, (under suspension), represented by Mr. P. T. Patil and Mr. V. N. Ganpule and from January 10, 1972 also by Mr. M. R. Deshpande and from November 14, 1972 also by Mr. S. G. Mandrekar.
 - (43) Police Sub-Inspector S. P. Bhalerao, attached to the Jalgaon City Police Station, (under suspension), represented by Mr. P. T. Patil and Mr. V. N. Ganpule and from January 10, 1972, also by Mr. M. R. Deshpande.
 - (44) Police Sub-Inspector K. B. Karhadkar, attached to the Jalgaon City Police Station, (under suspension), represented by Mr. P. T. Patil and Mr. N. H. Phadnis and from January 10, 1972 also by Mr. M. R. Deshpande.
 - (45) Police Sub-Inspector M. M. Walvekar, attached to the District Special Branch, Jalgaon District, (under suspension), represented by Mr. N. D. Hombalkar.
 - (46) Head Constable Dashrath Shripat Joshi, attached to the District Special Branch, Jalgaon District, (under suspension), represented by Mr. P. T. Patil and Mr. N. H. Phadnis and from January 19, 1972 also by Mr. V. N. Ganpule.
 - (47) Head Constable Girdhar Chiman Bendale, attached to the Jalgaon City Police Station, (under suspension), represented by Mr. V. N. Ganpule.
 - (48) The Jalgaon Municipal Council, Jalgaon, represented by Mr. D. D. Chaudhari.
 - (49) Mrs. Latifa Kazi represented by Mr. G. S. Shanbhag and Mrs. Ansuya Dutt.

Appearances in the Inquiry into the Mahad disturbances

5.14 The following parties appeared only in the Inquiry relating to the Mahad disturbances represented by Counsel and Advocates as mentioned below :—

- (50) Shantaram Shridhar Adivarekar, (51) Madhukar Sitaram Powar, (52) Dagdu Banu Parte, (53) Dnyaneshwar Sakharam Patekar, (54) Gangaram Hariba Gaikwad, (55) Vasant Arjun Dongare, (56) Rajaram Ramchandra Kadam, (57) Sadashiv Hari Gaikwad, (58) Rukhminibai Pandurang Gogawale, (59) Suryakant Mahadeo More, (60) Vasant Vinayak Bhagwat, (61) Gangabai Narayan Nivate, (62) Laxman Sitaram Davande, and (63) Sitabai Ramchandra Sali, all fourteen represented by Mr. A. K. Chaphekar.
- (64) Mr. S. B. Savant, at the relevant time the M. L. A. and later the M. P. from Mahad. At the hearings before the Commission relating to the Mahad disturbances Mr. Savant, who was examined as a witness by the Commission, appeared, however, in person with the Commission's permission.
- (65) Hasan Shahabuddin Pansare, (66) Ahmedsaheb Abdulkadir Dingankar, (67) Ibrahim Hasanmiya Pansare, (68) Dawood Abdulla Tarlekar, (69) Abdulgafoor Abdulkadir Kunke, (70) Abdulla Mohd. Hashim Gole, (71) Dawood Ismail Antulay, (72) Abdullakhan Shaikh Dawood Pathan, (73) Ibrahim Ahmed Taj, (74) Dr. (Mrs.) Qamar Shujauddin Kazi, (75) Abdulkadir Shaikh Hasan Kable, (76) Hasanmiya Gulam Mohiddin Pansare, (77) Shaikh Bapu Maple, and (78) Sirajuddin Ibrahim Palawkar, all fourteen represented by Mr. H. A. Solkar who applied for and obtained his discharge on October 23, 1972. These 14 persons were also represented on and from June 21, 1972 by Mr. A. M. Salik and four out of them, namely, Abdulkadir Shaikh Hasan Kable, Dawood Abdulla Tarlekar, Abdulgafoor Abdulkadir Kunke and Ahmedsaheb Abdulkadir Dingankar, also by Mr. A. H. Khatib on and from June 28, 1972.
- (79) Hussainmiya Abbas Kazi represented by Mr. A. M. Salik and later also by Mr. A. H. Khatib.

Nature of opposite interests

5.15 From the nature of the Inquiry the parties appearing before the Commission fell into five broad categories, namely,—

- (1) the Government of Maharashtra and the Executive Magistrates and Police Officers of the three Districts of Thana, Jalgaon and Kolaba ;
- (2) the Police Officers from the Jalgaon District who were suspended pending an inquiry into their conduct during the communal disturbances in Jalgaon ;
- (3) certain officers of the Special Investigation Squad, Bhiwandi and Jalgaon, against whom serious allegations were made by some of the parties ;
- (4) the parties representing the case of the Hindus, that is to say, according to whom the communal disturbances were provoked by the Muslims or according to whom the Muslims and not

the Hindus were responsible for these communal disturbances ; and

- (5) the parties representing the case of the Muslims, that is to say, according to whom the communal disturbances were provoked by the Hindus or according to whom the Hindus and not the Muslims were responsible for these communal disturbances.

5.16 For the sake of convenience and brevity the parties falling in the last two categories have been referred to in this Report as "the Hindu parties" and "the Muslim parties" respectively.

The mode of reference to parties in person

5.17 There were only two parties who appeared in person before the Commission, namely, Mr. M. A. Rahim-Quraishi, the General Secretary of the All India Majlis Tameer-E-Millat, and Mr. S. B. Savant, at the relevant time the M.L.A. and later the M. P. from Mahad. Their names, particularly that of Mr. S. B. Savant have also featured in the course of this Inquiry and Mr. Savant was also a witness before the Commission. In other respects they were in the same capacity as advocates appearing before the Commission. Mr. Savant himself is also an advocate. Accordingly, in the course of this Report any reference to them in their capacity as witnesses or persons whose conduct was under investigation is in the same way as to any other witness or person whose conduct was investigated by the Commission. In other respects they have been referred to in the Report in the same way as Counsel and advocates appearing before the Commission, namely, with the appellation 'Mr.' before their names.

Counsel for the Commission

5.18 With the concurrence of the Commission the Government appointed Mr. K. S. Cooper as Counsel and later Mr. D. R. Zaiwalla as Junior Counsel for the Commission. Both of them were of considerable assistance to the Commission.

5.18A The role of the Counsel for the Commission is to act as *amicus curiae*, to cross-examine witnesses on material points not touched or not properly pursued by the parties appearing before the Commission, to ensure that relevant documents come on the record and in their concluding arguments to present an unbiassed and dispassionate case to the Commission.

Inspection of affidavits and documents

5.19 It was inevitable that a large number of the affidavits filed before the Commission would be one-sided and full of exaggeration and at times replete with reckless allegations and accusations made without any foundation or basis. For a proper ascertainment of the facts by this Commission it was, therefore, necessary that each party should be aware of the case set up by the other parties so that it would be able to meet and where possible to controvert it. For this purpose it was

necessary that the parties should be permitted to take inspection of the affidavits filed by others before the Commission and the documents relied upon by them. It was, however, imperative that before submitting its own case to the Commission a party should not know the precise nature of the case which would be presented by others, lest it shape its case in the light thereof. To prevent this, at the very first preliminary hearing held on July 7, 1970 the Commission passed an order that only those parties who had filed their statements and affidavits would be at liberty to take inspection of the statements and affidavits filed by others.

5.20 The large number of affidavits filed before the Commission and the mass of documents relied upon by the parties, made the taking of inspection a Herculean task and had inspection to be taken in the ordinary way there would have been no possibility of the Commission commencing its regular hearings and recording evidence within a reasonable period. This difficulty was, however, solved by the Government voluntarily coming forward and offering to cyclostyle for distribution free of charge amongst all parties appearing before the Commission, copies of all affidavits, statements, concise statements of case, documents and the evidence which would be recorded each day. The Government did this work of cyclostyling and distribution of copies in record time and this generous gesture on the part of the Government greatly facilitated the work of the Commission and of all appearing before it and played an important part in the correct facts being established before the Commission.

Local inspection

5.21 Soon after its appointment the Commission visited for the purpose of local inspection each of the three areas which formed the subject-matter of the Inquiry. It thus went to Bhiwandi for local inspection on June 12, 1970, to Mahad on June 22, 1970 and to Jalgaon on July 13, 1970 returning to Bombay on July 14, 1970. After the hearings commenced the Commission also took local inspection of each of these three areas after notice to parties appearing before it and accompanied by Counsel and parties. It thus visited Bhiwandi on January 27, 1971 and February 24, 1973, and Mahad on May 27, 1972, June 5, 1972 and November 11, 1972. The local inspection at Jalgaon was taken on February 16, 1972 in the course of the sittings at Jalgaon. A list of the Commission's visits for local inspection to the places and sites of disturbances in Bhiwandi, Jalgaon and Mahad is given in Appendix C to the Report.

Publicity to Commission's sittings and directions

5.22 In order to give an opportunity to all persons desirous of appearing before the Commission a notification, dated June 25, 1970 giving notice of the first preliminary hearing before the Commission on July 7, 1970 was published in various newspapers set out in Appendix A to this Report. The notice, dated December 23, 1971 of

the hearings with respect to the Jalgaon disturbances and the notice, dated January 28, 1972 of the sittings of the Commission at Jalgaon on and from February 7, 1972 were also published in newspapers as mentioned in Appendix A. The notice of the hearings with respect to the Mahad disturbances was published by being put up on the notice-boards of the Revenue Offices in Mahad and of the Mahad Town Police Station. The directions given by the Commission at its first preliminary hearing were also notified by being put up on the notice-boards of the Revenue Offices and of the police stations at Bhiwandi and Mahad and on the notice-boards of the Collectorate and the Police Headquarters at Jalgaon. As mentioned in paragraph 5.1 above all the sittings of the Commission, except in the case of the two lady witnesses called in evidence by the Commission, were held in public and the Press was allowed to publish reports of the proceedings.

of the Commission

5.23 It was apparent from the very beginning—an opinion confirmed by the local inspection taken by the Commission soon after its appointment of the three areas which were the subject-matter of the Inquiry—that it would not only be inconvenient to all concerned, involving a great deal of unnecessary expense, but would also be highly undesirable that the hearings of the Commission and the recording of the evidence by it should be in any of these areas. Except at Jalgaon there was hardly sufficient accommodation for the staff of the Commission, the Counsel and Advocates appearing before it and those instructing them. Original records consisting of a large number of documents would have to be carried from place to place. There was no convenient hall in which the sittings could be held. The recording of the evidence in these areas would have also led to unnecessary tension amongst the local inhabitants, pressure would have been brought to bear upon the witnesses and several witnesses would probably have been either coerced into giving particular evidence or prevented from stepping into the witness-box, while in Bombay they would be free from such outside pressure and influence. Accordingly, except for the sittings during the period February 7, 1972 to February 18, 1972 which were held in the District Court building at Jalgaon, all the other sittings of the Commission were held at Bombay in the High Court building and the Commission is grateful to the then Honourable the Chief Justice of Bombay, Mr. S. P. Kotwal, for making available one of the court-rooms in the High Court building for this purpose. The Commission had to sit at Jalgaon in order to record the evidence of some witnesses who, it was informed, were unable to come to Bombay to give evidence.

5.24 There were in all 381 sittings of the Commission out of which 10 were at Jalgaon. The Commission held in all 6 preliminary hearings and 373 regular hearings; the two remaining hearings were adjourned on the application of Counsel for the Government and the Executive Magistrates and Police Officers supported by other parties. The opening addresses of Counsel and parties in person took 10 days. The recording

of evidence took 334 days. Final addresses took up the remaining hearings. A list of the dates on which the Commission held its sittings is given in Appendix D to the Report.

Procedure formulated for recording evidence

5.25 In order to prevent suborned witnesses from being brought before the Commission to give evidence shaped according to how the matter was developing in the course of hearings, only those persons who had filed affidavits before the Commission were permitted to give evidence except in a few instances where sufficient cause was made out for permitting a person who had not filed an affidavit to be called as witness. Similarly, only such documents as were referred to in the affidavits or in the list of documents filed by the parties were allowed to be put in evidence as exhibits except in certain cases where to adhere rigidly to this rule would have led to injustice. The Commission first recorded the evidence on the general aspects of the Inquiry followed by the evidence relating to the Bhiwandi disturbances. With the consent of all parties appearing before the Commission the recording of the Bhiwandi evidence was interrupted and the evidence with respect to the Jalgaon disturbances followed by evidence with respect to the Mahad disturbances was taken and thereafter the evidence with respect to the Bhiwandi disturbances was concluded.

5.26 All the parties appearing before the Commission, including the Government, were agreed that the Government should lead its evidence first, followed by the Executive Magistrates and the Police Officers and that the witnesses on behalf of the Muslim parties would then be called in evidence followed by those on behalf of the Hindu parties, though in certain instances this order was varied by reason of the nature of the evidence to be recorded. Where a witness had filed an affidavit, it was treated as part of his examination-in-chief. Since there are no opposing parties in an Inquiry before a Commission the use of the terms 'examination-in-chief', 'cross-examination' and 're-examination' applied to the different stages of the evidence of a witness examined before a Commission is inappropriate. As, however, from the nature of the matters which this Commission had to inquire into parties with opposite and conflicting interests appeared before it, the questions put to each witness did assume in substance the shape of an examination-in-chief, cross-examination and re-examination and these three well-accepted and well-understood terms have been used for the sake of convenience throughout this Report and in the course of evidence for questions in the nature of examination-in-chief or cross-examination or re-examination put to witnesses. It often happened that certain parties supported or substantially supported the case of a party calling a witness, but at times the case of a supporting party on certain points was adverse to or conflicting with the case of the party calling a witness. The procedure evolved for examination of witnesses, therefore, was that a witness was first examined-in-chief by the party calling him, thereafter other parties

who supported or substantially supported the case of that party were allowed to examine that witness with a view to supplement his examination-in-chief, if that party so desired, and where the case of any such supporting party in respect of certain points was adverse to or conflicting with the case of the party calling the witness, he was permitted to cross-examine that witness on such points only. Thereafter the witness was cross-examined by other parties whose case was adverse to or in conflict with that of the party calling the witness. The remaining parties were then permitted to cross-examine the witness, the Counsel for the Executive Magistrates and the Police Officers and the Counsel for the Government being allowed to cross-examine last in the case of private witnesses. After the cross-examination of a witness was over the Counsel for the Commission put questions to him and, if necessary, the witness was permitted to be re-examined by the party calling him. The Commission, of course, put questions to witnesses at any stage of their evidence.

5.27 For arriving at its findings the Commission has not relied upon those affidavits the deponents of which did not step into the witness-box, because the statements made in such affidavits remained untested by cross-examination. Where, however, such affidavits contained any statement against the interest of the party to which such deponent belonged or amounted to an admission against such party, those statements have been referred to and relied upon in the Report.

5.28 In the case of documentary evidence, except in a few cases where the genuineness of a document or part thereof was challenged or for some other reason it was necessary to have the original document on the record, by consent formal proof of documents was dispensed with and in a large number of cases copies of documents or their English translations, where documents were in vernacular, were marked as exhibits. The originals were, however, produced before the Commission and returned thereafter with an endorsement made thereon that the copy or translation, as the case may be, was put in evidence and exhibited before the Commission. The dispensing of formal proof of documents saved considerable time and the marking of copies and translations as exhibits prevented the records and files of different departments from being disrupted.

Witnesses

5.29 The recording of oral evidence by the Commission took 334 days. The Commission recorded the evidence of witnesses called by the parties as also the evidence of those persons who appeared before the Commission in pursuance of notices issued by the Commission to them setting out the allegations made against them and giving them an opportunity of appearing before the Commission and of being heard by it and leading their evidence. The Commission also summoned and examined persons whose evidence it considered material for ascertaining the facts as also those who were not represented and desired to give evidence.

5.30 In all the Commission recorded the evidence of 377 witnesses. Out of these witnesses, the Commission itself examined 47 witnesses ; the Government examined in all 15 witnesses ; the Executive Magistrates and Police Officers of the three concerned Districts examined 118 witnesses ; the Bharatiya Jan Sangh examined 2 witnesses ; the Shiv Sena examined 1 witness ; the Nagarik Hitarakshak Mandal examined 55 witnesses ; the Jalgaon Janadhikar Saunrakshan Samiti examined 11 witnesses ; the Maharashtra State Muslim League examined 3 witnesses ; the All-India Majlis Tameer-E-Millat examined 12 witnesses ; the Jamiet-ul-Ulema, Maharashtra State, examined 2 witnesses ; the All-India Sunni Jamiet Ulema examined 3 witnesses ; the Bhiwandi Relief Committee examined 70 witnesses ; the Jamiet-ul-Ulema, Jalgaon, examined 24 witnesses ; the Muslims from Mahad appearing before the Commission examined 3 witnesses ; and the suspended police officers examined 11 witnesses. A list of the witnesses examined in this Inquiry is given in Appendix E to the Report. Most of these witnesses had filed affidavits before the Commission. Such affidavits were treated as part of their examination-in-chief. The number of pages of affidavits thus made part of the deposition totalled 1,669, while the oral evidence recorded by the Commission ran into 3,980 pages. The entire record of evidence thus aggregated to 5,649 pages.

5.31 In order to make it easily ascertainable by which party a particular witness was called, certain code letters were devised for the witnesses examined by the parties. Code letters were also given to witnesses examined by the Commission. These code letters are :—

<i>Witnesses examined by</i>	<i>Code letters</i>
(1) the Commission	C.W.
(2) the Government of Maharashtra	G.W.
(3) the Executive Magistrates and Police Officers of the Districts of Thana, Jalgaon and Kolaba.	P.W.
(4) the Bharatiya Jan Sangh	J.S.W.
(5) the Shiv Sena	S.S.W.
(6) the Nagarik Hitarakshak Mandal	N.H.W.
(7) the Jalgaon Janadhikar Saunrakshan Samiti	J.J.S.W.
(8) the Maharashtra State Muslim League	M.L.W.
(9) the All India Majlis Tameer-E-Millat	M.T.M.W.
(10) the Jamiet-ul-Ulema, Maharashtra State	J.U.(M.)W.
(11) the All India Sunni Jamiet-ul-Ulema	S.J.U.W.
(12) the Bhiwandi Relief Committee	B.R.W.
(13) the Jamiet-ul-Ulema, Jalgaon	J.U.(J.)W.
(14) the Muslims from Mahad appearing before the Commission.	M.M.W.

and

(15) the Police Officers of the Jalgaon District who were suspended for their conduct during the communal disturbances.	S.P.O.W.
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5.32 From the large number of witnesses that were to be examined in the Inquiry, had parties been permitted to examine witnesses as

and when they chose, the result would have been that the other parties would not have been able to cross-examine such witnesses effectively. Accordingly, the Commission directed the parties to submit periodically in advance a list of witnesses they proposed to examine in the next two or three days, thus enabling all the other parties to be ready for those hearings.

Opportunity of being heard to persons likely to be prejudicially affected

5.33 Though sections 8B and 8C of the Commissions of Inquiry Act were not on the statute-book when the Commission commenced its proceedings, the Commission acted upon the same principles as were subsequently enacted in the said sections and issued notices to several persons setting out the allegations made against them during the course of the hearings and giving them an opportunity of appearing before the Commission and being heard by it and of leading their evidence. The Commission thus issued notices in all to 228 persons, namely, the 223 accused persons in Criminal Case No. 610 of 1970 in the Court of the Judicial Magistrate, First Class, Bhiwandi (being Bhiwandi Town Police Station C.R. No. I/177 of 1970), popularly known as the Bhiwandi Conspiracy Case, the Shiv Sena Chief Bal Thackeray, Dr. Dattatraya Pitambar Mehta *alias* Dr. Baburao Mehta, Surendranath Govind Tipnis *alias* Surbha Tipnis, Purushottam Bhaskar Bhave and Ramesh Sambhus. Out of the accused persons in the Bhiwandi Conspiracy Case fifteen appeared through Counsel while the others did not appear. Out of the remaining five persons to whom notices were issued only Bal Thackeray chose not to appear before the Commission. So far as Ramesh Sambhus was concerned each time his turn came to step into the witness-box his Counsel Mr. M. D. Pathak applied for an adjournment which was granted. Ultimately the Commission passed an order on October 11, 1972 that if before the recording of the entire evidence before the Commission was completed, Ramesh Sambhus was present his evidence would be recorded at a convenient stage. Ramesh Sambhus, however, did not thereafter at any time choose to remain present or to step into the witness-box.

5.34 A list of persons to whom notices as aforesaid were issued is given in Appendix F to the Report.

5.35 A number of allegations were made against the officers of the Special Investigation Squad, Bhiwandi, and their immediate superiors. When the evidence relating to this part of the Inquiry was being led, the officers concerned were present and they were orally informed that they had the right to step into the witness-box and controvert such allegations and to be represented separately, if they so desired. None of them, however, except Detective Inspector A. G. Lankar, availed themselves of this opportunity.

Documentary evidence

5.36 A large number of documents were produced in evidence and exhibited before the Commission, in some cases a group of documents

being marked collectively as one exhibit. The total number of exhibits produced before the Commission was 2,126 ; 99 in the evidence of witnesses examined by the Commission ; 400 from the possession of the Government ; 1,533 from that of the Executive Magistrates and Police Officers of Thana, Jalgaon and Kolaba Districts ; 1 from that of the Jan Sangh ; 10 from that of the Shiv Sena ; 1 from that of the Hindu Mahasabha ; 13 from that of the Nagarik Hitarakshak Mandal ; 5 from that of the Jalgaon Janadhikar Saunrakshan Samiti ; 2 from that of the Maharashtra State Muslim League ; 4 from that of the All India Majlis Tameer-E-Millat ; 3 from that of the All India Sunni Jamiet-ul-Ulema, 9 from that of the Jamiet-ul-Ulema, Maharashtra State, 20 from that of the Bhiwandi Relief Committee ; 6 from that of the Jamiet-ul-Ulema, Jalgaon ; 12 from that of the Muslims of Mahad appearing before the Commission ; 1 from that of the suspended Police Officers of the Jalgaon District and 7 from that of the Jalgaon Municipal Council.

5.37 As in the case of witnesses, so in the case of exhibits code letters as shown in the table below were given to each exhibit in order to make it easily ascertainable from whose possession that particular document had come :—

<i>Documents produced from the possession of</i>	<i>Code letters</i>
(1) The Government of Maharashtra ...	G
(2) the Executive Magistrates and Police Officers of the Districts of Thana, Jalgaon and Kolaba.	P
(3) the Bharatiya Jan Sangh ...	JS
(4) the Shiv Sena ...	SS
(5) the Hindu Mahasabha ...	HMS
(6) the Nagarik Hitarakshak Mandal ...	NH
(7) the Jalgaon Janadhikar Saunrakshan Samiti.	JJS
(8) the Maharashtra State Muslim League.	MM
(9) the All India Majlis Tameer-E-Millat.	MTM
(10) the Jamiet-ul-Ulema, Maharashtra State.	JU(M)
(11) the All India Sunni Jamiet-ul-Ulema ...	SJU
(12) the Bhiwandi Relief Committee ...	BR
(13) the Jamiet-ul-Ulema, Jalgaon ...	JU(J)
(14) the Muslims from Mahad appearing before the Commission.	Mh. Ind. and also MM
(15) the Police Officers of the Jalgaon District who were suspended for their conduct during the communal disturbances, and	SPO
(16) the Jalgaon Municipal Council ...	JMC

The documents produced from the possession of or during the course of evidence of witnesses examined by the Commission were given serial numbers without any code letters.

5.38 A list of documents exhibited before the Commission is given in Appendix G to this Report.

5.39 A considerable saving of time resulted from the parties agreeing to dispense with the formal proof of documents except in cases where the genuineness of a document or part thereof was in question or for some other reason it was necessary to have the original on the record. Similarly, in order not to disrupt files and records of different departments, with the consent of parties in a large number of cases copies of documents or, where documents were in vernacular, the English translations thereof, were taken on the record instead of the originals. The originals were, however, produced at the hearings and returned thereafter with an endorsement made thereon that the copy or translation, as the case may be, was put in evidence before the Commission and marked as an exhibit.

5.40 The exhibits consisted of printed, typed and handwritten documents, as also maps, sketches, registers, diaries, log-books, photographs and photostat copies. The approximate total number of printed pages exhibited was 326 ; of cyclostyled pages 6,584 ; of typed pages 703 and of handwritten pages 4,647. In all 32 photographs, 3 photostat copies, 31 maps and sketches and 29 registers, diaries, log-books, etc., were exhibited.

5.41 A large number of reports made by police and intelligence officers were produced before the Commission, many of them of meetings held by political parties and organizations. Such reports contained either the substance or the verbatim transcripts of such speeches. Except a few the speakers whose speeches were reported belonged to parties and organizations represented before the Commission. In order, however, not to take up unnecessary time in proving the correctness of the reports of speeches made by those who were so represented, the Commission passed an order on May 14, 1971 directing parties appearing before it to state in writing which of such reports they admitted and if they or any of them did not admit the correctness of any report, to state in writing (1) whether they did not admit that a particular speech was made, or (2) whether they admitted that a particular speech was made but did not admit that the said speech or its substance had been correctly reproduced in the particular report and in such event to give the particulars of such incorrect reproduction, such as whether a portion of the said speech was not made or a portion thereof or its substance had not been correctly reproduced and, if so, in what particulars and to set out what the correct reproduction should be, or (3) whether they admitted that a particular speech was made but claimed that a portion of it had been omitted from a particular report and, if so, to set out the portion so omitted. The Commission also passed directions that a party failing to file such statement would be deemed to have admitted the correctness of the contents of the reports containing such speeches. Only one party appearing before the Commission, namely, the All India Majlis Tameer-E-Millat, filed a statement in writing before the Commission

contesting the correctness of the reports of some of the speeches made by its leaders. None of the other parties filed any statement and thereby admitted the correctness of the said reports.

Written arguments

5.42 The opening addresses before the Commission of Counsel and parties in person were oral save that the Counsel for the Government filed typed copies of his opening address on each aspect of the Inquiry. So far as the final arguments were concerned the process of hearing oral arguments on so voluminous a record as the one before the Commission would have been so time-consuming that the Commission requested the parties to file written arguments and if necessary to clarify or supplement them by oral arguments. Accordingly, the parties filed written arguments on all aspects of the case, the total number of typed pages of such arguments, including the opening addresses of Counsel for the Government, being 3,298. This considerably curtailed the time required for oral arguments.

Appreciation of Counsel and parties in person

5.43 The Commission is greatly indebted not only to all Counsel and advocates appearing before it but also to the parties who appeared in person, namely, Mr. S. B. Savant, at first the M. L. A. and later the M. P. from Mahad, and Mr. M. A. Rahim-Quraishi, the Joint Secretary of the All India Majlis Tameer-e-Millat, for their courtsey and the assistance they have rendered to the Commission. But for the courtsey shown by them to the Commission and to one another and the sense of camaraderie which prevailed amongst Counsel and the parties in person, the hearings before the Commission would have been marred by a number of ugly scenes and but for the hard work put in and the assistances rendered to the Commission by them, the work of the Commission would have been much more arduous.

Co-operation extended by the Government

5.44 After the Commission issued its notification inviting affidavits the Secretary to the Commission by his letter, dated June 20, 1970 intimated to the Home Secretary, Government of Maharashtra, that the Commission would welcome a written statement from the Government on all the facts and circumstances relating to the subject-matter of the Inquiry and on any other matters germane to the Inquiry and which the Government would like to place before the Commission. By his reply, dated June 26, 1970 the Deputy Secretary to the Government of Maharashtra, Home Department, stated that the District Officers of Thana, Jalgaon and Kolaba would be submitting their statements to the Commission on all the facts and circumstances relating to the subject-matter of the Inquiry and the Government, therefore, did not deem it necessary to file any written statement at that stage. Later, however, the Government appeared before the Commission through Counsel and filed the affidavits of various officers. The Government

also led the evidence of fifteen witnesses including of those officers who had filed affidavits.

5.45 During the course of the Inquiry the Government extended complete co-operation to the Commission. It placed before the Commission all confidential files and papers leaving it to the Commission to bring on the record such of them as it considered relevant and material to the Inquiry. The Government did not claim privilege in respect of any document which could only have been the result of a decision taken at the highest level and it was at the instance of the Commission that a claim for privilege in respect of two documents was made. The Government also, voluntarily and of its own accord, cyclo-styled all affidavits and documents and, during every day on which the evidence was recorded, the notes of evidence and documents marked as exhibits and distributed such cyclostyled copies free of charge to all the parties appearing before the Commission. But for this gesture on the part of the Government the parties would not have been able to get copies made of the voluminous record running into thousands of pages nor would it have been possible for the office of the Commission, with its very limited staff, to get copies made and the parties would have been seriously handicapped in participating effectively in the Inquiry. Apart from any questions relating to the Government which have arisen during the course of the Inquiry with respect to the subject-matter thereof, the Commission must express its appreciation of the co-operation extended in all matters by the Government to facilitate the holding of the Inquiry and the ascertainment of the true facts by the Commission.

Co-operation extended by the Police Department

5.46 In some of the affidavits filed before the Commission and in the course of the hearings before it very serious allegations were made against some police officers and constables. Irrespective of this position the Inspector-General of Police and the Deputy Inspector-General of Police (C.I.D.) (Int.) and their respective offices extended every co-operation to the Commission and submitted to it for its perusal the files and documents, however confidential, which the Commission desired and did not withhold from it any document or file even though it would have adversely affected the case of the Police.

5.47 During the course of the Inquiry into the Bhiwandi disturbances voluminous records of original documents used to be brought every day for the hearings and but for the complete familiarity with this record acquired and shown by a team of officers in charge thereof for the purpose of the hearings before the Commission, it would have required considerable time to find any particular document and thus the duration of the Inquiry would have been greatly protracted. This team of officers was headed by Dy.S.P. Murlidhar Kisanrao Diwate who at the time of the disturbances was S.D.P.O., Bhiwandi, and consisted of (1) P.S.I., Yashwantsingh Ganpatsingh Pardeshi of

Local Intelligence Branch, Thana, (2) H.C., Vishnu Bhau Madhav, Buckle No. 2276, attached to the Nizampura Police Station, Bhiwandi, (3) H.C., Shivaji Ramchandra Yadav, Buckle No. 2673, attached to the Bhoiwada Police Station, and (4) P.C., Bansilal Supdu Sonar, Buckle No. 3894, attached to the Local Crime Branch, Thana.

5.48 I must also record my appreciation of the co-operation given by Assistant Inspector K. S. Majigud of the Greater Bombay Police, an officer of exceptional ability and intelligence, who was assigned on special duty to the Office of the Inspector-General of Police in connection with the work of the Commission. I must also make particular mention of Sub-Inspector V. N. Mehendale of Special Branch (I), C.I.D., Bombay, who was in charge of the security arrangements for the Commission and carried out his duties very faithfully and efficiently.

A statistical summary

5.49 The following statistical summary will convey some idea of the amount of labour involved in this Inquiry :—

Total number of affidavits filed before the Commission	637
Total number of pages of affidavits	4,032
Total number of affidavits filed before the commencement of regular hearings	590
Total number of affidavits permitted to be filed during the course of hearings	47
Total number of concise statements of case filed before the Commission	21
Total number of pages of concise statements of case	106
Total number of parties who appeared in the Inquiry	79
Total number of Counsel and advocates who appeared in the Inquiry	53
Total number of times local inspection was taken by the Commission	9
Total number of sittings held by the Commission	381
Total number of effective hearings	379
Total number of preliminary hearings	6
Total number of regular hearings	373
Total number of days on which oral evidence was recorded	334
Total number of witnesses examined before the Commission	377
Total number of pages of oral evidence including affidavits taken in evidence	5,649
Total number of pages of affidavits taken in evidence	1,669
Total number of pages of oral evidence recorded by the Commission	3,980
Total number of persons to whom notices were issued by the Commission to appear before it and meet the allegations made against them, if they so desired	228

Total number of Exhibits produced before the Commission	...	...	...	2,126
Total number of maps and sketches exhibited before the Commission	...	...	...	31
Total number of photographs exhibited before the Commission	...	...	...	32
Total number of photostat copies exhibited before the Commission	...	...	...	3
Total number of registers, diaries, log-books, etc., exhibited before the Commission	...	...	...	29
Approximate total number of printed pages exhibited before the Commission	...	...	...	326
Approximate total number of cyclostyled pages exhibited before the Commission	...	...	...	6,584
Approximate total number of typed pages exhibited before the Commission	...	...	...	703
Approximate total number of handwritten pages exhibited before the Commission	...	...	...	4,647
Total number of pages of written arguments filed by Counsel and parties in person	3,298

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PART II

COMMUNAL DISTURBANCES
AND
MEASURES TO COMBAT THEM

CHAPTER 6
THE ANATOMY OF COMMUNAL DISTURBANCES

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- 6.11 The common themes of communal propaganda.
- 6.13 The misuse of history.
- 6.15 The causes of communal disturbances.
- 6.17 The “moral justification” for communal riots.

CHAPTER 6

THE ANATOMY OF COMMUNAL DISTURBANCES

Communalism and communal disturbances

6.1 A communal disturbance is the product of communalism, and its parents are communal tension and a communal incident. The word 'communalism' has acquired a special meaning in India and stands for the feelings of antagonism and distrust prevailing between different religious communities in the country, particularly between the Hindus and the Muslims, and the Concise Oxford Dictionary defines 'communal' in relation to India as "of the antagonistic religious and racial communities in a district". Communalism, casteism and provincialism have today become deeply rooted in the social fabric of India and the unhealthy effects of this disease are to be found in almost every walk of life. As was observed by the Prime Minister, Mrs. Indira Gandhi, on June 20, 1968, at the first meeting of the National Integration Council held at Srinagar (Ex. G 1) :

"The greatest menace which our country faces today is that of communalism. After twenty years of independence and at a time when we had thought that this problem was more or less solved, once again communal clashes are occurring in different parts of the country.

"The second menace is that of provincialism, regionalism or parochialism. I believe that this is evoked by the same sentiments which are behind communalism ; in fact, it is an extension of the same sort of feelings.

"Another serious danger to the national integration and perhaps one of the causes of the other menaces which I mentioned is the persistence of inequalities. In law and in theory the discriminations have been abolished, but opportunities have not been growing as fast as the aspirations of the backward classes and tribes, minorities and other such groups.

"Another factor which can unite or create barriers is that of language."

6.2 There are a large number of towns and villages where Hindus and Muslims have lived together for centuries in amity and goodwill participating in each other's religious festivals and respecting each other's customs and traditions. There were, of course, wars between Muslim and Hindu rulers as there were wars between two Hindu rulers or two Muslim rulers and there were undoubtedly Muslim kings who were religious fanatics and bigots who desecrated temples and

destroyed idols. There were also Muslim invaders and rulers whose armies sacked and looted cities and abducted and raped women ; but sack of cities and rape of women have been the normal calamities of warfare, for throughout the centuries the soldiery has considered loot and women to be the spoils of war. At the same time a number of instances are not wanting where a Hindu or a Muslim king had soldiers and administrators of the other community in his service, at times holding the highest posts. Many a Muslim king had Hindu ministers at his court and Hindu chieftains commanded his armed forces, while Hindu armies were at times led into battle by Muslim generals. Hindu and Muslim rulers entered into alliances irrespective of the race, religion or community of their allies, depending purely on the political expediency of the moment. Hindus revered Muslim 'Pirs' famed for their religious and spiritual sanctity and Muslims in their turn venerated Hindu saints and often took a vow to them for the fulfilment of their wishes, a feature not yet wholly absent in India. The situation changed with the advent of the British and the realization by them that the surest way to maintain their power in a country so vast and of which the population so outnumbered theirs was to divide the people into antagonistic camps, distrustful of one another. The British policy of 'divide and rule', and the playing off of one communal party against the other by the imperial power and the feelings of mutual distrust and suspicion thus generated manifested itself, amongst other things, in communal riots all over the country culminating in the massacres and atrocities which attended upon the Partition of India. The withdrawal of the British from India, however, did not put an end to this evil. The antagonistic feelings generated over the years had become too deeply rooted to be eliminated at one stroke and even after 1947 communal riots continued to take place in India, very often instigated by leaders of both these communities for their own political gain. Elections were fought on communal lines and communal propoganda became the common feature of electioneering campaigns. The period between 1950 and 1960, however, was a comparatively quiet period, but in the sixties the graph of communal riots rose sharply. Alarmed at the resurgence of these disruptive tendencies, in 1962 the Government of India called a conference of the First National Integration Council where certain decisions were taken. The attack on India's borders by China in that year, however, brought about a tremendous upsurge of national solidarity which led the Government into a feeling of complacency that the communal problem had been solved in the face of a great national emergency and the National Integration Council was thereupon dissolved. This lull was, however, of brief duration and communal riots again broke out all over the country with increased violence until the Government of India called another conference of the National Integration Council at Srinagar in June 1968.

6.3 If we were merely to take a surface-view of the bare facts of any riot, it would appear that the riot was caused by an incident so

insignificant that we would stand amazed how such a trifling matter could have led to so much arson, looting and murder. It, however, does not require any deep thinking to know that this incident was not the real cause of the riot but was merely the result of something else which concretely expressed itself in the riot. The basic cause of all communal disturbances is the communal atmosphere pervading the country and the communal tension built up between the two communities. This communal atmosphere provides a ready-tilled soil for communal-minded people to sow seeds of communal hatred and nurture them until the bitter harvest of a communal riot is reaped. Communal philosophy and ideas constantly propagated in communal papers and journals and from communal platforms have so poisoned the minds of the ignorant sections of the two communities and even of certain sections of the educated and literate class that every action of a member of the opposite community is looked upon with distrust and suspicion and the most uncharitable construction placed upon it. In some cases officials whose duty it is to hold the balance evenly between the two communities are not found free of this taint. Rumours, spread deliberately or out of a love of rumour-mongering, play an important role in rousing communal passions; for it is easy to start a rumour and easier to multiply it, but almost impossible to check it. The analytical mind is rarely brought to bear on the rumour and rumours are,

“Not weigh’d or winnow’d by the multitude,

But swallow’d in the mass, unchew’d and crude.”

A rumour most effective to incite communal passions to a frenzy is that a woman of one community has been molested, raped or abducted by a member of the other community or that a cow has been slaughtered by a Muslim on a public road or near a Hindu locality—rumours, which, though sometimes true, are in quite a few instances, as the evidence before the Commission shows, untrue and baseless. Once a riot starts, the vast anonymity that a mob provides brings out the beast in man, turning even decent, law-abiding citizens into savages, blinded by hate, overpowered by the lust to kill and destroy, and indulging in acts they would be horror-stricken even to contemplate in cold blood. Violence begets violence and “civil blood makes civil hands unclean”. Anti-social elements and hooligans, out for loot and plunder, soon take over and a town or city is left, battered and bruised, to lick its wounds and slowly limp back to normalcy. The disease is deep-rooted and the treatment can only be of long and patient duration.

Communal tension

6.4 A place where communal tension prevails is considered by the authorities as a communally sensitive spot. Communal tension does not spring up overnight. It is built up over a period of time, suckled on communal propaganda, nursed on communal incidents and fed on rumours, until men’s hearts are filled with hatred and their thoughts

turn to violence. The architects and builders of communal tension are the communalists and a certain class of politicians—those all-India and local leaders out to seize every opportunity to strengthen their political position, enhance their prestige and enrich their public image by giving a communal colour to every incident and thereby projecting themselves in the public eye as the champions of the religion and rights of their community; figures as odious in their self-seeking as the communalists are tragic in the fanatical sincerity of their communal conviction and hatred.

Communal incidents

6.5 A communal incident is one which creates or aggravates communal tension in a particular locality. A large number of such incidents in the three areas which fall within the purview of this Inquiry have been brought on the record of the Commission. Most of these incidents are ordinary crimes in which the offender and the aggrieved party belong to opposite communities and some are so insignificant that no sensible person would take serious notice of them. Very often it is only a case of an ordinary affray between a Hindu and a Muslim, both not infrequently belonging to the underworld. These affrays are often the result of personal animosity, gang rivalry or a falling out on the question of division of spoils. Such incidents would have remained buried in the crime registers of police-stations but for the great importance given to them by local political leaders eager to seize upon any matter, however unrelated to the communal aspect, in order to fan communal passions merely for the sake of increasing their personal power and prestige amongst the members of their own community. Such incidents, therefore, form part of the communal history of a place and will have to be considered while dealing with the communal history of Bhiwandi, Jalgaon and Mahad.

Communal writings and speeches

6.6 Communal writings and speeches are the two main vehicles of communal propaganda.

6.7 A communal writing is any book, article or report in a newspaper or journal, pamphlet, leaflet, handbill, placard, banner or other written matter or drawing or cartoon or other visible representation, tending to create or promote disharmony or feelings of hatred, enmity or ill-will between the two communities or to create or promote in members of one community feelings of hatred, enmity or ill-will towards the members of another community and published or circulated with the intent that it should create or promote such disharmony or feelings or with the knowledge that it is likely to create or promote such disharmony or feelings. It is in this sense that the expression "communal writing" and other cognate expressions have been used in this Report.

6.8 A communal speech is a speech tending to create or promote disharmony between two communities or to create or promote in

members of one community feelings of hatred, enmity or ill-will towards members of another community, made either at a public or private meeting, with the intent that it should create or promote such disharmony or feelings or with the knowledge that it is likely to create or promote such disharmony or feelings. It is in this sense that the expression "communal speech" and other cognate expressions have been used in this Report.

6.9 A speech which incites the feelings of Hindus against Muslims or of Muslims against Hindus in a communal speech, while the report in a newspaper of such a speech, with the intent or knowledge that the substance of it should get wider currency and find larger fields for communal disharmony or hatred or enmity or ill-will, would be a communal writing. For the purposes of the tests laid down in paragraphs 6.7 and 6.8 above it is immaterial whether or not the communal writing or speech is one the writing or making of which constitutes an offence under section 153A I.P.C.

The communal mind

6.10 The communal writings and reports of speeches exhibited before the Commission, the contents of some of the affidavits filed before it and the oral evidence of some witnesses show how bigoted, fanatical, narrow-minded and full of hate the communal mind is, whether it be the Hindu or the Muslim communal mind. Such persons are unable to see anything good in the other community. They decry its religion, customs and culture and attribute the most heinous acts and the worst motives to everything that a member of the other community does. Often sincere in their convictions and beliefs they are fanatical in their hatred of the other community. They may be devoted husbands, loving fathers and exemplary citizens so far as members of their own community are concerned, but there is no sympathy or charity in their hearts nor any tolerance for members of the other community and the qualities of 'give and take' and 'live and let live' have no place in their dealings with them. How one-sided their minds are can be seen from the fact that according to some communal-minded Hindu witnesses there are no Hindu communal parties but only Muslim communal parties, these, according to them, being the Muslim League, the Jamaat-E-Islami, the Majlis-E-Mushavarat and the All-India Majlis Tameer-E-Millat; while according to some communal-minded Muslim witnesses there are no communal Muslim parties but only Hindu communal parties, these, according to them, being the R.S.S., the Hindu Mahasabha, the Bharatiya Jan Sangh and the Shiv Sena.

The common themes of communal propaganda

6.11 Communal propaganda is a powerful weapon in the armoury of the communalist. The writings and speeches exhibited before the Commission show that certain themes are much favoured for communal propaganda because experience has shown that they possess

greater potentialities for inciting and rousing communal passions. The more important of these themes are—

- (1) the decrying of the religion, customs and traditions of the other community ;
- (2) the charge that Muslims, with a few exceptions, are anti-national and harbour extra-territorial loyalty to Pakistan ;
- (3) the appeasement of the Muslims by the Congress Government with a view to secure their votes by upholding their so-called unreasonable demands in detraction of the rights of the Hindus ;
- (4) the atrocities committed by the Muslims at the time of the Partition of India ;
- (5) the atrocities committed by Pakistan against Hindus residing in that country ;
- (6) the destruction and desecration of Hindu temples and idols of Hindu gods by Muslim rulers in the past ;
- (7) the forcible conversion of Hindus to Islam by Muslim rulers ;
- (8) the claim that had Shivaji not lived, all Hindus in India would have been forcibly converted to Islam ;
- (9) an exhortation to the Muslims that as they were all converted to Islam from Hinduism, they should return to the Hindu fold ;
- (10) the charge that the Muslims alone are responsible for all communal disturbances which have taken place in the country ;
- (11) the charge that a Muslim has publicly slaughtered a cow ;
- (12) the charge that a Muslim has desecrated or offered insult to a Hindu temple or the idol of a Hindu god ;
- (13) the charge that a Muslim has kidnapped or raped a Hindu girl or outraged her modesty ;
- (14) advocating the sending away of all Muslims to Pakistan ;
- (15) a claim that India is the land of the Hindus only ;
- (16) advocating the Indianization of Muslims, by which is really intended the Hinduization of Muslims ;
- (17) an exhortation to the Hindus to unite and stand up to and fight the Muslim menace ;
- (18) the charge that some Muslim or Muslims have shouted pro-Pakistani slogans ;
- (19) applauding and praising for their valour and courage the Hindus of a town or city where communal disturbances had broken out and in which the Muslims had suffered more ;
- (20) the charge that the Hindu majority is out to crush the Muslim minority and to wipe out its religion, language and culture ;
- (21) the charge that the Muslims being in a minority can get no justice or fair play in India ;
- (22) the charge that since the Hindus are in a majority, all governments in India are Hindu governments and will not protect the Muslim minority against the oppression of the Hindus ;

- (23) the charge that the Muslims, being in a minority, are discriminated against in service, employment and other matters ;
- (24) the charge that the grievances and complaints of the Muslims are not heeded by the administration or the Police of which the majority consists of Hindus ;
- (25) the charge that the Muslims are being persecuted in India ;
- (26) the charge that a Muslim cannot get any redress in India ; and
- (27) an exhortation to the Muslims that as the Government and the Police will not protect them, they should unite and fight the Hindus in self-defence and that the best form of defence is attack.

6.12 None of the charges levelled by the two communities against each other is wholly imaginary. There is a grain of truth in each one of them and these charges are founded on specific incidents. What is, however, objectionable is the way these incidents are magnified and the manner of their depiction. In the words of Dryden,

“Some Truth there was, but dash’d and brew’d with Lies,
To please the Fools, and puzzle all the Wise.”

If looked at dispassionately and without communal bias, these incidents will be found to be only particular and isolated instances and not an everyday feature or part of a general pattern or the course of a deliberate and planned conduct. From such particular incidents to make a blanket charge against the whole community is to commit the fallacy of arguing from the particular to the general ; but the communalist indulges in this fallacy repeatedly, deliberately and intentionally, with the calculated motive of misleading his audience, for a lie oft repeated acquires the hallmark and appearance of truth. In the process the communalist at times ends by believing his own lie.

The misuse of history

6.13 While dealing with the topic of communal propoganda, it is necessary to refer to the misuse of history by communal writers and speakers in order to spread communal hatred and fan communal passions. We find in the history of every country stories of atrocities perpetrated upon its people by invaders, but the history of a country is neither the cataloguing of such atrocities nor merely a record of its wars. The Muslims came to India as invaders, some to plunder and others to conquer. All over the world those were the days of barbarous punishments, the razing of cities to the ground, the enslavement of populations and the abduction into forcible concubinage of women of the conquered territories. To pick out these incidents which happened centuries ago, to harp perpetually upon them in all their lurid and gory details, to highlight them as if they alone form the sum total of the history of an era, as we find the communal writers and speakers doing, is to make past history breed present hatred. For this purpose the favourite figure of the communalists is Shivaji. For the communalists all that matters is just a few incidents from Shivaji's

life. If we were to learn about Shivaji only from them, we would wonder whether the only highlights of his career were the killing of Afzalkhan and the chopping off of the fingers of Sahistakhan. Shivaji was a great hero and an outstanding historical figure. The tragedy is that his image should be so traduced and in the process so tarnished by the communalists. The Shivaji of history is not the Shivaji of the communalists, for the Shivaji which the communalists have fashioned is in their own image, a Shivaji who creates hatred in the hearts of the Hindus against the Muslims and exhorts them to crush the Muslims and exterminate them.

6.14 Yet another favourite theme of these writers and authors is the forcible conversion of Hindus to Islam. Like many other religions Islam has been a proselytizing religion. The Arabs rode out of the desert not only to establish an empire but also to propagate their religion, and when the Muslims conquered India a number of Hindus became converts to Islam. Some did so under compulsion, some to seek favour and advancement from their Muslim rulers, some because the democratic basis of Islam appealed to them, and others because the mystical doctrines of the Sufis struck a responsive chord in their hearts. To the communalists, however, there have been only two types of conversion, one under compulsion and the other with the object of finding favour with the Muslim rulers. After all, let us remember that no religion could have spread without conversions. No religion which prevails today came into being with the birth of the world. The first converts to any religion belonged originally to a different religion and every prophet who preached a new religion was born into another faith.

The causes of communal disturbances

6.15 A study of communal disturbances reveals that the basic or underlying cause of all communal disturbances is only one—communal tension, while the immediate or proximate cause which sparks off the disturbances is a communal incident. Communal tension may, therefore, be likened to a train of gunpowder and the communal incident to the lighted match applied to it. Often an incident which constitutes the immediate cause of a communal riot has its basis only in rumours, but then rumours are the most powerful and effective weapons in the armoury of the communalists.

6.16 An analysis of various communal disturbances which have taken place shows that the communal incidents which have been their immediate causes are many and varied, the commonest and of most frequent occurrence amongst them being :—

- (1) the playing of music before a mosque ;
- (2) the throwing of 'gugal' near or on or inside a mosque or on the Muslims ;
- (3) a deviation from the traditional route of a procession in order to pass by a mosque ;
- (4) the shouting of abusive or provocative slogans against the other community ;

- (5) an obstruction offered to a procession of the other community ;
- (6) the throwing of stones at a procession taken out by the other community or the bursting of crackers when such a procession is passing by ;
- (7) the throwing of stones or the bursting of crackers by the processionists when passing through a locality in which members of the other community are residing ;
of the other community ;
- (8) an insult to the religion or a religious symbol or scripture
- (9) the desecration of an idol or a temple, such acts being usually assumed by communal-minded Hindus to have been done by a Muslim, though investigation into these cases has revealed that sometimes they were done by a Hindu belonging to another sect or sub-caste or by a Neo-Buddhist ;
- (10) the desecration of a mosque ;
- (11) business rivalry between one or more Hindus on the one hand and one or more Muslims on the other, usually all belonging to the underworld ;
- (12) rivalry or fights between Muslim and Hindu gangs, whether of smugglers, illicit distillers, bootleggers or 'goondas' ;
- (13) the slaughter of a cow by a Muslim in a public place ;
- (14) the injuring of a cow by a Muslim ;
- (15) an injured cow lying in a street or a public place, the assumption of communal-minded Hindus in such a case usually being that the injury was caused by a Muslim, though, as the evidence before the Commission shows, in one case in which a riot was narrowly averted, the cow had been set upon and mauled by stray dogs ;
- (16) the parading of the carcass of a cow or of beef or meat by the Muslims through the streets ;
- (17) a quarrel between a shopkeeper or hotel-keeper of one community and a customer belonging to the other community ;
- (18) the rape, kidnapping, abduction, molestation or outrage on the modesty of a girl by a man belonging to the other community ;
- (19) the elopement of a boy and a girl belonging to opposite communities, usually of a Hindu girl with a Muslim boy even though both of them may be of age ;
- (20) stories of atrocities committed against Hindus in Pakistan ; and
- (21) the news of the outbreak of a communal riot in another city, town or village or in another locality of the same city, town or village, often accompanied by wild rumours of atrocities perpetrated on the members of one community by rioters belonging to the other community.

The "moral justification" for communal riots

6.17 Some people consider the committing of a crime by a member of one community against the other as a sufficient justification for the

riots which follow, on the ground that the riots are then the venting of a righteous moral indignation by the members of the aggrieved community. There is neither logic nor morality in this. It passes comprehension how the rape of a woman or the throwing of 'gulas' inside a mosque or the killing of a cow can ever be a justification for the violence exercised on other members of the community to which the perpetrator of the act complained of belonged. Only a twisted, diseased and perverted mind can ever consider or believe any such act to be a moral justification for the murder of innocent men, women and children, their mutilation by stabbing and hacking, their disfigurement by acid, and the burning and looting of their homes and factories.

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CHAPTER 7
PROCESSIONS
CONTENTS

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- 7.1 Importance of the topic.
- 7.2 The law relating to processions.
- 7.8 'Gulal'.
- 7.11 Slogans.

CHAPTER 7

PROCESSIONS

Importance of the topic

7.1 The most serious and prolonged of the three communal disturbances into which this Commission was required to hold an inquiry were the communal disturbances which took place in Bhiwandi in the District of Thana on and after May 7, 1970. Since the disturbances broke out as the Shiv Jayanti procession was passing through the town, the subject of processions is important and requires to be dealt with in a chapter by itself. Processions today pose a law and order problem. for very often these processions are a protest march, a show of strength or a demonstration. Even when processions are taken out to celebrate a festival, whether religious or secular, by reason of the communal tension prevailing in many parts of the country, they pose no less a threat to law and order in those areas. This is particularly so when a procession is a Hindu procession accompanied by music and goes past a mosque. For example, in Bhiwandi the main cause of tension between the two communities was the insistence to take the Shiv Jayanti procession past the Jumma Mosque in the Muslim locality of Nizampura.

The law relating to processions

7.2 Sub-clause (b) of clause (1) of Article 19 of the Constitution of India guarantees to all citizens of India the right to assemble peaceably and without arms. The right to go in a procession is not specifically guaranteed by the Constitution, but is a corollary flowing from Article 19(1)(b) and the ordinary law of the land. Under the ordinary law every person has the right to pass and repass a highway. A number of persons have the same right of passing and repassing a highway collectively in a procession as they have individually. This is, however, a right which appertains not to particular individuals or to processions but to the general public as such and the right, therefore, of processions to pass and repass a highway is subject to the right of the general public which has a similar right to pass and repass the same highway. A procession, therefore, can become unlawful when it becomes a public nuisance such as by causing an unreasonable obstruction to the traffic [see *Lowdens v. Keaveney*, (1903) 2 I.R. 82 and *Attorney General v. Brighton Co-operative Association*, (1900) 1 Ch. 276]. A procession can also become unlawful when it causes a breach of the peace or constitutes an unlawful assembly.

7.3 In India many processions are taken out on religious occasions and festivals and it is in this connection that the cases have come to Courts. The earliest pronouncement of the Privy Council on this subject is in *Manzur Hasan and others v. Muhammad Zaman and others*, L.R. 52 I.A. 61—A.I.R. 1925 P.C. 36. In a certain town the Shia Muslims from time immemorial used to take out during Moharram a procession bearing religious emblems and pausing from time to time to perform 'matam' (wailing). The procession used to pass along a public road immediately behind a Sunni Muslim Mosque. In 1916 and thereafter the Sunnis interfered with the procession, alleging that the 'matam' disturbed their devotions in the mosque. A representative suit was thereupon filed on behalf of the entire Shia community of that town against its Sunni community for a declaration that the Shia residents were entitled to stay and perform 'matam' in a circle at a public thoroughfare at the back of the said mosque and that the Sunnis had no right or title to offer obstruction to the same or to stop it at any time and for an injunction restraining the Sunnis from interfering or obstructing them while acting in the manner aforesaid. The trial Court granted the declaration prayed for but made it subject to any order that the Magistrates might make from time to time. On appeal to the High Court of Allahabad the suit was dismissed holding that the plaintiffs had not made out any case for a declaration, the suit being treated as one for a prayer to be allowed to block absolutely the highway. The Privy Council, after reviewing the cases of different High Courts, held that there was a right to conduct a religious procession with its appropriate observances along a highway. The Privy Council approved the following statement of law laid down by Turner, C. J., in *Parthasarathi Ayyangar v. Chinnakrishna Ayyangar*, I.L.R. (1882) 5 Mad. 304, 309 :

"Persons of whatever sect are entitled to conduct religious processions through public streets so that they do not interfere with the ordinary use of such streets by the public and subject to such directions as the magistrates may lawfully give to prevent obstructions of the thoroughfare or breaches of the public peace".

The Privy Council also approved a Full Bench ruling of the same High Court in *Sundram Chetti v. The Queen* I.L.R. (1883) 6 Mad. 203, 217 (F.B.) and quoted with approval the following observations of Turner, C. J., in that case :

"With regard to processions, if they are of a religious character, and the religious sentiment is to be considered, it is not less a hardship on the adherents of a creed that they should be compelled to intermit their worship at a particular point, than it is on the adherents of another creed, that they should be compelled to allow the passage of such a procession past the temples they revere."

The Privy Council gave the declaration prayed for but made it subject to the orders of the local authorities regulating the traffic, the Magistrates' directions and the rights of the public and made it clear that the declaration would not prevent the Magistrates from ordering,

if they thought fit that 'matam' should not be performed within a certain distance of the mosque.

7.4 The matter again came before the Privy Council in *Martin & Company and another v. Syed Faiyaz Husain and others*, L.R. 71 I.A. 25—A.I.R. 1944 P.C. 33, on the question of the right of the Shiah to take out a Moharram procession carrying 'tazias' (reproductions of the mausoleum of Prophet Mohammed's daughter's son Husain). In that case the Shiah of the township of Amroha contended that the defendants who had obtained a licence under the Electricity Act, 1910, to supply electricity to the Municipality of Amroha had no right to obstruct the passage of the 'tazias' in the procession and filed a suit for a declaration that they had a right to take out in procession 'tazias' to the height of 27 feet and for an injunction ordering the defendants to raise the electric wires to such a height as not to obstruct the passage of the 'tazias'. The trial Court dismissed the suit but an appeal therefrom was allowed by the Allahabad High Court which granted to the plaintiffs the declaration and injunction sought for. The Privy Council reversed the judgment of the High Court and dismissed the suit. The following passage from the judgment of the Privy Council is relevant :

"The plaintiffs have the right as members of the public to take part in religious processions in the streets : subject of course to the rights of other members of the public to pass and repass along the same streets and subject to the powers of the appropriate authorities of controlling traffic and preventing disturbance. This right as a normal user of the highway does not originate in custom. Whether a highway could be dedicated subject to such a custom need not be considered. It is not alleged in the present case, and it is difficult to see how such a situation could arise. The rights of the plaintiffs therefore are no more and no less than the rights of any member of the public, and subject to questions of danger or disorder there seems no reason why a member of the public should not convey along an open street as part of a normal use of the street articles of any height. But as the plaintiffs' rights are those of the public, so where public rights may lawfully be abridged, so may the plaintiffs'. It is unnecessary in this case to discuss the effect of the United Provinces Municipalities Act, 1916, which by S.116(g) vests the streets in the Municipal Board. For, in the present case, the company derive their rights to place the wires at a height of 20 feet under the statutory authority of the Electricity Act : and clearly therefore are given the power to abridge the public right to carry through the streets objects of a greater height. The plaintiffs therefore have had their rights modified in favour of other rights which the authorities acting under the authority of the statute have considered to be to the greater advantage of the public."

7.5 The question of a non-religious procession passing along a public road came up before a Full Bench of the Bombay High Court in

Chandu Sajan Patil v. Nyahalchand Panamchand Marwadi (1950) 52 Bom. L.R. 214. In that case the plaintiffs took out a procession with music through the public streets of the village of Sakur in Ahmednagar District on the occasion of Dassera (Vijaydashmi) when they were obstructed near the Pandhari Mosque by the defendants who were the Muslim residents of that village. At the instance of the defendants the police and the Magistrate prohibited the Hindus from marching in procession playing music past the mosque unless they obtained a declaration of their right from the Civil Court. Thereupon the plaintiffs filed a suit for a declaration that they had such a right in respect of religious and other processions and asked for an injunction restraining the defendants from interfering with that right. The trial Court decreed the suit which decree was affirmed in appeal by the Assistant District Judge. In second appeal a Full Bench of the High Court held that there was no distinction in principle between the right of conducting a religious procession along the public thoroughfare and the right of conducting a non-religious procession, the right in both cases depending upon the lawful, and reasonable user of a highway and that such right was subject to the right of other citizens also to use the highway in a lawful manner and was also subject to any orders issued by the State for the purpose of preventing breaches of the public place and for maintaining law and order. So far as the right to play music was concerned, the High Court held that the question whether a procession had a right to play music or not was a question of fact and depended upon whether music was an appropriate observance of that particular procession.

7.6 The matter finally came before the Supreme Court in *Shaikh Piru Bux and others v. Kalandi Pati and others*, A.I.R. 1970 S.C. 1885. In that case the plaintiffs sued for a declaration that the Hindu residents of the two villages concerned had the right to take out religious and non-religious processions with appropriate music along the village roads and other public highways of the locality including those by the side of the Muslim mosques without any interruption or restriction and for an injunction against the Muslim residents of the two villages from interfering with the exercise of the aforesaid right. The trial Court held that the right of the plaintiffs to take out a procession with the accompaniment of music was not absolute and the plaintiffs could only exercise that right on all occasions except near the mosques at the time of congregational prayers of the defendant community according to Islamic religion and subject to other lawful orders and directions given by the Magistrates or police for preventing a breach of the peace or regulating the traffic. On appeal the First Additional Sub-Judge modified the declaration to restrict the playing of music while passing before the two mosques to music in a low sound and prohibiting any beating of drums. In appeal the High Court held that the restrictive order of the lower appellate Court with respect to the playing of music and beating of drums was not justified. On appeal to the Supreme Court by the original defendants

the Supreme Court held that the law as laid down by the Privy Council in *Manzur Hassan v. Muhammad Zaman* was correct and that the Hindus had a right to take out both religious and non-religious processions with the accompaniment of music on the highways subject (1) to the orders of the local authorities regulating the traffic, (2) to the Magistrates' directions under any law for the time being in force, and (3) to the rights of the public.

7.7 To summarize the position in law, the right to go in a procession stands on the same footing as the right which the general public has of passing and repassing a highway. No religious community has a right to insist that a procession of another community should not pass by its place of worship. The right to take out processions extends to both religious and non-religious processions and includes a right to take out such processions with the accompaniment of music. This right, however, is not an unfettered and unrestricted one. It is subject to the rights of the other users of the highway and is also subject to the orders of the local authorities regulating the traffic and to the directions of a Magistrate under any law for the time being in force for the prevention of a breach of the peace. The decisions above referred to, particularly of the Full Bench of the Bombay High Court in *Chandu Sajan Patil v. Nyahalchand Panamchand Marwadi*, (1950) 52 Bom. L.R. 214, and of the Supreme Court in *Shaikh Piru Bux and others v. Kalandi Pati and others*, A.I.R. 1970 S.C. 1835, gave once and for all a quietus (at least in law) to the Muslim contention that a Hindu procession had no right to pass by a Muslim mosque or that a Hindu procession had no right to pass by a Muslim mosque with the accompaniment of music.

‘Gulal’

7.8 Apart from the playing of music in a Hindu procession when passing by a mosque, another frequent cause of communal tension and disturbances is the throwing of ‘gulal’ by the Hindu processionists. While the position in law with respect to the right to take out processions accompanied by music, whether religious or non-religious, is settled in the cases above referred to, none of them have dealt with the right to throw ‘gulal’. The throwing of ‘gulal’ on Hindu festive and religious occasions is a symbolic expression of joy and throwing ‘gulal’ is considered auspicious by the Hindus. There are, however, people, particularly non-Hindus, who while they may harbour no grievance against the observance of any religious or festive occasion by the Hindu community or may have no desire to interfere with its practices and observances, may still object to having their clothes or their buildings and places of worship stained by ‘gulal’. From the record it appears that the Muslims object to the throwing of ‘gulal’ more particularly on a mosque or in a ‘hauz’, that is, a tank in the courtyard of a mosque in which ablutions are performed before going in for prayers (G.W. 1/47/41; P.W. 66/65/1139). Though this is in general the objection of the Muslims to the

throwing of 'gulas' it is not the only objection. Communal propaganda has filled the Muslim mind with strange and wholly erroneous notions about 'gulas' as is exemplified by the question put by Mr. Panna, Counsel for the Maharashtra State Muslim League, to Dy.S.P., Diwate that the Muslims object to the throwing of 'gulas' because it is used in black magic (P.W. 66/65/1139).

7.9 It may well be contended by some that the act of throwing 'gulas' on their person constitutes under the Indian Penal Code the offence of using criminal force. Under section 349 I.P.C. a person is said to use force to another if he, *inter alia*, causes motion, change of motion or cessation of motion to any substance as brings that substance into contact with any part of that other's body or with anything which that other is wearing or carrying or with anything so situate that such contact affects that other's sense of feeling, if this act is done, amongst other things, by his own bodily power or by disposing any substance in such a manner that the motion or change or cessation of motion takes place without any further act on his part or on the part of any other person. If such force is intentionally used to any person without that person's consent in order to the committing of any offence or intending by the use of such force to cause or knowing it to be likely that the use of such force will cause injury, fear or annoyance to the person to whom the force is used, the person using the force is said, under section 350 I.P.C., to use criminal force to that other, an offence ordinarily punishable under section 352 I.P.C. with imprisonment of either description for a term extending to three months or with fine extending to Rs. 500 or both. Illustration (e) to section 350 I.P.C. is that of a person throwing a stone which strikes water and dashes up the water against another person's clothes or something carried by him which, if done without that person's consent intending thereby to injure, frighten or annoy that other, would amount to the use of criminal force against him.

7.10 The matter, however, is not to be looked at from such a narrow and legalistic point of view. To what extent the joy and felicity felt by the Hindu revellers or religious devotees should be expressed in the concrete form of throwing 'gulas' on non-Hindus or on their places of worship and to what extent the irritation felt by those of them who object to 'gulas' being thrown on their person or property should be given vent to would really be a matter of tact, common sense and the adoption of a mental attitude of live and let live; but unfortunately in these matters neither community has shown itself conspicuous for any of these qualities and processions and public observances of festivals where music is played and 'gulas' is thrown pose each time an increasingly greater threat to law and order.

Slogans

7.11 A frequent cause of communal clashes is the shouting in a procession of slogans abusive or provocative of the other community

Some slogans commonly shouted are on the face of them abusive or provocative, while in the case of some others it is not the words which are objectionable but the manner and the place in which they are raised and the persons against whom they are directed. Examples of such slogans are to be found in the evidence before the Commission [C.W. 2/1(12)/1692(12-3), 6/1695-6; P.W. 66/33/1222-3, 154/1217; G.W. 2/26/91; Ex. G. 97]. Two of the most commonly raised slogans in processions are "Jo Hamse Takarayega Wo Mittime Mil Jayega" ("Those who clash with us will bite the dust"), "Gali Gali Me Shor Hai Chor Hai" (There is a hue and cry in every lane and by-lane that are thieves"). In the slogan last mentioned the name of the person or body or organisation intended to be made the object of the slogan is inserted at the place where there is a blank and it stands to reason that if the word inserted is 'Hindu' or 'Musalman' the slogan is meant to be abusive and provocative of that particular community. The slogan "Jo Hamse Takarayega Wo Mittime Mil Jayega" if shouted by Hindus in a Muslim locality or by pointing to or brandishing their fists at a group of Muslims would be provocative of the Muslims and similarly if shouted by Muslims in a Hindu locality with similar gestures would be provocative of the Hindus. Slogans such as "Hindustan Hinduonka Nahi Kisike Bapka" ("Hindustan belongs to the Hindus and not to anyone else") shouted by certain extremist and communal-minded Hindus at the time of the 1969 Shiv Jayanti procession in Bhiwandi or the slogan "Alere Ale, Hindu Ale" ("Coming, coming, the Hindus are coming") and "Upar Hindu, Niche Hindu, Idhar Hindu, Udhar Hindu, Gali Galime Hindu" ["Hindus on top, Hindus below, Hindus here, Hindus there, Hindus everywhere (in every lane and by-lane)"] shouted in the procession taken out in Bhiwandi by the Rashtriya Utsav Mandal on October 20, 1969 to celebrate the Vijayadashmi if shouted to Muslims or in a Muslim locality would be a challenge of defiance thrown to the Muslims and a threat held out to them about the overwhelming might of the Hindus.

7.12 Mention must also be made of a particular type of slogan, namely, a slogan directed against Pakistan and its leaders which at times is objected to by the Muslims. Pakistan has committed repeated acts of aggression against India and to raise slogans against it or against its leaders would only be an expression of patriotic fervour. A charge is, therefore, made against those Muslims who object to such slogans that this shows their anti-nationalist tendencies and proves that they harbour extra-territorial loyalty and a secret adherence to Pakistan. To put the matter thus is, however, to present an incorrect picture, for as the record shows the slogans are not shouted in any Hindu locality but only in Muslim localities or to a group of Muslims or outside the house of a Muslim leader however staunch a nationalist he may be. The imputation conveyed by the shouting of these slogans in such a manner is clear that the Muslim against whom they are shouted is suspected of and charged with being pro-Pakistani.

7.13 The uttering of these slogans above referred to satisfies the test laid down in paragraph 6.8 and would, therefore, constitute a communal speech. It would also be an offence under section 153A (1)(a) I.P.C. as also under section 112 of the Bombay Police Act, 1951, namely, using any threatening, abusive or insulting words or behaviour with intent to provoke a breach of the peace or whereby a breach of the peace may be occasioned.

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CHAPTER 8
ADMINISTRATIVE MEASURES TO COMBAT
COMMUNALISM

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CHAPTER 8

ADMINISTRATIVE MEASURES TO COMBAT COMMUNALISM

The topics for consideration

8.1 The question of the adequacy of measures taken by the administration to prevent communal disturbances in the three areas which fall within the purview of this Inquiry cannot be dealt with without considering the administrative measures taken to prevent communal disturbances generally. In this connection six main topics require to be considered, the last of which will be dealt with in the next chapter. These topics are—

- (1) the implementation of the recommendations made by the National Integration Council,
- (2) the implementation of the recommendations made by the Standing Committee of the State National Integration Council,
- (3) the implementation of the recommendations made by the Raghubar Dayal Commission,
- (4) the action taken by the State of Maharashtra by way of prosecutions under sections 153A or 505, I.P.C., and the action taken under the Preventive Detention Act, 1950, and the Maharashtra Detention Act, 1970, with respect to communal incidents, speeches and writings and the promulgation of prohibitory orders under section 144 Cr.P.C. for preventing the making of communal speeches and the occurrence of communal incidents,
- (5) the measures taken in the State of Maharashtra after the outbreak of communal disturbances in other States or in any locality in this State to prevent the occurrence of communal disturbances in this State or in other parts of this State, and
- (6) the instructions issued for taking preventive measures in respect of specific occasions such as during the Ganpati and other festivals.

The recommendations of the National Integration Council

8.2 A conference of the National Integration Council was held at Srinagar on June 20, 21 and 22, 1968. The Prime Minister presided over it and the Chief Ministers of various States including the Chief Minister of Maharashtra and other prominent leaders attended the conference. A printed copy of the verbatim record of the proceedings of the said conference is Ex. G 1. By the said conference a committee was appointed called the "Committee on Communal Aspects" which made certain recommendations for preventing and dealing with

communal disturbances, which recommendations after discussions were accepted by the Council. In the Declaration of Objectives adopted by the Council (Ex. G 139) the Council condemned tendencies that struck at the root of national solidarity and called upon all political parties, voluntary organizations, other citizen groups, the press, the leaders of public opinion and all men of goodwill to bring these tendencies to a halt—

- (a) by discouraging communal ill-will and regional animosities and weaning the misguided elements of society from paths of violence ;
- (b) by active and energetic propagation of the principles, especially of tolerance and harmony, for which this nation stands ;
- (c) by mobilizing constructive forces of society in the cause of national unity and solidarity and giving them leadership, encouragement and articulation ; and
- (d) by devising suitable community activities and programmes for fostering fellow feeling, emphasizing the privileges of common citizenship and in general raising the quality of national life.

The Council emphasized the fact that this task was not of the Governments alone, although Governments had to play a major role in strengthening the forces of integration and in implementing expeditiously and effectively the recommendations made by the Committee, but that the task was the collective responsibility of all citizens—politicians, educationists, artists, writers, teachers, parents and students, intellectuals, businessmen and trade union leaders.

8.3 The recommendations made by the Committee on Communal Aspects (Ex. G 140) as adopted by the National Integration Council were in three parts, namely, (1) preventive measures, (2) punitive measures, and (3) general measures.

The Preventive measures recommended by the Committee on Communal Aspects

8.4 The Committee on Communal Aspects pointed out that communal disturbances resulted from building up of communal tension and it was therefore, essential to have prompt and correct intelligence available to the Government. For this purpose the Committee recommended the adoption of the following measures :—

- (a) the constituting at the State and Central levels of a special intelligence unit composed of persons specially trained and possessing aptitude and absolute impartiality needed for this type of work ;
- (b) the furnishing by intelligence agencies of their reports and assessments to the District Magistrates and Superintendents of Police regularly and without delay ;
- (c) the charging of District Magistrates and Superintendents of Police with personal responsibility for scrutinising these reports and for taking preventive action promptly to forestall. any communal disturbances ; and

(d) the keeping of a close watch on rumour-mongering.

8.5 The Committee also recommended that places of worship should not be used to hold meetings which tend to create communal disharmony or ill-will and that special measures to prevent and deal with such meetings should be taken.

The punitive measures recommended by the Committee on Communal Aspects

8.6 The Committee on Communal Aspects recommended the following punitive measures :—

- (1) making District Magistrates and Superintendents of Police personally responsible for prompt action to prevent or stop communal disturbances.
- (2) detailing special teams of investigators for investigation of offences committed during communal disturbances ;
- (3) considering the failure to take prompt and effective action as a dereliction of duty and dealing with the officers concerned accordingly and the amendment of Service Rules, if necessary, to provide for this ;
- (4) the introduction of a system of suitable recognition of services rendered in preventing or dealing with communal disturbances ; and
- (5) the prompt investigation of offences and prompt prosecution of offenders, the non-withdrawing of prosecutions once launched, and the constitution of special courts with summary powers to deal with offences connected with communal incidents.

The general measures recommended by the Committee on Communal Aspects

8.7 The Committee on Communal Aspects also made several general recommendations. These recommendations were :—

- (1) the amendment of section 153A of the Indian Penal Code to provide for punishment of communal activities, defining that term to mean any activity which promotes or attempts to promote on the grounds of religion, race, caste or community or any other ground whatsoever feelings of enmity or hatred between different religious or racial groups, castes or communities ; and further making that offence cognizable and constituting a conviction for it a disqualification under the Representation of the People Act ;
- (2) making rumour-mongering and publication of alarming news and views an offence under section 153A of the Indian Penal Code ;
- (3) suspending on conviction of an offence under section 153A I.P.C., amended as recommended above, the newsprint quota of the newspaper concerned and the issue of Government advertisements to it ;

- (4) the making of a special inquiry immediately after every communal disturbance ;
- (5) the taking of effective measures to ensure that no discrimination was made in the recruitment to services at all levels ;
- (6) the constitution of citizens' committees as consultative bodies at the State and district levels to promote and maintain communal harmony, their functions being the holding of advance consultations with leaders of religious groups to ensure peaceful celebration of festivals and to endeavour to promote joint participation by all communities in the festivals, and
- (7) the constitution at the national level of a Sub-committee of the National Integration Council to review from time to time the communal situation, the progress of implementation of the recommendations of the National Integration Council in regard to communalism and to advise the Government.

8.8 The Committee on Communal Aspects did not go into the educational aspects of national integration and the effective use of mass-media of communication to promote communal harmony, as another committee was going into these matters. The Committee, however, drew attention to one important matter in the field of education. It observed that teachers in primary and secondary schools and colleges played a vital role in moulding the minds of young men and women at the formative years of their lives and recommended that to discharge this heavy responsibility the members of the teaching profession should refrain from any activity which was antiseccular or which tended to create communal disharmony and that State Governments should examine immediately the need to modify service regulations prescribed for teachers in Government or Government-aided schools and colleges and make provisions which should facilitate the removal from service of teachers who might be found guilty of such activities and that similar action might be taken by the Universities in respect of University and college teachers.

The recommendations of the Committee on Regional Aspects

8.9 The National Integration Council also set up a Committee on Regional Aspects. The recommendations of this Committee as adopted by the National Integration Council included the recommendation that the Government should take stern and effective measures against organizations like the "Senas" which were provoking disturbances by appealing to the religious sentiments of the people.

8.10 As Ex. G 135 shows, there are twenty-one Senas operating in the State of Maharashtra, some of them operating in a particular town only. The most important amongst them are the Rashtriya Swayamsevak Sangh (R.S.S.), an All-India Body, and the Shiv Sena with Bal Thackeray as its chief. Apart from these two organizations none of the other Senas have featured in this Inquiry and it is therefore not necessary to list them.

The recommendations of the Committee on Educational Aspects and Mass Media

8.11 Another committee formed by the National Integration Council and whose recommendations were adopted by it was the Committee on Educational Aspects and Mass Media. This committee recommended that education from the primary to the post-graduate stage should be re-oriented—

- “(a) to serve the purpose of creating a sense of Indianness, unity and solidarity,
- (b) to inculcate faith in the basic postulates of Indian democracy, and
- (c) to help the Nation to create a modern society out of the present traditional one.”

This committee made certain suggestions for achieving the above objectives including the appointment by the State Government of Expert Committees to organize the preparation of text-books for schools and of a National Board by the Union Government to co-ordinate the efforts of the State committees in consultation with State Governments.

The implementation by the Government of Maharashtra of the recommendations of the National Integration Council

8.12 We will now consider the manner in which the recommendations made by the National Integration Council were implemented by the Government of Maharashtra. In pursuance of the said recommendations the Government issued various instructions as also set up a State Level Committee on National Integration and held a conference of officers, including the I.G.P., the D.I.Gs., all Ss. P., D.Ms. and other officers over which the Chief Minister presided. Some of the important instructions issued by the Government to implement the above recommendations relate to (1) the collection and follow up of intelligence, (2) the countering of rumours, (3) the prevention of misuse of places of worship, (4) prescribing guide lines for the Police for dealing with communal disturbances, and (5) making the D.Ms. and Ss.P. personally responsible for failure to take prompt and effective action to deal with communal tension and disturbances.

The collection and follow-up of intelligence

8.13 The relevant instructions relating to the collection of intelligence and its follow up which have come on the record are :—

- (1) The letter dated July 5, 1968 (Ex. G 2) from the Home Secretary to all D.Ms., Ss.P. and Commissioners of Police. By this letter the Home Secretary pointed out that till then the State C.I.D. and the officers in the districts were passing on intelligence to the D.Ms. and Ss.P. concerned for necessary action and impressed upon them that thenceforth it would be the personal responsibility of the D.Ms. and Ss.P.—
 - (i) to scrutinize the intelligence reports sent to them, and
 - (ii) to take preventive action promptly to forestall communal disturbances.

- (2) The circular memorandum dated July 18, 1968 (Ex. P 585) issued by the D.I.G. (Int.) in pursuance of Ex. G 2. By this memorandum the D.I.G. (Int.) pointed out that till then the State and district intelligence officers were passing on information on communal aspects orally to the S.P. only, but in view of the recommendation of the National Integration Council, all sub-inspectors in the districts should make it a point to call on the D.M. and the S.P. once a fortnight, and, even earlier if the situation demanded it, and pass on information of importance on the communal front and make a note to that effect in their reports to the D.I.G. (Int.) and inspectors and Dy.Ss.P. should call on the D.Ms. and Ss.P. as often as possible with a view to keeping them informed about communal developments. Copies of this circular were sent to all D.Ms. and Ss.P. in the State.
- (3) The circular memorandum dated August 13, 1968 (Ex. G 274) addressed by the D.I.G. (Int.) to all State and district intelligence officers, with copies to all Ss.P. and Commissioners of Police and Range D.I.Gs. By this memorandum the D.I.G. (Int.) directed all State intelligence inspectors and sub-inspectors to submit weekly reports to the D.I.G. (Int.) with copies to D.Ms., Ss.P., Divisional Commissioners and Range D.I.Gs. every Monday for the previous week ending Saturday and where the situation was imminent, to submit special reports to the D.I.G. (Int.) with copies as aforesaid and if necessary to signal such intelligence. They were also instructed to keep the Ss.P. and the D.Ms. informed of the developing situation as stated in the circular Ex. P 585. These reports were required to be submitted in two parts, the first part containing a brief account of the incidents having a bearing on the communal situation which had occurred during the week and the second part containing an assessment on the likelihood of trouble.
- (4) The circular dated August 13, 1968 (Ex. G 275) addressed to all D.Ms. by the D.I.G. (Int.). By this circular the D.I.G. (Int.) informed the D.Ms. that intelligence inspectors and sub-inspectors in the districts had been instructed to submit to them copies of their weekly reports on the communal situation.

Rumour-mongering

8.14 By the Home Department's letter dated August 3, 1968 (Ex. G 3) the Government requested all D.Ms. and Commissioners of Police to keep a special watch on rumour-mongering and in this connection to take the press into confidence. While in the witness-box, the then Home Secretary L. G. Rajwade was asked what was meant by taking the press into confidence and he replied that what was meant was that when exaggerated or misleading reports appeared in papers published locally or circulated in the localities, the D. M. concerned should send

for the editor or the local reporter and impress upon him the importance of not giving such publicity and that the D.M. was at liberty, if an inquiry was made from him, to point out to the editor or reporter the facts as known to him (G.W. 1/21/18).

The misuse of places of worship

8.15 By the Home Department's letter dated August 3, 1968 (Ex. G 4) addressed to all D.Ms., Commissioners of Police and Ss.P., the Government pointed out that communalists were taking advantage of places of religious worship for political meetings which tended to create communal feelings and instructed them to keep a watch on political activities in places of religious worship and to collect advance intelligence in respect thereof and, if action became necessary, to take it against the miscreants outside the places of religious worship.

8.16 The I.G.P. has deposed that so far as holding of meetings in temples and mosques prior to August 1968 in places other than those which form the subject-matter of this Inquiry was concerned, in the case of the Hindus, the Jān Sangh held a meeting on February 4, 1966 in Vishnu Mandir and on February 10, 1966 in Ram Mandir in Poona, at both of which meetings the topics discussed were the Tashkent Pact, the food situation, the administration of the Poona Municipal Corporation and other similar subjects, and that there were no reports of any such meetings held by the Hindus in 1967, while on January 26, 1968 a meeting was held at Ballaleshwar Mandir in Panvel in Kolaba District when Balshastri Hardas of Nagpur of the R.S.S. spoke on the life of the late Mr. V. D. Savarkar. He has further deposed that so far as the Muslims were concerned, during the same period a large number of meetings were held in different mosques in various parts of the State. In 1967 such meetings were held in different mosques in the Districts of Buldhana, Amravati, Akola, Osmanabad, Nagpur (Rural), Nanded, Ahmednagar, Bhir, Chanda, Yeotmal, Sangli and Sholapur; 111 of these meetings having been held by the Jamaat-E-Islami, 6 by the Majlis-E-Mushavarat, 3 by the Majlis Tameer-E-Millat and 340 by the Tablig Jamaat. In 1968, upto August 1968 such meetings were held in the Districts of Buldhana, Bhir, Bhandara and Akola, 5 of them by the Jammāt-E-Islami, 2 by the Majlis Tameer-E-Millat and 60 by the Tablig Jamaat. He further deposed that the Tablig Jamaat at its meetings called upon the Muslims to follow the five cardinal principles of Islam, namely, Namaz, Roza, Kalama, Haj and Zakat, and that he did not know whether their meetings were confined only to expounding these five principles (G.W. 2/116/132-3).

“ Guide Lines for Dealing with Communal Disturbances ”

8.17 Next in point of time is a printed booklet entitled “ Guide Lines for Dealing with Communal Disturbances ” (Ex. G 39), issued by the Home Department in August 1968, and which has been the

subject of considerable debate at the Bar. This booklet is marked "SECRET For official use only". This booklet was circulated to all D.Ms., Commissioners of Police, Ss.P., Divisional Commissioners with extra copies for distribution to each Assistant Commissioner, and the I.G.P. with extra copies for distribution to the D.I.Gs. and A.I.G.Ps. On transfer the holder of the booklet was required to hand it over to his successor with other secret documents and it was not intended to be handed over by any officer to whom it was distributed to any other person except his successor in office nor was the general public allowed access to it (G.W. 1/46/40-1). Strangely enough, the existence of this booklet was first mentioned before the Commission by Mr. Jethmalani, learned counsel for the Jan Sangh, and it was produced in evidence and exhibited during Mr. Jethmalani's cross-examination of the Home Secretary. So much for the secrecy of Government documents marked 'Secret'! The "Guide Lines" set out, *inter alia*, the background of the communal situation in the country with particular reference to the State of Maharashtra. It also gives a list of the communal pockets in the State, that is, places in the State where trouble tends to flare up even on the smallest provocation. Bhiwandi is mentioned in this list of communal pockets, though Jalgaon and Mahad are not. It then refers to the recommendations of the National Integration Council and gives detailed instructions for the prevention of communal disturbances as also for dealing with them when they occur. The "Guide Lines" also gives instructions with respect to the use of force (including the opening of fire) by the Police for dispersing unlawful assemblies. So far as preventive measures are concerned, it emphasizes the collection of advance intelligence about the activities of mischief-mongers and ring-leaders and about individuals, associations and journalists who indulge in activities likely to incite communal passions and communal ill will. It emphasizes that the reports made by intelligence officers should be scrutinized personally by the D.Ms., Ss.P. and Commissioners of Police and not, as the tendency was, to be looked at in a routine manner or to receive attention at times only on lower levels.

8.18 With reference to Hindu and Muslim festivals, the "Guide Lines" states as follows :—

"There are several Hindu and Muslim festivals, which give an opportunity to some people to spark off communal trouble. Moharrum and Bakri-Id are the main Muslim festivals and Ganpati, Ramnavami, Dasara and Shiv Jayanti are some of the Hindu festivals. It is customary to take out processions as a part of the celebration of these festivals. The Ganpati festival is one of the most important religious festivals of the Hindus, which is celebrated throughout the State on a very grand scale, and this festival is invariably celebrated with processions and that too always accompanied by music. The use of "Gulal" in such processions is also a long-standing religious and traditional practice. The playing of music before mosques and the throwing of Gulal in front of

mosques have always been a bone of contention, which ultimately results in communal conflicts. The desecration of idols and stray incidents of injury to cows or insults to women in public places, though they appear to be trivial matters, often spark off communal conflicts which spread on the basis of rumours and lead to loss of life and property on a considerable scale. Any minor incident of the above nature is likely to lead to hurting of religious feelings and unless action is taken promptly and the trouble is nipped in the bud, it is likely to flare-up and result in large scale riots.

“In a number of cases, communal incidents which occur at the annual festivals are preceded by inflammatory speeches, propaganda or articles published in the newspapers by communal organizations or rabid communalists. Those who abet these disturbances constitute a greater danger than those who join a mob in such incidents.

“It is important to recognise that the majority of common men and women, irrespective of their religious affiliations, live in peace and harmony and have no interest in violence or disorder. It is usually a small number of individuals who have a vested interest in building up or maintaining or strengthening their leadership, on the basis of religious prejudice and bigotry, who master-mind, inspire and incite communal conflicts. Such persons need to be watched and action should be taken against them in time.”

8.19 From the above quoted extract it will be noticed that the “Guide Lines” describes Shiv Jayanti as a Hindu festival. The Home Secretary Rajwade, however, pointed out that as a result of a reference made by the I.G.P., A. G. Rajadhyaksha (G.W. 2), and the then D.I.G. (Bombay Range), S. G. Pradhan, a correction was issued on September 24, 1969 to the effect that for the words “Shiv Jayanti” the word ‘Holi’ should be substituted (G.W. 1/82/60-61).

The Muslim criticism of the “Guide Lines”

8.20 Though the “Guide Lines” refers in general terms to communal organizations and their activities, the only communal organizations named in the “Guide Lines” are the Muslim communal organizations, a fact about which considerable grievance was made by the Muslim parties appearing before me. It was also contended by them that a wrong version of the 1967 Shiv Jayanti riots which took place in Bhiwandi was given in the “Guide Lines”. From this it was argued that the “Guide Lines” was a one-sided document and showed the Communal bias of the Government and conveyed a wrong picture to police officers suggesting to them that in all cases of communal riots Muslims were to be blamed. The Home Secretary Rajwade expressed his inability to explain why Ex. G 39 did not refer to communal activities of the Jan Sangh, the R.S.S. or the Shiv Sena. He also admitted that what was stated about the throwing of ‘gulal’ in the “Guide Lines” under the heading “Throwing of Gulal in front of mosques” to the extent to which it was inconsistent with what he had deposed was not correct, Rajwade’s deposition being

that the general objection of the Muslims was to the throwing of 'gual' and coloured water inside mosques and on their person and not to the throwing of 'gual' generally (G.W. 1/82/60, 47-8/41-3).

8.21 It must be said that Ex. G 39 is not as carefully drafted as it ought to have been. The history of communal disturbances as set out therein is perfunctory and it would have been much better if in order to strike a proper balance, it had contained instances of communal disturbances in which each of the two communities was respectively at fault. From this it is, however, not possible to say that Ex. G 39 reflects the actual attitude of the Government or that the Government is biased or communal-minded or anti-Muslim. The Home Secretary has clarified that Ex. G 39 contains observations and instructions as a pointer for future guidance and not judgments of the Government on any particular occasions (G.W. 1/26/23-24).

Measures prescribed by the "Guide Lines"

8.22 Based on the decisions and recommendations of the National Integration Council the booklet Ex. G 39 prescribed guide lines for future action by the Police, the local authorities and the Government departments concerned under three heads, namely : (1) preventive measures, (2) punitive measures, and (3) general measures.

8.23 The guide lines prescribed for preventive measures were :—

- (1) The establishment of a special intelligence wing or unit for the collection of communal intelligence and the appointment of an S.P. in the State C.I.D. for this work.
- (2) The personal scrutiny of intelligence reports by the D.Ms., Ss.P., Commissioners of Police and senior officers under their control.
- (3) In the case of a dispute between the two communities over a religious place, the posting of a suitable police guard at that place, the binding over under section 107 Cr.P.C. of ring-leaders of both communities and the attachment of the land in dispute under section 145 Cr.P.C.

8.24 The guide lines prescribed for punitive measures were :—

- (1) The immediate rounding up under section 151 Cr.P.C. of rabid communalists and bad characters who would be out to take advantage of any disorder and commit offences like arson, looting, etc., and cause further trouble to the Police and the authorities, and for this purpose the preparation of an up-to-date list of such persons by the police.
- (2) The preventive detention of rabid communalists under the Preventive Detention Act, 1950.
- (3) The calling on the military for assistance by the D. M. or Commissioner of Police with the prior approval of the Government when the Police are unable to deal with the situation arising out of communal disturbances or a direct requisition by the local civil authority to the military authorities located in its jurisdiction when the time is short.

- (4) The issuing by the D. M. and the Commissioner of Police of orders under section 144 Cr.P.C. for—
 - (i) enforcing curfew,
 - (ii) restricting the use of certain roads badly affected by the communal riot,
 - (iii) prohibiting the transfer and acquisition of arms and ammunition without a special licence;
 - (iv) prohibition dealers from acquiring and transferring arms and ammunition,
 - (v) prohibiting the bringing in of knives and other sharp-edged instruments without a special licence, and
 - (vi) prohibiting the publication of news giving the names, castes, creed or other details of any persons killed or injured or of the places of assault.
- (5) The issuing of orders by the D.Ms. and Commissioners of Police under section 37 of the Bombay Police Act, 1951, prohibiting assemblies and processions in specified areas, the carrying of lethal weapons, corrosive substances, etc., and of orders under section 36 of the Bombay Police Act regulating the routes of Hindu and Muslim funeral processions.
- (6) The keeping under watch of places of worship, both outside and inside, by plain-clothes constables to ensure that these places were not used for the purpose of fomenting trouble or as a storage for missiles, weapons, etc.
- (7) The keeping of a special watch on rumour-mongering and dealing firmly with the miscreants by the D.Ms. and Commissioners of Police, taking the press into confidence for this purpose and the taking of punitive action under sections 153A, 295A, 505(b) and 505(c) I.P.C., against persons responsible therefor.
- (8) The prompt contradiction of mischievous and exaggerated reports, the issuing of one or two communications daily by the D.Ms. and Commissioners of Police through the local publicity department giving authentic information whenever there are communal disturbances, the making of a request by the D.M.s and Commissioners of Police to the Director of Publicity to issue a circular requesting editors of various news papers not to publish—
 - (a) unconfirmed reports and rumours,
 - (b) such comments as would lead to nervousness and the continuance of the disturbance, and
 - (c) particulars of the names, castes, creeds or other particulars of the victims or places or areas affected.
- (9) In the case of any communal clash or a development in the communal situation the immediate reporting of the matter by wireless followed by a detailed report as soon as possible by the D.M. concerned.
- (10) The ensuring by D.Ms., Commissioners of Police and Ss.P.

- of effective investigation of cases registered in respect of offences committed during any major communal disturbance.
- (11) Keeping a close watch on writings in newspapers, magazines, etc., as well as on spoken words and sending of proposals to the Government for prosecutions under section 153A I.P.C. whenever the circumstances so warrant.
 - (12) The refusal to grant permission to hold meetings at which rabid speeches are likely to be made or communal feelings aroused or which might result in communal disturbances.
 - (13) For the purpose of preventing further offences while dealing with disturbances, to ensure that—
 - (i) pickets and guards are provided at all important places and affected areas,
 - (ii) pickets either fixed or with limited mobility are stationed in streets,
 - (iii) patrols, both fixed and mobile, are organized,
 - (iv) adequate number of 'task forces' in adequate strength and fully mobile are provided,
 - (v) reserves of adequate strength with maximum possible mobility are stationed at suitable places,
 - (vi) a control room is established, and
 - (vii) a riot diary is maintained.
 - (14) The employment of additional police and the recovering of the costs thereof in the shape of a tax from all persons residing in the disturbed area or any particular section or sections or class or classes of such persons under section 50 of the Bombay Police Act in cases of major communal disturbances or when there is arson or looting or both on a large scale.
 - (15) The rendering of maximum possible assistance to rehabilitate the victims of riots.

The "Guide Lines" also gave instructions with respect to the use of force including the opening of fire by the police to quell disturbances. This topic will be dealt with at the relevant place. Instructions were also given by the "Guide Lines" in respect of celebrations of various religious festivals, playing of music and throwing of "gulaal" in front of mosques. This topic will be dealt with in the next chapter.

8.25 So far as general measures were concerned, the Guide Lines reproduced and elaborated upon the recommendations made by the National Integration Council.

Penalty for failure of D.Ms. and Ss.P. to deal effectively with communal disturbances

8.26 In addition to issuing Ex. G 2 which made it the personal responsibility of D.Ms. and Ss.P. to scrutinize intelligence reports sent to them and to take prompt preventive action to forestall communal disturbances, the Government by the General Administration Department Circular, dated April 1, 1969 (Ex. G 8) pointed out

to all D.M.s and Ss.P. that on the recommendation of the National Integration Council the Government had decided that the D.Ms. and Ss.P. should be made personally responsible for taking prompt action to prevent or suppress communal disturbances. By this circular the Government directed that failure to take prompt and effective action to deal with communal tension and disturbances would be regarded as dereliction of duty entailing suitable disciplinary action against the officers concerned and that a specific mention recognizing services rendered by such officers in preventing or dealing with communal disturbances should be made in their confidential records.

The Conference of D.Ms. and Police Officers

8.27 On August 10, 1968 the Chief Minister Mr. V. P. Naik held a conference at the Sachivalaya which was attended by the I.G.P., the D.I.Gs. and all D.Ms. and Ss.P. in the State. The object of the conference was to point out to these officers the deteriorating law and order situation in the State and to activate them to take proper measures to check the forces of lawlessness and disorder. In the course of his speech (Ex. G 5) the Chief Minister pointed out various complaints made against the Police of taking sides with parties, keeping friendly relations with known "goondas", the strictures passed by Courts that investigation was not properly carried out or that the evidence was fabricated, the taking of bribes, etc. He then referred to the decisions taken by the National Integration Council.

8.28 In the course of his speech the Chief Minister said—

"When we analyse the development of the communal disturbances we see that most of them fall into a set pattern. The customary occasions for communal disturbances and incidents are the celebrations of Hindu and Muslim festivals. Trivial matters of 'Gulal', desecration of idols and stray instances of injury to cows or insult to woman in public places spark off communal conflict which then spreads on the basis of rumours and leads to loss of life and property on a considerable scale. We must remember that the majority of common men and women irrespective of their religious affiliations would prefer to live in peace and harmony and follow their humble avocations; they have no interest in violence or disorder. But such violence or disorder is usually due to a small number of individuals who have a vested interest in building up or maintaining or strengthening their leadership on the basis of religious prejudice and bigotry, and it is these people who mastermind, inspire and incite the communal conflicts. Even trivial matters are exaggerated by these persons and every potentially explosive situation is taken advantage of. Therefore any attempt to prevent communal riots must start with watching these few men belonging to the various communities who are the potential trouble-makers. A number of cases of communal incidents which occur at communal festivals are preceded by inflammatory speeches, propaganda or newspaper articles and they very often give a clue

regarding the ring-leaders trying to incite communal riots. I am convinced that if the Intelligence Branch of the State Police is sufficiently alert and if the reports of the Intelligence Branch are studied carefully by the Superintendents of Police and the District Magistrates, much can be done to prevent the occurrence of communal disturbances. I am aware that the strength of the State Intelligence Branch (C.I.D.), so far as collecting information on communal tension and disturbances is concerned, needs to be increased. The intelligence work, based on past traditions, is directed towards watching and reporting on the activities of reactionary political parties and sufficient attention has not been paid to the collection of advance intelligence about individuals, associations and journalists who are potential inciters of communal passions. The National Integration Council has recommended that the Intelligence Branch of the State Police should be sufficiently strengthened and manned by competent personnel both at the State and the District levels. We are taking steps to implement these recommendations. Adequate intelligence is the first step towards meeting the threat of communal disturbances. In the matter of supply of intelligence reports and assessment to District Magistrates and Superintendents of Police, instructions have been issued to the C.I.D. units to call on District Magistrates and Superintendents of Police once in a fortnight or earlier, if necessary and to pass on information of importance on the communal front. These instructions have to be strictly observed.

“Rumour-mongering is another common cause of the outbreak and the rapid spread of communal riots. In fact, rumour-mongering was the main cause for the outbreak of violence at Nagpur recently. At the first sign of any worsening of the relations between any two communities the Police must be on the alert to spot the rumour-mongers and immediate action must be taken for countering such rumours. The difficulties which exist at present in taking adequate preventive action against rumour mongers and other communal leaders were considered by the National Integration Council. The Council had recommended amendments to sections 153(A) and 505 of the Indian Penal Code, suitable amendments to the Criminal Procedure Code and the enactment of legislation on the lines of the Punjab Press (Special Powers) Act, 1956. These recommendations are now being implemented by the Government of India

.....All this is done with a view to arming the administration with adequate legal powers to nip any communal violence in the bud. As I have stated above the Government has also decided to strengthen the Intelligence Branch so that adequate attention can be focussed on the activities of persons who incite communal feelings and abet communal disturbances. Once this is done there should be no excuse for not acting promptly in order to prevent major communal violence. I may state here that preservation of law and order is the joint responsibility of the District Magistrate and the

Superintendent of Police, and any failure to take prompt and effective action will be considered by the Government as a dereliction of duty."

The Standing Committee of the State Level Committee on National Integration

8.29 By the Government Resolution in the General Administration Department, dated September 16, 1968 (Ex. G 6) the Government of Maharashtra in pursuance of the recommendation of the National Integration Council established a State Level Committee on National Integration under the Chairmanship of the Chief Minister. The members of the State Level Committee were the Speaker and the Deputy Speaker of the Maharashtra Legislative Assembly, the Chairman and the Deputy Chairman of the Maharashtra Legislative Council, some Ministers, the Mayors of Bombay, Poona and Sholapur, the Sheriff of Bombay, some Vice Chancellors, Principals of Colleges and representatives of different political parties except the Swatantra Party (G.W. 1/40/37). The terms of reference to the said Committee were—

- "(a) to review the communal and general position of law and order in the State ;
- (b) to consider ways and means of promoting a sense of tolerance, mutual goodwill and respect amongst different religious, linguistic, regional and other groups in the State ; and
- (c) to consider and to give a lead for harmonious celebrations of the annual festivals of different communities and to promote joint or common celebrations of their respective festivals by setting personal examples and making appeals to responsible leaders of different communities."

8.30 The State Level Committee on National Integration at its meeting held at Bombay in October 1968 recommended to the Government to constitute a Standing Committee of the State Level Committee. Accordingly by the Government Resolution in the General Administration Department, dated July 10, 1969 (Ex. G 11) a Standing Committee of the State Level Committee was constituted with the Chief Minister as its Chairman and amongst its members were the Chairman of the Maharashtra Legislative Council, the Speaker of the Maharashtra Legislative Assembly, some Ministers, some Vice Chancellors, some prominent citizens and representatives of political parties. The terms of reference to the Standing Committee were—

- "(a) To examine in detail suggestions made by the members of the State Level Committee on National Integration through discussions at the Standing Committee or through Working Groups, if necessary, and to make recommendations ; and
- (b) To review the current communal and law and order position and to make recommendations thereon."

The recommendations of the Standing Committee

8.31 At its meeting held at Bombay on September 4, 1969 the Standing Committee recommended a rational approach to the

observance of certain practices which often spark off communal disturbances, namely, the playing of music before mosques, the throwing of 'gulal', the desecration of idols and 'Tabuts' and injury to animals considered sacred. It recommended the setting up of Integration or Ekata Committees at all levels. It made the following specific recommendations on practices above referred to: —

- (1) Joint celebration of the festivals of different communities or in the alternative participation and exchange of greetings in public by respected and leading men of one community in the festivals of the other communities.
- (2) The avoidance of provocative actions such as slowing down the procession or playing of music when processions pass a mosque.
- (3) The avoidance of disfiguring of places or individuals who do not like to be sprinkled with 'gulal'.
- (4) The holding of joint public meetings of both communities immediately to treat any incident of tampering with an idol or a 'Tabut' not as a wrongdoing by one community against the other or as an outrage against the whole community and to enlist the help of all communities in tracing the culprits and in bringing them to book.
- (5) The condemnation by Ekata Committees of wanton and senseless injuries to or slaughter of stray cows in public places and throwing of slaughtered pigs at mosques and persuasion by the Committees of both the communities to extend the fullest co-operation in tracing and bringing to book the culprits concerned. To reduce the likelihood of such stray incidents, the Committee also recommended to the Government to consider two administrative measures, namely,
 - (i) the taking of effective action by Municipal Councils against roaming of stray cattles on public streets or places and the impounding of such cattle, and
 - (ii) the moving of appropriate Courts to impose deterrent sentences against individuals who slaughter animals at a place other than an authorised slaughter-house and, if necessary, prescribing a statutory minimum sentence for such an offence.

8.32 These recommendations were circulated to all D.Ms., Commissioners of Police and Ss.P. by the Home Department's letter, dated September 5, 1969 (Ex. G 16 collectively) and to all Dy.Ss.P. (Int.) and all P.S.Is. in charge of Intelligence Branch and District Special Branch centres by the letter, dated September 16, 1969 from D.I.G. (Int.) (Ex. G 277).

Implementation of the recommendations of the Standing Committee

8.33 Amongst the measures taken by the Government of Maharashtra to implement the recommendations of the Standing Committee of the State Level Committee on National Integration was the creation of a Special Intelligence Unit in the C.I.D. By its Resolution in the

Home Department (Special), dated September 19, 1968 (Ex. G 7) in pursuance of the recommendation made by the National Integration Council the Government accorded sanction to the creation of a Special Intelligence Unit in the C.I.D. consisting of a staff of one S.P., 3 Armed Police Constables and one stenographer to deal with communal matters.

The Intelligence set-up in the State

8.34 It will be useful to consider at this stage the set-up of the Intelligence Agencies in the State in respect of which a note Ex. G 92 has been filed by the I.G.P. There are two Intelligence Agencies in the State, namely, the State Intelligence Branch (C.I.D.) and the District Special Branches. The State Intelligence (C.I.D.) is headed by D.I.G. (Int.) (C.I.D.) and assisted by 3 Ss.P. including the S.P. (Int.) C.I.D. in charge the Special Intelligence Unit. The work of the various Branches is distributed amongst these three Ss.P. The State Intelligence deals with the collection, collation, dissemination and record of intelligence of political importance of security nature and all other matters having a bearing on law and order. In doing so it not only keeps itself informed through its own network in the State but relies on the intelligence furnished by the Ss.P. in the Districts from time to time. The Ss.P. in their turn receive intelligence from their respective District Special Branches at their headquarters. All police stations in the Districts are also enjoined to collect information through their plain-clothes staff and to keep their respective Ss.P. informed from time to time. According to I.G.P., Rajadhyaksha, "whereas the bulk of the information is transmitted to the State Intelligence (C.I.D.) by the Superintendents of Police with their elaborately organised set up, the State Intelligence is of a selective nature and also serves as a corroborative agency of any information transmitted by the District agency."

8.35 The State Intelligence has regional units at divisional headquarters with an officer of the rank of a Dy.S.P. whose work is to supervise the work of smaller units in each district in his division. The sanctioned strength of the Intelligence C.I.D. Units at Thana, Jalgaon and Kolaba on May 1, 1970 was as follows :—

Thana	...	3 Police Sub-Inspectors and 4 Head Constables.
Jalgaon	...	2 Police Sub-Inspectors and 3 Head Constables.
Kolaba	...	2 Police Sub-Inspectors and 4 Head Constables.

8.36 So far as the S.P. of a district is concerned, intelligence is collected by him with the aid of a Special unit designated as District Special Branch which functions under a Sub-Inspector or an Inspector, depending upon requirements. The sanctioned strength of the District Special Branches in Thana, Jalgaon and Kolaba Districts as on May 1, 1970 was :—

Thana District

- 1 Police Inspector,
- 2 Police Sub-Inspectors,
- 27 Head Constables, and
- 12 Police Constables.

Jalgaon District

1 Police Inspector,
2 Police Sub-Inspectors,
6 Head Constables, and
5 Police Costables.

Kolaba District

1 Police Sub-Inspector,
6 Head Constables, and
5 Police Constables.

8.37 In addition to the D.S.B. Unit an S.P. also relies for collection of intelligence on various police stations. The Circle Police Inspector, who in his Circle is the immediate superior of Sub-Inspectors, who are usually in charge of police stations in the districts, and the Sub-Divisional Police Officer, who in his Sub-Division is the immediate superior of Circle Police Inspectors, are also required to collect intelligence and report thereon to the S.P. In those villages in which there is no police-station the Police Patil and the Outpost Head-Constable usually tour the areas within the jurisdiction of the police station to which they are attached and send reports of various happenings to the officer-in-charge of that police station (G.W. 2/7/76-7). It is the responsibility of an S.P. to keep the D.I.G. (Int.) and the D.M. informed of important events and trends.

8.38 One of the functions of the D.I.G. (Int.) is to go through political literature published from time to time. The Examiner of Books and Publications also goes through books and periodicals and forwards to different departments items of interest which he comes across. Reports submitted to the D.I.G. (Int.) are not required to be submitted to the Home Department but the D.I.G. (Int.) collates reports received by him and in appropriate cases makes a report to the Home Department. There are also shorthand reporters attached to the office of the D.I.G. (Int.) whose services are made available on request to the local police stations when it is desired that the verbatim record of any speeches should be kept (G.W. 1/25/21, 76/59 ; G.W. 2/134/141). Since 1966 till May 1973 M. G. Mugwe was the D.I.G. (Int.).

The Criminal and Election Laws Amendment Act, 1969

8.39 In pursuance of the recommendation made by the National Integration Council the Parliament passed the Criminal and Election Laws Amendment Act, 1969 (35 of 1969). This Act came into force on September 4, 1969. By this Act certain provisions of the I.P.C., Cr. P.C. and the Representation of the People Act, 1951, were amended and provision was made in respect of printing and publication of certain objectionable matters. Copies of this Act with a detailed note were sent to different State Governments by the Home Ministry by its letter, dated September 18, 1969. The Home Department of the Government of Maharashtra by its letter, dated November 17, 1969

forwarded copies of this Act to all D.Ms., Commissioners of Police and Ss.P. and intimated to them the desire of the Government that more than ordinary care should be taken by the D.M. in scrutinising the investigation reports submitted by the Police before according sanction for prosecution under sections 153A and 505 I.P.C. with a view to ensuring complete objectivity and impartiality in taking action against newspapers indulging in communal writings [Ex. G 20 (colly.)]. The D.I.G. (Int.) by his letter, dated December 12, 1969 to Dy. S.P. (Int.) also forwarded copies of the Home Ministry's letter together with a note on the action to be taken in view of the amendment of the law and further pointed out that it was one of the functions of the Intelligence to scrutinize newspapers and other periodicals to ascertain whether they contained any objectionable articles which required action to be taken (Ex. G 278). We will now consider these amendments in detail.

The amendment of sections 153A and 505(1) I.P.C.

8.40 Prior to the Amending Act XLI of 1961, section 153A I.P.C. provided as follows :—

“Whoever by words, either spoken or written or by signs, or by visible representations, or otherwise, promotes or attempts to promote feelings of enmity or hatred between different classes of citizens of India, shall be punished with imprisonment which may extend to two years, or with fine, or with both.

Explanation.—It does not amount to an offence within the meaning of this section to point out, without malicious intention and with an honest view to their removal, matters which are producing or have a tendency to produce, feelings of enmity or hatred between different classes of the citizens of India.”

8.41 The scope of the section was widened by section 2 of Act XLI of 1961 which substituted a new section for the old section 153A. The substituted section was as follows :

“Whoever—

- (a) by words, either spoken or written, or by signs or by visible representations or otherwise, promotes, or attempts to promote, on grounds of religion, race, language, caste or community or any other ground whatsoever, feelings of enmity or hatred between different religious, racial or language groups or castes or communities, or
 - (b) commits any act which is prejudicial to the maintenance of harmony between different religious, racial or language groups or castes or communities and which disturbs or is likely to disturb the public tranquility,
- shall be punished with imprisonment which may extend to three years, or with fine, or with both.”

8.42 Following upon the recommendation of the National Integration Council, by section 2 of the Criminal and Election Laws Amendment Act, 1969, section 153A was again substituted as follows :

“153A. *Promoting enmity between different groups on grounds of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of harmony.*—(1) Whoever—

(a) by words, either spoken or written, or by signs or by visible representations or otherwise, promotes or attempts to promote, on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever, disharmony or feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities, or

(b) commits any act which is prejudicial to the maintenance of harmony between different religious, racial, language or regional groups or castes or communities, and which disturbs or is likely to disturb the public tranquility,

shall be punished with imprisonment which may extend to three years, or with fine, or with both.

(2) *Offence committed in place of worship, etc.*—Whoever commits an offence specified in sub-section (1) in any place of worship or in any assembly engaged in the performance of religious worship or religious ceremonies, shall be punished with imprisonment which may extend to five years and shall also be liable to fine.”

8.43 Thus to meet the deteriorating communal situation in the country the Parliament twice substituted section 153A so as to widen its scope and ambit.

8.44 This section was further amended by the Criminal Law (Amendment) Act, 1972 (31 of 1972), by inserting the word ‘or’ at the end of clause (b) of sub-section (1) and inserting the following clause as clause (c) :—

“(c) organizes any exercise, movement, drill or other similar activity intending that the participants in such activity shall use or be trained to use criminal force or violence or knowing it to be likely that the participants in such activity will use or be trained to use criminal force or violence, or participants in such activity intending to use or be trained to use criminal force or violence or knowing it to be likely that the participants in such activity will use or be trained to use criminal force or violence against any religious, racial, language or regional group or caste or community and such activity for any reason whatsoever causes or is likely to cause fear or alarm or a feeling of insecurity amongst members of such religious, racial language or regional group or caste or community.”

8.45 A new section 153B was also inserted by the Amending Act of 1972. The new section 153B is as follows :—

“153B. *Imputations, assertions prejudicial to national integration.*—(1) Whoever, by words either spoken or written or by signs or by visible representations or otherwise,—

(a) makes or publishes any imputation that any class of persons cannot, by reason of their being members of any religious, racial, language or regional group or caste or community.

bear true faith and allegiance to the Constitution of India as by law established or uphold the sovereignty and integrity of India, or

(b) asserts, counsels, advises, propagates or publishes that any class of persons shall, by reason of their being members of any religious, racial, language or regional group or caste or community, be denied or deprived of their rights as citizens of India, or

(c) makes or publishes any assertions, counsel, plea or appeal concerning the obligation of any class of persons, by reason of their being members of any religious, racial, language or regional group or caste or community, and such assertion, counsel, plea or appeal causes or is likely to cause disharmony or feelings of enmity or hatred or ill-will between such members and other persons,

shall be punished with imprisonment which may extend to three years, or with fine, or with both.

(2) Whoever commits an offence specified in sub-section (1), in any place of worship or in any assembly engaged in the performance of religious worship or religious ceremonies, shall be punished with imprisonment which may extend to five years and shall also be liable to fine."

8.46 Further, by this Amending Act of 1972 a new definition of "unlawful association" was substituted for the definition of that term given in clause (g) of section 2 of the Unlawful Activities (Prevention) Act, 1967 (37 of 1967), the new definition being—

" 'Unlawful association' means any association—

- (i) which has for its object any unlawful activity, or which encourages or aids persons to undertake any unlawful activity, or of which the members undertake such activity ; or
- (ii) which has for its object any activity which is punishable under section 153A or section 153B of the Indian Penal Code (45 of 1860), or which encourages or aids persons to undertake any such activity, or of which the members undertake any such activity :

Provided that nothing contained in sub-clause (ii) shall apply to the State of Jammu and Kashmir."

8.47 Section 505, I.P.C., as originally enacted was as follows :—

" 505. *Statements conducing to public mischief*.—(1) Whoever makes, publishes or circulates any statement, rumour or report—

- (a) with intent to cause, or which is likely to cause, any officer, soldier, sailor or airman in the Army, Navy or Air Force of India to mutiny or otherwise disregard or fail in his duty as such ; or
- (b) with intent to cause, or which is likely to cause, fear or alarm to the public, or to any section of the public whereby any person may be induced to commit an offence against the State or against the public tranquility ; or

(c) with intent to incite, or which is likely to incite, any class or community of persons to commit any offence against any other class or community, shall be punished with imprisonment which may extend to two years, or with fine, or with both.

Exception.—It does not amount to an offence, within the meaning of this section, when the person making, publishing or circulating any such statement, rumour or report, has reasonable grounds for believing that such statement, rumour or report is true and makes, publishes or circulates it without any such intent as aforesaid.”

8.48 By the Criminal and Election Laws Amendment Act, 1969, the section was renumbered as sub-section (1) and two new sub-sections were added. In the newly renumbered sub-section (1) the punishment of three years was substituted for the original punishment of two years and in the Exception the words “in good faith” were added after the words “circulates it.” Thus under the amended section for a person making, publishing or circulating a statement, rumour or report not to be liable he should not only have reasonable grounds for believing that the statement, rumour or report is true but he should also have made, published or circulated such statement, rumour or report in good faith. The two new sub-sections added by the amending Act of 1969 are as follows :—

“(2) *Statements creating or promoting enmity, hatred or ill-will between classes.*—Whoever makes, publishes or circulates any statement or report containing rumour or alarming news with intent to create or promote, or which is likely to create or promote, on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever, feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or caste or communities, shall be punished with imprisonment which may extend to three years, or with fine, or with both.

(3) *Offence under sub-section (2) committed in place of worship, etc.*—Whoever commits an offence specified in sub-section (2) in any place of worship or in any assembly engaged in the performance of religious worship or religious ceremonies, shall be punished with imprisonment which may extend to five years and shall also be liable to fine.”

The amendment of the Code of Criminal Procedure

8.49 Prior to the coming into force of Act 35 of 1969, under section 196 Cr.P.C., an offence under section 153A or section 505 I.P.C. could not be taken cognizance of by any Court except upon a complaint made by order of or under authority from the State Government or some officer empowered by the State Government in that behalf. By reason of the amendment to section 196 made by section 4(a) of Act 35 of 1969 what is now required is a complaint

made by the order or under authority from the State Government or District Magistrate or such other officer as may be empowered by the State Government in that behalf. Under schedule II to Cr.P.C. prior to its amendment by Act 35 of 1969 an offence under section 153A or 505 I.P.C. was non-cognizable. By the Criminal and Election Laws Amendment Act, 1969, Schedule II was amended and offences under sections 153A and 505, except an offence under sub-section (1) of section 505, were made cognizable. So far as the offences created by the Criminal Law (Amendment) Act, 1972, by the insertion of section 153B in the Indian Penal Code are concerned, by the Amending Act the Code of Criminal Procedure was also amended and these offences were made cognizable.

The power to control prejudicial publications

8.50 Since the most dangerous type of communal propaganda which can be carried on is by communal writings published in newspapers, journals, etc., section 6 of the Criminal and Election Laws Amendment Act, 1969, conferred upon the Central Government or a State Government or any authority authorized by the Central Government in this behalf, by order in writing addressed to the printer, publisher or editor, the power to prohibit the printing or publication of any document or class of documents of any matter relating to a particular subject or class of subjects for a specified period or in a particular issue or issues of a newspaper or periodical, if the prohibiting authority was satisfied that such action was necessary for the purpose of preventing or combating any activity prejudicial to the maintenance of communal harmony or affecting or likely to affect public order. The maximum period for which such an order is to remain in force is two months and a right is given to the person against whom such an order was made to make within ten days of the communication of the order a representation either to the Central Government, if the order was made by it or any authority authorized by it, or to the State Government if the order was made by the State Government. On such representation being made, the Central Government or the State Government, as the case may be, after consultation with the Press Consultative Committee, is to dispose of the matter by modifying, confirming or rescinding the order. The Press Consultative Committee is to consist of such number of persons being editors, publishers and journalists as may be prescribed by rules made by the Central Government. Any contravention, disobedience or neglect to comply with an order made under this section is punishable with imprisonment of either description which may extend to one year or with fine of Rs. 1,000 or with both and power is further conferred upon the Central Government or the State Government or the authority issuing the order, as the case may be, to direct that copies of the offending publication be seized and any printing press or other instrument or apparatus used in the offending publication be closed down for the period the order is in operation.

The amendment of the Representation of the People Act, 1951

8.51 Section 8(1) of the Representation of the People Act, 1951, provides that a person convicted of certain offences under the I.P.C. or under the Representation of the People Act should, for a period of six years from the date of such conviction, be disqualified for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or the Legislative Council of a State. By Act 35 of 1969 section 153A and sub-sections (2) and (3) of section 505 I.P.C. were inserted in the list of sections, a conviction under which operates as a disqualification.

Prosecutions under sections 153A and 505 I.P.C.

8.52 Since the last several years the Government of Maharashtra has been taking steps against the activities of communal parties and communal leaders in respect of their acts and utterances which could be prosecuted against under sections 153A or 505 I.P.C. or both. A list of such prosecutions since 1967 with a detailed note thereon is Ex. G 40, while statements showing the disposal of these cases upto April 30, 1973 are Exs. G 394 and G 395. These three Exhibits show that cases under these two sections have been launched against Hindus as well as Muslims in various districts in the State. A number of these persons prosecuted belonged to the Hindu Mahasabha, the Jan Sangh, the Shiv Sena, the Majlis Tameer-E-Millat, the Jamaat-E-Islami, the Rashtriya Utsav Mandal of Bhiwandi and the Peasants and Workers Party (P.W.P.). Amongst these persons were also editors of Hindi, Marathi and Urdu periodicals which had published matters of an objectionable nature.

8.53 From Home Secretary Rajwade's evidence it appears that prior to the coming into force on September 4, 1969, of the Criminal and Election Laws Amendment Act, 1969, the question of launching prosecutions was considered by the D.M. in consultation with the General Administration Department so far as publications were concerned and in consultation with the Home Department so far as speeches were concerned and that at times the Minister in charge would also be consulted. He has, however, deposed that in no case did the Minister in charge overrule the department when it had desired to launch a prosecution, a statement not challenged by any party. He has further deposed that after the Amending Act it was the duty of the D.M. to initiate prosecutions with respect to speeches tending to communal disharmony and that the D.Ms. usually consulted their Public Prosecutors or Government Pleaders and in complicated cases also referred the matters to the Legal Department. So far as the City of Bombay is concerned, the Commissioner of Police referred all such matters to the Home Secretary as he had no authority to grant any sanction to prosecute (G.W. 1/30-31/31-32, 45/39).

8.54 It appears from the evidence that in several cases the accused were discharged because the sanction granted by the D.M. was defective and that in some cases there was so much delay in

considering the question whether sanction should be granted or not that ultimately it was considered advisable not to grant sanction. This is not a very desirable state of affairs. The question of granting sanction to prosecute under section 153A or 505 I.P.C. should be expeditiously considered since taking action a considerable time after the offence has been committed would merely harden the persons indulging in these activities to commit other similar offences with impunity and fill the injured parties with a sense of grievance against the administration for its inaction and can even give rise to a suspicion that the administration is biased or is favouring the offender. In some cases the accused persons have been acquitted by the Court on the ground that the objectionable portions of the speech were not proved beyond a reasonable doubt. In all cases where it is expected that a speaker might make a speech containing objectionable matters, care must be taken to depute an experienced and competent stenographer to avoid such a situation arising in a Court of Law. It is, however, only certain speakers who are on what is called the *verbatim* list, that is, whose speeches are required to be taken down in full by a stenographer. In all other cases the police reports contain merely a summary or substance of a speech, which is often insufficient to sustain a conviction in a Court of Law. It is impossible for every speech made to be taken down by a shorthand writer, but even in cases where a speaker is not on the *verbatim* list but past experience of the local police shows that his speeches are such as are actionable under section 153A or 505 I.P.C., the local police should take care to requisition in advance the services of a shorthand writer from the State Intelligence.

8.55 We are not concerned in this Inquiry with the prosecutions against persons from outside the three areas which form the subject-matter of this Inquiry or for offences alleged to be committed outside these areas. So far as offences alleged to be committed within these areas are concerned, they will be dealt with in the relevant chapter of this Report. Exs. G 40, G 394 and G 395, however, serve to show that the Government of Maharashtra had not slept over the matter of communal utterances and publications but in most cases took action in respect thereof.

Preventive detention

8.56 A number of persons were detained in the State under the Preventive Detention Act in respect of the threat posed by them to law and order by their communal activities. A list of such persons is given in Ex. G 40. In so far as the detention of some of these persons was for communal activities material to the subject-matter of this Inquiry, it will be dealt with in the relevant chapters of this Report.

Restrictions under section 144 Cr. P. C.

8.57 In order to prevent communal utterances and communal activities of persons known for such activities, restrictions under

section 144 Cr.P.C., either banning the making of such speeches or banning the entry of such persons into particular places, were from time to time issued in different parts of the State by the District and other Executive Magistrates. A list of persons on whom such restrictions were placed is to be found in Ex. G 40. The cases in which such restrictions were placed in respect of the areas which form the subject-matter of this Inquiry, will be dealt with in the relevant chapters of this Report.

The recommendations of the Raghubar Dayal Commission

8.58 Communal disturbances took place between August and October 1967 in Ranchi, Hatia, Jainpur, Suchetpur, Ahmednagar, Sholapur, Malegaon and Sursand. The Central Government thereupon appointed a Commission of Inquiry with Mr. Justice Raghubar Dayal, a retired Judge of the Supreme Court of India, as Chairman and Col. B. H. Zaidi, M.P., and Mr. M. M. Philip, a former Secretary to the Government of India, as members, to inquire into the said disturbances. Part V of the report of the Commission on the said disturbances which took place in Ranchi and Hatia from the 15th to the 29th August 1967 contained certain recommendations. By a letter from the Home Ministry, dated February 1969 [part of Ex. G 9 (c)], a copy of the said report together with a list of recommendations which were considered of relevance to all State Governments was forwarded to the Chief Secretary to the Government of Maharashtra with a request that the Government should examine these recommendations and take such action thereon as might be appropriate. The Government intimate the action taken to the Home Ministry. The list enclosed with the said letter contained the following recommendations of the Commission those made by the Raghubar Dayal Commission :—

- (a) Whenever any agitation in the State is likely to lead to communal disaffection and trouble, the State Government should not only warn the District Magistrates and the Superintendents of Police to be alert but should itself take steps to settle the matter leading to the agitation. The Ministers constituting the Government should not speak with different voices.
- (b) Once the trouble starts the State Ministers ought not to express their views about the causes of disturbances and the way they had been dealt with. This is bound to affect the steps taken by the local authorities who have to perform a very difficult task during the disturbances.
- (c) The State Ministers should not try to unduly influence local officers in their dealing with the situation.
- (d) The State Ministers should not make any statements which tend to undermine the respect for authority and tend to demoralise the authorities.
- (e) Officers in service should not be transferred on grounds other than genuine exigencies of service. Transfers should

not, as a rule, be made merely on verbal-cum-private complaints, which have not been substantiated.

- (j) Postings of District Magistrates and Superintendents of Police to various stations should be according to the importance of the places and the comparative experience of the officers concerned.
- (g) Firm legal action should be taken against persons acting in a manner likely to create ill-will, hatred, etc., between the communities. Such cases once sent to Court should not be withdrawn for political reasons.
- (h) Augmentation of the State Police and the Central Reserve Police may reduce the possibility of calling on the military.
- (i) More importance should be given to one of the functions of the Special Branch, namely, the function of gathering information about communal activities and tension.

Government may consider issuing of a notification directing that section 4 of the Arms Act shall apply to specified cities or areas susceptible to violence in general or communal tension and also consider notifying such arms as daggers, knives, spears, swords, etc., which no person shall acquire, have in his possession or carry in those cities or areas without a licence.

The District Magistrates and the Superintendents of Police and their subordinate staff should be fully conversant with the emergency scheme, of which rehearsal should be held occasionally.

To enforce the emergency scheme the reserve police and the magistrates at the disposal of the District Magistrate and the Superintendent of Police should be adequate.

There should be no hesitation in arresting goondas even on the mere possibility of a disturbance.

All measures of preventive action should be taken on the mere possibility of a communal disturbances.

Contradicting rumours likely to inflame communal tension is of prime importance. The use of publicity vehicles for contradicting rumours in a large city like Ranchi has not been found very effective on account of time-lag factor.

The pattern of the Police and the military patrolling in vehicles has not been found to be very effective. When the vehicles pass a certain place, the mischief-mongers get off the road and conceal themselves. They come out just after the vehicles have passed in full knowledge that no further patrolling party would be coming.

The static pickets should also be so located and utilised in the troublous areas as to be really able to control that area.

- (r) Proper arrangements for the enforcement of section 144 Cr.P.C. orders and curfew must be invariably made.

- (s) Walkie-talkie sets should be provided to the police parties so that immediate information from places where trouble has taken place can be communicated to the control room.
- (t) Improvement in the working of the intelligence system is necessary.
- (u) The authorities should have more direct contact with the people.
- (v) Preventive action under the Cr.P.C. and the Preventive Detention Act should be taken as far as possible.
- (w) Services of well-known peace loving people should be utilised to influence people to keep communal harmony.
- (x) Arrangements should be made for a photographer to accompany processions.
- (y) Wherever an industrial establishment is to be established a provision should be made for the establishment of a police station.
- (z) Collective fines and the posting of the punitive police in areas where large scale communal disturbances took place would be effective."

The implementation of the recommendations of the Raghubar Dayal Commission

8.59 To implement the recommendations made by the Raghubar Dayal Commission, by a circular memorandum, dated April 19, 1970 (Ex. G 89) the I.G.P. directed that any information concerning a communal incident, however trivial, should be passed on to the local S.D.M. or Executive Magistrate or both with the utmost expedition. By this memorandum the Commissioners of Police and Ss.P. were further directed to arrange a drill of the precautionary measures of the riot scheme once in three months particularly at those places which were prone to riots, such rehearsals to include the part played by police officers in giving information to the local Magistrate and the Magistrate proceeding to the spot, etc. By circular memorandum, dated October 16, 1969 (Ex. G 91) the I.G.P. circulated to all Commissioners of Police and Ss.P. with copies to all D.I.Gs., such of the recommendations of the Raghubar Dayal Commission as were considered to have a bearing on police administration.

8.60 The Home Secretary L. G. Rajwade and the I.G.P. A. G. Rajadhyaksha were cross-examined on the steps taken by the Government of Maharashtra to implement these recommendations. The Home Secretary deposed that the steps taken by the Department to implement the said recommendations were to issue orders and instructions which were produced in evidence before the Commission. He further said that he had no personal knowledge whether any steps were taken in Bhiwandi at the magisterial level to settle the matter prior to the May 1970 disturbances (G.W. 1/93/65). The I.G.P. deposed that as these recommendations were circulated to all Commissioners of Police, D.I.Gs. and Ss.P. they were expected to be

implemented and in every case he as the head of the Police Force was not required to keep on inquiring whether they were being implemented or not (G.W. 1/138/144-5).

The I.G.P.'s criticism of the recommendations of the Raghubar Dayal Commission

3.61 The said circular memorandum, dated October 16, 1969 (Ex. G 91) contained the comments of the I.G.P., Rajādhyaksha, on three of the recommendations made by the Raghubar Dayal Commission. With reference to recommendation (o) above about contradicting rumours, the I.G.P. observed in the said memorandum that besides contradicting rumours the I.G.P. expected arrests of rumour-mongers under section 151 Cr.P.C. With reference to recommendation (p) above about police and military patrolling, the I.G.P. observed that patrol vehicles could be effective if they covered all the areas adequately and did not leave them uncovered for long intervals. With reference to recommendation (s) above with respect to providing the police parties with walkie-talkie sets, the I.G.P. observed that the availability of walkie-talkie sets had to be examined before requisitioning them. In the course of his cross-examination he deposed with reference to recommendation (k) above about holding rehearsals of the Emergency Scheme, that is, the Riot Scheme, that it was not feasible to have a full dress rehearsal of the Riot Scheme, though some sort of skeleton rehearsal was feasible and necessary. With reference to recommendation (o) above about contradicting rumours, he opined that public contradiction of rumours usually results in wider publicity and may on the contrary make some people believe that the rumour was true and further make the rumour known to those whose ears it may not have reached before. In his opinion, the only effective way of dealing with rumour-mongering was to put the rumour-monger behind bars once the police had succeeded in catching him. With reference to recommendation (p) above about police patrolling, he opined that for patrol vehicles to be effective, they should cover all the areas effectively and at quick intervals for which purpose a number of vehicles were needed. He has also opined that for this purpose resort could also be had to cycle patrols and foot patrols in limited areas. With reference to recommendation (s) above about police parties being provided with walkie-talkie sets, he deposed that enough walkie-talkie sets were not available to the police to enable them to be distributed amongst various sectors. With reference to recommendation (x) above about a photographer accompanying processions, he opined that a photographer with a still camera accompanying a procession was not of much use and that what was really required was a movie camera with at least a 16 mm. telephoto lens. He also deposed that the police force did not have such movie cameras. He also deposed that another important measure to ascertain what was actually happening and who the miscreants were was a close circuit television (G.W. 2/147-150/148-9).

8.62 It must be said that there is considerable force in the above comments of the I.G.P. and the criticism levelled by him.

Precautionary measures after the Ahmedabad disturbances

8.63 On September 18, 1969 communal disturbances took place in Ahmedabad and spread to other parts of the State of Gujarat. On coming to know about the spread of these communal disturbances the Home Department by its crash wireless message, dated September 22, 1969 (Ex. G 17) intimated to all D.Ms., Commissioners of Police and Ss.P. that the local intelligence machinery in the State should be geared up and round the clock vigilance maintained particularly in areas with a background of communal conflicts, that special precautions should be taken on the railways and if any untoward thing was noticed, it should be nipped in the bud with a firm hand. It further directed that adequate preventive action should be taken even where the slightest tension was noticed and that firm action should be taken in respect of writings, speeches and rumours which might have the effect of creating tension between two communities (Ex. P. 589). As the Ganpati Immersion festival was fast approaching the D.I.G. (Int.) by a wireless message, dated September 23, 1969 (Ex. P. 589) directed all Ss.P. and Deputy Commissioners that in view of the uncertain communal atmosphere they should look out for plans, preparations or collecting of materials and missiles to mount either an attack or a retaliatory self-defence by any community and further to gear up intelligence to the highest pitch. By a priority crash wireless message, dated September 24, 1969 (Ex. G 45) addressed to all Police Commissioners and Ss.P., with copy to the D.I.G. (Int.), the I.G.P. stated that in view of the tension prevailing in Ahmedabad and some cities in Gujarat and the efforts made by interested parties to build up tension in certain places in the State of Maharashtra by rumour-mongering police vigilance should continue for at least 12 hours after the Ganpati Immersion processions. In view of the rumours which were being spread about the Ahmedabad disturbances, the Government by another crash wireless message, dated September 25, 1969 (Ex. G 18) directed all D.Ms., Commissioners of Police and Ss.P. to detain forthwith anyone found publicly talking about things which he had not seen and to submit a report to the Government and further intimated that such talks should be capable of being adjudged as prejudicial to the peace in their district. Copies of both the above Government messages were sent to all Commissioners of Divisions, the I.G.P. and all D.I.Gs. In continuance of his wireless message Ex. G 45 the I.G.P. by another wireless message, dated September 26, 1969 (Ex. G 46) directed all Police Commissioners and Ss.P. that police vigilance should continue in all the districts.

8.64 It appears that intemperate statements about the communal disturbances in the State of Gujarat were being made by certain political leaders. Accordingly by his letter, dated November 7, 1969 (Ex. G 19) addressed to all Police Commissioners and D.I.G.

(Int.) the Home Secretary, L. G. Rajwade, stated that though nothing of any particular significance had occurred in the State of Maharashtra, the Government's attention had been drawn to "some intemperate statements made by leaders of patently anti-Muslim parties and also to the statement put out by Sarvashri Bhupesh Gupta and Yella Reddi, M.Ps. belonging to Communist Party of India (M) in which they have referred to the 'planning and organization' done by the Jan Sangh and Rashtriya Swayamsevak Sangh of Gujarat prior to the Ahmedabad riots". The letter further stated that while the said insinuation could no doubt be motivated by political rivalries, they could not afford to ignore the fact that the Jan Sangh, the R.S.S. and the Shiv Sena existed in this State in sizeable numbers and therefore apart from watching their speeches and writings it was most necessary to watch from thenceforward any planning or scheming that these parties might be undertaking with a view to any large scale looting or killing of members of the minority community once a spark had been set off. He accordingly directed the officers concerned to take the utmost precaution in their respective jurisdictions and adopt the most stringent measures to deal with the anticipated tension and to send for any offending speaker indulging in any inflammatory utterances and ask him to desist from such activities and if he was not found repentant, then to proceed against him according to law without any hesitation. In his evidence Rajwade has stated that when he wrote his said letter, dated November 7, 1969 he had reason to believe that after the communal disturbances in the Gujarat State the activities of the Jan Sangh, the R.S.S. and the Shiv Sena in the State of Maharashtra required to be watched and when he required their activities to be watched, it included any planning or scheming which these parties might be undertaking with a view to large scale looting or killing of the members of the Muslim community once a spark had been set off (G.W. 1/51/46, 60/50).

The articles in the 'Sobat'

8.65 Soon after the Ahmedabad riots as also after the May 1970 disturbances certain articles appeared in the Marathi weekly 'Sobat' published from Poona of which the editor at the relevant time was Ganpati V. Behere. Translations of these articles have been exhibited before the Commission. The first of these articles was the one published in the 19th October 1969 issue and was headed "Bravo ! Jay Prakashji Bravo !" (Ex. BR 15). The article, *inter alia*, stated that all riots which had taken place were started by Muslims alone and that when the Hindus tried to deal with the Muslim 'goondas' they asked for protection on the ground of protection of minorities and the Police and those who resisted being Hindus, the Hindus only died in police firing. With reference to the riots in Ahmedabad, the article then stated :—

"What took place at Ahmedabad was, however, slightly different. The Muslims made the attack as usual. They did that with pre-planning. Full and complete arrangements had been made as regards acid bulbs, bombs, hand-grenades, etc. All that was recovered

completely in the searches taken by the Police. The preparations for such riots are made in the mosque only, with Allah as the witness. The riot took place, but before the arrival of the Police the Hindus this time paid more attention to killing of human beings rather than to arson etc. By experience, the Hindus have now learnt that nothing is gained by burning down the mosques or the properties belonging to the Muslims, the reason being that they have got to be reconstructed with the moneys of the Hindus. But the Muslim who loses his life cannot be brought back from the Almighty God by spending any amount of money. There is no loss at all to the Hindus even if one Hindu has to be lost for one person. They must have now realized that this decision of the Hindus from Ahmedabad will prove to be a costly affair for the Muslims.

“I believe this must be the first example where the Muslims were killed on such a large scale. Moreover, there was neither any political party nor any communal organization behind doing that. It was the poor Hindus, namely, the milkmen who are outsiders who have come down to Ahmedabad, the mill workers and the handcart-men who gave a severe thrashing to the Muslims. When the pot-bellied moneyed Gujaratis were sitting in luxurious bungalows by embracing their wives with the doors closed, it was the poor Hindus anxious to earn their bread who were shedding their blood.”

No action was taken by the authorities in respect of this article.

8.66 It appears that after the disturbances, which form the subject-matter of this Inquiry, an article headed “The Ban on the Koran” was published in the ‘Sobat’. With reference to that article the editor Behere wrote in his editorial (Ex. BR 17) under the same heading “Ban on the Koran” that he had received a number of letters in connection with the said article and that the main causes for there being no harmony between the two communities were the commands contained in the Koran and therefore he was going to work by constitutional means for getting the Koran banned. He further stated that having regard to the delicate nature of the work which he had undertaken, he could not disclose everything about it on paper.

8.67 In the same issue of the ‘Sobat’ another article was published headed “Islam—A Curse to India” (Ex. BR 19). In this article it was, *inter alia*, stated :—

“However, on taking into consideration the objectives and the commandments of the Koran, anybody is bound to realize that this religion is basically fanatic about religion and that it does not know of any tolerance at all. Of course, it would not be surprising at all if the followers who are afflicted with madness of such an intolerant and aggressive religion go to the extent of getting mad and suffering from ‘Hydro-phobia’. Today at such a time is it not true that those who are suffering from such a phobia prove to be madmen who are harmful to others for ever? Is it possible that they will improve? And if not, what should be done to them? What is

done to those who suffer from phobias? What is to be done to the Muslims who are proving to be a curse to India?"

8.68 In the same issue there was published another article headed "Guruji is the disciple of Savarkar only, but his 'Math' is different. The word 'Muslim' is terrible". It was, *inter alia*, stated in the said article:—

"A Hindu boy grows up hearing the news of terrible atrocities done by the Muslims. Feelings of inferiority complex are created in his mind throughout his life directly or indirectly.

"The boy growing today at Ahmedabad, Baroda or Bhiwandi-Thana will not grow to be of that type. He has seen Hindus thrashing Muslims, he has seen and heard Hindus destroying the Dargahs and mosques wherein arms were kept hidden and he has heard *pardahnashin* ladies coming to the houses of the Hindus on rare occasions. Post-Gandhi era has changed.

"But as the entire old generation right from Gandhiji upto N. G. Gorey grew in the atmosphere of Muslim atrocities and terrorism, the very idea that Muslim means a mighty monster or a statue of cruelty was entertained in their inner minds. They were helpless for that. They had seen the real 'power' of the Muslims. They had experienced it. They had not seen and heard any Hindu giving beatings to a Muslim. If one follows this entire psychological background, it will be easy to understand as to why the said generation becomes meek and pro-Muslim.

"Some persons who were fearless remained totally free from those cowardly mental effects. Those persons asked the other Hindus to follow them. But others whose mental traits had developed for years together did not dare to come out of the said mental traits by breaking them. Two burning examples of that exception are Savarkar and Dr. Hedgewar. These two persons were never afraid of the Muslims. There are three reasons for that. The first is that from the childhood their groups had beaten up boastful Muslim boys. The second is that they had proper knowledge of history. They had made an exact study as to why the Hindus were defeated. The third is that they themselves were bold by nature. Through the institutions, the Hindu Mahasabha and the R.S.S. these two persons tried hard to teach their said teachings to the Hindu world.

"You will be surprised but the Sangh was born only for preaching that."

The rest of the article traced the history of R.S.S. as viewed by the author of that article.

8.69 Behere was prosecuted for the aforesaid publications in the 21st June 1970 issue of the 'Sobat' and, as shown by Ex. G 395, he was committed to Sessions and the case against him was pending on April 30, 1970.

8.70 The aforesaid publications in the 19th October 1969 and the 21st June 1970 issues of the 'Sobat' satisfy the test laid down in paragraph 6.7 and, therefore, constitute communal writings.

The statement of the Standing Committee of the National Integration Council

8.71 A meeting of the Standing Committee of the National Integration Council was held at New Delhi on October 16, 1969 in view of the communal disturbances which took place in September 1969 in the State of Gujarat. The Standing Committee issued the following statement (Ex. G 143) which deserves to be quoted in full:—

“The Standing Committee of the National Integration Council expresses its sense of horror at the recent communal violence in Gujarat which has given a serious setback to the growth of communal harmony and goodwill as the basis of our secular democracy. The Committee conveys its deeply felt sympathy to all those who have suffered.

“2. The Standing Committee is of the opinion that the effective weapon for fighting communal conflict and disintegration is joint mass campaigning and education by all political parties in favour of communal amity and harmony. We are firmly opposed to the denunciation of any minority community as being unpatriotic or an agency of any foreign power. Equally, do we condemn the spread of the idea that any minority community requires to be Indianised or else it should be forced to leave the country. In the course of communal frenzy people are found sometimes to indulge in such irresponsible talk as exchange of population with Pakistan being a solution of the Hindu-Muslim problem. The Committee is firmly of the opinion that such ideas have got to be combated as they are not only totally inconsistent with secularism and our concept of nationalism but also harmful to our country's unity and security.

“3. In a secular democratic country all minorities whether based on religion, caste or tribe have to be assured due protection of their just interests, above all, their life, property and honour.

“4. Attempts by communal elements in the minority community to rouse communal passions and separatist feelings have also to be vigorously fought. Besides being harmful to the secular basis and unity of the country, they jeopardize the interests of the minority community itself.

“5. It is the duty of Government to take firm action against the preaching of communal hatred and animosity, whether carried on from the public platform or in the Press, without any consideration for the status of the person concerned.

“6. The administrative agencies should firmly and promptly put down communal agitation and provocation which usually precede communal disturbances. The Government must intervene to suppress with utmost speed and vigour every outbreak of communal violence. Further, it is the duty of the administration to bring to book all those indulging in arson, loot and murder during communal disturbances and mete out deterrent punishment to them. The Committee is convinced that the idea that withdrawal of cases can

help in the restoration of communal harmony is misconceived. The prosecution of those charged with such heinous crimes does not stand in the way of restoring communal harmony.

“7. It is the duty of the public, and particularly of all political parties, to support firm action by the Government in putting down communal violence and bringing to justice those responsible for crimes in such disturbances.”

The All-Party Conference convened by the National Integration Council

8.72 An All-Party Conference convened by the National Integration Council was held on October 16, 1969 and considered the statement (Ex. G 143) issued by the Standing Committee of the National Integration Council and thereafter issued a statement (Ex. G 144). In its statement the All-Party Conference of the National Integration Council emphasized that the effective weapon for fighting communal conflict and disintegration was joint mass campaigning and education by all political parties in favour of communal amity and harmony. It also emphasized the right of every citizen to follow his own religion. It condemned the denunciation of any minority community as being unpatriotic or as an agency of any foreign power as also the spread of the idea that any minority community required to be Indianized or to be forced to leave the country. It also emphasized the necessity to combat the tendency to blame an entire community or caste for an act committed by an individual member or a group or individuals thereof. It also condemned the presentation of history in speeches and the Press in a manner likely to rouse communal passion and the publication of provocative literature, leaflets and the spread of wild rumours. It declared that it was necessary to fight vigorously the attempt by communal elements in the minority communities to rouse passions and separatist feelings and called upon the Government to take firm steps to put down communal agitation and provocation.

The follow-up by the Government

8.73 The Home Secretary, L. G. Rajwade, has deposed about the system of follow up with respect to orders and instructions issued by the Home Department. He has testified that as the Home Secretary he periodically visited district headquarters particularly of those districts which were sensitive from the law and order and communal points of view and held conferences with the D.Ms., the Ss. P. and the Range D.I.Gs. and the D.I.G. (Int.) and that if he was not satisfied with the answers given and the information received, he made his personal notes and then made a report to the Government. He further stated that this was in addition to routine reminders which he issued with regard to various instructions given by the Government and that in addition thereto meetings and conferences in Bombay were held where the action taken on instructions issued by the Home Department was discussed. He was specifically asked whether after the

Ahmedabad riots he had written to the District Magistrate, Thana, to inquire if he was complying with the instructions contained in Ex. G 2, namely, scrutinizing personally the intelligence reports sent to him, and he replied that after those disturbances the Government had issued further instructions to all D.Ms., Police Commissioners and Ss.P. by Exs. G 17, G 18 and G 19 and it was therefore not necessary to remind district authorities of their duties or what they were required to do as they were responsible officers and specific instructions had already been given to them (G.W. 1/35/33-4, 20/18).

The action at District level

8.74 From the evidence above referred to it is clear that the Government of Maharashtra took adequate steps to implement the recommendations of the National Integration Council, the State Level Committee on National Integration and the Raghubar Dayal Commission by issuing necessary instructions. It also issued alerts whenever the occasion demanded. Issuing of instructions is, however, one thing; their implementation is a wholly different thing. Whether the instructions issued by the Home Department or the I.G.P. or the D.I.G. (Int.) were properly implemented or not can only be judged by the action taken at the district levels by the officials concerned.

8.75 The administrative head in the districts is the Collector and the District Magistrate. D. N. Capoor, the Collector and District Magistrate, Thana, during the relevant period, has filed an informative and instructive note on the duties and functions of Collectors and District Magistrates (Ex. P. 605). Though originally the functions which these officers had to perform were two-fold, namely: (1) the assessment and collection of land revenue, and (2) the maintenance of law and order, today the responsibilities and duties of a Collector have greatly multiplied on account of the concept of the welfare State, the increase in the population and the growth of industries. A Collector is in a manner of speaking the eyes and ears of the Government and the repository of the executive powers of the Government at the district level. He performs statutory duties under as many as 37 Acts. There are 16 branches in the district headquarters of which he is in overall charge. As District Magistrate the Collector is the head of the Police administration at the district level and is expected to take preventive action against crime, public nuisances, etc., and to keep a watch on the investigations and prosecutions of crimes and criminals. It is for him either by himself or through his subordinate executive Magistrates to issue restrictive or prohibitory orders under the Bombay Police Act and section 144 Cr.P.C. The overall responsibility for the maintenance of law and order in a district, therefore, rests primarily upon the Collector and District Magistrate.

8.76 From the law and order point of view the officer in a District next in importance to the Collector and District Magistrate is the Superintendent of Police. The role and functions of a Superintendent of Police are set out in section 16 of the Bombay Police Act, 1951.

Under section 17 of the Bombay Police Act the S.P. and the Police Force of a district are under the control of the District Magistrate who in exercising such control is governed by the rules and orders made by the State Government and the lawful orders of the Revenue Commissioner. Under section 16 of that Act, subject to the orders of the D.M. and the I.G.P., the direction and regulation of all matters of arm, drill, exercise, observation of persons and events, mutual relations, distribution of duties and study of laws, orders and modes of proceedings and all matters of executive detail and the fulfilment of their duties by the Police Force vest in the S.P.

8.77 The D.Ms. and Ss.P. of the three concerned Districts of Thana, Jalgaon and Kolaba have filed statements showing the action taken by them on the instructions issued at State level. These statements are Exs. P 384, P 583, P 831, P 1156, P 1173 and No. 26. What the action taken by these officers was and how far the instructions were implemented in practice with reference to the disturbances into which this Commission has to inquire will be considered in the subsequent parts of this Report.

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CHAPTER 9
PREVENTIVE MEASURES FOR PUBLIC
OBSERVANCE OF FESTIVALS

CONTENTS

Paragraph

- 9.1 The circulars of the I.G.P.
- 9.11 The instructions contained in the “Guide Lines”.
- 9.14 Other circulars.

CHAPTER 9

PREVENTIVE MEASURES FOR PUBLIC OBSERVANCE OF FESTIVALS

The circulars of the I.G.P.

9.1 The Police have not been oblivious to the potentialities for disorder inherent in the public observance of festivals. Even prior to the recommendations of the National Integration Council several circulars were issued by the I.G.P. We need look at only nine of them. The first six dealt with the precautionary measures to be taken during the Ganpati festival, while the last three dealt with the measures to be taken for the prevention and suppression of communal riots and tension. I.G.P., Rajadhyaksha has deposed that the circulars which relate to the Ganpati festival continue in force and apply to any procession which may lead to tension (G.W. 1/13/80).

9.2 The first circular is the one, dated August 17, 1963 (Ex. G 106) and is addressed to all Ss.P. with copies to the Commissioner of Police, Bombay and all D.I.Gs. This circular lists the following five undesirable acts committed by the two communities which give rise to tension and lead to disturbances :—

- (1) The tendency to throw 'gulal' indiscriminately in the air, particularly when passing by a mosque or some holy shrine of the Muslims, so that it is carried away by the wind and falls on the mosque or the shrine, as also at times throwing 'gulal' not in the form of powder but in small packets which fall on the walls of the mosques or shrines or even inside them.
- (2) The shouting of slogans which are not of a religious nature but which are likely to insult or intimidate the members of the other community.
- (3) The members of 'Akhadas' accompanying a procession making it a point to play their games in front of mosques for unduly long periods with vehement shouts.
- (4) The tendency to play music in extra loud tone in front of mosques.
- (5) The gathering of Muslims in mosques, whether it is prayer time or not, and at times the collection of sticks and missiles by them for their use.

In view of the above undesirable tendencies noticed in the past, the I.G.P. suggested certain steps to be taken by the police officers, namely (a) restricting the use of 'gulal' and allowing it under strict supervision ; (b) not allowing music to be played for extra long periods

in front of mosques ; (c) not allowing slogans to be shouted for unduly long periods in front of mosques ; (d) restricting the slogans to those of religious nature ; (e) settling beforehand a time-table for the start of the procession and its termination and also for its reaching important spots on the route and the departure therefrom and to ensure that the time-table was adhered to.

9.3 The second circular is the one, dated August 25, 1964, (Ex. G 105) addressed to all Ss.P. with copies to the Commissioner of Police, Bombay and all D.I.Gs. This circular made a reference to the earlier circular Ex. G 106 and directed that unless the custom of playing music in front of a mosque was established by past practice or where the Muslims had no objection to the playing of music in front of a mosque within a reasonable distance, that is, about fifty yards on either side, the playing of music should not be permitted while prayers were being held at the mosque during recognized prayer hours.

9.4 The third circular is the one, dated September 6, 1966 (Ex. G 107) addressed to the Commissioners of Police, Poona and Nagpur, and all Ss.P. with copies to the Commissioner of Police, Bombay, and all D.I.Gs. This circular was issued in connection with the measures to be taken during the Ganpati festival of 1966 and drew attention to the two earlier circulars. It pointed out that (a) it was necessary to gear up intelligence machinery and to make advance preparation to meet any situation, and (b) to make adequate police arrangements in the areas which have communal pockets or have a communal background or history.

9.5 The fourth circular is the one, dated September 14, 1966 (Ex. G 108). It directed the Commissioners of Police and the Ss.P. to keep in touch with parties organizing various programmes in connection with the Ganpati festival and to make concerted efforts to maintain peace by contacting both the parties well in time whenever there was any possibility of a dispute and to take preventive action when necessary without any hesitation, fear or favour.

9.6 The fifth circular is the one, dated September 24, 1966 (Ex. G 109). It requested all Commissioners of Police and Ss.P. to persuade the organizers of various Ganpai Mandals to utilize their own volunteers to keep a round-the clock vigil, particularly during night-time, on the Ganpati idols and to adopt the same measures during Moharrum when 'Tazias' and 'Alams' ('Savaris') were installed.

9.7 The sixth circular is the one, dated August 18, 1967 (Ex. G 85). It was addressed to all Ss.P. with copies to all Commissioners of Police and D.I.Gs. It enclosed a copy of the minutes of the meeting held in the office of the I.G.P. on August 12, 1967 at which twenty-four police officers including the I.G.P., the D.I.Gs., Asst. I.G.Ps., and Ss.P. were present. The circular required that the suggestions for making arrangements in connection with the Ganpati festival of August 1967 made in the minutes should be read in conjunction with the instructions issued in the past, particularly those contained in the

aforesaid five circulars, and to implement them. The important points in the said minutes were as under :—

- (1) It was the right of any one to take out a procession, but when there was a threat to law and order the police would be justified in putting certain restrictions on the procession or even banning it.
- (2) A change of conventional routes should not be permitted as a matter of routine.
- (3) A 'Jahirnama' should be issued laying down certain restrictions on the procession such as a procession should not linger long before mosques and the processionists should not shout objectionable slogans.
- (4) Preventive action should be taken by arresting and detaining undesirable elements.
- (5) Leaders of Ganesh Mandals should be taken into confidence.
- (6) People should not be allowed to collect in mosques unless they were doing so during prayer time.
- (7) Intelligence machinery should be geared up.
- (8) Rumours should be contradicted immediately.

9.8 The seventh circular was the one, dated May 8, 1969 (Ex. G 86) and this along with the next two circulars related to the measures to be taken to deal with communal disturbances. This circular was addressed to all Commissioners of Police and Ss.P. with copies to all D.I.Gs. It drew the attention of these officers to the earlier circulars and required particular attention to be paid to the following four points :—

- (1) The police should be encouraged to stand firm against undesirable local influence of political parties.
- (2) Preventive arrests of communal leaders and 'goondas' should be made as soon as there were signs of a communal situation developing.
- (3) Police officers should maintain a constant liaison with the Press so that alarming and distorted news did not get published.
- (4) Wherever riot schemes were formulated, the P.S.Is. should brief head constables with regard to these schemes so far as their duties were concerned.

9.9 The eighth circular is the one, dated May 20, 1968 (Ex. G 87). It drew the attention of the D.I.Gs. all Commissioners of Police and Ss.P. to the provisions of sections 153A, 505(b) and (c) I.P.C. and sections 99A and 108 Cr.P.C.

9.10 The ninth circular is the one, dated June 18, 1968 (Ex. G 88) addressed to all Commissioners of Police and Ss.P. with copies to all D.I.Gs. It referred to the circular Ex. G 87 and pointed out that an impression seemed to exist amongst certain officers that action under the provisions of the sections mentioned in Ex. G 87 could be taken only after the cases were reported to the I.G.P. or the D.I.G. (Int.) and cleared by either of them. It pointed out that such an impression was erroneous and if action had to be effective, it had to be taken

very promptly. It further directed that the cases in which the said sections of the I.P.C. were attracted should be registered immediately and the investigation thereof carried out quickly after obtaining permission from the competent Magistrate and the Government should thereafter be moved to grant sanction to prosecute.

The instructions contained in the "Guide Lines"

9.11 The "Guide Lines for dealing with Communal Disturbances" (Ex. G 39) contains the following instructions with respect to the celebration of various religious festivals :—

- (1) The issuing of an order under section 144 Cr.P.C. by the D.Ms. and Commissioners of Police banning the slaughter of cows, bulls, bullocks, buffaloes, heifers and calves at any public or private place outside a slaughter-house and the slaughter of any other animal on or within sight of a street or a public place during Bakri-Id and Dassera.
- (2) The banning of shouting of abusive slogans.
- (3) The banning of going about in groups or gatherings to create noise during the Holi festival in places where there was any apprehension of trouble.
- (4) The imposing of restrictions by issuing an order under sections 33(I)(n)(o) and (y), 36 and 37 of the Bombay Police Act by way of precautionary measures to regulate the Moharrum festival in places where there was danger of communal trouble arising from the presence of wrestlers, acrobats or such other persons who normally came out with the Moharrum processions.

9.12 With respect to the playing of music before mosques the "Guide Lines", after referring to the Full Bench decision of the Bombay High Court above referred to, stated as follows :—

"In the light of the High Court's decision, the policy of Government in regard to the playing of music before a mosque is that if the local circumstances are appropriate, no objection is raised to the taking out of a procession with music before a mosque. The matter is to be decided after taking into consideration the local law and order situation, the obstruction to traffic and the rights of other people to use the road. Subject to this, the policy of Government is that no individual or community should be allowed to encroach on the rights guaranteed under the Constitution to others."

9.13 With respect to the throwing of 'gural' in front of mosques the "Guide Lines" recommended that it would be advisable to bring the two communities together by persuading the Muslims not to adopt a rigid attitude on this issue and the Hindus not to act deliberately in a manner which would cause irritation to the Muslims.

Other circulars

9.14 Following upon the recommendations of the National Integration Council and of the Raghubar Dayal Commission, by his circular,

dated June 5, 1969 (Ex. G 90) the I.G.P. asked the Ss.P. to implement the following suggestions in order to avoid the recurrence of communal riots during the Ganpati immersion procession :—

- (1) The posting of policemen inside strategically important mosques on the route and in their vicinity before the procession started in order to guard against the possibility of mosques being used as centres for creating trouble.
- (2) The posting of policemen in uniform (and not just plain-clothes men) in sufficient strength on house-tops in likely trouble spots and equipping them *inter alia* with loudspeakers and torch-lights in order to control mischief such as stoning from house-tops.
- (3) The effective penetration by the Local Intelligence Branch (later designated the District Special Branch) into the 'Halka' discussions and other secret meetings to detect any pre-planning.

9.15 By his circular, dated March 7, 1970 (Ex. G 57) the I.G.P. pointed out that in that year the Moharrum, Holi and Dhulwad festivals fell on the 19th, 22nd and 23rd March in close proximity and invited the attention of all Commissioners of Police and Ss.P. to the instructions issued by the I.G.P.'s office from time to time and to take special precautions in respect of the areas having communal history and to gear up the intelligence machinery to the highest pitch and lay on proper bandobust leaving nothing to chance and immediately to report to the I.G.P.'s office any incident of significance.

9.16 The last circular which requires to be noted in this connection is the circular, dated April 24, 1970 (Ex. G 61) from the D.I.G. (Int.) to all Ss.P., Deputy Commissioners of Police, C.I.D., Nagpur and Poona, all State Intelligence S.S.B. Centres, all Dy.Ss.P. and all Dy.Ss.P. (Int.). This circular was issued in connection with the celebration of the Shiv Jayanti on May 7, 1970. It stated that though the communal situation in the State was normal, it was desirable to remain vigilant prior to and on the Shiv Jayanti day, particularly in sensitive places like Bhiwandi, Kalyan, Malegaon, Sholapur, Aurangabad and Poona, and requested all Ss.P. and Deputy Commissioners of Police to take suitable measures to ensure that the existing communal harmony in the State was not polluted or disturbed by mischievous anti-social elements and communal organizations and to report any significant developments to the office of the D.I.G. (Int.).

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CHAPTER 10
THE USE OF FORCE TO PUT DOWN DISTURBANCES

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- 10.2 The right to use force to suppress a riot.
- 10.4 Justification for use of force.
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CHAPTER 10

THE USE OF FORCE TO PUT DOWN DISTURBANCES

The use of force by the Police

10.1 The forcible dispersal of an unlawful assembly by the Police or the military is the use of violence sanctioned by law to put down or prevent the spread of lawless violence. In a world where agitations tend to be increasingly disorderly and violent and the freedom of association is fast degenerating into a licence to riot the question of the use of force to put down disturbances assumes considerable importance. On the one hand, we have stories of atrocities committed by the trigger-mad and club-happy Police and, on the other, we hear tales of police officers and men killed or maimed in the line of duty. As usual the truth lies in between.

The right to use force to suppress a riot

10.2 The law permits the use of force and, if necessary, the use of fire-arms to disperse an unruly mob even though the Police may not be in any personal danger. This power is to be found in sections 127(I) and 128 of the Code of Criminal Procedure. Section 127(I) provides as follows :—

“127. *Assembly to disperse on command of Magistrate or police officer.*—(1) Any Magistrate or officer in charge of a police station may command any unlawful assembly, or any assembly of five or more persons likely to cause a disturbance of the public peace, to disperse ; and it shall thereupon be the duty of the members of such assembly to disperse accordingly.”

Section 128 provides as follows :—

“128. *Use of civil force to disperse.*—If, upon being so commanded, any such assembly does not disperse, or if, without being so commanded, it conducts itself in such a manner as to show a determination not to disperse, any Magistrate or officer in charge of a police station whether within or without the presidency towns, may proceed to disperse such assembly by force, and may require the assistance of any male person, not being an officer, soldier, sailor or airman in the armed forces and acting as such, for the purpose of dispersing such assembly, and if necessary, arresting and confining the persons who form part of it, in order to disperse such assembly or that they may be punished according to law.”

Section 132 gives protection against prosecution for acts, *inter alia*, done under section 128 by declaring that any such person is not

to be deemed to have committed an offence and that no prosecution shall be launched against him for any act purported to be done *inter alia* under section 128 except with the sanction of the State Government. Under clause (a-1) of section 132A of the Code of Criminal Procedure the expression 'Magistrate' in sections 127 and 128 means any Executive Magistrate.

10.3 The effect of the above statutory provisions is that under section 127 any Executive Magistrate or an officer in charge of a police-station can command an unlawful assembly or an assembly of five or more persons likely to cause a disturbance of the peace to disperse and thereupon it becomes the duty of the members of such assembly to disperse accordingly. Section 128 deals with the use of civil force for the dispersal of such assembly. Such force is to be used when on being commanded to disperse the unlawful assembly either does not disperse or even if no such command is given it conducts itself in such a manner as to show a determination not to disperse. The right to disperse such assembly is to be exercised by any Executive Magistrate or an officer in charge of a police-station. Under section 128 the command to disperse is not a *sine qua non* to the use of force for where the conduct of an unlawful assembly is such as to show a determination not to disperse, it may be dispersed by force without commanding it to do so.

Justification for use of force

10.4 Section 128 of the Code of Criminal Procedure does not, however, mean that the moment an assembly becomes unlawful or by its conduct shows a determination not to disperse any amount of force may be used against it to cause it to disperse. The degree of force which may lawfully be used in the dispersal of an unlawful assembly and consequently the suppression of a riot must depend upon the nature of such assembly and, therefore, the force which must be used in its dispersal must always be commensurate with the circumstances of each case and with the end to be achieved, namely, the restoration of public peace and order. In *Queen-Empress v. Subha Naik and others*, I.L.R. (1898) 21 Madras 249, 252, a Division Bench of the Madras High Court held :

“The degree of force which may be lawfully used in the suppression of an unlawful assembly depends on the nature of such assembly, for the force used must always be moderated and proportioned to the circumstances of the case and to the end to be obtained. (Lord Bowen's Report on the Colliers' Strike and Riot,—1893).

The taking of life can only be justified by the necessity for protecting persons or property against various forms of violent crime, or by the necessity of dispersing a riotous crowd which is dangerous unless dispersed (*Keighly v. Bell*, 4 F. & F., 763, 790, *Rex. v. Suddis*, 1 East, 306, 312, and *Alexander Broadfoot's case*, *Foster's Crown Law*, 154).”

10.5 In this context the provisions of the Indian Penal Code with respect to the right of private defence are relevant. Section 96 of that Code, declares that nothing is an offence which is done in the exercise of the right of private defence. Under section 97 the right of private defence extends to both private defence of the body and of property, not only of the individual exercising such right but of any other person. This right is available against any offence affecting the human body or in respect of property whether movable or immovable against any act of theft, robbery, mischief or criminal trespass or an attempt to commit theft, robbery, mischief or criminal trespass. Section 99 *inter alia* provides that "the right of private defence in no case extends to the inflicting of more harm than it is necessary to inflict for the purpose of defence." Under section 100 the right of private defence of the body extends even to the causing of death if the offence which occasions the exercise of that right be of any of the descriptions enumerated in that section which includes an assault as may reasonably cause apprehension that death or grievous hurt will otherwise be the consequence of such assault. Similarly, under section 103 the right of private defence of property extends to the causing of death if the offence the committing of which or the attempt to commit which occasions the exercise of that right is either robbery or house-breaking by night or mischief by fire *inter alia* to any building used as a human dwelling or as a place for the custody of property, or theft or mischief or house-trespass under such circumstances as may reasonably cause apprehension that death or grievous hurt will be the consequence if such right of private defence is not exercised. The combined effect of the sections of the Code of Criminal Procedure and the Indian Penal Code referred to above is that in dispersing an unlawful assembly and in suppressing a riot force extending even to the causing of death may be used depending upon the circumstances of the case. The force which can be used must depend upon the nature of the riot and the danger to be apprehended from it. At the same time as pointed out by Mr. Justice Ratigan in *Niamat Khan v. The Empress*, (1883) 18 Punjab Record Cr. No. 17 pp. 29, 38 :

"Allowances must be made for the excitement of the moment, and for the feelings which such excitement would engender in the minds of the persons placed in the position of the prisoners (who were a Naik and three sepoy's of a regiment who had fired upon a mob which was threatening them and were tried for culpable homicide). It is therefore quite possible that what may now appear to us sitting in the serene atmosphere of a Court of Justice to have been an insufficient cause for the exercise of such means of self-defence as were adopted by the prisoners, may yet have seemed for the moment to have been absolutely necessary for the purpose of self-defence."

10.6 Since we are concerned with the question of opening fire upon a riotous mob a pertinent question is what happens when by the use of fire-arms an innocent bystander is wounded or killed. The

answer is that even in such a case the firing is lawful ; it does not become unlawful by reason of the fact that instead of the actual assailant or the offender a bystander is wounded or killed. Section 106 of the Indian Penal Code expressly provides that if in the exercise of the right of private defence against an assault which reasonably causes the apprehension of death, the defender be so situated that he cannot effectually exercise that right without risk of harm to an innocent person, his right of private defence even extends to the running of that risk.

The authority to order use of force

10.7 Under sections 127 and 128, Cr.P.C., the right to command an unlawful assembly or an assembly of five or more persons likely to cause a disturbance of the public peace to disperse and where such assembly does not disperse or if, without being so commanded, it by its conduct shows a determination not to disperse, the authority empowered to disperse it by force is "any Magistrate or officer in charge of a police-station." Under the Criminal Procedure Code there are two classes of Magistrates, namely, Judicial Magistrates and Executive Magistrates. Section 12 of that Code provides for appointment of Judicial Magistrates while sections 10 and 13 for that of Executive Magistrates. An Executive Magistrate may either be a District Magistrate, an Additional District Magistrate, a Sub-Divisional or a Taluka Magistrate. Under clause (a-1) of section 132A of the Code of Criminal Procedure the expression 'Magistrate' in sections 127 and 128 means any Executive Magistrate. The other authority empowered to command an unlawful assembly to disperse or to disperse it by force is an officer in charge of a police-station. Clause (p) of section 4 of the Code of Criminal Procedure defines an officer in charge of a police-station as including "when the officer in charge of the police station is absent from the station-house or unable from illness or other cause to perform his duties, the police-officer present at the station-house who is next in rank to such officer and is above the rank of constable or, when the State Government so directs, any other police-officer so present." Thus, in the absence of a Police Inspector in charge of a police-station a Sub-Inspector would have the right to order an unlawful assembly to disperse or to use force for its dispersal. Under section 551 of the Code of Criminal Procedure police-officers superior in rank to an officer in charge of a police-station may exercise the same powers throughout the local areas to which they are appointed as may be exercised by such officer within the limits of his station. Thus, if a police-officer superior in rank to an officer in charge of a police station having jurisdiction in that area, as for example the S.D.P.O. in charge of the Sub-Division in which such police-station is situate, is present at the time of a riot, he has the same power of commanding an unlawful assembly to disperse and of using force to disperse it as the officer in charge of the police station.

The relevant provisions of the Cr.P.C. and the Bombay Police Act on the powers and duties of the Police

10.8 Chapter XIII of the Code of Criminal Procedure Code lays down the powers and duties of the Police with respect to preventive action. The relevant section so far as the present Inquiry is concerned is section 149.

Section 149 provides as follows :—

“149. *Police to prevent cognizable offences.*—Every police officer may interpose for the purpose of preventing, and shall, to the best of his ability, prevent, the commission of any cognizable offence.”

10.9 Chapter VI of the Bombay Police Act, 1951, lays down the executive powers and duties of the police. We are not concerned with all the provisions of that Chapter, but the provisions relevant to the present Inquiry are to be found in clauses (b) and (e) of section 64 and clauses (f) and (g) of section 66. Clauses (b) and (e) of section 64 provide as follows :—

“64. *Duties of a Police Officer.*—It shall be the duty of every Police Officer—

* * * * *

(b) to the best of his ability to obtain intelligence concerning the commission of cognizable offences or designs to commit such offences, and to lay such information and to take such other steps, consistent with law and with the orders of his superiors as shall be best calculated to bring offenders to justice or to prevent the commission of cognizable and within his view of non-cognizable offences ;

* * * * *

(e) to aid another Police Officer when called on by him or in case of need in the discharge of his duty, in such ways as would be lawful and reasonable on the part of the officer aided ;”.

Clauses (f) and (g) of section 66 provide as follows :—

“66. *Duties of police officers towards the public.*—“It shall be the duty of every Police officer—

* * * * *

(f) to use his best endeavours to prevent any loss or damage by fire ;

(g) to use his best endeavours to avert any accident or danger to the public.”

10.10 Under clause (11) of section 2 of the Bombay Police Act a police-officer means any member of the Police Force appointed or deemed to be appointed under the Act and clause (4) of that section expressly makes it clear that a constable means a police-officer of the lowest grade. Thus the duties cast by Chapter VI are cast upon every member of the Police Force including a constable. Section 97 of the Bombay Police Act, which is complementary to Section 551 of the Code of Criminal Procedure, confers power upon a superior police-officer to perform duties imposed upon his inferior. It provides :—

“ A Police Officer of rank superior to that of constable may perform any duty assigned by law or by a lawful order to any officer subordinate to him ; and in case of any duty imposed on such subordinate, a superior where it shall appear to him necessary, may aid, supplement, supersede or prevent any action of such subordinate by his own action or that of any person lawfully acting under his command or authority, whenever the same shall appear necessary or expedient for giving more complete or convenient effect to the law or for avoiding an infringement thereof.”

Effective firing and firing in the air

10.11 The opening of fire by the Police in order to suppress a riot is a serious matter inasmuch as it may involve loss of human life. It cannot, therefore, be lightly resorted to. No police-officer would be justified in opening fire upon an unlawful assembly, even though it may be disturbing the public peace or threatenning to do so, unless it has manifested a definite and determined intention to indulge in violence or has indulged in acts of violence. In suppressing riots the principle which should be followed is that of the maximum effect being achieved by the use of minimum force. Firing is to be resorted to in the last resort and not as an ordinary means of dispersing an unlawful assembly or putting down a riot. Ordinarily it should be resorted to when lathi-charge and tear-gas have failed. What means should, however, be adopted to suppress a particular disturbance is a matter which must depend upon the facts and circumstances of each case and it is not possible to lay down any hard and fast rule nor is it possible to lay down the order in which each of the three means available to the Police for putting down a riot, namely, lathi-charge, tear-gas and firing, should be followed. As Mr. Justice Broomfield in his report on the Firing by the Bombay Police at the Chhota Cabras-than on the 1st August 1939 remarked (at p. 21 of the report), “ Once firing is opened it must be effective. A desultory shot or two, not followed up, will only aggravate a dangerous mob.” The “ Guide Lines for Dealing with Communal Disturbances ” (Ex. G 39) provides, “ When fire has to be opened, the fire should be well-controlled and directed on the most threatening part of the crowd. Only the minimum number of rounds should be fired and the aim should be low so that the persons are hit in the nether parts.” The object of opening fire is to make a dangerous and violent mob realise that the Police mean business and are not going to remain ineffectively by when acts of murder, arson and plunder are taking place or are certain to take place.

10.12 Rule 59(1) of the Bombay Police Manual, 1959, Vol. III, provides that armed police engaged in the suppression of disorder should in no circumstances be brought into such close contact with a hostile mob which greatly outnumbers them as to lead to the risk of their being committed to a hand-to-hand struggle ; for apart from the danger of their being rushed or deprived of their arms, it is impossible in such circumstances to exercise adequate fire-control and

the effect of fire at such close quarters is, therefore, likely to be unnecessarily severe. The second paragraph of Rule 60(2) of the Bombay Police Manual, 1959, Vol. III, prior to its being substituted on January 19, 1971, *inter alia*, provided as follows :—

“Firing even by .410 muskets has to be resorted to as a last resort while dealing with crowds or mobs, whenever firing becomes unavoidable to disperse unruly mobs, it should be ensured that the aim is kept low and directed against the most threatening part of the crowd. Care should be taken not to fire upon persons separated from the crowd nor to fire over the heads of the crowd as thereby innocent persons may be injured. *Under no circumstances, firing in the air should be resorted to* as experience proves that this leads ultimately to greater loss of life.”

The substituted sub-rule, which was renumbered as sub-rule (3), does not make any substantial change save that the words “even by .410 muskets” have been omitted. Sub-rule (6) of Rule 60 *inter alia* points out that ineffective fire against a really determined mob is likely to inflame it further, so that the attack will be pressed home and the Police overwhelmed. Circulars have also been issued from time to time impressing upon the Police Force the necessity of opening effective fire and of avoiding firing in the air.

10.13 The position which, therefore, emerges is that firing in the air is highly undesirable and ineffective and likely to lead to loss of innocent lives. The firing resorted to must be effective firing, namely, on the mob. Effective firing should be on the most threatening or dangerous part of the mob and in order to prevent loss of life, the aim should be kept low and the fire directed at the legs so that the persons fired at are not hit in any vital part of the body. Further, excessive and unnecessary firing should not be indulged in and the minimum number of rounds necessary to achieve the objective should be fired.

The type of fire-arms used by the Police

10.14 The Police are supplied with two types of fire-arms — .410 muskets and .303 rifles. The .410 muskets are the standard fire-arms used by the Police Force since about 1931. Before the Second World War the Police had a limited quantity of .303 rifles and these rifles were used for open-air operations such as dacoit operations. After the Second World War more .303 rifles became available. The range of .303 ammunition is 1,000 to 2,000 yards, while that of .410 ammunition is only about 75 to 100 yards. The .303 standard ammunition has a longer range and greater velocity than the .410 standard ammunition because a .303 rifle has a grooved barrel, while a .410 musket has a smooth barrel. The .303 ammunition has also a greater penetration power and the bullet can even pass through one human body and strike another. The I.G.P. has deposed that for this reason it is dangerous to use .303 rifles in a built-up area (G.W. 2/19-20/84-86).

10.15 I.G.P., Rajadhyaksha has filed a note on the type of fire-arms used for the dispersal of unlawful assemblies (Ex. G 69). From the said

note it appears that the question of better armament for Police for dealing with a likely post-war wave of violent crime came up for discussion at the Conference of Police Officers held at New Delhi in August 1944. The Conference suggested that the .303 Army Service Rifle would be appropriate. Accordingly .303 rifles came to be issued to all armed policemen for use on duty. The .410 musket, however, continued to be the standard weapon for use by unarmed policemen in emergencies in the then Bombay Province and later in the State.

10.16 After the attainment of Independence in 1947, a force called "the State Armed Constabulary was formed with a view to deal with any disturbances and other emergencies and this was subsequently designated as State Reserve Police Force consequent on the enactment of the Bombay State Reserve Police Force Act, 1951 (Bombay Act No. XXXVIII of 1951). The normal weapon of the S.R.P.F. was the .303 rifle.

10.17 In the year 1954, a conference of the Inspectors General of Police was held at which a sub-committee was appointed to examine the question of replacing the .303 rifles with some other suitable weapon as it was felt that the .303 rifle was a very powerful weapon for the dispersal of unlawful assemblies. The sub-committee came to the conclusion that the .410 musket was the most suitable weapon for this purpose. In the view of the sub-committee the use of the .303 rifle would be necessary only when the crowd was armed with fire-arms and the sub-committee accordingly recommended that .410 muskets should replace .303 rifles for dispersal of mobs. The Government of India accepted the recommendations of the sub-committee and by its letter, dated September 13, 1956 directed that .410 musket with single shot should be used for dispersal of unlawful assemblies. Accordingly instructions were issued by the I.G.P.'s secret circular memorandum, dated July 13, 1957 and circular memorandum, dated May 14, 1958 that .410 muskets should replace .303 rifles for dispersal of mobs, the ammunition to be used being the ball cartridge with a limited range of 75 to 100 yards. Instructions were also issued by the I.G.P.'s memorandum, dated August 2, 1958, so far as S.R.P.F. groups were concerned, that although their normal weapon would continue to be the .303 rifle, in cases of grave emergencies, when the S.R.P.F. has necessarily to go to the scenes of disturbances, they should be provided with the requisite .410 muskets by the Ss.P. concerned.

10.18 Experience, however, showed that the .410 musket had a very limited range upto about 75 yards and was not very accurate. A decision was therefore taken to develop a suitable special police ammunition for being fired through .303 rifles, which was more accurate. In the year 1962 a modified .303 cartridge called the ".303 Special Police S.A." which could be fired from the .303 rifle was supplied in small quantities to the State of Maharashtra for the dispersal of unlawful assemblies. The following general principles were laid down by the I.G.'s circular memorandum, dated August 9, 1962 in this regard :—

- (i) This ammunition was to be used mostly in urban areas when it became necessary to open fire on mobs.
- (ii) Due to its limited power it was not to be used when fire has to be opened at ranges exceeding 200 yards.
- (iii) Due to its limited power it was not to be used when police units were engaged in operations against armed offenders concerned in heinous offences.

10.19 Thus, both .410 muskets with .410 ball ammunition and .303 rifles with modified .303 ammunition were used by the District Police and S.R.P.F. for the dispersal of unlawful assemblies. Further instructions on the use of these weapons for dispersing an unlawful assembly were issued by the I.G.P.'s circular memorandum, dated January 18, 1968. These instructions were that normally .410 muskets with .410 ball ammunition should be used for dispersal of unlawful assemblies subject to the following conditions :

- (i) In urban areas .303 rifles would be used with .303 Special Police S.A. (.303 modified) ammunition for dispersing an unlawful assembly which was not armed with fire-arms provided such ammunition was available.
- (ii) In urban or in rural areas .303 rifles would be used with .303 regular ammunition for dispersing an unlawful assembly which was armed with fire-arms.

10.20 In April 1969 the Government of India intimated that as some doubts were raised about the efficacy of the .303 modified ammunition, they had decided to stop the use of the modified ammunition and also to stop its mass production until the defects were rectified. Accordingly instructions were issued by the I.G.P.'s circular memorandum, dated, April 30, 1969 that the use of .303 modified ammunition for dispersal of unlawful assemblies should be stopped and that .410 muskets should be used as before for the dispersal of unlawful assemblies. These orders continued in force upto May 10, 1970. When, after the outbreak of the communal disturbances in Bhiwandi on May 7, 1970, the disturbances intensified and spread to a number of places in the Thana and Kolaba Districts, the number of .410 muskets were found to be inadequate and orders were issued by the I.G.P.'s circular memorandum, dated May 7, 1970 (Ex. G 110) that .303 rifles with regular ammunitions could also be used for dispersal of unlawful assemblies whether armed with fire-arms or not in circumstances where firing had to be resorted to.

10.21 The Government of India decided to stop the manufacture of .410 muskets and in June 1970 the Government of India intimated to the State Government that as the .410 musket had become an obsolete weapon the Ministry of Defence would supply .303 rifles in lieu thereof and that .303 rifles with standard .303 ammunition should be used for crowd control till such time as an improved version of modified ammunition was supplied. In view of this, instructions were again issued by the I.G.P.'s memorandum, dated August 25, 1970 that

all S.R.P.F. men and all armed policemen in the District when deployed for bandobust should carry .303 rifles and .303 standard ammunition and that the unarmed men, if required to be issued with fire-arms, should carry .410 muskets and .410 ammunition. Subsequently the Government of India intimated to the State Governments that till an improved version of the modified .303 ammunition was made available, .410 ammunition would continue to be manufactured and made available to the State Governments, so that .410 muskets could continue to be used in built-up areas.

Fire-arms reserve at the headquarters and police stations

10.22 In addition to the muskets authorised under the normal scale two hundred .410 muskets are kept as a reserve at the headquarters and five muskets at each police-station for guard and escort duties, riot duties, etc. (Ex. G 69).

Deterrence to the Police opening fire

10.23 A factor which should not be overlooked is that almost every time the Police open fire to suppress a riot there are outcries—very often engineered by interested political parties—for a judicial inquiry, and allegations in the Press and by the public and on the floor of the House about the excesses alleged to have been committed by the Police. This has created an atmosphere not calculated to strengthen the firmness and resolve of police officers to quell disturbances by resorting to firing. This state of affairs made the I.G.P. issue his circular, dated August 20, 1952 (Ex. G. 76). In this circular it was stated :

“In view of the increasing number of circumstances, in which Police Officers and men were required to resort to the use of their fire-arms, it is necessary to issue a note of warning that such instances are likely to be viewed with displeasure by the public and the Press, whose unnecessary criticism may *tend to demoralise the men to the extent of avoiding to open fire in circumstances which would justify it.* Government, therefore, desire to impress on all officers that while it is necessary to exercise a proper restraint on the use of fire-arms by the Policemen, care should be taken to avoid discouraging them from using their fire-arms when circumstances demand it. Government also desires to impress that the protection afforded by Section 100 Indian Penal Code, should not be lost sight of as under this Section the right of private defence of the body extends even to the voluntary causing of death to the assailant, if the offence which occasions the exercise of this right is such an assault that it reasonably causes the apprehension that death or grievous hurt would otherwise be the consequence of such an assault. Admittedly, the situation as it occurs is required to be judged on the spur of the moment, but in order to satisfy the crucial requirement of Section 100 Indian Penal Code, the apprehension must be caused reasonably. It is this point that gives scope for criticism, and it must, therefore, be reasonably weighed by the person concerned. This is likely to be overlooked in the case of

inexperienced officers or those who get panicky and open fire. It is also possible that there might be an error of Judgment.”

10.24 As pointed out in the “Guidelines for Dealing with Communal Disturbances” (Ex. G 39), the Government has established a procedure for holding a magisterial inquiry into every case of firing where there is a casualty as also in the case of firing on a riotous mob even when there is no casualty, such inquiry being held in Greater Bombay by the Chief Presidency Magistrate and in a district by the District Magistrate or the Sub-Divisional Magistrate. The Magistrate has to state in his report the number of persons killed or injured or both as a result of the firing, their names and ages and the description of the injuries sustained by them; the types of weapons used in the firing by the police; the detailed facts of the incident which led to the firing; and his finding as the justification or otherwise of the firing. Rule 61(1) of the Bombay Police Manual, 1959, Vol. III, also provides that a magisterial inquiry should invariably be held, regardless of whether the firing resulted in injury or loss of life or not, in cases where firing was resorted to in self-defence against riotous mobs trying to rescue gamblers, illicit distillers or other offenders arrested by the police or in self-defence against riotous strikers or to disperse riotous mobs. Under Rule 61(2) no such inquiry is, however, to be held, except when there is injury to any person or loss of life, in cases where firing was resorted to in self-defence against dacoits, railway-wagon looters, etc., who attack the Police; in self-defence against illicit distillers who attack the Police; in self-defence against drunken hooligans brandishing daggers; or to apprehend dacoits, highway robbers, absconders, etc. Thus whenever an unlawful assembly is dispersed by opening fire, provision has been made to ensure that an inquiry into its justification should be made.

10.25 Though no one would condone any excess by the Police, one must bear in mind the fact that most riots and strikes are politically inspired and that criticism of the Police for using force and fire-arms in suppressing them is equally politically inspired. Police-officers naturally do not like their actions to be the subject-matter of a public controversy out of an apprehension that they may perhaps be made scapegoats to retrieve a political situation and not be backed up even when they were justified in resorting to firing on the mob. Sometimes an unfortunate controversy develops between officers seeking to throw the blame on each other or trying to ward off their own responsibility. Such an instance has come in evidence before the Commission for it led to the unfortunate wrangling between S.D.M., Koli on the one hand and Dy.S.P., Ghorpade and A.S.P., Azad on the other at the time of the Jalgaon disturbances. This incident was the one at Pulgaon in the Wardha District where A.S.P., Puri had opened fire in some agitation which took place there on May 1, 1970. According to him, the S.D.M. who was present had given him orders, while the S.D.M. denied this and both of them were suspended (C.W. 23/12/2939-40).

10.26 Another unfortunate reason for the attitude of mind so engendered by public criticism and cries for judicial inquiry is that at times constables, even when asked to open effective fire, resort to firing in the air, a measure hardly conducive to controlling a really dangerous mob.

* * *

PART III
THE BHIWANDI DISTURBANCES

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CHAPTER 11
THE BHIWANDI INQUIRY

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CHAPTER 11

THE BHIWANDI INQUIRY

The May 1970 disturbances in the Thana District

11.1 On May 7, 1970 as the Shiv Jayanti procession was passing through the town communal disturbances on a large scale broke out in Bhiwandi and continued for some days thereafter. From Bhiwandi the disturbances spread rapidly to other parts of the Thana District until in all 235 other places in the Thana District were affected. In order to put down the disturbances the Police opened fire in Bhiwandi on 37 occasions and also resorted to firing in 28 other places in the Thana District. In Bhiwandi 78 persons are estimated to have lost their lives—59 of them were Muslims (11 of whom were killed in Police firings), 17 were Hindus and the community of 2 is not known. Arson to property took place on a large scale, the estimated total loss in the case of Muslim properties being Rs. 66,54,652 and in the case of Hindu properties Rs. 73,56,206. In the Thana District (excluding the limits of Bhiwandi-Nizampur Municipal Council and Khoni and Nagaon villages) 83 Muslims and 3 Hindus were killed and 154 Muslims and 35 Hindus were injured. The persons to die in the police firings were 8 Hindus.

The proceedings

11.2 Out of the witnesses examined before the Commission the largest number, namely, 253 witnesses, were examined in the Inquiry relating to the Bhiwandi disturbances. These witnesses were :—

- (i) 12 witnesses called by the Government of Maharashtra—G.W. 1 to G.W. 11 and G.W. 15,
- (ii) 76 witnesses called by the Executive Magistrates and Police Officers—P.W. 1 to P.W. 66 and P.W. 108 to P.W. 117,
- (iii) 55 witnesses called by the Nagarik Hitarakshak Mandal—N.H.W. 1 to N.H.W. 55,
- (iv) 1 witness called by the Shiv Sena—S.S.W. 1,
- (v) 2 witnesses called by the Bharatiya Jan Sangh—J.J.S.W. 1 and J.J.S.W. 2,
- (vi) 70 witnesses called by the Bhiwandi Relief Committee—B.R.W. 1 to B.R.W. 17,
- (vii) 2 witnesses called by the Jamiet-ul-Ulema, Maharashtra State—J.U.(M.)W. 1 and J.U.(M.)W. 2,
- (viii) 3 witnesses called by the All-India Sunni Jamiet-ul-Ulema—S.J.U.W. 1 to S.J.U.W. 3,

- (ix) 3 witnesses called by the Maharashtra State Muslim League—
M.L.W. 1 to M.L.W. 3,
- (x) 12 witnesses called by the All-India Majlis Tameer-E-Millat—
M.T.M.W. 1 to M.T.M.W. 12,
- (xi) 17 witnesses examined by the Commission—C.W. 1 to C.W. 5
and C.W. 34 to C.W. 45.

11.3 The Commission also issued notices to 226 persons setting out the allegations made against them and giving them an opportunity to appear before the Commission and lead their evidence. These 226 persons were the 223 accused persons in criminal case No. 610 of 1970 in the Court of the Judicial Magistrate, First Class, Bhiwandi (being Bhiwandi Town Police Station C.R. No. I/177 of 1970, popularly known as the Bhiwandi Conspiracy Case), the Shiv Sena chief Bal Thackeray, the author Purushottam Bhaskar Bhave, and Ramesh Sambhus. Fifteen out of the accused persons in the Bhiwandi Conspiracy Case appeared through Counsel while the others did not appear. P. B. Bhave also appeared through Counsel and gave evidence while Bal Thackeray chose not to appear. So far as Ramesh Sambhus was concerned, though he appeared, each time his turn came to step into the witness-box he absented himself and his Counsel, Mr. M. D. Pathak, applied for adjournment which was granted. This became so chronic that ultimately the Commission passed an order on October 11, 1972 that if before the recording of the entire evidence was completed Ramesh Sambhus was present in Court, his evidence would be recorded at a convenient stage. Thereafter Ramesh Sambhus did not at any time choose to remain present in Court or to step into the witness-box.

11.4 The largest number of documents, namely, 1,434 documents, were also exhibited in the evidence led in the Inquiry relating to the Bhiwandi disturbances. Out of these documents,

- (i) 327 were produced from the possession of the Government—
Exs. G 1 to G 202, G 271 to G 330, G 336 to G 400,
- (ii) 1,034 from the possession of the Executive Magistrates and
Police Officers—Exs. P 1 to P 693 and P 1192 to P 1532,
- (iii) 13 from the possession of the Nagarik Hitarakshak Mandal—
Exs. NH 1 to NH 13,
- (iv) 10 from the possession of the Shiv Sena—Exs. SS 1 to SS 10,
- (v) 1 from the possession of the Maharashtra Pradesh Bharatiya
Jan Sangh—Ex. JS 1,
- (vi) 1 from the possession of the Maharashtra Prantik Hindu
Mahasabha—Ex. HMS 1,
- (vii) 20 from the possession of the Bhiwandi Relief Committee—
Exs. BR 1 to BR 20,
- (viii) 4 from the possession of the Jamiet-ul-Ulema, Maharashtra
State—Exs. JU(M) 1 to JU(M) 4,
- (ix) 3 from the possession of the All-India Sunni Jamiet-ul-Ulema—
Exs. SJU 1 to SJU 3,
- (x) 4 from the possession of the All-India Majlis Tameer-E-Millat
—Exs. MTM 1 to MTM 4,

- (xi) 2 from the possession of the Maharashtra State Muslim League—Exs. ML 1 and ML 1A,
- (xii) 1 from the possession of the Muslims of Mahad—Ex. Mh. (Ind.) 1, and
- (xiii) 14 from the possession of or in the course of the evidence of witnesses examined by the Commission—Exs. Nos. 1, 2 and 88 to 99.

11.5 The recording of the evidence in this particular Inquiry took 211 days.

11.6 The total number of pages of oral evidence recorded by the Commission was 2,718 pages and affidavits running into 1,113 pages were made part of the deposition of witnesses. The arguments were partly oral and partly written. The written arguments ran into 2,060 pages. The oral arguments for clarifying the written arguments filed by parties took two days.

11.7 The Commission visited Bhiwandi thrice for local inspection, namely, on June 12, 1970, January 27, 1971 and February 24, 1973.

The case of the Hindu parties

11.8 The case of every Hindu party is in substance the same and may now briefly be summarized as under :—

The activities of the All-India Majlis Tameer-E-Millat, the Jamat-E-Islami-E-Hind, the All-India Muslim Majlis-E-Mushavarat, the Muslim League and the Bhiwandi Seva Samiti (which according to them was a civic front of the All-India Majlis-E-Mushavarat and the Muslim League) were responsible for fomenting communal tension in Bhiwandi. The Communist Party of India (Marxist) also joined hands with the Muslim communalists. The Muslims of Bhiwandi secretly harboured loyalty to Pakistan and were anti-national, intransigent and arrogant and they were encouraged in this by the Policy of appeasement of Muslims followed by the Government. The local Muslim leaders sought to impose certain terms upon the organizers of the 1970 Shiv Jayanti procession which were humiliating to the Hindus. Though a compromise was thereafter arrived at between the two communities, the Muslims did not accept it gracefully but entered into a conspiracy simultaneously to attack the Shiv Jayanti procession and the Hindus and their properties in other localities and began collecting arms and weapons including acid bulbs and Molotov cocktails and secretly spread word amongst the Muslims about what was to happen on the day of the Shiv Jayanti which enabled the Muslims to draw their rations and to insure their properties against fire and riots. The Shiv Jayanti procession on May 7, 1970 was completely peaceful and well-behaved and did not offer any provocation to the Muslims. None the less, in pursuance of the aforesaid conspiracy the procession was attacked by the Muslims at 5-30 p.m. when it entered the Muslim locality of Bhusar Mohalla and Old Thana Road and simultaneously the Hindus and their properties were attacked throughout the town.

The case of the Muslim parties

11.9 In substance the case of every Muslim party is also the same. Briefly, their case is—

All religious festivals in Bhiwandi town were celebrated jointly by both communities and there was complete co-operation in the powerloom industry between the two communities. Communal tension started with the public celebration of Shiv Jayanti in 1964 by reason of excessive throwing of 'gulaal' on various mosques and shouting of objectionable slogans by the processionists which was resented by the Muslims. At the time of the 1967 Shiv Jayanti procession stones were thrown by the processionists at the Jumma Mosque situate in Nizampura and a minor riot took place. In view of this incident, at the instance of some of the leading members of the two communities a Peace Committee was formed to devise ways and means to celebrate peacefully various festivals, but a few extremist Hindu leaders began taking an aggressive attitude in the meetings of the Peace Committee. As these extremists were in a minority they left the Peace Committee and in 1969 formed a body known as the Rashtriya Utsav Mandal. The Rashtriya Utsav Mandal was in reality a front of the R.S.S., the Jan Sangh and the Shiv Sena. It carried on an intensive campaign of anti-Muslim propaganda both in Bhiwandi and the near-by villages and whipped up feelings against the Muslims. This Mandal invited as guest speakers communal leaders and speakers who in the course of their speeches attacked the Muslims. At the time of the Moharrum festival in 1970 on March 18 and 19, 1970 large pits were dug for the Holi festival and Holi fires were lighted by the Rashtriya Utsav Mandal with the object of obstructing the Moharrum procession. Though since 1967 the Jumma Mosque in Nizampura was avoided by processions to prevent any untoward incident, in 1970 the Rashtriya Utsav Mandal insisted that the procession should pass by the side of that Mosque. A few Muslims who objected to this were persuaded by the other Muslim leaders to withdraw their objections and to allow the procession to pass by the Nizampura Jumma Mosque. It was also agreed that 'gulaal' should not be thrown on mosques and only certain approved slogans should be shouted. From the end of April 1970 incidents of assaults on the Muslims began taking place. The Shiv Jayanti procession of May 7, 1970 was of an unusual strength and thousands of villagers were brought to join it. The processionists carried lathis with Bhagwa flags tied to them, spears, swords, kerosene and petrol. Provocative and abusive slogans were shouted and when some of the processionists were arrested by the Police for doing so, the procession refused to move unless the arrested persons were released and ultimately the Police were coerced by the Hindu leaders into releasing the persons taken in custody. The procession then started again. The processionists throughout indulged in abusive and provocative slogans and behaved in an indecent and obscene manner. When the processionists were in the Muslim locality of

Bhusar Mohalla and Old Thana Road, some of the processionists set fire to the house of Ishaq Bajewalla situated on Old Thana Road and some others beat up and fatally injured one Shakil Kazi who had been previously involved in a quarrel with some Hindus and who was standing on the ota of a house in Bhusar Mohalla watching the procession. At this stage the other processionists began attacking the Muslims and their properties and looted and set fire to their houses, shops and factories. Though there was large-scale destruction of Muslim properties the Police did not intervene but allowed the Hindu rioters to have a free hand and the S.R.P. men deliberately fired upon the Muslims who were trying to put out the fires to their properties. Thousands of innocent Muslims were arrested including those who were taking shelter in mosques and they were falsely prosecuted. The Muslims who went to the Bhiwandi Town Police-Station after the disturbances to lodge their complaints were put under arrest and wrongly charged with various offences. According to the Muslim parties, the Jan Sangh and the Shiv Sena played a significant role in fomenting communal tension and in directly provoking the communal disturbances in Bhiwandi.

The case of the Executive Magistrates and the District Police Officers

11.10 The case of the Executive Magistrates and the Police Officers of the Thana District is that though for some years there had been considerable communal unrest and tension in Bhiwandi and though at one time the Muslims had raised objections to the 1970 Shiv Jayanti procession going by the Nizampura Jumma Mosque and to the processionists carrying Bhagwa flags and throwing 'gural', ultimately a compromise was arrived at between the two communities and these objections were withdrawn. With respect to the Shiv Jayanti procession taken out in Bhiwandi on May 7, 1970, their case is that the procession was on the whole a well-behaved one but riled at some unapproved slogans shouted by the processionists the Muslims attacked the procession with stones, brick-bats, soda-water bottles and acid bulbs when it reached the Muslim locality of Bhusar Mohalla and Old Thana Road and the processionists thereupon retaliated and the disturbances started and spread to other parts of the town.

The case of the Special Investigation Squad, Bhiwandi

11.11 The case of the Special Investigation Squad of the State C.I.D., which was set-up to investigate offences committed during these disturbances, was in substance the same as that of the Hindu parties.

Officers during the relevant period

11.12 The officers whose names are mentioned below were holding at the relevant time the office specified against their respective names :—

- (1) L. G. Rajwade (G.W. 1), Secretary (I) to the Government of Maharashtra, Home Department.

- (2) D. N. Capoor (P.W. 50), Collector and District Magistrate, Thana.
- (3) V. K. Date (P.W. 62), Sub-Divisional Officer and Sub-Divisional Magistrate, Bhiwandi Sub-Division.
- (4) G. L. Sane (P. W. 110), Tahasildar and Taluka Magistrate, Bhiwandi.
- (5) A. G. Rajadhyaksha (G.W. 2), I.G.P., Maharashtra State.
- (6) E. S. Modak (G.W. 3), Addl. I.G.P., Maharashtra State.
- (7) M. G. Mugwe, D.I.G. (C.I.D.) (Intelligence).
- (8) B. K. Govardhan (G.W. 15), D.I.G. (C.I.D.) (Crime and Railways).
- (9) V. A. Gokhale (G.W. 4), D.I.G. (Bombay Range).
- (10) S. V. Bhave (P.W. 4), S.P., Thana District.
- (11) Dr. H. G. Abhyankar, S.P. (Research) and for some time also S.P. (Crime).
- (12) P. J. Saraf (P.W. 61), Dy.S.P. (C.I.D.) (Crime) in charge of the Special Investigation Squad, Bhiwandi.
- (13) M. K. Diwate (P.W. 66), Dy.S.P., S.D.P.O., Bhiwandi.
- (14) S. S. Ghosalkar (P.W. 40), Circle Police Inspector, Thana Division.
- (15) V. S. Tikale (P.W. 36), Circle Police Inspector, Bassein, Headquarters Virar.
- (16) G. N. Ajarekar (P.W. 39), Police Inspector, Security Branch, Thana.
- (17) A. G. Lankar (C.W. 44), Detective Inspector (C.I.D.) Crime Branch, Bombay Unit, Bombay.
- (18) C. W. Pradhan (P.W. 38), Inspector-in-charge Bhiwandi Town Police Station.
- (19) S. L. Hirwe (P.W. 30), P.S.I., Bhiwandi Town Police Station.
- (20) L. R. Deshpande (P.W. 42), P.S.I., Bhiwandi Town Police Station.
- (21) S. S. Mane (P.W. 46), P.S.I., Bhiwandi Town Police Station.
- (22) G. S. Deshpande (P.W. 60), P.S.I. (Intelligence) (C.I.D.) (Special Security Branch), Thana.
- (23) M. S. Chougule (P.W. 37), P.S.I., Dahanu Police Station, in Bhiwandi for Shiv Jayanti Bandobast from May 6, 1970.
- (24) V. S. Deolekar (P.W. 29), P.S.I., Bhayander Police Station, in Bhiwandi for Shiv Jayanti Bandobast from May 6, 1970.

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CHAPTER 12

BHIWANDI

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- 12.9 The Bhiwandi Taluka Police Station.

CHAPTER 12

BHIWANDI

The topography of Bhiwandi

12.1 Bhiwandi is a Taluka headquarters town in the Thana District and is situate at a distance of 18 km. from Thana and about 53 km. from Bombay on the National Highway, the Bombay-Agra Road. It has the largest Muslim population of all the taluka towns in the Thana District (P.W. 4/119/628). Its municipality, known as the Bhiwandi-Nizampur Municipal Council, is a 'B' Class municipality, the limits of which comprise the complete revenue limits of Bhiwandi and Nizampur villages and parts of Gauripada, Kamatghar, Nagaon and Kaneri villages according to the limits specified in the Government Notification No. 5885, dated August 28, 1918. Under the Maharashtra Municipalities Act, 1965, it is classed as a 'B' Class municipality as the population, according to the 1961 Census report, was 47,630. Its municipal council is considered to be the richest 'B' Class municipal council in the entire State of Maharashtra with an annual income of over Rs. 75 lakhs. The main industry of Bhiwandi is the power-loom industry. Prior to 1956 there were hardly 9,000 to 10,000 power-loom in Bhiwandi. In 1961 the number increased to about 26,000, and by the time of the communal disturbances in May 1970 the number was about 40,000. This expansion in the power-loom industry resulted in an influx of immigrant population and as a result thereof 'zopadpattis and hutments have cropped up all over the place in the midst of the most insanitary and filthy conditions and large hutment colonies have sprung up within municipal limits. Bhiwandi has a fairly large floating population. There are a number of lakes and ponds full of dirty water and the roads are very narrow. There is a network of very narrow lanes, passages and gutters [P.W. 4/1(2)/236(1), P.W. 59/1(3-5)/1000(1-2), P.W. 38/1(7)/867(1)].

12.2 The first point of entry into Bhiwandi from the Thana side is by the Old Thana Road from Dhamankar Naka at the junction of the Bombay-Agra Road and Old Thana Road. The Old Thana Road bisects Bhiwandi south to north and merges into Bangad Galli. The next point of entry is by the Mamlatdar's Office Road. The Inspection Bungalow is situate at the junction of the Mamlatdar's Office Road and the Bombay-Agra Road, while on the opposite side of the Bombay-Agra Road are the Mamlatdar's Office, the Bhiwandi Taluka Police Station and the Civil and Criminal Courts. The third point of entry is from the Panjrapol Road. The junction of Panjrapol Road

and the Bombay-Agra Road is known as the Vanjarpati Naka and from Vanjarpati Naka the road goes northwards to Ahmedabad and branches eastwards to the right towards Nasik.

12.3 Bhiwandi is bounded on the north by the Kamadevi River. North-West of Bhiwandi lies the revenue village of Khoni of which the Muslim locality is known as Rasulabad. The approach to Khoni is by a narrow foot-bridge across the river. Behind Rasulabad lie jungles and forests.

12.4 On the eastern outskirts of Bhiwandi is situate the revenue village of Nagaon of which the Muslim locality is known as Gaibi Nagar.

12.5 A number of maps and sketches have been filed in the Inquiry relating to the Bhiwandi disturbances of which Ex. 657 is a sketch of Bhiwandi town showing the localities and places referred to by the witnesses and in different affidavits filed before the Commission.

The communal geography of Bhiwandi

12.6 The rapid expansion of the power-loom industry in Bhiwandi led to an equally rapid growth in the population and the population has grown from about 25,800 in 1951 to 47,630 at the time of the 1961 Census report, swelling to about 1,15,000 in 1970. The rapid expansion of the power-loom industry also resulted in a large influx into Bhiwandi of persons from outside the State of Maharashtra. The majority population of Bhiwandi is Muslim. The percentage of population is roughly 65% Muslims and 35% Hindus. The Muslim population consists of Konkani Muslims and a large number of immigrant Muslims from Uttar Pradesh, Madhya Pradesh and Malbar, while the Hindu population consists of the local Hindus and a very large number of Telugu-speaking immigrants known as Padmashalis from Andhra Pradesh and a few Keralites. The population of Khoni in 1970 was approximately 2000 of which 70% were Muslims and 30% Hindus and the population of Nagaon in 1970 was approximately 7000 of which about 53% were Muslims and 47% Hindus [P.W. 4/1(2)/236(1-2), P.W. 38/1(7)/867(1), P.W. 59/1(4)/1000(2)]. Out of the 40,000 power-looms situate in Bhiwandi about 26,000 were owned by the Muslims and the remaining 14,000 by the Hindus (G.W. 3/14/160). In May 1970 there were 38 mosques and 11 Dargahs, and 50 temples in Bhiwandi including those in Khoni and Nagaon villages (G.W. 3/18/164).

The Bhiwandi Sub-Division

12.7 The headquarters of the Thana District are at Thana. The district is divided into four sub-divisions with sub-divisional headquarters at Thana, Kalyan, Bhiwandi and Dahanu and into thirteen talukas. Each sub-division is under a sub-divisional police officer of the rank of Deputy Superintendent. From December 9, 1968 M. K. Diwate (P.W. 66) was the S.D.P.O., Bhiwandi Sub-Division, with

headquarters at Bhiwandi. In May 1970 there were in all eight police stations in Bhiwandi Sub-Division, namely, (1) Bhiwandi town, (2) Bhiwandi taluka, (3) Padgha, (4) Shahapur, (5) Kinowali, (6) Wada, (7) Mokhada, and (8) Murbad. The police stations in Bhiwandi Sub-Division except Bhiwandi Town Police Station came under the jurisdiction of the Circle Police Inspector, Shahapur Sub-Division, with his headquarters at Bhiwandi. From June 19, 1969 D. M. Mudbidri was the Circle Police Inspector, Shahapur Sub-Division, but between April 26, 1970 and May 16, 1970, he was on sick leave. For this reason from April 26, 1970 till May 7, 1970 Inspector Pradhan in charge of the Bhiwandi Town Police Station was holding additional charge as Circle Police Inspector, Shahapur Sub-Division (P.W. 4/2/237 ; Ex. P 605).

The Bhiwandi Town Police Station

12.8 The Bhiwandi Town Police Station is in Bhiwandi Sub-Division. In May 1970 its jurisdiction comprised the entire limits of the Bhiwandi-Nizampur Municipal Council and the revenue limits of the villages of Narpoli, Kamatghar and Kaneri. A part of the Nagaon village which is included in the municipal limits also comes under the jurisdiction of the Town Police Station while the remaining part falls within the jurisdiction of the Bhiwandi Taluka Police Station. The Bhiwandi Town Police Station was set-up on July 1, 1965 with a sanctioned strength of 1 Inspector, 3 P.S.Is., 21 unarmed head constables 80 unarmed constables. 6 armed head constables and 27 armed constables and its sanctioned strength on May 7, 1970 was the same. The actual strength on that day was short by 8 of the sanctioned strength in that there were 20 unarmed head constables instead of 21, 70 unarmed constables instead of 80, 5 armed head constables instead of 6 and 26 armed constables instead of 27. The Inspector in charge of the Town Police Station from December 26, 1966 to May 8, 1970, on which date he proceeded on leave on account of the injury suffered by him during the disturbances, was Inspector C. W. Pradhan (P.W. 38). On May 12, 1970 M. Y. Patil took charge as Inspector, Bhiwandi Town Police Station. At all relevant times the Bhiwandi Town Police Station was situate opposite the New Fish Market on the road to Nazrana Talkies at the corner of Thange Alli Road and Shivaji Nagar Road [P.W. 4/3-5/238-9 ; P.W. 38/1(2-4)/867(1)].

The Bhiwandi Taluka Police Station

12.9 The Bhiwandi Taluka Police Station also comes in Bhiwandi Sub-Division and is under the jurisdiction of Circle Police Inspector, Shahapur Sub-Division. Khoni village and part of Nagaon village which is not included in municipal limits fall within the jurisdiction of the Bhiwandi Taluka Police Station. The Taluka Police Station is situate in the compound of Tahsil Office on the Bombay-Agra Road. In May 1970 Sub-Inspector P. B. Desai was in charge of the

Bhiwandi Taluka Police Station. The sanctioned strength of the Bhiwandi Taluka Police Station on May 7, 1970 was 2 P.S.Is., 11 unarmed head constables, 26 unarmed constables, 1 armed head constable and 6 armed constables while the actual strength on that day was short of the sanctioned strength by 16 as there were 10 unarmed head constables instead of 11, 14 unarmed constables instead of 26, no armed head constable and 4 armed constables instead of 6 (P.W. 4/3-5/238-9).

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CHAPTER 13
THE COMMUNAL HISTORY OF BHIWANDI
—AN OUTLINE

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- 13.5 Economic and commercial interdependence.
- 13.6 The communal incidents of the sixties.
- 13.7 The genesis of communal friction in Bhiwandi.

CHAPTER 13

THE COMMUNAL HISTORY OF BHIWANDI — AN OUTLINE

Pre-Partition communal history

13.1 In the affidavits of Mohanlal Parshram Karwa (N.H.W. 53), one of the founders of the Nagarik Hitarakshak Mandal and Krishnaji Keshav Joglekar *alias* Balasaheb Joglekar (N.H.W. 54), a member of the R.S.S. since 1940 and the Secretary of the Bhiwandi Branch of the R.S.S. from 1943 to 1946, four communal incidents, said to have taken place in Bhiwandi prior to Partition, have been set out. The first of these incidents is said to have taken place as far back as 1837. According to these two affidavits, in that year the Muslims destroyed the deity in the Vithal Temple in Wani Lane, removed the palanquin of the deity and created a disturbance. According to both of them, they read about this incident in a biography of the late Jagannath Shankarshet and all that Mohanlal Karwa remembered out of what he had read in this book was only this particular incident. Both state in their affidavits that after this incidents no other disturbance took place between the Hindus and the Muslims in Bhiwandi till May 1970. It is unfortunate that an incident which took place over 135 years ago should have been set out in these affidavits without even giving its background or the full circumstances relating to it. Dr. B. P. Vyas, the President of the Bhiwandi Branch of the Jan Sangh and the guiding spirit of the Rashtriya Utsav Mandal, even publicly spoke about this incident at a meeting of that Mandal held at Padgha Village in Bhiwandi Taluka on April 18, 1970 (Ex. P 506) and at the meeting of the Steering Committee of the Peace Committee held on April 21, 1970 in connection with the memorandum Ex. P 15 submitted by the Muslims with respect to the forthcoming 1970 Shiv Jayanti procession.

13.2 The second incident referred to in these two affidavits is of the year 1942. According to these two affidavits, the Muslims attacked and looted Hindu shops in Bazar Peth in December 1942. In cross-examination it, however, emerged that about two or three Hindu shops and one Muslim shop were looted on account of scarcity of essential commodities, such as kerosene, rice, etc. This, therefore, was not a communal riot but a food riot.

13.3 The third incident referred to was the destruction of the deity in the Veraldevi temple. This is said to have happened in 1946 or 1947. The temple is situate in Kamatghar village outside the limits of the Bhiwandi-Nizampur Municipal Council. Once again, except for

a passing mention, no details of this incident are set out and both these witnesses admit that this incident was forgotten and no one talked about it thereafter. According to Joglekar, after this incident the atmosphere cooled down because of "the traditional excessive tolerance of the Hindus" and he frankly admitted that he did not like and does not like this tolerance on the part of the Hindus.

13.4 The last incident relates to the naming of a road as Jinnah Road. It appears that there was a strong Muslim League group in Bhiwandi which held a public meeting at which it was resolved that the names of twenty-three roads in Bhiwandi should be changed. Amongst these was the naming of the road from Quarter Gate Tol Naka up to Tin Batti as Jinnah Road and naming certain other roads as Dr. Iqbal Road, Sir Sayyad Road, Dr. Ambedkar Road, Aurangzeb Road, Patel Road, Nehru Road, Gandhi Road, etc. A resolution to this effect was moved in the Bhiwandi-Nizampur Municipality at its meeting held on January 1, 1948. It was opposed amongst others by the then Vice-President of the Municipality, Eruch Kawasji Hawewala (N.H.W. 8). The resolution (Ex. NH 5) was, however, passed by a majority. Hawewala and some others thereupon appealed to the Government not to give effect to this resolution as it had led to tension in the town. The Government accepted the suggestion and the resolution did not become operative [N.H.W. 53/1(2, 7)/2101(1-3), 10-11/2108, 22/2111; N.H.W. 54/1(2, 5)/2113(1-2), 8/2116, 24-25/2120; N.H.W. 8/2/1825].

Economic and commercial interdependence

13.5 The three incidents of the nineteen-forties related above, even if they happened in the manner alleged by Mohanlal Karwa and Balasaheb Joglekar, did not make more than a passing impact on the communal life of Bhiwandi. The communal amity which prevailed in Bhiwandi at least upto 1964 or 1965 has been deposed to by a number of witnesses including inspector Pradhan [P.W. 38/1(8)/867(2)], Zumberlal Kalantri [N.H.W. 42/1(4-5)/2033(2)], Mustafa Fakhri [B.R.W. 3/1(6-8)/1416(3-4)] and S. V. Dhamankar, popularly known as Bhausaheb Dhamankar [C.W. 2/1(3)/1692(3-4), 32/1718-9)]. The main industry of Bhiwandi is the power-loom industry and, as we have seen, after 1950 there was a tremendous increase in the number of power-looms. Power-loom factory owners are both Hindus and Muslims and, though the majority of master weavers are Hindus, the workers also belong to both the communities; Hindu workers being employed by Muslim factory owners and Muslim workers by Hindu factory owners. While the majority of power-loom units are owned by Muslims, the supply of raw materials such as yarn, beams, etc. and the disposal of the finished product in the market are controlled mostly by Gujarati and Marwadi Hindus and the Muslim power-loom owners often depend for finance on Hindu financiers. The accounts of Muslim merchants are maintained mostly by Hindu clerks. A building often accommodates looms of several owners and at times in

a building some looms are owned by Hindus, while the others are owned by Muslims. Some Hindus and Muslims have built factory sheds, installed power-looms in them and hired them out to persons of both communities. This economic and commercial interdependence of the two communities made on the whole for communal peace and harmony which was reflected in the election to offices in the Bhiwandi-Nizampur Municipality and since a number of years a tradition prevailed that if there was a Muslim President, there should be a Hindu Vice-President which would be followed in the next term by electing a Hindu as President and a Muslim as Vice-President.

The communal incidents of the sixties

13.6 A large number of incidents of a communal nature which took place between 1963 and May 1970 have been brought on the record and are dealt with in the subsequent chapters. Some of these incidents are not communal incidents but are ordinary brawls or assaults and but for the fact that the parties involved belonged to the opposite communities, nobody would think of characterizing them as communal incidents and they would have remained buried in the crime register of the police station. A large number of witnesses have deposed to these incidents, members of each of the two communities giving their own slant to them. The evidence in respect of these incidents is mostly group-wise and to refer to the evidence of each and every witness who has deposed about an incident would be monotonous repetition and, therefore, while dealing with these incidents I have referred only to the evidence of the most important witnesses in each group, omitting reference to the witnesses who merely support their testimony. After this lapse of time it is almost impossible in the case of some of these incidents to ascertain what had actually taken place nor is it necessary for the purposes of this Inquiry to do so; for these incidents are relevant only to the extent they form part of the communal history of Bhiwandi and for the impact they made on the communal atmosphere and for the manner in which the authorities and the local leaders reacted to them.

The genesis of communal friction in Bhiwandi

13.7 Religious and festive processions such as on Ganpati installation and immersion days, marriage processions, etc. used always to be taken out in Bhiwandi and in the case of Hindu processions, the processions would be accompanied by music. There was a tradition in Bhiwandi, however, to stop the music whenever a procession with music passed by a mosque. This tradition was observed until the year 1962 (P.W. 4/101/619). The decision of the Full Bench of the Bombay High Court in *Chandu Sajan Patil v. Nyahalchand Panamchand Marwadi* (1950) 52 Bom. L.R. 214, was considered by the Hindus as a vindication of their right to go in processions past mosques, accompanied by music. The deteriorating communal situation in the country appears to have made the Hindus of Bhiwandi insist upon this right

and from 1963 they started taking out processions with music and insisted on playing music before mosques and throwing 'gula' in front of mosques when the procession was passing before a mosque and as S. V. Bhawe, S. P. Thana, has deposed, "some extremists amongst Hindus considered this as a victory and were jubilant and hence occasionally such processions lingered in front of the mosques unnecessarily and the processionists threw excessive 'gula' in front of the mosques. The Muslims on their part continued to raise objection to such processions because according to them such behaviour on the part of the Hindus infuriated the Muslim extremists." [P.W. 4/1 (6-7)/236(3-4)].

13.8 From Teen Batti, Khadak Road goes north to join the Panjrapol Road, while another road, namely Nizampura Road, goes north-east. At the corner of Nizampura Road in the heart of the Muslim locality of Nizampura stands a mosque which has featured prominently in this Inquiry, namely, the Nizampura Jumma Mosque. The right of a procession to go past this mosque, playing music and throwing 'gula', became in course of time a matter of acute and bitter controversy between the two communities and played an important role in the outbreak of the communal disturbances on May 7, 1970. Until the 1965 Shiv Jayanti procession, however, no procession went past the Nizampura Jumma Mosque. Communal friction first made its appearance in Bhiwandi with the commencement of the public celebration of the Shiv Jayanti and the insistence of the Hindu extremists that the Shiv Jayanti procession must go past the Nizampura Jumma Mosque.

13.9 The communal history of Bhiwandi reveals that with the emergence of these new trends in the celebration of festivals the communal atmosphere began deteriorating. The events taking place outside Bhiwandi such as the Indo-Pakistan war of 1965 and the worsening communal situation in the country aggravated the situation and exacerbated the feelings of certain sections of both the communities. Politics took on a communal turn in Bhiwandi and branches of certain extremist parties were formed and they systematically started fanning communal passions. The intransigence of some communal-minded local leaders, their total lack of any political and communal balance, their obstinate refusal to compromise on any matter, their attempts to give a serious communal colour to every incident, however insignificant or trifling, increased the tempo of communal disharmony and disputes till the climax was reached on the Shiv Jayanti day on May 7, 1970.

13.10 It is necessary to trace the history of communal incidents in Bhiwandi to find out how the situation worsened from year to year and what the factors which ultimately led to the disturbances of May 1970 were and while doing so to consider the various preventive measures taken by the authorities and the assessment of the situation from time to time made by them. Some of these incidents need merely to be mentioned in passing, while others which made

a greater impact and exercised a more lasting effect on the communal situation require to be treated in some detail and, in the case of some of them, topicwise. The history of the Shiv Jayanti procession in Bhiwandi, other than the procession of May 1970, however, requires to be dealt with first before turning to the other communal incidents which took place from 1963 up to the outbreak of the disturbances.

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CHAPTER 14
SHIV JAYANTI

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CHAPTER 14

SHIV JAYANTI

The psychological background

14.1 A contention of the Hindu parties was that the Muslims resented the celebration of Shiv Jayanti and if they or their leaders took part in these celebrations, they did so half-heartedly and as a matter of outward show. Shivaji is undoubtedly a great historical figure. He wielded the Marathas into a nation, gave them a sense of unity and a national pride and left behind a kingdom the boundaries of which under his successors expanded till the Marathas became the dominant power in India and the Peshwa in all but name ruled over the Mogal Empire from the court of the Grand Mogul at Delhi. As during Shivaji's days the dominant powers in the Deccan were the Mogul Emperor Aurangzeb and the Sultanate of Bijapur, the greater part of Shivaji's life was spent in fighting them. His exploits against them have become the themes of ballads and songs. The Maharashtrians venerate Shivaji almost as a god, but the Muslims can hardly be expected to share this enthusiasm and veneration for a Hindu ruler who carved out a kingdom from Muslim territories ; and to expect the Muslims to feel otherwise is to be unrealistic and to ignore psychological factors. It was possibly for this reason that the "Guide Lines for Dealing with Communal Disturbances" (Ex. G 39) originally described Shiv Jayanti as a Hindu festival. It should also be borne in mind that the Hindu extremists consider the Shiv Jayanti festival as a celebration of the victory of the Hindus over the Muslims and seek to project the image of Shivaji as a champion of Hinduism against Islam ; that at times the lectures and 'kirtans' delivered on this occasion, while glorifying Shivaji, depict the Muslims and the period of their rule in India in the worst possible light and often are an anti-Muslim tirade ; and that the slogans raised in the Shiv Jayanti processions are often anti-Muslim or abusive of the Muslims or are such as to identify Shiv Jayanti with Hinduism and the Hindus.

14.2 Shiv Jayanti was first celebrated at Raigad Fort in the year 1896 and these celebrations were attended by Lokmanya Tilak. Since then Shiv Jayanti is being observed every year in several places in Maharashtra. It was also celebrated in Calcutta in June 1906 when Lokmanya Tilak was invited. After Independence the festival is celebrated in the State of Maharashtra with processions, and lectures and 'kritans' on the life and deeds of Shivaji. In 1958 the erstwhile Government of Bombay declared Shiv Jayanti as a public holiday

and it continued to be a public holiday until 1969 when the Government of Maharashtra decided that the birth anniversaries (Jayantis) of eminent Indians should not be notified as public holidays. Shiv Jayanti, however, was never declared a public holiday in any other State. By its resolution No. PPE-1057-B, dated April 19, 1958 the Government of Maharashtra directed that a photographic reproduction of a portrait of Shivaji along with photographs of the President of India, Mahatma Gandhi, Dadabhoy Naoroji, Lokmanya Tilak, Sardar Vallabhbhai Patel and the then Prime Minister of India, Pandit Jawaharlal Nehru, should be displayed in all Government offices and educational institutions run by the Government [G.W. 1/40/37, 102(1 a-d)/1102(1-2)].

The Shiv Jayanti celebrations in Bhiwandi prior to 1964

14.3 Prior to 1964, Shiv Jayanti was celebrated privately in Bhiwandi by one Anna Mistry, the owner of a timber depot situated on Khadak Road and who, the evidence shows, had pro-R.S.S. leanings, and by the residents of Sutar Alli [P.W. 38/1(11)/867(3)]; though, as appears from the affidavit of Mahadeo Govind Kunte, the treasurer of the Thana District Jan Sangh [J.S.W. 2/1(2)/2225(1)] and Mohanlal Karwa [N.H.W. 53/1(10)/2101(4)], two attempts had been made to hold public celebration of Shiv Jayanti, the first in 1960 when Shiv Jayanti was celebrated under the presidentship of Sakur Seth, the then Municipal President, and the second in 1963 when the site near the Maruti Tank was given by the Municipal Council for the Shiv Jayanti celebrations. These celebrations, however, appear to have been on a small scale.

The 1964 Shiv Jayanti procession

14.4 It was in 1964 that Shiv Jayanti was celebrated in Bhiwandi as a public function on a large scale and, as the witness Mustafa Fakhri has correctly deposed, communal tension began in Bhiwandi with this public celebration of Shiv Jayanti (B.R.W. 3/31/1428). In that year twenty to twenty-five persons, most of them with leanings towards the R.S.S. and the Jan Sangh, constituted themselves into a Shiv Jayanti Utsav Samiti (Shiv Jayanti Celebration Committee) and organized the programme. Mohanlal Karwa, the then Municipal President, became the President of the Utsav Samiti [N.H.W. 54/1(14)/2113(7)]. No Muslim was, however, included in the Utsav Samiti. The local Muslims did not feel happy over this, but the matter was not pursued by them owing to the cordial relations prevailing between the Hindu and Muslim leaders [P.W. 38/1(11)/867(3)].

14.5 The main part of the celebration organized by the Utsav Samiti was the taking out of a Shiv Jayanti procession. A number of witnesses have deposed about this procession. They are S.P., Bhave [P.W. 4/1(8)/236(4)]. Inspector Pradhan [P.W. 38/1(11)/867(3)] Dy. S.P., Diwate [P.W. 66/1(3)/1108(1-2), 43/1128]. Balasaheb Joglekar [N.H.W. 54/1(14)/2113(7)] and Murtaza Fakhri (B.R.W.

1/37/1375). The report dated May 20, 1964 made by the then S.P., Thana, to the I.G.P. about this procession is Ex. P. 1513. As appears from the testimony of these witnesses and the said report, the organizers of this procession were members of the R.S.S., the P.S.P., the Congress and some Independents. Prominent amongst these members belonging to or with leanings towards the R.S.S. or the Jan Sangh or both were Mohanlal Karwa (N.H.W. 53), Datta Punyarthi, Shantaram Tavre, Anna Mistry and Balasaheb Joglekar (N.H.W. 54). All of them were also members of the Utsav Samiti. As the procession was to wend its way through public streets, extra bandobust was considered necessary by the Police and S.R.P. Company of about 100 policemen and 8 sub-inspectors from the Thana District were sent to Bhiwandi for this purpose. The route selected by the Utsav Samiti was one on which four mosques were situate and it passed through several lanes and by-lanes in Muslim localities. The procession was to be accompanied by music and as till 1963 no procession taken out in Bhiwandi had passed with music in front of any mosque, the authorities apprehended that this procession passing before mosques accompanied by music would result in a disturbance and accordingly the organizers were persuaded to change the route and select another route on which no mosques were situate and ultimately they agreed to this. On May 11, 1964, that is, two days prior to the actual Shiv Jayanti, a small procession of about 50 Hindus was taken out along with a photographic reproduction of a portrait of Shivaji. This procession wended its way through the town and went to the place where the picture was to be installed, the processionists shouting slogans like "Hamse Jo Takrayega, Woh Mitti Me Mil Jayega". At seeing the turn the events were taking, police officers contacted the organizers and explained to them that such slogans were not appropriate for an occasion like the Shiv Jayanti and advised them that such slogans should not be shouted during the Shiv Jayanti procession. The organizers promised to enjoin upon their followers to raise only selected, decent and unobjectionable slogans.

14.6 The procession was taken out on May 13, 1964 at 5 p.m. It consisted of about 3,000 persons, all of them Hindus. Barring a few elderly persons most of the processionists were young men and children. There were some tableaux in the procession and, in spite of the promise given by the organizers, slogans such as "Hamse Jo Takrayega Woh Mitti Me Mil Jayega", "Akhand Hindusthan Zindabad" and "Hindu Dharmacha Vijay Aso" were shouted. Loud speakers fitted on a truck were used for shouting slogans and even the S.P., Thana, found this annoying and opined in his report Ex. p. 1513 that this should not be allowed in the future. It appears that the leaders tried to stop the processionists from shouting these slogans but they were helpless and could not restrain them. As the procession was passing through Madarchhalla a Muslim tried to stop the music accompanying the procession but he was quietly removed from the spot by some Muslim leaders and the procession went ahead. On the

way the P.S.P. group in the procession wanted to change the route and insisted on following a route on which the Quarter Gate Mosque is situate. The Police, however, took a firm stand and informed them that the organizers had selected the route and no deviation from it would be permitted. After a great deal of persuasion the procession continued by the agreed route. The S.P., Thana, was with the procession throughout and observed the demeanour of the processionists and the general situation. Some of his observations set out in the report Ex. P 1513 require to be quoted. He has observed :

“ I found that a section of Hindu element, particularly the R.S.S. and some P.S.I. men, were bent upon creating mischief. Their idea in accompanying the procession was not so much to pay respects to the memory of the Great Shivaji but to establish their right and if possible to provoke and humiliate the Muslims

“ ‘Gulal’ was sprinkled over crowd on the streets freely. This was very irritating even for some of us and would be much more to Muslims. Throwing of Gulal in public streets will therefore have to be prohibited in Bhiwandi Town in future during processions.”

14.7 The S.P. expressed his apprehensions about the future in these words :

“ The Muslim population in Bhiwandi Town is about 60 per cent. The Muslims of Bhiwandi are opposed to the idea of Hindus taking out a procession with music in front of their mosques. About a year ago, there was such a move of a procession and I had then taken an assessment of Muslim opinion and had found that Muslims would not reconcile to the idea of the procession with music passing in front of mosques. Most of the Muslim residents of Bhiwandi have no permanent abode in Bhiwandi and they have come from far off places like U.P., Malabar and Konkan. Most of them are without families and they have no restraining influences which normally operate on a man with family. Such a material would be of a great potential danger, in case communal trouble takes place in Bhiwandi Town. If a procession with music is taken out in Bhiwandi Town, in front of mosques, there is great possibility of communal flare up taking place in future. Even if we are able to prevent such a flare up, because of strong Police arrangements, in my opinion, such a procession would be a starting point of communal disharmony in Bhiwandi Town.”

14.8 The observations on the S.P. about the bandobast to be made for future processions in the light of the above apprehensions expressed by him are worth reproducing. He observed :

“ On 13th May 1964 we had put 200 men for bandobast arrangements. In case, a procession is taken out in front of mosques in Bhiwandi in future, it is my opinion that we will have to throw in about thousand men for making bandobast arrangements. All the mosques in Bhiwandi town which are about 30 in number will have to be heavily guarded. There are a large number of hutment areas in which Muslims live. These also will have to be guarded heavily so

that Muslims from these areas do not infiltrate into the town in case of communal trouble, to join hands with the Muslims of the town. As the Hindus of Bhiwandi Town are in minority, it is learnt, the Hindus residing in the surrounding villages are in the habit of coming to the rescue of the Hindus in Bhiwandi Town in case of trouble. This aspect will also have to be borne in mind while making bandobast arrangements during the trouble.”

14.9 This very first Shiv Jayanti procession disclosed certain disturbing features all of which have been noted in the S.P.'s report Ex. P 1513, a report which sounds almost prophetic in the apprehensions it expresses. Amongst these features were the behaviour of the processionists, the excessive throwing of 'gulal' which annoyed even the police officers, the insistence of certain section of the Hindus to go past a mosque playing music even in breach of the agreed route, the attempt made to convert this festival into a purely Hindu festival by non-inclusion of Muslims in the Utsav Samiti, the shouting of slogans extolling the Hindu religion and giving a threat to humble in the dust all who opposed them, namely, the slogan, "Jo Hamse Takrayega, Woh Mittime Mil Jayega", which slogan in the context can only be aimed at the Muslims, and the refusal by the Muslims to reconcile themselves to the idea of a procession with music going past a mosque. One also wonders whether sufficient attention was paid to the note of caution sounded by the S.P. that the Hindus residing in the surrounding villages were in the habit of coming to the rescue of the Hindus in Bhiwandi in case of trouble.

The 1965 Shiv Jayanti procession

14.10 In the year 1965 Shiv Jayanti was celebrated on May 3, 1965. A procession was taken out and this time it went past the Nizampura Jumma Mosque. The report of the Additional S.P., Thana, dated May 4, 1965, to the I.G.P. on this procession is Ex. P 534. For this occasion a new Shiv Jayanti Utsav Samiti was set up with Mohanlal Karwa (N.H.W. 53), the then Municipal President, once again as the Chairman [N.H.W. 54/1(14)/2113(7)]. This time the Muslims were not completely excluded but two Muslims—Dr. Mukri and Gaffoor Sayed—were invited to join the Samiti (J.S.W. 2/2/2226).

14.11 The report dated May 4, 1965 (Ex. P 534 on this procession made by Addl. S.P., Thana, to the I.G.P. shows that the procession consisted of above 6,000 persons with two bands and pantomimes. Amongst the slogans which were shouted were "Shivaji Maharajki Jai," "Bharat Matecha Vijay Aso" and "Har Har Mahadeo." The provocative slogan, "Hamse Jo Takrayega, Woh Mittime Mil Jayega," though occasionally shouted, was not prominent. When the procession was going past the Nizampura Jumma Mosque a stone was thrown by a Muslim, one Imam Kharbe, which hit the local Muslim leader, Anwar Bubere, who started bleeding. Fearing that this incident might provoke a communal disturbance, Anwar Bubere declared that no stone had hit him, but he had fallen down on the road and received this

injury. Both sides have tried to give their own slant to this incident. According to the Hindu witnesses, the stone was thrown by a Muslim at the procession but instead hit Anwar Bubere. According to the Muslim witnesses, the stone was thrown by a processionist. To these two opposite versions, I prefer the report of the Additional S.P. which was made contemporaneously and not with a view to present a particular case to a Commission of Inquiry and which strikes me as being a fair, impartial and non-partisan document. According to the said report, there was previous enmity between Imam Kharbe and Gaffoor Sayed, said to be caused by the jealousy entertained by Imam Kharbe due to Gaffoor Sayed's position as a local leader, and while going past Gaffoor Sayed's house an exchange of words took place between Gaffoor Sayed's son Abdul Rashid and Imam Kharbe and a stone was thrown which hit Anwar Bubere. In order to prevent a disturbance Anwar Bubere declared that he had fallen down and received the injury. This satisfied the crowd which had started collecting and it dispersed. Because of this incident, after the procession had passed the Nizampura Jumma Mosque, a few Muslims who were standing near the Mosque attempted to rush towards the tail-end of the procession, but they were prevented by the Police from proceeding further and no untoward incident took place. In order to ensure that the situation should not take an ugly turn police pickets were posted at selected points and patrolling was continued throughout the night. The situation, however, remained normal and peaceful. On being contacted Anwar Bubere stated that the incident was entirely a private and spontaneous affair and he was not in favour of any police inquiry nor for giving any importance to it and the general consensus of the Muslim community was also the same.

14.12 This was an incident capable of leading to great mischief and the tact and presence of mind shown by Anwar Bubere in giving an innocuous turn to it deserve to be appreciated.

14.13 The evidence has disclosed that there were two disturbing features about this procession. The first was, as admitted by witness Gulam Murtaza Fakhri, that because of the insistence by certain Hindu extremists that the procession should go past the Nizampura Jumma Mosque and the objection of the Muslims thereto, the Muslims were emotionally not attracted to participate in the Shiv Jayanti celebrations and the procession (B.R.W. 1/39/1376) and the second was the tendency of the Hindu processionists, however restrained that year, to shout unapproved and provocative slogans such as "Jo Hamse Takrayega, Woh Mittime Mil Jayega."

The 1966 Shiv Jayanti procession

14.14 The 1966 Shiv Jayanti procession was taken out on April 22, 1966. Once again a Shiv Jayanti Utsav Samiti was formed with Mohanlal Karwa, the then Municipal President, as its Chairman [N.H.W. 54/1(14)/2113(7)]. Parshram Dhondu Tavre (N.H.W. 45) who belonged to the P.S.P. was the Secretary. Because of what had

happened near the Nizampura Jumma Mosque at the time of the 1965 Shiv Jayanti, this procession did not go past that mosque [P.W. 4/1(10)/236(4)]. Inspector G. S. Mokashi in charge of the Bhiwandi Town Police Station has made a report dated April 23, 1966 to S.P., Thana, which is Ex. P 1514 in respect of this procession. This time five Muslims including Anwar Bubere, Gaffoor Sayed, Haji Ahmed Fakhri and Dr. Mukri were invited to join the Utsav Samiti. The procession carried in a decorated jeep a photographic reproduction of the portrait of Shivaji. There were also four bullock carts and a truck with a tableau depicting the meeting between Shivaji and Afzulkhan. There were three horses in the procession and loud-speakers were fitted on the truck for the raising of slogans. 'Lezim' was performed in the procession and the procession consisted of over 2,000 persons. The procession halted giving slogans and playing games at two places, namely, Hamalwada Naka and for a yet longer time at Madarchhalla, both of them Muslim localities. It is alleged by the Muslims that while passing by Hyderi Mosque in Hamalwada the processionists threw excessive 'gural' which fell inside the mosque. That excessive 'gural' was thrown by the processionists is admitted by Parshram Tavre who has deposed that the P.S.P. did not participate in the 1967 Shiv Jayanti procession because at the time of the 1966 procession excessive 'gural' was thrown and the P.S.P. had, therefore, insisted that in the 1967 procession 'gural' should not be allowed to be used or thrown as Shiv Jayanti was a national festival, a demand which was not accepted. Though Tavre denied that a large quantity of 'gural' was thrown inside the mosque, he admitted that 'gural' was thrown in the air and it might have fallen inside the mosque (N.H.W. 45/8/2063).

The 1967 Shiv Jayanti procession

14.15 The 1967 Shiv Jayanti procession was taken out on May 11, 1967 and it led to the first communal riot in the history of Bhiwandi. From the very beginning the events took an unhappy turn. The younger elements amongst the Hindus formed a Shiv Jayanti Utsav Samiti and they not only excluded the older and more experienced and prominent social and political Hindu leaders such as Bhausaheb Dhamankar, Mohanlal Karwa, Zumberlal Kalantri, M.L.C., C. C. Bhise and Durve of the P.S.P., but did not include a single Muslim. Baliram More, the Shakhapramukh of the Bhiwandi Branch of the Shiv Sena, was a member of this Shiv Jayanti Utsav Samiti (Ex. P 641). Rumours thereupon began floating around the town that the procession would not pass off peacefully [P.W. 38/1(20)/876(6)]. The S.D.P.O., Bhiwandi B. K. Shetye, made a report dated May 4, 1967 to the S.P., Thana, which is Ex. P 571, which shows that by this time the relations between the Hindus and the Muslims of Bhiwandi were not cordial. The reason was that some of the Muslim leaders of Bhiwandi were detained at the time of the Pakistani aggression of India in 1965 and for this reason the Bhiwandi Branch of the Majlis-E-Mushavarat,

which was formed on August 21, 1966, exhorted the Muslim voters not to vote for the Congress candidate but to support the Samyukta Maharashtra Samiti candidate, the P.W.P. leader, Bhalchandra *alias* Bhai Patil, who and his supporters appear to have given a promise to the Muslims that they would see that no 'gulal' would be thrown and no music played before a mosque. The Shiv Jayanti Utsav samiti members who were mostly non-supporters of the Samyukta Maharashtra Samiti being aware of the promise made by Bhai Patil and his supporters were keen to see that during the 1967 Shiv Jayanti procession 'gulal' was thrown and it was taken out by a route on which many mosques were situate and it is obvious that it was for this reason that they excluded the more experienced Hindu leaders as also Muslims from the Utsav Samiti. Further, to aggravate the situation the Samiti proposed to have three floats depicting the killing of Afzulkhan by Shivaji, the cutting off of the fingers of Shahistekhan by Shivaji and the cutting off by Shivaji of the fingers of a butcher about to slaughter a cow. The Samiti also decided to spend about Rs. 2,500 for this occasion out of which a sum of Rs. 1,000 was earmarked for the purchase of 'gulal' to be thrown by the processionists. The Samiti also deliberately did not fix in time a route for the procession and wanted to fix it at the last moment, very probably with a view to see that the Police would then not be able to make proper bandobust. The S.D.P.O. became apprehensive that the throwing of 'gulal' on the Nizampura Jumma Mosque or the Bhoiwada Mosque, both held in high veneration by the Muslims, would result in a breach of the peace. As the S.D.P.O. observed in his said report (Ex. P 571) :

"It appears that they do not want to take the decision about the route so early because the committee members are very keen to take this year's procession over certain masjids which are held very sacred by the Muslims and throw large quantities of 'gulal' over these masjids. Throwing of gulal on sacred places of the Muslims is highly disliked by the Muslims and in case it is thrown on places like 'Jumma Masjid' of Nizampura or Bhoiwada Masjid, the Muslims are likely to take it seriously, probably resulting in breach of peace."

In order to see that no disturbance took place, the S.D.P.O. suggested a route which did not go past the Nizampura Jumma Mosque and on which only four unimportant mosques were situate and which was mostly through Hindu localities. He also suggested prohibiting the display of floats which might injure the feelings of the Muslims and the prohibiting of all slogans except "Chhatrapati Shri Shivaji Maharajki Jai." The S.D.P.O.'s suggestions were, however, not accepted.

14.16 What happened thereafter is narrated in the report dated May 13, 1967 made by S.P., Almeida to the I.G.P. on this procession which is Ex. P 88. From this report it emerges that on May 8, 1967 the S.D.M., Bhiwandi Sub-Division, called a meeting of leading

citizens and the office-bearers and members of the Utsav Samiti and a settlement was arrived at. The settlement was that—

- (1) instead of the above three floats the procession would carry only one float depicting Shivaji's darbar,
- (2) the procession would go by a shorter route which went past the front of and, after turning the corner, by one side of the Nizampura Jumma Mosque,
- (3) the processionists would shout only the approved slogans such as "Shivaji Maharajki Jai," "Bharat Mataki Jai," and "Bharatiya Ekata Amar Rahe," and
- (4) the Samiti would control the throwing of 'gulal' to the maximum extent possible.

The Samiti took as members the P.W.P., M.L.A., Bhalchandra *alias* Bhai Patil and two Muslims, namely, Dr. Mukri and Haji Ahmed Fakih, although the S.D.M. had proposed the names of 10 local leaders including the names of Bhai Patil and of 5 Muslims. When the local Muslim leaders of Nizampura were contacted the next day, they stated that they had no objection to the procession passing in front of the Nizampura Jumma Mosque, but they urged that the throwing of 'gulal' should be controlled and it should be ensured that no 'gulal' fell in the Hauz (water tank) in front of the mosque. Subsequently the Muslims of Nizampura requested some influential leaders of Bhiwandi to use their good offices to see if the procession could not be taken out by a route which bypassed the Nizampura Mosque. The matter was thereafter discussed on May 11, 1967 by the S.P. and the S.D.P.O. with the office-bearers of the Shiv Jayanti Utsav Samiti as also local Muslim leaders who were led by Bhai Patil and N. K. Ahir of the P. W. P. and an amicable settlement was arrived at. Under this settlement the procession, when it approached the north-east corner of the Nizampura Jumma Mosque was to be deviated along a somewhat longer road so that it bypassed the front of the mosque which with its water tank faced east and then by only the northern side of the mosque, the rest of the route being the one decided by the Samiti. By reason of the distance between the Nizampura Jumma Mosque and the road on the northern side of the mosque, this compromise allayed the fears of the Muslims that 'gulal' might fall inside the mosque or the 'hauz' in front of it.

14.17 In view of the situation, elaborate police arrangements, including the drafting of two S.R.P. Companies, were made for the occasion and the Addl. D.M. promulgated orders under section 37 of the Bombay Police Act prohibiting the carrying of dangerous weapons. Further, sixteen bad characters of Bhiwandi were rounded up and held in temporary custody. The D.I.G. (B.R.) remained personally present to supervise the police arrangements.

14.18 The procession consisting of 2,000 persons commenced at about 4 p.m. At the tail-end of the procession there was a truck carrying boys shouting slogans and throwing 'gulal', a decorated jeep carrying a photographic reproduction of a portrait of Shivaji on horse-back,

and another truck carrying a float depicting Shivaji's durbar. All along the route music was played, crackers were set off and the slogans "Shivaji Maharaj Ki Jai", "Bharat Mata Ki Jai" and "Bharatiya Ekata Amar Rahen" were shouted. The P.S.P. workers, however, did not participate in this procession because in view of the excessive throwing of 'gulal' at the time of the 1966 procession the P.S.P. leaders had insisted that 'gulal' should not be thrown as Shiv Jayanti was a national festival, which demand was not accepted by the Utsav Samiti (N.H.W. 45/8/2063). This was the first Shiv Jayanti procession in which Dr. B. P. Vyas, who joined the Jan Sangh in 1967 and became later the President of its Bhiwandi Branch, participated (J.S.W. 1/5-6/2201, 10/2206).

14.19 After covering a distance of about a mile the procession arrived near the south-east corner of Nizampura Mosque. Important leaders of both communities were present at this spot. The procession went ahead by the agreed revised route and arrived at the north-east corner of the mosque. On the northern side of the compound of the mosque policemen were lined up along the side of the road between the processionists and the compound wall. After the major part of the procession passed by the northern side of the mosque without any incident, in spite of the presence of the leaders of both communities and the elaborate police arrangements, trouble broke out and a riot took place and the apprehensions expressed by S.D.P.O., Shetye in his report Ex. P 571 proved correct. According to the Hindu witnesses, the trouble started because Muslims began stoning the procession from the compound of the mosque; while according to the Muslim witnesses, it started because 'gulal' was thrown inside the mosque and the processionists began stoning the Muslims inside the mosque. In my view, both these versions have been shaped for the purpose of presenting the cases of the respective communities before the Commission. Having carefully considered the evidence of all the witnesses on this point, I have come to the conclusion that the correct version is the one contained in the S.P.'s report Ex. P 88. According to this report, a group of processionists preceding the truck were shouting the slogans, "Duri Tiri Ekka, Ayubkhan Chhakka", "Kashmir Hai Bharatka, Nahin Kisike Bapka", "Ek Jilebi Tell Me, Ayubkhan Jail Me", "Jo Hamse Takrayega, Wo Mitti Me Mil Jayega" and "Hindu Dharmacha Vijay Aso". How the actual riot started may best be quoted from the S.P.'s report :—

"When gulal was being thrown in the air in much the same way as it was being thrown all along the route, some adolescent young men from within the compound wall of the mosque picked up a quarrel with the processionists and adopted a threatening attitude, on the ground that 'gulal' was being thrown in the Mosque. The two groups were adopting menacing attitudes against each other, and would have come to grips with each other but the police who were lined up along the compound wall and the police escorting the procession kept them apart and pushed the procession forward. In

the meanwhile, brickbats were thrown from the Mosque compound at the processionists and boys from the trucks threw empty bottles (bottles used for aerated soft drinks) at the persons who were in the Mosque compound. These bottles were in the trucks because the processionists did not carry any drinking water with them and they availed of aerated cold drinks while the procession was on its way. As stones continued to be thrown from the Masjid, the police rushed into the Mosque compound and dispersed the miscreants and took into custody 4 of them who were throwing brickbats. One of these was also armed with an iron bar. The procession was pushed further onward and cleared away from the side of the Mosque. The procession proceeded along the Nizampura Mosque Road and the Yakub Road. On the way, some of the processionists indulged in vandalism by throwing stones at 7 shops and cabins of Muslims near Tin Batti Naka and removed property valued at Rs. 2,180 from two shops and a hotel. The property removed was of the nature of boots, chappals, cash and clothes. Some miscreants also pelted stones at a mosque in Thange Alli and at the Nizampura Talkies. In all six offences have been registered, as per statement attached, and investigation of these cases is in progress. The situation was brought under control by about 19-30 hrs. 14 Hindus and 16 Muslims received injuries and were treated as outdoor patients. Seven police-officers and men also sustained injuries and were given medical treatment, one of them being admitted as indoor patient in the Civil Hospital, Thana."

14.19 The version of the S.P. receives support from Bhausaheb Dhamankar who has deposed that the behaviour of the processionists before the disturbance broke out was rowdy and provocative (C.W. 2/34/1719) and even the local R.S.S. leader Balasaheb Joglekar has admitted that the procession was not an orderly one (N.H.W. 54/30/2121).

14.20 Whether a stone was thrown first from the mosque or an empty bottle from the truck was first thrown inside the mosque is not clear from the S.P.'s report but from the exchange of words which preceded, it would appear that the aggression by both parties was almost simultaneous. This is borne out by the fact that when on May 16, 1967 Baliram More made an application (Ex. P 641) to the Chief Minister requesting for an inquiry as to from where and how the incident started and the matter was referred to the D.M., Thana, for his remarks, by his report dated September 6, 1968 (Ex. P 642) the D.M., Thana, observed that it was difficult to fix the responsibility for this communal incident except in the case of persons actually caught while causing the disturbance. In this riot the Muslims suffered more because some Muslim shops were damaged and looted.

14.21 After prosecutions were launched, leaders of both communities tried to compromise the matter. The accused included the chairman and other office-bearers of the Shiv Jayanti Utsav Samiti. The

Bhiwandi-Nizampur Municipal Council at its meeting held on December 28, 1967 passed a resolution (Ex. P 1524) requesting the Government to withdraw all cases. This proposal was put forward by Yusuf Hasan and was proposed by Baliram More and seconded by Dr. Gandhe. The resolution was passed unanimously. Thereafter the leaders made a written application (Ex. P 1525) to the Chief Minister. The signatories to this application included Zumberlal Kalantri, the Congress M.L.C. (N.H.W. 42). S.P., Bhave in his report dated June 6, 1968 (Ex. P 1526) opined that the cases should not be withdrawn and the Government refused to withdraw the cases. The prosecutions, however, did not succeed. The reason for this appears in what Bhausahab Dhamankar (C.W. 2) said at the Peace Committee meeting held on April 15, 1969 (Ex. P 108). The reason was that on account of the refusal of the Government to withdraw the cases, the leaders got together and decided that witnesses of one community should not depose against the accused of the other community. It was unfortunate that the firm stand adopted by the Government in not withdrawing the cases merely at the request of the Municipal Councillors and some local leaders should have been frustrated in this manner and the course of justice thus subverted.

14.22 As the finale to the 1967 Shiv Jayanti procession it may be mentioned that in the 1967 Municipal Elections which took place thereafter, so far as Hindu Councillors were concerned, all those who had taken an active part in this Shiv Jayanti Utsav were elected [P.W. 38/1(22)/867(7)].

The 1968 Shiv Jayanti procession

14.22 The 1968 Shiv Jayanti procession was taken out on April 29, 1968. By this time a Peace Committee had been formed and it had decided that the Peace Committee should see that the festivals of both the communities were celebrated in peace and in harmony. As appears from the report dated April 18, 1968 from S.P., Bhave to the I.G.P. (Ex. P 117), at the Peace Committee meeting held under the presidentship of Bhausahab Dhamankar on April 14, 1968 to elect the Shiv Jayanti Utsav Samiti, there was a discussion on the slogans to be shouted and the excessive throwing of 'gula'. Bhalchandra Palaye of the R.S.S. and Bhai Nagle of the Jan Sangh insisted that there was nothing wrong in slogans such as "Pakistan Murdabad" or "Ayubkhan Murdabad". Dr. Vyas also insisted that there should be no restrictions placed on the celebrations of the Shiv Jayanti. Some Hindu leaders such as Bhausahab Dhamankar tried to exercise a moderating influence and Balasaheb Joglekar lamented the fact that no discipline was observed during the Shiv Jayanti processions and no one was ready to obey anyone and exhorted the members that everyone should try to celebrate the Shiv Jayanti in a disciplined manner. Shabir Ahmed Ansari, the then Municipal President, was appointed to be the convener of the Shiv Jayanti Utsav Samiti and a number of Muslims were appointed on it.

14.23 A meeting of the Shiv Jayanti Utsav Samiti was held on April 15, 1968 and as appears from S.P., Bhave's report thereon dated April 18, 1968 (Ex. P 118), Dr. Mukri raised a point that as Shiv Jayanti was a national festival, no 'gural' should be thrown and instead of the Bhagwa flag the national flag should be carried. This was objected to by Dr. Gandhe and Dr. Vyas. At this meeting various sub-committees were appointed and donations including those from some of the Muslim members were given towards meeting the expenses of the festival. As appears from S.P., Bhave's report dated April 19, 1968 (Ex. P 119), at the next meeting of the Shiv Jayanti Utsav Samiti held on April 17, 1968 Dr. Vyas insisted that there should be no restriction on the throwing of 'gural' or the shouting of slogans and the route should not be changed. Ultimately, as shown by S.P., Bhave's report dated April 22, 1968 (Ex. P 120), at the meeting of the executive body of the Shiv Jayanti Utsav Samiti held on April 18, 1968, though at first some members insisted that the same route should be followed as for the 1967 procession, that is, past the Nizampura Jumma Mosque, a route was finally agreed upon unanimously which avoided going past that mosque, though it included a part of the Nizampura area. It was also decided that the following slogans only should be raised over a loud speaker from a truck :—

- (1) "Chhatrapati Shivaji Maharajancha Vijay Aso",
- (2) "Bharatiya Swatantryacha Vijay Aso",
- (3) "Bharatiya Ekata Amar Rahe",
- (4) "Bharat Matecha Vijay Aso",
- (5) "Azad Hind Zindabad",
- (6) "Hindu Muslim Ekatecha Vijay Aso",
- (7) "Hindu Muslim Ekata Zindabad", and
- (8) "Hindavi Padpatshahi Samsthapak Chhatrapati Shivaji Maharajancha Vijay Aso".

14.24 The best and the most trustworthy account of what happened at the time of this Shiv Jayanti procession is to be found in the report dated April 13, 1968 (Ex. P 1515) made by Inspector Pradhan to the S.P., Thana. The procession which initially consisted of about 2,000 persons, both Hindus and Muslims, swelled in course of time to about 4,000 to 5,000 persons. There were four trucks and a municipal jeep with a photographic reproduction of a portrait of Shivaji. One of the trucks belonged to Anna Mistri, the owner of a timber depot situate at Khadak Road. In this truck photographs of wrestlers were kept. Dancing and slogan-shouting was going on in the front part of the procession. Flowers were showered on the procession from a Muslim house in Saudagar Mohalla, a Muslim locality, and rose water was sprinkled on it from Dargah Road upto Bhusar Mohalla, another Muslim locality. Sherbet was served at various points in different Muslim localities such as Bangad Galli, Nizampura and Teen Batti Naka. Not only did the Muslims joined in the procession but Muslim spectators had collected at various Nakas to watch the procession. When the procession reached Quarter Gate, Anwar Bubere and

another Muslim came forward and garlanded Shivaji's photograph. The other side of the picture is, however, not equally edifying and it is best to depict it in Inspector Pradhan's words :—

“The following slogans were being given besides those mentioned in the pamphlet (that is, the pamphlet setting out the approved slogans) :—

- (1) “Ayubkhan Murdabad”,
- (2) “Ek Jilebi Tel Me, Ayubkhan Jail Me”,
- (3) “Kashmir Hai Bharat Ka, Nahi Kisi Ke Bapka”,
- (4) “Hamse Jo Takrayega, Woh Mitti Me Mil Jayega”,
- (5) “Duri, Tiri, Ekka, Ayubkhan Chhakka”, and
- (6) “Hindu Dharmacha Vijay Aso”.

“On this occasion the Municipal President, members and all the office-bearers of Utsav Celebration Committee were personally present.

“The enthusiasm shown by the Muslims in taking part in the Shiv Jayanti Celebrations was commendable and set an example to the whole country but the irresponsible Hindu youths, especially those from Wani Ali, Brahmin Ali, Kasar Ali, Prabhu Ali, showed by their behaviour in the procession that they do not deserve the reception and the enthusiasm displayed by Muslims in participating and in receiving the photo of Shivaji and Hindus in the procession. Instead of maintaining the seriousness and noble atmosphere these boys from the above four lanes had turned it into Tamasha dance by their twisting dances and indecent slogans. And in this way they showed by their action that they are not fit for the reception even by sprinkling rose water, serving Sherbet, erecting arches and bunting etc. and this put whole Hindu community and important leaders to shame. In spite of this, the Muslim Community and their leaders in the procession did not allow their peace of mind to be disturbed and thereby showed the greatness of their mind.”

14.25 Dr. Vyas has alleged that when the end of the procession came near Saudagar Mohalla Jumma Mosque about twenty-five to thirty Muslim youths came running from the compound of the mosque to attack the procession, rolling up their sleeves and shouting ‘Maro,’ ‘Maro’ (‘Beat,’ ‘Beat’); Dr. Vyas who was in a truck requested them with folded hands to maintain peace; Zumberlal Kalantri, on hearing this commotion, got into the truck because a mike was fitted to the truck and requested the Muslim youths to maintain peace; a cordon of S.R.P. men was formed between the processionists and the mosque and further trouble was averted. In cross-examination Dr. Vyas admitted that he did not inform the Police about this incident, his explanation being that the policemen and police officers including Inspector Pradhan were present on the spot [J.S.W. 1/1(5)/2201(3), 12/3207]. Zumberlal Kalantri though he has deposed about the 1968 Shiv Jayanti procession does not make any mention of this incident nor has this incident been referred to in the evidence of any other witness. There is no record or report made by the Police of any such

incident and the Police have denied that any such incident ever took place (P.W. 66/216/3922). In these circumstances I refuse to place any reliance on the uncorroborated testimony of Dr. Vyas and disbelieve his evidence on this point.

The 1969 Shiv Jayanti procession

14.26 The 1969 Shiv Jayanti fell on April 18, 1969. In retrospect this Shiv Jayanti proved to be a fateful one as it led to the formation of an organization which has played an important role in the history of the communal disturbances of May 1970 in Bhiwandi. On the initiative of Zumberlal Kalantri, M.L.C. (N.H.W. 42), a meeting was convened on April 4, 1969 for forming a Shiv Jayanti Utsav Samiti. The S.P.'s report dated April 7, 1969 on this meeting is Ex. P 121. As a result of municipal politics the opposition group in the Municipal Council which was then predominantly Muslim did not attend this meeting. At this meeting a Shiv Jayanti Utsav Samiti was elected with Abdul Salaam Abdul Razak Ansari, the then Municipal President elected with Hindu support, as its President. It was also decided that a sum of Rs. 1,000 should be collected to defray the expenses of the celebrations and Abdul Salaam Ansari declared that he would give a personal donation of Rs. 101.

14.27 A meeting of the office-bearers of the Shiv Jayanti Utsav Samiti was held on April 6, 1969. The S.P.'s report dated April 8, 1969 on this meeting is Ex. P 122. The discussions which took place at this meeting clearly reveal the mental attitude of the participants. There were seventy members of the Samiti and twenty other citizens present and various sub-committees were elected. Abdul Salaam Ansari was in the Chair. He asked for suggestions with respect to the route of the procession. Thereupon Sharad Patwardhan said that no discussion should take place at that time, but the route should be fixed by the Procession Committee. He was seconded by Bhaskar Mali. Murtaza Fakih (B.R.W. 1), Chandrakant Bhise of the P.S.P., Dr. Gandhe and others said that as the subject was included in the agenda, the route should be fixed by that meeting only and the President ruled that the subject should be discussed in the meeting. Gulam Mohamed Momin then stated that he had no objection to any route, but in the previous year unapproved slogans were shouted and he gave instances of three such slogans, namely, (1) Duri Tiri Ekka, Ayubkhan Chhakka, (2) Jo Hamse Takrayega Woh Mittime Mil Jayega, and (3) Hindu Dharmacha Vijay Aso. Immediately Bhaskar Mali, Datta Punyarthi, Shantaram Tavre and Sharad Patwardhan began shouting and a pandemonium reigned, but ultimately peace was restored after about ten minutes. The Muslim leaders, namely, Gulam Mohamed Momin Dr. Mukri, Mustafa Fakih and Ibrahim Maddu stated that they had no objection to any route so long as the restrictions with respect to slogans and the ban on throwing of 'gulaal' within 50 feet on either side of a mosque were observed. Dr. Gandhe suggested that the route and the slogans approved in the previous year should also be adopted

for 1969. Sharad Patwardhan, however, suggested that the route going past Nizampura Jumma Mosque should be adopted. He was supported by Shantaram Tavre, Bhaskar Mali, Datta Punyarthi and Hasmukh Thakkar (N.H.W. 16). Dr. Vyas thereupon stated that if the sentiments of the Muslims were hurt because of the throwing of 'gulal', 'gulal' should not be thrown on mosques and, if necessary, a route avoiding mosques should be prescribed. Ibrahim Maddu said that if the Hindu leaders were ready to accept the responsibility of restrictions being observed, the procession might go by any route and that it was because of the irresponsible behaviour of the processionists that the Muslim communal elements were encouraged and the Muslim youngsters had developed a communal spirit and it was found very difficult to control them. Sharad Patwardhan, however, insisted that as Kalantri, Bhausaheb Dhamankar, Ibrahim Maddu, Dr. Mukri and others had promised in the previous year that the route would be changed for 1969, they should stick to their promise. As the discussion went on in the same way and as there was no indication of any compromise being arrived at, ultimately Sharad Patwardhan declared that he and others would resign their membership of the Shiv Jayanti Utsav Samiti and thereupon, nineteen persons walked out of the meeting. Thereafter Ibrahim Maddu requested Zumberlal Kalantri, Bhausaheb Dhamankar, Dr. Vyas and other senior Hindu leaders to accept the responsibility of controlling the Hindu youths and suggested that the procession should not pass by any mosque. Bhausaheb Dhamankar stated that they should try to induce these nineteen persons to return to the meeting, that all leaders should stand in front of mosques and try to ensure that the procession went past them peacefully, and that the same route as followed in the previous year should be adopted again. He also stated that no one could take the responsibility of good behaviour of all the persons. Dr. Vyas also declared that he was unable to take any such responsibility and he summarized the views of those who had walked out as follows :--

- (1) It was promised in the previous year that the route would be changed and the promise would be kept.
- (2) No restrictions with respect to slogans and the throwing of 'gulal' should be reduced to writing, though the restrictions should be observed.
- (3) The restrictions should not be printed in any pamphlet setting out the programme for the celebrations.

In spite of the efforts made thereafter by Bhausaheb Dhamankar, Dinkar Kunte and Gulam Mohamed Momin, the nineteen persons who had walked out refused to return to the meetings. The meeting ultimately decided that the previous year's route should be followed and the same slogans as were approved the previous year should be raised.

14.28 The nineteen persons who had walked out of the meeting thereafter submitted their resignations from the Shiv Jayanti Utsav Samiti. On April 14, 1969 another meeting of the Utsav Samiti was held at which 45 members of the Samiti and 150 other persons were

present. Zumberlal Kalantri was in the chair. The S.P.'s report dated April 15, 1969 on this meeting is Ex. P 123. At this meeting some out of the nineteen persons who had walked out were present. The meeting was a turbulent one, those who had left the previous meeting and were present again taking a vociferous part in it. Balasaheb Joglekar moved a resolution requesting them to withdraw their resignations and for the President of the meeting to write letters individually to them making this request. Amongst the speakers was Anand Phadke. He stated that the town belonged to all and if any person wanted to go by a particular route and was obstructed by another, that would be the cause of the trouble. He further stated that when 'gulal' was thrown in the air in a procession it was blown by the wind in all directions and might even go towards a mosque and this could not be helped. The main discussion once again centred round the route of the procession ; and those who had walked out and were present contended that the decision taken at the previous meeting was not binding, Dr. Vyas supporting this contention. Chandrakant Bhise of the P.S.P. stated that the Muslims had that year taken the responsibility of celebrating the Moharram peacefully and inquired whether any of the Hindus was ready to take the responsibility of ensuring that the Shiv Jayanti celebrations would pass off peacefully. He said that the burden of everyone's speech was that each one was willing to take responsibility for himself but not for the other. Thereupon Datta Punyarthi said that in the previous year the procession had passed off peacefully, but Bhise and his co-workers had unnecessarily resorted to demonstrations. He further declared that some day the Muslims would have to bow down before the Hindus. While on the subject of the route of the procession Anwar Bubere said that the previous year's route should be adopted and that thereafter the residents of Nizampura would not be obstinate about the route. Ultimately the resolution was passed. Those who had resigned thereafter held a meeting in the Neelkantheshwar Temple and Dr. Vyas advised them that if letters were received requesting them to withdraw their resignations, they should do so.

14.29 The last meeting of the Peace Committee in connection with the 1969 Shiv Jayanti Celebrations on April 15, 1969. The S.P.'s report dated April 19, 1969 on this meeting is Ex. P 108. At this meeting Uddhav Teje once again stated that there should be no restrictions on the route of the procession and put a rhetorical question whether if the Prime Minister came to Bhiwandi, she could be asked to go by a particular route only.

14.30 Before we come to the actual procession one document requires to be noticed. It is the report dated April 10, 1969 (Ex. G 282) from D.M. Thana, to the Home Secretary. In this he has referred to the Shiv Jayanti Utsav meetings held prior to that date. While referring to the attitude adopted by Sharad Patwardhan and others he stated in the report :—

“The younger Hindu element led by Shri Sharad Patwardhan is

not inclined to abide by these restrictions. They are contemplating to take out a separate procession and are also thinking of inviting Shri V. R. Patil, Hindu Mahasabha MLA of Sholapur.

"It was a general complaint of the Muslims that despite these restrictions on throwing of gulal and raising of slogans, the Hindu leaders had no control over the young boys who spitefully violated these restrictions when the procession was in front of a mosque. From their mood it appears that the Muslims would not be silent spectators to any provocation from the processionists particularly near the mosques."

14.31 The Shiv Jayanti procession was taken out on April 18, 1969. Except for the trouble sought to be created by those who had resigned from the Shiv Jayanti Samiti and their associates, this procession was a model of what such processions and festivals should be. The details of this procession are to be found in S.P. Bhave's report dated April 25, 1969 (Ex. P 1516) and in the evidence of Bhave [(P.W. 4/1(32)/236(18), 75/601, 85/607, 202/714-715)] and D. N. Kapoor, D.M., Thana [P.W. 59/1(13)/1000(6), 16/1009]. The procession was headed by a truck fitted with a loud speaker for the shouting of slogans. There was a band and in addition there were 'tasas' and drums. A photographic reproduction of Shivaji was kept on the municipal jeep decorated with flowers. Behind the jeep was another truck with a tableau depicting Shivaji holding a darbar. The persons taking part in the tableau were carrying theatrical swords and spears and wearing costumes hired from a prop shop in Bombay. There were no women and children in the procession. Initially the procession consisted of about 700 to 800 persons but the number swelled to about 5,000 as the procession went ahead. The Muslim leaders participated in the procession. Only the approved slogans were shouted by the processionists and leaflets were distributed setting out not only the programme of the celebrations but also the list of approved slogans. The route followed by the procession avoided Nizampura Jumma Mosque, but just as in 1968, a part of the Nizampura area was included in the route of the procession and the procession went through it. No 'gulal' was thrown in any Muslim Mohalla but wherever 'gulal' was thrown, the Muslim leaders unreservedly participated in it. The procession went past mosques with music, but was not attempted to be stopped near any mosque. Sherbet and water were kept for the processionists at various places in Muslim Mohallas and in some of the Muslim Mohallas the procession was welcomed by sprinkling rose water on it. The only Hindu locality in which Sherbet was served was Thange Alli. The Shiv Jayanti Utsav Samiti had declared a prize for the best decorated arch and both communities had erected arches and mandaps for receiving the processionists. The only discordant note which was struck was by those who had resigned from the Shiv Jayanti Utsav Samiti and their associates who came up to the procession at different points and threw excessive 'gulal' at the processionists and particularly on the Muslim leaders in order

to annoy them and shouted slogans including :

- (1) Hindu Dharmacha Vijay Aso,
- (2) Hindu Aikyacha Vijay Aso,
- (3) Hamse Jo Takrayega, Woh Mittime Mill Jayega, and
- (4) Hindustan Hinduonka, Nahi Kisike Bapka.

As the procession was passing by Hyderi Mosque, two black flags were noticed on the mosque, but on inquiry being made, the Pesh Imam explained that these flags were hoisted for 40 days after Moharram as a sign of mourning. The President of the Shiv Jayanti Utsav Samiti Abdul Salaam Ansari gave away the prizes, the prize for the best decorated arch being given to Tanaji Vyayamshala. The function ended with the singing of Vande Mataram.

14.32 With reference to this procession Bhausahab Dhamankar has stated in his affidavit. "Muslims of Bhiwandi town had not only joined the celebrations but when indiscriminately and improperly members of Hindu factions refrained from joining celebrations in the year 1969, they took leading part very appropriately and successfully celebrated the Shiv Jayanti" [C.W. 2/1(22)/1692(19)]. Muslim witnesses Murtaza Fakhri [B.R.W. 1/1(4)/1359(3)], Sikander Fakhri [B.R.W. 2/1(9-10)/1398(3-4)], Yusuf Hasan Momin [B.R.W. 65/1(8-9)/1616(3-4)] and Haji Miyan Tase [B.R.W. 67/1(9)/1630(3-4)] also substantially support the police version. One of the Muslim witnesses Yusuf Hasan Momin, has, however, alleged that powdered glass mixed with 'gual' was thrown at the Muslims at Tilak Mandir by the nineteen persons who had resigned from the Shiv Jayanti Utsav Samiti. In his cross-examination it has emerged that he did not mention this fact to anyone and though he was a party to the drafting of the memorandum Ex. P 15 submitted by the Muslims in connection with the 1970 Shiv Jayanti procession, he did not mention this fact in it because he did not think it to be important. He further admitted that he did not mention this fact at any time at any Peace Committee meeting and that the first time he mentioned it was in the affidavit filed by him before the Commission. He then almost gave up the whole story by saying that according to him, glass powder was mixed with 'gual' because 'gual' which had fallen on him and Abdul Gaffoor Murshed caused irritation to them both and because some of the particles in the 'gual' shone like glass (B.R.W. 65/22/1621-2). Bhausahab Dhamankar, though he has deposed that he had received complaints from Muslims about smearing them with 'gual', had not received any complaint that 'gual' was mixed with powdered glass (C.W. 2/13/1705). In the light of his admissions in the cross-examination and the other evidence on the record, I find this allegation of Yusuf Hasan Momin to be an irresponsible one and I disbelieve it. Another allegation made by some of the Muslim witnesses, namely, Akhtar Alam Momin [M.T.M.W. 2/1(2)/1684(1)], Abdul Hafiz Mohamed Ismail [M.T.M.W. 3/1(2)/1686(1)] and Mohamed Mubin Mohamed Jasim [M.T.M.W. 5/1(3)/1690(1)] is that the processionists shouted offensive, abusive and

anti-Muslim slogans and they have given specimens of such slogans. This allegation is contrary to the above report of the S.P. and the evidence of the D.M. and the S.P., nor does any other Muslim witness including responsible Muslim leaders, who have given evidence before me, support it and I, therefore, disbelieve this allegation also. The evidence clearly shows that such slogans were shouted not by the processionists but by the nineteen persons who had walked out of the Shiv Jayanti Utsav Samiti and their associates. Another allegation made by Akhtar Alam was that 'gulaal' was thrown on Hyderi Mosque, Saudagar Mohalla Jumma Mosque and Hyder Masjid in paper packets and these mosques were not only smeared with 'gulaal' but paper packets were found lying inside the mosques [M.T.M.W. 2/1(3)/1684(1)]. This has been denied by S.P., Bhave. In fact the procession did not pass by Hindustan Mosque (P.W. 4/202/715-716). The evidence of Akhtar Alam does not inspire confidence and I disbelieve this allegation also.

The names and political affiliations of the 19 persons

14.33 The nineteen persons who walked out of the meeting of the Shiv Jayanti Utsav Samiti held on April 6, 1969 and who later submitted their resignations were :

- (1) Sharad Shankar Patwardhan,
- (2) Shantaram Taware,
- (3) Dattatraya Gajanan Punyarthi,
- (4) Atchhut P. Shetty,
- (5) Bhaskar Ganpat Mali,
- (6) Ambadas N. Ballal,
- (7) Madhav Kanitkar,
- (8) Anna Vagal,
- (9) Hasmukh Thakkar,
- (10) Anant Ramchandra Phadke,
- (11) S. C. Pimpalkhare,
- (12) Shankar Kolekar,
- (13) Shankar Govind Mundhe,
- (14) B. K. Joshi,
- (15) Pandu Vastad *alias* Patil,
- (16) A. T. Nagle,
- (17) Dattatraya Rama More,
- (18) V. B. Joshi and
- (19) Dattatraya Mahadev More.

14.34 Out of these nineteen persons the fifteen first named were either members of the Jan Sangh or were pro-Jan Sangh. Out of the remaining four, A. T. Nagle belonged to the Shiv Sena, while Dattatraya Rama More did not belong to any party. At that time Dattatraya Mahadev More also did not belong to any party but he later joined the Congress (R). The political affiliation of V. B. Joshi has not come on the record (P.W. 4/246/745 ; P.W. 66/18/1115). On May 23, 1969 these nineteen persons along with some others

formed a body styled as the Rashtriya Utsav Mandal, a body which has played a prominent role in aggravating the communal situation in Bhiwandi.

Conclusions

14.35 The evidence before the Commission establishes that prior to 1964, Shiv Jayanti was celebrated in Bhiwandi mostly privately and on a small scale and that it was in 1964 that the first public celebration of the Shiv Jayanti took place. The commencement of the public celebration of Shiv Jayanti marked the beginning of a new era of communal friction for Bhiwandi. It was unfortunate that the very first public celebration of Shiv Jayanti should have been by a group of youngsters who banded themselves to form a Shiv Jayanti Utsav Samiti and organized the programme. It was equally unfortunate that in the very first public celebration of the Shiv Jayanti, the Samiti should have totally excluded the Muslims and given to Shiv Jayanti the appearance and colour of purely Hindu festival. From the very first celebration of the Shiv Jayanti, the behaviour of a section of the processionists left much to be desired. Even though the organizers of the procession had agreed to drop a route on which four mosques were situated and to take another route, in the course of the procession the P.S.P. group in the procession wanted to change the route and take a road which went past the Quarter Gate Mosque and the processionists were prevented from doing so only by the firm and determined stand of the Police. This Shiv Jayanti procession also shows the resentment felt by some of the Muslims at a procession accompanied with music passing by a mosque, as is exemplified by the attempt of a Muslim to stop the music accompanying the procession as the procession was passing through Madarchhalla. But for the Muslim leaders who removed this man from the spot, very likely trouble would have broken out. The behaviour of some of the processionists can be judged from the fact that the S.P., Thana, in his report Ex. P. 153 has criticized the behaviour of a section of the Hindu processionists, particularly the R.S.S. and the P.S.P. sections, which behaviour struck him as being calculated to provoke and humiliate the Muslims. He has also criticized the excessive throwing of 'gulas' which annoyed even the Police. He clearly foresaw the course the events would take unless some proper steps were taken. Yet another disturbing feature which emerged from this very first celebration of the Shiv Jayanti was the shouting of provocative and anti-Muslim slogans.

14.36 The 1965 Shiv Jayanti procession was characterized by the fact that it was the very first procession, other than a purely Muslim procession, which went past the Nizampura Jumma Mosque. Provocative slogans were, however, not prominent. A stone thrown by one Muslim at another as a result of private enmity between them and which hit a third Muslim, Anwar Bubere, could well have led to a communal conflagration but for the tact and presence of mind

adopted by the injured man in declaring that he had fallen down and hurt himself. This incident none the less caused an apprehension that if in future a procession went past this mosque there might be trouble.

14.37 The 1966 Shiv Jayanti procession was again characterized by excessive throwing of 'gulaal' and for its unduly long halts at two Muslim localities, namely, Hamal Wada Nakà and Madarchhalla, giving slogans and playing games. It also witnessed the emergence of trucks fitted with loud speakers for the shouting of slogans and of tableaux likely to incite communal feelings, such as the tableau in that procession of the meeting between Shivaji and Afzalkhan.

14.38 The 1967 celebrations, just like the 1964 celebrations, were organized by the younger elements amongst the Hindus forming a Shiv Jayanti Utsav Samiti. They excluded not only all the Muslims but also the older and more experienced Hindu leaders from the Utsav Samiti. The intention of these persons becomes clear when we find that they decided to spend a sum of Rs. 1,000 on 'gulaal' to be thrown at the time of the procession; wanted floats depicting the killing of Afzalkhan by Shivaji, the cutting off of the fingers of Shahistekhan by Shivaji and the cutting off by Shivaji of the fingers of a butcher about to slaughter a cow,—each of these incidents capable of inciting communal feelings; and their deliberately not wanting to decide upon the route of the procession till the last moment. This naturally led to rumours in the town that the procession would not pass off peacefully. By this time the Pakistani aggression on India in 1965 and the detention of some of the Muslim leaders, followed by the formation of the Bhiwandi Branch of the Majlis-E-Mushavarat in August 1966 and the withdrawal of the Muslim support from the Congress candidate and the giving of it to the P.W.P. candidate in the General Elections had all embittered communal feelings. Ultimately at the S.D.M.'s intervention a settlement was arrived at under which two Muslims were taken on the committee and instead of the proposed floats, there was to be only one float depicting Shivaji's durbar and certain slogans were approved, it being agreed on the other side that the procession would go past the Nizampura Mosque, though later at the request of the Muslims of Nizampura the route was modified so as to pass by that mosque in such a way as to avoid the 'hauz' or the water tank. This procession was also characterized by excessive throwing of 'gulaal' and the shouting of abusive and anti-Muslim slogans and, as anticipated by the S.D.P.O. in his report, led to the first communal riot in Bhiwandi.

14.39 One would have thought that after the riot of 1967 the younger local leaders amongst the Hindus would have become wiser and learnt by experience. Events, however, showed that their reaction was quite the opposite. The younger Hindu elements, most of whom were either members of the Jan Sangh or were pro-Jan Sangh, not only insisted in the meetings of the Peace Committee and the Shiv Jayanti Utsav Samiti that the procession should go past the Nizampura Mosque

but also emphatically demanded that there should be no restrictions whatsoever on the throwing of 'gulaal' or the shouting of slogans. At the time of the 1968 Shiv Jayanti procession, abusive, provocative and anti-Muslim slogans were shouted and the whole atmosphere was vitiated by the behaviour of a group of irresponsible Hindu youths as disclosed in Inspector Pradhan's report (Ex. P 1515), even though the Muslims participated in the procession, showered flowers and sprinkled rose water on it, served sherbet to the processionists at various spots and erected decorative arches. In April 1969 these extremist leaders, finding that they were unable to have their way, walked out of the Shiv Jayanti Utsav Samiti and resigned from it, with the result that by their absence the procession that year became a model of what such a procession should be, though once again these persons and their associates met the procession at various points, threw excessive 'gulaal' at it and especially at the Muslim leaders, and raised objectionable slogans. Communalism breeds communalism and the inflexible attitude adopted by some of the Hindu extremist youths was matched by a section of the extremist Muslim youths who became equally adamant that the procession should not pass by the Nizampura Jumma Mosque. This perpetual friction and wranglings at the time of each Shiv Jayanti reflected in various other incidents which took place in Bhiwandi from 1964 onwards, so that almost each incident that occurred took on a communal colour. As the evidence shows, communal and extremist parties founded their branches in Bhiwandi, communal propaganda became a feature of electioneering and communal politics became the order of the day.

14.40 An unfortunate feature of these Shiv Jayanti processions was the attitude of the Police towards those processionists who shouted objectionable or abusive slogans or slogans which would provoke or humiliate Muslims and threw excessive 'gulaal', particularly at the mosque. The police did not arrest or remove any of these processionists nor did they prevent them from indulging in these acts, just as they did not prevent the nineteen persons who had resigned from the Shiv Jayanti Utsav Samiti or any of their associates from shouting abusive and provocative slogans or throwing 'gulaal' on the Muslims with a view to annoy them. The Police throughout appeared to have taken it that the good behaviour of the processionists was a matter for the organizers of the procession and even the lesson of the 1967 communal riot did not seem to make them think otherwise, for after 1967 they left it to the members of the Peace Committee and the Shiv Jayanti Utsav Samiti to persuade the processionists not to misbehave. It would seem that so long as no actual clash or riot took place the Police took it that the procession had passed off peacefully and that their bandobust was successful, little realizing the incalculable harm and damage caused by their failure to take firm action against the misbehaving processionists. The unruly sections in the procession were obviously encouraged by the attitude of the Police into believing that they had a licence to indulge in their misbehaviour

and, therefore, continued doing so with greater impunity. Had the same firm action been taken against these processionists as was done by the Police at the time of the very first Shiv Jayanti procession in 1964 in not allowing the procession to deviate from the agreed route and thus foiling its attempt to pass with music by a mosque, the communal history of Bhiwandi might perhaps have been different.

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CHAPTER 15
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CHAPTER 15

COMMUNAL HISTORY—1963-1968—THE DETAILS

I. 1963

The new trend in 1963

15.1 The year 1963 is an important year in the communal history of Bhiwandi because in that year for the first time the Hindus did not observe the tradition till then prevailing in Bhiwandi of stopping the music when a procession passed in front of a mosque. In that year for the first time processions with music, which passed before mosques, began to be taken out.

II. 1964

Shiv Jayanti

15.2 The year 1964 is important for the reason that in that year for the first time Shiv Jayanti was publicly celebrated and a procession taken out on April 27, 1964. It was characterized by the exclusion of Muslims from the Shiv Jayanti Utsav Samiti, the misbehaviour of a section of the processionists, the excessive throwing of 'gula', the shouting of provocative and anti-Muslim slogans and the insistence on changing the route to pass by a mosque—an attempt which did not succeed only on account of the firmness of the Police. This topic has already been dealt with in Chapter 14.

The formation of the Bhiwandi Branch of the Jan Sangh

15.3 On April 21, 1964 a branch of the Bharatiya Jan Sangh was formed in Bhiwandi. The topic will be dealt with in a separate chapter.

The Kanhoba Temple dispute

15.4 The Rais High School, run by the Konkan Muslim Education Society, is situate on Old Thana Road opposite the District Local Board Quarters in the northern part of the Hindu locality of Kanheri. On the opposite side of the road is Gauripada, the western half of which is a predominantly Muslim locality, while the eastern half is a mixed locality. To the north of the Rais High School lies the Muslim locality of Waje Mohalla. In his affidavit Inspector Pradhari has stated that there is a Hindu temple, namely, Kanhoba Temple, situate in the compound of this school and that in October 1964 there was a dispute with respect to this temple but it was temporarily

settled as a result of an agreement entered into between the Hindu leaders and the authorities of the Konkan Muslim Education Society but the dispute continued to linger [P.W. 38/1(12)/867(3)]. What this dispute was and how it continued to linger are matters which are not mentioned by Inspector Pradhan nor have these details emerged in evidence. This incident, however, has not been referred to by any other witness and it is obviously not of any significance.

The quarrel over the sale of cinema tickets

15.5 On November 13, 1964 some trouble took place near Nazarana Talkies between some Hindu and Muslim youngsters as a result of quarrel over the sale of cinema tickets. The trouble was put to an end to by the intervention of the Police and the saner elements of both communities. Non-cognizable cases were registered with respect to what happened that day. The next day about 150 Hindu youngsters from Kasar Alli area armed with sticks went to the Muslim locality of Madarchhalla where they were confronted by Muslim youngsters similarly armed. Police officers and leaders of both communities again intervened and averted a clash, but rumours of communal riots went floating around the town. No communal riot, however, took place and the situation became normal [P.W. 38/1(13)/867(3-4), 33/879]. This incident shows how even a quarrel over the sale of cinema tickets can lead to a communal riot if the antagonists in the quarrel happen to belong to opposite communities.

III. 1965

Shiv Jayanti

15.6 The 1965 Shiv Jayanti procession was the very first procession, apart from purely Muslim processions, which went past the Nizampura Jumma Mosque. This topic has already been dealt with in Chapter 14.

The detention of Muslim leaders

15.7 An event of all India importance which occurred in September 1965 was the attack by Pakistan on India. A number of Muslims all over India were detained under the Defence of India Rules. Amongst them were 18 Muslim leaders from Bhiwandi. A list of these detainees is Ex. G 189. Out of these 18 detainees those who have featured prominently in this Inquiry are (1) Shabbir Ahmed Ansari (C.W. 3), (2) Gulam Mohamed Momin, (3) Ibrahim Maddu, (4) Sayed Abdul Gaffoor, and (5) Abdul Khaliq Momin. The first four were also signatories to the controversial memorandum Ex. P 15 submitted by the Muslim leaders in connection with the 1970 Shiv Jayanti procession. Some of the Muslim leaders were, however, unjustifiably detained, their detention being the result of the overzeal on the part of some officials and the distrust felt by them of Muslim loyalty to India. Though it was decided by the Defence Committee set up in Bhiwandi that no member of the Committee should attempt to secure the

release of any person detained under the Defence of India Rules, a decision opposed by Bhausahab Dhamankar, it was soon realized that amongst the persons detained were respectable Muslim leaders who could not be considered to have entertained or could not entertain any feeling of disloyalty to India. Accordingly, efforts were made by Congress leaders to obtain the release of such of them as belonged to the Congress, which efforts succeeded. Seeing that the Congress leaders had obtained the release of detainees belonging to their own party, efforts were also made by persons belonging to the opposition party to obtain the release of detainees belonging to their party similarly situated and these efforts also succeeded. It may be mentioned that even the Chief Minister, Mr. V. P. Naik, in his speech made on February 5, 1967 at Bhiwandi in the election campaign at the time of the 1967 general elections (Ex. P 574) admitted that some of the Muslim leaders had been wrongly detained and apologized for the mistakes in that behalf committed by the Government officials. The detention of Muslim local leaders, some of them of impeccable loyalty to India, caused considerable resentment amongst the Muslims of Bhiwandi and was reflected in the fact that they did not issue any pamphlet condemning Pakistan [C.W. 2/26/1716 ; N.H.W. 42/1(6)/2033(2-3), 4/2034-6].

15.8 It was also alleged by Zumberlal Kalantri (H.H.W. 42) and Dattatraya Ukidve (N.H.W. 6) that when a collection of clothes foodstuffs, etc., for the jawans was made one Hamid Patel of Bunder Mohalla gave a bundle of torn clothes. Kalantri's allegation in this behalf does not inspire much confidence because apart from the fact that he has shown himself to be a partisan witness, he admitted that he did not see Hamid Patel give any old or torn clothes and was not present at the time when Hamid gave them, while Dattatraya Ukidve has shown considerable communal bias in his affidavit and evidence and in the witness-box has prevaricated on several points. He has not mentioned this alleged incident in his affidavit and this part of his evidence was given in answer to a leading question put to him by Mr. Pradhan, Counsel for the Maharashtra Pradesh Jan Sangh and the Nagrik Hitarakshak Mandal [N.H.W. 6/2/1804 ; N.H.W. 42/1(6)/2033(3), 5/2036].

The aftermath of the Poona riots

15.9 In 1965 there were riots in Poona which set up a chain of incidents in some districts round about Poona, but the only incident that happened in Bhiwandi was a stray one on September 27, 1965 when a Muslim threw an acid-bulb at a Hindu [P.W. 60/1(3)/1058(2)].

IV. 1966

New factors in Bhiwandi politics

15.10 The year 1966 is important because of the formation within three months of three bodies, namely, the Bhiwandi Branch of the Majlis-E-Mushavarat, the Bhiwandi Branch of the Shiv Sena and the

Bhiwandi Seva Samiti—three bodies which have played an important role in the communal history of Bhiwandi.

Bakri-Id

15.11 Bakri-Id fell on April 2, 1966. Balasaheb Joglekar (N.H.W. 54) and nine Hindu shopkeepers of Bazar Peth made a written complaint to the Police that on that day beef was carried in open handcarts and a garlanded cow was taken through the streets from Nizampura side to the slaughter-house on Idga Road. Questions were also asked about this in the Maharashtra Legislative Assembly. On inquiry, however, the complaint about carrying beef in open handcarts was found to be false. After Inspector Pradhan took charge of the Bhiwandi Town Police Station, while going through the files he came across this written complaint. He accordingly suggested to the S.P. that he should move the D.M. to issue orders under section 144 Cr.P.C. requiring animals and meat to be carried to the slaughter-house through certain specified Muslim localities only and prohibiting the taking of animals to the slaughter-house in groups or processions or from Bazar Peth and further requiring meat to be carried only in closed vehicles provided by the municipality [P.W. 38/9/871 ; P.W. 4/1(10)/236(4), 238/737]. These restrictions were imposed and continued to be imposed and there has been no complaint that they were not followed.

Shiv Jayanti

15.12 Shiv Jayanti was celebrated on April 22, 1966. This topic has been dealt with in Chapter 14.

The stabbing of a cow

15.13 On June 11, 1966 a Muslim vendor stabbed a cow which was eating his mangoes. This was interpreted by some Hindus as an insult to their religion. There were, however, no repercussions of this incident and in spite of the large scale riots at Washim, Mangrulpir, Jalna, Bhir and Pusad at the conclusion of the Ganpati festival, Bhiwandi remained quiet [P.W. 60/1(3)/1058(2)].

The Bhiwandi Branch of the Majlis-E-Mushavarat

15.14 On August 17, 1966 a branch of the Majlis-E-Mushavarat was formed with Siddik Ahmed Fakhir *alias* Babu Siddiq Fakhir as its President and Shabbir Ahmed Ansari (C.W. 3) as Vice-President. This Bhiwandi Branch played an important role in Bhiwandi in the 1967 general elections. This topic will be dealt with in the chapter on the Bhiwandi Branches of the Muslim political parties.

The Bhiwandi Branch of the Shiv Sena

15.15 A branch of the Shiv Sena was formed at Bhiwandi on September 22, 1966. It was inaugurated by Bal Thackeray, the Shiv Sena Chief, and Baliram More was appointed the Shakhapramukh. This topic will be dealt with in a separate chapter.

The Bhiwandi Seva Samiti

15.16 On October 15, 1966 an organization styled the Bhiwandi Seva Samiti was formed. This organization played an important role in the municipal elections of 1967 and in the civic affairs of Bhiwandi and therefore, this topic will be dealt with in the chapter on municipal politics.

V. 1967

A summary of important events

15.17 The year 1967 witnessed the first communal riot in Bhiwandi. Two other important events which took place in the communal life of Bhiwandi during that year were the general elections and the municipal elections. This year also saw the formation of the Peace Committee.

The general elections

15.18 In the elections to the Maharashtra Legislative Assembly the polling for the Bhiwandi Assembly Constituency took place on February 15, 1967. The P.W.P. candidate Bhalchandra *alias* Bhai Patil was elected with a large majority. The details of these elections in so far as they are relevant to this Inquiry will be dealt with in the chapter on the political background.

Bakri-Id

15.19 Bakri-Id fell on February 22, 1967 and in view of the complaint made by Balasaheb Joglekar (N.H.W. 54) and nine Hindu shopkeepers of Bazar Peth the previous year that meat was carried in open handcarts (which complaint on inquiry had turned out to be false) and that a garlanded cow was taken through Nizampura side to the slaughter-house at Idga Road, Inspector Pradhan suggested to the S.P. to move the D.M. to issue orders under section 144 Cr.P.C. requiring animals and meat to be carried to the slaughter-house through certain specified Muslim localities only and prohibiting the taking of animals to the slaughter-house in groups or processions or through Bazar Peth and further requiring meat to be carried in closed vehicles provided by the Municipality only. These restrictions were imposed and were observed [P.W. 4/1(10)/236(4), 238/737 ; P.W. 38/9/871 ; P.W. 59/1(11)/1000(4)].

Moharram

15.20 Moharram processions have been taken out in Bhiwandi for a number of years and they traditionally followed a particular route. In Bhiwandi two processions were usually taken out for Moharram, the first on the night of "Kattal Ki Raat" and the second on the next day which is known as "the Immersion Day". The main route of both these processions was common, but as 'tazias' were kept at different places, small processions carried the 'tazias' to different points on the main route of the procession and joined the procession.

About twenty to twenty-two 'tazias' used to be installed in Bhiwandi during Moharram. The "Kattal Ki Raat" procession usually started at about 10 p.m. and terminated at about 4 or 5 a.m., the reason being that the procession did not move quickly and also lingered at several places for the smaller processions carrying 'tazias' to come up and join it. The first 'tazia' used to start from Dargah Road and the procession lingered for a long time at Tin Batti for 'tazias' from Nizampura to join it. The Immersion Procession used to be taken out at about 3 p.m. or 4 p.m. on the same day, in the early hours of which the "Kattal Ki Raat" procession terminated, and it dispersed at about 3 a.m. or 4 a.m. that night after immersing the 'tazias' at Dargah Road, but on the "Kattal Ki Raat," after meeting the 'tazias' from Nizampura at Teen Batti the Nizampura 'tazias' would return to their place of installation in procession and the rest of the procession would go by the same route as the Immersion procession to Madarchhalla and Dargah Road and there it would disperse in groups of five or ten, each group taking away with it its own 'tazia'. Each 'tazia' used to be accompanied on both these occasions by eight to ten drums. Normally slogans were not shouted in these processions, but sometimes some elegies or other poems with religious significance were recited and intermittently on both occasions the processionists would shout "Nar-E-Takbir, Allah Ho Akbar", an invocation expressing the greatness of God, and at times "Inquilab Zindabad". There is no complaint that any of the Moharram processions lingered near any Hindu temple. Moharram lasts for about ten days and on the days preceding the "Kattal Ki Raat", drums used to be beaten in the evening till about midnight near places where the 'tazias' were installed.

15.21 The 1967 Moharram procession which was taken out on the night of the 20th/21st April 1967 lingered for about two hours at the Wada Stand in Thange Alli, a predominantly Hindu locality, playing drums very loudly. Inspector Pradhan submitted his report to the Additional S.P., Thana, requesting for sanction to prosecute for breach of orders under section 36 of the Bombay Police Act issued to regulate the Moharram procession those who had taken passes from the Police for the Moharram procession. Sanction was, however, not granted. For the subsequent years before each Moharram festival Inspector Pradhan used to send for the organizers of the 'tazia' processions and obtain from them an assurance that the processions would pass through Hindu localities as quickly as possible and not linger there. This assurance was carried out and it may be mentioned that in 1968 the 'tazia' procession passed through the whole of Bazar Peth and Wada Stand within 15 minutes [P.W. 4/1(11)/236(5), 105/621-3 ; P.W. 38/34/879 ; P.W. 59/1(11)/1000(4)].

Shiv Jayanti

15.22 The Shiv Jayanti procession which was taken out on April 15, 1967 passed by the Nizampura Jumma Mosque and the first

communal riot took place in Bhiwandi. The details of this procession will be found in Chapter 14.

Id-E-Milad (Bara Wafat)

15.23 The festival immediately following the Shiv Jayanti procession was Id-E-Milad (also known as Bara Wafat) which was celebrated on June 14, 1967. The traditional route of this procession passed through the Hindu localities of Gauripada, Navi Chawl Thange Alli and Sutar Alli. This procession usually started at 2.50 p.m. and ended at about 7 p.m. In view of what had happened at the time of the Shiv Jayanti procession it was apprehended that the Id-E-Milad procession would not pass undisturbed through Hindu localities and there would be a fresh outbreak of communal disturbances and the Muslims in their turn would loot Hindu shops to wreak vengeance for the happenings on the Shiv Jayanti day. Accordingly Inspector Pradhan in his report dated June 20, 1967 to the S.D.M., Bhiwandi Division (Ex. P 663), suggested that a route which avoided all Hindu localities should be prescribed and the S.D.M., Bhiwandi Division, passed on the same day an order under section 144 Cr.P.C. (Ex. P 664) prescribing such a route. The Muslims, however, resented this change and cancelled the procession altogether [P.W. 4/111/625; P.W. 38/1 (21)/867(7); P.W. 59/1(11)/1000(5); P.W. 66/101/1164].

15.24 This incident shows that just as the extremist Hindus were insisting and were intractable in their demand that the Shiv Jayanti procession with music should go past the Nizampura Jumma Mosque, the extremist Muslims were equally insistent upon adhering to the traditional route of their procession and to pass through Hindu localities. Had the Muslim leaders the foresight and wisdom to compromise on this issue and, for the sake of achieving communal amity and peace, had they agreed to change their traditional route and willingly avoided Hindu localities, they would have set an example to the other community. By their intractable attitude they failed to avail themselves of this opportunity and showed themselves to be as unreasonable as the Hindu extremists.

The Haveli Building dispute

15.25 In June 1967 a dispute took place between a Muslim landlord and some Hindu tenants over the possession of a property known as "the Haveli Building". Abubakar Musa and the mother of Umar Musa Memon claimed that the mother had purchased the said property while one Mataprasad Gupta, the tenant of this property, claimed that it belonged to the Gosavi Trust of Bombay and raised a dispute in that behalf before the Charity Commissioner. In view of the atmosphere prevailing in the town Inspector Pradhan, fearing that a branch of the peace might take place, made a report to the S.D.M., Bhiwandi, requesting for action to be taken under section 145 Cr.P.C. The S.D.M. issued a notice under section 112 Cr.P.C. calling upon the mother, her husband and Abubakar Musa to show cause why they

should not furnish security for good behaviour in the sum of Rs. 500/- for a period of two years. The S.D.M. passed the order against the male respondents only. In appeal the order was set aside and the bonds were ordered to be treated as cancelled by the Additional Sessions Judge, Thana, on April 9, 1970 (P.W. 38/82/1280).

15.26 This incident shows how in the psychological atmosphere built up between the two communities even a property dispute was apprehended to turn into a communal incident.

The anti-Israel procession

15.27 The year 1967, however, witnessed one instance of communal unity. At the time of the Arab-Israel war the Bhiwandi Muslims took out a procession on July 14, 1967 protesting against Israel. The Hindus participated in this procession and prominent Hindu leaders also signed a protest memorandum [N.H.W. 53/1(11) 2101(5)].

The municipal elections

15.28 The municipal elections under the Maharashtra Municipalities Act, 1965, took place so far as Bhiwandi-Nizampur Municipal Council was concerned in August 1967. The new Council played a significant role in vitiating the communal atmosphere of Bhiwandi. The Municipal Council was ridden with power politics and defections, reflected in accusations and counter-accusations and allegations and counter-allegations made at different meetings of the Peace Committee and the Shiv Jayanti Utsav Samiti and the one thing which was ignored was civic administration. Municipal politics in Bhiwandi require separate treatment and will be dealt with in a separate chapter.

The formation of the Peace Committee

15.29 After the communal riots at the time of the 1967 Shiv Jayanti the first important religious celebration which was to take place apart from Id-E-Milad was the Ganpati festival. The I.G.P. issued a circular Ex. G 85 (referred to in paragraph 9.6 of this Report) enclosing for guidance of the District Police authorities a copy of the minutes of the meeting held in his office on August 12, 1967 to discuss the measures to be taken during the festival. One of the suggestions made at the said meeting was that before the start of the Ganpati festival, the Collectors and the S.Ps. should hold meetings of M.Ps., M.L.As., Presidents of Municipal Committees and Zilla Parishads, the Press and the organizers of Ganesh Mandals and impress upon them the need for maintaining communal harmony and that the leaders of Ganesh Mandals should be made responsible to see that their processions passed by mosques quickly and the processionists did not shout objectionable slogans. By this time S. V. Bhavne had taken over on June 10, 1967 as S.P., Thana. He and the then D.M., Tamhane, thought it better that a Peace Committee in the town representing leaders of both the communities should be formed to ensure active

participation by them on such occasions. The D.M. issued invitations for such a meeting on August 31, 1967. The first meeting of the Peace Committee was held on August 31, 1967 under the chairmanship of the D.M. The S.P. was also present and his report on this meeting is Ex. P 96. The D.M. and the S.P. attended all the subsequent important meetings of the Peace Committee. The Peace Committee consisted of all Municipal Councillors and representatives of different social and educational institutions. Influential citizens for different localities were also co-opted as members and at the second meeting of the Peace Committee held on September 5, 1967 an Executive Committee consisting of 80 to 100 members and a Steering Committee consisting of 15 to 17 members were also formed. The President and Vice-President of the Municipal Council were *ex-officio* President and Vice-President of the Peace Committee and Murtaza Fakh (B.R.W. 1) and Bhausaheb Dhamankar (C.W. 2) were elected Additional Vice-Presidents [P.W. 4/1(15-6)/236(10-11)]. The Peace Committee held 3 meetings in 1967, 12 meetings in 1968, 14 meetings in 1969 and 5 meetings in 1970 till the outbreak of the disturbances (Ex. P 582). The Peace Committee meetings were held usually in the Municipal Council Hall.

15.30 Murtaza Fakh has summarized the general decisions taken by the Peace Committee meeting [B.R.W. 1/1(2)/1359(2)]. They were—

- (1) Religious festivals should be celebrated with mutual and active co-operation of both communities.
- (2) Anything which might hurt the religious feelings of any community should be avoided.
- (3) A feeling of positive respect for each other's religion should be inculcated in the public.
- (4) The use of 'gural' should be restrained and avoided 50 paces on either side of places of worship.

15.31 Prior to the formation of the Peace Committee religious festivals were mainly organized by the younger members of both Communities. After the Peace Committee was formed, the senior leaders and elders of both communities also participated in organizing such functions. Though they at times succeeded in exercising a restraining influence over the hot-headed younger elements, they failed to do so at the crucial stages, for in course of time these elements paid less and less heed to them and became more militant and aggressive in asserting their views. None the less it is commendable that even before the Conference of the National Integration Council was held in June 1968, the District authorities should have thought of setting up and set up a Peace Committee in Bhiwandi which had become a communally sensitive spot.

The Ganpati festival

15.32 The second meeting of the Peace Committee was held on September 5, 1967 before the start of the Ganpati festival. At this

meeting 132 Hindu and Muslim leaders were present. The S.P.'s report dated September 9, 1967 on this meeting is Ex. P 97. The meeting was called by the Municipal President, Shabbir Ahmed Ansari (C.W. 3). At this meeting Siddiq Fakhir, the President of the Bhiwandi Branch of the Majlis-E-Mushavarat, opined that for maintaining peace every one should respect the religious feelings of the others and wanted to know if it was possible to curb the playing of music when passing by mosques in order to respect the religious feelings and susceptibilities of the Muslims. He further stated that it was difficult to attend such processions where the religious feelings of Muslims were not respected. Dr. Mukri, however, stated that in view of the recent meetings which were held to bring about peace and amity, there was no need to change the traditional routes of religious processions. Ibrahim Maddu also supported this stand and requested that the traditional routes should be continued and not deviated from. The attitude adopted by Siddiq Fakhir, the President of the Bhiwandi Branch of the Majlis-E-Mushavarat, demonstrates how certain extremist sections of the Muslims were not prepared to compromise on the question of playing music before mosques.

The Ganpati Installation procession

15.33 On September 7, 1967 a small Ganpati installation procession which was going with music past the Quarter Gate Mosque was obstructed by two Muslim boys as they objected to the playing of music near the mosque. The procession went ahead after other Muslims and the Police, who came immediately on the scene, intervened. Inspector Pradhan contacted one Limje, the organizer of the procession, personally but Limje refused to give any complaint [P.W. 4/1(18)/236(12); P.W. 38/1(25)/867(10), 3/868, 14/872].

The Ganpati Immersion procession

15.34 The Ganpati Immersion procession on September 17, 1967 passed off peacefully but excessive 'gural' was thrown near mosques, particularly near the Panjrapole Dargah. As this Dargah almost abuts on the Panjrapole Road, in order to prevent any untoward incident, the Police had cordoned it off by posting policemen and the policemen pushed the processionists forward to make the procession go faster. This was the first time Dr. Vyas sought to come out in the public eye. He had already joined the Jan Sangh and in August 1967 had unsuccessfully contested the municipal elections. During the 1967 Ganpati Immersion procession he was seen instigating younger elements in the Immersion procession to linger near the Panjrapole Dargah and continue with their dancing near it P.W. 38/1(25)/867(10) 8/870]. This shows how Dr. Vyas was seeking to gain popularity with a certain section of the Hindus and it is significant to note that soon thereafter in October 1967 he was elected the President of the Bhiwandi Mandal of the Jan Sangh and since then has been elected to this office each year (J.S.W. 1/6/2202-3).

VI. 1968

Ramzan-Id

15.35 Ramzan-Id was celebrated on January 2, 1968 and as decided at the Peace Committee meetings held on August 31, 1967 and September 5, 1967 it was celebrated jointly by both Hindus and Muslims. A programme was arranged in the Rais High School which was attended by leaders of both communities [P.W. 38/1(26)/867(10)]. Just as the Peace Committee was set up in Bhiwandi at the instance of the District authorities much before an official decision in that respect was taken, in the same way at the instance of the District authorities and as a result of the decisions taken at the aforesaid Peace Committee meetings, religious festivals began to be celebrated in Bhiwandi jointly by members of both communities much prior to the resolution in that behalf was passed by the Standing Committee of the State Level Committee on National Integration at its meeting held on September 4, 1969 and the 1968 Ramzan-Id was the first of such celebrations.

The Shiv Sena meeting

15.36 On January 17, 1968 the Shiv Sena Chief, Bal Thackeray, addressed a public meeting organized by the Bhiwandi Branch of the Shiv Sena at Navi Chawl. This meeting was attended by about 2,000 persons (P.W. 66/58/1135). The speech made by Bal Thackeray at this meeting is, however, not relevant to this Inquiry.

The obstruction to marriage procession

15.37 On February 14, 1968 a marriage procession with music was obstructed by ten or twelve Muslim youths while passing by the Quarter Gate Mosque. This was the second time in six months that a procession going past this mosque playing music was stopped by some Muslim youths, the first occasion being at the time of Ganpati Installation procession in September 1967. The Police immediately arrived on the scene and intervened and the procession went ahead. An offence was registered and a case sent up but as the complainant did not pursue the matter, it ended in an acquittal [P.W. 4/1(19)/236(12) ; P.W. 38/1(27)/867(10), 3/868, 14/887]. This incident shows that the younger section of the Muslims were not prepared to reconcile themselves to the idea of a Hindu procession with music going past mosques.

Bakri-Id

15.38 Bakri-Id was celebrated on March 10, 1968. The same restrictive orders under section 144 Cr.P.C. banning the taking of cows and animals in processions and carrying of meat in open vehicles were promulgated (Ex. P 490) and were observed.

The Jan Sangh procession

15.39 The Bharatiya Jan Sangh held a District Convention in Bhiwandi on the same day as Bakri-Id. A detailed report on this

incident was submitted by S.P., Bhave to the I.G.P. by his report dated March 12, 1968 (Ex. P 490). Originally the Jan Sangh District Convention was proposed to be held on February 18, 1968 at Bhiwandi but because of the demise of the Jan Sangh President, Mr. Deen Dayal Upadhyay, on February 11, 1968, it was decided to postpone the Convention to some Sunday. The Jan Sangh leaders decided to take oaths to follow in the footsteps of their late President and observed February 25, 1968 as the oath-taking day and the meeting of the Working Committee of the Maharashtra Branch of the Jan Sangh was postponed to March 3, 1968, which was a Sunday. The Jan Sangh workers of the Thana District then decided that they should hold their Convention at Bhiwandi on Sunday the 10th March 1968, this date synchronizing with Bakri-Id.

15.40 According to the Jan Sangh, this date was selected not because it coincided with Bakri-Id but because the 17th of March was not suitable as the Holi festival immediately preceded it and the 24th of March was equally unsuitable because the S.S.C. Examinations were to commence soon thereafter. It is not possible to accept this explanation. The correct reason appears to be that this date was intentionally selected to make a greater impact upon the Hindus of Bhiwandi, particularly the more extremist section of the Hindus. In this connection it is important to note that Mahadeo Kunte, the Treasurer of the Thana District Jan Sangh, has deposed that after the 1967 elections the Jan Sangh tried to increase its influence and membership in Bhiwandi and succeeded in doing so (J.S.W. 2/5/2226). A further clue to the real reason for selecting this date is furnished by the venue of the Convention originally selected. Dr. Vyas, the local President of the Jan Sangh, had requested Shabbir Ahmed Ansari, the Municipal President, to hold a public meeting on that day in Azad Maidan which is close to the Quarter Gate Mosque. Shabbir Ahmed granted the permission. According to Shabbir Ahmed the Chief Officer of the Municipal Council thereafter pointed out to him that meetings of political parties should not be allowed to be held in Azad Maidan and accordingly he cancelled the permission and at his request the venue of the meeting was changed to Municipal School No. 1, namely, Dagdi Shala, near the vegetable Market. By his letter dated March 10, 1968 [Ex. No. 1 (Colly.)] Dr. Vyas thanked Shabbir Ahmed for granting him permission to hold the District Convention in the said school. Shabbir Ahmed was invited to the District Convention and made to sit on the dais [C.W. 3/17/1783 ; J.S.W. 1/1(11)/2201(5), 15/2209]. The real reason for cancelling the permission to hold the meeting at Azad Maidan appears not to be the one deposed to by Shabbir Ahmed but the one set out in the S.P.'s report Ex. P 490 that after giving this permission Shabbir Ahmed realized that it might lead to some trouble if this meeting was held opposite the Quarter Gate Mosque.

15.41 Until March 9, 1968 the Jan Sangh workers had decided to go from the place of the close session of the Convention to the place

of public meeting by the shortest possible route, but on the morning of March 10, 1968 it was learnt by the Police authorities that the Jan Sangh workers were thinking of taking out a Janata Morcha through all the localities of Bhiwandi, terminating ultimately at the venue of the public meeting. This proposed route covered five mosques including the Nizampura Jumma Mosque. Thereupon the S.P. and other police officers contacted the Jan Sangh leaders and persuaded them to drop the Nizampura Jumma Mosque and the Saudagar and Nizampura Mohallas from their route and they agreed to do so. They also promised that this procession would be in the form of a route march with music and no inappropriate slogans would be shouted. The S.P. had decided to ban the procession and the meeting had the Jan Sangh insisted on taking out a procession past the Nizampura Jumma Mosque.

15.42 On March 10, 1968, being Bakri-Id, a large number of Muslims had assembled in all the mosques and had also occupied the by-lanes of roads in front of the mosques for offering prayers. Jan Sangh workers from different towns started coming to Bhiwandi by S.T. buses and proceeded from the S.T. stand in groups. A group of Jan Sangh workers was requested by the Police to go quietly past the Quarter Gate Mosque since Namaz was being offered and the workers in this group acceded to that request. However, after the prayers were over, another group of Jan Sangh workers passed by the same mosque shouting the slogan "Jan Sanghacha Vijay Aso". After praying, the Muslims as usual shouted their slogan "Nar-E-Takbir, Allah Ho Akbar". Some persons of both communities thought that these slogans were shouted intentionally to jeer at the other community. The Hindu and Muslim leaders and the Police, however, intervened and pacified both groups and the Jan Sangh workers went ahead. Other groups of Jan Sangh workers also passed by this mosque shouting slogans but no counter-slogans were shouted from the mosque. At about 5-30 p.m. the procession in files of three started from the P. R. High School reaching Dagdi Shala at about 6-45 p.m. covering a distance of nearly three and a half miles. The processionists shouted slogans condemning the Cutch Award and the food situation, and also slogans against China, Pakistan and President Ayubkhan. They also shouted the slogan "Hamse Jo Takrayega, Woh Mitti Me Mil Jayega". When rear end of the procession was at a distance of about two or three furlongs from the place of meeting in a predominantly Hindu area, a group of 50 or 60 stragglers stayed behind by about 50 yards from the main procession. Suddenly three or four stones were pelted at the procession but no one was injured. The Police arrested four Muslims on the spot. They also immediately pushed the processionists ahead and dispersed the spectators on the road. After the rear end of the procession had gone forward by about 100 yards or so, once again three or four stones were pelted at the procession. The Police arrested four more Muslims. The Police again pushed forward the processionists

upto the place of the meeting. However, on the way some processionists threw a stone at a Muslim vegetable-vendor standing by the side of the road but instead of hitting him the stone hit an old Hindu lady bystander, injuring her slightly. The Police intensified mobile patrolling in the rest of the area. Fortunately very few persons came to learn about this incident immediately and no serious repercussions took place till 11 p.m. After the meeting was over, as the Police apprehended that the Jan Sangh workers while going back from the place of meeting to the S.T. Stand might go in a procession shouting slogans and creating further tension, the police in consultation with the Jan Sangh leaders made arrangements to bring S.T. Buses to the spot nearest to the place of the public meeting. The eight arrested Muslims were prosecuted and three of them were convicted.

15.43 Between 11 p.m. on March 10, 1968 and March 12, 1968, 15 Muslims were assaulted by Hindus and one Hindu was assaulted by some Muslims. Non-cognizable complaints were lodged in respect of these assaults. One Hindu was also assaulted by an unlawful assembly of Muslims, for which a cognizable case was registered and classified as "True but Undetected" [P.W. 4/1(21)/236(13)].

15.44 In view of these incidents, a Peace Committee meeting was called by Shabbir Ahmed Ansari, the Municipal President, on March 12, 1968. Though it had been decided that a Peace Committee meeting should be called before the observance of each festival, no Peace Committee meeting had been called before Bakri-Id. This was unfortunate, particularly in view of the fact that the Jan Sangh Convention was made to synchronize with it, and at the said meeting some members criticized Shabbir Ahmed for not calling any meeting prior to Bakri-Id. The D.M. and the S.P. who were present tried to restore peace and the S.P. pointed out that the detailed investigation into the complaints filed between March 10, 1968 and March 13, 1968 showed that they were the result of quarrels between black marketeers in cinema tickets and gamblers. He also suggested that meetings of the Peace Committee should be called more often. Towards the end of the meeting when Shabbir Ahmed sought to excuse himself for not calling the Peace Committee meeting earlier, once again pandemonium broke out and he was not allowed to proceed and again the D.M. and the S.P. had to intervene and restore peace (Ex. P 98).

Holi

15.45 Holi which was celebrated on March 14, 1968, passed off peacefully without any incident.

Moharram

15.46 Moharram processions were taken out on April 8 and 9, 1968. Prior thereto two meetings of the Peace Committee were held on April 4 and 7, 1968 respectively (Exs. P. 99 and P 100). At the meeting held on April 4, 1970, Murtaza Fakhri (B.R.W. 1) and K. L. Durve suggested that Hindus and Muslims should invite one

another to all their cultural and religious occasions. It was agreed that members of the Peace Committee should remain present at all such celebrations. Inspector Pradhan also called a meeting of the organizers of the 'tazias' at the police station and apprised them of the experience of the previous year when the Moharram procession had lingered unduly long in the Hindu locality of Thange Alli and explained to them the consequences which might ensue from such behaviour. The organizers gave an assurance that the procession would pass through Hindu localities as quickly as possible without lingering. The Muslim leaders, on their side, formed a Taqariban Committee in the formation of which Ibrahim Maddu and Jasim Sardar took a leading part and volunteers bearing the badge of the Taqariban Committee were seen in Muslim festivals such as the Moharram and Id-e-Millad of 1968 and 1969. The 'tazia' procession passed through the whole of Bazar Peth and Wada Stand within 15 minutes. The Moharram procession passed off peacefully and there was considerable improvement in the behaviour of the processionists. The Taqariban Committee took a leading part in conducting the procession. Hindu leaders also remained present in the procession and the trainees of the gymnasium in Habsan Alli conducted by Abdul Sattar gave demonstration of their skill in wielding lathis, unarmed combat and physical feats. Baliram More welcomed the Moharram procession at Thange Alli by putting up a welcome board and serving Sherbat [P.W. 4/1(22)/236(13-4), 358/817, 378/824; P.W. 38/1(29)/867(11), 34/879-80; S.S.W. 1/1(11)/2154(8)]. It is debatable whether this was a gesture of real goodwill on the part of Baliram More, for the evidence shows that he was very active in municipal politics and was desirous of causing defections of Muslim members to his group in order to secure a majority in the Municipal Council.

Shiv Jayanti

15.47 The Shiv Jayanti procession was taken out on April 29, 1968. The Muslims participated in this procession, showered flowers and sprinkled rose water on it, served Sherbat to the processionists and erected decorative arches. The procession was, however, marred by the behaviour of a section of irresponsible Hindu youths who shouted abusive, provocative and anti-Muslim slogans and threw 'gugal' on the Hindustan Mosque. This topic has been dealt with in Chapter 14.

The Ganpati festival

15.48 Ganpati Installation was on August 27, 1968 and in connection therewith a Peace Committee meeting was held on August 18, 1968. Unfortunately, instead of discussing the measures to be taken for the peaceful celebration of Ganpati some members sought to drag in municipal politics and Baliram More charged the Municipal President, Shabbir Ahmed Ansari, with not filling up in time for the Ganpati festival roads which had been dug up for drainage and

complained that all such work was done immediately at the time of the Muslim festivals. Ibrahim Maddu tried to bring about peace. He pointed out that he was a communist and not a communalist and there was communal amity between Hindu and Muslim workers. He further said that the roads were in a poor state and even on earlier festivals they were the same and the people were suffering because of this and the roads should be repaired as expeditiously as possible. The M.L.A., Bhai Patil, also requested the members not to drag in municipal politics. He pointed out that experience showed that trouble occurred because of shouting of certain slogans and they should ensure that such slogans were not shouted. He further stated that the Police were in a fix while making bandobust and they had to do some tightrope walking, for if they resorted to a lathi-charge or to force, cries were raised in the Assembly and if they observed restraint, they were criticized. Dhamankar also made an appeal for proper bandobust stating that disturbances were at times created by persons who had partaken freely of liquor and action should be taken against them without any interference from others. Dr. Vyas stated that according to him Ganpati was a national festival and because some persons had changed their religion (meaning thereby the Muslims), they should not forget their previous culture (that is, the Hindu culture) and inquired why there should be any trouble if 'gural' was thrown or music was played before a mosque. This was a provocative speech but the meeting ended peacefully (Ex. P. 101).

15.49 In the light of various instructions issued by the Government and the I.G.P., S.P., Bhawe issued to all concerned officers his memorandums dated August 19 and 28, 1968 respectively (Exs. P 142 and P 143) containing detailed instructions about the route of the procession, for ensuring that reports published in newspapers about any incidents were not distorted, for measures to be taken to prevent any disturbance, for restricting the use of loud speakers so that they might not be used for the whole night, for searching places of worship to ensure that no weapons were collected at such places, for ensuring that Muslims should not assemble in mosques except at prayer times and 'gural' should not be so thrown as to hurt the religious feelings of Muslims, for measures to be taken with respect to the conduct of the procession, for measures to be taken against rumour-mongers, for the proper briefing of police officers and policemen, for the advance collection of intelligence, for hiring of loud speakers to fit them on police vans, for bringing about a liaison between the local police officers and the Taluka Magistrates, for posting of police officers and policemen at places of worship, for patrolling of areas, for keeping a watch on the activities of bodies such as the Jan Sangh, the R.S.S., the Jamaat-E-Islami and the Majlis Tameer-E-Millat, for raiding illicit distilleries and bars and taking action against drunkards found in the procession, for availing of the services of the Home Guards for bandobust duty, and for the immediate intimation of any incident to

the Control Room in the Thana District which was to start functioning from August 24, 1968.

15.50 The Ganpati procession passed off peacefully though some objectionable slogans were shouted. There was no excessive throwing of 'gulal' near mosques, except near the Hindustan Mosque by a Hindu boy who was riding in a truck. In respect of this incident one A. Y. Syed made an oral complaint at the time of the procession that 'gulal' was thrown by a policeman. An inquiry was made on the spot and the correct facts were ascertained [P.W. 4/1(26)/236 (15-16), 210/720-721; P.W. 38/1(32)/867(12)]. As appears from Dr. Vyas's speech at the Peace Committee meeting held on September 17, 1968 (Ex. P. 102) Muslims participated in this Ganpati festival.

15.51 During the Ganpati festival, on August 30, 1968 some Muslim boys teased a Hindu girl at the S.T. Stand as a result of which there was a quarrel between some Hindus and Muslims. The matter was settled with the intervention of others, but when the Hindu boys were returning from the scene they were assaulted by some Muslims. Two Muslims were arrested in the night by Inspector Pradhan and an offence under sections 147 and 323 I.P.C. was registered against them and they were convicted. This prompt action on the part of the Police eased the tension in the town [P.W. 4/1(25)/236(15); P.W. 38/1(32)/867(12); Ex. P. 565].

Incidents of assault and ward meetings

15.52 Six incidents of minor assaults on Muslims and two cases of rioting in which Hindus were beaten were reported in September 1968. The culprits, however, could not be traced. Police bandobast was increased and the situation brought under control. A Peace Committee meeting was called on September 17 1968. At this meeting all were unanimous in condemning these incidents. Some members, including Baliram More and Gaffoor Sayed Badruddin Sayed, said that they had moved about the town to prevent the recurrence of such disturbances. Ibrahim Maddu appealed that those who knew the real culprits should not shield them but should disclose their names to the Police and Gaffoor Sayed related an incident—a telling example of how rumours grow and spread. On learning that trouble had erupted at Teen Batti he went there and found that no trouble had taken place. He then moved about the town. When he came to Zenda Naka an injured person was brought to him and he sent him to the hospital. After again moving about the town and ascertaining that there was nothing in particular, he went home and slept. Next morning a man who had not moved out of his house the whole night met him and began telling him that a murder had been committed. Gaffoor Sayed told him that nothing of that sort had happened and it was not right to spread such rumours. At this meeting it was decided that the Peace Committee should hold meeting in different wards at which the members of the Peace Committee should call the younger elements and find out what they thought. Yusuf Momin said that the majority

of the members of the Peace Committee did not care to go out of their houses and that if there was any trouble anywhere, the members of the Peace Committee and the Municipal Councillors should rush to the spot immediately and put a stop to such trouble (Ex. P 102).

15.53 Meetings were held on 18th, 19th and 20th September 1968 in different wards. Bhasaheb Dhamankar, Ibrahim Maddu, Shabir Ahmed Ansari, Balasaheb Joglekar and some others took a leading part in these meetings. At these meetings complaints of people of different localities were heard and the importance of maintaining peace was stressed by the members of the Peace Committee. The gravamen of these complaints was the misbehaviour of 'goondas' of both communities [P.W. 4/1(27)/236(16), Exs. P. 103 to P 105 ; P 1503].

Disrespect to the National Anthem

15.54 At these ward meetings one of the complaints was that some incidents of disorderly behaviour had taken place as proper respect was not shown to the National Anthem played at the end of cinema shows. The Police, therefore, started a drive against such persons and arrested 36 Muslims and 16 Hindus in 1968, 2 Muslims and 1 Hindu in 1969 and 1 Muslim and 1 Hindu in 1970 and prosecuted them for disorderly behaviour [P.W. 4/1(27)/236(16)].

15.55 In some of the affidavits filed by Hindus these incidents of disrespect to the National Anthem have been referred to. As an illustration of how one-sided and misleading many of the affidavits filed before the Commission are, it may be mentioned that in every Hindu affidavit where these incidents are referred to it is only stated that such disrespect was shown by the Muslims, omitting all mention of similar disrespect shown by the Hindus. Some of these deponents were cross-examined on this point. Baliram More, the Shiv Sena Sakhapramukh, admitted that he was aware of instances where Hindus in Bhiwandi had shown disrespect when the National Anthem was played in cinemas. The only explanation he could give for omitting to mention this fact in his affidavit while taking care to mention about the disrespect to the National Anthem shown by the Muslims was that he had forgotten this fact while giving instructions for his affidavit [S.S.W. 1/1(15)/2154(9), 21/2163]. Both Zumberlal Kalantri, the Congress M.L.C., and Balasaheb Joglekar, the local R.S.S. leader, professed ignorance of the fact that any Hindu cinema-goer had shown disrespect to the National Anthem [N.H.W. 42/1(8)/2033(4), 5/2036 ; N.H.W. 54/1(12)/2113(6-7), 13/2116]. Mohanlal Karwa while he admitted that he knew that Hindus were also prosecuted by the Police for showing disrespect to the National Anthem was unable to assign any reason why in his affidavit he had referred only to the disrespect shown by the Muslims [N.H.W. 53/1(14)/2101(7), 8/2106].

15.56 This shows how unsafe it would be for a commission of Inquiry where the parties concerned fall into two opposing groups to rely merely on affidavits and not have their deponents subjected

to cross-examination. Not only would the correct picture not emerge, but the Commission might be misled into arriving at a wrong conclusion.

15.57 It may also be mentioned that from the fact that some Muslim and Hindu cinema-goers did not stand to attention when the National Anthem was played but wanted to leave the cinema house in the midst of it, it does not follow that either they or the community to which they belonged were anti-national. It is endemic for certain sections of the cinema-going public to leave the cinema house as soon as the show is over irrespective of the fact that the National Anthem is being played, a state of affairs which became so common in Bombay that every cinema house had to advertise that persons found guilty of such disrespect to the National Anthem would be prosecuted, until ultimately the playing of the National Anthem in cinema houses was discontinued.

The incident near the Nazarana Talkies

15.58 On September 27, 1968 a quarrel took place between Sikandar Fakihi's son Ubedulla and some other Muslims on the one hand and some Hindus including one Sukhdeo Rajaram Teje, a deserter from the army, on the other. It appears that in this scuffle Ubedulla was injured. He went to the police station and lodged a complaint (Ex. P 1482) which was registered as a non-cognizable case. According to the complaint, the scuffle had taken place on the road near the Nazarana Talkies. As Ubedulla's father Sikandar Fakihi was a prominent local personality, leaders of both communities appeared at the police station and the matter was mutually settled and Sukhdeo Teje gave a signed statement in writing (Ex. P 1483) that as the matter was mutually settled he had no complaint to make. According to that statement, however, the quarrel took place in the cinema house when the National Anthem was being played. When the leaders were discussing at the police station how the matter could be settled Sharad Patwardhan lost his temper and insulted Bhausahab Dhamankar. This incident was much talked of in the town [P.W. 38/1(34)867(13)], (Ex. G 190).

Navaratri

15.59 Though Navratri used to be celebrated in Bhiwandi no procession was taken out until Dr. Vyas organized it for the first time in 1968, the reason he expressed for this to Inspector Pradhan being that he wanted to establish new traditions. This procession was taken out on October 3, 1968 from Bazar Peth to Shelar Dam [P.W. 38/1(35)/867(13)].

The Jamaat-E-Islami meeting

15.60 A public meeting was held by the Jamaat-E-Islami on October 11, 1968. This meeting will be dealt with in a subsequent chapter.

The opening of the Branch of the Majlis Tammer-E-Millat at Bhiwandi

15.61 A new cause of communal disharmony made its appearance in Bhiwandi with the opening of a branch of the All India Majlis Tameer-E-Millat in Bhiwandi on November 3, 1968. The activities of this Branch will be considered in a separate chapter.

Ramzan-Id

15.62 Ramzan-Id was celebrated on December 22, 1968. Two programmes were organized on December 22, 1968 and December 23, 1968 at the Rais High School and the Bhiwandi College respectively in which both Hindu and Muslim leaders participated. This was in keeping with the decision taken in the Peace Committee meetings and the subsequent instructions issued by the Government about joint celebrations of all festivals [P.W. 4/1(28)/236(16)].

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CHAPTER 16
1969—THE YEAR OF UNREST

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CHAPTER 16

1969—THE YEAR OF UNREST

General observations

16.1 The year 1969 was one of communal unrest and tension. As the chronology given in paragraph 16.3 shows communal events and incidents followed one another in rapid succession. It was a year marked by increased activity in municipal politics basically of a communal nature, the making of inflammatory public speeches, the capturing of the public mind and opinion by Hindu and Muslim extremists, and the growing helplessness of older and responsible leaders of both communities to bring about a saner atmosphere. It saw the birth of an organization—the Rashtriya Utsav Mandal—which introduced a new and virulently communal note in Bhiwandi. From the prominent role they have played in contributing to the communal unrest and tension which ultimately led to the May 1970 disturbances, the public speeches of political leaders, the municipal politics, the activities of the Rashtriya Utsav Mandal and certain other topics require to be treated separately. Before discussing these topics it will be, however, convenient to look at the other events not covered by them after first setting out a complete chronology of all the important events of 1969 in order to give an overall picture of the communal history of that year.

The abbreviations ‘R.U.M.’ and ‘M.T.M.’

16.2 As the names of the two organizations, the Rashtriya Utsav Mandal and the All-India Majlis Tameer-E-Millat, will occur frequently in this Report for the sake of brevity, they have been referred to in this Report as the ‘R.U.M.’ and the ‘M.T.M.’ respectively.

Chronology

16.3 The important events which took place in Bhiwandi or which made an impact upon its communal situation were :

- | | | |
|---------------|-----|--|
| 13-1-1969 | ... | M.T.M. meeting held at Bhiwandi. |
| 25-1-1969 | ... | Assault on boys of Rais High School by boys of P. R. High School after function arranged by Cultural Committee in connection with Republic Day celebrations. |
| 26-1-1969 | ... | Non-participation by boys of Rais High School in Republic Day programme. |
| 2-2-1969 | ... | M.T.M. meeting held at Bhiwandi. |
| 28-2-1969 | ... | Bakri-Id. |
| February 1969 | ... | Non-participation by Bhiwandi Branch of Shiv |

		Sena in the call for Maharashtra Bandh given by Shiv Sena.
February-March 1969.		Defection of Abdul Salaam Ansari to Baliram More's group and his election as Municipal President.
16-3-1969	...	Felicitation of Abdul Salaam Ansari by Baliram More at a public meeting.
March 1969	...	Moharram and Holi.
April 1969	...	Addition of name of Municipal Council in Urdu script on Municipal Fire Brigade vehicles.
6-4-1969	...	Walk out and resignation of Bhaskar Mali and 18 others from Shiv Jayanti Utsav Samiti.
18-4-1969	...	Shiv Jayanti procession.
21-5-1969	...	Meeting of 19 persons who had walked out of Shiv Jayanti Utsav Samiti and others in Neelkantheshwar Temple under presidentship of Dr. Vyas and decision by them to celebrate Shiv Rajyabhishek Din on May 29, 1969.
		Order under section 144 Cr.P.C. banning entry into Thana District of M.T.M. leaders from Hyderabad and Bhir.
23-5-1969	...	Meeting of said 19 persons and others in Neelkantheshwar Temple under presidentship of Dr. Vyas and formation of R.U.M. at the said meeting.
24-5-1969	...	M.T.M. meeting held at Kalyan.
25-5-1969	...	M.T.M. meeting held at Bhandup.
27-5-1969	...	Press note issued by Kabiruddin Kazi, President, M.T.M., Kalyan Unit, for publication in <i>Lokasatta</i> .
28-5-1969	...	Riot between Hindus and Muslims on Bhiwandi-Kalyan Road near Temghar Village.
29-5-1969	...	Id-E-Milad. Visit of Ramesh Sambhus and Shiv Sena leader Datta Salvi to Bhiwandi. Public meeting of R.U.M. to celebrate Shiv Rajyabhishek Din.
30-5-1969	...	Public meeting at Thana addressed by Shiv Sena Chief, Bal Thackeray.
31-5-1969	...	Public meeting of Jan Sangh at Kalyan.
May 1969	...	Erasure of name of Municipal Council in Urdu script from Municipal Fire Brigade vehicles.
5-6-1969	...	R.U.M. meeting at Kombadpada, Bhiwandi.
27-6-1969	...	M.T.M. meeting at Bhiwandi.
30-6-1969	...	Representation to Chief Minister by Chief Organizer, M.T.M., Maharashtra Branch. Representation to Chief Minister by Baliram More.

- 5-7-1969 ... Complaint by Muslim boys of assault by Eknath Mundhe and cross-complaint by Eknath's wife Ranjanabai of teasing by the boys.
- 6-7-1969 ... Publication of Baliram More's representation to Chief Minister in Shiv Sena organ *Marmik*.
- 7-7-1969 ... Affray between Bhaskar Mali and his brother and boys of Rais High School.
- 8-7-1969 ... Assault on two Hindus by Muslims.
- 9-7-1969 ... Assault on two Hindus by Muslims.
Stoning of a car belonging to a Muslim by Hindus.
Quarrel between Baliram More and Rauf Punjabi.
- 11-7-1969 ... Hartal called by R.U.M.
- 12-7-1969 ... Public meeting by R.U.M. banned by the Taluka Magistrate.
- 30-7-1969 ... Meeting of R.U.M. leaders in Dr. Vyas's dispensary.
- August 1969 ... Resignation of Baliram More from Peace Committee.
- 1-8-1969 ... Application by Baliram More to the Police alleging that the son of the Municipal Councillor A. B. Sayed had abducted a Hindu girl.
- 11-8-1969 ... Complaint by a Hindu girl of being teased by a Muslim.
- 15-8-1969 ... Assault on a Muslim by Hindus.
- 17-8-1969 ... Private meeting of R.U.M. at residence of Dr. Vyas.
- 27-8-1969 ... M.T.M. meeting in Bhiwandi to protest against burning of Al-Aqsa Mosque.
- 29-8-1969 ... Procession to protest against burning of Al-Aqsa Mosque taken out in Bhiwandi.
- 1-9-1969 ... Resignation of Dattatraya Mahadeo More, Vice-President of R.U.M., and Suresh Kondelkar, Secretary, from R.U.M.
- 11-9-1969 ... Visit of the Organizer, M.T.M., Maharashtra Branch, to Bhiwandi.
- 13-9-1969 ... Jain religious procession.
- 18-9-1969 ... Communal disturbances in Ahmedabad.
- 15-9-1969 to 24-9-1969 ... Ganpati festival.
- 21-9-1969 ... R.U.M. public meeting addressed by Jan Sangh leader, G. M. Puntambekar.
Order under section 144 Cr.P.C. prohibiting Puntambekar from entering Bhiwandi served on him and physical removal of Puntambekar from meeting.

- 22-9-1969 ... Memorandum of protest by R.U.M. against prohibitory order on Puntambekar.
- 27-9-1969 ... Quarrel between Muslim boys and a Hindu woman shopkeeper.
- 28-9-1969 ... Departure of Abdul Khaliq Momin and other local M.T.M. leaders for Ahmedabad.
- 29-9-1969 ... R.U.M. meeting at Brahman Alli, Bhiwandi.
- 1-10-1969 ... R.U.M. meeting at dispensary of Dr. Vyas to draft constitution of R.U.M.
- 6-10-1969 ... Fight between Muslim boys and brother of Hindu woman shopkeeper and assaults by Hindus against Muslims and Muslims against Hindus.
- 7-10-1969 ... R.U.M. meeting held at Kanheri, Bhiwandi.
- 8-10-1969 ... R.U.M. public meeting to celebrate the centenary of Mahatma Gandhi.
- 11-10-1969 ... Silent procession and hartal called by R.U.M.
- 12-10-1969 ... Public meeting at Durgadi Fort, Kalyan, addressed by Bal Thackeray.
- 13-10-1969 ... R.U.M. meeting at Ganpati Temple, Prabhu Alli, Bhiwandi.
- 13-10-1969 ... R.U.M. meeting in Padgha village.
Branch of R.U.M. established at Padgha.
- 14-10-1969 ... R.U.M. meeting in Padgha.
- 18-10-1969 ... Public fasting and silent procession by R.U.M. Padgha Branch.
- 20-10-1969 ... Dassera celebrated at Bhiwandi and Padgha by R.U.M.
- October 1969 ... Anonymous threatening letters received by Dr. Vyas and others.
- 31-10-1969 ... News report in Jan Sangh Marathi weekly *Pathik* about anonymous threatening letters sent to Dr. Vyas and others.
- October-November 1969. ... Visit of Inspector Solanki of C.I.D., Bulsar, to Bhiwandi for investigation of case against Abdul Khaliq Momin.
- 4-11-1969 ... Receipt of anonymous threatening letters posted from Bhiwandi by Hindu local leaders of Kalyan.
- 7-11-1969 ... Election of Zuber Patel as Municipal President.
- 15-11-1969 ... Visit of Dr. Vyas to Pundas village.
- 17-11-1969 ... R.U.M. meeting at Krida Mandal, Gauripada Bhiwandi.
R.U.M. meeting at Padgha.
- 24-11-1969 ... R.U.M. meeting at Padgha.
- 1-12-1969 ... R.U.M. meeting at Bhiwandi to celebrate Guru Nanak Jayanti.
- 8-12-1969 ... R.U.M. prayer meeting at Padgha.

- R.U.M. prayer meeting at Neelkantheshwar Temple, Bhiwandi.
- 9-12-1969 ... Complaint by Hindu girl of teasing by Muslim boy.
- 12-12-1969 ... Ramzan-Id.
- 15-12-1969 ... Prayer meeting by R.U.M. at Padgha.

The Rais High School incident on the Republic Day

16.4 The Konkan Muslim Education Society, Thana District, has been running two schools, namely, the Rais High School (formerly known as the Anglo-Urdu High School) at Bhiwandi and a school at Padgha. The medium of instruction in both schools has been Urdu. The President of this Society since 1947 has been Mustafa Fakhir (B.R.W. 3), while its Honorary Secretary since 1953 has been Murtaza Fakhir (B.R.W. 1). The Rais High School has been in existence since 1928. The usual annual functions which it has been arranging were the annual prize distribution day, the annual sports, elocution competition and celebrations of the Gandhi Jayanti, the Republic Day, the Independence Day and the Tilak Punyatithi. At the time of the Chinese aggression as also the Pakistani aggression in 1965 the school and its students contributed to the Defence Fund. In August 1968 the school held an essay competition, the subject being "Lokmanya Tilak and his Services". The school has also been publishing a magazine called *Shama-E-Adab* (B.R.W 1/2-3/1360-1 ; B.R.W. 3/2/1417, 7/1418, 23/1425). Two articles from this school magazine have been put in evidence, namely, the one on the Chinese invasion published in the 1962-63 issue and the other on the late Mr. Lal Bahadur Shastri published in the 1965-66 issue (Exs. SS 3 and SS 4 respectively). The first article is patriotic in its contents and the second article praises, amongst other things, the late Mr. Lal Bahadur Shastri's efforts during the Indo-Pak War.

16.5 It appears that there existed some bad blood between the students of the P. R. High School (Parasram Ramnarayan High School) and the Rais High School. In 1968 there was a magic show in the P. R. High School which students from other schools, including the Rais High School, also attended. According to the affidavit of Sikandar Fakhir, some of the students of the Rais High School were assaulted in the school hall by the boys of P. R. High School and the New English School and as the doors were closed it was with difficulty that the Muslim students could come out of the hall when one of the teachers opened the doors to let them out [B.R.W. 2/1 (13)/1398(5)]. Though much has been heard about the Rais High School in evidence and across the Bar, Sikandar Fakhir has not been challenged about this incident and this incident has not been contested in evidence. That such an incident did occur is also apparent from what was said by Kulkarni, Head Master of the P. R. High School, at the meeting of the Steering Committee of the Bhiwandi Town Peace Committee held on February 18, 1969 to discuss about the

non-participation of the students of the Rais High School in the Republic Day celebrations, for at his meeting Kulkarni stated that there had been some previous incidents between the boys of the two schools which had been adversely discussed in public.

16.6 The students of the Rais High School did not participate in the official flag-hoisting ceremony at the Tahsildar's Office on the Republic Day on January 26, 1969, a fact mentioned in several Hindu affidavits as a deliberate boycott of the Republic Day celebrations by the Rais High School and as indicating the anti-national attitude of the teachers and students of that school. The D.M. referred this matter to the Taluka Magistrate. The Taluka Magistrate made a report dated January 28, 1969 to the D.M. (Ex. P 602). The D.M. thereafter by his letter dated February 15, 1969 (Ex. P 603) referred the matter to the Parishad Education Officer who made his report dated February 25, 1969 (Ex. P 604). There is also on the record a report dated February 7, 1969 made by the D.I.G. (Int.) to the Home Secretary (Ex. G 280). These reports clearly reveal what had actually happened.

16.7 As shown by the aforesaid reports on the night of January 24, 1969 a cultural programme of different schools was held at the Marathi School at Narali Talao. At about 11-30 p.m. some stones were thrown but no one was injured. The next evening a programme of mass drill by students of different schools was arranged at the P.R. High School. While returning from the function some boys of the Rais High School were assaulted by boys of the P.R. High School. The students of the Rais High School made a complaint to a teacher of the Rais High School. Bhausahab Dhamankar also telephoned and complained to Inspector Pradhan. No complaint was, however, lodged with the Police. Ibrahim Maddu, the then Chairman of the Municipal School Board, informed the Taluka Magistrate that he had learnt that the boys and girls of the Rais High School were not taking part in the cultural programme and inquired what had happened on the grounds of the P. R. High School. At that time the Principal of the Rais High School was in Bombay for attending a relative's marriage and the Head Master was in charge. The Head Master got panicky and celebrated the Republic Day, including the flag-hoisting and the singing of the National Anthem, in the school premises, but the students of the Rais High School did not attend the main official function which usually took place after the flag-hoisting at various schools. There is some controversy whether the teachers remained present at the official function, but most likely they did not. It appears that the Head Master had received a number of telephone calls and inquiries from the parents of students and he was more interested in seeing that all the students of the school reached home safely and very probably delegated this task to the teachers. The Education Officer in his report Ex. P 604 has clearly stated, "This must have been the only intention behind his absence at the official function which gave scope to the citizens in interpreting it in many ways".

This report substantially supports the version given in Sikander Fakih's affidavit [B.R.W. 2/1(14)/1398(6)].

16.8 The non-participation of the boys and teachers of the Rais High School in the Official Republic Day function was construed as a deliberate boycott and caused considerable resentment. On February 18, 1969 a meeting of the steering Committee was held to discuss the matter and, as appears from the police report on that meeting (Ex. P 1491), the Head Master and teachers of the P.R. High School and of the Rais High School were present. At this meeting Warad Guruji, a teacher of the P.R. High School, admitted that he had noticed some commotion amongst the boys. At this meeting Ibrahim Maddu expressed his disapproval of the action on the part of the Rais High School.

16.9 In conclusion it must be said that inspite of there having been a reason for non-participation in the Official Republic Day function, the decision not to participate was a tactless and unwise decision capable of leading to great misunderstanding as it, in fact, did. It would have been far better if the school authorities had informed the Police and the Taluka Magistrate about what had happened the previous night and asked for proper bandobast to be made. Instead, this ill-advised decision caused considerable damage to the school's image and laid its authorities and students open to the charge of being anti-national.

Bakri-Id

16.10 Prior to Bakri-Id a meeting of the Peace Committee was called on February 20, 1969. At this meeting Datta Bhopatrao of the Shiv Sena desired that the decision taken at the aforesaid Steering Committee meeting held on February 18, 1969 should be disclosed to the Peace Committee and Ibrahim Maddu thanked Baliram More for seeing that no Shiv Sena riots had taken place in Bhiwandi as they had in Bombay and some other parts of Maharashtra (Ex. P 106).

16.11 Bakri-Id was celebrated on February 28, 1969. Prohibitory orders as in the previous years were issued and were observed and the occasion passed off peacefully.

Moharram and Holi

16.12 Both these festivals passed off peacefully. Prior thereto a meeting of the Peace Committee was held on March 22, 1969 in order to discuss the arrangements for the Moharram. D.M., Capoor, though he was informed about the meeting that very morning, nonetheless made it a point to attend. This Peace Committee meeting was presided over by the Municipal President, Abdul Salaam Abdul Razak, who was newly elected to that office with the support of Baliram More's group. Only two Councillors, namely, Rajaram Kodam and Umar Shafa, out of the Councillors belonging to the Bhiwandi Seva Samiti group, which had by then lost its majority in the Municipal Council by reason of the defections of its members to Baliram More's group, attended the meeting. Municipal politics thus

made their appearance in the Peace Committee meeting and the D.M. commented in the meeting that it would have been much better if all the Municipal Councillors had remained present.

16.13 The organizers and members of the Taqariban Committee once again were in charge and conduct of the Moharram procession which was taken out on the night of the 29/30th March 1969. As at the time of the 1968 Moharram procession, in this procession also the trainees of the gymnasium in Habsan Alli conducted by Abdul Sattar Yatim Momin gave demonstration of their skill in wielding lathis and in unarmed combat (P.W. 4/378/824).

Shiv Jayanti

16.14 Shiv Jayanti was celebrated on April 18, 1969. This was a fateful Shiv Jayanti for Bhiwandi. Nineteen persons whose names are mentioned in paragraph 14.33 staged a walk-out from the Shiv Jayanti Utsav Samiti meeting, submitted their resignations and later along with Dr. Vyas formed the R.U.M. This Shiv Jayanti has been dealt with in Chapter 14.

The Bhiwandi-Kalyan Road riot

16.15 Id-E-Milad was to be celebrated on 29th May 1969. The R.U.M. had also declared its intention to celebrate Shiv Rajyabhishek Day on that very day. It was the first time Shiv Rajyabhishek Day was to be celebrated in Bhiwandi. The situation was, therefore, full of potentiality for communal trouble. To add to the apprehensions of the authorities a minor communal riot took place on May 28, 1969 on the Bhiwandi-Kalyan Road. The details of this incident are set out in the report dated May 29, 1969 (Ex. G 290) from D.I.G. (Int.) to the Home Secretary. At a distance of about two miles from Bhiwandi on the Bhiwandi-Kalyan Road near Temghar village some four or five Muslims stopped a truck heading towards Kalyan in order to get a lift. As the truck's brakes were not in order, it did not stop and the hitch-hikers got annoyed. Another truck driver by name Prem who was standing in front of a South Indian hotel nearby advised them to take a lift in some other truck. They, however, insisted on going by the same truck and as they did not like the unsolicited advice of Prem and exchange of words took place and Prem and four or five other Hindus were assaulted and some damage caused to the hotel, stones and lathis being used. In the melee two persons from Temghar were injured. The Muslim hitch-hikers went back to Navi Vasti on the outskirts of Bhiwandi Town. About 15 to 20 minutes later people from Temghar village rushed upon Navi Vasti to seek revenge and started pelting stones on houses, breaking the tiles of a Madresa-cum-Mosque. In this melee nine Muslims were injured.

Id-E-Milad

16.16 Id-E-Milad was celebrated on May 29, 1969 by the Muslims taking out a procession from Hidayatullah Manzil on the Old Thana

Road up to Nizampura Jumma Mosque. The procession consisted of 4,000 to 5,000 people and slogans such as 'Islam Zindabad', 'Id-E-Milad-ul-Nabi Mubarak Ho', 'Nare Taqbir', 'Habib Ka Daman Nahi Chhodega' were shouted. Some mischievous boys in the procession, however, also shouted the slogan, "Jo Hamse Takrayega Mittime Mil Jayega", but the Police, at least in the case of this procession, were vigilant to prevent this slogan from being shouted again. As orders under section 37 of the Bombay Police Act prohibiting the carrying of arms, etc., had been promulgated, lathis were taken away from some processionists who were found carrying them in spite of their protests. The route of the procession at one point was only 50 yards from the venue of the Shiv Rajyabhishek Din celebration held by the R.U.M. at which the chief speakers and guest of honour were the Shiv Sena leader Datta Salvi and Ramesh Sambhus. At the time the procession was passing by this point recorded music was being played in this meeting and some of the processionists insisted on halting for more than the specified time shouting slogans. The procession, however, passed off peacefully without any incident. The details of the Shiv Rajyabhishek Din celebration meeting will be dealt with in the Chapter on the R.U.M. and its activities.

The Ranjanabai Mundhe incident

16.17 On the night of July 5, 1969 a Muslim boy lodged a complaint with the police that he and his friends had been assaulted by one Eknath Mundhe and four other Hindus. The complaint was registered in N.C. register. Subsequently Ranjanabai Mundhe and her husband came to the police station and lodged a complaint that these Muslim boys had teased her and while she and her husband were going from her house to the police station to lodge a complaint these Muslim boys had followed them carrying stones and had abused her saying that they would kill them one by one and threw stones at her house. Thereupon a case was registered against the three Muslim boys and they were arrested on July 8, 1969. These boys were sons or relatives of well-to-do persons from the Muslim community of Bhiwandi and their arrests agitated the Muslims. The case against the Muslim boys was ultimately compounded [P.W. 4/1(34)/236(19); P.W. 38/11(48)/867(17); Ex. P 540].

The affray between Bhaskar Mali and others and the boys of the Rais High School and its aftermath

16.18 Some minor incidents, which appear to have been magnified out of all proportion by local leaders, took place between July 7, 1969 and July 9, 1969. The material evidence on the point is that of S.P., Bhave [P.W. 4/1(34)/236(19), 90/611-2, 146/668-9, 289/773, 290-776, 375/823], Dy.S.P., Diwate, (P.W. 66/59/1136), Baliram More [S.S.W. 1/1(10)/2154(7), 20/2162-3], and the police reports Exs. G 294 to G 299 and P 540.

16.19 Near the Rais High School is situate the Samyukta Krida Mandal of which Bhaskar Mali, the President of the R.U.M., was an active worker. This Mandal was a physical training institute. There used to be occasional friction between the boys of these two institutions. On July 7, 1969 a fight took place between some boys of the Rais High School and some Hindu boys. The next day at about 2 p.m. Bhaskar Mali and his brother Kamalakar were passing by the Rais High School when some Rais High School boys said that Kamalakar was the person who had beaten them on the previous day. Thereupon a fight took place between them and Bhaskar Mali and Kamalakar. Others took part in the fight including some persons sitting in a hotel nearby. Soda-water bottles were thrown by both groups at one another and cross-complaints were lodged with the Police. On receiving a telephone call from Bhaskar Mali, two police constables went to the Rais High School. Stones were thrown at the constables and one of them received an injury. Bhaskar Mali, his brother Kamalakar and six boys from the Rais High School also sustained minor injuries. On learning about the trouble Dy.S.P., Diwate as also several leaders from both communities including Baliram More, Mohammed Rauf Punjabi, Sikandar Fakih and Ibrahim Maddu went to the Rais High School. Hot words were exchanged between some of these leaders and each held out threats and counter-threats against the other's community. A quarrel took place between Baliram More and Rauf Punjabi in the course of which Rauf Punjabi called Baliram More a gambler and a bootlegger. Baliram More then immediately left and went to the Town Police Station in a municipal jeep which was standing outside to lodge a complaint against Rauf Punjabi. Baliram More has surprisingly deposed that he went in the municipal jeep because it can be used for private trips of Municipal Councillors within the municipal limits. A crowd had already gathered at the police station as it had done outside the Rais High School. The complaint lodged by Baliram More was that Rauf Punjabi had used derogatory words about the entire Hindu community. As this was a non-cognizable case, Baliram More was referred to the Court. He, however, did not lodge any complaint in the Court, Dy.S.P., Diwate was present when this quarrel took place and he has deposed that the complaint lodged by Baliram More was false, but nonetheless no legal action was taken against him because it was realized that in the interest of law and order it would be better to patch up differences between persons prominent in municipal politics, for Rauf Punjabi, though not a Councillor himself, wielded considerable influence and power in the Municipal Council. In fact, municipal politics were the real reason for the hostility between these two.

16.20 As one of the persons injured in this incident was Bhaskar Mali, the President of the R.U.M., the R.U.M. gave a call for hartal to be observed on July 11, 1969. On that day all shops, however, remained open till about 10-30 a.m. after which most of the shops in the Hindu localities were closed. Baliram More has admitted that he

had talked about this incident to all who came to see him.

16.21 The manner in which the local leaders of both communities, in spite of being members of the Peace Committee, intervened in the dispute and exchanged threats and counter-threats of showing to the other community what their own community would do to it if let loose, had an adverse effect on the law and order situation. Two Hindus were assaulted by Muslims on the night of July 8, 1969. The next night some more Hindus were assaulted by Muslims. The car of a Muslim was stoned by some Hindus. As the situation threatened to become serious, an additional police force was sent from Thana to Bhiwandi. The Addl.S.P. came to Bhiwandi in the night of July 8, 1969. The Police patrolled the streets. Crowds started collecting both in Hindu and Muslim localities. They were pacified by the Police and dispersed. The D.M. and D.I.G. (B.R.) also came to Bhiwandi in the morning on July 9, 1969. The feelings of mutual distrust and resentment continued, however, to grow in spite of an appeal made by the authorities to leaders of both communities to see that the situation did not deteriorate.

16.22 As a result of these incidents ten cases were sent up to Court and eight N.C. cases against Hindus and five against Muslims were registered at the police station. In one of the cases sent up to Court one Shakil Kazi, whose name will be of some importance when we come to the Shiv Jayanti procession of 1970, was an accused. The complaint of Bhaskar Mali and his brother against the Muslim boys and the complaint of the Muslim boys against Bhaskar Mali and his brother were compounded. Four other Muslim boys were convicted and bound over under the Probation of Offenders Act for causing injury to the police constables

16.23 On July 12, 1969 the R.U.M. wanted to hold a public meeting to thank the Hindus for observing the hartal on the previous day. An order under section 144 Cr.P.C. banning the holding of public meetings was promulgated and the said meeting was therefore not held.

16.24 In the 15th August 1969 issue of the Urdu weekly *Shaur*, the organ of the M.T.M., appeared a news report on this incident under the heading "Bhiwandi Riots, Disturbances by Jan Sangh and Shiv Sena, Report of Shri Abdul Khaliq Momin, President, Tameer-E-Millat, Bhiwandi" (Ex. P 629). According to this news report, Bhaskar Mali and others, referred to in the said news report as Jan Sangh 'goondas', used to attend the Samyukta Krida Mandal and tease Muslim boys and girls coming out of the Rais High School and on the students protesting, they attacked them with soda-water bottles as a result of which some Muslim students were injured. It further related that at the meeting called by the Dy.S.P. of the local leaders in the Rais High School Baliram More became abusive and violent and walked out of the meeting and that Ibrahim Maddu who supported Baliram More also walked out of the meeting. The news report further charged the Shiv Sena and the Jan Sangh with having caused all the incidents that happened on the subsequent day. The S.P. made a report

dated September 22, 1969 (Ex. P 640) on this news report pointing out that the allegations made therein were not correct.

16.25 An offshoot of the quarrel at the Rais High School was that Baliram More felt riled at the Police not taking action against Rauf Punjabi on the complaint lodged by him and he, therefore, tendered his resignation from the Peace Committee some time in August 1969. A meeting of the Steering Committee was called to persuade him to withdraw the resignation but he was adamant. According to Baliram More, he was present at the said meeting but Rauf Punjabi was not and the meeting decided that Rauf Punjabi should tender an apology to him and thereafter he was called by Dy.S.P., Diwate to his residence when he found Rauf Punjabi also present and Rauf Punjabi grudgingly admitted his mistake and apologized. Baliram More, however, has not struck me as being a truthful witness and in preference to his version I prefer to accept the evidence of Dy.S.P., Diwate, for I have found him to be a truthful, honest and candid witness. According to Diwate, after the Rais High School incident he was afraid that Baliram More, being disgruntled, would create trouble at the time of the Ganpati festival. He therefore first separately called both Baliram More and Rauf Punjabi and got them to agree to patch up their differences. Then he invited both of them together to tea at his place and they met there and embraced each other and made up.

16.26 As a result of these incidents a fixed police post was kept in that locality. After the disturbances, in July or August 1970 a police chowki was established in the premises of the Samyukta Krida Mandal. The Mandal has since closed down.

16.27 These incidents show a complete bankruptcy of any statesmanship or tolerance on the part of both Hindu and Muslim local leaders. Instead of making all efforts to ensure that the situation smoothed over and no trouble took place, they indulged in allegations and counter-allegations, abuses and counter-abuses and threats and counter-threats, adding fuel to fire and fanning communal passions, thus doing irreparable harm to whatever little communal peace and amity by then remained in Bhiwandi.

The tutoring of complainants by local leaders

16.28 In the course of the above incidents the Police noticed that both Hindu and Muslim complainants who came to the Town Police Station to lodge complaints were accompanied by some leaders of their own community as also a number of other persons and these leaders would prompt the complainant while he was giving his complaint, particularly prompting him to give the names of the accused and even putting their names in his mouth when he did not mention any names. They also prompted and attempted to tutor the complainants to see that the accused were five or more in number so as to make these cases cognizable. These Muslim leaders were Ibrahim Maddu, Gafoor Syed (who signed his name as A. B. Syed), Gulam Mohamed Momin (known as Gulam Mohamed Momin, B.A. as he

was the first resident of Bhiwandi to graduate), Sikandar Fakhir, Jasim Sardar and Abubaker Musa Memon, all members of the Peace Committee, while these Hindu leaders were Baliram More, Dr. B. P. Vyas, Uddhav Teje, Bhaskar Mali, Datta Punyarthi, Datta Bhopatrao and Sharad Patwardhan. Dy.S.P., Diwate brought this fact to the notice of Bhausaheb Dhamankar in the morning of July 9, 1969. Subsequently members of the Peace Committee were called at the Inspection Bungalow and the D.I.G. (B.R.) and the D.M. who were both present discussed the situation with them. A notice was also put up at the Town Police Station stating that only the complainants should approach the Station House Officer for lodging their complaints. Most of the leaders thereafter refrained from accompanying the complainants. Abubaker Musa, however, persisted in doing so and had to be asked to leave the police station if he had no work there. He along with twelve others thereupon made a written complaint dated July 13, 1969 (Ex. P 541) to the S.P. against Dy.S.P., Diwate, sending copies of this complaint to the D.M., Thana, the D.I.G. (B.R.), the Leader of the Opposition in the Maharashtra Legislative Assembly, Mr. Krishnarao Dhulap and the M.L.A. from Bhiwandi, Bhai Patil. Diwate was asked to make his report and he submitted his report dated August 13, 1969 (Ex. P 542) on this complaint. In it he pointed out that on the night of July 9, 1969 when the complaint of a Muslim was being recorded, Abubaker and Gafoor Syed, who had also signed the said complaint, came to the police station, called out the complainant and started giving him instructions. Diwate, the former Addl.S.P., Thana, Scot and Inspector Pradhan were at that time in a jeep close by and could overhear some part of the talk. Hearing the words "Give the names", they realized what Abubaker was up to. Diwate thereupon went up to him and asked him what work he had at the police station. By this time Gafoor Syed had gone away and the complainant had also gone inside the police station. Abubaker replied that he was a member of the Peace Committee. Scot then asked him whether he had come to the Inspection Bungalow and on his replying in the negative he told him that the members of the Peace Committee were expected to move about in their respective areas and help the Police in establishing law and order instead of crowding at the police station (P.W. 4/289/774-5).

Baliram More's charge of abduction against Gafoor Syed's son

16.29 In the end of June 1969 Gafoor Syed defected from Baliram More's group in the Municipal Council to the Bhiwandi Seva Samiti and was elected the Municipal President ousting Abdul Salam Ansari who had got elected on the votes of Baliram More's group. On or about July 26, 1969 Baliram More gave information to the police alleging that Gafoor Syed's son had abducted a married minor Hindu girl. Syed's son was committed to the Sessions and acquitted [P.W. 4/1(35)/236(20); P.W. 38/50/867(17), 4/868]. This complaint appears to have been filed in order to take revenge on Gafoor Syed.

The complaint by a Hindu girl of teasing by a Muslim boy

16.30 On August 11, 1969 a Hindu girl lodged a complaint that a Muslim boy had teased her. The Police prosecuted the boy but later the matter was compounded [P.W. 38/1(51)/867(18)]. This complaint as well as the one against Gafoor Syed's son could easily have led to a fresh series of communal incidents, but luckily they did not, except for one case of assault referred to in the next paragraph.

Assault on a Muslim by Hindus

16.31 On August 15, 1969 a Muslim was assaulted by some Hindus. The Police, however, could not trace the assailants [P.W. 4/1(35)/236(20)].

The Al-Aqsa Mosque procession

16.32 On August 29, 1969 a procession was taken out to protest against the burning of Al-Aqsa Mosque in Jerusalem. As the leading part in arranging this procession was taken by the Bhiwandi Branch of the M.T.M., this topic will be dealt with while discussing that organization and its activities.

The Jain religious procession

16.33 On September 13, 1969 a religious procession was taken out by the Jains. While it was passing by Municipal School No. 9 near Azad Maidan a stone hit a young boy. On the procession proceeding further and coming near the entrance of the school lane, another stone struck a Jain on his chest. Some of the processionists informed the policemen who were accompanying the procession. They made inquiries but could not find out who had thrown the stones. When the procession reached its destination, the Police asked the prominent persons in the procession if they had any complaints to make but they replied in the negative. In the course of their meeting which followed the procession, the Jains decided to lodge a complaint and accordingly a complaint was lodged the next day. There were no repercussions but this incident was talked of in the town by the Hindus. A thorough investigation was made but it was found that no one had thrown any stone but the facts were that construction work on the road on which this procession was passing was in progress and metal was spread out in the ditches as also was lying by the side of the road. At the time of the procession there was vehicular traffic passing by the side of the procession and the strong possibilities were of a stone sent flying by the wheels of a passing vehicle [P.W. 38/1(53)/867(18); Ex. G 300; Ex. P 1504].

The Ganpati festival

16.34 The Ganpati festival was celebrated between September 15, 1969 and September 24, 1969. Though the Ganpati celebrations including the Installation and Immersion processions passed off peacefully, the R.U.M. and its leaders emerged from these celebrations

as perhaps the most potent force in Bhiwandi. They wrested complete control of all arrangements for the Immersion processions and totally ousted the older Hindu leaders from any voice in the matter. By this they gained tremendously in prestige and soared in the esteem of the Hindu populace. This topic, therefore, pertains properly to the chapter on the R.U.M. and its activities and will, therefore, be dealt with therein.

16.35 The P.S.P. Hindu members and the P.W.P. Hindu members in the Peace Committee did not, however, support the stand of the R.U.M. with respect to the 1969 Ganpati celebrations. The Hindu Congress leaders in the Peace Committee had wanted to sponsor these celebrations themselves but as the R.U.M. had already got hold of the usual organizers of the celebrations, they merely followed the R.U.M. line (P.W. 59/18/1009-10).

Minor incidents of assault in September and October 1969

16.36 There were incidents of assault by members of one community on the other in the end of September 1969 and in the first week of October 1969 and in respect of these incidents six cases against Hindus and seven against Muslims were registered, some of which were non-cognizable. Some of these cases arose out of a quarrel which took place on September 27, 1969 between a Hindu woman who was running a pan shop and some boys of the Rais High School. This quarrel took place because while these boys were trying to light their cigarettes from a lamp kept for this purpose at the pan shop the lamp got extinguished. As a sequel to this quarrel, on October 6, 1969 a fight took place between the boys of the Rais High School and the shopkeeper's brother which led to cases of assaults and counter assaults between members of the two communities [P.W. 4/1(40)/236(23); P.W. 38/1(57)/867(19); Ex. G 195].

Complaint by a Hindu girl of teasing by a Muslim boy

16.37 On December 9, 1969 a Hindu girl lodged a complaint with the police that a Muslim boy had teased her. A case was registered, but the boy could not be traced [P.W. 38/1(64)/867(21)].

Ramzan-Id and the speeches of Shabbir Ahmed Ansari and Dr. Vyas

16.38 Ramzan-Id was celebrated on December 12, 1969. Two functions were held, one on Divanshah Dargah Road and the other in the Bhiwandi-Nizampura Nagarpalika College. Both these functions were marked by communal speeches. The function at the Divanshah Dargah Road was a Mushera and Inspector Pradhan's report dated December 13, 1969 on it to the S.P. is Ex. P 54. About 200 persons were present and the Police had maintained bandobast. At this meeting Abdul Khaliq Momin, the President of the Bhiwandi Branch of the M.T.M., was elected President of the meeting and Shabbir Ahmed Ansari addressed the meeting. In the course of his speech he said :—

“If the Muslims unite, no power on earth could suppress them.

If God wills, we are bound to suffer. Efforts are being made to annihilate this community. This injustice cannot be tolerated. This is our land. If any one says that Muslims have no right here, it is incorrect. Muslims alone will not suffer. The whole nation will suffer If the Hindus and Muslims unite, the face of India would certainly be changed."

Thereafter poems which contained criticism of the Ahmedabad disturbances, the system of franchise, restrictions imposed by the Government on speeches, etc., were recited.

16.39 Shabbir Ahmed's speech was a communal speech inciting the Muslims to set right the so-called injustice suffered by them and to fight back if they did not want to be annihilated by the majority community. This was, therefore, a speech calculated to inflame communal passions and was an incitement to communal violence. It satisfied the test laid down in paragraph 6.8 of this Report and was, therefore, a communal speech.

16.40 The Bhiwandi-Nizampur Nagarpalika College, the Chairman of the Governing Council of which was Bhausahab Dhamankar, used to celebrate Dassera and Ramzan-Id with a view to bring about national integration. Accordingly, on December 12, 1969 a function was held to celebrate Ramzan-Id. Dr. Vyas was one of the invitees and he was requested to speak (C.W. 2/29/1716). Dr. Vyas spoke on national integration. While referring to this incident he has stated in his affidavit [J.S.W. 1/1(12)/2201(5)] :—

"Muslims are averse to any change in their way of customs After congratulating and wishing the Muslims for Id I said that for the sake of National integration we should have a common civil code. The Muslim students of the college expressed their opposition to this statement of mine by making undesirable noises. The Principal of the Rais High School, who is a Muslim, was one of the other speakers. Even he said that he did not agree with what I said."

16.41 Dr. Vyas' speech was in Hindi, but it appears that after going home he wrote out a note in English as a record of this incident. This note (Ex. JS 1) was shown to Bhausahab Dhamankar while he was in the witness-box and he agreed that the purport of Dr. Vyas' speech was according to that note. This note is headed "Muslim Intolerance—Id-Milan in the college 12th December 1969". According to this note, he began his speech by inquiring why there was no national integration and disagreed with those who had spoken before him and had said that the British had promoted hatred between the Hindus and the Muslims and that before the British came to India there had been no Hindu-Muslim riots. He said that Hindu-Muslim riots had taken place in Ahmedabad in 1730 and inquired why, if the British were responsible for Hindu-Muslim riots, riots between the two communities continued to take place even after the British had left. He further said that the real causes of Hindu-Muslim riots were historical. What he said thereafter and what happened thereupon

have been thus recorded in the said note :—

“We must try to find out real causes if we want peace. The causes are in the history of this land. There is no peace because there is no equality. For example we call ourselves the sons of Bharat-mata. But there are different civil rules for different communities. There is no common civil code. At this some of the students started poohpoohing. I said if we want peace we must have a sense of equality such as a common civil code. Again the students started poohpoohing, I said I am not at all desirous of speaking if you do not want to listen quietly. At this juncture the President Shri Akbar Saheb Fakhri requested the students to behave and keep quiet. Even then the students kept on poohpoohing. I said it is this intolerance of yours towards views of others which can be one of the causes why peace is not attained and I do not want to speak any further.

“Later three Muslim leaders Shri Akbar Saheb Fakhri, Shri Ridwan Haris and Shri Shaikh, the Principal of the Rais High School, spoke on the occasion. None of them touched the topic of common civil code. Not only that but the Principal of the Rais High School said he does not agree with my views.”

16.42 On reading Dr. Vyas' own version of what he spoke and what happened one can only lament his tactlessness and habit of introducing a discordant note everywhere. Dr. Vyas knew fully well as well as others did that the question of a uniform civil code (meaning thereby monogamy for the Muslims and the abolition of the right of Talaq) is a sore point with the Muslims and bound to annoy them and this was hardly an appropriate occasion to embark on this subject, particularly when, as admitted by Dr. Vyas in the witness-box, he himself has two wives. Dr. Vyas has deposed that though he keeps notes of certain incidents he has not kept notes of any of his speeches or of any Peace Committee meeting or any R.U.M. meeting (J.S.W. 1/16/2209, 36/2217). Since, however, he has kept a written record of this incident, he obviously considered it to be one of considerable importance and we must take it that he was careful to write down whatever he wanted to go on the record. Though in his affidavit he has said that the Muslim students of the College expressed their opposition to his statement that there should be a common civil code, the said note Ex. JS 1 merely states that the students “pooh-poohed” him, without mentioning that they were Muslim students. If only the Muslim students had “pooh-poohed” him, he would most certainly not have omitted to mention it in his note. It must, therefore, follow that he was booed by students of both communities and it is heartening to note that in the student world there were some who had common sense enough to realise how tactless and inappropriate for the occasion was this speech.

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CHAPTER 17
JANUARY TO APRIL 1970—THE MONTHS OF
MOUNTING TENSION

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CHAPTER 17

JANUARY TO APRIL 1970—THE MONTHS OF MOUNTING TENSION

General observations .

17.1 The first four months of 1970 were months of mounting communal tension. The extremist elements, both amongst the Hindus and the Muslims, seemed bent on bringing events to a head. The Shiv Sena-Muslim riot which took place at Kausa on the Bombay-Agra Road on February 22, 1970 caused alarm, created tension and intensified communal feelings. The Bhiwandi Branch of the Shiv Sena became more active as did the M.T.M. and the R.U.M. The elder leaders proved helpless in the face of these events and some of them themselves lost their balance. Many of these incidents pertain to the activities of the R.U.M. and the Bhiwandi Branch of the Shiv Sena and of the M.T.M. and these activities will be dealt with in the relevant chapters. A number of incidents which took place in April 1970 pertained to the forthcoming Shiv Jayanti procession on May 7, 1970 and they too require to be dealt with separately. As in the preceding chapter, here also it will be convenient to set out first a complete chronology for these four months and then to consider events other than those dealt with separately.

Chronology

17.2 The important events which took place in Bhiwandi or which made an impact upon its communal situation were :

- 11-1-1970 ... R.U.M. meeting held at Bhiwandi.
- 12-1-1970 ... Public meeting addressed by Khan Abdul Gaffar Khan at Bhiwandi.
- 23-1-1970 ... R.U.M. meeting held at Bhiwandi.
- 24-1-1970 ... Molestation of a Hindu woman by a Muslim.
- 2-2-1970 ... Agreement amongst Municipal Councillors that each Municipal President should hold office for six months only.
- 7-2-1970 ... Case under the Motor Vehicles Act registered against the driver of motor lorry No. BMT 6769 for carrying in his truck without the necessary permit in that behalf 60 Shiv Sainiks including Baliram More from Bhiwandi to Shahapur for Bal Thackeray's public meeting at Shahapur on that day.
- 12-2-1970 ... Morcha by R.U.M. to the Taluka Magistrate's

- Office and R.U.M. memorandum requesting the Taluka Magistrate that milch cattle and cattle used for agricultural purposes should not be slaughtered on Bakri-Id day.
- 17-2-1970 ... Bakri-Id.
- 21-2-1970 ... Complaint by Shashikant Alashi, the secretary of the R.U.M., and Ashok Niphadkar of being assaulted by some Muslims.
Complaint by some Muslims of being assaulted by some Hindus including Shashikant Alashi and Ashok Niphadkar.
- 22-2-1970 ... Shiv Sena-Muslim riots at Kausa.
- 23-2-1970 ... Order under section 144 Cr.P.C. banning the holding of a public meeting by R.U.M. to protest against the assault on Shashikant Alashi.
Private meeting of R.U.M. in Neelkhantheshwar Temple to protest against the assault on Shashikant Alashi.
- 2-3-1970 ... The call for 'Bhiwandi Bandh' by the Shiv Sena.
- 7-3-1970 ... Order under section 144 Cr.P.C. prohibiting the President of All India Hindu Mahasabha, Pandit Brij Narayan Brajesh, from making inflammatory communal speeches at any public place in Thana, Ulhasnagar and Bhiwandi Talukas.
Public meeting at Dombivali addressed by Pandit Brij Narayan Brajesh.
- 8-3-1970 ... Public meeting at Kalyan addressed by Pandit Brij Narayan Brajesh.
- 9-3-1970 ... Public meeting at Ulhasnagar addressed by Pandit Brij Narayan Brajesh.
Public meeting called by R.U.M. to protest against the prohibitory order against Pandit Brij Narayan Brajesh.
- 10-3-1970 ... Public meeting at Bhiwandi addressed by Pandit Brij Narayan Brajesh.
- 11-3-1970 ... Public meeting at Thana addressed by Pandit Brij Narayan Brajesh.
R.U.M. meeting to observe the death anniversary of Shivaji's son Sambhaji.
- 13-3-1970 ... Application by 45 Hindus that drums should not be allowed to be beaten during Moharram as the S.S.C. Examination was approaching.
Application by Baliram More to ban the proposed M.T.M. meeting to felicitate Mr. Krishnarao Dhulap.
Board put up by R.U.M. about atrocities committed on Hindus in Pakistan.

- Board put up by Muslims advising Muslims not to co-operate with Dr. Vyas.
- 16-3-1970 ... M.T.M. memorandum complaining about speeches by Pandit Brij Narayan Brajesh and Ramesh Sambhus and words "Islam Murdabad" written near the hall of the post office.
Application by the P.S.P. workers to the S.P. that the situation in Bhiwandi in relation to the celebration of Holi and Moharram was serious.
Sawari procession.
R.U.M. weekly prayer meeting at Martandeya Temple in Kesar Baug, Bhiwandi.
- 17-3-1970 ... Meeting of Shiv Sena Bhiwandi Branch at Bhiwandi attended by the R.U.M. leaders and workers.
- 18-3-1970 ... R.U.M. meeting to observe the death anniversary of Shahaji Raje Bhonsale, the father of Shivaji.
- 19-3-1970 ... Tazia procession.
- 20-3-1970 ... Application by Baliram More complaining that the Moharram processionists shouted the slogan "Pakistan Zindabad".
Complaint by Dr. Vyas of stones being thrown the previous night at Municipal School No. 9.
- 22-3-1970 ... Vaz meeting in New Islampura, Bhiwandi.
- 23-3-1970 ... R.U.M. prayer meeting in Hanuman Temple.
- 24-3-1970 ... Memorandum by R.U.M. complaining that Dy.S.P., Diwate and Inspector Pradhan had abused Hindus and the Hindu religion at Navi Chawl at the time of the Moharram procession.
Board put up by Muslims advising Muslims not to purchase cloth from the shop of Kundanmal Marwadi.
- 28-3-1970 ... M.T.M. meeting held at Bhiwandi.
Vaz meeting.
- 29-3-1970 ... Vaz meeting.
- 1-4-1970 ... Vaz meeting.
- 4-4-1970 ... Shiv Sena Morcha to the Bhiwandi Town Police Station and memorandum complaining that the slogan "Pakistan Zindabad" was shouted at the time of the Moharram procession and that damage was caused by the Moharram processionists to Municipal School No. 9.
- 4-4-1970 and 5-4-1970 ... Conference of Tabling Jamaat held at Bhiwandi.
- 4-4-1970 to 6-4-1970 ... Vaz meetings held by the Sunni Jamaat.
- 6-4-1970 ... Complaint of Dr. Vyas that he had received a threatening anonymous letter.
- 7-4-1970 ... R.U.M. meeting at Bhiwandi.

- 11-4-1970 ... Meeting of the Communist Parties at Teen Batti Naka, Bhiwandi.
R.U.M. meeting at Taralipada.
- 12-4-1970 ... R.U.M. meeting at Kamba village.
- 13-4-1970 ... R.U.M. meeting at Bhiwandi.
- 17-4-1970 ... R.U.M. meeting at Bhiwandi.
- 18-4-1970 ... R.U.M. meeting at Padgha.
- 19-4-1970 ... Memorandum by 37 Muslims to the President of the Peace Committee.
Peace Committee meeting.
- 20-4-1970 ... R.U.M. meeting at Bhiwandi.
Letter of Abdul Salam Abdul Razak Ansari withdrawing his signature on the memorandum.
- 21-4-1970 ... Steering Committee meeting.
- 22-4-1970 ... Meeting of the five representatives of Nizampura and five of R.U.M. at Zumberlal Kalantri's residence.
- 22-4-1970 to 29-4-1970 ... Urs of Divanshah Dargah.
- 24-4-1970 ... Peace Committee meeting and compromise about Shiv Jayanti celebrations.
Visit of M.T.M. leader Suleman Sikander to Bhiwandi.
- 25-4-1970 ... Complaint of Baliram More that he had received a threatening anonymous letter.
- 27-4-1970 ... Meeting of R.U.M. leaders with D.M.
R.U.M. prayer meeting at Satyanarayan Temple, Bhiwandi.

Visit of Khan Abdul Gaffar Khan

17.3 On January 12, 1970 Khan Abdul Gaffar Khan visited Bhiwandi and addressed a public meeting in the compound of the Rais High School at which he made an appeal for communal harmony [P.W. 4/56/306 ; P.W. 38/1(67)/867(22)]. This visit of Khan Abdul Gaffar Khan to Bhiwandi did not create any tension though a speech made by him in Jalgaon to some extent did. The Jalgaon speech will be referred to in the part of the Report dealing with the Jalgaon disturbances.

Molestation of a Hindu woman

17.4 On January 14, 1970 a Muslim entered the hut of a Hindu woman and attempted to molest her. He was prosecuted and convicted [P.W. 38/1(69)/867(22) ; Ex. G 310]. This incident did not have any repercussions.

Bakri-Id

17.5 Bakri-Id fell on February 17, 1970. Prior to it the R.U.M. took out a morcha on February 12, 1970 to the Tahsildar's office and

submitted a memorandum demanding that milch animals and animals useful for agricultural purposes should not be slaughtered on Bakri-Id. [P.W. 4/1(45)/236(26) ; P.W. 38/1(17)/867(22)].

17.6 In view of the approaching Bakri-Id the S.P. made a request in writing that a meeting of the Peace Committee should be held prior to this festival. Thereupon a meeting of the Steering Committee of the Peace Committee was held on February 13, 1970 under the chairmanship of Zuber Patel, the then Municipal President. At this meeting the following resolutions were passed (Ex. P 115) :—

- (1) Both the slaughter-houses in the Town should function on Bakri-Id.
- (2) Flesh should be carried in closed vans by certain specified routes and care should be taken that flesh and blood did not spill on the ground.
- (3) The animals to be slaughtered should not be taken to the slaughter-house by the main streets but by other routes and care should be taken to ensure that the feelings of members of the other community were not hurt.
- (4) Care should be taken to ensure that no animals were slaughtered outside the slaughter-houses.
- (5) The rules framed by the Government banning the slaughter of milch animals, young ones of animals and animals useful for agricultural purposes and pregnant animals should be observed.
- (6) Members of the Peace Committee should move about in different Mohallas, meet respectable leading personalities and make them aware of the resolutions passed by the Peace Committee and request them to observe the same.
- (7) All should co-operate to ensure that Bakri-Id passed off peacefully.
- (8) The President and the Vice-President, Murtaza Fakhri, should call a meeting of leading Muslim citizens and explain to them the resolutions of the Steering Committee.

17.7 For this Bakri-Id, prohibitory orders as usual were promulgated and veterinary officers were posted at the slaughter-houses to examine the animals to be slaughtered and to ensure that the rules and regulations with respect to slaughter of animals were observed. Bakri-Id passed off peacefully without any incident [P.W. 4/1(45)/236(26) ; P.W. 38/1(71)/867 (23)].

17.8 This Bakri-Id and the aforesaid resolutions of the Steering Committee illustrate how with a little goodwill and give and take the religious festival of one community can pass off peacefully without hurting the religious sensibilities of the other community.

Brawl between the Secretary of the R.U.M. and the Muslims

17.9 On February 21, 1970 a brawl took place between Shashikant Alashi, the pro-Shiv Sena Secretary of the R.U.M., and one Talib Mohammed Issa. Some Hindus and Muslims joined in the fight and complaints were lodged by Shashikant Alashi and Ashok

Niphadkar against seven to eight Muslims. One of the Muslim accused, Mujahid Khatib, also lodged a complaint against eight Hindus. He, however, did not give the names of any of them. The police investigated both the complaints and classified Mujahid's complaints as " ' B ' Summary ", that is, as being false. The accused in the complaint filed by Ashok Niphadkar were, however, prosecuted but all of them were acquitted of assaulting or causing hurt to either Shishikant Alashi or Ashok Niphadkar. Mujahid was, however, convicted for carrying a knife in breach of the order under section 37 of the Bombay Police Act. The very first complaint, however, in point of time was an N.C. Complaint filed by one of these accused, Talib Ibrahim Arab [P.W. 4/1(47)/236(23), 220/726 ; P.W. 38/1(72)/867(23), 105/3895]. Another accused in the complaint filed by Ashok Niphadkar was Faruq Patel (B.R.W. 66). Faruq has set out his own version of what had happened in this affidavit and he has been cross-examined on it. He has produced the medical certificates issued to him and Talib Arab. From these certificates it appears that Talib had a skin-deep contused lacerated wound on top of the scalp, two minor abrasions on his left wrist and a small abraded area on his right wrist, while Faruq had a small abrasion on his left forearm (B.R.W. 66/1-3/1627-29).

17.10 It is not necessary to investigate further into this brawl and to ascertain what had actually taken place. What is material is the attempt made by the R.U.M. to give unnecessary importance to this incident and to fan communal passions. As can be expected in the psychological atmosphere prevailing in Bhiwandi, this incident in which the Secretary of the R.U.M. alleged that he had been assaulted by Muslims caused tension in the town and the R.U.M. called a public meeting to protest against it. The meeting was, however, banned by a prohibitory order issued by the Taluka Magistrate, Bhiwandi. Thereupon the R.U.M. held a private meeting on February 23, 1970 at Neelkhantheshwar Temple at which 200 persons were present. At this meeting Shashikant Alashi was called upon to give his version of what had taken place. While in his complaint he had mentioned that he and Ashok Niphadkar were assaulted by seven or eight Muslims, in his version to the meeting their number swelled to 40 to 50 Muslims. He further said that these Muslims had abused Dr. Vyas and the R.U.M. and had announced that it was the beginning of the revenge for Ahmedabad. Udhav Teje who claimed to be a witness to this incident eulogized Shashikant Alashi's courage in facing 40 to 50 Muslims and declared, " We want people like him in the Rashtriya Utsav Mandal. We must congratulate him. This incident would show how alert we must be. Remember this ... we must protect ourselves. If the Government wants to protect minorities, I plead that the Government should protect us as we are in minority in Bhiwandi." Pandurang Patil *alias* Pandurang Vastad also said that they should all unite and raise the slogan of " Har Har Mahadeo " (Ex. P 71).

17.11 The attitude adopted by the leaders of the R.U.M. in connection with this incident shows that they were anxious to seize upon

any occasion to fan communal passions and the holding of this meeting by them was in keeping with their organizing the hartal in July 1969 in connection with the incident in which Bhaskar Mali was involved.

The P.S.P. memorandum

17.12 On March 16, 1970 when S.P., Bhave was camping at Padgha, some P.S.P. workers, including Chandrakant Bhise (N.H.W. 43), Savlaram Kale (N.H.W. 44), Parashram Tavre (N.H.W. 45) and Abbas Mahomed called on him and handed over to him a memorandum dated March 16, 1970 (Ex. P 492). This memorandum complained about the spread of the communal virus in Bhiwandi and against the communal speeches and the instigation by communal leaders and requested the Police to adopt stern measures against them and warned that unless this was done, Bhiwandi was "bound to be caught in the flames of communal disturbances in the immediate future". According to Chandrakant Bhise, at that time he had also drawn the attention of S.P., Bhave to the activities of the R.U.M. such as the holding of meetings in villages and pointed out that this might create tension (N.H.W. 43/7/2045). According to Bhave, they did not tell him about any propaganda carried on by the R.U.M. in villages but had told him that the situation in Bhiwandi with respect to the Holi and Moharram celebrations was serious (P.W. 4/137/654). It is true that the memorandum Ex. P 492 does not make any mention of the R.U.M. by name, but since a number of communal speeches in Bhiwandi and in places near it were being made by the R.U.M. leaders and at meetings sponsored or organized by them, the activities of the R.U.M. must have come up for mention in the course of the discussions which these P.S.P. workers had with Bhave.

17.13 S.P., Bhave endorsed this memorandum to the S.D.P.O., Bhiwandi for detailed inquiry (P.W. 4/137/654). In his report dated March 26, 1970 to the S.P. (Ex. P 661) Dy.S.P., Diwate found no difficulty in understanding that this memorandum dealt principally with the communal activities of the R.U.M. His report correctly and succinctly summarizes the communal situation in Bhiwandi and requires to be reproduced in full. The said report was as follows :

"The letter presented by the members of the P.S.P. Bhiwandi apparently refers to the Rashtriya Utsav Mandal formed at Bhiwandi at the time of the last Shiv Jayanti. This Mandal is dominated by Jan Sangh members consisting of Dr. Vyas, Udhav Teje, Shantaram Tavre, Bhaskar Mali, Sharad Patwardhan and others. This Mandal came into existence because of difference of opinion regarding the Shiv Jayanti route last year. The members boycotted the Peace Committee meeting and celebrated Shiv Rajyabhishek separately. Since then weekly meetings are held in private temples and communal propaganda is made. The youngsters are especially attracted towards it. Public meetings are also organized and persons known for their communal activities are invited to address them. Recently

Sarvashri Puntambekar, V. R. Patil, Brijnarayan Brajesh and Ramesh Sambhus were called and they propagated their viruluous views against the Muslim community. *The Muslim youngsters have reacted very sharply to the activities of this Mandal and are driven towards Tamir-E-Millat which is known for its anti-Hindu tirades. Occasional meetings are organized by this organization as well.* The result is that the gulf between the Hindus and the Muslims has been widening day by day. The Rashtriya Utsav Mandal created lot of mischief during the Moharram procession by lighting Holis along the Moharram route and enlarging the areas of the Holi so as to cause obstruction to the procession. What a strain it was to see the festival pass off without any incident is known to everybody. *The Mandal has now focussed its attention on the Shiv Jayanti falling on 7th May 1970. They are bent upon taking the procession via Nizampura Jumma Mosque. As a result of the viruluous poison having been constantly hammered on their minds, the irresponsible youngsters are bent upon playing mischief.* News items inciting communal hatred are being written on wall boards by Hindus as well as Muslims. *The atmosphere of the town is thus getting tense day by day and unless strong preventive action is taken against the leaders of the Rashtriya Utsav Mandal, I am afraid the Shiv Jayanti procession would not pass peacefully.* It is therefore requested that action under the preventive Detention Act may be considered against the following persons :—

1. Dr. B. P. Vyas, Prabhu Ali, Bhiwandi.
2. Shri Bhaskar Ganpat Mali, Gauripada, Bhiwandi.
3. Shri Uddhav Rajaram Teje, Navi Chawl, Bhiwandi.
4. Shri Shantaram Maruti Tavare, Bhoiwada, Bhiwandi.
5. Shri Sharad Shankar Patwardhan, Brahman Alli, Bhiwandi.
6. Shri Bhai Trimbak Nagle, Prabhu Ali, Bhiwandi.

The activities of Shri Abdul Khaliq Mohamed Ibrahim Momin, President, Tameer-E-Millat, Bhiwandi, are also not above-board. He has been spreading the communal poison among the Muslim youngsters and their defiant attitude was very much noticeable during the Moharram processions. His case may therefore be considered for Preventive Detention."

17.14 After Diwate made this report, the matter was discussed by him with the D.M. and the S.P. By that time there was feverish excitement prevailing in Bhiwandi about the forthcoming Shiv Jayanti celebrations and it was decided to await the outcome of the Peace Committee meetings and then consider what further action should be taken. According to Diwate (P.W. 66/84/1148), "In view of the unanimous agreement arrived at at the Peace Committee meeting on April 24, 1970 and the changed attitude of Dr. Vyas and other R.U.M. leaders it was decided that no action was called for" (P.W. 66/84/1148).

17.15 It was unfortunate that the suggestion made by the Dy.S.P., Diwate to detain the leaders of the R.U.M. and of the Bhiwandi Branch of the M.T.M. under the Preventive Detention Act was not followed.

From the evidence it is clear that in doing so the police officers took a chance and gambled on the Shiv Jayanti procession passing off peacefully. Unfortunately the stakes they played with were the lives and property of innocent people.

Moharram and Holi festivals

17.16 The Moharram, Holi and Dhulwad festivals fell on the 19th, 22nd and 23rd March 1970 respectively in close proximity. According to S.P., Bhawe, the tradition in Bhiwandi was for the Holi fire to be lit fifteen days before the Holi Poornima. The fire, however, was not kept burning day after day for all the twenty-four hours, but very small fires were lit in the evening which got extinguished by night-fall and were not constantly fed to keep them burning. He has further deposed that he had himself seen Holi fires in Bhiwandi which had got extinguished and had not been relit for a period of twenty-four hours (P.W. 4/94/616). As will be seen presently this tradition furnished a means for those bent on creating communal trouble to attempt to cause a communal riot; and by reason of this though these festivals passed off without a clash, they proved to be a period of great tension and communal unrest and could have at any moment led to a serious communal riot. One wonders why these occasions continued to be called "festivals", since the behaviour and attitude of the communalists have robbed them of all air of festivity and they have become a law and order problem.

The representation against the beating of drums

17.17 The opening tempo of these festivals was set by the R.U.M. On March 11, 1970 the R.U.M. called a public meeting to celebrate for the first time at Bhiwandi the death anniversary of Shivaji's son Sambhaji. The principal speaker at this meeting was Ramesh Sambhus. The shorthand report of this meeting by the P.S.I., D.S.B., Thana, is Ex. P 73. Inflammatory communal speeches were made at this meeting, but what is relevant to the present context is the concluding presidential address of Bhaskar Mali. He said :

"Whenever we take out any procession, the administration imposes various restrictions on us. Moharram is being observed now. No restriction is being imposed on them. Drums are beaten for the whole night. Administration should restrict this. If drums are beaten like this in our area, and if any untoward incident takes place, the administration would be responsible for this."

17.18 On March 13, 1970 a representation signed by 45 persons that beating of drums should not be allowed during the Moharram as the S.S.C. examination were approaching was handed over to the Additional D.M., D. V. Mehta, as he was going to attend the Peace Committee meeting in the absence of D.M., Capoor who was on leave. The Additional D.M. called for a report from P.I., Bhiwandi. The P.I., Bhiwandi, informed him that the taziawalas and tabutwalas had been called and asked not to beat the drums too loudly and to be

considerate to the students (P.W. 59/15/1008). The close proximity of time of the threat held out by Bhaskar Mali against the beating of drums at the said R.U.M meeting held on March 11, 1970 to this representation submitted on March 13, 1970 raises a strong suspicion that the said representation was instigated by some of the leaders of the R.U.M.

The Peace Committee meeting of March 13, 1970

17.19 A meeting of the Peace Committee was held at the Municipal Hall on March 13, 1970 in connection with the forthcoming Moharram and Holi festivals. The Additional D.M. Thana, and S.P., Bhave were present and the Municipal President Zuber Patel was in the chair. At this meeting Bhaskar Mali, Uddhav Teje and others said that they had no objection if Moharram processions passed by the Holi fires, but if anybody passed over the Holi pits the sentiments of the Hindus would be offended. Both Murtaza Fakhri and Ibrahim Maddu thereupon informed the meeting that they had called a meeting of the Tabut Committee on the next day and would give proper instructions to it. On the question of precautions to be taken S.P., Bhave pointed out that some Holi pits were dug on the road and people walked over these pits and vehicles passed over them. He further pointed out that Holi pits attained sanctity only when the Holi was lit and wanted it to be made clear what was meant by saying that the Police and people should take care even when the Holi was not burning. Baliram More explained that people should neither go over Holi pits nor should they spit near such place in order to respect the religious sentiments of the Hindus. An acrimonious note was introduced by Dr. Vyas who said that if dust from the road fell on a mosque the Muslim sentiments were not offended, but if 'gula' fell on it, they were and that similarly if motor vehicles or people passed over Holi pits, Hindu sentiments would not be offended, but if a 'tabut' passed over it, they would definitely be offended. Jasim Sardar made the discussion even more acrimonious by saying that he had seen vehicles and people pass over Holi pits and had also seen dogs sit in them. Uddhav Teje asked Jasim Sardar to withdraw his words. Jasim Sardar said that he was in the habit of getting up very early and had seen sheep and goats sitting in Holi pits. Uddhav Teje conceded that sheep used to sit in Holi pits but inquired why, if sheep sat there, Jasim Sardar should have changed sheep into dogs. There were also complaints about the continuous beating of drums and once again Ibrahim Maddu said that he would make this point clear at the meeting of the Tabut Committee. During the course of the discussion Baliram More said that P.S.I., Hirve should only be given duty at the police station during the Holi festival (Ex. P 116). This request shows that P.S.I., Hirve (P.W. 30) used to take stern action against mischief-mongers and, therefore, he was unpopular with them.

17.20 In the light of what happened subsequently when the Holi pits were enlarged and the Holi fires lighted to such height as to make

the road almost impassable, one is led to doubt the *bona fides* of those R.U.M. leaders and of the Shiv Sena Shakhapramukh who declared at this meeting that they had no objection to the procession going past the Holi pits provided it did not pass over them. Their earlier assurance that there would be no objection to the procession passing by the Holi pits and their subsequent action in making it so difficult for the procession to pass by as to make the occurrence of an incident almost certain would show that their real intentions were to bring about a communal situation.

The R.U.M. board on the atrocities against Hindus

17.22 Zumberlal Kalantri (N.H.W. 42) was the owner of a building situate at the corner of a lane leading to the Vegetable Market (Mandai) and Bazar Peth. Kalantri, however, did not reside in this building. Portions of the corner-walls of this building facing the lane were painted black by the R.U.M. and used as a black-board. On it various items used to be written by the R.U.M. and all the boards exhibited by the R.U.M. were only at this place. This was a prominent place and villagers coming to Bhiwandi for shopping would pass by this board and thus read the writings on it (P.W. 4/153/672). On March 13, 1970, the very day on which the Peace Committee meeting was to be held for considering the arrangements to be made for the Moharram and Holi festivals, the R.U.M. exhibited the following extract from the editorial published in the 13th March 1970 issue of the *Navbharat Times* (Ex. P 74) :

“Not only are the Hindus from Pakistan being driven out in lakhs ; but even Muslims are infiltrating into India. Our Government is just watching this. Hundreds of Hindus who are helpless are being compelled to convert to Islam by force. Whenever there are riots in Pakistan Hindu ladies become the first target of assault.”

This writing became the subject of discussion amongst people of both communities. The Police requested the Taluka Magistrate to issue an order under section 144 Cr.P.C. banning the display of boards bearing writings of a communal nature. The Taluka Magistrate, however, did not issue any such order and the only explanation he could offer when inquiries were made from him by D.M., Capoor was that as orders under section 37 of the Bombay Police Act were in force, he thought that they were sufficient [P.W. 59/1(77)/1000(45), 14/1008]. The Police also did not get this writing erased but allowed it to remain. That the writing on this board satisfied the test of a communal writing defined in paragraph 6.7 cannot be disputed. In his affidavit S.P., Bhave has stated that this board created discontent amongst the Muslims and in cross-examination he admitted that this writing would to a certain extent inflame the Hindus against the Muslims even though it was directed mainly against Pakistan [P.W. 4/1(49)/233(28), 153/672].

17.23 Boards containing communal writings do incalculable harm and not only should the putting up of such boards have been banned

in Bhiwandi (whether such boards were exhibited by the Hindus or the Muslims), but the persons responsible for exhibiting them ought to have been prosecuted under sections 153A and 505(2) I.P.C. No action, however, was taken against any of the leaders of the R.U.M. for exhibiting this board.

The board against Dr. Vyas

17.24 On the same day, that is, March 13, 1970, a board was exhibited near the Hindustan Mosque with a writing on it in Urdu to the effect that no one should co-operate with Dr. Vyas as he was responsible for vitiating the atmosphere [P.W. 4/1(49)/236(28); P.W. 38/1(79)/867(26)]. This board was obviously put up by the Muslims.

The Sawari procession

17.25 There were four holy places on the traditional route of the Moharram procession. On March 16, 1970 the Sawari procession was taken out. Though it was agreed in the Peace Committee meeting that the Hindu leaders would see that the Holi pits were not widened, it appears that attempts were made to see that this agreement was not implemented. At 4 p.m. when the Sawari procession of Imam Kasam passed by Navi Chawl in Bazar Peth for the first time, the Holi pit was small in size but after about two hours when the procession returned to the spot, it was found that the pit had been widened four-fold. Dy.S.P., Diwate and Inspector Pradhan were with the procession. They made inquiries from the shopkeepers and bystanders as to who had widened the pit but nobody gave them any information. Seeing that no one was coming forward to give the names, Diwate and Pradhan posted a section of the S.R.P. and a head constable near the pit with instructions to him that if anyone came to light the Holi, he should be brought to the police station so that the Police could ascertain from him the identity of these persons. Accordingly the head constable brought to the police station two young men who had come to light the Holi but they did not disclose the names of those who had widened the pit. This action of Dy.S.P., Diwate and Inspector Pradhan was deliberately misconstrued by Baliram More, the Shakha-pramukh of the Bhiwandi Branch of the Shiv Sena, and the R.U.M. leaders as preventing the Holi from being lit and they alleged that Diwate and Pradhan had abused the shopkeepers in Bazar Peth. The officers have denied that either of them abused anyone and having carefully considered the evidence on this point I accept their denial [P.W. 38/1(76)/867(24), 45/883].

17.26 Two Hindu witnesses gave evidence about this incident. They were Baliram More and Kundanmal Ganeshmal Jain (N.H.W. 49). In his affidavit Baliram More had averred that Diwate and Pradhan refused without any cause to allow the customary Holi to be lighted in Navi Chawl as a result of which tension prevailed in Bhiwandi. Apart from the fact that Baliram More has not made a truthful witness, what he states is of no value because in cross-examination he has

admitted that he was not even present at this time nor was he present at the time when Diwate and Pradhan are alleged to have abused the shopkeepers [S.S.W. 1/1(18)/2154(11), 44/2171]. Kundanmal Ganeshmal Jain averred in the affidavit that the Police were prohibiting the people from lighting the Holi fire and the persons who had collected for lighting the Holi fire were insisting on doing so. In his evidence he further stated that when some young boys came for digging Holi pits, there was an exchange of words between them and the Police [N.H.W. 49/1(2)/2085(1), 2/2086]. What is, however, significant in Kundanmal Jain's evidence is that he has nowhere stated that either Diwate or Pradhan at any time abused any shopkeeper or any other person.

17.27 What followed thereafter may best be reproduced from entry No. 71 of the Station Diary of the Bhiwandi Town Police Station for March 16, 1970 made by Inspector Pradhan at 9-15 p.m. that very night (Ex. P 1488). After stating that from Navi Chawl Diwate and Pradhan went to the Inspection Bungalow, the entry proceeds as follows :

“.....Thereafter a telephone call was received from Shri Joglekar Municipal Councillor who said, “you have prohibited lighting of Holi and leaders from Navi Chawl have come to me.” I called him to the Dak Bungalow. Accordingly he came and set the S.P., and D.M. and other officers. He was accompanied by Dr. Vyas, Sharad Patwardhan, Baliram More, Sumer Bhandari, Kundanmal and others. They discussed and while they were saying that they would do the needful, H. C. Yadav came to the Dak Bungalow and informed that the boys forcibly lit the Holi there. This was conveyed to the leaders who had come there. Therefore, when I myself and S.D.P.O. went to Nhavi Chawl about 150/200 persons had gathered there and were giving various slogans like “Hindu Dharmacha Vijay Aso” etc. Thereafter Uddhav Teje spoke “We have established our right by lighting Holi by defying the orders. The Government had no power to prohibit us. We will see to the officers who have threatened us today, etc.” Thus he made such a speech provoking the boys. Thereafter Baliram More and Dr. Vyas came to the Police Station and requested for the release of the two boys who had been caught by the Police while lighting the Holi. Those boys were released on their request. The leaders have undertaken the responsibility of reducing the size of the Holi pit. *If a similar Holi is lit on 18/19th, then the Muharram Procession will not be able to pass. Especially daring to do such an act in a locality of the Marwari and Gujarathi communities is done by them at the instigation of Uddhav Teje and Dr. Vyas. The experience is that Dr. Vyas speaks one thing in the Peace Committee and instigates the boys on the other hand.*”

The R.U.M. meeting of March 16, 1970

17.28 On the night of March 16, 1970 the R.U.M. held its weekly prayer meeting in Markandeya Temple in Kasar Lane. This meeting

has formed the subject-matter of three reports, namely, the report dated March 17, 1970 of Inspector Pradhan to the S.P. (Ex. P 75), the report dated March 17, 1970 from P.S.I., V. M. Dalbhide of D.S.B., Thana, to D.I.G. (Int.) (Ex. G 272) and the report dated March 30, 1970 from D.I.G. (Int.) to the Home Secretary (Ex. G 314). P.S.I., Dalbhide's report is the most detailed. About 200 persons had attended this meeting and Bhaskar Mali as the President of the R.U.M. was in the chair. He said that though they had assembled for their weekly prayer meeting, it was necessary to discuss the incident in which the local police officers had abused the Hindus for digging a "big Holi pit" in Navi Chawl Lane. He thus admitted that the Holi pit dug in Navi Chawl was a large one, Pandu Barku Mistri *alias* Pandu Vastad, the Vice-President of the R.U.M., then addressed the meeting. After referring to this alleged incident he said, "Uptil now we have given co-operation to these police officers. We do not do our work with fear. Hereafter we will do the work of creating consciousness amongst the Hindus openly and will not mind even if we are arrested. We will not lag behind in protecting the Hindu religion and will carry on our work with the memory of Shri Shiv-Chhatrapati." One Lohagaonkar spoke next. He said that he had made preparations for the Holi and had ignited it, when the Police came and abused the Hindus. He rhetorically inquired how long such insults were to be tolerated and said "Hereafter we should build our organization and resist the injustice that may be done to us." In the course of his speech Uddhav Teje said that it was talked of in Bhiwandi that the R.U.M. was under the control of the Jan Sangh. He said that though there was staunch Hinduites and national-minded Hindus in the R.U.M., it had no connection with the Jan Sangh. After making fun of Dy.S.P., Diwate and Inspector Pradhan, he said that the R.U.M. would decide what course of action to take after the Holi festival was over. Concluding he said that the R.U.M. had the support of the Shiv Sena. Dr. Vyas then addressed the meeting. He spoke on his pet subject of Hindu-Muslim riots having taken place even prior to the British regime. He said, "Non-Hindus commit aggression against Hindus. In 1713 there was a riot at Ahmedabad after the 'Holi' festival. Somnath temple was destroyed and Kashi Vishwanath temple was converted into a mosque by Aurangzeb. In 1969 Jagannath temple at Ahmedabad was destroyed. Government did not pay any attention to this. Shri Shivaji Maharaj had written a letter to Aurangzeb about the demolition of temples and had inquired from him what he would feel if mosques in Shivaji's kingdom were destroyed and asked him not to harm religious feelings. Our Shiv-Kasi temple should be rebuilt and it will be possible only if the Hindu get organized. Shiv Jayanti is coming nearer. We can take the procession along any route and Muslims have no right to say that it should not pass along a particular road." In his concluding speech Bhaskar Mali said that there was no need to be afraid since branches of the R.U.M. were being established in villages and its strength was increasing. Dr. Vyas

thereupon exhorted the audience to increase the membership of the R.U.M. and said that meetings and other programmes were arranged by the R.U.M. to create a national consciousness and therefore all Hindus should become members of the R.U.M. and strengthen that organization.

17.29 During the meeting about 2 or 3 Hindu boys came and informed Bhaskar Mali that while they were coming to the meeting about 100 to 150 Muslims had accosted them in Bangad Galli and threateningly asked them not to attend it. Thereupon the police officers who were present immediately made inquiries into the alleged incident but found that the said allegations were not true.

17.30 The speeches made at this meeting were ominous and did not bode any good for the Moharram festival passing off peacefully. Realizing this P.S.I., Dalbhide stated in his report (Ex. G 272), "Taking into consideration the above situation, there appears to be a possibility that 'Holi' will be ignited in areas of Hindu population and there will be obstruction to Moharram procession even though it has been declared that Moharram procession will pass off peacefully and since there is therefore possibility of untoward incident taking place, it is necessary to take precautionary measures at the time of 'Holi' and Moharram processions".

17.31 Later in the evening of March 16, 1970 Baliram More, Kundanmal Jain (N.H.W. 49), Vasudeo Pandit, a municipal councillor, Subermal Jain, a grocer and some R.U.M. leaders went to the Inspection Bungalow and saw D.M., Capoor who was camping there and complained to him that Dy.S.P., Diwate and Inspector Pradhan had abused the Hindus. Capoor personally inquired into the matter and found that these allegations were not true. He thereupon asked the leaders of the R.U.M. to behave themselves at the time of the Holi festival (P.W. 59/5/1001-2).

17.32 At 10 p.m. on March 17, 1970 a meeting was held by the Bhiwandi Branch of the Shiv Sena which the R.U.M. leader Uddhav Teje was invited to attend. At this meeting Baliram More condemned the alleged behaviour of Dy.S.P., Diwate and Inspector Pradhan and both Baliram More and Uddhav Teje declared their unequivocal intention to take the Shiv Jayanti procession that year past the Nizampura Jumma Mosque and to resist any obstruction or resistance or obstacle offered thereto (Ex. P 77).

The intervention of senior officials

17.33 In view of the tense situation prevailing in Bhiwandi and the likelihood of communal trouble breaking out at any time D.M., Capoor and S.P., Bhavne camped at Bhiwandi from March 16, 1970 to March 19, 1970 and the D.I.G. (B.R.), Gokhale (G.W. 4) from March 17, 1970 to March 19, 1970. These senior officers regularly met the organizers of the various Moharram processions and remained present when the processions were taken out. In view of the widening of the pits at the time of the Sawari procession on March 16, 1970

the D.M. and the police officers requested the Hindu leaders to limit the size of the Holi pits and Holi fires and not to obstruct the Moharram procession. They also requested the Muslim leaders to establish a liaison with Hindu leaders at all the points at which the Moharram procession was to go past the Holi pits [P.W. 59/1(23-24)/1000(12-13); P.W. 38/1(76)/867(24)]. At one of these meetings the leaders of Navi Chawl and the R.U.M. agreed to reduce the width to the minimum so as to enable the 'tazias' to pass by without obstruction.

17.33A The requests made, by the D.M. and the senior police officers and the undertaking given by the leaders of the R.U.M. had, however, no effect for, as we will presently see, both at the time of the Kattal-ki-Raat procession and the Moharram procession, Holi pits were widened and Holi fires blazed most intensely.

The Kattal-ki-Raat procession

17.34 The Kattal-ki-Raat procession took place on the night of the 18th/19th March 1970. Though the procession passed off peacefully, while the 'tazias' were passing through Bazar Peth one Narayan Rajaram Teje sat down in front of the Holi pit outside Navi Chawl on the pretext that he was doing penance. The Police quietly removed him. He was found smelling of alcohol. He was prosecuted under section 510 I.P.C. While the procession was returning through Sutar Alli at about 4 a.m. the Holi pit was found to be made exceptionally wide and the fire blazing away intensively contrary to the undertaking given by the leaders of the R.U.M. earlier [P.W. 4/1/(50)/236 (29); P.W. 38/1(76)/867(25); P.W. 59/1(25)/1000/(13)].

The Tazia Immersion procession

17.35 The Tazia Immersion procession was taken out the next day, that is, on March 19, 1970. When the procession reached Baliram More's house near the Old Wada Stand in Thange Alli, a locality of which he was the Municipal Councillor, the intensity of the Holi fire was greatly increased just as the procession was about to pass by it. This Holi was lit by the residents of Thange Alli (S.S.W. 1/89/2194). The D.M. and the S.P., when informed, immediately rushed to the spot and had the Holi fire cordoned off by S.R.P. men. There was considerable booing and shouting of slogans including "Har, Har, Mahadeo", by some young Hindus who stopped doing so only when the Police intervened. The Muslim leaders, however, co-operated with the Police in pushing ahead the procession when some of the processionists tried to linger in Hindu Mohallas. A young Hindu was arrested and taken to the police station for shouting abusive slogans but was let off with a warning.

17.36 On his own showing at the time of these Moharram processions Baliram More was present near the Wada Stand. In his affidavit he has alleged that several processionists were carrying lathis in violation of the order under section 37 of the Bombay Police

Act which was in force, and that when the procession came to the Old Wada Stand near the Holi pit there were drum beaters at the head of the procession and several Muslim youths were dancing near the spot shouting "Pakistan Zindabad" and "Islam Zindabad", and that he pointed this out to S.P., Bhave and Inspector Pradhan, and that after these slogans were raised, people who had collected to watch the Moharram procession raised counter-slogans of "Pakistan Murdabad" [S.S.W. 1/1(19)/2154(11)]. We will deal with Baliram More's complaint about the shouting of the slogan "Pakistan Zindabad" later; but so far as the other allegations are concerned, in none of the Police affidavits or reports is it mentioned that any Muslim was found carrying a lathi. The said reports and witnesses are unanimous on the point of what happened when the procession came near the Wada Stand. As against their evidence, it is not possible to accept the evidence of Baliram More who has neither proved to be a truthful nor a candid witness.

17.37 The following news item on this Moharram procession appeared in the 30th March 1970 issue of the Shiv Sena Marathi weekly *Shiv Garjana* (Ex. P 690) :—

"Garba by the S.R.P. at Bhiwandi.

Bhiwandi:—On the occasion of Moharram, there was S.R.P. and Police bandobast at the Holi fires in Thange Alli, Sutar Alli, Navi Chawl and Zenda Naka. Whenever the Moharram processions arrived in these localities, the S.R.P. men used to surround the Holi fires. But because of the fires in the Holi pits, they were unable to stand at one place. They, therefore, used to keep on moving by forming a ring around the Holi pits. The Garba (performance) by the S.R.P. at the Holi pits was a sight of great amusement to the residents of Bhiwandi."

It is obvious that this news item was either inspired by or was from a report submitted by Baliram More and it corroborates the Police case that the Holi fire was made so intense at the time of the procession that the S.R.P. men had to cordon it off and that on account of the intense heat they were even unable to stand near it. There is yet another piece of evidence which corroborates the Police version. The memorandum Ex. P 15, submitted by the Muslims in connection with the 1970 Shiv Jayanti procession, while referring to the Moharram and Holi festivals of 1970 stated that at the time of Moharram processions the Holi pits were widened and the fires were lit so intensively and the flames rose so high that it was almost impossible for the procession to pass. It also referred to the cordoning off of the Holi pit at Wada Stand by the S.R.P. men and the shouting of provocative slogans by Hindu boys. This memorandum was put to Baliram More in cross-examination and he was asked which statements in it, according to him, were false. He deposed that the only false statement made in this memorandum with respect to this incident was that he had made a false complaint about the shouting of the slogan "Pakistan Zindabad", thus admitting that the other statements made

therein about the shouting of provocative slogans and the widening of Holi pits and the lighting of intensive fires to make the passage of the procession difficult were true (S.S.W. 1/22/163).

The complaint by Baliram More

17.38 Immediately after the Moharram procession was over at about 12-45 a.m. on the night of March. 20, 1970, Baliram More went to the police station and lodged a complaint (Ex. P 693) alleging that when the Moharram procession came to Thange Alli corner at about 12-15 a.m. a group of 5 or 10 boys who were accompanying each of the three drummers shouted the slogan "Pakistan Zindabad" while dancing and jumping. He stated that he was lodging his complaint in his capacity as the Municipal Councillor from the Thange Alli locality. As was to be expected, another news item (Ex. P 691) appeared in the 30th March 1970 issue of the Shiv Sena weekly *Shiv Garjana* about the Moharram procession, either written or inspired by Baliram More. It alleged that Police prohibited the lighting of Holi at Navi Chawl on March 17, 1970. It further alleged that Dy.S.P., Diwate and Inspector Pradhan had abused the handcart men and lorry drivers who were standing near that Holi pit. This part of the news item was headed, "High-handedness of Bhiwandi Police: Merchants abused". This news item did not make any mention of any merchants being abused, unless handcart men and lorry drivers are to be considered as merchants. The second part of the news item was headed, "Slogans of Pakistan Zindabad" and it reproduced Baliram More's version and the fact that he had lodged a complaint with the Police. It concluded as follows:

"This is a very serious matter and an inquiry should be made by the Government in that behalf. It is learnt that if such an inquiry is made several citizens and nationalist Muslims are ready to give information about it. We give a public warning to the Police Department that if the said matter is suppressed and those who shouted the slogans 'Pakistan Zindabad' are not punished, then, of course, the people will lose their faith in the Government administration."

17.39 Bhave has deposed that the complaint was false. He had denied that he heard any Muslim shout this slogan or that Baliram More pointed out to him any person who shouted any such slogan or that anyone in retaliation shouted the slogan "Pakistan Murdabad". On the contrary, he has stated that when Baliram More met him at the Wada Stand and told him that two or three persons in the procession had shouted "Pakistan Zindabad" he had asked More to point out these persons, but More was unable to do so. He has further stated that there were some Hindu boys present at the spot who were booing the procession [P.W. 4/1(53)/236(31), 93/614]. Inspector Pradhan has deposed that he had personally investigated into Baliram More's complaint. He has also denied that at any time during the Moharram procession Baliram More had drawn his attention to

the fact that any processionist had shouted "Pakistan Zindabad" (P.W. 38/45/884). Inspector Pradhan endorsed the result of his investigation below Baliram More's complaint as follows:—

"As regards the contents of the application, I have myself made inquiries and have recorded the statements of the officers and the policemen in uniform and in plain clothes who were on duty at that place. The slogans mentioned by the applicant were not shouted. The contents of the application are not true. As regards the above, I have myself made an entry in the station diary at A No. 22 under the date 20/3 at 19-20 hours."

The said Entry No. 22 (Ex. P 1487) referred to in the said endorsement stated that Pradhan was personally present along with Police Officers and policemen at the spot and had personally made inquiries in the matter and that the slogans alleged by Baliram More were not shouted and his complaint was not true.

17.40 In respect of the false complaint lodged by Baliram More and its publication in the *Shiv Garjana*, Baliram More and the editor of the *Shiv Garjana*; V. N. Marathe, were prosecuted under sections 153A and 505(2) I.P.C. and were both discharged on the ground that the sanction to prosecute was invalid. Thereupon after obtaining proper sanction the case was reinvestigated and fresh prosecutions launched in which they were both acquitted (P.W. 38/5/868).

The complaint by Dr. Vyas

17.41 On the morning of March 20, 1970 Dr. Vyas called at the Town Police Station and gave information that he was told that at the time of the Moharram procession stones were thrown on Marathi School No. 9 situate at the S.T. Stand, as a result of which some tiles had been broken and a chair and a bench damaged. He further stated that he had not gone there to see the damage. An entry (Ex. P 1484) was made in the Station Diary recording the information given by Dr. Vyas.

17.42 From the facts recorded in a subsequent entry in the Station Diary (Ex. P 1485) it appears that the Chairman of the said school, the head master and some others saw the D.M., the D.I.G. (B.R.), the S.P. and the Dy.S.P. and informed them that some boys had climbed on the roof of the school building in the night in order to watch the Moharram procession and as a result thereof some tiles broke and that in the preceding years similarly tiles had got broken. P.S.I., S. S. Mane. (P.W. 46) who had been deputed to investigate the matter also went to the school premises but did not find any stones lying there.

17.43 What is pertinent to note about this incident is that Dr. Vyas should have, merely on some oral allegations made to him, rushed up to the police station with a complaint without even bothering to go to the school to ascertain whether any damage was caused and if so, what, and to inquire from the head master or the other teachers how the damage had been caused. Perhaps to a mind as communally

biased as Dr. Vyas's, any allegation, provided it was against the other community, was bound to be true.

The R.U.M. and Shiv Sena morchas

17.44 Two morchas were taken out in connection with what had happened during Moharram, the first by the R.U.M. on March 24, 1970 and the other by the Shiv Sena on April 4, 1970.

17.45 The R.U.M. morcha was led by Dr. Vyas and Bhaskar Mali. What occurred at the time of this morcha is to be found in Inspector Pradhan's report to the S.P. dated March 25, 1970 (Ex. P 578). The morcha was taken out to protest against the abuses alleged to be given by Dy.S.P., Diwate and Inspector Pradhan on March 16, 1970. Slogans such as "Rashtriya Utsav Mandalacha Vijay Aso", "Hindu Dharmacha Vijay Aso" and "Shivigal Karnare Police Adhikaryancha Dhikkar Aso" (Down with police officers who use abusive language) were shouted in the morcha. The morcha was stopped at a distance of 100 yards from the Mamlatdar's office. After some time a delegation consisting of Dr. Vyas, Bhaskar Mali, Pandurang Patil *alias* Pandu Vastad, Sharad Patwardhan, Vasudeo Somnath Pandit, a Municipal Councillor, and Kundanmal Ganeshmal Jain (N.H.W. 49) met the Tahsildar and submitted to him a memorandum (Ex. P 577). This memorandum was signed by Bhaskar Mali and it alleged that Diwate and Pradhan had used abusive language against the Hindu community and the Hindu religion at Navi Chawl and that the authors of this memorandum felt too ashamed to mention what those words were. A request was made in this memorandum that a severe warning should be administered to Diwate and Pradhan and proper steps taken to see that such incidents were not repeated. Thereafter the members of the delegation went back to the procession. Bhaskar Mali read out the memorandum to all the processionists and Dr. Vyas addressed them through a loud speaker fitted on a tonga which had been brought along with the morcha in spite of being told by the Police that he would not be allowed to address on the loud speaker unless he took it down from the tonga, as the permission was given only to use the loud speaker from a stationary tonga for making propaganda for the morcha. Mohamed Mobin Mahomed Jamal, a resident of Keshar Baug, who was the driver of the tonga had been given permission for use of the loud speaker only upto 5 p.m. As this speech was given by Dr. Vyas after the permission had expired, a case was registered under the Bombay Police Act against the driver of the tonga. No action, however, was taken against Dr. Vyas. One wonders how the poor tonga driver could have dared to prevent Dr. Vyas from addressing through the loud speaker, particularly since the driver was a Muslim.

17.46 The amazing thing about this morcha is the taking of so prominent a part in it by Kundanmal Jain. He has filed an affidavit as also given evidence before the Commission. There is not a single word in his affidavit or evidence about Dy.S.P., Diwate or Inspector

Pradhan giving any abuses to anyone or abusing the Hindu religion or the Hindu community and yet he took a 'prominent part in this morcha and was a member of the delegation which went to the office of the Tahsildar to hand over to him the memorandum. In spite of taking so prominent a part in this morcha and going with the prominent leaders of the R.U.M. to the Tahsildar's office to present the said memorandum, he had no compunction in deposing that all that he knew about the R.U.M. was that there was a board with its name put up at Bazar Peth on the wall of Meena Cloth Stores on which sometimes notices of intended meetings were written and that he had never seen any other kind of writing on the board and that he never attended a meeting of the R.U.M. and had no concern with it. Disregard for truth can hardly go further.

17.47 The Shiv Sena morcha on April 4, 1970, led by Baliram More gave rise to further incidents and will be dealt with in the Chapter relating to the activities of the Bhiwandi Branch of the Shiv Sena. All that is necessary to mention at this stage is that this morcha was to terminate at the police station but was stopped at a distance of about 100 yards from the Fish Market but a delegation headed by Baliram More was allowed to proceed to the police-station and hand over a memorandum (Ex. P 525). Amongst other things this memorandum referred to the abusing of shop-keepers by Dy.S.P., Diwate and Inspector Pradhan and the alleged shouting of the slogans "Pakistan Zindabad" and "Islam Zindabad" on the night of the 19th/20th March 1970. It also stated that that very night "damage was caused by entering into the Quarter Gate Marathi School No. 9 at night. Nobody has been arrested in that connection so far".

17.48 It is a shocking commentary on the attitude and mentality of the local leaders concerned that in spite of the complaint of Dr. Vyas in connection with the stone-throwing on the municipal school having been found to be false and in spite of the fact that the Chairman of the school and its head master and others had made it clear that the damage was caused by some boys who climbed on the roof of the building to watch the Moharram procession, this false allegation should have been repeated in the said memorandum and an allegation should have been made against the Police for not arresting any one in connection therewith. Further, Baliram More who was the first signatory to the said memorandum and had led the morcha and headed the delegation which went to the Town Police Station to hand over the said memorandum has admitted that he did not even know the name of any shopkeeper or worker who was supposed to have been abused by Dy.S.P., Diwate and Inspector Pradhan (S.S.W. 1/72/2187). This only shows with what lack of responsibility some of the local leaders of Bhiwandi had behaved.

The board against Kundanmal Jain

17.49 The shop of Kundanmal Jain, namely, Kundanmal Tilokchand Company, was situated at Bazar Peth very near Navi Chawl

where the Holi pit was dug. This was the first Holi pit to be widened and Kundanmal has deposed that when he learnt that some boys had been arrested by the Police for lighting the Holi fire, he went to the police station and told them that the D.M. had given permission for lighting the fire and that the boys should be released and had personally taken the responsibility of keeping a passage of at least six feet for the Moharram procession to pass by (N.H.W. 49/2-4/2086). The Muslims therefore thought that he was responsible for getting the Holi pit widened because, as we have seen, the procession could go past this pit only with some difficulty. Further, he had taken a prominent part in the R.U.M. morcha of March 24, 1970. Accordingly, that day a board was put up at Madarchhalla with the following writing:

“ All people in Bhiwandi are informed that they should stop purchasing cloth from the shop of Kundanmal Marwadi because he is a man of communal mind. His shop is in Bazar Peth near Gandhi Stores. Tanjumul Fata (Organisation for Victory).”

Inspector Pradhan brought this matter to the notice of the S.P. by his report dated March 24, 1970 (Ex. P. 89). Thereupon by his memorandum dated April 18, 1970 (Ex. P 139) to Inspector Pradhan, the S.P. stated that the putting up of this board showed that there was tension between Hindus and Muslims and communal incidents might occur and therefore a close watch should be maintained and precaution taken to ensure that the situation did not deteriorate and that communal incidents did not take place.

The persons behind the widening of the Holi pits

17.50 It is obvious that the Muslims could not in any way be concerned with the widening of any Holi pit, all of which were dug in Hindu localities. The various incidents that took place in connection with the Moharram festival show that the persons who had sought to create communal tension out of the Moharram and the Holi festivals falling in such close proximity as they did in that year were the leaders of the R.U.M. and Baliram More, the Shakhapramukh of the Bhiwandi Branch of the Shiv Sena ; for by this time, as declared by Uddhav Teje at the R.U.M. prayer meeting in Markandeya Temple on March 16, 1970, the R.U.M. had got the support of the Shiv Sena. That the Holi pits were widened and Holi fires blazed so intensively only with a view to cause obstruction to the Moharram processions is quite apparent from the fact that after March 19, 1970, that is, after the Moharram processions were over, the Holi fires which were lit were much less in intensity. In the Station Diary entry (Ex. P 1488) made by Inspector Pradhan in connection with the Navi Chawl incident he has clearly stated that the pit at Navi Chawl was widened under the instigation of Uddhav Teje and Dr. Vyas and that experience showed that while Dr. Vyas spoke one thing in the Peace Committee meetings, he did the opposite by instigating young Hindu boys to act quite differently. In his report dated April 21, 1970 (Ex. G 64),

S.P., Bhave stated, "The fact that after the 19th i.e. after the Moharram procession was over, the fires at Holis were much less in intensity than on Moharram days clearly indicates that the Hindu leaders did not realise the gravity and exercise proper control over irresponsible young boys. There is also reason to believe that Hindu leaders might have instigated". In the witness-box he has clarified that in this paragraph by "Hindu leaders" he meant the leaders of the R.U.M., namely, Dr. Vyas, Bhaskar Mali, Uddhav Teje, Sharad Patwardhan, Hasmmukh Madhavji Thakkar (N.H.W. 16), Dilip Tamhane and some others (P.W. 4/177/692). The probabilities in favour of the above persons having instigated the widening of the Holi pits and the lighting of Holi fires so intensively are so great as to leave no doubt that they were the persons responsible.

The Vaz meetings

17.51 In connection with the Moharram several Vaz programmes were arranged in Bhiwandi. The first Vaz meeting was held in New Islampura on March 22, 1970. The main speaker on this occasion was Maulana Abdul Quayum of Aligarh University. He did not make any communal propaganda in his speech (Ex. G 185). Communal speeches were, however, made at the Vaz meetings held on March 28 and 29 and April 1, 1970.

17.52 The second Vaz meeting was held on March 28, 1970 and the discourse was delivered by Shabbir Ahmed Ansari (C.W. 3). In his discourse Shabbir Ahmed Ansari lamented the degeneration of the present day Muslims and the fact that they had forsaken the ideals of Islam. Just as at the time of the discourse delivered by him on Ramzan-Id on December 12, 1969, here also he introduced a communal note in his discourse. He said that in the past a handful of Muslims had proved an insurmountable force to their opponents, but today they were incapable of protecting their own interests and that if they wanted to survive, they could not afford such lethargy. He further warned the Muslims that if they failed to change their present un-islamic behaviour and continued to regard their behaviour as a political matter, they would find themselves in the worst possible situation and there would be none left even to dare to dispose of their dead bodies. He cited the example of Imam Hussein and others who had shed their blood for the survival of Islam. In conclusion he exhorted his audience to inculcate in themselves the spirit which the martyrs of Islam had shown on the battle field of Karbala (Ex. P 56). Though several of the references to communal matters in this discourse were obliquely made there is no doubt that the audience would have no difficulty in understanding that they were an exhortation to the Muslims to unite against the Hindus who desired to crush them. This speech, therefore, satisfies the test of a communal speech laid down in paragraph 6.8.

17.53 A Vaz meeting had also been arranged in Saudagar Mohalla on March 29, 1970 to be addressed by Syed Sha Mohamed

Amantulla. On March 28, 1970 Nisar Abdul Latif, a resident of that locality, applied for permission to use a loud speaker at the said meeting. The same evening one Usman Gani Bafati came to the Town Police Station and informed Inspector Pradhan that Syed Sha Mohamed Amantulla was a resident of Ahmedabad and used to speak on communal matters and, therefore, permission to use a loud speaker should not be given for his discourse. Accordingly, Inspector Pradhan refused to give the permission asked for (P.W. 66/23/1118).

17.54 The third Vaz meeting was held in Waje Mohalla on March 29, 1970 and was addressed by Shabbir Ahmed Ansari. At that meeting Shabbir Ahmed again discoursed on how by organizing the Muslims Imam Hussein had kept Islam alive and criticized the present-day Muslims for not being organized and thus allowing calamities to befall them. He said that Muslim leaders like Hamid Dalwai were asking the Muslims to behave contrary to the Koran and Islam and exhorted his audience not to listen to them. He called upon the Muslims of Bhiwandi to organize themselves and to remain organized as they were in the days of Hazrat Imam (Ex. G 187). The implication of his speech was that if the Muslims in India and particularly in Bhiwandi were to survive—such survival being survival against the threat of extermination by the Hindus, they should unite and organize themselves and be ready to battle as they did in the days of Imam Hussein. Though not stated so openly the audience would have no difficulty in understanding what was really meant. This speech of Shabbir Ahmed Ansari also, therefore, satisfies the test of a communal speech laid down in paragraph 6.8.

17.55 Yet another Vaz meeting was held on April 1, 1970. The discourses, were delivered by Mahomed Hussein Aslami *alias* Thange, a Jamaat-E-Islami leader, and Shabbir Ahmed Ansari. Mahomed Hussein Aslami after referring to the life of Imam Hussein pointed out the example of Israel which, he said, had been able to survive by result of the unity achieved by its people and the devotion felt by them and called upon his audience to emulate Israel's example. He said that once the Muslims became united and fostered real Islamic spirit no one would dare to look at them with hatred and they would succeed in liquidating the mounting forces of communalism, and even the Government would be constrained to respect their feelings. After referring to the sacrifice of his life made by Imam Hussein in the cause of Islam, Shabbir Ahmed Ansari pointed out that the time and conditions through which the Muslims were passing at present were a result of their own deviation from the path followed by Imam Hussein and the Muslims should revert to that path and discard their present wrong policies. He said that the survival of Islam did not depend upon the numerical strength of its followers for God alone was capable of protecting Islam and would bless those who follow its course. He said that from the prevailing situation it seemed that the Muslim community could not survive for long, for the forces of destruction were marching from all directions to

extinguish its burning flame as had happened to the Arabs at the hands of the Israelis. He said that in these circumstances the Muslims in India bore a high responsibility as India was the only country where the spirit of Islam not only remained alive but its devotees were spreading the message of Islam abroad. Concluding he said that he was not at all pessimistic about the future of the Muslims for by taking inspiration from the life of Imam Hussein they could offer any amount of sacrifice to keep the flame of Islam alive (Ex. P 57). Once again the real theme of Shabbir Ahmed Ansari in this discourse was to call upon the Muslims to be ready to lay down their lives if they wished to survive against the forces out to destroy them. Taken in conjunction with what Mahomed Hussein Aslami had said earlier in his discourse, the audience could have found no difficulty in identifying these forces. Both the aforesaid speeches, therefore, satisfy the test of a communal speech laid down in paragraph 6.8.

17.56 The Sunni Jamaat of Thana also arranged Vaz meetings in Bhiwandi on April 4, 1970 and April 5, 1970 at Dargah Road and Old Thana Road respectively. The discourses at these meetings were given by Maulavi Amantulla, the Maulavi of the Sunni Jamaat of Thana. In these discourses Maulavi Amantulla related the life stories of Prophet Alli Hussein and Imam Hussein and he criticized the Tablig Jamaat (which was also holding a conference at that time in Bhiwandi), the Jamaat-E-Islami and the Devbandi Sunnis for carrying on a false propaganda about Islam and he charged them with not believing in Prophet Mahomed, in not respecting 'Tabuts' during Moharram and in not respecting graves and exhorted the Sunnis not to have anything to do with them (Ex. P 653). The above speeches of Amantulla were more in the nature of a doctrinaire propaganda and did not have any communal slant about them.

17.57 Another Vaz meeting was held on April 6, 1970 in Bhusar Mohalla. Maulana Mustaq Ahmed Nizami of U.P. gave a discourse on the life of Prophet Mahomed and stated that what was narrated about the Prophet by the Maulanas of the Jamaat-E-Islami and Tablig-E-Jamaat was not in accordance with the Koran and asked the people not to pay any heed to them. Just like the discourses of Maulavi Amantulla, the discourse of Mustaq Ahmed Nizami did not have any communal slant about it but was merely an attack on the tenets and principles of different sects of Muslims (Ex. G 188).

The conference of the Tablig Jamat

17.58 A conference of the Tablig Jamaats of Poona, Ahmednagar, Jalgaon, Dhulia, Kolaba, Nasik and Thana Districts, Bombay City and Kashmir was held at Bhiwandi on April 4 and 5, 1970. About 700 persons attended the conference. The Muslims of Bhiwandi, however, did not participate in large numbers and the Konkani Muslims, who were the original residents of Bhiwandi, did not remain present at all. Some prominent local personalities from Bhiwandi were, however, present and Jasim Sardar and Ibrahim Maddu were

amongst those who gave assistance in the work of the conference. Amongst those who attended at intervals were Shabbir Ahmed Ansari (C.W. 3) and Mohamed Husein Aslami, the Shakha Pramukh of the Jamaat-E-Islami-E-Hind. The various speeches and discourses made at the conference were religious in their character and did not touch upon any communal subjects and this conference did not create any reaction amongst the Hindus in spite of the tense atmosphere in the town (Ex. G 182).

The other events of April 1970

17.59 The other events which took place in April 1970 are connected with the Shiv Jayanti of May 7, 1970 and the communal disturbances which broke out on that day. These events will, therefore, be dealt with in the Chapter entitled "The setting for Shiv Jayanti".

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CHAPTER 18
MOSQUES AND TEMPLES

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CHAPTER 18

MOSQUES AND TEMPLES

Unauthorized mosques

18.1 At the time of the May 1970 disturbances there were 38 mosques and 11 Dargahs in Bhiwandi, including those in Khoni and Nagaon villages, the most important of them being the Nizampura Jumma Mosque. Four out of these mosques, all of them constructed after 1968, were unauthorized mosques, that is, no permission of the necessary authorities was obtained for their construction. These mosques were—

- (1) The Nurshah Jamia Mosque near the petrol pump on the outskirts of Vetalpada, a mixed locality to the east of the Bombay-Agra Road ;
- (2) The Momin Mosque in Waje Mohalla to the north of Rais High School ;
- (3) The Momin Mosque in some fields to the south of Dargah Road ; and
- (4) The Bag-E-Firdaus Mosque on the Bombay-Agra Road.

The land on which Bag-E-Firdaus Mosque was constructed belonged to a Muslim, Abdul Qadir. One Mainibai, wife of Ladkya Dhangar, had encroached on it and constructed a Zopadpatti on the said land. On May 14, 1969 she filed a complaint with the Police that her Zopadpatti had been demolished. During the disturbances the Bag-E-Firdaus Mosque was set on fire and partially burnt.

18.2 There was yet another mosque called Nasirabad Mosque situate near Dhamankar Naka which, though not wholly unauthorized, was partly unauthorized in the sense that the building in which this mosque was housed was for several years used for residential purposes but about three or four years prior to 1970 it was converted into a mosque without obtaining the permission of the necessary authorities.

18.3 The existence of these unauthorized mosques caused resentment amongst the Hindus and the question was discussed at some monthly meetings of District Police Officers as also at meetings of revenue officers when the question of unauthorized construction on Government land came to be discussed [P.W. 4/357/816-7, 207/719, P.W. 59/33/1020].

Encroachment by trustees of mosques

18.4 Another cause for resentment amongst the Hindus against the Muslims was the encroachment made by the trustees of the

Khutala Mosque on the adjoining municipal land. The Khutala Tank was municipal property and was reclaimed by the municipality for the purpose of constructing municipal staff quarters. In 1968 the trustees of the Khutala Mosque encroached on the reclaimed Khutala Tank land by fencing the land and starting some construction thereon but the Municipal Council took no steps in respect of this encroachment. This caused considerable resentment amongst the Hindus at the inaction on the part of the Municipal Council, the majority in which consisted of Muslims.

18.5 In July 1968 some local Hindus including Datta More, the brother of Baliram More, made a complaint to the D.M. about this encroachment. S.P., Bhave also reported this encroachment to the D.M. Thereupon D.M., Capoor wrote three D.O. letters dated August 8, 1968, August 21, 1968 and September 6, 1968 respectively to the Municipal President, Shabbir Ahmed Ansari. Shabbir Ahmed did not even care to acknowledge any of these letters. Letters were also written by Inspector Pradhan to the Municipal Council but with no better result. In January or February 1969 Datta More and eight or nine other Hindus threatened to go on a fast outside the Town Police Station. Ultimately, however, they did not resort to any fast. On March 1, 1969 Capoor made a report to the Commissioner, Bombay Division, requesting him to divest the Municipal Council of this land and to re-vest it in the Government so that action under the Maharashtra Land Revenue Code could be taken in respect of this encroachment. He also inquired from the Charity Commissioner whether the Khutala Tank property bearing C.S. No. 1921 was the property of the Khutala Mosque Trust. By his letter dated September 30, 1969 the Charity Commissioner informed him that this property was not part of the trust property. By his letter dated May 13, 1970 the Commissioner, Bombay Division, informed Capoor that according to the decisions of the Bombay High Court the divesting of land could not be done. By this time Zuber Patel had been elected Municipal President but the attempts made by the D.M. to persuade him to get the encroachment removed also did not succeed.

18.6 After the disturbances, on August 9, 1970 Datta More issued a pamphlet threatening to go on a fast for twenty-four hours outside the Town Police Station on September 4, 1970, which was Ganesh Chaturthi, unless the encroachment was removed. He was, however, dissuaded from doing so by the D.M. and the S.P. Meanwhile Capoor had also written to the Director of Municipal Administration, Bombay, to issue necessary directions to the Municipal Council under section 312 of the Maharashtra Municipalities Act, 1965. On August 26, 1970 the Director of Municipal Administration issued directions under the said section 312 calling upon the Municipal Council to remove the encroachment within thirty days of the receipt of the said letter. Thereupon the Municipal Council took action and removed the wire fencing and some of the encroachment but as all the encroachment had not been removed, Capoor drew the attention of the Municipal

Council to this fact by his letter dated October 19, 1970 and the Municipal Council issued a notice to the trustees of the mosque to remove the remaining encroachment. Thereupon the trustees filed a suit in the Court of the Civil Judge, Junior Division, Bhiwandi, being Suit No. 235 of 1970, and applied for an interim injunction. On October 30, 1970 the Court issued notice to the defendants and in the meantime granted an *ex-parte ad interim* injunction which stated that such injunction was granted provided that the disputed portion admeasuring 20' × 28' was part and parcel of C.S. No. 1925, which was the city survey number of the property of the Khutala Mosque. By his letters dated December 30, 1970, February 23, 1971 and March 1, 1971 Capoor wrote to the President of the Municipal Council, who at that time was Yusuf Mohamed Hassan Momin, to let him know what had happened in the suit and in the application for temporary injunction filed against the Municipal Council and whether a written statement had been filed and, if so, to furnish him with a copy thereof and if it was not filed, to let him know when it was proposed to be filed. No reply was received to any of these three letters even till July 5, 1971 when Capoor gave evidence before the Commission on this point [P.W. 59/106/1054-6; P.W. 4/1(24)/236(15), 109/625, 241/739-40].

Loud speakers in mosques

18.7 Yet another cause for resentment amongst the Hindus against the Muslims in relation to mosques was the use of loud speakers in some mosques for giving the 'Azan', that is, the Muzzin's call to prayer. No permission was taken for using these loud speakers. Permission for temporary fitting of loud speakers is to be given by the local Police and for the permanent fitting of loud speakers by the D.M. On February 18, 1968 Inspector Pradhan sent for the peshimams and the trustees of all mosques which were fitted with loud speakers to inquire whether they had obtained the requisite permission. They replied that they had made applications for that purpose but had not received any reply. He thereupon asked them to make fresh applications to the D. M. He, however, did not ascertain whether they did make fresh applications nor did he make any attempt to remove the loud speakers. By the application dated April 21, 1970 to the D.M. (Ex. P 638) the Rashtriya Utsav Mandal complained that in the Urs of the Divanshah Dargah loud speakers were being used without permission throughout the night and in the same way loud speakers were being used without permission in most mosques in Bhiwandi for giving the calls for prayers. The next day the D.M. wrote a letter to the S.P. asking him to make an inquiry and report to him. On June 25, 1970 the S.P. submitted his report (Ex. P 639) in which he stated that the complaint about the use of loud speakers in the Urs of the Divanshah Dargah made in the said application was false and that loud speakers were used only upto 11 p.m. in respect of which permission had been obtained. He further stated that in

Bhiwandi calls for prayers were usually given on loud speakers which had been installed without obtaining permission and that the said practice had continued for a long time and no action had been taken in respect thereof. He also intimated that in 1968 the trustees of the mosques had been asked to take permission for using loud speakers but they did not discontinue this practice. He suggested that the matter should be discussed personally between the D.M. and himself. Subsequently in April 1971 the D.M. received applications from the trustees of twelve mosques for permission to install loud speakers which permission was granted (P.W. 59/33/1019-20, 99/1049; P.W. 38/26/877).

18.8 This is one of the instances which shows that the D.M. and the Police adopted a rational and realistic attitude while dealing with incidents of a communal nature. The Police could have prosecuted the Peshimams and the trustees of all the mosques making unauthorized use of loud speakers. In view of the long-standing practice of using loud speakers without permission, this action would have merely created bitterness and laid the Police open to a charge of anti-Muslim bias and discrimination and caused considerable discontent and resentment amongst the Muslims. When, however, it appeared that this matter was being seized upon as a pretext for communal agitation, the situation was dealt with tactfully so as to avoid bitterness and resentment on either side.

Unauthorised temples

18.9 In May 1970 there were 50 temples, both large and small, in Bhiwandi (G.W. 3/18/164). Amongst them five temples were unauthorizedly constructed. They were :

- (1) the temple of Munja near Subhash Garden close to Nazarana Talkies constructed about 50 years ago on private land belonging to one Narayan Hari Jagtap ;
- (2) the temple of Lord Shankar in Kasar Ali which had existed for a number of years as a kutchha construction, but was cement-concreted and made into a permanent structure on or about March 6, 1970, and which was situate on land belonging to one Shevantabai Gangaram ;
- (3) the temple of Shree Datta constructed in 1969 in the compound of R. K. Transport in Brahman Ali ;
- (4) the temple of Jarimari Devi built on Gavthan land in Teli Pada, Kanheri, which had existed for a number of years but originally had no roof and on which a tin roof was put up after the disturbances ; and
- (5) the temple of Chandikeshwar in Teli Pada near Kanheri which was an old temple standing on land belonging to one J. R. Divan and which was renovated and made into a permanent structure in February 1968.

All these temples were in purely Hindu localities and therefore did not lead to any communal tension. After the disturbances one more

unauthorized temple was constructed in July 1970, namely, the shrine of Ganpati, in Brahman Ali. It consisted of a niche made in the compound wall of the property belonging to one Manubhai N. Parikh and Ratilal M. Shah and in which an idol of Ganesh was installed (P.W. 4/228/730, 241/740).

18.10 An unauthorized temple which, however, did lead to some passing tension was the temple of Sant Namdeo housed in the hall of a building belonging to one Krishnabai widow of Bhiku Velhal, situate close to the Thange Ali Mosque with only one house in between, the distance between the temple and the mosque being about 15 feet. In 1964 Krishnabai donated the said building for the benefit of the members of the Namdeo Shimpi caste who in Bhiwandi numbered about 200 and who were mostly in power-loom business and to which she belonged. Thereafter a trust called the Shimpi Mandal Namdeo Fund was established and a committee of trustees was formed. The trustees decided to keep the idol of Sant Namdeo in the said place and applied to the Collector to convert the hall into a temple. The Municipality approved the plans and sanctioned the construction on April 30, 1966, but the construction could not be commenced on account of lack of funds. On January 22, 1965 the chief trustee of the Thange Ali Mosque, Noor Mohamed Mohamed Yusuf, submitted an application to the Home Minister, State of Maharashtra, requesting him to intervene and adopt such measures as he deemed fit for preservation of communal relations. Thereafter there were discussions between the members of the Namdeo Shimpi caste and the trustees of the mosque and it was agreed that 'bhajans' would not be held daily and when held would be so held as not to disturb the prayers in the Thange Ali Mosque. After sufficient funds were collected the trustees again approached the authorities in 1969 for permission to construct, but as the previous application could not be traced they were asked to submit another application which they did on May 13, 1969. Statements of some trustees of the mosque were recorded and they stated that the members of the Shimpi caste celebrated Namdeo Jayanti and Ganpati and 'bhajan' was performed only on Ekadashi day and that they were not disturbed by these celebrations. The Police thereupon submitted a report on June 17, 1969. The trustees of the temple, however, without waiting for the permission constructed the 'Gabhara' (*sanctum sanctorum*) and installed some idols and a portrait of Sant Namdeo therein. On August 20, 1969 a Muslim named Shaban Samiulla submitted an application to the Collector, the S.P. and the Inspector, Bhiwandi Town Police Station, stating that the temple had been declared open and 'bhajans' and 'poojas' had been performed on loud speakers on 8th, 9th and 10th August 1969 disturbing the prayers in the mosque and that the policemen on duty had remained silent spectators to this. On inquiries being made it was found that on these days the anniversary of Sant Namdeo had been celebrated and that though 'bhajans' and 'poojas' were performed and 'kirtans' delivered during prayer time, no loud

speakers were used and that the Police had maintained bandobust. The Collector recommended to the Government to regularize the construction. Though S.P., Bhave has deposed that there was no tension or agitation of any kind consequent upon these celebrations, one wonders how the policemen on duty allowed 'bhajans' and 'poojas' to be performed and 'kirtans' to be delivered during prayer time in the mosque or how they remained oblivious to the fact that on that day the temple was declared open ; and the charge that the policemen remained silent spectators cannot be said to be unjustified. S.P., Bhave deposed that there was a temple on each side of the Thange Ali Mosque within 100 yards of it and that behind the Thange Ali Mosque there was the Bohri Mosque opposite to which was the Maruti Temple (P.W. 4/245/742-5), the suggestion being that it was, therefore, unreasonable to object to Sant Namdeo Temple or to 'bhajans', 'poojas' and 'kirtans' therein. It should be obvious to anyone that there is a vast difference between a distance of 15 feet and a distance of 100 yards and whether loud speakers were used or not, sound is bound to travel 15 feet while it may not travel 100 yards.

18.11 During the disturbances the Thange Ali Mosque was broken open, its window-panes smashed and the front portion of the mosque damaged. Further, a stone painted red with 'shendur' (red oxide mixed in oil), a Bhagwa flag and a board with the legend "Shree Danglya Maruti Mandir" [The Temple of Shree Maruti (God Hanuman) of the Riots] were placed inside the mosque and on the walls of the mosque pictures of God Hanuman were drawn and the words "Jai Hanuman" written. The window-panes of the Thange Ali Bohri Mosque were also broken.

* * *

CHAPTER 19
ANONYMOUS LETTERS

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CHAPTER 19

ANONYMOUS LETTERS

The anonymous letters of October 1969

19.1 One of the charges made against the Government and the Police by the Jan Sangh and the Hindu Mahasabha, who through their Maharashtra State Branches appeared before the Commission, was that though in October 1969 after the Ahmedabad riots anonymous letters were received by Hindu local leaders of Bhiwandi threatening that the revenge of Ahmedabad would soon be taken in Bhiwandi and though the Government and the Police were aware of this fact, no investigation was made but on the contrary the matter was sought to be slurred over. The evidence, oral and documentary, led before the Commission, however, reveals a totally different picture and shows that there is no substance in this charge.

19.2 The facts as established by the evidence show that on or about October 23, 1969 Dr. B. P. Vyas (J.S.W. 1), the President of the Bhiwandi Town Unit of the Jan Sangh and of the R.U.M. and the Vice-President of the Thana District Branch of the Jan Sangh, received an anonymous letter through the post. The post-mark showed that it was posted from Ahmedabad. On October 24, 1970 Baliram More, the Shakhapramukh of the Bhiwandi Branch of the Shiv Sena (S.S.W. 1), K. K. Joglekar *alias* Balasaheb Joglekar (N.H.W. 54), a Jan Sangh and R.S.S. worker, and Madhukar G. Kunte, the Secretary of the Bhiwandi Town Unit of the Jan Sangh, received by post identical anonymous letters also posted from Ahmedabad (P. W. 4/28/270). Each of these letters was written in English in capital letters on a page from an exercise-book. The text of these letters was as follows :

“ 20-10-69

CHALLENGE TO ALL

AHMEDABAD REVENGE WILL BE TAKEN

IN BHIWANDI, VERY SOON

PAN ISLAM ”

19.3 Baliram More got photostat copies made of the letter received by him in order to give it for publication in the Shiv Sena organ, the *Marmik*, Joglekar and Kunte decided to inform Jan Sangh leaders about this letter. Immediately on learning about the receipt of these letters, Inspector Pradhan made two reports to the S.P., Thana, one on October 25, 1969 and the other on October 26, 1969 (Exs. P 160 and P. 161 respectively). He also commenced investigation. Dr. Vyas

told his friends and co-workers about the letter received by him and also gave information to the Police by his letter dated October 27, 1969, forwarding along with his complaint the original letter for perusal and return. The Police returned the letter to him the same day. At a meeting of the R.U.M. held in the Neelkantheshwar Temple on October 27, 1969 the anonymous letters received by the Jan Sangh and other leaders were discussed and Dr. Vyas read out to the meeting the letter received by him (Ex. P 67). Sharad Patwardhan, another Jan Sangh and R.U.M. leader, asked Dr. Vyas to give him the letter, so that he could take it to Bombay and show it to Agashe, the editor of the pro-Jan Sangh Marathi weekly *Pathik* (the deponent of affidavit No. 142). On Sharad Patwardhan showing the letter to him, Agashe came to Bhiwandi and had a talk with Dr. Vyas as also with Bhaskar Mali. Dr. Vyas has admitted in cross-examination that his object in taking the letter back from the Police was to give publicity to it at the aforesaid R.U.M. meeting (J.J.S.W. 1/7/2203, 9/2205-6). These facts were communicated by Inspector Pradhan to the S.P. by his report dated October 28, 1969 (Ex. P 162) and by the S.P. to the D.M. by his report dated October 30, 1969 (Ex. P 163). In reply to the S.P.'s said report, a copy of which was sent to the D.I.G. (Int.), the D.I.G. (Int.) by his letter dated November 5, 1969 (Ex. P 167) requested the S.P. to obtain these letters or some of them and to have the matter investigated thoroughly. In the 31st October 1969 issue of the *Pathik* a news item (Ex. M.T.M. 3) appeared under the heading "Cowardly letters challenging the peace of Bhiwandi. The culprit, howsoever big or small, must be exposed". A photostat copy of one of these letters together with that of the envelope was published in the said issue. The said news item stated that the wheels of police investigation were moving fast. This news item also contained an interview with Dr. Vyas and Bhaskar Mali.

19.4 S.P., Bhave's evidence shows that the publication of the anonymous letters and the news item on them in the *Pathik* and the reference to them in various speeches made by Hindu leaders created tension in Bhiwandi and the letters became a topic of discussion amongst the Hindus in Bhiwandi (P. W. 4/257/754).

19.5 On November 4, 1969 similar anonymous letters, though this time posted from Bhiwandi, were received by some local Hindu leaders of Kalyan. Thereupon by his report dated November 29, 1969 (Ex. P 164) S.P., Bhave requested the I.G.P. to appoint a Special officer from the C.I.D. to carry out an investigation. By his letter dated November 15, 1969 (Ex. P 168) the D.I.G. (Int.) drew the attention of the S.P. to these anonymous letters and requested him to intimate the result of the investigation. The letter concluded by stating, "It would be advisable to pursue the matter to its logical end as this sort of nuisance is on the increase". By his letter dated December 15, 1969 (Ex. P 165) the I.G.P. requested the D.I.G.(Int.) to depute an officer of the State Intelligence to make further investigation in the matter. P.S.I., G. S. Deshpande, later promoted Inspector, was deputed

to carry out further investigation. He, however, could not trace the author of these anonymous letters (P. W. 4/28/271).

19.6. One can hardly find fault with the Police for not being able to trace the author or authors of these anonymous letters, far from the nature of things it is only rarely that persons who indulge in this cowardly act of sending anonymous letters and threats can be traced. Anonymous letters of threat are very common and they at times cause alarm to their recipients ; but as the Home Secretary, Rajwade, has pointed out, the Police regularly receive a spate of complaints about anonymous letters of threat sent to individuals (G.W. 1/18/14, 42/39) and while we may condemn such letters, we cannot blame the Police for not bringing their authors to book.

Inspector Solanki's letter to the S.P., Thana

19.7 Abdul Khaliq Momin, the Chief Organizer of the Bhiwandi Branch of the M.T.M., left with some of his co-workers for Ahmedabad in the end of September 1969. He was arrested at Ahmedabad on September 30, 1969 and prosecuted under section 153A I.P.C. He was released on bail and returned to Bhiwandi. In connection with the investigation of the case against him Inspector C. P. Solanki of the Gujarat State Intelligence, Bulsar Unit, came to Bhiwandi and camped there for a number of days. He requested S.P., Bhawe to help him in collecting information about the activities of Abdul Khaliq Momin and whatever help was requested was given to him [P.W. 4/1(41)/236(24)] Solanki arrived in Bhiwandi very soon after the aforesaid anonymous letters were received by the local leaders. He was residing very near the house of Dr. Vyas (P.W. 4/28/271). On or about October 25, 1969 he had an interview with Dr. Vyas who informed him about the anonymous letter received by him (J.S.W. 1/7/2203). Solanki thereupon wrote a letter dated October 28, 1969 marked 'Secret' to the S.P. (Ex. P 52). In this letter he pointed out that on September 30, 1969 five Muslims were arrested at Ahmedabad and certain writings and photographs taken charge of from them and that two of them, namely, Abdul Khaliq Momin and Mohammed Ayub Mohammed Yakub, were residents of Bhiwandi. In the said letter he further stated that during the course of investigation of the above case he had come across Dr. Vyas who had produced before him a letter of threat received by him through post and that similar letters had also been received by other Hindu leaders in Bhiwandi and that the local police inspector had been apprised of these facts. The concluding paragraphs of the said letter were as follows :

"Abdul Khaliq is a President of All-India Majlis Tammire Milat, Bhiwandi, and his communal organization believes in PAN ISLAMISM in total disregard of national loyalties and had a soft corner for Pakistan. He is known as 420 and his activities are reported to be anti-national and communalist.

"One witness Agayya Ramayya, resident of Bhiwandi had stated that Abdul Khaliq had cheated under the false pretext of giving

plots etc. and it is learnt that several other residents of Bhiwandi are also victimised.

“It is further learnt that after their release from Ahmedabad both Abdul Khalik and his associate Mohamed Ayub were spreading rumours in Bhiwandi that in Ahmedabad about 5,000 Muslims and 1,000 others were massacred in recent communal riots at Ahmedabad. Evidently this is a rumour.

“This report is submitted for information and necessary action if deemed fit.”

The capital made out of Inspector Solanki's letter

19.8 As will be shown in the chapter on the Bhiwandi Branch of the M.T.M., the Police were already keeping a watch on the activities of Abdul Khalik Momin to find out whether they were in any manner objectionable and indictable. This letter written by Inspector Solanki, as rightly pointed out by S.P., Bhave, did not contain any information which had not already been known to him or to the local Police. Bhave, therefore, did not mention this letter in any of the reports sent by him (P.W. 4/30/272). After the disturbances Solanki's letter was, however, published, in the pro-Jan Sangh Gujarati weekly *Sadhana* published from Ahmedabad (J.S.W. 1/7/2204). It was also published in the 5th June 1970 issue of the 'Masurashram Patrika' (Ex. P 169) published by the Masurashram, Goregaon. The heading of that article was "Bhiwandi riots planned as revenge for Ahmedabad : Secret report throws light." This article referred to the publication of Inspector Solanki's letter in *Sadhana* and charged the Police with sleeping over the matter and not taking any action in respect thereof. The article went on to say that Inspector Solanki's letter showed that the massacre of Hindus in Bhiwandi was a pre-planned affair and that the Police had sufficient knowledge and warning, but deliberately left the culprits alone. The article also stated that the hospital of Dr. Vyas with Muslim patients in it was burnt down within the first $\frac{1}{2}$ hour of the disturbances and that Dr. Vyas had called at the Masurashram and "confirmed, with tears in his eyes, the story, not merely of police inaction but of definite Government encouragement to riot-mongering Muslims."

19.9 The value to be attached to this article in the 'Masurashram Patrika' can be judged from the fact that when Dr. Vyas was in the witness-box he deposed that his consulting room and dispensary were in the same building in which he resided and that he did not have a nursing home or hospital in Bhiwandi or elsewhere and that at no time during the disturbances was his consulting room or dispensary attacked, damaged or set on fire. He has further deposed that four or five days after the disturbances he had gone to Goregaon to the Masurashram to see Brahmachari Vishwanathji because Vishwanathji had come to Bhiwandi to meet Dr. Vyas but on being unable to do so left a message that he wanted to see him. Dr. Vyas further deposed that he did not take with him any copy of any of the issues of the

Sadhana when he went to see Brahmachari Vishwanathji, nor did he tell him that his dispensary or hospital was burnt down, but what he told him was that it was Dr. Acharya's hospital which was burnt down (J.S.W. 1/8/2205). The Deputy Commissioner of Police, S.B.I., C.I.D., Bombay, by his report dated June 22, 1970 drew the attention of the I.G.P. to this article.

19.10 Inspector Solanki's letter was given further publicity by being published under the heading "Without Comment" at page 11 of the 20th June 1970 issue of the English pro-Jan Sangh weekly, the *Organiser* (P.W. 4/31/273). On June 29, 1970 a notice was received of a question to be asked in the House by the M.L.C., J. G. Bhave, the question being whether the letter Ex. P 52 had been received by the Government from the Intelligence Inspector of Gujarat. On the Home Department making inquiries, S.P., Bhave forwarded to the Home Department through the I.G.P. a copy of the said letter along with his report dated July 1, 1970 (Ex. P 171) in which he mentioned that he had taken action in the matter. The report further stated that the original letter was on a file of the S.P.'s office and there was no possibility of the letter having leaked out from that office. As Bhave had not till then made any mention of this letter in any report, neither the Home Secretary nor the I.G.P. were aware of its existence until they received a copy of its along with Bhave's said report. I.G.P., Rajadhyaksha has, however, deposed that as the letter was addressed to the S.P., Thana, and so long as he took action in that connection, he need not bring it specifically to his attention (G.W. 1/37/35, 42/38 ; G.W. 2/35/96). There is considerable substance in what the I.G.P. has stated, but it would have been more politic on the part of S.P., Bhave to have made a mention of this letter in one of his reports so as to put the I.G.P. and, through him, the Home Department in the picture.

19.11 The question that arises is how the verbatim text of this letter came to be published in Jan Sangh papers. The I.G.P. caused inquiries to be made but was unable to get any definite information (G.W. 2/122/135). In this connection, I am inclined to accept S.P., Bhave's statement in his report Ex. P 171) that the letter had not leaked out from his file, for the first paper in which it appeared was the *Sadhana* published from Ahmedabad. It is, therefore, more probable that it leaked out from the file of Inspector Solanki or of one of the other officers in the State of Gujarat.

The anonymous letters of April 1970

19.12 In April 1970 both Dr. Vyas and Baliram More received anonymous letters containing a threat of murder. Dr. Vyas received this letter on April 6, 1970. The letter was in English and was posted from the Kalyan Post Office. Dr. Vyas made a written complaint in respect of this letter at the Bhiwandi Town Police-Station and an offence under section 505(2) I.P.C. was registered. In the complaint Dr. Vyas stated that this threat of murder was given with a view

that he and Uddhav Teje should not make a speech against the M.T.M. at the time of the Satyanarayan Puja arranged by the R.U.M. at Bhiwandi on April 7, 1970 and amongst those against whom he expressed suspicion as being the author of the said letter was Abdul Khaliq Momin, the President of the Bhiwandi Branch of the M.T.M. At the public Satyanarayan Puja organized by the R.U.M. on April 7, 1970 the attendance was about 1,500. In that meeting Dr. Vyas, Uddhav Teje and Anant Nagle all referred to this letter [P.W. 4/1(57)/236(32-3); P.W. 59/1(27)/1000(14); Ex. G 319].

19.13 The anonymous letter to Baliram More was received by him on April 25, 1970. This was an inland letter written in Marathi and a photostat copy of it is Ex. P. 688. It was addressed to "Baliram More Shiv Sena Pramukh near Bhiwandi Talkies" and when translated read :

"Baliram More, You should not speak anything against Islam in the Peace Committee. If you speak, we will murder you and take revenge for Ahmedabad."

19.14 Baliram More handed over the said letter to the Police and lodged a complaint and thereupon a case under section 505(2) I.P.C. was registered. The sender of the said letter, however, could not be traced [P.W. 4/1(64)236(37); P.W. 59/1(37)/1000(18); S.S.W. 1/1(24)/2154(16)]. This letter, however, received publicity in a Hindi weekly the *Setupath* published in Bhiwandi. This weekly commenced its publication on August 1, 1969 and its proprietor and editor was Govind Sadanand Bhatt (G.W. 6). According to Bhatt's evidence, in 1970 the circulation of this weekly was about 1,800 copies. The office of the *Setupath* was in the premises of Asha Printery of which Bhatt was a partner along with one Kesharimal Jain. Asha Printery is situate in Thange Alli, the headquarters of the Bhiwandi Branch of the Shiv Sena. Bhatt knew Baliram More well, particularly after Asha Printery was bought over by him. It was put to him that Baliram More had made Asha Printery his headquarters. He denied this but admitted that Baliram More came to see him about twice a week at Asha Printery. The front page of the 1st May 1970 issue of *Setupath* (Ex. G 150) carried only two news items. One was about the sizing workers' strike which was in 14 point type except the first paragraph which was in 16 point type, while the other was about the aforesaid anonymous letter to Baliram More which was printed in 16 point type with bolder face and carried a two-line headline, though the news item about the sizing worker's strike carried a three-line headline, that is, a banner headline (G.W. 6/1/1219, 8/1226, 22/1234-5). The publication of this letter in the *Setupath* added to the feverish communal tension which by then was prevailing in Bhiwandi.

Conclusions

19.15 The receipt of the aforesaid anonymous letters, the publication of their contents in periodicals and the references made to them by local leaders in public speeches, created considerable

communal tension in Bhiwandi and caused apprehension amongst the Hindus that the Muslims were planning to take revenge for Ahmedabad in Bhiwandi by attacking and murdering Hindus. It gave an opportunity to the extremists amongst the Hindus in public meetings to take up this so-called challenge openly and to inflame communal passions. It is not possible to find out who the authors of these letters were. They might have been some fanatic Muslim or Muslims or even some mischief-makers amongst the Hindus. These letters, however, gave an opportunity to the local Hindu leaders and a section of the Press to create an impression that the Muslims were conspiring to attack and murder Hindus and burn and loot their properties and to warn the Hindus to be ready to meet this contingency on the ground that the Government and the Police were not likely to protect them.

* * *

CHAPTER 20
THE POLITICAL BACKGROUND

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- 21.1 The Muslim League.
- 20.2 General elections.
- 20.3 The Legislative Council elections.
- 20.4 Labour unions.

CHAPTER 20

THE POLITICAL BACKGROUND

Political parties

20.1 At the relevant time there were a number of political parties operating in Bhiwandi, namely, the Congress, the Communist Party of India, the Communist Party of India (Marxist), the P.S.P., the P.W.P., the Shiv Sena, the Jan Sangh, the Muslim League, the Jamaat-E-Islami and the All India Muslim Majlis-E-Mushavarat. There were also two other organizations operating in Bhiwandi which do not style themselves as political parties but merely as cultural or religious and cultural organizations, namely, the R.S.S. and the All India Majlis Tameer-E-Millat. All of them are All India parties and organizations but several of them had established branches in Bhiwandi, Jalgaon or Mahad and the activities of these branches are relevant to the present Inquiry. So far as the political philosophies, ideologies and activities of the parent parties and organizations and the activities and utterances of their leaders are concerned, they are not relevant to this Inquiry except to the extent they have affected the communal situation in any of the three areas falling within the jurisdiction of this Commission or in so far as they are necessary for understanding certain happenings which made an impact on the communal situation in the said three areas. In the case of speeches made by leaders of these parties and organizations, speeches delivered at places in and around any of the said three areas would be relevant ; those made in other places would not be, unless they explain certain happenings which took place in the said areas or any of them or formed part of a pattern, thus furnishing a clue to the objectives and activities of the branch or the local leaders of that party or organization in Bhiwandi, Jalgaon or Mahad. The activities of these parties and organizations and the speeches made by their leaders which have a direct bearing on the communal situation in Jalgaon and Mahad pertain to the parts of the Report dealing with disturbances in those areas and will be discussed therein.

General elections

20.2 In the 1948 general elections Mustafa Fakhir (B.R.W. 3), who belongs to the Congress since 1934 and was chosen to offer individual 'satyagraha' and had gone to prison, represented the Thana District Mahomedan constituency in the State Legislative Assembly having been elected unopposed. In 1952 he again stood for election to the State Legislative Assembly when seven candidates including the Communist candidate Ibrahim Maddu opposed him. He was elected and

was a Minister from 1952 to 1957 in the erstwhile Government of Bombay. He again stood from the Bhiwandi constituency in the 1957 general elections, but by reason of the Samyukta Maharashtra agitation his opponent the P.W.P. candidate, Bhai Patil, was elected. In the 1962 elections the Congress candidate, B. N. Bhoir, was elected and a substantial number of Muslims supported him. In the 1967 general elections, the polling for which took place in February 1967, the P.W.P. candidate, Bhai Patil, was elected with the support of Muslim votes. The reasons for this were the dissatisfaction created amongst the Muslims of Bhiwandi by reason of the detention of several Muslim leaders in 1965 on account of the Indo-Pak war and the propaganda of the Bhiwandi Branch of the All India Muslim Majlis-E-Mushavarat carried on in pursuance of the programme of the all India body of this party to support all candidates in opposition to the Congress. Since over 80 per cent of the Muslim votes had been cast in favour of Bhai Patil he thereafter naturally supported the Muslim stand on almost all matters [P.W. 59/1(20)/1000(10); P.W. 4/1(12)/236(5); P.W. 38/35/880; B.R.W. 3/1(1)/1416(1), 2/1417].

The Legislative Council Elections

20.3 Zumberlal Kalantri (N.H.W. 42), a Congressman who was the President of the Bhiwandi Town Congress Committee for some time and thereafter of the Taluka Congress Committee, a Vice-President of the Thana District Congress Committee and a Member of the Pradesh Congress Committee and who had been Chairman of the Bhiwandi-Nizampur Municipal Council from 1955 to 1957, was elected to the Maharashtra Legislative Council as a representative of the Municipal Councils and the Local Boards in the Thana District for the period 1963 to 1968. Thereafter in 1968 he was elected to the Maharashtra Legislative Council as a representative of the Municipal Councils and the Zilla Parishads in the Thana District [N.H.W. 42/1(2)/2033(1)].

Labour unions

20.4 The Congress, the Communists and the P.S.P. had their labour unions in Bhiwandi during the relevant period. These labour unions were the Textile Mazdoor Sabha organized by the P.S.P., the Hind Mazdoor Sangh organized by the C.P. (M.), and the Sizing Workers' Association, an independent union. Hindus and Muslims were both members of these unions and used to agitate unitedly for their demands against their employers, irrespective of the fact whether such employers were Hindus or Muslims (C.W. 2/32/1718-9).

20.5 Labour union activities have not played any part, direct or indirect, in fomenting communal tension in Bhiwandi.

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CHAPTER 21
THE BHIWANDI BRANCHES OF THE MUSLIM
POLITICAL PARTIES

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CHAPTER 21

THE BHIWANDI BRANCHES OF THE MUSLIM POLITICAL PARTIES

The Muslim league

21.1 A note on the Muslim League filed by I.G.P., Rajadhyaksha (Ex. G 112) shows that prior to Partition there was a Branch of the Muslim League in Bhiwandi which closed down after Partition. The Bhiwandi Branch of the Muslim League had considerable influence amongst certain sections of the Muslims and in 1947 at a public meeting held by it, it was resolved that the names of 23 roads in Bhiwandi should be changed. Amongst them was the naming of the road from Quarter Gate Tol Naka upto Teen Batti as Jinnah Road and naming of certain other roads as Dr. Iqbal Road, Sir Syed Road, Dr. Ambedkar Road, Aurangzeb Road, Patel Road, Nehru Road, Gandhi Road, etc. A resolution to this effect was moved in the Bhiwandi-Nizampur Municipality on January 1, 1948 and though opposed by several members it was passed by a majority. This resolution led to tension in the town and some Councillors as also some local leaders appealed to the Government not to give effect to this resolution. The Government accepted the suggestion and the resolution did not become operative [C.W. 3/19/1785 ; N.H.W. 53/2(2, 7)/2101(1-3), 10/11/2108, 22/2111 ; N.H.W. 54/1(2, 5)/2113(1-2), 8/2116, 24-25/2120 ; N.H.W. 8/2/1825].

21.2 The Muslim League was revived in Bombay on August 9, 1959 when its State Unit, namely, the Maharashtra State Muslim League, was formed with its headquarters at Bombay. The Maharashtra State Muslim League appeared before the Commission through Counsel. Soon after the revival of the League in the State a branch of the League was formed at Bhiwandi on October 11, 1959 with Shabbir Ahmed Ansari (C.W. 3) as its President, Peer Mahomed Rahim Bax as the Secretary and Mahomed Yusuf Mahomed Ibrahim Momin as the Joint Secretary.

21.3 Shabbir Ahmed Ansari was a prominent Muslim League worker of Bhiwandi. At the time of the Indo-Pak war he was detained under the Defence of India Rules from September 8, 1965 to December 2, 1965. When the Muslim League was revived in Bombay he joined it but resigned from it by his letter dated August 20, 1966. He contested the Maharashtra Legislative Assembly Elections in 1962 from the Byculla Constituency in Bombay on the Muslim League ticket but was defeated by the Congress Muslim candidate. He thereafter along with others founded the Maharashtra Branch of the Muslim

Majlis and became its President in or about October 1971 (C.W. 3/13/1781, 19/1785-6, 21/1786, 28/1797).

21.4 There are no activities of the Muslim League in Bhiwandi which have been brought on the record and the only point which requires to be noted is that Shabbir Ahmed Ansari, several of whose speeches satisfy the test of a communal speech laid down in paragraph 6.8 and who was one of the principal founders of the Bhiwandi Branch of the All India Muslim Majlis-E-Mushavarat and of the Bhiwandi Seva Samiti, was a staunch Muslim Leaguer.

The Jamaat-E-Islami-E-Hind

21.5 At the relevant time there was a Branch of the Jamaat-E-Islami-E-Hind in Bhiwandi. Its office was situate at Dargah Road (P.W. 60/24/1064). I.G.P., Rajadhyaksha has filed a note on the activities of this body which is Ex. G 101. Several documents have been annexed to this note as also the document Ex. G 140 has been produced to show that the Jamaat-E-Islami is opposed to nationalism, secularism and democracy. According to the I.G.P., there are only about 3 members and 12 sympathizer members of the Jamaat-E-Islami in Bhiwandi and in the only other Branch which it has in the Thana District, namely, in Kalyan, there are only about 12 members and 9 sympathizer members. (G.W. 2/90/122). According to the information supplied by newspaper agents to the Police, the figures of circulation in 1970 in Bhiwandi of the Jamaat-E-Islami Urdu bi-weekly the *Dawat* was about 175 of the Jamaat-E-Islami English weekly the *Radiance* was about 200 and of the Jamaat-E-Islami Marathi monthly the *Shantimarg* was about 6 (P.W. 66/41/1127). Many meetings of the Jamaat-E-Islami have been held in Mosques (G.W. 1/84-5/61-2).

21.6 So far as its activities in Bhiwandi are concerned, the Jamaat-E-Islami held only one public meeting in Bhiwandi, namely, on October 11, 1968 at Teen Batti Chowk at which the main speaker was Maulana Sayed Hamid Hussein, a Jamaat-E-Islami worker from Delhi. A report of this meeting by the shorthand writer of the State Intelligence, Inspector U. N. Kamtikar, is part of Ex. G 12 (colly.). In this speech he said that Allah himself had drafted a Constitution on the way of life for mankind and had thereby prevented persons from framing any other Constitution and warned that framing of a separate Constitution would mean disobedience to the orders of Allah. He exhorted every Musalmaan to respect the message of the Koran. He then criticized the various policies of the Government including that of family planning.

21.7 A conference of the Jamaat-E-Islami, Nanded District, was held at Nanded on January 3 and 4, 1969 which was also addressed by Maulana Sayed Hamid Hussein. At this conference he said that the Jamaat-E-Islami had faith in the preamble in the Constitution of India but not in its articles and praised the divine system based on the Koran. He ridiculed secularism and stated that the word

'secularism' was nowhere defined in the Constitution and as such to accuse the Jamaat-E-Islami of being anti-secular and hence anti-national was absurd.

21.8 The Government considered the above speeches made by Maulana Sayed Hamid Hussein and by the Home Department's letter dated August 13, 1969 (Ex. G 15) addressed to all D.Ms. and Commissioners of Police, after bringing to their notice the gist of the above speeches, the Government stated that it was advised that only section 124A I.P.C. was relevant while considering the question whether any action could be taken against persons and organizations preaching disloyalty to the Constitution of India. The letter then referred to the decision of the Supreme Court in *Kedar Nath Singh v. State of Bihar*, A.I.R. 1962 S.C. 955, in which it was held that section 124A aimed at rendering penal only such activities as would be intended or have a tendency to create public disorder or disturbance of public peace by resort to violence. In the said letter it was opined that in view of the aforesaid judgment of the Supreme Court, advocacy of disloyalty to the Constitution would amount to sedition if the words used were such as to incite to violence or had the tendency or the intention to create public disorder; and whether the words had this tendency or not would depend upon the words actually used and the facts and circumstances of each case; but mere advocacy of disloyalty to the Constitution without anything more would not appear to be punishable as an offence. The letter concluded by requesting the D.Ms. and Commissioners of Police to keep a watch on the propaganda carried on by Muslim communalists and to take suitable action against them in the light of the above position in law.

21.9 Apart from the question whether the aforesaid speeches by Maulana Sayed Hamid Hussein were seditious or not, the speech made by him in Bhiwandi, of which a complete report is to be found in Ex. G 12 (colly.) was not a communal speech as it does not satisfy the test of a communal speech laid down in paragraph 6.8. The speech made by Mahomed Hussain Aslami *alias* Thange, the Ameer (organizer) of the Bhiwandi Branch of the Jamaat-E-Islami at the Vaz meeting held on April 1, 1970, referred to in paragraph 17.55 was, however, a communal speech as mentioned in that paragraph.

21.10 The Bhiwandi Branch of the Jamaat-E-Islami also held some private meetings in its office at Dargah Road. These meetings have been mentioned in the confidential weekly reports of the State Intelligence officers, but except for the mention of the fact that a private meeting was held, these reports do not give any details of these meetings (G.W. 11/39/3933).

21.11 Apart from what has been stated above, no other activity in Bhiwandi of the Jamaat-E-Islami or its Bhiwandi Branch has been brought on the record. The meetings above referred to do not appear to have made any impact on the communal situation in Bhiwandi and

it is, therefore, not necessary to go into any further details about this organization.

21.12 The Jamaat-E-Islami-E-Hind did not appear in this Inquiry.

The All-India Muslim Majlis-E-Mushavarat

21.13 I.G.P., Rajadhyaksha has filed a note Ex. G 102 on the All-India Muslim Majlis-E-Mushavarat tracing its history and activities. From this note it appears that an All-India Muslim Convention was organized at Lucknow on August 8 and 9, 1964 under the presidentship of Dr. Syed Mahmood and almost all Muslim organizations such as the Jamiet-ul-Ulema, the Jamaat-E-Islami, the Majlis Tameer-E-Millat, the Tablig Jamaat, the Indian Union Muslim League, the Khilafat Committee, the Majlis Ittehadul Musalmin and the Ittehadul Musalmin were represented in the convention which took the form of the All-India Muslim Majlis-E-Mushavarat (hereinafter for the sake of brevity referred to in this Report as the 'Mushavarat'). The Jamaat-E-Islami took a leading part in forming the Mushavarat. Amongst the aims and objects adopted by the Mushavarat were to make efforts to unite the Muslims into a 'Millat' (community) so that they may lead their lives in accordance with the ideals of Islam and take part in the problems of the country and the community in such a way as might justify their being called the chosen people; to make efforts to bring together all Muslim organizations which were working for the country and the 'Millat'; to make efforts to adopt effective measures to remove communal and sectarian prejudices and tension; to render necessary help to the victims and the oppressed; and to make efforts to create a better atmosphere of unity and harmony among the different communities and groups living in India.

21.14 In August 1964 the Majlis-E-Mushavarat passed a resolution (Appendix 'E' to Ex. G 102) which, *inter alia*, stated that it was not the task of any single community to end the communal canker and that there was a need for a convention in which leaders of different minority communities and sympathetic members of the majority community might participate and it approved the proposal by the Jamiet-ul-Ulema to call such a convention. The Jamaat-E-Islami, however, worked against the calling of such a convention. The Mushavarat came under the domination of the Jamaat-E-Islami leaders and thereupon the nationalist section in the Jamiet-ul-Ulema left the Mushavarat in about October 1964. Further, the President of the Rajasthan Unit of the Mushavarat, Mirza Rafiullah Beg, resigned from his office. His letter of resignation (Appendix 'I' to Ex. G 102) was published in the 17th December 1966 issue of the 'Aljamiat'. This letter, *inter alia*, stated :—

"..... But now I very sincerely believe that Majlis-E-Mushavarat, on account of its 9-point manifesto and the conditions thereof, is not for the welfare of the Muslim masses. On the contrary it wants to arouse the sentiments of Indian Muslims by

raising the slogans of solving their collective problems and aims to prepare political ground for the so-called religious organization having a particular ideology. I further elucidate that the Mushawarat is the mental product of Jamaat-E-Islami leaders and it has dominance of the JEI people. The Mushawarat is working as a political front of JEI on the same lines as BJS is doing the work of RSS

21.15 Criticism of the communal complex of the Mushawarat also appeared in Urdu newspapers and Appendix 'C' to Ex. G 102 contains extracts from the editorials published in the Urdu daily *Inquilab* charging that the Mushawarat was dominated and inspired by the Jamaat-E-Islami.

21.16 The working committee, of the Mushawarat passed the following resolution (Appendix 'K' to Ex G 102) on October 10, 1967 :

"The Working Committee of the All-India Muslim Majlis-E-Mushawarat studied the report covering the Ranchi riots. This tragic incident has once again shaken the Muslims of India and has compelled them to revitalise their efforts to secure safety for themselves and to pull out their fellow-countrymen from the quagmire of narrow-mindedness and petty prejudices.

"Majority's Failure

After the bloody riots of 1964, the Majlis had arrived at the conclusion that the majority community of this country has failed to create the atmosphere of love, oneness, tolerance and sympathy for Muslims of India.

"Distinction Necessary

The unending series of riots after that and the recent aggression has reaffirmed this conclusion.

"As regards the one-sided communal aggression against Muslims in Ranchi, the Majlis is satisfied that Muslims are victims of aggressions. However, *the Majlis wishes to remind Muslims of the pertinent difference between cowardice and being the oppressed, to offer effective resistance and fight in self-defence is a right acknowledged by Shariat, law of the land and morality.*"

21.17 In the 28th October 1967 issue of the Urdu daily *Dawat* published from Delhi there appeared a report of an interview given by Dr. Syed Mahmud, the President of the Mushawarat to the special correspondent of the 'Deccan News' (Ex. G 133). According to the said news-report, Dr. Syed Mahmud, *inter alia*, said:

"Government has utterly failed to stop the disturbances. A feeling of insecurity is being born among the Muslims. It is now necessary that without putting their trust in the Government the Muslims should gird up their loins for their self-defence.....

"This message of mine should be conveyed to all the Muslims of the country. The message is that they should give up their attitude of despair and destruction and through their unity and

united efforts should come into the field of practical action for their defence which is their right.”

He was further reported to have said at the said interview that in spite of the assurance given more than once by the Prime Minister and other responsible Government officers, the Muslims were being killed and their economy was being destroyed through an organized plan but now the Muslims would not go begging for peace and security from anybody but through the strength of their united endeavours would overcome the situation where the Government had failed to do so. According to the said report, at the time of this interview he appealed to all the State Units of the Mushavarat to fulfil the responsibility of restoring self-confidence amongst the Muslims.

21.18 It appears that in or about April 1968 Dr. Syed Mahmud becoming dissatisfied with the policies of the Mushavarat severed all connections with it and issued a statement which was published in the April 1968 issue of the Urdu monthly *Huma* of Delhi that the Mushavarat was following in the footsteps of the Muslim League and that all his plans had proved a failure (Appendix ‘M’ to Ex. G 102).

The Bhiwandi Branch of the Mushavarat

21.19 The Mushavarat formed branches in several places in the State of Maharashtra and on August 17, 1966 a branch of the Mushavarat was formed at Bhiwandi with Siddiq Ahmed Abdul Razak Fakhri as the President and Shabbir Ahmed Ansari as the Vice-President. Siddiq Ahmed Fakhri belonged to the Sunni Jamiat-ul-Ulema and Shabbir Ahmed Ansari to the Muslim League while Mahomed Hasan Ali Aslamy *alias* Thange, a member of the Working Committee of that branch, was the Ameer (organizer) of the Jamaat-E-Islami.

21.20 In the 1967 general elections the Mushavarat supported all candidates in opposition to the Congress and, therefore, in Bhiwandi it supported the P.W.P. candidate, Bhai Patil who was elected with Muslim support. Inspector Pradhan has admitted that the propaganda carried on by the Mushavarat for the 1967 elections was not anti-Hindu propaganda but was anti-Congress propaganda and that it sought to impress upon the Muslim electorate that their interests were not safe with the Congress and that they should, therefore, vote for the P.W.P. candidates sponsored by the Sampurna Maharashtra Samiti (P.W. 38/8/870).

21.21 Siddiq Fakhri died on December 6, 1968 and Shabbir Ahmed Ansari took charge of the Bhiwandi Branch of the Mushavarat and thereafter acted as its *de facto* President [P.W. 4/1(10)/236(5), 166/683 ; P.W. 59/1(20)/1000(10)].

Shabbir Ahmed Ansari

21.22 Apart from the considerable role the Bhiwandi Branch of the Mushavarat played in influencing Muslim voters in the general

elections of 1967, its Vice-President Shabbir Ahmed Ansari played an important role in the formation of the Bhiwandi Seva Samiti which was formed to contest the 1968 municipal elections in Bhiwandi. It was alleged by the Police and the Hindu parties that the Bhiwandi Seva Samiti was a civic front of the Mushavarat, while the Muslim parties contended that it had no connection with the Mushavarat. The policies of the Mushavarat were, however, guided by Shabbir Ahmed Ansari who was all-in-all in the Bhiwandi Branch of the Mushavarat and who was the Vice-President of the Bhiwandi Seva Samiti. Shabbir Ahmed Ansari was also the President of the Bhiwandi-Nizampur Municipal Council for some time.

21.23 Shabbir Ahmed Ansari has made several communal speeches in Bhiwandi which have already been referred to in paragraphs 16.39, 17.52, 17.54 and 17.55. These were the speech made on December 12, 1969 on Ramzan-Id (Ex. P 54) and the discourses delivered at the Vaz meetings held on the 28th and 29th March and 1st April 1970 (Exs. P 56, P 187 and P 57 respectively). In the witness-box Shabbir Ahmed Ansari showed himself to be a man of rigidly narrow and orthodox views. He deposed that if anyone desired to make any change in the Shariat Law, he would not regard him as a Muslim nor would he regard as a Muslim anyone who propagated that monogamy should be enforced by law. He further expressed his opposition to birth control and to a uniform civil code (C.W. 3/26/1796).

21.24 Neither the Mushavarat nor its Bhiwandi Branch appeared in this Inquiry. Shabbir Ahmed Ansari, however, filed an affidavit and was examined as a witness by the Commission.

Co-operation between the Mushavarat and the M.T.M.

21.25 After the Bhiwandi Branch of the M.T.M. was formed, there was close co-operation between the leaders of the Bhiwandi Branch of the Mushavarat and of the Bhiwandi Branch of the M.T.M. and for some functions the leaders of these two branches joined hands and co-operated. These functions drew large crowds and both these parties played a leading role in organizing in Bhiwandi the protest against the burning of the Al-Aqsa Mosque (P.W. 4/166/681).

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CHAPTER 22
THE SPEECHES OF THE HINDU MAHASABHA LEADERS

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- 22.5 The speeches of V. R. Patil,
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CHAPTER 22

THE SPEECHES OF THE HINDU MAHASABHA LEADERS

Hindu Mahasabha

22.1 There is no branch of the Hindu Mahasabha in Bhiwandi but its branches have been established in Thana, Kalyan and Dombivli, of which the membership was estimated by I.G.P. Rajadhyaksha as being 250, 250 and 25 respectively (G.W. 2/90/122). As communal speeches were, however, made in Bhiwandi by leaders of the Hindu Mahasabha and as the Maharashtra Pradesh Hindu Mahasabha has appeared prominently before this Commission through its counsel Mr. M. D. Pathak (who was the President of the Maharashtra Pradesh Hindu Mahasabha in 1970 and is one of its important office-bearers) and as Durgaprasad Prasanna Kumar *alias* Pandit Bakhle, who has held various offices in the Hindu Mahasabha and was in 1970 the Vice-President of its Bombay Branch, has filed a lengthy affidavit (affidavit No. 405) before the Commission, it is necessary to look briefly at the aims and some of the activities of this party. A note on the activities of the Hindu Mahasabha was filed by I.G.P., Rajadhyaksha and is Ex. G 98. Its constitution (Appendix A to Ex. G 98) shows that its membership is open only to Hindus and declares its aim to be "the protection and promotion of all that contributes to the advancement, strength and glory of the Hindu Rashtra, Hindu culture and Hindu polity and as a means to that end, to achieve Hindu Raj and to re-establish the integrity of the 'Bharat' State by constitutional means". Its constitution defines a 'Hindu' as meaning a person who "regards this land of Bharatvarsha from the Sindhu to the Seas as his Fatherland as well as his Holyland, i.e., professes any religion of Bharateeya origin including Vaidikism, Sanatanism, Buddhism, Jainism, Sikhism, Arya Samaj or Brahma Samaj, etc."

22.2 In the 48th All-India session of the Hindu Mahasabha held at Sholapur from May 15 to May 17, 1964 the following resolution (Appendix B to Ex. G 98) was passed :

"The session demands that both for rehabilitation of refugees and for permanently solving the communal problem and for breaking the vicious circle of communal riots both in India and Pakistan, exchange of Hindu population from Pakistan with the Muslim population of India should be brought about on Governmental level in a peaceful manner."

22.3 The Election Manifesto of the Hindu Mahasabha issued in October 1966 (an extract from which is Appendix C to Ex. G 98) under the heading "What Hindu Mahasabha stands for" declared,

“Hindustan is the land of the Hindus from time immemorial. The Hindu Mahasabha believes that Hindus have a right to live in peace as Hindus, to legislate, to rule, to govern themselves in accordance with Hindu genius and ideals and establish by all lawful and legal means a Hindu State based on Hindu culture and traditions so that Hindu ideology and way of life should have a Homeland of its own.” It further declared that the cardinal creed of the Hindu Mahasabha was its “loyalty to the unity and integrity of Hindustan” and reiterated that it was pledged to the re-establishment of Akhand Bharat by all legitimate means and that it should “try its level best to undo the mischief and betrayal of the Congress in partitioning the country on the basis of religion.” It further declared that re-unification of Hindustan was an article of faith with the Hindu Mahasabha. The Manifesto further stated, “The Hindu Mahasabha again reiterates its clarion call, as given by Veer Savarkar as far back as 1939, ‘Hinduise Politics and Militarise Hindudom’”.

22.4 In furtherance of its above policies, several leaders of the Hindu Mahasabha made speeches at different places. We are only concerned with such of them as have a bearing, either directly or indirectly, upon the subject-matter of this Inquiry.

The speeches of V. R. Patil

22.5 During the relevant period V. R. Patil was a member of the Maharashtra Legislative Assembly elected from Sholapur on the Hindu Mahasabha ticket and was the Vice-President of the Maharashtra Pradesh Hindu Mahasabha. In a speech made on May 31, 1967 at a public meeting held at Thana he referred to the communal riots which took place at the time of the 1967 Shiv Jayanti in Bhiwandi. He said in the course of that speech :

“The Hindus of Bhiwandi had taken out the Shiv Jayanti procession on May 11. The Muslims maintained that it should not go *via* the mosque and that they would not permit it. Accordingly in broad daylight they attacked the procession. *The Muslims who object to Shiv Jayanti procession going with music in front of mosques and therefore attack the procession have no right to live in India. If they want to live in India, it will have to be in accordance with the wishes of the Hindus.* Or else they will have to go to Pakistan. The conduct of the police officers on that occasion was unfortunate and shameful. What sort of independence is it when the procession of the national hero of the Hindus who constitute 90 per cent of the population is obstructed? Or when a handful of Muslims come and say that the procession should not play music? The District Magistrate and the S.P. therefore brought out a solution that the procession should not be allowed to go by the mosque. *These officers must not have been Hindus, but either Christians or Muslims. Had they been Hindus, they would not have agreed to such a solution.....*If the Muslims are going to trample on the just rights of Hindus and cause riots, what are the Police meant for? What is

the meaning of a few Muslim boys objecting to a procession and the Police turning their tail? What law prescribes that a procession should not pass with music in front of mosques? It was their (Muslims') desire that processions should not be allowed with music before mosques. The Hindus placated them in order to secure the independence of the country. The present administrators have continued the same policy even after independence. I warn that this should not happen again. If the Muslims are going to break our heads by trampling on our rights on the pretext of their religious feelings being hurt, we will also break the head of Government Shri Vasant Rao Naik and all officers must understand our point. *All processions—be they religious political, social, marriage or funeral—shall pass with music in front of mosques any time of day, even when the Muslims are offering Namaj. If what I say is not correct legally, the Government should prosecute me. We have not learnt any lesson from the Muslim history over the last 700 years. Muslims constantly invaded our country, destroyed our temples and spread Islam on the strength of the sword. Aurangzeb came down to Maharashtra to do this but could not establish Muslim rule here. Maharashtra provided the graveyard for his plans as well as for himself. What Aurangzeb could not do, these shameless Congress patriots have done in the name of integration We want a Hindu rule in this country. A secular Government is Government of eunuchs. Christians and Muslims are forcibly converting Hindus to their religions. We must not permit this I want to warn the Muslims that if you are going to break our heads over the issue of music, we will do likewise to your mosques. Aurangzeb destroyed our holy Kashi Vishweshwar temple and built a mosque there. We call upon Government to remove the mosque and again build our temple there We celebrate 15th August as per directive of Government since we got independence on 15th August 1947 but what was happening in Pakistan then. Hindus were being massacred. There were 1½ crore Hindus in Punjab. Where are they now? They were massacred. There were 3 crore Hindus in Bengal. Only 85 lacks exist now. This is the history behind Pakistan's creation. Hindus had repelled and destroyed various foreign invasions and governments. If we mean to we can end this secular Congress Government in our country and set up a Hindu rule."*

22.6 He was prosecuted under section 153 I.P.C. for making the above speech but was acquitted on April 22, 1971 (Ex. G 394).

22.7 At a public meeting held at Aurangabad on May 29, 1968 V. R. Patil objected to the continuing of Muslim names for places in the State. He charged the Muslims with starting all communal disturbances. He attacked the M.T.M. and said, "I wish to give a warning that if the Muslims are going to frighten us by riots, they will be given a reply by riots only. Tamir-E-Millat has given threat of riots. If they are coming out with arms openly, then arms will be replied with arms" (Appendix F to Ex. G 98). He was also

prosecuted under section 153A I.P.C. for making this speech but was acquitted on November 26, 1969.

22.7A At another public meeting held at Sholapur on August 15, 1968 he, *inter alia*, said that he could not understand why the feelings of others were hurt by the slogan "Hindustan Hinduonka, Nahin Kisike Bapka" or other similar slogans. He further said, "I wish to tell the Government in clear words that *we want to break and destroy mosques*. There is no sense in hiding things. The question is which of the mosques should be broken and destroyed. There is a possibility of dispute in this connection. If these Muslims have destroyed our temples and erected their mosques in their place, then *we consider it our duty to destroy such mosques and rebuild our temples there* and we do not consider that there is anything wrong if such a slogan is given. The slogan is — "*Ek Dhakka Aur Do, Yeh Masjid Tod Do*" ("Give one more blow and break this mosque")" (Appendix G to Ex. G 98).

22.8 The R.U.M. invited V. R. Patil to address public meetings at Padgha and Bhiwandi in January 1970. On January 16, 1970 the Additional D. M. II, Thana, issued an order (Ex. P 391) under section 144 Cr.P.C. directing V. R. Patil not to make any communal inflammatory public speech at any place in the Thana District from January 17 to January 31, 1970. This order did not, however, deter V. R. Patil. On January 23, 1970 he addressed a public meeting at 6-00 p.m. near the Gram Panchayat Office at Padgha and that very night at 9-50 p.m. addressed another meeting at the Vegetable Market (Mandai) in Bhiwandi. The subject on which he spoke at both these meetings was "The causes of communal riots." The report of the Shorthand Sub-Inspector of the State Intelligence on the Padgha meeting is Ex. P 505 and on the Bhiwandi meeting is Ex. P 70.

22.9 At Padgha Dr. Vyas introduced V. R. Patil as a bold worker of the Hindu Mahasabha who had studied the reasons for the occurrence of communal riots in the country and spoke the truth without being afraid of anyone. He then dwelt upon the object and the necessity which prompted the forming of the R.U.M. He said that the aim of the R.U.M. was to foster national tendencies and to finish those who would try to ruin the nation or would have enmity with the nation, the reference here being obviously to the Muslims. He said that communal riots were like tuberculosis in the body of the nation; the country had been partitioned, Mallapuram District was formed and the danger of further division of the country had arisen, the Somnath Temple had been damaged earlier and now the Jagannath Temple was damaged and unless they took care such calamities would continue to befall. Jagdishchandra Thakkar of Padgha, who was in the chair, said that Indian culture should be infused in persons belonging to all religions and Patil would guide them how to do it. V. R. Patil then addressed the meeting. He first spoke on the causes of communal riots. He said :—

"I presume that all of you know well who indulges in rioting,

who starts the rioting and why the riots occur today. The meaning of riots has become clear to all in the last 30 to 40 years. Even if the Congress rulers call it communal riots and if some people call it riots between Hindus and Muslims, I am not prepared to accept either of these descriptions. This is because hundreds and thousands of riots which have taken place in India have been started by Muslims. For the sake of the Government I am ready to reduce the percentage to 99 per cent. *Ninety-nine per cent. of the riots have been started by Muslims.* We all know what the reasons for these riots are. If the Hindus take out a procession, they are told to stop music in front of a mosque. They are threatened that the procession would not be allowed to proceed. Hindus say that it is a public street and all have a right to take out processions with music. The Constitution has granted that right. You should not obstruct. You should not behave in such stupid manner. However much the Hindus argue, their stupidity is not removed. Therefore, I want to tell you that *though we call it riot between Hindus and Muslims or a communal riot it is a riot of the Muslims, riot started by Muslims.* This is a very simple and clear meaning. Ultimately even the Congress had to accept this though unwillingly. Even the Union Government had to accept that the riots have been started by the Muslims. The reasons may be either music, or cow-slaughter, or simple quarrel in street between two boys, or kidnapping of a woman, or her molestation. At times it may be due to the procession of the Muslims going either by the left or by the right side. But *history tells us that in every case the cause has been supplied by Muslims.* Most of the newspapers praise the Congress and do not publish this fact in a straight and clear fashion. It becomes the duty of the editor to publish the policies of the Government and the administration and to make propaganda accordingly by speaking and by writing. As a result Hindus have been insulted. Hence *it is the duty of all of us to place the real facts before the public. The Branch of R.U.M. has been established here from that point of view. It is the duty of the R.U.M. to expose the injustice that is being done to the Hindus and to secure justice for them...* I accepted this invitation from Bhiwandi from that point of view... I want to announce from this platform that I am a responsible leader of the Hindu Mahasabha. People consider me as a leader. *I want to establish a great Hindu State and to make the whole community, Hindus, happy.* This is because *Hindus form the spine of the nation.* The word Hindu denotes culture. A dot of red powder on the head of a lady denotes that she is married. Similarly, the word Hindu denotes culture. But the rulers warn us not to use words like unity of Hindus. Why? Is it an offence? What sins have the Hindus committed? This should be explained. Do not speak as a Hindu. Why? Muslim would become angry. Our Government is worried about Muslims. Just as a wife points out her husband, the Government points out the Muslims and says that

they would get annoyed. Hence restrictions are imposed on us. The question is, why should the rulers be afraid. Why do they give such importance to Muslims? *How far have the Muslims shown their concern about the Nation? Have they said that Bharat is their nation? Have they said that they were born here and they would die here and that India was their motherland?* See the history of the Congress. We should think about the attitude of the Muslims...

“I want to tell the Government that we believe in the formation of Hindu Rashtra. Is it any offence? To put it in plain words, we know that America is the nation of Americans, Russia is of Russians. Similarly, *Hindus have been living in India since time immemorial. Therefore, how could you call us communal when we say that India should be Hindu Rashtra.* I feel that if anyone says that India should not be Hindu Rashtra it would be an expression of communal thoughts ... Hindu State can never be a communal State. When we start discussing this some of our people ask what would the Muslims do in a Hindu State. The moment I start making propaganda about Hindu State some people become worried, start shivering and ask where should the Muslims and Christians go. But when the Hindus suffer the same people do not think of it at all. Who ask these questions? We can understand if the Muslims or Christians asked such questions. But why should the Hindus worry about it?

“*Those Muslims who try to breach our unity in Hindu State would have no right to live in this State. They would have no right to stay here.* There are other States like this in this world. It is not that I am speaking only against Muslims. *In this country of ours, Hindus have the right to rule.* This is according to God's will. It is alleged against us that we are making propaganda about Hindu State. I am very clear about my own views. *Secular State must be ended.* You have no moral right to rule a secular State. You are elected on the votes of Hindus. You want to stick to your chairs. But you declare that this would be a secular State. This is only to please the Christians and the Muslims. But are they happy? Have they changed their views? Have they become patriots? Are they honest to the Nation? *I would like to ask the Congress rulers as to how many Muslims could be turned nationalists by them in the last 20 to 22 years.* How many Chhaglas and how many Hamid Dalwais were there? Ultimately an old man of 80 years had to be brought here as a show-boy to infuse love for the nation in the Muslims. Khan Abdul Gafarkhan Badshah Khan was made to undertake a nationwide tour in the last two or three months.....

“*Muslims are puffed up. Otherwise there would be no communal riots. No one would say that it was his mosque, he was offering 'Namaj', and music should be stopped.* Hindus in Maharashtra have now become aware. Why does the Government not warn the Muslims not to raise the question of music. When some minor incident takes place why does the Government not adopt a stern policy towards communalists? The demand of the Hindus is justified.

They have a right to go by any public street. No one can ask them to stop music. Why does the Government not adopt this clear policy.....

“Under the banner of secularism the Hindus are losing ground. If you call me communal even if I speak peacefully, I might call myself a great communalist. I want to establish Hindu Rajya. *I am not ashamed of calling myself a great communalist.* We want to enthuse Hindus with the spirit of bravery. The Hindu society is suffering but we shall think of it later. The Muslims and Christians are only waiting for an opportunity to rule the country..... *The Muslims came here with the sword in one hand and the Koran in the other.* Babar, Humayun, Aurangjeb who came after Mohammad Ghori followed the same programme. *The Muslims here are all our subjects... Hence, Hindus have to be told that whatever the rulers say, if they want communal riots to be prevented, the Hindus in Padgha, Bhiwandi, Thana, Maharashtra and India should stand up erect. Once Hindus stand up Muslims would never be able to start riot.*”

22.10 At the public meeting held in Bhiwandi that night, that is, on the night of January 23, 1970, Dr. Vyas was in the chair. Welcoming V. R. Patil he said that the Muslims had started almost all communal riots including the one at Ahmedabad. He further said that the Muslims took out a procession because the Al-Aqsa Mosque was burnt but they did not express disapproval when Pakistan attacked India. Addressing the meeting V. R. Patil said that he had to choose between addressing the meeting and obeying the said order under section 144 Cr.P.C. served on him and he had decided not to respect that order but to respect the wishes of the R.U.M. because the R.U.M. had love and sympathy for him. He declared that the R.U.M. protected the honour of the Hindus and that all Hindus should unite keeping in view the just claim of the Hindus and that there should be a Hindu Raj. He said, “*R.U.M. is an organization of Hindu youths out to destroy those who are anti-national and those who want to destroy our country.*” He then declared, “*I publicly assert that barring Hamid Dalwai, Chhagla, Frontier Gandhi and some others, all Muslims are intending to start riots.*” He said that all riots in the last 40 or 50 years were started by Muslims and it would be the same in the future and that he could not describe them as Hindu-Muslim riots because these were riots caused by Muslims and the Government should stop these things and if the Government failed to do so, they (that is, the Hindus) would have to face them (that is, the Muslims) for survival and to fight them. In the course of his speech he said :

“Have you found out the causes of riots? Playing of music, cow, hoisting of flag, petty quarrels in the lane, all cause riots. Behind all this lies the tendency on the part of the Muslims. At Bhiwandi there is some hitch over the playing of music in processions passing by a Masjid. It is Namaz time. Hindu workers had

to face this. *There are so many Masjids in Bhiwandi and we are to stop playing music.* Hindus have asserted their right to play music at so many places in India. At Bhiwandi they asked us not to throw 'gula'. But out of love we throw colours and spread 'gula' to express joy and celebrate religious and national occasions. How does it affect Muslims? Is it in any way against the teachings of the Koran? *Why should Muslims be annoyed by 'gula'? They should welcome it.*

"I have heard about the problems in Bhiwandi. I have to warn the Government that the demands of Hindus in this connection are not communal, anti-national or exaggerated. Hindus don't take out processions to tease Muslims. It is the practice followed for the past so many years. It is followed from the times when the word 'Muslim' was unknown to the world. It is not a matter to be laughed at. The ancestors of the present local Muslims were converted to Muslim religion at the point of the sword. They opted for Muslim religion through fear. These Muslims are creating such a curious situation in India....."

"We openly advocate Hindu Raj. We are not wrong. The Muslims are enraged by our demand for Hindu Raj in India. A second Pakistan is in creation after the birth of the first one... Brush aside the idea of a secular State... Hindus should gird up their loins to set up Hindu Raj in India. Christians and Muslims wish to govern India. To check this we have to set up Hindu Raj in India. I don't want to shed the blood of Muslims, but I wish you to give up some wrong notions. We are not to be afraid of Muslims... Muslims voted for the Muslim League. Hindus voted for the Congress. The Muslims of Bhiwandi voted for the Muslim League. We have to adopt a strong policy in politics. If the Muslims are not nationalists, why should they not be dealt with? Savarkar taught me that anti-national Muslims should be whipped. It will improve the situation. Savarkar accepted a revolutionary programme. He was branded a communalist. You are Hindu. You say squarely that you want Hindu Raj. Try to set up Hindu Raj. You are the heirs of Shree Ram. Once Hindu Raj is set up, there will be no communal riots. In case I become the head of the State and begin to find out the ancestors of any Muslim, we will find that their ancestors were Hindus... During the Indo-Pak War Muslims used to listen to Radio Pakistan. Some of the Muslims were arrested for listening to this Radio. Mr. Sadikalli pleaded on their behalf and prayed that they be pardoned. In short, after action by the Police they pleaded guilty. You were arrested because you were anti-national. I repeat it again and again in the interest of Hindus. I don't hate Muslims, but it is the duty of Hindus to make bandobust of such persons who are born in India, brought up on the produce of India and nonetheless sympathize with Pakistan. The Hindus must adopt this policy... Jan Sangh stands for United India (Akhand Bharat). I urge Congressmen to help us in this battle. We

have got to fight it and wipe out Pakistan. Rest assured that the Muslims would not dare to riot... The Muslims in India held a procession to show the solidarity of Muslims of the world at the time of the incident of burning the Al-Aqsa Mosque. *Look at the slogans they gave at that time. They cried 'Pakistan Zindabad'. What is wrong with Hindus who retaliated when they cried at Ahmedabad 'Long Live Pakistan'. Gujarati people rose to the occasion. We should follow in their footsteps and we would find the wonderful effect. Hindus should unite. Hindus live in America and England. They enjoy particular rights and stay in those countries. Muslims should stay in India and enjoy the same rights and privileges as Hindus have in England and America. Why should Hindus be afraid of calling themselves Hindus? Ninety per cent. of the population is Hindu. They are the rulers of India. It is our ancient privilege to rule India under the banner of the 'Bhagwa Zenda'. Hindus should try to set up Hindu Raj. This would solve the Hindu-Muslim problem. I pray God may give you strength to do so.'*

22.11 Verbatim reports of the speeches made at the said meeting held in Bhiwandi were forwarded by S.P., Bhave along with his letter dated February 16, 1970 to Mr. S. M. Tamhane, Public Prosecutor, Thana, for his opinion whether any prosecution could be launched against V. R. Patil. The Public Prosecutor sent his reply dated June 22, 1970 in which he opined that the said speech did not come within the ambit of section 153A I.P.C. as it would be covered by the Explanation to that section [Ex. P 132 (collectively)]. The Public Prosecutor was obviously unaware that the Explanation to section 153A had been deleted in 1961 and thereafter a new section substituted for the old section 153A by the Act 35 of 1969. It is strange that the Public Prosecutor of such a large and important district as Thana should not have with him an up-to-date amended copy of the Indian Penal Code and equally regrettable that in so important a matter from the law and order point of view as the making of communal speeches, he should not give his opinion for over five months after receiving the copy of the speech on which his opinion was sought. Verbatim reports of the speeches made at the Padgha meeting were, however, not sent to the Public Prosecutor — not that had they been sent his opinion in respect thereof would have been any different.

22.12 All the above five speeches delivered by V. R. Patil, the speeches made by Dr. Vyas at Padgha and Bhiwandi and by Jagdish-chandra Thakkar at Padgha satisfy the test laid down in paragraph 6.8 and were, therefore, communal speeches.

The speeches of Pandit Brij Narayan Brajesh

22.13 Pandit Brij Narayan Brajesh, the President of the Hindu Mahasabha, addressed the all-India session of the Hindu Mahasabha held at Nagpur on April 27, 1969. A report of this speech along with an English translation of the relevant extracts therefrom is

Appendix H to Ex. G 98. In the course of this speech he said (Appendix H to Ex. G 98) :

"The Muslims are our enemies and in order to meet their challenge we will have to organize Hindu society..... We are all Hindus. He who is not prepared to call himself a Hindu has no right to remain in India. He cannot be loyal to India. This does not mean that I am against Muslims, Parsis and Christians, but then I cannot stand the destruction of Hindu society and I consider it to be my duty to destroy those who would destroy the Hindus. Gandhi and Nehru addressed Muslim as a brother in the Congress Party and this brother cut Mother India into pieces. We cannot forget that breasts of our mothers and sisters had been chopped off and unparalleled atrocities had been inflicted. We cannot rest peacefully until we suck their blood. The whole Hindu society should stand up with this very feeling..... But the Jan Sanghites have realized that this is not a time for uttering the name of Hindu and therefore they call themselves Indians, co-operate with the Muslims and accept money from America and think that once they assume power they will call themselves Hindus, but then by that time all the people of the country would become Muslims. We will not rest in peace until cemeteries are eradicated from Hindustan..... Muslims here should be sent to Pakistan."

He concluded by saying, "The slogan of 'Allah Ho Akbar' should be met with the slogan of 'Har Har Mahadev'."

22.14 A verbatim report of the said speech was considered by the Senior Police Prosecutor, Nagpur, who opined that the speech was not actionable. The D.I.G.(Int.), however, felt that some portions of the speech fell within the ambit of section 153A I.P.C. and accordingly he moved the Government on June 10, 1969 to issue instructions to take necessary action under the law. On July 28, 1969 the Government directed the D.M., Nagpur, to take action to prosecute Pandit Brij Narayan under section 153A I.P.C. Correspondence took place between the D.M. and the Government in the course of which the D.M. stated that the speech had already been examined by him and the Commissioner of Police, Nagpur, and in their opinion it was not actionable. Thereafter on September 2, 1969 the Government intimated to the D.M. that in view of the time which had elapsed since the making of the said speech, no prosecution should be launched (G.W. 2/137/143-4). All D.Ms. were, however, requested by the Government to consider the advisability of serving orders under section 144 Cr.P.C. on Pandit Brij Narayan prohibiting him from making inflammatory speeches in their districts whenever he visited those districts [G.W. 1/102(23)/1102(13)]. When Pandit Brij Narayan visited the Districts of Osmanabad, Sangli, Ratnagiri, Satara, Kolhapur, Thana and Nagpur in November 1969, the Ss.P. of these districts were reminded by the State Intelligence of these instructions and orders under section 144 Cr.P.C. were issued prohibiting him from making inflammatory speeches.

22.15 In spite of such orders having been served upon him, his speech made at Nanded on December 16, 1969 and his speeches at different places in the Thana District between March 7 and 11, 1970 were communal and inflammatory. A report of his speech made at Nanded alongwith an English translation of the relevant extracts therefrom is Appendix I to Ex. G 98. In the course of that speech he said that the only solution was for the Muslims to be sent away to Pakistan. He charged the Muslims with being responsible for all communal riots and added that the Muslims would have to conform themselves to the customs of the Hindus because all Muslims of India were converts and their fate was tied up with Hindus. He was prosecuted under section 153A I.P.C, for making this speech but was acquitted on March 21, 1973.

22.16 In the Thana District Pandit Brij Narayan addressed public meetings at Dombivli, Kalyan, Ulhasnagar, Bhiwandi and Thana on the 7th, 8th, 9th, 10th and 11th March 1970 respectively. An order under section 144 Cr.P.C. dated March 7, 1970 (Ex. P 402) was issued by the Additional, D.M., Thana, directing Pandit Brij Narayan not to make a communal inflammatory speech at any public place in Thana, Ulhasnagar and Bhiwandi Talukas for a period of 15 days with effect from March 9, 1970. Reports of the speeches made by Pandit Brij Narayan at the said five places are Exs. P 135 to P 137, P 72 and P 138 respectively. At each of these meetings he and the other speakers criticized the order under section 144 Cr.P.C. passed against Pandit Brij Narayan. The theme of each of these speeches made by Pandit Brij Narayan was that Muslims should be sent back to Pakistan or should get themselves converted and become Hindus. Each of the speeches charged the Congress and particularly Mahatma Gandhi (who was described in the Dombivli speech as a hypocrite who had brought unprecedented calamities and miseries on Hindus both in India and Pakistan) and Pandit Jawharlal Nehru for the creation of Pakistan. In Ulhasnagar Pandit Brij Narayan told the Sindhis not to forget the atrocities committed against them before they left Pakistan for India and exhorted them that it was their sacred duty to see that some day Sind was reoccupied by destroying Pakistan, after first establishing Hindu Rashtra in India. As the substance of all these speeches is by and large the same, it is not necessary to go into the details of each one of them except the one made at Bhiwandi which is the most relevant for the purposes of this Inquiry. A report of this speech is Ex. P 72. This meeting was held on March 10, 1970 at 9.30 p.m. under the auspices of the R.U.M. and Dilip Tamhane, the R.U.M. leader who belonged to the Shiv Sena, presided over this meeting. In his presidential address Dilip Tamhane said that the R.U.M. had been inviting important political leaders from all over India to give speeches so that the people might become acquainted with the problems facing them. Dr. Vyas introducing Pandit Brij Narayan said that his speech would enthuse the people and would enlighten them. The President of the Maharashtra Pradesh Hindu Mahasabha,

Madhavrao D. Pathak, who had accompanied Pandit Brij Narayan on his tour of the Thana District, said that the orders under section 144 Cr.P.C. served upon Pandit Brij Narayan would not deter him from expressing his views, for he took all such orders lightly. In his speech Pandit Brij Narayan charged the Government with discriminating against the Hindus in favour of the Muslims. He declared that India could never be a secular State and that 'secular' meant anti-religion. He told the audience that it was his right to apprise them of the dangers that were hovering over their heads. He highlighted the Hindu culture and vehemently criticized Islam and Christianity. It would be best to reproduce from the report itself what he said about Islam. He said :

"The Allah of Islam was in the seventh Heaven where he was sitting on a throne having a bright beard. What he was doing there sitting alone all the while was a question which could be asked. Islam says that Allah had sent his Messenger to the world to guide the misguided people and bring them to the true religion. Allah would judge the people's good or bad actions on the Day of Judgment and the Judgment would entirely depend upon the recommendations of His Messenger. This would go to show that Allah Himself did not know anything. On the recommendations of His Messenger, He (Allah) would send the Muslims to 'Jannat' (Paradise) and would provide them there with beautiful 'Hooras' and 'Gulams' — beautiful virgins and charming boys — for enjoyment, for such actions as looting, committing murders, rape, arson, etc., in the world. Allah would also give them good wines, etc. Would such a religion be called at all a religion? Hindus could tell when Islam came into existence. Unfortunately, lacs of their religious books were burnt by the Muslim aggressors, but still they are in a position to establish their Hindu religion as a superior religion..... Why should the Muslims have an upper hand in Hindustan which is the country belonging to Hindus alone?..... Let the Muslims live in India as brothers and they should behave like Hindus. They should accept that this country belongs to Hindus only. The Muslims should not be given any responsible posts. When the Muslims should express their resentment over the fire that was set to a Masjid which was far off from this country, why should they not show the same anger and resentment over the conversion of several Mandirs into Mosques? It would be their first and foremost duty to restore these mosques to Hindus for converting them into Mandirs."

At this meeting he also reiterated that Muslims were converts and that they would have to return to their original fold. He exhorted the Hindus to see to it that Pakistan was destroyed. He opposed the family planning scheme and advised the Hindus not to follow it, as otherwise it would mean an increase in the Muslim population, while the Hindu population decreased. He said that Muslims had no place in this country since 97 per cent of them had voted for Pakistan and therefore if they did not wish to live in India peacefully, they

would have to go to Pakistan. In his concluding address Dilip Tamhane declared that the R.U.M. had been serving the cause of Hindus by inviting high personalities such as Pandit Brij Narayan to express their views in public meetings. He further stated that the membership of the R.U.M. was not restricted to Hindus but unfortunately no Muslim had shown any inclination to join it and that the fact that the Muslims had not joined the R.U.M. showed that the majority of the Muslims of Bhiwandi were anti-national and their activities needed close watching.

22.17 Each of the above speeches made by Pandit Brij Narayan at Nagpur, Nanded, Dombivli, Kalyan, Ulhasnagar, Bhiwandi and Thana satisfies the test laid down in paragraph 6.8 and was, therefore, a communal speech.

22.18 By his letter dated April 20, 1970 [Ex. P 133 (collectively)] S.P., Bhavé sent verbatim transcripts of the said five speeches made in the Thana District to Mr. S. M. Tamhane, Public Prosecutor, Thana, for his opinion whether action under section 153A I.P.C. could be taken against him. Mr. Tamhane's opinion was given by his letter dated June 22, 1970 [Ex. P 133 (collectively)] and requires to be reproduced fully. He stated:

“In the speeches by Pandit Brij Narayan Brajesh, he has given historical aspect of the communities in India and has made comments against the policies of the Government and principles of the Constitution. He has stated that he has no quarrel with the Muslims and they are not his enemies. His extreme views he has expressed in strong language. There does not seem to be any venom or malice in the speeches. I am, therefore, of the opinion that the speeches would not be covered under section 153A or 117 of the Indian Penal Code. Section 295A can be made applicable only if it is proved that the speeches are deliberate and malicious with the intention of outraging religious feelings of any class or insult religious feelings or beliefs of any community. The intention seems to advocate Hindu religion with the historical background of Hinduism and offer comments on the Indian Constitution and the ruling party and other political parties functioning at present. Action under section 295A also would be difficult to succeed for the above reasons. All the papers are returned herewith.”

22.19 We have already seen in paragraph 22.11 the opinion given by Mr. Tamhane on the speech made by V. R. Patil in Bhiwandi on January 23, 1970. That opinion as also this one were both given by him on the same day and both these opinions speak for themselves. Mr. S. M. Tamhane was the uncle of Dilip Tamhane (G.W. 1/79/60) and it was put to S.P., Bhavé that this was the reason why he had given the opinion against the prosecution of Pandit Brij Narayan Brajesh. Bhavé replied that he did not remember whether he was then aware of the relationship between Dilip Tamhane and the Public Prosecutor and that even had he been aware, he would not have thought that the Public Prosecutor's opinion would be influenced by this relationship

as Pandit Brij Narayan was from outside Thana. By this letter dated June 25, 1970 S.P., Bhave informed the Home Secretary that according to the opinion given by the Public Prosecutor, Pandit Brij Narayan's speech was not actionable (P.W. 4/182, 184/695-6). The matter then rested.

22.20 The aforesaid speeches made by Pandit Brij Narayan Brajesh in March 1970 and particularly the speech made at Bhiwandi on March 10, 1970 caused considerable discontent and resentment amongst the Muslims and they took up the matter and criticized the said speech in the Peace Committee meetings [P.W. 4/1(49)/236(28)].

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CHAPTER 23
THE BHIWANDI BRANCH OF THE R.S.S.

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CHAPTER 23

THE BHIWANDI BRANCH OF THE R.S.S.

The R.S.S.

23.1 A note filed by I.G.P., Rajadhyaksha on Rashtriya Swayam Sevak Sangh, popularly known as the "R.S.S.", is Ex. G 100. The R.S.S. was started at Nagpur in 1925 by Dr. K. P. Hedgewar. It has adopted the Bhagwa flag as its flag and its membership is open only to Hindus and while joining it, every member is required to take a pledge. On February 4, 1948 it was declared an unlawful organization. Some time later the R.S.S. workers revived their activities in the form of games, religious functions, etc. The ban was lifted in July 1949. In the same year the R.S.S., which till then had no written constitution, gave itself one as it was reportedly one of the conditions imposed by the Central Government for lifting the ban. The preamble to its constitution declares its aims, *inter alia*, to inculcate in Hindus the spirit of service, sacrifice and selfless devotion to the Hindu Samaj as a whole, to build up an organized and well-disciplined corporate life and to bring about an all-round regeneration of the Hindu Samaj. Its constitution declares that the R.S.S. has no politics and is devoted to purely cultural work and gives liberty to its individual members to join any political party except such as believes in or resorts to violent and secret methods to achieve its ends. As Ex. G 100 points out, the only political party which the R.S.S. volunteers have joined is the Jan Sangh. A number of Jan Sangh leaders have been members of the R.S.S. and have held important offices in it. The late Deen Dayal Upadhyaya, who became the President of the Jan Sangh, was an ex-Pracharak of the R.S.S. Atal Bihari Vajpayee, till recently the President of the Jan Sangh, has himself declared that he was in the R.S.S. Lala Hansraj Gupta, the Mayor of Delhi in 1970, was the Prant Sanghchalak for the Punjab Unit of the R.S.S. Bhai Mahavir, the Secretary of the All India Jan Sangh, and Balraj Madhok also belonged to the R.S.S. (G.W. 2/120/134, 137/143).

23.2 The I.G.P. has quoted in Ex. G 100 the following conclusions arrived at by Mr. Justice J. L. Kapur, a retired Judge of the Supreme Court of India, contained in paragraph 19.102 of the Report of the Commission of Inquiry into the conspiracy to murder Mahatma Gandhi:

"The R.S.S. was the best organized and militant Hindu organization in India and although it was not affiliated to the Hindu Mahasabha, its prominent organizers and workers were members or sponsors of the Hindu Mahasabha ideology.

“Ostensibly, it was an open organization but it maintained secrecy about its work.”

23.3 Dr. K. P. Hedgewar died in June 1940 and thereafter, according to the nomination made by Dr. Hedgewar, the late M. S. Golwalkar, popularly known as ‘Guruji’, became the Sursanghchalak of that organization and continued to hold that office until his death recently. Extracts from intelligence reports of speeches made by Guruji Golwalkar at public meetings have been annexed as appendices to Ex. G 100. A common theme running through all these speeches is that India is the land of the Hindus and that, as the Muslims and Christians were originally Hindus, they should return to the Hindu fold. At a public meeting held at Ichalkaranji in Kolhapur District on August 30, 1957 (Appendix C to Ex. G 100) he said that due to a wrong notion of all those who had fought against the British a new nation had come into being which included Parsis and Jews, who were few and negligible, but it also included Christians and Muslims “who left Hindu religion due to foreign invasions or for some reward or as a result of rapes.” Continuing he said:

“They had already forgotten that they were some time Hindus and if they remembered it they were ready to take revenge on Hindu religion. What attempts have they made to co-exist with Hindus? They pulled down Hindu temples and insulted everything that was dear to Hindu religion and made maximum efforts to convert Hindus to their religion by force and indulged in cow slaughter..... We have forgotten our religion, culture and our Motherland. We have been taught to believe that we cannot do anything without the help of the four to five crores of Muslims. It is therefore necessary to understand what is our aim. If we want to free our country, we must know which is our country. Our nation is Bharat—Akhand Bharat and its subject is only Hindu Samaj.....”

Continuing he said that the aim of the Rashtra should be to unite the Hindu forces, strengthen their unity to fight against common enemies and to live in peace and abundance and when Dr. Hedgewar realized that that was not being done he founded the R.S.S., for he knew that the Hindu Samaj was Hindu Rashtra.

23.4 At another public meeting held at Sidhpur in Mehsana District on December 6, 1957 (Appendix D to Ex. G 100) he said that some Hindu leaders advised the people to forget the Muslim invasions and the other events which had happened in the past, but this was misguided patriotism. He further said that these Hindu leaders advised the Hindus to become converts to Islam. Continuing he said:

“In India there should be the rule of the Hindus. There cannot be a good administration if there is the rule of various people like Hindus, Muslims, Christians, Parsis, etc. If there is the head of an ass attached to the body of a monkey it will not work well. Such a body will be attacked by worms and will emit bad smells.

Similarly, any administration by different types of people will not work well. It will lack in morality, character and culture.....”.

23.5 At another public meeting held at Warora in Chanda District on Decemebr 8, 1968 (Appendix F to Ex. G 100) he said:

“*We consider Indians (Bharatiya) as Hindus.* The Britishers created a rift in this country by giving facilities to Muslims and encouraging communalism, and brought about the partition of the country through a policy of pleasing our leaders. The word ‘Bharatiya’ is the outcome of this policy and we forgot to call ourselves Hindus. Hindus are the sons of ‘Bharat-Mata’. In this country, the daring of the Muslims is on the increase even to-day, and this is increasing in every State.”.

23.6 In its 1st January 1969 issue the Bombay Marathi daily *Navakal* published an interview which its correspondent had with Guruji Golwalkar (Appendix H to Ex. G 100). According to this news item, he was reported to have said that the only solution for the problem of minorities in India was for the minorities to merge with the main stream of national life by totally giving up separatist tendencies and returning to the Hindu fold to which they originally belonged by undergoing the ritual of purification.

23.7 At another public meeting held in Nagpur on January 14, 1969 (Appendix G to Ex. G 100) he referred to the criticisms levelled against him in the Lok Sabha about his statement that Christians and Muslims should re-embrace their old faith and he said that God could be worshipped in many ways, but people should not live separately. In the course of that speech he said:

“Efforts are being made in the National Integration Council to bring about compromise between the demands of various communities, but this cannot benefit the society and the nation and will not help to build a nation and get inspiration. Therefore, the real remedy for this is that Christians and Muslims should stay in their homes with dignity and discharge their responsibilities with a feeling of equality..... In saying ‘Hindu-Rashtra’ we are not trying to keep away anybody. We are prepared to consider everyone as ours.”.

23.8 He reverted to the same themes in his speeches made at public meetings held at Miraj in the Sangli District on February 9, 1969 and at Aurangabad on February 14, 1969 (Appendix I to Ex. G 100). At another public meeting held at Nagpur at a Vijayadashami function held on October 20, 1969 (Appendix J to Ex. G 100) he expressed alarm at the proposed move of the Home Ministry to enrol Muslims in the Armed and Police Forces and said that if such a move materialized the country would be required to face one danger after another and that in order to overcome such dangers the necessity of the day was to forge a strong and undivided unity of the entire Hindu society.

23.9 In 1970 the strength of the R.S.S. in the State of Maharashtra was reported to be about 56,308 and in the Thana, Kolaba and Jalgaon Districts to be about 4,300, 925 and 1,275 respectively.

Branches of the R. S. S. in the Thana District

23.10 In 1970 there were branches or Shakhas of the R.S.S. at six places in the Thana District, namely, Bhiwandi, Dombivli, Thana, Kalyan and the villages of Padgha and Angaon in Bhiwandi Taluka. In Dombivli there were six Shakhas with a reported total estimated strength of 100. In Thana there was only one Shakha with a reported membership of about 300. In Kalyan there was only one Shakha with a membership of 150. In Padgha also there was only one Shakha with a reported membership of about 50 and in Angaon also there was only one Shakha with a reported membership of 25 (G.W. 2/75/115-6, 77/116).

The Bhiwandi Branch of the R. S. S.

23.11 A branch of the R.S.S. has been in existence in Bhiwandi since the last several years and its membership in 1970, according to the estimate formed by the Police, was about 35. This branch imparted at its daily assemblies physical training including parade formations and lathi drills and the playing of Indian games. These daily assemblies were held at the P. R. High School grounds. The chief of the Bhiwandi Branch of the R.S.S. at the relevant time was Vishnu Anant Palaye, an employee in the office of a Chartered Accountant of Thana. This branch had no separate office, but Palaye's residence was used as the office of the R.S.S. Bhiwandi Branch. In the weekly reports received by the S.P., Thana, the activities of the various parties are mentioned in which the activities of the Bhiwandi Branch of the R.S.S. are included. The I.G.P. has deposed that no secret activities of any of the branches of the R.S.S. have come to the notice of the Police and S.P., Bhave has stated that the activities of the R.S.S. could not be said to be of a secret nature because it held its rallies openly (G.W. 2/75/115-6, 77/116 ; P.W. 4/173/689-90). Balasaheb Joglekar (N.H.W. 54) was the Secretary of the Bhiwandi Branch of the R.S.S. from 1943 to 1947 (N.H.W. 54/4/2114).

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CHAPTER 24

THE BHIWANDI BRANCH OF THE BHARATIYA JAN SANGH

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CHAPTER 24

THE BHIWANDI BRANCH OF THE BHARATIYA JAN SANGH

The Jan Sangh

24.1 The Bharatiya Jan Sangh, popularly known as the "Jan Sangh", was formed in October 1951 at Delhi. A note on this party filed by I.G.P., Rajadhyaksha is Ex. G 97. Extracts from its manifesto and constitution have been annexed as Appendix A to that note. Its manifesto declares that the Jan Sangh will work for the whole of India from the Himalayas to Kanyakumari to be united, that is, for Akhand Bharat. It further declares, "The very idea of a theocratic State is foreign to Bharat which has never known anything like 'Khilafat'. Secularism, as currently interpreted in this country, however, is only a euphemism for the policy of Muslim appeasement. The so-called secular composite nationalism is neither nationalism nor secularism but only a compromise with communalism of those who demand a price even for their lip-loyalty to this country. The party stands for the revival of Bharatiya culture and revitalization of true Bharatiya nationalism on its basis with such adjustments as may be necessary to make our country truly modern, progressive and strong."

24.2 The working Committee meeting of the All India Jan Sangh held at Indore on August 19, 1954 passed a resolution (Appendix C to Ex. G 97) to the effect that the Jan Sangh believed in the unity and indivisibility of Bharatwarsha from the point of view of culture, economy, politics, military and international aspects and that the talk of secularism was meant to appease the Muslims and that the Jan Sangh aimed for the emergence of a strong and united India on the basis of Bharatiya culture and pure Bharatiya nationalism.

24.3 The *Organiser* is a pro-Jan Sangh English weekly and in its 4th October 1969 issue appeared an article headed "Ahmedabad that is Karnavati" (Appendix G to Ex. G 97). That article, *inter alia*, stated that there were historical temples forcibly converted into mosques and tombs, and historical cities forcibly renamed by the Muslims, and that if these verbal and physical aggressions were not vacated and the *status quo ante* not restored, Hindu-Muslim relations would undergo a great change. In the speeches and interviews given by them to the Press, extracts of several of which are annexed as Appendices to Ex. G 97, Jan Sangh leaders have spoken about the need for Indianization of Muslims. In an article headed "95 per cent Hindus agree with Jan Sangh" published in the 25th October 1969

issue of the *Organiser* (Appendix H to Ex. G 97) it was stated, "As for Indianization" as BJS President Vajpayee made it clear at a press conference, it did not mean giving Muslims a dip in the Ganges; but it did mean acceptance of 'India First'. It was the fact that many Muslims find Pakistan dearer than India — and Al-Aqsa nearer than Jagannath—that produced fissures in the national life." The Muslims consider the Indianization preached by the Jan Sangh as being synonymous with Hinduization (B.R.W. 3/29/1427).

24.4 In the Lok Sabha on May 14, 1970 the then Jan Sangh President, Atal Bihari Vajpayee, in the course of the debate on the communal disturbances which took place in the State of Maharashtra in May 1970 charged the Muslims with being responsible not only for these disturbances but also for most communal riots which have taken place in India. A pamphlet (Appendix F to Ex. G 97) entitled "Aata Hindu Maar Khanar Nahit" ("Hindus will not take a beating now") containing a Marathi translation of the said speech and the exchange of remarks which took place in the course thereof was published by the Maharashtra Pradesh Bharatiya Jan Sangh and a large number of copies were sold.

24.5 On May 31, 1970 Atal Bihari Vajpayee spoke at a public meeting held in Bombay. An English translation of the verbatim report of that speech is Ex. P 947. In the course of that speech he said that he had gone to Bhiwandi that morning. He declared that the riots at Bhiwandi were pre-planned and that not stones but bombs had been thrown. He further said that no riots would have taken place had the Government of Maharashtra taken measures in the very beginning by detaining the mischief-mongers, the mischief-mongers being the 37 Muslims signatories to the memorandum Ex. P 15 submitted by them in connection with the 1970 Shiv Jayanti procession. He charged the Muslims with interfering with the Shiv Jayanti procession by not wanting the Bhagwa flag in it but the National Flag. He said that the Bhagwa flag was the ancient national flag in existence before the National Flag and Shivaji fought his war of liberation under that flag. He further said that another objection by the Muslims was that 'gulal' should not be thrown. He sarcastically asked, "Is it because its colour is red? Could we throw green 'gulal'?" He accepted, however, that 'gulal' should not be thrown into mosques. In the course of this speech he charged the Muslims with being responsible for almost all communal riots which have taken place in India.

24.6 A number of Jan Sangh workers and important leaders have belonged to the R.S.S. and believe in its ideologies. The names of some important leaders among them have already been mentioned in paragraph 23.1.

24.7 The Jan Sangh had by 1970 established four branches in the District of Thana, namely, at Bhiwandi, Kalyan, Thana and Dombivli, and their membership has been reported to be 600, 1,500, 2,000 and 1,000 respectively (G.W. 2/90/122).

The Bhiwandi Branch of the Jan Sangh

24.8 The Bhiwandi Mandal or Branch of the Jan Sangh was established on October 21, 1964. It was inaugurated by Mukundrao Agaskar. At that time the membership of this Branch was about 300. By 1970 its membership had increased and was about 500 to 600 [J.S.W. 2/1(4)/2225(2); G.W. 2/90/122]. Prior to October 1967 the President of the Bhiwandi Branch was Dattatraya Harishchandra Kale (J.S.W. 2/5/2227). In October 1967 Dr. Bhagwan Prabhaskar Vyas (J.S.W. 1) was elected the President and thereafter continued to be elected to that office year after year. For the year 1967-68 Mahadeo Govind Kunte (J.S.W. 2) for the year 1968-69 Sharad Patwardhan and for the year 1969-70 Maganbhai Haria were in turn the secretaries of the Bhiwandi Branch of the Jan Sangh (J.S.W. 1/6/2202-3). In the 1967 general elections the Jan Sangh for the first time put up a candidate for the Legislative Assembly seat from the Bhiwandi Constituency, namely, Dattatraya Gaikwad, who, however, managed to secure only 2,736 votes. For the same elections the Jan Sangh also for the first time put up its candidate for the Lok Sabha seat from the Bhiwandi Legislative Assembly Constituency, its candidate being Jagannath Naik who secured only 3,043 votes, losing to the P.W.P. candidate [J.S.W. 2/1(5-6)/2225(2-3)].

24.9 After the 1967 elections the Jan Sangh tried to increase its influence and membership in Bhiwandi and succeeded in doing so (J.S.W. 2/5/2226). To a considerable extent this was due to the efforts of Dr. Vyas and the influence he wielded over a section of the Hindus in Bhiwandi, particularly the younger section.

24.10 The pro-Jan Sangh English weekly *Organiser* of Delhi and the Hindi weekly 'Panchjanya' of New Delhi did not have any circulation in Bhiwandi at the relevant time (P.W 66/102/1165).

The activities of the Jan Sangh Bhiwandi Branch

24.11 Such of the activities of the Bhiwandi Branch of the Jan Sangh as have a bearing on the communal situation in Bhiwandi will now be reviewed. It may, however, be mentioned that after the formation of the R.U.M. in May 1969 the energies of most Jan Sangh leaders in Bhiwandi including Dr. Vyas, Sharad Patwardhan and Uddhav Teje were concentrated upon the R.U.M. and in furthering its programmes and objectives.

The Jan Sangh District Convention

24.12 The Jan Sangh held a District Convention in Bhiwandi on March 10, 1968 by taking out a procession and holding a public meeting. That very day the Muslims were celebrating Bakri-Id. The holding of this convention on the same day as Bakri-Id led to minor incidents. This topic has already been dealt with in paragraphs 15.39 to 15.44.

The public meeting at Kalyan

24.13 A public meeting was organized at Kalyan on May 31, 1969 by the Kalyan Branch of the Jan Sangh to protest against the communal

and anti-Jan Sangh and anti-R.S.S. speeches made by M.T.M. leaders. The persons who spoke at the said meeting were local leaders of Kalyan (Ex. P 125).

The ban on the entry of G. M. Puntambekar

24.14 The R.U.M. arranged a public meeting on September 21, 1969 at which the main speaker was to be G. M. Puntambekar, a Jan Sangh leader from Malegaon. The subject of his speech was to be "Is nationalism at all necessary for India?". His speeches were known to be such as to incite communal feelings and he was already being prosecuted under section 153A I.P.C. for having made such a speech in the Nasik District. In July 1969 communal incidents had taken place in Bhiwandi and the communal situation continued to be tense. This was the time of the Ganpati festival and it was apprehended that Puntambekar's speech might have an adverse effect on the communal situation, especially at the time of the Ganpati Immersion procession. Accordingly, the Police made efforts to persuade the R.U.M. to give up the idea of having Puntambekar as a speaker. Efforts were also made to persuade Puntambekar through the Nasik Police not to come to Bhiwandi. These efforts, however, did not succeed. Thereupon, by his report dated September 20, 1969 (Ex. P 553) S.P., Bhave requested D.M., Capoor to issue an order under section 144 Cr.P.C. banning Puntambekar's entry into Bhiwandi from September 20, 1969 to September 24, 1969 and an order to that effect was issued that very day by the Taluka Magistrate, Bhiwandi (Ex. P 389). This order was served upon Puntambekar at the said meeting and he was removed therefrom and prevented from making a speech (P.W. 4/328/800). More details about this incident will be found in the chapter on the R.U.M. and its activities.

The condolence meeting at Bhiwandi

24.15 On November 6, 1969 the Jan Sangh held a public meeting at Bhiwandi on the road in front of the Vegetable Market (Mandai). The speakers at this meeting were Mahadeo Kunte, Sharad Patwardhan, Dr. Vyas and Shantaram Tavre and a Jan Sangh worker from Ulhasnagar, Prem Tolani. The object of calling the meeting was to mourn the death of a Jan Sangh worker, Bendar. Inspector Pradhan's report on this meeting is Ex. P 539. In the course of this meeting the anonymous threatening letters received by the Jan Sangh leaders and others at Bhiwandi and Kalyan were referred to by Dr. Vyas, Shantaram Tavre and Prem Tolani.

The speech of G. M. Puntambekar on January 11, 1970

24.16 The R.U.M. arranged a public meeting on the road outside the Vegetable Market (Mandai) on January 11, 1970, at which the chief speaker was G. M. Puntambekar (Ex. P 69). The meeting was attended by about 1,000 persons. A printed hand-bill (Ex. P 552) was circulated by the R.U.M. announcing this meeting and the subject of

Puntambekar's talk was mentioned in that hand-bill as "Causes of Communal Disturbances". This hand-bill also announced the future programme of the R.U.M. which included a public speech by V. R. Patil on January 17, 1970. Pandu Vastad, the Vice-President of the R.U.M., was in the chair. Dr. Vyas introduced Puntambekar and said that the efforts of the R.U.M. to curb communal disturbances had been crowned with success.

24.17 The first speaker was A. G. Nimkar, a Jan Sangh and R.U.M. worker from Padgha. He said, "Pakistan is interested in cities where Muslims are in majority. Bhiwandi is one of such cities. If disturbances take place here, we hear of it the same day on Radio Pakistan. We find this state of things at Bhiwandi. Riots take place where Muslims are in a majority. The situations in Bhiwandi and Ahmedabad are similar. They feel assured that their mischief would be tolerated at places where they are in a majority. Under the garb of religion they commit atrocities. While in school, they are taught the tenets of Muslimi religion. For instance, Namaj five times a day, giving alms to the poor. But here we find many Muslims who consume liquor and who commit thefts. Their religious fanaticism is strange. They feel that any procession that goes past a mosque is a danger to the religion. Stones are stored in Masjid to attack such procession. Their religious notions are so dirty that they honour a man who abducts a Hindu girl. We have to reside with such foolish people. This situation has been accepted by the Government."

24.18 At the outset Puntambekar, who was the next speaker, referred to the meeting at which V. R. Patil was to be the speaker, saying that V. R. Patil would come and speak at that meeting like a wrestler throwing down the gauntlet, for he did not mince words. Coming to the subject of his speech, he said that Hindu-Muslim riots should not be styled as communal disturbances but as disturbances caused by the Muslims. He added, "Formerly Muslims were regarded as lions and Hindus as goats in a circus. Goats succumb as soon as lions roar. This state of affairs has changed now. Hindus are no longer like sheep or goats. We don't say that Muslims have turned into goats." He said that the Muslims purposely destroyed whatever Hindus regarded as sacred. He talked of various riots in India and blamed the Muslims for causing them. He called for Indianization of Muslims and for efforts to be made in this direction.

24.19 The speeches made both by Puntambekar and Nimkar at this meeting satisfy the test laid down in paragraph 6.8 and were, therefore, communal speeches.

24.20 Unlike in September 1969, no order under section 144 Cr.P.C. was issued this time against Puntambekar either banning his entry into Bhiwandi or prohibiting him from making an inflammatory communal speech. S.P., Bhavé's explanation for this anomaly was that Puntambekar had been prohibited from making a speech in 1969 because the Ganpati procession was to be taken out and it was apprehended that his speech might have an immediate adverse effect

on the communal situation, especially at the time of the Ganpati immersion procession, and further that by reason of the communal incidents which had taken place in July 1969, the communal situation was still tense in September 1969, while the same situation did not prevail in January 1970. Bhave has admitted that after he received a report of the speech made by Puntambekar, he realized that Puntambekar should not have been allowed to make the speech (P.W. 4/328/800). Bhave also did not refer to the Public Prosecutor the said speech of G. M. Puntambekar for his opinion whether it was actionable, the explanation given by him being that previously speeches with the same tenor made by the M.T.M. leaders had been referred by him to the Public Prosecutor and he had opined that they were not actionable (P.W. 4/184/696). This is not a convincing explanation. We have already seen in paragraph 22.11 that the speech made by V. R. Patil at the R.U.M. meeting held on January 23, 1970, which speech was very similar in tenor to Puntambekar's, was referred to the Public Prosecutor.

24.21 In my opinion, there does not appear to be any proper explanation either for not issuing an order under section 144 Cr.P.C. against Puntambekar or for not referring his speech to the Public Prosecutor for his opinion. To say that no order under section 144 Cr.P.C. was passed against Puntambekar in January 1970 because by that time the communal situation had calmed down is tantamount to saying that the Magistracy and the Police would permit a man to make an inflammatory communal speech and thereby vitiate the communal atmosphere if prior to that speech the communal atmosphere was not tense. Such an argument overlooks the fact that their duty is not merely to take steps when the communal situation has deteriorated but, what is more important, also to take steps to prevent it from deteriorating.

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CHAPTER 25

THE BHIWANDI BRANCH OF THE SHIV SENA

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CHAPTER 25

THE BHIWANDI BRANCH OF THE SHIV SENA

The Shiv Sena

25.1 A note on the Shiv Sena filed by I.G.P., Rajadhyaksha is Ex. G 99. This note *inter alia* states :

“Shri Bal Thakare, a cartoonist and editor of the Marathi weekly *Marmik* of Bombay, formed the Shiv Sena in Bombay on 10th June 1966. The avowed object of the organisation was to secure for the Maharashtrians a rightful and honourable place in their State in general and Bombay City in particular by securing for them 80 per cent of jobs in different industries, etc., and 80 per cent of accommodation in the Maharashtra Housing Board tenements. It has a strong grouse against the Maharashtra Government that it is too lenient in respect of people coming from outside States and is completely oblivious to the problems of its own people. It, therefore, demands that the Maharashtra Government's policy with regard to outsiders should be on par with that followed in other States. The organisation has a strong bias against the South Indians and is a bitter enemy of the Communists. It has called upon the Maharashtrians to sink their differences and unite to fight the aggression of the outsiders. In this context, it gave directions to the Maharashtrians to make their purchases from Maharashtrian shopkeepers only, to boycott Udipi eating houses and to come forward as caterers, etc. It called upon the Maharashtrian officers to help their Maharashtrian brothers to get employment. It also appealed to the Maharashtrian youths to organise themselves to resist the injustice being done to them and their brothers.

“The organisation has no written Constitution nor its office-bearers are elected. Every branch has its chief who is called as ‘Shakha Pramukh’. Shri Bal Thakare styles himself as the chief of the Shiv Sena and is called ‘Senapati’ and according to his directions and guidance the affairs of the organisation are carried on. The organisation does not maintain any membership register with the result that it can conveniently own or disown a person as a member. It is reported that an amount of Re. 1/- per month is collected from its followers. Chhatrapati Shivaji is the idol *par excellence* and its main source of inspiration. As such, Shri Thakare takes pride in openly declaring that he prefers benevolent dictatorship to a bad democracy. The organisation has plain saffron coloured two [sic] cornered triangular flag. It has the head of the roaring tiger as its symbol. The headquarters of the organisation

is in Bombay City. *Marmik*, a Marathi Weekly published by Shri Thakare in Bombay, is the mouthpiece of the organisation. The financial position of the organisation is fair and the organisation is charged with receiving financial aid from some industrialists who want to make use of the organisation against the Communists. The organisation is mainly active in Bombay City and the adjoining district of Thana. It has also extended its activities to Poona City and Kolaba, Nasik, Ratnagiri, Sholapur, Kolhapur, Ahmednagar, Satara, Sangli and Jalgaon Districts. Its sainiks in the districts are reportedly about 13,000 and in Bombay about 70,000.

"In view of the acute unemployment and housing problem in Bombay City, such an appeal of the Shiv Sena evoked good response and the Sena rose rapidly in strength. Although the Sena claimed to be a non-political body in the beginning, its political ambitions also started soaring with the initial good response. The Shiv Sena claims that it is not against Muslim community and that it has even Muslims as its members. It asserts to be primarily a nationalistic organisation being opposed to those generally who have links or loyalties outside this country. That is how it seeks to justify its antagonism to pro-Pakistani Muslims and the Communists. However, its activities have shown that it does not miss an opportunity to take up issues which are calculated to raise communal tension."

25.2 According to the Home Secretary, L. G. Rajwade, though the constitution of the Shiv Sena does not restrict the membership exclusively to Hindus, its activities tend to communal tension (G.W. 1/59/50).

25.3 In February 1969 the Shiv Sena carried on an agitation on the Maharashtra-Mysore border issue resulting in serious riots in the City of Bombay. The Shiv Sena Chief Bal Keshav Thackeray and two other Shiv Sena leaders Manohar Joshi and Datta Salvi were thereupon detained under the Preventive Detention Act, 1950. A Division Bench of the Bombay High Court consisting of Mr. Justice Tarkunde and myself held the detention orders in the case of Bal Thackeray and Manohar Joshi to be invalid and ordered them to be released (Criminal Application Nos. 316 and 318 of 1969 decided on the 25th/28th April 1969), Datta Salvi having been released earlier by the Government in view of the report made by the Advisory Board.

25.4 Exhibit G 99 sets out a number of incidents to show that the activities of the Shiv Sena are of a communal nature. Out of these incidents only the incident relating to a structure in the Durgadi Fort at Kalyan in the Thana District is relevant. As the Durgadi Fort incident pertains to the Mahad disturbances, it will be dealt with in the Part of the Report relating to those disturbances.

Branches of the Shiv Sena in the Thana District

25.5 At the relevant time, apart from Bhiwandi, the Shiv Sena had branches at Thana, Dombivli and Padgha with a membership of 300, 2,500 and 25 respectively according to the Police estimate. The

only places in the Bhiwandi Taluka where the Shiv Sena has branches were Bhiwandi and Kalher village (G.W. 2/90/122 ; S.S.W. 1/80/2190).

The Bhiwandi Branch of the Shiv Sena

25.6 The Shiv Sena Chief Bal Thackeray was formerly a resident of Bhiwandi and received his education there. On September 22, 1966 the Bhiwandi Branch of the Shiv Sena was formed at a public meeting held at Khadak and Baliram More (S.S.W. 1) was appointed the Shakha Pramukh of that branch. The meeting was addressed by Bal Thackeray who made a plea that 80 per cent of the people from Maharashtra should be taken up by the Government in every field of life (Ex. P 1520).

25.7 At the relevant time the Shiv Sena stronghold in Bhiwandi was Kaneri to the east of the Old Thana Road. According to Police estimate, the membership of the Bhiwandi Branch in 1970 was 50, while, according to Baliram More, it was 70 to 80. The evidence, however, shows that the Shiv Sena exercised a much greater influence in Bhiwandi than would be suggested by the numerical strength of its Bhiwandi Branch. No Muslims were at any time members of the Bhiwandi Branch (G.W. 2/90/122 ; S.S.W. 1/16/2161, 88/2194). According to the information obtained from newspaper agents by the Police, the circulation in Bhiwandi in 1970 of the Shiv Sena Marathi weekly *Marmik* was 50 and of the Shiv Sena fortnightly *Shiv Garjana* published in Thana was 200 (P.W. 66/102/1165). The *Shiv Garjana* was founded in 1969 and ever since its inception Vasantrao Marathe, the then Municipal President of the Thana Municipal Council, was its editor. It covered the activities of the Bhiwandi Branch of the Shiv Sena and Baliram More was a regular subscriber to it. He also used to give information to Marathe about the activities of the Bhiwandi Branch and sometimes Marathe came to Bhiwandi to collect the information himself and at times sent a reporter to do so (S.S.W. 1/83/2191). Thus the affairs of Bhiwandi—or rather the Shiv Sena or Baliram More version of these affairs—got sufficient publicity in print.

Baliram More

25.8 Baliram More (S.S.W. 1), the Shakha Pramukh of the Bhiwandi Branch of the Shiv Sena, has played a prominent role in the communal history and municipal politics of Bhiwandi. He was the founder of the Bhiwandi Branch of the Shiv Sena and in the 1967 municipal elections was elected to the Bhiwandi-Nizampur Municipal Council from the ward which included Thange Alli. He has been in politics since 1956 and from 1956 to 1963 he belonged to the P.S.P., but at the convention of the P.S.P. held at Benares in 1963 (Which he had attended as a representative from Bhiwandi) when the party split up into two groups, namely, the P.S.P. and the S.S.P., he did not join either group.

25.9 In 1959-60 he was the paid Secretary of the Ju-Nandurki Multipurpose Co-operative Society Ltd. Along with the assistant secretary of the said society, Tukaram Kushaba Sankhe, Baliram More was prosecuted for forging three receipts and committing with the help of forged documents breach of trust in respect of a sum of Rs. 692-50 P. belonging to the said society. Sankhe was discharged before the framing of the charge as the prosecution withdrew the case against him. Baliram More was, however, committed to sessions and he pleaded guilty in the Court of the Additional Sessions Judge, Thana, and was convicted for the offence under section 408 I.P.C. and sentenced to suffer one day's simple imprisonment and to pay a fine of Rs. 700 and in default to suffer rigorous imprisonment for a period of seven months and for the offences under section 467 read with section 471 I.P.C. to one day's simple imprisonment and to pay a fine of Rs. 300 and in default to rigorous imprisonment for three months, the substantive sentences to run concurrently (S.S.W. 1/15-6/2160 ; P.W. 66/117/1176, 163/3903).

25.10 According to the Police, Baliram More was formerly working as the manager of a gambling den and illicit liquor business run by the Seva Samiti Councillor, Mahomed Ramzan Nazir Momin. This allegation was made in the report dated November 14, 1970 (Ex. P. 624) from the S.P., Thana, to the I.G.P. containing his remarks on the representation dated May 1, 1970 (Ex. P 623) made by Baliram More to the Chief Minister on the memorandum (Ex. P 15) submitted by the Muslim leaders with respect to the 1970 Shiv Jayanti procession. Mahomed Ramzan was one of the signatories to the said memorandum and in the said representation Baliram More had alleged that Mahomed Ramzan was running gambling and liquor dens and that his name was on the police record. From the S.P.'s said report it appears that Mahomed Ramzan's illegal activities were put a stop to after repeated raids. He was also an accused in one of the riot cases. Baliram More has denied that he had any business dealings with Mahomed Ramzan or that he was at any time Mahomed Ramzan's manager in any of his businesses. He has further deposed that the said allegation could not be true for two reasons, the first being that he (Baliram More) belonged to the Shiv Sena and the second being that had he been carrying on any such activity, the Police would have arrested him immediately. Leaving aside the first reason, so far as the second reason is concerned, Baliram More himself had to admit in the witness-box that Mahomed Ramzan had been carrying on illicit liquor and gambling business for five or six years and that he was not at any time arrested in respect thereof (S.S.W. 1/14/2159-60). From the mere allegation made in the S.P.'s said report it cannot be held that Baliram More had at any time taken part in any such illegal activity, but rightly or wrongly he seemed to have acquired a reputation in Bhiwandi for having done so and at the time of the quarrel in the Rais High School on July 9, 1969 between him and Rauf Punjabi, Rauf Punjabi called him a bootlegger and a gambler.

Baliram More's definition of a 'Maharashtrian'

25.11 According to Baliram More, those who have been residing in Maharashtra for 15 to 20 years and have made Maharashtra their home are Maharashtrians. He has deposed that in the light of this definition there were about 8,000 to 9,000 non-Maharashtrians in Bhiwandi, both Hindus and Muslims, the non-Maharashtrian Hindus being from Andhra Pradesh and the non-Maharashtrian Muslims being from Uttar Pradesh. According to him, no member of the Muslim League and no Communist is a Maharashtrian, but Muslims who belong either to the Congress (O) or the Congress (R) are Maharashtrians. So far as Municipal Councillors are concerned, he has a special definition of 'Maharashtrian' for them. According to this definition, any Councillor who belonged to Baliram More's group was a Maharashtrian, while anyone who belonged to the group opposed to his, namely, the Bhiwandi Seva Samiti, was a non-Maharashtrian. To illustrate this definition he cited the case of Abdul Salam Ansari. He deposed that Abdul Salam Ansari so long as he belonged to the Seva Samiti was not a Maharashtrian, but the moment he severed his connections with the Seva Samiti and joined Baliram More's group he became a Maharashtrian (S.S.W. 1/16/2161, 85/2193, 87/2193-4).

The activities of the Bhiwandi Branch of the Shiv Sena

25.12 In every communal dispute the stand taken by the Bhiwandi Branch of the Shiv Sena and Baliram More was anti-Muslim and Baliram More has frankly deposed, "In every communal dispute between Hindus and Muslims in Bhiwandi I and the Bhiwandi Branch of the Shiv Sena were on the side of the Hindus". (S.S.W. 1/87/2194). Baliram More successfully contested the municipal elections which took place on August 13, 1967 and right from the beginning played a prominent role in municipal politics. The Bhiwandi Branch also contested 9 out of the 15 seats in the elections to the Wada Gram Panchayat in November 1967 and won 6 seats (S.S.W. 1/75/2188 ; Ex. BR 10). It would be best to set out the general activities of the Bhiwandi Branch of the Shiv Sena in Baliram More's own words. He has deposed (S.S.W. 1/84-5/2191-3) :

"The Bhiwandi Branch of the Shiv Sena secured the just rights of the Maharashtrians in the following two ways :

(1) By my attending to the complaints against the Municipal Council or any other body and (2) by seeing that factory owners who had built factories outside Bhiwandi Town on Kalyan Road gave a first preference to all local Maharashtrians, that is, Maharashtrians from Bhiwandi Taluka, in filling vacancies. I do not remember the name of a single person whose complaint I attended to. I also attended to the complaints of Muslims. I do not remember the number of such Muslim complainants nor do I remember the name of any one of them. I remember attending to the complaint by a Muslim against an unauthorized construction

by another Muslim. I also attended to grievances about the wrong levy of house tax and water tax. The other grievances I redressed related to municipal administration.

"I persuaded two factories to give preference in jobs to local Maharashtrais, namely, Indian Hume Pipe Company Limited and Hindustan Construction Company Limited. As a result of my efforts seven or eight local Maharashtrais were employed in Indian Hume Pipe Company Limited and 20 to 22 local Maharashtrais were employed in Hindustan Construction Company Limited. All these persons were Hindus."

25.13 It is clear that neither the Bhiwandi Branch of the Shiv Sena nor Baliram More attended to any complaint of a Muslim against a Hindu nor obtained a job for any Muslim who was a Maharashtraian according to Baliram More's definition.

The Shiv Sena meeting at Navi Chawl

25.14 On January 19, 1968 a public meeting was organized by the Bhiwandi Branch of the Shiv Sena at Navi Chawl which was addressed by the Shiv Sena Chief Bal Thackeray. About 2,000 persons were present at that meeting (P.W. 66/58/1135). Nothing turns on this meeting so far as this Inquiry is concerned.

The Shiv Sena agitation of February 1969

25.15 As a result of the agitation launched by the Shiv Sena with respect to the Maharashtra-Mysore boundary dispute, serious riots took place in Bombay in February 1969. There were also hartals and bandhs in Bombay, Thana, Kalyan and other places in pursuance of a call for Maharashtra Bandh given by the Shiv Sena. Baliram More, however, did not give any call for a Bhiwandi Bandh and no hartal or agitation took place in Bhiwandi. At this time Baliram More was trying to woo Muslim Municipal Councillors with a view to preserve his majority in the Municipal Council, which he had managed to obtain by making some Councillors from the Seva Samiti group defect to his group; and his action in not calling a hartal or a bandh was appreciated by the Municipal Councillors and he was thanked for it at a meeting of the Peace Committee held on February 20, 1969 as is shown by the S.P.'s report dated February 22, 1969 on this meeting (Ex. P 106). Baliram More has, of course, given his own reasons for not calling this bandh. This topic has been dealt with in the chapter on municipal politics in Bhiwandi, where I have disbelieved the reasons given by Baliram More.

The Shiv Sena public meeting to felicitate Abdul Salam Ansari

25.16 On March 13, 1969 Abdul Salam Ansari, a Bhiwandi Seva Samiti Councillor, who had defected to Baliram More's group, was elected the Municipal President with the support of almost all Hindu Councillors and a few Muslim Councillors belonging to Baliram More's group, the municipal presidency having been promised to him by

Baliram More if he defected to his group. On March 16, 1969 the Bhiwandi Branch of the Shiv Sena held a public meeting at the Old Wada Stand to felicitate Abdul Salam. Baliram More has, however, contended that the Shiv Sena did not have anything to do with this meeting. This topic also has been dealt with in the chapter on municipal politics in Bhiwandi, where I have disbelieved Baliram More on this point.

Bal Thackeray's 'The Second Pakistan' speech

25.17 On May 30, 1969 a public meeting was held in the grounds of M. H. High School, Thana, by the Thana Branch of the Shiv Sena at which the speaker was the Shiv Sena Chief Bal Thackeray. The audience consisted of about 2,000 persons. The subject of Bal Thackeray's speech was "Is Maharashtra conscious of its heritage?". Vasantrao Marathe, the then President of the Thana Municipal Council, introduced Bal Thackeray. A verbatim report of this speech was taken down by the Shorthand Police Sub-Inspector Reporter of the D.S.B., Thana (Ex. P 124). It was also recorded on a tape recorder which induced Bal Thackeray to indulge in sarcastic witticisms. In the course of his speech he referred to the visit of the Shiv Sena leader, Datta Salvi, to Bhiwandi the previous day and stated that he himself was educated in Bhiwandi. He further said that whenever he talked about the awakening of Maharashtra he was branded a communalist and a regionalist but he was not bothered about it. In the course of his speech he said :

"Whether family planning is useful or not is a moot point. As far as I am concerned, I think that there is great danger in this. If the Police feel that I am contributing to communal tension, I am not afraid of it. I have a right to express my thoughts. I would not mind if I am detained. It is a misfortune of Maharashtra that only we have followed the policy of family planning. Our population is decreasing, not of the other communities. *Muslims and Christians say that family planning is opposed to their religions. They are not loyal to the country. Their population is increasing.....* If you forget Hinduism, you would perish. Muslims and Christians are proud of their religions. Why should a Hindu be afraid of calling himself a Hindu? I do not understand the policy of the Central Government. Maharashtra must advise all States that they should live proudly as Hindus. *Datta Salvi had gone to Bhiwandi yesterday. It has become another Pakistan. A number of shameful incidents are taking place there. I would feel ashamed to narrate those incidents in the presence of ladies.* Anti-national organizations like Tameer-E-Millat should not be allowed to function in this country. Tameer-E-Millat cannot be compared with Abdul Hamid. This is because Abdul Hamid was a patriot. He died on the battle-ground. *Tameer-E-Millat is opposed to the creation of Pakistan. They have blamed Jinnah for the creation of Pakistan. You might say that we should accept them. But they feel that the whole of India is theirs and hence they*

are not satisfied with the creation of Pakistan alone. They want that the whole of India should become Pakistan. They are abusing Shiv Sena and Yeshwantrao Chavan. Activities of anti-national elements are going on all over..... The elections are fought on communal basis. I do not accept this type of democracy. Hitler died for his nation. What was wrong with his dictatorship? Press reporters would publish tomorrow that there is a dictator. Try to understand the feelings with which I am speaking. Maharashtra has raised many great men. But for Shivaji we would not have been Hindus today. He has conferred great blessings on the nation. He has protected it. After that many gems like Savarkar and Phule took birth in Maharashtra, but no one bothered about their thoughts. Great men are despised in their life spans. But after death they are turned into great men. Postal tickets bearing Savarkar's photo are being printed now. But in his lifetime his property was attached and was not given back to him. Maharashtra has raised soldiers. But Maharashtra youth is being castrated under the false idea of family planning.Today we are in majority. But within five to ten years we might recede into minority. Hindustan would be turned into Pakistan. This is an important warning for the administration."

25.18 The above speech of Bal Thackeray satisfies the test laid down in paragraph 6.8 and was, therefore, a communal speech.

25.19 S.P., Bhave did not refer this speech for legal opinion nor did he take any action in respect thereof because, according to him, under the law as it then stood, that is, on the wording of section 153A prior to its amendment by the Criminal and Election Laws Amendment Act, 1969, the speech was not actionable (P.W. 4/191/703).

The prosecution of truck drivers for carrying Shiv Sainiks

25.20 Shiv Sainiks were in the habit of travelling in trucks in order to attend Shiv Sena meetings. These trucks being goods carriers were not allowed to carrying more than six passengers without obtaining a permit in that behalf. Accordingly, between January 1970 and April 1970 five prosecutions were launched against the drivers of such trucks. The details of these prosecutions are to be found in the note Ex. P 1521 filed by Dy.S.P., Diwate.

25.21 The first prosecution was in respect of carrying 57 Shiv Sainiks in a truck bearing registration No. MHY 584 on April 14, 1970, at Wada. The driver was prosecuted and fined Rs. 30.

25.22 The second prosecution was of the driver of the truck carrying Shiv Sainiks to Shahapur for a public meeting to be addressed by the Shiv Sena Chief, Bal Thackeray, on February 7, 1970. In order to attend this meeting 60 Shiv Sainiks including Baliram More went from Bhiwandi to Shahapur in a truck bearing registration No. BML 7698 and were seen at Vanjarpatti Naka, Bhiwandi. The Police registered an N.C. case under sections 118 and 112 of the Motor Vehicles Act, 1939 against the driver. Thereupon on February 8, 1970 Baliram More telephoned the Bhiwandi Town Police Station and talked to

Sub-Inspector S. L. Hirve (P.W. 30) and told him that he should not have registered a case against the driver as others also used to go in trucks in the same fashion for attending meetings. He charged the Police with being anti-Shiv Sainiks and further stated that there were other people in Bhiwandi who broke the law by indulging in nefarious activities and unless the Police took action against them, the Shiv Sena would do so. P.S.I., Hirve made an entry in the Station Diary regarding this telephonic threat. This incident was reported by the D.I.G. (Int.) in his report dated February 20, 1970 to the Home Secretary enclosing along with it a copy of the said entry (Ex. G 312).

25.23 The third and the fourth prosecutions were in respect of carrying Shiv Sainiks for the Shiv Sena meeting held on February 22, 1970 at Mahad. Trucks bearing registration Nos. MRS 6015 and MRS 5911 respectively, each carrying about 50 Shiv Sainiks, were spotted at Kausa and in the case of truck No. MRS 6015 the driving licence of the driver and the permit of the said truck were suspended and in the case of truck No. MRS 5911 the driving licence of the driver and the permit were cancelled and both the drivers were prosecuted under the Motor Vehicles Act.

25.24 The fifth and the last prosecution was in respect of carrying 44 Shiv Sainiks by truck No. MRR 6467 on April 5, 1970 at Kalyan Road. The driver was prosecuted and fined Rs. 100 on April 6, 1970.

The Kausa riot

25.25 Bal Thackeray had gone on a tour of the Konkan from February 15, 1970 to February 21, 1970. While the Shiv Sainiks were returning from the Konkan tour, a Muslim cartman of Kausa, Abdulla Dhob, did not give way quickly enough to a truck in which Shiv Sainiks were travelling. The Shiv Sainiks got angry and assaulted him. The next day a riot between the Shiv Sainiks and the Muslims took place at Kausa while the Shiv Sainiks were going to Mahad for a public meeting. The details of these incidents will be given in the part of the Report dealing with the Mahad disturbances. Kausa, being situated near Bhiwandi, these incidents created considerable communal tension in Bhiwandi.

The Bhiwandi Bandh

25.26 The Shiv Sena had given a call for Maharashtra Bandh to be observed on March 2, 1970. Pursuant to this Baliram More gave a call for Bhiwandi Bandh. Baliram More, Suresh Kondalkar, Prabhakar Salvi and Shashikant Alashi, all of them local Shiv Sena leaders and workers, were arrested by the Police on the night of the 1st/2nd March 1970 under section 151 Cr.P.C. Baliram More gave an undertaking that he would see that peace was maintained in Bhiwandi by him and his followers and thereupon he was released. [P.W. 38/1(73)/867(23); S.S.W. 1/47/2172].

25.27 Since the evening of March 1, 1970 the Police had maintained bandobast at all important places in Bhiwandi, but strangely

enough no constables were posted at Thange Alli which is a Hindu locality and the stronghold of Baliram More forming part of his municipal constituency and in which the Thange Alli Mosque is situate, with the result that on March 2, 1970 in Thange Alli a Hindu, who could not be traced, toppled a handcart full of water-melons belonging to a Muslim vendor and another Hindu, Chiman Somabhai Patel, reported to be an associate of a known bootlegger, threw stones at the Thange Alli Mosque as a result of which two window-panes of the mosque were broken. He was arrested on March 2, 1970 but escaped from police custody and was rearrested on April 5, 1970. There were two cases registered against him, the one for stone-throwing and breaking the window-panes of the mosque and the other for escaping from lawful custody. He was convicted in both the cases [P.W. 4/1(48)/236(27), 85/608, 88/610].

25.28 In the chapter on municipal politics the motive of Baliram More in giving this call for Bhiwandi Bandh has been discussed. As held therein, he had by this time by reason of the compromise arrived at between the two groups of Municipal Councillors lost hope of regaining power in the Municipal Council and, therefore, no more saw any necessity of placating the Muslims.

The public meeting at Kombadpada

25.29 A public meeting of the Bhiwandi Branch of the Shiv Sena was held at 8 p.m. on March 17, 1970 in Khadbadeshwar Temple at Kombadpada in Bhiwandi at which about 300 persons were present. At this meeting Baliram More criticized the police officers, Dy.S.P., Diwate and Inspector Pradhan for abusing the shopkeepers and merchants and for not allowing the Holi to be lighted. This incident of lighting the Holi has already been discussed in paragraphs 17.25 to 17.27. At this meeting Baliram More declared that the Shiv Sena would take out a morcha to the Mamlatdar's office on April 4, 1970 to condemn the behaviour of the said police officers. He unequivocally declared that that year the Shiv Jayanti procession would go past the Nizampura Jumma Mosque and if there was any opposition to this route, he would resign from the Peace Committee and if there was any resistance, the Shiv Sena would give a fitting reply. The M.T.M. had declared its intention to hold a public meeting to felicitate the P.W.P., M.L.A., K. N. Dhulap for his speech criticizing the Shiv Sena in connection with the Kausa incident. Baliram More declared at the said meeting that if the M.T.M. meeting was held, the Shiv Sainiks would disturb it. Uddav Teje, an R.U.M. leader, who, it appears, was invited to this meeting, also spoke. He too reiterated that the Shiv Jayanti procession would pass by the Nizampura Jumma Mosque and if anyone obstructed it, he would be murdered. He also condemned the alleged actions of the said police officers and declared that he was ready to die in order to prevent an M.T.M. meeting from taking place. Trimbak Nagle called on the people to unite under the Bhagwa flag and declared that if the M.T.M. expressed any hatred of the Shiv

Sainiks at the said meeting, the Shiv Sainiks would break their limbs. R. D. Pawar spoke on the life and work of Shivaji and explained the importance of the unity of Hindus. Inspector Pradhan's report dated March 18, 1970 on this meeting is Ex. P 77. This meeting has also been referred to in the report dated March 23, 1970 made to the S.P., Thana, by P.S.I., V. M. Dalbhide of S.S.B., Thana (Ex. G 273) and by the D.I.G. (Int.) in his report dated April 2, 1970 to the Home Secretary (Ex. G 315). A number of R.U.M. workers including Uddav Teje had attended this meeting and this shows that by this time the Shiv Sena, Bhiwandi Branch and the R.U.M. were working in close co-operation.

25.30 The speeches made by Baliram More, Uddhav Teje and Trimbak Nagle at the aforesaid meeting satisfy the test laid down in paragraph 6.8 and were communal speeches. All three of them were prosecuted under section 153A and section 117 I.P.C. but were discharged on the ground that the sanction to prosecute was not proper. After fresh sanction was given, they were prosecuted again and were acquitted on October 28, 1972 (Ex. G 394) [P.W. 4/1(51)/236(30) ; P.W. 38/5/868].

The Moharram of 1970

25.31 The role played by Baliram More at the time of the 1970 Moharram, the widening of the Holi pit at Wada Stand by the Shiv Sainiks, the false complaint of the shouting of the slogan "Pakistan Zindabad" given by Baliram More and his prosecution in respect thereof have been dealt with in paragraphs 17.35 to 17.40 and there is, therefore, no need to repeat these facts here.

The Shiv Sena move to prevent the M.T.M. meeting

25.32 The M.T.M. had called a meeting on March 27, 1970 to felicitate the P.W.P. M.L.A.s, K. N. Dhulap and Bhaji Patil. In keeping with the threats held out by it at the said public meeting held on March 17, 1970, the Shiv Sena also called a meeting on the same day to be held either near the Town Police Station or near Kasar Alli, both these places being near the Teen Batti Naka where the M.T.M. was to hold its meeting. Both the Shiv Sena and the M.T.M. asked for police permission to use loud speakers at their respective meetings. As the Shiv Sena's application was received prior to that of the M.T.M., permission was granted to the Shiv Sena and refused to the M.T.M. Accordingly, the M.T.M. postponed its meeting to March 28, 1970. Having achieved its object by getting the M.T.M. to cancel its meeting, the Shiv Sena did not hold any meeting on March 27, 1970 (P.W. 4/85/617, 203/718).

The Shiv Sena morcha

25.33 On April 4, 1970 the Bhiwandi Branch of the Shiv Sena took out a morcha. The 30th March 1970 issue of the *Shiv Garjana* (Ex. P 692) published an advance intimation of this morcha. Inspector Pradhan's report dated April 5, 1970 and the report dated April 8,

1970 from the D.I.G. (Int.) to the Home Secretary on this morcha are Exs. P 526 and G 317 respectively. The morcha was led by Baliram More. It consisted of about 250 persons and about 20 Shiv Sena flags were carried in it. The morcha was stopped at the Old Fish Market at a distance of 100 yards from the police station. Thereafter a delegation consisting of Baliram More, Dattatraya Bhopatrao, Dilip Tamhane and some others went to the Bhiwandi Town Police Station and handed over a memorandum (Ex. P. 525) to Dy.S.P., Diwate. The said memorandum complained about the local Police arresting Shiv Sena workers on March 1 and 2, 1970 on the occasion of the call for Bhiwandi Bandh and the action of the Police during the Holi and Moharram festivals. It called upon the Police to ban the meetings of the M.T.M. and the holding of Vaz in Bhiwandi. This memorandum *inter alia* alleged that Dy.S.P., Diwate and Inspector Pradhan had unauthorizedly prohibited the lighting of the Holi fire at Navi Chawl on March 17, 1970 and had abused merchants and workers from that place. It is worth noting that Baliram More who was the first signatory to the said memorandum and had led the morcha and the delegation to the Police admitted in the witness-box that he did not even know the name of any merchant or worker who was supposed to have been abused by Dy.S.P., Diwate and Inspector Pradhan (S.S.W. 1/72/2187).

25.34 At the time of the said morcha the following slogans were shouted :

- (1) Shri Chhatrapati Shivaji Maharaj-ki-Jai,
- (2) Shiv Sena Zindabad,
- (3) Bal Thackeray Zindabad,
- (4) Bandh Karo, Bandh Karo, Tameer-E-Millat Bandh Karo (Close down the Tameer-E-Millat),
- (5) Shivigal Karnare Police Adhikaryanchi Chaukashi Jhalich Pahije (An enquiry must be held about the police officers who gave abuses),
- (6) Khalik Mominvar Kaydeshir Tajvij Jhalich Pahije (Legal action must be taken against Khalik Momin),
- (7) Bhiwandi Police Murdabad,
- (8) Tameer-E-Millat Murdabad,
- (9) Ali-re-Ali, Shiv Sena Ali,
- (10) Hi Darkali Konachi ? Shiv Senechya Vaghachi (Whose roar is this ? It is of the Shiv Sena tiger).

25.35 A significant fact to be noted in connection with this morcha is that Bhaskar Mali, the President of the R.U.M., waited for the morcha at the Old Fish Market where, as usual, the morcha was expected to be stopped and he was giving guidance to those who were in the morcha about the shouting of slogans during the period that the Shiv Sena leaders had gone in a delegation to the Town Police Station for handing over the said memorandum. This shows that by that time there was complete co-operation and a close alliance between the R.U.M. and the Shiv Sena Bhiwandi Branch.

25.36 There were some wooden stalls, referred to as cabins by some witnesses and in police reports, near the Town Police Station. According to S.P., Bhawe, as the said morcha was taken out mainly against the Police and as, therefore, the Police expected it to be only a small morcha, they did not advise the stall-holders to close their stalls in order to prevent any untoward incident, but the stall-holders, of their own accord, being afraid of what might happen at the time of the said morcha, closed their stalls. After handing over the said memorandum Baliram More addressed the processionists. In the course of his speech he condemned the action of the stall-holders in closing their stalls at the time of the morcha. Gulam Dastagir Nasikkar, the President of Mandal Vyapari Association and of the Flower Merchants' Association and the Secretary of the Hawkers' Association of Bhiwandi of which Ibrahim Maddu was the President, has alleged that the Police had asked the stall-holders to close their stalls and that he was present at the time of Baliram More's speech and that in the course of his speech Baliram More stated that if the stall-holders thought that the Shiv Sena would loot them, they should note that the Shiv Sena could loot them whenever it wished (B.R.W. 9/1-3/1451-2). On April 6, 1970 a complaint was made to the Chief Minister by the stall-holders (Ex. P 527) and copies thereof were sent to the Collector, Thana, S.P., Thana, and the M.L.A.s K. N. Dhulap and G. S. Banatwala. Both in his evidence and in his report dated June 24, 1970 (Ex. P 1518) on the said complaint Bhawe has stated that Baliram More did not speak the words attributed to him. According to the said report Baliram More censured the action of the stall-holders in closing their stalls and said that the morcha was not taken out for looting the said stalls and the stall-holders should therefore immediately open their stalls. Baliram More has also denied that he spoke the words attributed to him (P.W. 4/247/747; B.R.W. 9/1-3/1452; S.S.W. 1/9/2157). Strangely enough Nasikkar has not been cross-examined on behalf of the Executive Magistrates and the District Police Officers or on behalf of Baliram More and normally there would be no reason why his uncontradicted testimony should not be accepted. This is, however, an Inquiry being held by a Commission of Inquiry and before accepting any testimony, whether contradicted or otherwise, the Commission must be satisfied that the facts deposed to are true. Baliram More has not proved to be a truthful witness and I attach no importance to his denial, but I am not prepared to disbelieve S.P., Bhawe on this point, for the circumstances militate against Nasikkar's version. The morcha was directed against the Police, the said memorandum also made a complaint against the Police, the Police had already prosecuted Baliram More for giving a false complaint at the time of the Moharram, and there would be no reason why the Police should in this matter try to shield Baliram More and not state that he had spoken the words complained of. After all, the report on the said morcha was made by Inspector Pradhan and it was he who along with Dy.S.P., Diwate was the target of attack by the R.U.M. and

the Shiv Sena for his alleged conduct in abusing the shopkeepers. I am also unable to accept Nasikkar's statement that the Police had asked the stall-holders to close their stalls. Bhave has candidly admitted that they did not expect a large morcha and, therefore, did not ask the shopkeepers to close their shops. Therefore, had the Police expected a larger morcha, they would have asked the shopkeepers to close their shops. There would be no purpose in S.P., Bhave telling a lie on such a point. Past experience has convinced many a shopkeeper that at the time of morchas discretion is the better part of business and it would be much better to close their shops rather than keep them open for customers to drop in and make their purchases and thus run the risk of the shop being damaged or looted by rowdy processionists and demonstrators.

The publicity given to anonymous letters

25.37 We have seen in Chapter 19 how Baliram More got made photostat copies of the anonymous letter of threat received by him in October 1969 with the object of getting it published in the *Marmik* as also the publicity given by him to the anonymous letter of threat received by him in April 1970. As these facts have already been dealt with in Chapter 19, it is not necessary to repeat them here.

The activities in connection with the 1970 Shiv Jayanti

25.38 Baliram More has played a prominent and active part in the events which preceded the Shiv Jayanti procession of May 7, 1970. These activities as also those of the Shiv Sena Bhiwandi Branch in this connection will be dealt with in the Chapter entitled "The setting for Shiv Jayanti".

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CHAPTER 26

THE BHIWANDI BRANCH OF THE ALL-INDIA MAJLIS TAMEER-E-MILLAT

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CHAPTER 26

THE BHIWANDI BRANCH OF THE ALL-INDIA MAJLIS TAMEER-E-MILLAT

The All-India Majlis Tameer-E-Millat

26.1 A note filed by I.G.P., Rajadhyaksha on the All-India Majlis Tameer-E-Millat (for the sake of convenience and brevity referred to in this Report as "the M.T.M.") and its activities is Ex. G 103. The M.T.M. was formed in 1950 at Hyderabad in Andhra Pradesh under the name of Buzme Ahabad (the Association of Friends) and on November 9, 1954 it was renamed as the All-India Majlis Tameer-E-Millat. Its founders included Syed Khalilullah Hussaini, Gaus Khamoshi and Suleman Sikander, all of whom were the office-bearers of the M.T.M. at the relevant time. The headquarters of the M.T.M. is at Hyderabad. Its office-bearers in 1970 were—

- (1) President : Syed Khalilullah Hussaini,
- (2) Vice-President : Gaus Khamoshi,
- (3) General Secretary : Mir Laiq Ali Khan,
- (4) Chief Organizer of the Party : Suleman Sikander,
- (5) Secretary and editor of the party organ *Sahur*, Rahim Quraishi.

26.2 The M.T.M. was one of the bodies which joined in forming the Mushavarat. After the passing of the resolution on self-defence by the Mushavarat on October 10, 1967 (Appendix K to Ex. G 102) the M.T.M. leaders started preaching the theory of self-defence and were very vehement in carrying on propoganda in respect thereof.

26.3 On December 22, 1963 the M.T.M. formed a branch in Kalyan in the Thana District and on November 3, 1968 in Bhiwandi. Mahomed Alli Isa of Hyderabad was the Chief Organizer of the Maharashtra M.T.M. The Maharashtra M.T.M. held a conference at Aurangabad on May 11 and 12, 1968 under the presidentship of Syed Khalilullah Hussain. At the time of the said conference a booklet in Urdu entitled "*Riots and our responsibilities—Views of the All-India M.T.M.*" was circulated. This booklet *inter alia* stated (Ex. G. 132) :

"The Central Committee of the All-India Majlis Tamir-E-Millat, in its recent session held on January 20th and 21st of 1968, has decided that by the grace of God the Muslims had now become conscious about self-defence, that the time had come to give it a practical shape and that no member of the Tamir-E-Millat would sleep or get sound sleep till the Muslims would become 'Mujahideen' (Crusaders) on the principles of self-defence".

26.4 At the said conference amongst other resolutions a resolu-

tion on "Aggressive communalism and the Muslims" and another on "Communal riots and the Government" were passed. The resolution on "Aggressive communalism and the Muslims" was as follows :
"Aggressive Communalism and the Muslims.

"This session of the Maharashtra State Tamir-E-Millat held on 12th May 1968 expresses its deep concern over the one-sided damage caused to the Muslims during communal riots and has arrived at the considered view that—

(A) The aggressive communal forces in the country have decided—

- (i) to get the Muslims merged in the Hindu culture.
- (ii) to destroy the economic position of Muslims,
- (iii) to make the Muslims terror-stricken so that they get gradually reduced to the status of 'Achhuts', or
- (iv) to drive them away from India.

(B) Each riot was one-sided and pre-planned.

(C) The administrative machinery and the Police either had a hand in it or showed connivance.

(D) There was every likelihood that this chain of communal riots might become severe and the Muslims might be required to pass through much worse period in the days to come.

"This session, therefore, likes to advise the Muslims of Maharashtra that they—

- (1) should shed nervousness, should not get panicky and rest faith in the blessings of God.
- (2) *should listen to the call given by the All-India Majlis Tamir-E-Millat and organise themselves in each locality on the principles of self-defence,*
- (3) should set up physical training centres for this purpose.
- (4) In case of any attack on their lives and property, should encounter these aggressive forces, looters and the disruptive elements with full courage and strength.
- (5) Should improve their contacts with peace loving citizens, scheduled castes and other minorities and should not forget that their very efforts were not at all against the Hindu community but were against those anti-social elements who were the real enemy of the mankind and were contemplating to throw the country to the stage of anarchy.

"They as the members of particular community should make it clear and known that henceforth they were not at all willing and prepared to bear tortures and further suppression and *should resolve to pay in the same coin to these anti-social and inhuman elements.*"

26.5 The resolution on "Communal riots and the Government" was in the following terms :

"Communal riots and Government

"This session of the Maharashtra State Tamir-E-Millat expresses its deep and grave concern over the rising and mounting spate of

communalism in the country. In spite of mass massacre of thousands of Muslims and damage caused to properties worth crores of rupees, the inaction and silence on the part of the Central and State Governments in not taking effective measures to curb such mentality, was much more regrettable for a healthy society and thereby the Central and the State Governments were clearly displaying their own helplessness.

“It was quite true that the masses in the country were not at all enemies of the Muslims but there existed some semi-military forces with sound financial resources which are giving rise to the feelings of hatred, hatched plans for destroying the Muslim community and aroused the tempo and acts of massacre and ravage on a wide scale, the lovers of peace merely acted as spectators and the Government machinery seemed either paralysed or a party to the conspiracy.

“To control this deteriorating situation, the conference puts forth the following demands before the Government :

- (1) To impose legal ban on all such acts and behaviour whereby the feelings and sentiments of any particular community or religious group is harmed and to implement rigorously the provisions of the existing enactments.
- (2) To delete all such material from the school textbooks which causes to foment or give rise to the feelings of hatred against any religion, community or group.
- (3) The Home Minister of the State where the incidents of communal riots take place should resign.
- (4) To appoint a permanent and high powered commission to probe promptly into the causes of communal riots and incidents.
- (5) To suspend all the officials concerned with maintaining law and order till the enquiries into the incident of communal riot continued and to deal severely with those found guilty of the cause of the communal incident.
- (6) To grant arms licences to the members of minority communities for their self-defence.
- (7) To give adequate representation to the minority communities in the Police force.

“In the light of all these suggestions as embodied in this resolution, if the Central and the State Governments failed to take effective measures to prevent and control the communal frenzy, the Muslims, in order to save their lives and properties, would be constrained to take all adequate measures for self-defence and under the circumstances the Central and the State Governments would mainly be responsible for the consequence.”

26.6 On October 28 and 29, 1967 at a function arranged to celebrate Rahimat-ul-Alamin Day (the Prophet's Day) Syed Khali-lullah Hussaini and Gaus Khamoshi made speeches in respect of which they were prosecuted under section 153A I.P.C. and convicted by the Judicial Magistrate, First Class, Aurangabad. On appeal the

Additional Sessions Judge, Aurangabad, confirmed the sentence and conviction. Both of them were acquitted by the Bombay High Court (Criminal Reference No. 13 of 1972 with Criminal Revision Application No. 1008 of 1971 decided by Deshpande, J., on November 22, 1972). The defence of both the accused was that the text of the speeches relied on by the prosecution was not proved. The High Court found very serious infirmities in the shorthand notebook of Shorthand Police Inspector Reporter Uddhavrao Kamtikar, including alteration of dates, keeping of blank pages, interpolations, etc. and was unable to place any reliance upon the text of the said speeches as reported. Extracts from the report of the said public meeting are Appendix A to Ex. G 103. Since the said report was compiled from the said notebook which has been found to be untrustworthy and unreliable by the High Court, it is also not possible for this Commission to place any reliance upon the so-called text of the said speeches as reproduced therein.

26.7 At the time of the said conference of the Maharashtra M.T.M. held at Aurangabad on May 11 and 12, 1968 Gaus Khamoshi, Syed Khalilullah Hussaini, Rahim Quraishi, Rashid Salim and other M.T.M. leaders addressed the conference (Appendix B to Ex. G 103). Gaus Khamoshi exhorted the Muslim youth to unite. Referring to the massacre of the children of the Jews by the Pharaoh of Egypt, he said that a new Pharaoh had reared his head in India and was planning and propagating to erase the Muslims from the surface of India and that the result was the spate of communal riots which had taken place all over the State of Maharashtra. He said that a new Moses would be born to stand up to this new Pharaoh and this would become possible only if the Muslims organized themselves. He said that their opponents had penetrated each and every village and, therefore, the Muslims too must prepare themselves similarly so that future generations should not prove an easy prey for them. He then attacked the R.S.S. and exhorted the audience to convey his message to every home, village and town. In the course of his speech Khalilullah Hussaini said that some Hindu communal parties had openly started saying that the Muslims should either go to Pakistan or get merged with Hindu culture and that some of them had even claimed that since the ancestors of the present Muslims in India were Hindus they should return to the Hindu fold. Continuing he said that crores of Indian Muslims were groping in the dark shadow of death and that there were some people like Guruji Gotwalkar who thought in terms of solving the problem of the Muslims as in Germany Hitler had solved the problem of the Jews and wished to turn India into a graveyard for the Muslims. He then referred to the communal riots which had taken place in Jabalpur, Mangalore, Pusad, Basin, Sholapur, Nizamabad and Ahmednagar saying that in these communal disturbances thousands of Muslims had lost their lives and properties worth crores of rupees belonging to Muslims were destroyed. He then dwelt on the subject of the religious duty of every Muslim to carry

on a 'jihad' or holy war. He called upon the Muslims not to submit any more to this tyranny and in order to lead an honourable life not to hesitate to sacrifice everything dear to them. He then referred to the charge made against the Muslims that they were pro-Pakistanis and said that those who make this charge should remember that when India and Pakistan came into existence the Muslims in India were at liberty to opt for either India or Pakistan as they desired but they decided to be loyal to their own Motherland and stayed in India irrespective of the consequences. He further said that those who claimed that India belonged to the Hindus alone and that therefore the Muslims should leave India ought to remember that the Hindus themselves were not the original inhabitants of India, but that the original inhabitants were the aboriginal tribes. He said that recently the Shiv Sena had also taken to the same type of propaganda as the R.S.S. and he concluded by again exhorting the Muslims to unite against these elements.

26.8 The said speeches of Gaus Khamoshi and Syed Khalilullah Hussaini satisfy the test laid down in paragraph 6.8 and were therefore, communal speeches.

26.9 Syed Khalilullah Hussaini was prosecuted for making the said speech and was convicted and sentenced to pay a fine of Rs. 2,000. His conviction was confirmed by the High Court.

The 'Shaur'

26.10 The party organ of M.T.M. is the Urdu weekly *Shaur* published from Hyderabad in 1970. Its editor at the relevant time was M. A. Rahim-Quraishi. The circulation of the *Shaur* in Bhiwandi in 1970, according to information supplied to the Police by newspaper agents, was about 50 (Ex. G 103 ; P.W. 66/41/1127). An article published in the 29th April 1966 issue of the Urdu weekly *Shaur* has been produced before the Commission (Ex. P 1481). The article is entitled "Who is the Hero of India's Integration : Aurangzeb or Shivaji ?" (Ex. P 1481). The article criticized the erection of statues to various political and other leaders and characterized this as a useless waste of money. The article then went on to say :

"Quite apart from this, in imitating the West, if the Indians consider the installation of statues as the expression of paying tributes or eulogizing the services rendered, they should see as to how the plan of Arya Samajist Congress leaders to install the idol of Shivaji fits into the mould which has been adopted by India.

"It is a great injustice to history that these dreams of a united India and of one country from Kashmir to Kanyakumari should praise the services of those who fanned the feelings of regionalism and sectarianism and made attempts to disrupt the unity of India. It is a great sorrow and pity that no personality representing the feelings of freedom and unity was found in India (which has its great history and which was the citadel of culture and civilization) because there was a hatred towards history's golden-chain of the

brightest period. Eyes often went in search of the greatness of the country in the past but they never saw the shining period—whether our history was so poor and worthless that it could not produce any hero, so as to represent our feelings for freedom and defending the Motherland against the attacks of the foreigners. Our history is full of these things. It is not valueless. The pages of history bear testimony when Gayasuddin Bulban saved the country from being destroyed at the hands of Chenghiz Khan by sacrificing his beloved son Prince Muhammad. Today the loyalties to languages and regions are increasing. The feelings of drifting away from the centre and separatism are gaining strength. The historical personality which represents the feelings of integrity and unity of the country is no other than Aurangzeb who made efforts to bring the whole country under one rule and made attempts to remove all those hurdles which came in the way of irrespective of whether they were Muslim rulers or Shivaji, the leader of the hostile Marathas. But the eyes never turned to this great personality who dreamt of a united India. We cannot do justice to history so long as the curtain is not lifted from our eyes and till that time our history would remain valueless.

“Shivaji was the spokesman of regionalism, sectarianism and drifting away from the centre who by promoting the feelings of sectarianism tried to harm the unity of India and by breaking the loyal Rajput colleagues of Aurangzeb tried to spread the poison of communalism in the politics of the country. To pay tributes to Shivaji is to popularize the feelings of drifting away from the centre. To give the status of a national hero to the regional and sectarian hero is to encourage the feelings of regionalism, provincialism and separatism. This does harm to the unity of the country. If such feelings are promoted, South India would find its hero in Pullikishan who fought with Harish of North India. Orissa would search its historical personality amongst the Kings of Kalinga who fought with Ashoka the Great. If Shivaji's struggle with the Mughals is the freedom struggle, why then the struggle of Nagas and Mizos and the demands of Dravidians could not be freedom struggle? It should be remembered that by giving the sectarian heroes the status of national heroes would take India to the path of ruin. In each region there will be worship to a separate idol. Each region will promote its individuality to such an extent that the very feelings which make India one country would be lost.”

26.11 In view of the feelings entertained by a number of Hindus against Aurangzeb and by a number of Muslims against Shivaji it must be held that this article satisfies the test laid down in paragraph 6.8 and was a communal writing.

The formation of the Bhiwandi Branch of the M.T.M.

26.12 The Bhiwandi Branch of the M.T.M. was formed at a public meeting held at 10-00 p.m. on November 3, 1968 at Teen Batti

Naka, Bhiwandi. Prior to the said meeting a hand-bill (Ex. P 543) was distributed. This hand-bill *inter alia* stated that the M.T.M. had raised its voice against centuries-old useless and meaningless customs which were harmful to the community and which the members of the community were following blindly and that the goal of the M.T.M. was to lay the foundation of the reconstruction of the community on principles of virtue and asked for co-operation in carrying out the constructive work of the M.T.M. The said public meeting was attended by Suleman Sikander, Syed Kabiruddin Kazi, the President of the Kalyan Branch of the M.T.M., and other M.T.M. leaders from Kalyan as also some local Muslims leaders from Bhiwandi. There were about 450 persons present at the meeting out of which 100 to 150 had come from Kalyan. Inspector Pradhan's report dated November 4, 1968 on this meeting is Ex. P 43. In its statement filed in pursuance of the directions given by the Commission with respect to admitting or disputing the correctness of the text of speeches contained in various reports, the M.T.M. has challenged the correctness of certain portions of this report. No attempt has been made on behalf of the Executive Magistrates and the District Police Officers or any other party to prove the correctness of the said report and, therefore, the objection to its correctness must prevail.

26.13 Addressing the said meeting Kabiruddin Kazi said that in the last few days the situation in Bhiwandi and Kalyan had deteriorated as a result of the activities of the communalists and blamed the Shiv Sena Chief Bal Thackeray for spoiling the communal atmosphere of Kalyan. Abdul Aziz, an M.T.M. leader from Kalyan, spoke on the foundation of the M.T.M. and said that it was established in 1950 or 1951 at Hyderabad because the Muslims were oppressed and it was decided that the Muslims should unite to protect their lives and properties. He exhorted the audience and the Muslim youths to unite and resist injustice and oppression. Ahmed Kazi of Kalyan said that the Shiv Sena Chief Bal Thackeray and the Jan Sangh were trying to defame the M.T.M., but the administration was not prosecuting them. The said report also states that he said, "Music was being played in front of the mosque. That should be stopped." According to the objections filed by the M.T.M. before the Commission what he had stated was, "Music was played in front of the mosque deliberately at prayer time. That should be stopped." For the reason mentioned above the said objection must prevail. Continuing, Ahmed Kazi said that the real intention of the Hindu communalists was to convert the Muslims to Hinduism, but they had not succeeded. Suleman Sikander said that this was the first meeting of the M.T.M. held in Bhiwandi. He further said :

"All the area from Himalaya to Kanyakumari was under foreign rule. Before the British rule, we had ruled the country for one thousand years. It is wrong to say that we have attained independence now. It is suggested that in the reign of Aurangzeb and Allauddin Khilji the nation was under foreign rule."

The last two sentences have been challenged by the M.T.M. as

having been incorrectly reported and according to its said statement of objections what was actually said was :

“It is wrong to say that we have attained independence now after slavery under foreign rule of Muslims and British. We may criticise Aurangzeb and Allauddin Khilji, but we cannot say they were foreign rulers.”

For the reasons stated above, this objection too must prevail. Suleman Sikander then referred to the history of the Muslim rule in India and said that when Gayasuddin was the Sultan of Delhi he had declared that he would not allow India to go under foreign rule and that when Tejpur was attacked, Muslims had supported the Hindu ruler and that the Muslims had protected the border of India in 1965 during the Indo-Pak war. Continuing he said that though Guruji Golwalkar had written that the Muslims were communalists and Pakistanis, such books were not banned but allowed to be published, but if the M.T.M. published anything it was prosecuted even though all that it had declared was that the Muslims should protect themselves. He said that Tipu Sultan had fought against the British, but his name was never mentioned. He cited instances where Muslims were employed by Hindu rulers. He said that the Muslims were not responsible for any riot which was committed in India and that India belonged to all who resided therein and not to any particular community. According to the said report, he is also supposed to have said :

“Shri Bal Thakare had come to Kalyan when the Muslims shouted ‘Nare Takbir’, The Hindus started running. Shri Thakare asked them not to run away and said that the Police belongs to them.”

According to the said objections filed by the M.T.M., Suleman Sikander did not utter the words quoted above. For the reason mentioned above, this objection must also prevail and it must be held that these words were not uttered by Suleman Sikander. Suleman Sikander then asked why at the time of riots Muslims only were harassed. He declared that the message of the M.T.M. was of self-defence and just as the communists, socialists and the Jan Sangh had a right to spread their philosophy the M.T.M. too had a right to spread the philosophy of Islam amongst the Muslims and he declared his belief that within one hundred years the philosophy of Islam would reach every house in India.

26.14 The aforesaid speeches of Abdul Aziz, Ahmed Kazi and Suleman Sikander satisfy the test laid down in paragraph 6.8 and were, therefore, communal speeches.

26.15 The formation of a branch of the M.T.M. in Bhiwandi agitated the Hindus of Bhiwandi and the said meeting became a topic of discussion amongst them.

The office-bearers of the Bhiwandi Branch of the M.T.M.

26.16 The names of the persons who became the office-bearers of the Bhiwandi Branch of the M.T.M. are set out in Ex. G 103. They were :

President	...	Abdul Khaliq Mahomed Ibrahim Momin.
Vice-President	...	Zafurullah Khan Haji Musa Khan.

Joint Secretary	...	Mahomed Nazir Abdul Majeed.
Joint Secretary	...	Khurshid Ahmed Hamidullah.
Members of the Com- mittee.		Mahomed Ayub Mithaiwala, Siraj Ahmed Shabir Ahmed Rahi, Yaz Ahmed Babu Abir, Isa Pehelwan and Rahmat Qureshi.

26.17 Abdul Khaliq Mahomed is an accused in the Bhiwandi Conspiracy Case. He does not enjoy a good reputation in Bhiwandi and was supposed to have been concerned in some cases of cheating and was popularly known as '420' (Ex. P 52). Even some of the Muslim witnesses have called him the most extremist and communal Muslim in Bhiwandi (B.R.W. 1/60/1384 ; B.R.W. 3/32/1430). Zafarullah Khan was a graduate in science and was a teacher in the Rais High School. He was in his thirties. He stopped teaching in the school in order to do his B.Ed. from Ulhas Nagar (B.R.W. 1/60/1384 ; Ex. G 295).

The meeting of January 13, 1969

26.18 A public meeting of the Bhiwandi Branch of the M.T.M. was held at Teen Batti Naka on January 13, 1969 at 9-30 p.m. The M.T.M. leaders Syed Khalilullah Hussaini, Suleman Sikander, Shabir Hussain and Kabiruddin Kazi attended this meeting. The report dated January 13, 1969 of the shorthand reporter of the State Intelligence on this meeting is Ex. P 44. Shabir Hussain addressing the meeting stated that the Muslim community all over the world was passing through a most critical period and at some places was being subjected to inhuman atrocities at the hands of aggressive forces, on some occasions the chastity of their women was outraged in broad daylight, at some places efforts were made to cause irreparable damage to their economic position and property, and to crown it all some felt pleased at playing Holi with their blood. He said that history bore testimony to the fact that right from the beginning the Muslims had to face such storms, but they had come out of them all with renewed force and vigour. He said that the M.T.M. was also passing through stormy times and till then sixteen prosecutions had been launched against its leaders by the Governments of Andhra Pradesh and Maharashtra. He said that the high mission of the M.T.M. was to lift the Muslims out of their state of despair and that its efforts were meeting with success as a result of the slogan and advice which it had given to the Muslims. He also said that what irritated the ruling class was their slogan of self-defence, but had he been at the helm of the Government he would have welcomed such a suggestion and would have thanked Khalilullah Hussaini for making it, for there were several advantages in that slogans both to the Government and to the Muslims. He further said that it was their common experience that every day brought news of riot, arson and atrocities at which both the Government machinery and the Police were helpless and that as it was an accepted position that everybody was at liberty to have recourse to self-defence if there was danger

to his life from some wild animal or force, the Jamat had advised the Muslim to resort to the policy of self-defence, for in all the communal riots they were the worst sufferers. Suleman Sikander next addressed the meeting. He *inter alia* said that the Muslims had ruled this country for over 1,000 years during which they had given culture and knowledge to those who were ignorant and had taught manners to those who were unable to eat properly and to put on clothes. He further said that India was the country of all its inhabitants and not only of the majority group who claimed that Hindustan belonged to the Hindus only and that the Muslims, Sikhs and backward communities had no claim over it. He then referred to the Hindu communal elements. He said that their mentality was the product of a well-planned conspiracy and that whenever they had found opportunity they had played havoc as at Nagpur, Aligarh, Nizamabad, Rourkela and Jabalpur and had reduced to ashes the houses and bazars of the Muslims. He further said that the time had come when all should prepare themselves to crush the heads of all such deadly snakes in order to save the country from further destruction and that if the Muslims had now shown their readiness to face such aggressiveness, their doctrine of self-defence should not be misinterpreted, for it was adopted only to save the country as they feared that if no early remedy were found, in future there would be several divisions of India. He then referred to Guruji Golwalkar's book *A bunch of Thoughts* and said that in it, it was openly recommended that the problem of the Muslims in India should be solved on the same lines as that adopted by Hitler in Germany to solve the problem of Jews. He then referred to the charge of disloyalty made against the Muslims and cited several examples of Muslims who had made sacrifices for India. Concluding he called upon the Muslims to unite stating that even though they had never indulged in anti-national activity, their patience and forbearance in the past twenty years had only brought them bloodshed and that their only major mistake was that instead of relying upon themselves they had relied upon others and that had they relied upon their own might and remained 'Mujahids' (warriors), even the angel of death would have thought twice before approaching them. He pointed out to the audience that once the eight crore Muslims unite they would become a decisive factor and play a vital role in the body politic of India.

26.19 Khalilullah Hussaini next addressed the meeting. He spoke on the conditions of the Arabs before the advent of Propet Mahomed and how Prophet Mahomed had brought the message of God to the world. He lamented that the Muslims had lost their former spirit. He criticised the R.S.S., its preachings and activities and referred to various communal riots dwelling on how the Muslims had suffered in them.

26.20 The text of the speech of Syed Khalilullah Hussaini as reproduced in the said report Ex. P 44 contains the following three passages :—

- (1) "It was by chance that the Britishers being in hurry delivered the reigns of the country in the hands of those who came before

them, otherwise the same should have been returned to the Muslims as they had acquired power from the hands of the Muslims. At that time they showed broadmindedness and thought that their elder brothers would surely do justice but during 20 years they have realised what game they have played against them."

- (2) "In his opinion, he said, the solution of all the troubles was that the majority groups should run the civil administration and the matters relating to defence should be entrusted to the minority or both should be given opportunity to rule over the country in turn for 20 years."
- (3) "It had always remained the policy of Jamaat that Muslims should not trouble any one but those who tried to harm them should not be spared."

26.21 According to the said statement of objections filed by the M.T.M., the said three passages do not correctly reproduce what Syed Khalilullah Hussaini had said. According to the said statement, what he had said was—

- (1) "The Britishers did not leave India in hurry. They were forced to leave as the struggle for Independence, jointly waged by Hindus, Muslims and all, gained momentum. When the power was transferred to the Congress, they thought they would surely do justice to them but after the experience of 20 years they have now realised what game they were playing."
- (2) "The speaker commented on the bias and prejudice shown to the Muslims in the matter of services and particularly in defence services and demanded that the minorities should at least get proportional representation in defence services. The minorities had proved their mettle in defending the Motherland in the hours of peril. It was strange that even after the experience of more than 20 years Muslims were accused of disloyalty."
- (3) "It had always been the policy of the Jamaat that Muslims should not tease any one but if they are teased they should not take it calmly."

26.22 For the reasons set out above, the said objections must prevail and it must be held that Syed Khalilullah Hussaini did not utter the words objected to but what he had spoken was what is reproduced in the said statement of objections.

26.23 By his letter dated February 4, 1969 (Ex. P 130) S.P., Bhawe forwarded a copy of the said report to Mr. S. M. Tamhane, Public Prosecutor, Thana, for his opinion whether certain portions underlined therein were actionable. By his reply dated March 1, 1969 (Ex. P 130) the Public Prosecutor Mr. S. M. Tamhane stated that there were no materials in the said speeches which could be construed in a court of law as constituting the ingredients of an offence under section 153A I.P.C., as they would be covered by the Explanation to the said section, and therefore if action were taken it would not be successful.

As pointed out earlier, the Explanation to section 153A was deleted by the Amending Act XLI of 1961 and Mr. Tamhane obviously did not have an up-to-date copy of the Indian Penal Code with him.

26.24 The aforesaid speeches made by Shabir Hussain, Suleman Sikander and Syed Khalilullah Hussaini satisfy the test laid down in paragraph 6.8 above and were, therefore, communal speeches.

The condolence meeting of February 2, 1969

26.25 Abdul Rahiman Kurban Momin, a worker of the M.T.M. died on January 29, 1969 and the Bhiwandi Branch of the M.T.M. held a condolence meeting on February 2, 1969 at 9-45 p.m. near the Power House on the Old Thana Road. Inspector Pradhan's report dated February 3, 1969 on this meeting is Ex. P 45. According to this report, Abdul Khaliq Momin, the President of the Bhiwandi Branch of the M.T.M., and Ayyub Saheb addressed the gathering and tape recordings of the speeches made at the said M.T.M. meeting held on January 13, 1969 were played. The correctness of the whole of the said report is disputed in the said statement of objections filed by the M.T.M. Since no attempt has been made by any party to prove the correctness of what is stated in the said report, the objection must be upheld. According to the said report, Ayyub Saheb *inter alia* said that the M.T.M. had achieved more than God had done. It is said in the said statement of objections that no Muslim would ever say such a thing. It is doubtful whether any person in his senses—whether a Muslim or a non-Muslim—would ever say such a thing, particularly at a public meeting.

The Hindu reaction to the M.T.M. meetings

26.26 As appears from the report dated February 7, 1969 from the D.I.G.(Int.) to the Home Secretary (Ex. G 281), in order to confront the emergence of the M.T.M. in Bhiwandi some local Hindu leaders like Dr. Vyas, Datta Punyarthi and Anna Mistri proposed to convene a public meeting in Bhiwandi in the near future and either invite the Maharashtra Pradesh Hindu Mahasabha Vice-President V. R. Patil or the Shiv Sena Chief Bal Thackeray to address the meeting. V. R. Patil did visit Bhiwandi and address a public meeting there on January 23, 1970. The speech of V. R. Patil has already been dealt with in paragraph 22.10.

The ban on the entry of M.T.M. leaders into Thana District

26.27 The M.T.M. leaders of the Kalyan and Bhiwandi Branches of the M.T.M. decided to hold an Ijtema (a series of religious discourses) at Kalyan and Bhiwandi and to invite the M.T.M. leaders from Hyderabad to these functions. By this time the cases under section 153A I.P.C. referred to above had already been filed against some of the M.T.M. leaders from Hyderabad. Further, after the Shiv Jayanti the situation in Kalyan was tense and in Bhiwandi Sharad Patwardhan, Uddhav Teje and others had resigned from the Shiv

Jayanti Utsav Samiti and had behaved provocatively at the time of the Shiv Jayanti procession. The D.I.G.(Int.), therefore, apprehended trouble if the M.T.M. leaders from Hyderabad were to attend the Ijtema and address the gathering. He expressed his said apprehension to the Home Secretary in two reports dated May 3, 1969 and May 6, 1969 (part of Ex. G 21 collectively). Thereupon the Home Department by its letter dated May 8, 1969 (part of Ex. G 21 collectively) advised the D.M., Thana, to serve an order under section 144 Cr.P.C. on Khalilullah Hussaini, Gaus Khamoshi and Suleman Sikander, that is, the President, the Vice-President and the Chief Organizer respectively of the All India M.T.M., and other leaders of the M.T.M. whenever they entered Thana District prohibiting them from making any inflammatory speeches. The Ijtema was to be held on May 13, 14 and 15, 1969, but in view of the death of Dr. Zakir Hussain, the President of India, it was postponed to May 24, 25 and 26, 1969. S.P., Bhave contacted the local leaders of the M.T.M. at Kalyan and Bhiwandi and requested them not to invite the M.T.M. leaders from Hyderabad. They, however, did not agree (Ex. P 513). Thereupon the matter was discussed between the D.M. and the S.P. and the Additional D.M. (II), Thana, issued an order dated May 21, 1969 under section 144 Cr.P.C. prohibiting Khalilullah Hussaini, Suleman Sikander, Gaus Khamoshi and Rashid Salim from entering into or remaining within Thana District from May 22, 1969 to May 30, 1969 (Ex. P 388). The said orders were served on the said M.T.M. leaders at the Poona Railway Station while they were on their way to Bhiwandi.

26.28 By his letter dated May 24, 1969 (Ex. P 594) D.M., Capoor intimated to the Government the order passed by the Additional D.M. By the Home Department's letter dated July 26, 1969 it was pointed out to D.M., Capoor that it was unreasonable to have passed the said order particularly since the only trouble which was apprehended by the D.M. was at Bhiwandi and Kalyan and that prohibiting the M.T.M. leaders from making inflammatory speeches at these two places would have amply served the purpose. By his reply dated July 30, 1969 D.M., Capoor insisted that the order passed by the Additional D.M. was reasonable (Ex. P 596). By the letter dated August 19, 1969 the Home Department pointed out that the instructions contained in the Home Department's said letter were based on legal advice and the reasons set out in the D.M.'s letter did not alter the situation and the said order was, therefore, not reasonable and the instructions given to him stood (Ex. P 597). Further correspondence thereafter took place and ultimately by the Home Department's letter dated March 10, 1970 (part of Ex. G 21 collectively) the Government pointed out that the order prohibiting the leaders of the M.T.M. from making any speech in a public place was beyond the scope of the instructions contained in the said letter dated May 8, 1969 and was not likely to be upheld if challenged in a court of law and, therefore, whenever there was a meeting, persons should be merely

prevented from making any inflammatory speeches. In view of this correspondence, a circular was sent to all D.Ms., Commissioners of Police and Ss.P. intimating that orders prohibiting persons from making any speeches were likely to be held bad in law and, therefore, the order should merely prevent them from making any inflammatory speeches and not any speeches.

The Kalyan Ijtema

26.29 The Kalyan Branch of the M.T.M. held its Ijtema function at Kalyan on May 24, 1969 and several M.T.M. leaders other than those on whom the aforesaid prohibitory orders were served addressed the gathering. A report dated June 4, 1969 on the said meeting (Ex. G 291) was sent by the D.I.G.(Int.) to the Home Secretary. As the speeches made in Kalyan were on the usual pattern it is not necessary to refer to them in great detail. Mahomed Kasim in his speech stated that history bore testimony to the fact that when things became intolerable the Muslims rose to defend their religion and once they took up the sword they were never subdued. Sardar Zafarullah Khan referred to the charge of disloyalty levelled against the Muslims. While concluding his speech he exhorted the Muslims to rely on their own strength for their safety as neither the U.N.O. nor any Islamic country could rush to their rescue and warned them against depending on the Congress to protect them. The said speeches of Mahomed Kasim and Sardar Zafarullah Khan satisfy the test laid down in paragraph 6.8 and were, therefore, communal speeches.

The Bhiwandi Ijtema

26.30 The Ijtema arranged by the Bhiwandi Branch of the M.T.M. was held on May 26, 1969 at Teen Batti Naka, Bhiwandi. The report of the Intelligence Shorthand Reporter on this meeting is Ex. P 46. At this meeting the aforesaid prohibitory orders issued against the M.T.M. leaders from Hyderabad were criticized and the preachings and activities of the R.S.S., Guruji Golwalkar, the Jan Sangh and the Shiv Sena condemned. In the course of his speech Abdul Khaliq Momin said that since Independence there were continuous acts of hooliganism directed against the Muslims but the Government neither took any notice of such acts nor took to task the officers who were found guilty and that only Khalilullah Hussaini spoke up against such injustice and impressed upon the Muslims the need for self-defence. Saad Ahmed Kazi referred to the said resolutions passed at the M.T.M. conference at Aurangabad. He then referred to the Aurangabad riots charging the Hindu communalists with the responsibility therefore and condemning the Marathi Press for writing that the M.T.M. was responsible for them. According to the said report, in the course of his speech Saad Ahmed Kazi is supposed to have said, "If anybody tried to harm their interest, they would be opposed and never be spared." In the said statement of objections filed by the M.T.M. it is stated that Saad Ahmed Kazi actually said,

“If anybody tried to harm their interests, he would be opposed and we would not keep quiet.” For the reason mentioned above, this objection must prevail. Shabir Hussain from Aurangabad next addressed the meeting. He *inter alia* said:

“During the past 20 years Muslims have been made the target several times and the chastity of their womenfolk openly outraged. The screams of ladies from Ranchi, where the stomach of pregnant women were ripped open and the unborn babies in their wombs thrown against the wall and killed, still echo in our ears . . .”

26.31 Hakim A. Raheman Qadri of Hyderabad criticized the preachings of Guruji Golwalkar. He *inter alia* said that plans were being hatched to play Holi with their blood to which the events at Calcutta, Ranchi and Aurangabad bore testimony. He further said that realizing the danger that those in power were keeping their eyes and ears shut and were giving full liberty to the anti-social elements, Khalilullah Hussaini had declared that such things should come to an end and that thenceforth the Muslims should not permit anyone to play with their blood or to outrage the chastity of their women and that in every age such heroes have emerged and that they were the followers of such a hero and therefore could never be wiped out and that those who tried to do so would perish.

26.32 The aforesaid speeches of Abdul Khaliq Momin, Saad Ahmed Kazi, Shabir Hussain and Hakim A. Raheman Qadri satisfy the test laid down in paragraph 6.8 and were, therefore, communal speeches.

The press note of Kabiruddin Kazi

26.33 On May 27, 1969 Kabiruddin Kazi, the President of the Kalyan Branch of the M.T.M., issued a press note for publication in the Marathi daily *Lokasatta* (Ex. P 48). Condemning the said prohibitory order served on the M.T.M. leaders, the said press note stated that the M.T.M. was not a political body but a social, cultural and religious body working against communalism and it had announced the slogan of self-defence as it was of the opinion that this was the only answer to the recurring communal riots. It further stated that the President of the Sampurna Maharashtra Samiti, Uddhavrao Patil, the Forward Block M.L.A., Jambuvantrao Dhote, the P.W.P., M.L.A., K. N. Dhulap the leader of the Opposition in the Legislative Assembly and Ramchandra Gangre the Marxist leader had all supported the said slogan. It further charged the Hindu Mahasabha leader V. R. Patil with making an inflammatory speech at Aurangabad and being the cause of the riots there.

The public meeting of June 27, 1969

26.34 A meeting of the Bhiwandi Branch of the M.T.M. was held on June 27, 1969 at 10 p.m. near the Old Fish Market in Bhusar Mohalla. Inspector Pradhan's report dated June 28, 1969 on this meeting is Ex. P 47. Zafarulla Khan in the course of his speech said

that no party had done anything for the Muslims in the past 20 years and that unless the Muslims united, they would not be able to survive in the next 50 years. Mohamad Kasim attacked the Hindu Mahasabha leader V. R. Patil for his speech at Aurangabad. He said :

“I would like to ask the Police as to what wrong was done by Khalilullah Hussaini. Why are you partial to Bal Thackeray ? Is this democracy ? I do not understand it. The Police should understand us. They are prejudiced against us: Why was the entry of our leaders banned ? Why were similar restrictions not imposed on Balraj, Bal Thackeray, V. R. Patil ? V. R. Patil had said that ‘Haramkhor’ Muslims should be sent to the ‘Kabrastan’ (burial ground). We were grieved at the unjustified ban on our leaders. The Police do not know the law. That dog—V. R. Patil of Sholapur—says that Muslims should be finished. His followers do parades. Their flag is different. They are trained in the use of knives and lathis. They throw a stone at another stone. If it hits the target, they say that one Muslim has died. If they do not hit the target, they believe that one Muslim has taken birth. Do they know how to kill a hen ? Golwalkar Guruji says that all the 7,500 riots were one-sided. *The Tamir-E-Millat is quite strong. It tells the Muslims that they enjoy the same rights in India which are enjoyed by other ‘NAPAK’ people.* Muslims were looted in Jabalpur and Jamshetpur. Their women were molested and children killed. They were made to bite the dust. *We do not want such laws.* Akashwani teaches ‘Gita’. *Muslims can offer sacrifice. If they draw their sword in the name of religion, they do not keep it down.* Thousands of Khalilullahs would take birth. *Muslims are not afraid of anyone except Allah.* India is saved because of us. The Tameer-E-Millat is calling you. *You should unite.*”

26.35 Saad Ahmed Kazi in his speech attacked the extremist Hindu leaders and said :

“The Tameer-E-Millat tells you that you are the owners of India. We have ruled for the last thousand years. Delhi, the capital, belonged to the Muslims. Guruji Golwalkar has grown a one foot long beard and is propagating against Muslims. Smt. Indira Gandhi criticizes the Jan Sangh but what action has been taken ? The Tameer-E-Millat has raised its voice. It asks you to follow the Koran. We are strong in Marathwada, Andhra and Telangana. Fight for your rights. Enter every field.”

According to the said report, he is also supposed to have said, “You should not marry only once. Babies become weak. Marry four times. Follow this advice”. In the said statement of objections filed by the M.T.M. it is denied that he uttered the said words. For the reasons mentioned above, this objection must be upheld and it must be held that Saad Ahmed Kazi did not speak the said words imputed to him. The other speakers exhorted the Muslims to join the M.T.M.

26.36 It appears that propaganda for this meeting was made from a tonga without obtaining police permission for using a loud speaker.

The tonga driver was also driving without his uniform. The driver was, therefore, prosecuted under section 33(I)(r) of the Bombay Police Act, 1951, and under section 27 (c) of the Bombay Public Conveyances Act, 1920.

26.37 The speeches made by Mohamad Kasim and Saad Ahmed Kazi at the said meeting satisfy the test laid down in paragraph 6.8 and were, therefore, communal speeches.

The M.T.M. memorandum to the Chief Minister

26.38 On June 30, 1969 Maulana Mohammed Ali Khan, the Chief Organizer, Maharashtra Tameer-E-Millat, along with some other M.T.M. leaders submitted a memorandum to the Chief Minister (Ex. P 512). In the said memorandum a complaint was made about the said prohibitory orders served upon Khalilullah Hussaini and the other M.T.M. leaders. It further alleged that police officers were in the habit of making false reports about the activities of the M.T.M. and the speeches made by its leaders. A further complaint was made that similar restrictions were not placed upon the leaders of the Shiv Sena or the workers of the Jan Sangh or the volunteers of the R.S.S. and no action was being taken against them. A complaint was also made that the Marathi Press published inflammatory writings and thus created tension amongst the Hindus and the Muslims in the State of Maharashtra. In the said memorandum an appeal was made that there should be a careful check on what was being printed in the Marathi Press, that at the time of interview for Government jobs no bias should be shown against Muslim candidates, that the said orders banning the entry of the M.T.M. leaders should be withdrawn and that the Police and the C.I.D. officers should be asked to act impartially. S.P., Bhawe made his report dated August 22, 1969 (Ex. P 513) on the said memorandum. In the said report he set out the reasons for issuing the said prohibitory orders. The said report also dealt with instances of bias alleged in the said memorandum.

The news report in the 'Shaur'

26.39 In the 15th August 1969 issue of the *Shaur* there appeared a news report on the communal incidents which had taken place in the beginning of July 1969 in Bhiwandi (Ex. P 629). The heading of this news report was, "Bhiwandi Riots, Disturbances by Jan Sangh and Shiv Sena. Report of Shri Abdul Khaliq Momin, President, Tameer-E-Millat, Bhiwandi" As stated in the said news report it was submitted by Abdul Khaliq Momin and it naturally contained his version of what had happened. This news report has already been dealt with in paragraph 16.24.

The protest against the burning of the Al-Aqsa Mosque

26.40 The arson to the Al-Aqsa Mosque in Jerusalem in August 1969 hurt the religious sentiments of the Muslims and in

many parts of India, including Bhiwandi, the Muslims expressed their protest against this act by taking out a silent procession. In Bhiwandi the M.T.M. organized a protest meeting on August 27, 1969, a silent procession was taken out jointly by the Bhiwandi Branches of the M.T.M. and the Majlis-E-Mushavarat on August 29, 1969 and a call for hartal on that day was given. The M.T.M. local leaders took a leading part in organizing this silent procession.

26.41 On August 26, 1969 Abdul Khaliq Momin went round Muslim localities in Bhiwandi collecting signatures on a memorandum of protest against the burning of the Al-Aqsa Mosque. He also organized a meeting which was held on August 27, 1969 at which the importance and the significance of the said mosque and of the protest demonstration arranged for August 29, 1969 were explained to the audience. At this meeting he moved a resolution, seconded by Zafarulla Khan, the Vice-President of the Bhiwandi Branch of the M.T.M., that Ayub Punjabi should take the chair. Zafarulla Khan also moved a vote of thanks at the conclusion of the said meeting. It was put to S.P., Bhave that Ibrahim Maddu and Dr. Muqri were also present at the said meeting. Bhave's answer was that the report of the said meeting did not mention their names. These two being important local leaders, had they been present their names would have certainly been mentioned in the said report in the list of local leaders present at the said meeting (P.W. 4/176/691, 194/704).

26.42 On August 28, 1969 Abdul Khaliq Momin along with other M.T.M. leaders went round in the evening at 5 p.m. in a tonga asking the shops and cinema houses to be kept closed on the next day. The monopolizing of the arrangements of this procession by the M.T.M. was resented by other Muslims who said that the protest demonstration should be organized not by any one party but by all parties as everybody was supporting it. However, the propaganda for it was mainly carried on by the M.T.M. workers. The application for police permission to take out a procession and for using loud speakers at the Azad Maidan for the public meeting which was to follow was made on August 28, 1969 by Abdul Khaliq Momin, Osman Gani Bafati and Ahmed Tula Munshi and the usual statement undertaking responsibility for the proper conduct of the function was given by Abdul Khaliq Momin (P.W. 4/175-6/690-1, 194/704; Exs. P 507 and P 508). The R.U.M. was opposed to the said hartal and issued a handbill (Ex. P 509) calling upon the people not to heed the call for hartal. The calling of the hartal, the R.U.M.'s opposition to it and the procession created tension in the town.

26.43 Inspector Pradhan's report dated August 30, 1969 on this procession and the meeting is Ex. P 49. The State Intelligence Short-hand Police Inspector's report on this meeting in Ex. P 51. The procession consisted of about 15,000 people and there were seven black flags and six placards in Urdu carried at the head of the procession. The placards were all against Israel. The meeting was addressed by Shabbir Ahmed Ansari (C.W. 3), Ayub Punjabi, who first belonged to the Congress

and after the split in the Congress to the Congress (R), and Abdul Khaliq Momin. A pamphlet in Urdu (Ex. P 50) was distributed at the time of the said procession by the Bhiwandi-Nizampur Relief Committee. The pamphlet was also anti-Israel in its tone. The Muslims kept their shops closed in response to the call for hartal, but Hindu shops remained open. The Muslim local leader Murtaza Fakih neither took part in this procession nor participated in organizing it (B.R.W. 1/16/1366, 62/1385).

26.44 The organizing of these meetings and procession made the M.T.M. gain prestige in the eyes of a certain section of the Muslims of Bhiwandi.

The visit of Mahomed Alli Khan Saheb

26.45 Mahomed Alli Khan of Osmanabad, the M.T.M. Organizer for the State of Maharashtra, visited Bhiwandi on September 11, 1969. The report dated September 16, 1969 by the S.P. Thana, on this visit is Ex. P 619, Abdul Khaliq Momin took him round various Muslim localities such as Nizampur, Vaze Mohalla and Old Thana Road. He met two M.T.M. workers, Ayub Mithaiwala and Khudadad Kazi, who had submitted their resignations from the M.T.M. He then held a private meeting at 10-15 p.m. in the party office which is situate at Dargah Road and the topics discussed included the strengthening of the party organization, collection of funds for the party, increasing the subscription to the *Shaur*, removing the rift in the Kalyan Branch and the opening of an Arabic School and a coaching class at Bhiwandi and similar topics. On September 12, 1969 at 5 p.m. he left for Kalyan.

Abdul Khaliq Momin's visit to Ahmedabad

26.46 On September 28, 1969 Abdul Khaliq Momin, the President of the Bhiwandi Branch of the M.T.M., along with one Mahomed Ibrahim Momin and Mahomed Nazir Abdul Majid left by the night train for Ahmedabad carrying clothes, bread and money for the riot-affected Muslims of Ahmedabad [P.W. 4/1(41)/236(24); Exs. P 154, P 620] on coming to learn about it, S.P., Bhave immediately on September 30, 1969 sent a wireless message to the Deputy Commissioner of Police, S.B. C.I.D. Ahmedabad giving him information of this fact. On September 30, 1969 Abdul Khaliq Momin, Mahomed Ayub Mahomed Yakub *alias* Mithaiwala, a member of the Working Committee of the M.T.M. Bhiwandi Branch, and three other Muslims from Ahmedabad were arrested at Ahmedabad while travelling in a taxi which bore a press label both on the front and the rear wind-screens. Two of the Muslims from Ahmedabad including the driver of the taxi who were arrested carried curfew passes. A camera, five unused film rolls and four used film rolls and a notebook were taken charge of by the Police under a panchanama dated September 30, 1969 (Ex. P 158). A wireless message was sent from the Deputy Commissioner of Police, Ahmedabad City, to the S.P., Thana, on October 2, 1969 asking for

the antecedents of Abdul Khaliq Momin and Mahomed Ayub Mahomed Yakub (Ex. P 155). The same day the S.P., Thana, gave by a wireless message (Ex. P 156) the information required. The said wireless message stated that Abdul Khaliq was the President of the Bhiwandi M.T.M. and was a member of the P.S.P. in 1967, that he was detained under the Defence of India Rules in 1965 at the time of the Indo-Pak conflict and was involved in some cases which, however, were not cases of communal riots and that Mahomed Ayub Mahomed Yakub was a member of the Working Committee of the M.T.M., Bhiwandi Branch and that both had taken a prominent part at the time of the Al-Aqsa Mosque protest meetings and procession of local Muslims and had collected clothes and funds for the riot-affected Muslims of Ahmedabad and that the M.T.M. was considered a communal organization propagating the theory of retaliatory self-defence by Muslims.

26.47 Abdul Khaliq and Mahomed Ayub were released on a bail of Rs. 3,000 each and this fact was intimated by Inspector Pradhan to the S.P., Thana, by his report dated October 14, 1969 (Ex P 157). All the five accused were charged under section 153A I.P.C. and were tried before the City Magistrate, Fourth Court, Ahmedabad City, being Criminal Case No. 1319 of 1969, and by his judgment dated November 6, 1970 (Ex. P 159) the Magistrate found that there were no grounds for framing a charge against any of the accused and discharged them and ordered all articles seized by the Police to be returned to them except the said notebook which was ordered to be destroyed. The Court held that there was nothing wrong if a person collected news from those who suffered in the riots or took photographs to show their condition, for what was relevant was to see how and in what manner he published the materials collected by him and as in the case before him there was no publication it could not be presumed that because the accused persons were Muslims and had taken statements of Muslims they had wanted to excite communal feelings.

26.48 It may be mentioned that before this Commission on behalf of the Bhiwandi Nagarik Hitarakshak Mandal an application was made to file an affidavit producing photographs showing injuries suffered by certain persons and the damage caused to property during the course of the Bhiwandi disturbances. By its order dated October 15, 1970 the Commission granted permission not only to the Nagarik Hitarakshak Mandal but to all parties to produce photographs which in their opinion were relevant to this Inquiry. The Nagarik Hitarakshak Mandal thereupon filed the affidavit of Mahadev Govind Kunte (Affidavit No. 586) producing photographs of Hindus injured in the Bhiwandi disturbances and of Hindus properties damaged in the course thereof. In the said affidavit it was stated that these photographs were taken in May 1970, that is, contemporaneously or very soon after the disturbances. No one, however, thought of contending before the Commission that the taking of the said photographs constituted an offence or was done with a view to excite communal feelings.

The propaganda by M.T.M. leaders on the Ahmedabad disturbances

26.49 The judgment whereby Abdul Khaliq Momin and others were discharged was, however, in the future. Reverting to the period with which we are at this stage concerned, after being released on bail Abdul Khaliq returned to Bhiwandi on October 12, 1970. According to the information received by the Police, he moved about in Bhiwandi acquainting the people about the situation in Ahmedabad and telling them that in the Ahmedabad disturbances 5,000 Muslims were killed, while only 1,000 Hindus were killed. These facts were reported to the S.P. by Inspector Pradhan by his report dated October 14, 1969 (Ex. P 157). After waiting for some time, by his letter dated December 3, 1969 (part of Ex. P 166 collectively) S.P., Bhavnagar inquired from Inspector Pradhan whether it was possible to collect independent evidence sufficient to take legal action against leaders of the M.T.M. who were spreading rumours about the communal disturbances at Ahmedabad. By his reply dated December 23, 1969 (part of Ex. P 166 collectively) Inspector Pradhan intimated that the M.T.M. leaders had carried on propaganda about the Ahmedabad disturbances in their meetings held on November 1, 1969 and November 24, 1969 and were collecting funds for rendering assistance to the riot-affected Muslims of Ahmedabad and that nobody had given any information about any rumours spread by them about the said disturbances and, therefore, it was not possible to collect independent evidence in respect thereof.

26.50 Mahomed Ali Isa Khan, the General Secretary of the Maharashtra State M.T.M., arrived at Bhiwandi on October 17, 1969 and put up with Abdul Khaliq Momin. He visited all the mosques in Bhiwandi and moved about in the town for collecting clothes and funds for the riot-affected Muslims of Ahmedabad. Notices were put up in all the mosques that every Friday a programme would be held for collecting clothes and funds for this purpose and that volunteers of the M.T.M. would be present for this work. Several programmes were thus held at which funds were collected. On October 19, 1969, along with Abdul Khaliq he visited Borivali village near Padgha and appealed to the Muslims there who had gathered at prayer-time to give help to the riot-affected Muslims of Ahmedabad. In this fashion clothes and funds were collected from Bhiwandi. These activities formed the subject-matter of a report dated October 26, 1969 (Ex. G 193) from Head Constable Manjrekar (G.W. 9) to Inspector, Special Branch, Thana.

26.51 The question is whether any local leaders or workers of the M.T.M. carried on communal propaganda in Bhiwandi after the Ahmedabad disturbances so as to excite the feelings of Muslims against the Hindus. According to Inspector Pradhan's evidence, he had received information that Abdul Khaliq was secretly visiting the houses of Muslims and carrying on a propaganda that in the Ahmedabad disturbances more Muslims were killed than Hindus and more atrocities were perpetrated by the Hindus on Muslims than by the Muslims on Hindus, but that he did not succeed in gathering any

evidence of rumour-mongering (P.W. 38/41/882). This kind of bald information, particularly since it appears that some of the police witnesses had a prejudice against the M.T.M., cannot *per se* carry much conviction. Witness Murtaza Fakih, a Muslim local leader, held in respect and esteem by the people of Bhiwandi, has, however, deposed that after the Bhiwandi Branch of the M.T.M. was formed he came to learn that these leaders were making virulent communal propaganda amongst the Muslims in Bhiwandi and that such propaganda was one of the causes of communal tension in Bhiwandi and that amongst the extremist communal Muslim elements in Bhiwandi Abdul Khaliq Momin was the most extremist. He has further deposed that some of the Muslim leaders including he, Ibrahim Maddu, Sikander Faquih, Anwar Bubere, Haji Tase and Gulam Mohamed Momin felt that the M.T.M. propaganda was gaining some ground especially after the Ahmedabad disturbances and, therefore, in order to counteract it, from November 1969 they started holding meetings in different Mohallas where they tried to impress upon the Muslims, particularly the younger elements amongst them, that the propaganda carried on by the M.T.M. was poisonous and was not beneficial to the Muslims and that they should not be carried away or misled by it. He has further deposed that both privately and in Peace Committee meetings there were discussions about the virulent communal propaganda carried on amongst the Muslims by the M.T.M. and that these private discussions were both with Hindus and Muslims (B.R.W. 1/56/1381, 60-61/1384-5, 64/1385, 87/1394). He was cross-examined by Mr. Rahim-Quraishi on the nature of the propaganda carried on by the M.T.M. It was put to him that the M.T.M. focussed the attention of the Muslims of Bhiwandi on the fact that the administration and the Police favoured the Hindus and were not taking any action against Hindu communalists and anti-Muslim propaganda. Murtaza Fakih admitted this position but stated that it was for this reason that he had described the propaganda carried on by the M.T.M. as virulent communal propaganda. He was specifically asked what the propaganda carried on by the M.T.M. in Bhiwandi in October and November 1969 was and he replied that the M.T.M. was trying to create a separate platform for the Muslims and he, being secular in his views, did not think it was in the interest of the Muslims to have a separate communal political organization like the M.T.M. (B.R.W. 1/87/1395). We have already seen the speeches made by the M.T.M. leaders. They harp upon one or two themes only, namely, the injustice and the oppression to the Muslims, the indifference of the authorities towards these matters and the bias of the authorities in favour of the Hindu communalists and for the said reason the desirability of the Muslims uniting and fighting in order to prevent themselves from being annihilated. Whether some of the incidents alleged by the M.T.M. are true or not, perpetually harping upon such matters must necessarily excite Muslim feelings against the Hindus, fill the Muslims with a sense of insecurity and despair and create in

them a suspicion of the administration and consequently make them resolve to do or die in order to save themselves.

26.52 In the light of this evidence it must, therefore, be held that after the Ahmedabad disturbances the M.T.M. did carry on communal propaganda in Bhiwandi with respect to the said disturbances by harping upon the fact that the Muslims had suffered more in the said riots than the Hindus and that the Hindus were planning to start similar disturbances in other parts of the country and that the Muslims should, therefore, prepare themselves to defend their lives and properties. The matter, however, appears to have been considerably exaggerated and the propaganda carried on by the M.T.M. workers and particularly Abdul Khaliq Momin was magnified by rumours spread deliberately or otherwise that he was propagating that the revenge for Ahmedabad would be taken. These allegations have been made amongst others by the P.S.P. worker Savlaram Barku Kale (N.H.W. 44). As these allegations refer to the speech made by Abdul Khaliq in the public meeting held on November 1, 1969, these allegations will be dealt with while discussing that meeting. The other witness who has made this allegation is Zumberlal Kalantri. He has stated in his affidavit that after their release by the Ahmedabad Police the M.T.M. workers had stated at various places that the revenge for Ahmedabad would be taken [N.H.W. 42/1(11)/2033(6)]. In cross-examination he has, however, stated (N.H.W. 42/6/2037) :

“It was rumoured in Bhiwandi that the M.T.M. workers who were arrested in Ahmedabad had after their release stated at various places that revenge for Ahmedabad would be taken. This was not said at any meeting. It was said by them to some persons. I do not know who were the persons to whom this was said. This was a rumour current in Bhiwandi.”

In further cross-examination he has stated that by ‘they’ he meant Abdul Khaliq only and that this was not said by Abdul Khaliq in any public meeting, but it was told to him by others that Abdul Khaliq had been saying this privately, the persons who so told him being persons from Bhoiwada and Sutar Alli (N.H.W. 42/14/2059).

26.53 Not much reliance can be placed upon the evidence of this witness. His affidavit and his evidence disclose that he has an anti-Muslim bias. While he has made considerable grievance about the speeches made by the M.T.M. leaders, he has made no such grievance in his affidavit about the speeches made by the R.U.M. leaders, though in cross-examination he was forced to admit that the speeches made by the R.U.M. leaders were anti-Muslim. He, however, went on to say that they were not provocative. He was immediately made to agree that as a result of the said speeches there was a panic amongst the Muslims. Even though he thought it fit to give a calling-attention notice in the Maharashtra Legislative Council about the M.T.M. speech attacking the R.U.M. made on March 28, 1970, he admitted that he did not think it necessary to give a calling-attention notice with respect to the R.U.M. speeches. His explanation for this was absurd, it being

that unlike the M.T.M. speeches the R.U.M. speeches did not refer to the prevailing conditions in Bhiwandi. A perusal of the reports of various speeches made by the R.U.M. leaders leaves one wondering what else they were referring to. In these speeches there is a perpetual harping upon how the R.U.M. will make good its demand to take the Shiv Jayanti procession by the Nizampura Jumma Mosque and will deal with and put down any opposition or obstruction to it. Kalantri has further stated that he did not draw the attention of the Government to the prayer meetings or public meetings held by the R.U.M. because the Police used to submit reports to the Government about these meetings. He was forced to admit that the Police had also submitted reports to the Government about the M.T.M. meetings (N.H.W. 42/6/2037).

26.54 From the evidence it appears likely that the rumours about the M.T.M. workers carrying on a propaganda for taking revenge for Ahmedabad appears to have emanated from the Hindu localities of Bhoiwada and Sutar Alli, for according to Kalantri, it was from the residents of these localities that he heard these rumours. Savlaram Kale, the P.S.P. worker, who also has made this allegation, was residing at Sutar Alli Naka for about 15 years (N.H.W. 44/2/2050) Narayan Badlapurkar, the Vice-President of the R.U.M., was also from Sutar Alli, while Shantaram Tavre, an active worker of the R.U.M. was from Bhoiwada (J.S.W. 1/44/2219).

The meeting of November 1, 1969

26.55 The M.T.M. had arranged a public meeting on November 1, 1969. It was to be addressed by the Vice-President of the M.T.M., Gaus Khamoshi. Apprehending that his speech would deal with the Ahmedabad disturbances and, therefore, incite communal feelings, by his report dated November 1, 1969 (Ex. P 554) Inspector Pradhan requested the Taluka Magistrate, Bhiwandi, to ban Gaus Khamoshi's entry into Bhiwandi and, if he arrived before the service of the order, to issue an order prohibiting him from making a speech in any public place and not to remain in Bhiwandi for more than two hours after the service of the order. Accordingly, the Taluka Magistrate issued an order on the same day (Ex. P 390) as requested. The said order was to remain in force for a period of one week from November 1, 1969. It was served on Gaus Khamoshi at Kalyan while he was on his way to Bhiwandi.

26.56 That day a meeting was held on Dargah Road at which 600 people were present. Inspector Pradhan's report dated November 2, 1969 on this meeting is Ex. P 496. Saad Ahmed Kazi of Kalyan *inter alia* said in the course of his speech that there was a plan to finish the Muslims of Ahmedabad and an effort was being made to finish the Muslims in India. Abdul Khaliq Momin *inter alia* said that the community should be ready to suffer on thousands of occasions the type of oppression that it had suffered in Ahmedabad and that in order to survive the Muslims must unite. He then related some

of the incidents which had taken place during the Ahmedabad disturbances. Other speakers criticised the prohibitory orders passed against the M.T.M. leaders and exhorted the people to join the M.T.M. and Abdul Aziz while dealing with this topic said that the entry of Bal Thackeray in Kalyan and Bhiwandi had not been banned. He also referred to the R.U.M. procession with anti-Muslim placards taken out on the Dassera day. At the conclusion of the said meeting Abdul Khaliq announced that a meeting of the Bhiwandi Seva Samiti would be held at Teen Batti Naka after two days. Shabbir Ahmed Ansari had come to the meeting and met the M.T.M. leaders. This further shows the co-operation that existed between the Bhiwandi Branch of the Mushavarat and of the M.T.M.

26.57 The speeches of Saad Ahmed Kazi and Abdul Khaliq Momin at the said meeting satisfy the test laid down in paragraph 6.8 and were, therefore, communal speeches.

26.58 Savlaram Barku Kale has alleged in his affidavit that he was personally present at the said meeting and that he heard Abdul Khaliq Momin's speech. His affidavit alleges :

"From the last few years, Muslim organisations such as 'Majlis-E-Mushawarat' and 'Tamir-E-Millat' are working vigorously in their community and their sole aim is to form a terrorist organisation of all the Muslims against the Hindus. Subsequent to the disturbances at Ahmedabad, Khalik Ibrahim belonging to the organisation 'Tamir-E-Millat' at this place had, by holding public meetings of the Muslims, started to make dangerous propaganda among the Muslims against the Government of India also. He had held one such public meeting near our Sutar lane. I was personally present there at that time. He spoke in the meeting as under : 'Hindus have killed Muslims at Ahmedabad. They burnt their (Muslims') mosques and Muslim males were running wearing the 'Burquas' of females. I have actually seen this and it would have been much better if the said Muslims had died.' *He also instigated by saying that all the Muslims should start a movement against the Hindus with all their might.* He further stated that the Government of India is useless and that the Muslims should not depend on the Government and that the Muslims should show their might."

In cross-examination he admitted that he had not attended any other meeting held by the M.T.M., nor had he attended any meeting held by the Mushavarat. He further admitted that he did not remember any other passage from the speech of Abdul Khaliq and though there were two or three other speakers at the said meeting, he did not know their names and that he only heard Abdul Khaliq's speech and then went away (N.H.W. 44/14/2053-4). It is not possible to place implicit reliance upon the evidence of this witness. The said report of Inspector Pradhan does not contain any reference to any such passage about the Muslims starting "a movement against the Hindus with all their might". Savlaram Kale was a P.S.P. worker and there have been admittedly differences of opinion between Abdul Khaliq and the P.S.P.

and though Savlaram Kale has pretended ignorance about these differences, Chandrakant Bhise, also a P.S.P. worker and the Joint Secretary of the P.S.P., Bhiwandi Branch, in 1965 and 1966, has deposed that Abdul Khaliq belonged to the P.S.P. and that in 1965 and 1966 he addressed public meetings without first obtaining the permission of the Secretary of the Bhiwandi Branch of that party and that there were discussions about this in the working committee meetings and his conduct was censored and that this led to a difference of opinion between the P.S.P. workers and Abdul Khaliq (N.H.W. 43/14/2056).

The private meeting of the M.T.M. on November 4, 1969

26.59 On November 4, 1969 a meeting of about 75 workers of the Bhiwandi Branch of the M.T.M. was held in a hotel by the side of the office of the M.T.M. Kabiruddin Kazi, the President of the M.T.M. Kalyan Branch, and Mahomed Alli Khan, the M.T.M. leader from Osmanabad addressed the meeting. The theme of what was said at this meeting. was that the M.T.M. was going to hold a public meeting, but because of the prohibitory orders issued against the M.T.M. workers, it was not possible to do so. This meeting has featured in the confidential weekly report for the week ending November 15, 1969 made by the D.M., Thana (Ex. P 621).

The M.T.M. meeting of November 24, 1969

26.60 On November 24, 1969 Abdul Khaliq submitted an application (Ex. P 1405) to the Inspector, Bhiwandi Town Police Station, for permission to use loud speakers from 10-00 p.m. to 1-00 a.m. that night for a public meeting to be addressed by Mahomed Alli Khan, Chief Organizer, Maharashtra State M.T.M., Kabiruddin Kazi, President of the Kalyan Branch of the M.T.M., and Abdul Khaliq Momin as also for permission to make announcements in the town in the afternoon from 3-00 p.m. to 6-00 p.m. from a loud speaker fitted on a tonga. Before granting Abdul Khaliq the permission applied for, Inspector Pradhan took from him a signed statement in writing (Ex. P 1406) that except the above three persons and Zafarullah Khan and Saad Kazi no one else would speak at the said meeting and that no speech referring to the Ahmedabad disturbances would be made. Though according to the said application and the said statement of Abdul Khaliq, Gaus Khamoshi, the Vice-President of all India M.T.M., was not to address the said meeting, Gaus Khamoshi suddenly appeared at the said meeting and addressed it. Gaus Khamoshi had left Kalyan by car and arrived in Bhiwandi. He was not in his usual dress, namely, sherwani, but had put on a shirt, Nehru jacket and white cap and had applied make-up to disguise his appearance in order to prevent the service of any prohibitory order upon him. S.P., Bhave and Diwate were present at the said meeting. According to Bhave, they could have got a fresh order, under section 144, Cr.P.C. issued and served upon Gaus Khamoshi, but as they did not have sufficient bandobust in Bhiwandi they thought that if they served the order and if Khamoshi

had to be removed physically, it might lead to some untoward incident. Though the permission to use loud speakers was given only till 11 p.m., loud speakers continued to be used for about one hour more and Abdul Khaliq Momin was prosecuted for exceeding the time-limit permitted to him. The Police had also kept a tape recorder at this meeting to tape-record the speeches made thereat. It, however, did not work satisfactorily and only a portion of Gaus Khamoshi's speech could be tape-recorded (P.W. 4/1(44)/236(26), 163/678-9, 189/701). S. P. Bhave's report dated November 26, 1969 on this meeting is Ex. P 495 and Inspector Pradhan's report dated November 25, 1969 on it is Ex. P 1407, while Ex. P 53 is a portion of the tape-recorded speech of Gaus Khamoshi.

26.61 At the outset Saad Kazi declared that the said meeting had been called to support the policy of the Prime Minister, Mrs. Indira Gandhi. S.P., Bhave has also deposed that the speeches made at the said meeting were in support of the Congress (R) and the aforesaid reports show that the speeches were political in their nature and the policies of the Jan Sangh and Guruji Golwalkar were criticized. Bhave himself had come there on learning that Gaus Khamoshi had appeared at the said meeting, but by the time he arrived, Gaus Khamoshi was concluding his speech. According to Bhave, the portion of the speech he heard was in highflown Urdu interspersed with quotations from poems and was received enthusiastically by the audience. Bhave has deposed that he found the trend of that part of the speech to be inflammatory (P.W. 4/189/701). On a perusal of the said reports it is not possible to accept this interpretation of S.P., Bhave.

26.62 After the meeting Gaus Khamoshi and Meer Laik Ali, the general secretary of the All India M.T.M., left for Kalyan by car and it was apprehended that they might make inflammatory speeches in Kalyan. Instructions were, therefore, given to the Kalyan Town Police Inspector and accordingly the Taluka Magistrate, Kalyan, issued an order under section 144, Cr.P.C. banning any public speeches by these two.

The M.T.M. memorandum about the Kausa riot

26.63 The Maharashtra Branch of the M.T.M. submitted a memorandum dated March, 9, 1970 to the Chief Minister with respect to the riot which had taken place at Kausa and the damage to Muslim properties caused in the course of this riot (Ex. P. 516). This memorandum was signed by Maulana Mahomed Alli Khan, the Chief Organizer of the Maharashtra Branch of the M.T.M., and Kabiruddin Kazi, the President of the Kalyan Branch of the M.T.M. It was *inter alia* stated in the said memorandum that one Shaikh Ahmed Patel, a resident of Kausa, had received a letter that he and six other persons mentioned in the said letter should each keep a sum of Rs. 5,000 ready on February 27, 1970 and that the said letter had been handed over to Sub-Inspector Kulkarni. The Additional S.P., Thana, Sudhakar Deo, submitted to the I.G.P. a report dated June 8, 1970 (Ex. P 517) on this memorandum. In the said report it was stated

that no one had turned up on February 27, 1970 to receive the sum of Rs. 5,000 nor could any information be obtained about the typewriter on which the said letter was typed.

The prohibitory orders against M.T.M. leaders

26.64 In the middle of March 1970 the Police learnt that the M.T.M. leaders Mohamed Ali Isakhan, Suleman Sikander and Gaus Khamoshi were coming to Bhiwandi. Accordingly, at the request of the Police the S.D.M., Bhiwandi Division, issued an order dated March 14, 1970 (Ex. P 403) under section 144 Cr.P.C. against Mohamed Ali Isakhan directing him not to make any communal inflammatory speech at any public place in Bhiwandi for a period of 15 days with effect from March 14, 1970. He also issued orders dated March 14, 1970 (Exs. P 404 and P 405) against Suleman Sikander and Gaus Khamoshi respectively directing them not to make any speech in any public place in Bhiwandi from March 14, 1970 to March 28, 1970. It is somewhat surprising that these orders Exs. P 404 and P 405 should have been issued in spite of the correspondence with the Home Department and especially the Home Department's so recent a letter as of March 10, 1970 (part of Ex. G 21 collectively) stating that prohibiting the M.T.M. leaders from making *any speech* in a public place was beyond the scope of the Government's said letter dated May 8, 1969 and was not likely to be upheld if challenged in a court of law and that the order should merely prevent a person from making *any inflammatory speech*.

The M.T.M. memorandum about the speeches of Pandit Brij Narayan Brajesh and Ramesh Sambhus

26.65 After the public meeting held at Bhiwandi on March 9, 1970 addressed by Pandit Brij Narayan Brajesh and the speech of Ramesh Sambhus at the public meeting held by the R.U.M. to observe the death anniversary of Sambhaji, the M.T.M. submitted a memorandum dated March 16, 1970 to the D.M., Thana (Ex. P 510). This memorandum was signed by Mahomed Ali Khan, the Chief Organizer, Maharashtra M.T.M., and Abdul Khaliq Momin as the President of the Bhiwandi Branch of the M.T.M. In this memorandum a complaint was made about the said speeches of Pandit Brij Narayan Brajesh and Ramesh Sambhus. It was further stated in the said memorandum that the words "Islam Murdabad" had been written on a wall near the Post Office and that in front of the Navyug Restaurant in Bazar Peth it was written that in Pakistan they desecrated temples. It was further stated that stones were thrown on the Par Naka Mosque and no arrests had been made in this connection. The said memorandum requested that action should be taken under section 144 Cr.P.C. against Pandit Brij Narayan and Ramesh Sambhus and that the local police officers should be transferred immediately to some other place, the persons who threw stones on the Par Naka Mosque traced, the policemen on duty at that spot dismissed, and the writings on the walls

should be erased. Copies of this memorandum were sent to S.P., Thana, and the Chief Minister. S.P., Bhavé's comments were asked for and he submitted his report dated October 5, 1970 thereon (Ex. P 511). He stated that no action was taken against Pandit Brij Narayan and Ramesh Sambhus because the opinion of the Public Prosecutor was against that course of action. He further said that the words "Islam Murdabad" were not written as alleged in the said memorandum but, on the other hand, boards against the workers of the R.U.M., namely, Dr. Vyas and a businessman living at Navi Chawl, namely, Kundanmal Ganeshmal Jain (N.H.W. 49), were put up opposite the Hindustan Mosque. It was further stated that the man who had thrown stones on the Par Naka Mosque, namely, Chiman Somabhai Patel, had been arrested and convicted. The said report charged the M.T.M. with creating communal tension in Bhiwandi by its communal activities.

**The M.T.M. meeting to felicitate the P.W.P., M.L.As.,
K. N. Dhulap and Bhai Patil**

26.66 The M.T.M. had called a meeting to felicitate the P.W.P. M.L.As, K. N. Dhulap and Bhai Patil, on March 27, 1970. The Shiv Sena, as announced at its public meeting held on March 17, 1970, in order to prevent the said meeting from being held also called a meeting of its own on the same day to be held either near the Bhiwandi Town Police Station or Kasar Alli, both these places being near the Teen Batti Naka where the M.T.M. meeting was to be held. Both the Shiv Sena and the M.T.M. applied to the Bhiwandi Town Police Station for permission to use loud speakers at their respective meetings. Permission was refused to the M.T.M. and granted to the Shiv Sena as the Shiv Sena's application was earlier in point of time. The M.T.M., therefore, postponed its meeting to March 28, 1970. Its object being achieved, no meeting of the Shiv Sena was held on March 27, 1970 (P.W. 4/95/617, 203/718).

26.67 The M.T.M. meeting of March 28, 1970 was held at Teen Batti Naka. Neither of the two P.W.P. M.L.As attended the said meeting. The report of the State Intelligence Shorthand Reporter on this meeting is Exhibit P. 55. Addressing the meeting Bashir Ahmed said that the M.T.M. had no intention to have recourse to any wrong path but was out to devote its energies for the welfare of the masses. He stated that at the time of the Holi and the Moharram festivals a huge Police force was stationed in Bhiwandi which showed that there was something going on behind the screen and that such elaborate arrangements placed a heavy burden on the Government treasury and it was, therefore, incumbent upon all to find an effective remedy to foster emotional integration. The next speaker was Manzur Husein, a member of the Communist Party, who spoke on the Communist ideology and attacked the policies of the Jan Sangh and the Shiv Sena. While he was addressing the gathering some stones were thrown at the meeting from Navi Chawl which is a Hindu

locality and were presumably thrown by some Hindu mischief-makers (P.W. 4/95/616-7). At this Abdul Khaliq Momin requested Inspector Pradhan to tighten the police bandobast, otherwise there might be trouble. The speech made by Zafarullah Khan was directed against Dr. Vyas and the Shiv Sena Chief Bal Thackeray. The other speakers who followed, namely, Shabbir Ahmed Ansari (C.W. 3), who had been invited to the said meeting, and one Mohamed Ali Khan, also attacked the Hindu communal parties and Dr. Vyas. Abdul Khaliq Momin spoke last. His speech too was directed against the Jan Sangh and its resolution for Indianization of Muslims. According to the said report, he is alleged to have said, "In case the Police were out to trample down their rights and privileges, it was highly incumbent on them to condemn such acts and in case they were willing to lend support he would outrightly set the police station on fire." In the said statement of objections filed by the M.T.M. it is stated that what Abdul Khaliq Momin really said was, "In case the Police were out to trample down their rights and privileges, then it was incumbent on them to condemn such acts and in case they are willing to lend their support, he could set such a police station on fire." He is further alleged to have said, "P.I. Pradhan and Dy.S.P., tried to make forceful entry and thus tried, to infuriate the mob." According to the said statement of objections, what he had really stated was, "P.I. Pradhan and Dy.S.P., Diwate were behind it and they were trying to complicate the matter." Since no attempt has been made before me to prove the correctness of the above-disputed passages, the said objection must prevail and it must be taken that what Abdul Khaliq Momin stated was as set out in the said statement of objections. In the course of his speech while referring to Dr. Vyas, Abdul Khaliq Momin stated that if Dr. Vyas was trying to play with their sentiments, then he was capable of bringing about his political murder provided the masses were ready to lend him their support.

26.68 The Police were riled at the attack made against them in the said speech by Abdul Khaliq Momin and a case under section 153A I.P.C. was registered against him.

26.69 After the meeting a Muslim, one Riazul Huq Gulam Nabi Ansari, was hit by a stone thrown at him near the Tanaji Vyayam Shala and he lodged his N.C. Complaint at the police station and as it was a case of simple hurt and, therefore, non-cognizable he was referred to Court. The same night a Hindu, one Vijay Gopal Punyarthi, was assaulted by two or three unknown persons while he was crossing Vaje Mohalla. He too lodged a complaint at the police station and, this also being a non-cognizable case, he too was referred to Court (P.W. 4/204/718-9).

26.70 Permission to use loud speakers at this meeting was granted to Abdul Khaliq Momin till 11 p.m. only. The meeting, however, went on beyond 11 p.m. Accordingly, the Police prosecuted him and he was convicted and sentenced to pay a fine of Rs. 5 (P.W. 66/80/1146).

26.71 Abdul Khaliq Momin had made his speech in Urdu. Several

persons present at the meeting thought that he had said that he was going to murder Dr. Vyas. This caused great excitement amongst the members of the R.U.M. and their followers who clamoured that immediate action should be taken against him. Zumberlal Kalantri gave in the Maharashtra Legislative Council a calling-attention notice on April 4, 1970 under Rule 101 of the Legislative Council Rules with respect to the said speech, for he too interpreted Abdul Khaliq Momin's speech to mean that the M.T.M. would burn down the Bhiwandi Town Police Station and would murder Dr. Vyas. A reply was given by the then Minister of State for Home, Mr. Kalyanrao Patil, who read out extracts from the police report of the said speech. A translation of the relevant portions of the proceedings in the Maharashtra legislative Council for that day is Ex. NH 12. In the discussion which followed Kalantri inquired whether the Government was aware that communal views were also expressed in the speeches made by Dr. Vyas and his associates, which was agreed to by Mr. Kalyanrao Patil, and in conclusion Kalantri inquired whether on account of the communal atmosphere created by the R.U.M. and the M.T.M. any special considerations were made from the point of view of the security of the town, to which the reply was that the Government was watching the activities and it was prepared to take action at any time if the situation got disturbed.

26.72 In view of the excitement in the town, by the Home Department's letter dated April 18, 1970 (Ex. G 22) the Government instructed the S.P., Thana, that strict action should be taken by the Police against the Hindu and Muslim leaders who created a tense atmosphere and to report the action taken to the Government.

The M.T.M. activities in April and May 1970

26.73 The M.T.M. did not hold any meeting either in April or May 1970. The only activities of the M.T.M. in these months which have come on the record were the visit of the M.T.M. leader Suleman Sikander to Bhiwandi in the last week of April 1970 and the memorandum submitted by the Bhiwandi and Kalyan Branches of the M.T.M. to the D.M., Thana, in connection with the Shiv Jayanti procession. Both these topics will be dealt with in the Chapter entitled "The Setting for Shiv Jayanti".

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CHAPTER 27
THE NATURE OF THE ACTIVITIES OF THE BHIWANDI
BRANCH OF THE M.T.M.

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CHAPTER 27

THE NATURE OF THE ACTIVITIES OF THE BHIWANDI BRANCH OF THE M.T.M.

Inspector Pradhan's evidence

27.1 Inspector Pradhan has stated in his affidavit [P.W. 38/1(65)/867(21-2)] :

“ The only difference that was noticed between R.U.M. and M.T.M. was that R.U.M. made open demands of their rights in the Peace Committee meeting. Whereas M.T.M. carried on their propaganda and other activities rather secretly and never gave vent to their feelings openly.”

In cross-examination he has deposed with reference to his said allegation that the M.T.M. was carrying on its propaganda and other activities secretly (P.W. 38/41/881-2) :

“ While R.U.M. made their demands openly in Peace Committee meetings, M.T.M. never volunteered for being taken on the Peace Committee but carried on their own activities secretly. For example, when Abdul Khaliq Momin returned from Ahmedabad after being released on bail, I received information that he was secretly visiting the houses of other Muslims and carrying on propaganda that more Muslims were killed in the Ahmedabad riots than Hindus and that more atrocities were perpetrated in Ahmedabad by the Hindus on Muslims than by the Muslims on Hindus. I tried to gather evidence of this rumour-mongering but did not succeed. After the incident which took place in the Rais High School hall in July 1969, Mahomed Ali Isa Khan, the Chief Organiser of M.T.M., Maharashtra State, came to Bhiwandi, contacted local Muslims and collected information about what had happened in Rais High School and further carried on propaganda to strengthen the M.T.M. Further, when I used to go on my night rounds I used often to see meetings going on in the office of Tameer-E-Millat at odd hours. It is on the basis of these facts that I have made the above statement...”

27.2 Thus Inspector Pradhan has given the following four reasons for saying that the M.T.M. carried on its propaganda and other activities secretly :—

- (1) the M.T.M. not volunteering for being taken on the Peace Committee,
- (2) the visits of Abdul Khaliq Momin to the houses of other Muslims for carrying on a communal propaganda after the Ahmedabad riots.

- (3) the visit of Mahomed Ali Isa Khan, the Chief Organizer, Maharashtra State M.T.M., after the Rais High School incident of July 1969 and his carrying on propaganda to strengthen the M.T.M., and
- (4) Inspector Pradhan seeing meetings going on in the office of the Bhiwandi Branch of the M.T.M. at odd hours when he went on his night rounds.

27.3 So far as the first reason is concerned this reason is hardly convincing. We have seen that the Peace Committee was formed by the D.M. issuing invitations. The Steering Committee of the Peace Committee or its Executive Committee also sent out invitations to selected persons to attend and participate in the meetings. In 1969 the organisers of the Ganpati Utsav Mandals were invited to attend the Peace Committee meetings (Exs. P 112 and P 113). Similarly, at the meeting of the Peace Committee held on August 19, 1969 it was decided to co-opt the R.U.M. leaders on the Peace Committee (Ex. P 111). The evidence does not show that any M.T.M. leader was at any time invited to join the Peace Committee or to attend any of its meetings. If no invitation was ever issued to any of the M.T.M. leaders, the M.T.M. can hardly be charged with not volunteering to come on the Peace Committee.

27.4 So far as the second reason is concerned, we have already seen the rumours which were being spread by the M.T.M. workers after the Ahmedabad disturbances. Yet not all visits of Abdul Khaliq were for the purpose of rumour-mongering, nor were various programmes and meetings held in mosques for this purpose only. The main purpose was to collect funds for the relief of the Muslims of Ahmedabad who had suffered in the said disturbances as is shown by Head Constable Manjrekar's report Ex. G 193 and Inspector Pradhan's own letter dated December 23, 1969 to the S.P. (part of Ex. P 166 collectively). Further, the meetings of November 1, 1969 and November 24, 1969 at which propaganda about the Ahmedabad disturbances was carried on were not secret meetings and formed the subject-matter of reports by Inspector Pradhan himself, namely, Exs. P 496 and P 1407. Here Inspector Pradhan overlooks the fact that in their speeches communal propaganda in connection with the Ahmedabad disturbances was also carried on by the leaders of the R.U.M. at various public meetings and prayer meetings and that Inspector Pradhan himself had made reports in respect thereof.

27.5 So far as the third reason is concerned, there is no evidence of any visit to Bhiwandi of Mahomed Ali Isa Khan, Chief Organizer of the Maharashtra State M.T.M., after the Rais High School incident of July 1969. The news report which appeared in the 15th August 1969 issue of the *Shaur* about this incident (Ex. P 629) emanated not from him but from Abdul Khaliq Momin. The only report about the visit of Mahomed Ali Isa Khan to Bhiwandi is in respect of his visit after the Ahmedabad disturbances and has formed the subject-matter of the report dated October 26, 1969 by Head Constable Manjrekar. It

is difficult to understand Inspector Pradhan's charge that Mahomed Ali Isa Khan carried on propaganda to strengthen the M.T.M., for it cannot be an offence to carry on propaganda to strengthen one's own party unless there is something objectionable about the nature of the propaganda carried on.

27.6 So far as the fourth reason is concerned, we do not find on the record any reports by Inspector Pradhan about the meetings held at odd hours in the night in the M.T.M. office in Bhiwandi. Assuming such meetings were held, so far as Bhiwandi is concerned the fact that a meeting was held at night cannot by itself be suspicious. In Bhiwandi almost all public meetings, including those held by the R.U.M., as also private meetings of the R.U.M. held in the dispensary or at the residence of Dr. Vyas all meetings of the Steering Committee of the Peace Committee held in the house of Murtaza Fakih as also all meetings of the Peace Committee and of the Steering Committee and of the Shiv Jayanti Utsav Committee were held at night and have often gone on until midnight or even later, and the night life of Bhiwandi seems to have consisted mostly of such meetings.

27.7 There is thus no satisfactory or convincing evidence before the Commission that the M.T.M. carried on its propaganda and other activities secretly in Bhiwandi.

An analysis of the activities of the M.T.M. in Bhiwandi

27.8 The evidence establishes that the M.T.M. must share with the R.U.M. the responsibility for increasing communal tension in Bhiwandi. The constant harping by its leaders on the danger facing Islam and the Muslim community in India and the exhortation to them to unite in order to meet the challenge of the Hindu communal forces must necessarily create a feeling of insecurity and apprehension in the minds of the Muslims. Similarly, the constant criticism of the administration and the Police as being favourably disposed towards the Hindu communal parties and of taking a prejudiced and biased view against the Muslims must necessarily shake the Muslim confidence in public administration and create in the Muslim mind a feeling of despair that in times of need or danger the Muslims cannot turn to the authorities for protection but must stand on their own or perish. The attacks at M.T.M. meetings against the Hindu communal parties and the counter-attacks by communal-minded Hindu leaders and parties against the M.T.M. brought about a constant state of unrest in the minds of certain sections of both communities in Bhiwandi and led to mounting tension in the town. The evidence shows that there were, however, a number of respected secular-minded Muslim leaders in Bhiwandi and as a result of their efforts the M.T.M. did not make much headway in Bhiwandi (B.R.W. 1/56/1382). The M.T.M. propaganda gained in intensity after the Ahmedabad disturbances, keeping pace with the communal propaganda about these disturbances carried on by the R.U.M. and the Hindu communal leaders whom the R.U.M. invited to deliver speeches. The persons who were most affected by this propaganda were

the youngsters. Feeling alarmed at this, several secular-minded Muslim leaders of Bhiwandi such as Murtaza Fakhri, Sikandar Faquih, Anwar Buhare, Ibrahim Maddu, Haji Tase, Gulam Mahomed Momin and others found it necessary to hold meetings in different Mohallas to impress upon the Muslims, particularly the younger elements among them, that the M.T.M. propaganda was not beneficial to the Muslims and that they should not be misled by it. The situation was correctly assessed by Dy.S.P., Diwate in his report dated March 26, 1970 (Ex. P 661) as follows :—

“The Muslim youngsters have reacted very sharply to the activities of this Mandal (the R.U.M.) and are driven towards Tameer-E-Millat which is known for its anti-Hindu tirades. Occasional meetings are organised by this organisation. The result is that the gulf between the Hindus and the Muslims has been widening day by day.”

27.9 According to I.G.P., Rajadhyaksha, so far as the Police were able to ascertain, the approximate membership of the M.T.M. in Bhiwandi was 700 and in Kalyan 1,800 (G.W. 2/90/122). We are not concerned with Kalyan, but so far as Bhiwandi is concerned the figure of the membership of the Bhiwandi Branch deposed to by the I.G.P. was vehemently disputed by Mr. Rahim-Quraishi, according to whom the M.T.M. had no following in Bhiwandi. It is not possible to accept Mr. Rahim-Quraishi's contention that the M.T.M. did not have any following in Bhiwandi, for since 1963 it had a branch in Kalyan quite close to Bhiwandi and yet it felt the need to establish another branch in Bhiwandi. Further, if the M.T.M. and the propaganda were not making some headway in Bhiwandi, the secular-minded Muslim leaders would not have found it necessary to hold Mohalla meetings to counteract it. According to Mr. Rahim-Quraishi, all the records of the Bhiwandi Branch of the M.T.M. were seized by the Special Investigation Squad, Bhiwandi, who were suppressing them and it was, therefore, not possible to state to the Commission the exact membership of the M.T.M. in Bhiwandi. According to Mr. Rahim-Quraishi, the Special Investigation Squad was seeking to make out in the Bhiwandi Conspiracy Case that the M.T.M. was responsible for the Bhiwandi disturbances and as these papers did not contain any incriminatory documents, the Squad has deliberately suppressed them. There is something highly suspicious about the seizure of the papers of the Bhiwandi Branch of the M.T.M. by the Special Investigation Squad as there is about a number of other things done by this Squad. According to the evidence of Dy.S.P., P. J. Saraf, on May 16, 1970 under Saraf's instructions D.I., S. S. Naik searched the residence of Abdul Khalik Momin as also the office of the Bhiwandi Branch of the M.T.M. on Dargah Road and seized under a panchnama an undated Urdu letters written to Abdul Khalik Momin on the letterhead of the M.T.M. Organizing Committee (Greater Bombay) by Kabiruddin Kazi, the President of the Kalyan Branch and the General Secretary of the Organizing Committee. Saraf has further deposed that apart from this letter no other documents

were taken charge of by D.I., Naik. He has also admitted that the object of searching this office and Abdul Khalik's residence was to find out whether there were any objectionable materials or incriminatory articles (P.W. 61/117/3697). If Saraf's evidence were true, it can well be said that there were no incriminatory documents in the Bhiwandi office of the M.T.M. or in Abdul Khalik Momin's residence, but it can also be said that incriminatory documents, if any, had been removed therefrom prior to the search. Saraf's evidence, however, that only one document was seized does not appear to be true. The fact that the panchnama mentions only one document does not make any difference because as will be seen later, a number of panchnamas made by the Special Investigation Squad raise considerable suspicion as to their genuineness. These answers were given by Saraf after he had with the permission of the Commission ascertained the facts from D.I., A. G. Lankar who was in charge of the Bhiwandi Conspiracy Case. Lankar admitted that the said panchnama and the said Urdu letter were given to him. Lankar has stated in his case diary No. 10 dated May 16, 1970 (C.W. 44/73/3816) :

“ The I.B. Police searched the house of Abdul Khaliq for objectionable articles and papers. Similarly, the office of the Tameer-E-Millat was also searched. *At that time some papers were taken charge of.*” This case diary, therefore, clearly shows that more than one document was handed over to D.I., Lankar by D.I., S. S. Naik. Lankar has stated that he was personally not present at the time of this search. If that was so, this entry in the case diary could only have been made on the basis of the seized documents handed over to him and this entry clearly shows that more than one document was seized at the time of this search. The questions that then arise are what happened to the rest of the papers seized at the time of this search and why the Special Investigation Squad is not producing them. The answer to the first question is known only to the officers of the Special Investigation Squad, Bhiwandi, but these officers have not shown themselves particularly anxious to tell the truth to the Commission. The answer to the second question is obvious. If the documents contained anything incriminatory of the M.T.M., they would have been forthcoming. The fact that these documents are not produced shows that had they been produced, they would have affected adversely the case of the Special Investigation Squad against the M.T.M.

Communal writings of the M.T.M.

27.10 Two publications by the M.T.M. have been brought on the record which satisfy the test laid down in paragraph 6.8 and were, therefore, communal writings. They are :—

- (1) The article headed, “ Who is the Hero of India's Integration : Aurangzeb or Shivaji ? published in the 29th April 1966 issue of the *Shaur* (Ex. P 1481),
- (2) The extract from the Urdu booklet entitled, “ Riots and our responsibilities — views of the All India M.T.M.” (Ex. G 132).

Communal speeches by the M.T.M. leaders

27.11 Out of the speeches made at different M.T.M. meetings which have come on the record of the Commission the following clearly satisfy the test laid down in paragraph 6.8 and were communal speeches :

- (1) The resolution on "Aggressive communalism and the Muslims" passed at the Maharashtra M.T.M. Conference held at Aurangabad on May 11 and 12, 1968 (Ex. G 103).
- (2) The speech made by Gaus Khamoshi at the said conference (Appendix B to Ex. G 103).
- (3) The speech made by Syed Khalilullah Hussaini at the said conference (Appendix B to Ex. G 103).
- (4) The speech made by Abdul Aziz at the public meeting held on November 3, 1968 at Bhiwandi (Ex. P 43).
- (5) The speech made by Saad Ahmed Kazi at the said meeting held on November 3, 1968 (Ex. P 43).
- (6) The speech made by Suleman Sikandar at the said meeting held on November 3, 1968 (Ex. P 43).
- (7) The speech made by Shabbir Hussain at the public meeting held at Bhiwandi on January 13, 1969 (Ex. P 44).
- (8) The speech made by Suleman Sikandar at the said meeting held on January 13, 1969 (Ex. P 44).
- (9) The speech made by Syed Khalilullah Hussaini at the said meeting held on January 13, 1969 (Ex. P 44).
- (10) The speech made by Mahomed Kasim at the public meeting held on May 24, 1969 at Kalyan (Ex. G 291).
- (11) The speech made by Sardar Zafarullah Khan at the said public meeting held on May 24, 1969 (Ex. G 291).
- (12) The speech made by Abdul Khaliq Momin at the public meeting held at Bhiwandi on May 26, 1969 (Ex. P 46).
- (13) The speech made by Saad Ahmed Kazi at the said public meeting held on May 26, 1969 (Ex. P 46).
- (14) The speech made by Shabbir Hussain at the said public meeting held on May 26, 1969 (Ex. P 46).
- (15) The speech made by Hakim A. Raheman Quadri at the said public meeting held on May 26, 1969 (Ex. P 46).
- (16) The speech made by Mahomed Kazi at the public meeting held on June 27, 1969 at Bhiwandi (Ex. P 47).
- (17) The speech made by Saad Ahmed Kazi at the said public meeting held on June 27, 1969 (Ex. P 47).
- (18) The speech made by Saad Ahmed Kazi at the public meeting held at Bhiwandi on November 1, 1969 (Ex. P 496).
- (19) The speech made by Abdul Khaliq Momin at the said public meeting held on November 1, 1969 (Ex. P 496).

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CHAPTER 28
THE RASHTRIYA UTSAV MANDAL

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CHAPTER 28

THE RASHTRIYA UTSAV MANDAL

The formation of the Rashtriya Utsav Mandal

28.1 The Rashtriya Utsav Mandal (for the sake of brevity and convenience referred to in this Report as "the R.U.M.") was formed on May 23, 1969 by Dr. Vyas and some others including the 19 persons who had walked out of the meeting of the Shiv Jayanti Utsav Samiti on April 6, 1969 and had subsequently tendered their resignation as narrated in paragraph 14.27. At the said meeting of the Shiv Jayanti Utsav Samiti Dr. Vyas summarized the reasons for the walk-out as follows:—

- (1) It was promised in the previous year that the route of the Shiv Jayanti procession would be changed and the promise would be kept.
- (2) No restrictions with respect to slogans and the throwing of 'gulas' should be reduced to writing, though the restrictions should be observed.
- (3) The restrictions should not be printed in any pamphlets setting out the programmes for the Shiv Jayanti celebrations."

28.2 Out of these 19 persons, the following 15 were either members of the Jan Sangh or were pro-Jan Sangh :—

- (1) Sharad Shankar Patwardhan,
- (2) Shataram Taware,
- (3) Dattatraya Gajanan Punyarthi,
- (4) Atchhut P. Shetty,
- (5) Bhaskar Ganpat Mali,
- (6) Ambadas N. Ballal,
- (7) Madhav Kanitkar,
- (8) Anna Vagal,
- (9) Hasmukh Thakkar,
- (10) Anant Ramchandra Phadke,
- (11) S. C. Pimpalkhare,
- (12) Shankar Kolekar,
- (13) Shankar Govind Mundhe,
- (14) B. K. Joshi, and
- (15) Pandu Vastad *alias* Patil.

A. T. Nagale belonged to the Shiv Sena. Out of the remaining, Dattatraya Mahadeo More, Baliram More's brother, and Dattatraya Rama More did not belong to any party, though Dattatraya Mahadeo More later joined the Congress (R). V. B. Joshi's political affiliation has not come on the record (P.W. 4/246/745 ; P.W. 66/18/1115).

28.3 On May 21, 1969 at 9.15 p.m. a meeting was held by these 19 persons and some others in the Neelkantheshwar Temple under the presidentship of Dr. Vyas. Inspector Pradhan's report on this meeting is Ex. P 59. It was decided at this meeting that on May 29, 1969 the Shiv Rajyabhishek Deen should be observed. A Mandal called the Shiv Rajyabhishek Utsav Mandal was formed with A. R. Phadke as its President and Dattatraya Mahadeo More and A. T. Nagale as Vice-Presidents. Shashikant Alashi, who was pro-Shiv Sena, was made the Secretary. Another meeting was held at night on May 23, 1969 again in Neelkantheshwar Temple and again under the presidentship of Dr. Vyas. Inspector Pradhan's report dated May 24, 1969 on this meeting is Ex. P 1492. At this meeting many of the members of the executive committee nominated at the previous meeting were not present. Phadke also expressed his unwillingness to continue to be the President. It was unanimously decided to change the name of the body to the "Rashtriya Utsav Mandal" and the following office-bearers were elected :—

- | | | |
|-------------------------|-----|---|
| (1) President | ... | Bhaskar Mali |
| (2) Vice-President | ... | Dattatraya Mahadeo More |
| (3) Vice-President | ... | Subhash Trimbak Nagale |
| (4) Secretary | ... | Suresh Gajanan Kondalkar |
| (5) Dy. Secretary | ... | Uddhav Rajaram Teje |
| (6) Treasurer | ... | M. P. Sharma |
| (7) Executive Committee | ... | (i) Dr. B. P. Vyas,
(ii) Shankar Govind Mundhe,
(iii) Padridas Shet,
(iv) Ramchandra Kondapatri,
(v) Laxman Parab,
(vi) Prabhakar Shankar Salvi,
(vii) Shashikant Alshi,
(viii) S. S. Gosavi,
(ix) Gajanan Vithal Vekhande,
and
(x) J. A. Naik. |

Suresh Kondalkar who became the secretary of the R.U.M. was from the inception a member of the Shiv Sena (S.S.W. 1/18/2162). A programme for the Shiv Rajyabhishek Day was chalked out at this meeting and it was decided to have either the Shiv Sena Chief, Bal Thackeray, or the Vice-President of the Maharashtra Pradesh Hindu Mahasabha, V. R. Patil, as the main speaker.

The office-bearers of the R.U.M. in 1970

28.4 The names of the office-bearers of the R.U.M. in 1970 appear in the evidence of Dr. Vyas (J.S.W. 1/44/2219). In that year the President was Bhaskar Mali; the Vice-Presidents were Bhai Trimbak Nagale, Pandurang Patil *alias* Pandu Vastad, Narayan Badlapurkar and Raghunath Padyal; the Joint Secretaries were Sharad Patwardhan, Dilip Tamhane, Mohan Gaikwad and Shashikant Alashi; the

Treasurer was Badriprasad Sikchi; and the Joint Treasurer was Hasmukh Thakkar (N.H.W. 16). The R.U.M. had two Advisers, namely, Dr. Vyas and the advocate Anant Ramchandra Phadke. There was a body of 75 members which included the above office-bearers and which functioned as the general committee. Apart from these office-bearers, there were about 200 ordinary members. Bhaskar Mali ceased to be the President in March or April 1971 and in his place Datta Punyarthi was elected the President and in August 1971 Shantaram Tavre became the President.

Dr. B. P. Vyas

28.5 Dr. Bhagwan Prabhashankar Vyas (J.S.W. 1), the dominating figure of the R.U.M., has played an important role in the communal history of Bhiwandi. He was a doctor in the service of the erstwhile Government of Bombay till April 30, 1960, on which date he resigned from Government service. From 1956 to April 30, 1960 he was delegated by the Government to work as a medical officer in charge of the Bhiwandi-Nizampur Municipal Dispensary. After resigning from service he started private practice in Bhiwandi. At the relevant time his consulting room and dispensary were in the same building as his residence and were situated in Prabhu Alli. Until 1967 he had no political affiliations. In that year he began coming out in public life and soon became a very powerful local leader taking a prominent part in every communal situation arising in the town. He unsuccessfully contested the 1967 municipal elections from Ward No. 21 which included Prabhu Alli. He joined the Jan Sangh in 1967 and in October of that year was elected the President of the Bhiwandi Branch of the Jan Sangh and since then has been elected to that office every year.

28.6 Though a number of his speeches satisfy the test laid down in paragraph 6.8 and were, therefore, communal speeches, charging the Muslims with being anti-national and disloyal and seeking to exploit individual incidents by turning them into anti-Muslim propaganda, on some occasions he has appeared to take a conciliatory and reasonable attitude, but each time his actions have belied his words. For example, at the Shiv Jayanti Utsav Samiti meeting of April 6, 1969 he said that if the sentiments of the Muslims were hurt because 'gulaal' was thrown, the processionists should not throw 'gulaal' near mosques and if necessary a route avoiding mosques should be fixed (Ex. P 122). There can hardly be a more reasonable suggestion and yet on this very issue he boycotted the 1969 Shiv Jayanti procession along with others and presided over the meetings at which the R.U.M. was formed. At the time of the affray in July 1969 between Bhaskar Mali and his brother on the one hand and the Muslim boys of the Rais High School on the other hand when the R.U.M. circulated a hand-bill calling upon the people to observe a hartal, he gave out that he was not in favour of the hartal. In the meeting of the Steering Committee held thereafter it was

therefore, decided that he along with Bhausaheb Dhamankar (C.W. 2) and Mohanlal Karwa (N.H.W. 53) should meet the R.U.M. workers and persuade them to give up the hartal as this affray was not an incident which deserved to be given so much prominence. Accordingly, a meeting with the R.U.M. workers was held in his dispensary that evening. He has deposed. "After listening however to the case presented by the R.U.M. workers, I changed my opinion and came to the conclusion that since it was Bhaskar Mali, President of the R.U.M., who had been assaulted, it was their right to ventilate their grievances democratically by calling the Hartal" with Dr. Vyas, the guiding spirit of the R.U.M. in favour of the hartal, the hartal took place.

28.7 It was his equivocal and ambiguous attitude and his habit of saying one thing and of doing quite the opposite which led Inspector Pradhan to state in the entry relating to the incident of the widening of the Holi pit at Navi Chawl on May 16, 1970 (Ex. P 1488), that "the experience is that Dr. Vyas speaks one thing in the Peace Committee and instigates the boys on the other hand." The evidence shows that he wanted to be looked up to by both sides—the moderates and the extremists. To the older and the saner leaders he wanted to appear as a restraining influence upon the hot-headed extremists while he instigated these very extremists to act even more aggressively with a view not to lose his hold over him. In fact, he came for the first time into public prominence by instigating the younger elements in the Ganpati Immersion procession of September 17, 1967 to linger near the Panjrapole Dargah (P.W. 38/8/870-1).

28.8 Dr. Vyas' communal cast of mind can be seen from some of the answers which he gave in the witness-box. He has stated that the only organizations in India which he considers to be communal are the Jamaat-E-Islami, the Muslim League, the Mushavarat and the M.T.M. He stated that in his public life he propagated the views of a composite culture and it was with that motive that he joined the R.U.M. and that one of the main objects of the R.U.M. was to celebrate national festivals. He deposed, "The national festivals celebrated by the R.U.M. were Shiv Rajyabhishek Day, Lokmanya Tilak's Punyatithi (Death Anniversary), Independence Day, Ganpati Utsav, Mahatma Gandhi's Birthday, Ambedkar Jayanti, Guru Nanak Jayanti, Subhashchandra Bose Jayanti, Veer Savarkar Jayanti, Republic Day, Shahaji Raje Jayanti and Death Anniversary of Sambhaji." He admitted that the R.U.M. did not celebrate any Muslim festivals but that some of its leaders were present at the time of the Moharram and Barawafat procession in their own localities and he cited his own example that at the time of the Moharram procession in 1969 he was present in Prabhu Alli but did not accompany the procession to other localities and that at the time of the 1970 Moharram, it being a special occasion, he accompanied the procession from his house up to Sutar Alli through

Hindu localities only and when the procession entered a Muslim locality, he left the procession and rejoined it when it entered another Hindu locality. He stated that the R.U.M. did not celebrate any Muslim or Christian festivals because these festivals were not national festivals of India. He has deposed that until a festival takes root amongst the majority of the people of India it cannot be called a national festival. What he meant was that unless the Hindus who are in a majority accept a festival, it cannot be called a national festival but would be a sectarian festival. According to him Ganpati is not only a religious but also a national festival. He has deposed that neither Akbar nor any other Muslim ruler could be regarded a national hero, though he has stated that he did regard as nationalists some Muslims such as Maulana Azad, M. C. Chagla, Hamid Dalwai and some others whose names he did not recollect. He has further deposed that between Shahaji Raje and Akbar he would consider Shahaji Raje to be a national leader because he was the father of Shivaji, while Akbar was an invader and a usurper and was a descendent of the usurpers of India.

Shiv Rajyabhishek Day

28.9 The very first public act of the R.U.M. clearly revealed its policies and unequivocally indicated its future line of action. It decided to celebrate the Shiv Rajyabhishek Day on May 29, 1969, on which day Id-E-Milad also fell. As shown by the speech of Dr. Vyas at the meeting held on May 21, 1969, the leaders of the R.U.M. were aware of the fact that Id-E-Milad was falling on the same day and an Id-E-Milad procession would be taken out. It was not as if Shiv Rajyabhishek Day was ever celebrated in Bhiwandi prior thereto. According to Dr. Vyas's evidence, he had heard that the R.S.S. for a number of years had been celebrating in all their branches the Shiv Rajyabhishek Day under the name of Hindu Samrajya Day and, therefore, the R.U.M. also decided to celebrate this anniversary. The R.U.M. had intended to take out a procession on this occasion but was persuaded to drop the idea. These celebrations were held by the side of the Bhiwandi Town Police Station and the Id-E-Milad procession passed within only about 15 yards from the venue thereof. At the time when the Id-E-Milad procession was passing by, recorded music was played in the meeting [P.W. 38/1(46)/867(16)]. Originally the idea of the R.U.M. was to invite either the Shiv Sena Chief Bal Thackeray, or the Vice-President of the Maharashtra Pradesh Hindu Mahasabha, V. R. Patil, to be the main speaker at this meeting. Neither of them, however, attended the function and the main speakers were Ramesh G. Sambhus and the Shiv Sena leader Datta Salvi.

28.10 A verbatim report of the speeches made at this meeting taken down by the Police Shorthand Reporter is Ex. P 60. Ramesh Sambhus, after garlanding a photographic reproduction of Shivaji's Portrait, said :

"But for Shivaji Maharaj we would not have remained Hindus."

We would have become Mullas and Maulavis. He inspired the Hindus in Maharashtra. He believed that Hindustan belonged to Hindus..... Whenever Hindu religion is in danger, Lord Krishna takes incarnation in this world to remove the danger. Now is the time for Lord Krishna to take birth..... When Shivaji Maharaj took birth, a serpent with five heads in the shape of five Muslim States had come forward to destroy Hindu culture. Some Marathas were helping them. Hindu ladies going to fetch water were kidnapped and put in the harem. Hindus were converted to Islam. Jijamata was sorry for this. She prayed to Bhawanimata to open her eyes and to save Hindu culture..... Then Shivaji Maharaj took birth..... Shivaji Maharaj protected Hindu culture from Muslim invasion..... All those who eat the produce of Hindustan are Hindus according to us. Those who are loyal to this country will be called Hindus but if anyone eats here and helps a foreign nation, he is an enemy of the nation. If you are disloyal to the nation, you will be killed..... We must become religious fanatics if we want to keep the Hindu religion alive..... Afzalkhan had come with the intention of burying Hindu culture and was killed by Shivaji Maharaj. No one should dare say that procession should not go by any particular route. There should be no restrictions on processions. We should live like Hindus. This is the message of this day. Youngsters should take oath that the Hindu religion must survive, otherwise we should be ready to die for the same."

28.11 Datta Salvi spoke next. He said, "We live in a democracy in the 20th Century, but Maharashtrians are being oppressed in this democracy. Shiv Sena has been established with a view to remove this injustice..... *I would boldly say that those who want to live in India should live as Indians and those who want to live in Maharashtra should live as Maharashtrians, but those who are ashamed of this should leave Maharashtra and India.*" The innuendo here is clear. He then criticized the speeches made at the M.T.M. meeting held in Bhiwandi and the Government's policies.

28.12 The speeches made by Ramesh Sambhus and Datta Salvi satisfy the test laid down in paragraph 6.8 and were therefore communal speeches.

28.13 Though a verbatim shorthand report of the said speech made by Ramesh Sambhus was taken down, no notice appears to have been taken of the contents thereof and in the report dated June 6, 1969 (Ex. G 292) submitted by the D.I.G. (Int.) to the Home Secretary, all that is mentioned about the speech of Ramesh Sambhus is that he had recited a Kirtan on Afzalkhan Vadh. Of course, in submitting his report the D.I.G. (Int.) has to rely upon the reports received by him from his officers in the district. Ramesh Sambhus was one of the persons to whom the Commission issued a notice setting out the allegations made against him in the course of the evidence and giving him an opportunity to appear before the Commission and to lead any evidence which he might desire, to controvert these allegations.

He appeared before the Commission through Counsel Mr. M. D. Pathak and was present while the evidence of another witness was being recorded, but each time when his turn came to give evidence, he was not present and his Counsel applied for an adjournment which was each time granted to him. Ultimately this became so chronic that the Commission passed an order on October 11, 1972 that if before the recording of the entire evidence before the Commission was completed he was present, his evidence would be recorded at a convenient stage. He, however, did not thereafter at any time choose to remain present and the only conclusion we can draw is that he was not willing to step into the witness-box and be cross-examined.

The inscription in Urdu on Municipal Fire Brigade vehicles

28.14 The name of the Municipal Council used to be painted both in English and Marathi scripts on Municipal Fire Brigade vehicles. Some time in April 1969 the name of the Municipal Council in Urdu script was added on these vehicles. This caused resentment amongst a section of the local Hindus and Dattatraya Mahadeo More, Baliram More's brother, sent an application to the Municipal Chief Officer on April 28, 1969 expressing his protest and threatening to apply tar on the Urdu writings in case no action was taken. Shankar Govind Mundhe, who was either a member of the Jan Sangh or pro-Jan Sangh, began a signature-campaign on an application to be sent to the D.M. protesting against this new practice. Inquiries were made in the matter and it was found that the new Municipal President Abdul Salam Abdul Razak Ansari had passed oral orders to paint the name of the Municipal Council in Urdu script on Fire Brigade vehicles. By his letter dated May 8, 1969 (Ex. G 284), the D.I.G. (Int.) reported this matter to the Home Secretary. He also reported this matter by his letter dated May 12, 1969 (Ex. G 285) to the D.M. Ultimately the matter was discussed unofficially between the Municipal President and the D.M. and the Urdu writings on the Fire Brigade vehicles were erased (Ex. G 286).

28.15 The particular thing to be noted is that the two persons who played a prominent role in the protest against the Urdu inscription on the Municipal Fire Brigade vehicles, namely, Dattatraya More and Shankar Mundhe, were two of the persons who had staged a walk-out from the Shiv Jayanti Utsav Samiti meeting on April 6, 1969 and had subsequently along with others founded the R.U.M.

28.16 This incident also shown a swift and effective intervention by D.M. Capoor in order to put an end to a situation which was threatening to take an ugly communal turn.

28.17 The celebrations of the Shiv Rajyabhishek Day on the day of Id-E-Milad, the addition of the name of the Municipal Council in Urdu script on Municipal Fire Brigade vehicles and the conference of the M.T.M. proposed to be held in Bhiwandi during this period created considerable tension amongst both communities in Bhiwandi.

The R.U.M. meeting at Kombadpada

28.18 The R.U.M. had called a public meeting at Kombadpada, Panjrapole, Bhiwandi, on June 2, 1969. Ramesh Sambhus was to be the main speaker but as he was unable to attend on that day, the meeting was held on June 5, 1969. The S.P.'s report dated June 10, 1969 on this meeting is Ex. P 566. Dattatraya Mahadeo More, Baliram More's brother, addressing the meeting said that 22 persons had resigned from the Shiv Jayanti Utsav Samiti not because they were against celebrating the birth-anniversary of Shivaji but on the ground that why there should be a ban on taking out a procession. This was clearly a deliberate wrong statement made in order to mislead the audience, for, as we have seen, no one had ever suggested that the Shiv Jayanti procession should be banned. Continuing Dattatraya More said :

“It was on account of the work done by Shivaji Maharaj that the Hindus have continued to live as Hindus. Next year according to the say of the citizens, even if any obstruction is caused for taking out the procession, we will certainly take out the procession. Those persons whose feelings will be hurt on account of that, should go away to the country nearby. In Bhiwandi the population of the Hindus is 35 per cent. and that of the Muslims is 65 per cent. Therefore we are in a minority. For this reason our matters are not disposed of. We are harassed.”

As an instance of harassment he stated that there were no toilet arrangements in Kombadpada and other localities and Hindu women had to perform their natural functions in the open and people did not get water while more water was released in the Muslim locality of Nizampura. As another instance of harassment he mentioned about the Urdu inscription on the Municipal Fire Brigade vehicles and said that it was only because the R.U.M. had informed the Collector that if the Urdu writings were not removed within eight days, they would smear them with tar that the writings were removed. He also complained about the trespass committed by Muslims in constructing Zopadpattis by the side of the Court buildings and on the Khutala Tank reclaimed land. He threatened that if this encroachment was not removed, they would launch a satyagraha and remove the encroachment.

28.19 Uddhav Teje spoke next. He said that 'goondas' from outside had come to Bhiwandi and had become very arrogant. The context of his speech makes it clear that the 'goondas' he was referring to were Muslim 'goondas'. As an instance of the arrogance of these Muslim 'goondas' he referred to the construction of the Bag-E-Firdaus Mosque. He also alleged that 13 mosques were constructed unauthorisedly in the town (which S.P., Bhavé's evidence shows is not true) and that the M.T.M. had held a meeting in which the Shiv Sena Chief and the Hindu religion were criticized. He threatened that if the M.T.M. in future criticized the Hindu religion, the R.U.M. would disrupt that meeting.

28.20 The principal speaker of the evening, Ramesh Sambhus, then delivered his speech. He said :

"India belongs to the Hindus. The Tamir-E-Millat had talked about the 'cholis' of Hindu ladies. But if they indulge in such public infamy again, we will cut off their hands completely. *They have a population of 65 per cent. Those having a population of 35 per cent. should be ready to deliver a blow. We must act like Kshatriyas. We should become Kshatriyas and attack the Muslims violently.* If we do not remain alert hereafter, we will be in trouble. If persons who have come as guests start demolishing the house, you should drive them away.....your religion is at a low tide. You should, therefore, organize yourself into a religious organization. This is my message on this Satyanarayan Day."

He then dwelt upon various historical incidents including those of Afzalkhan and Shahistekhan.

28.21 Dr. Vyas, moving a vote of thanks, said :

"You should act according to what you have heard now. You should put that into practice. You should have a national spirit. We have established the Rashtriya Utsav Mandal. You should become members thereof....."

28.22 It will be noted that at this meeting Dr. Vyas subscribed unequivocally and whole-heartedly to the inflammatory views and violent methods propounded by the other speakers and in particular by Ramesh Sambhus. So much for the attitude of reasonableness adopted by him in some of the Peace Committee meetings !

28.23 By his letter dated April 25, 1969 S.P., Bhave forwarded verbatim reports of the speeches made at the said meeting to the Government Pleader and Public Prosecutor of Thana, Mr. S. M. Tamhane, for his opinion whether they were actionable under section 153-A I.P.C. Mr. Tamhane gave his opinion by his letter dated December 29, 1969 (Ex. P 567), that is, five months after the papers were sent to him for his opinion. The evidence shows that in such matters five months was about the usual period taken by Mr. Tamhane for giving his opinion. He opined that except the speech of Ramesh Sambhus, he did not find anything objectionable in the other speeches and that the particular lines in the speech of Ramesh Sambhus underlined by him might fall under the provisions of section 153A I.P.C., but there was "no exhortation to the audience to do any particular act". One wonders what telling an audience of Hindus to gird up their loins and to be ready to deliver a blow and to act like Kshatriyas by attacking the Muslims violently amounted to if not to an exhortation to the Hindus to take the law into their own hands and to indulge in violent methods.

28.24 The speeches made by Dattatraya Mahadeo More, Uddhav Teje, Ramesh Sambhus and Dr. Vyas at the said meeting satisfy the test laid down in paragraph 6.8 and were, therefore, communal speeches.

28.25 The D.I.G. (Int.) also felt that the speech made by Ramesh Sambhus at this meeting was inflammatory and as appears from his report, dated June 20, 1969 to the Home Secretary (Ex. G 293), he advised the S.P. to consider the feasibility of prosecuting Ramesh

Sambhus. When he received Mr. Tamhane's opinion, Bhave was not satisfied with it. Accordingly, he sent for the file to consider the matter further (P.W. 4/377/824). The file, however, remained with him and the events and the riots of May 1970 overtook him before he could take any decision.

The 'Bhiwandi Bandh' call by the R.U.M.

28.26 The R.U.M. quickly seized upon the possibilities afforded by the scuffle which took place between Bhaskar Mali and his brother and some Hindus on the one hand and some Muslim boys on the other and gave a call for hartal on July 11, 1969 and circulated a hand-bill to this effect. According to Dr. Vyas, he was not present at the meeting at which this decision was taken and when he learnt about it, he was not in favour of it. He has further deposed that in the meeting of the Steering Committee held after this call for hartal was given it was decided that Bhausahab Dhamankar (C.W. 2), Mohanlal Karwa (N.H.W. 53) and he should meet the R.U.M. workers and persuade them to give up the hartal as this was not an incident which deserved to be given so much prominent. The three of them met the R.U.M. workers in Dr. Vyas's dispensary that evening and Dr. Vyas has deposed in all seriousness, "After listening, however, to the case presented by the R.U.M. workers, I changed my opinion and came to the conclusion that since it was Bhaskar Mali, the President of the R.U.M. who had been assaulted, it was their right to ventilate their grievance democratically by calling the hartal." (J.S.W. 1/13/2208). If this portion of his evidence is an attempt by him to show how open to conviction by reasoning he is, the attempt has failed to achieve its object. By this pretence of not going along at first with the extremists and then of wearing round to their side on the ground that he had become convinced of the justice of their cause, he invested this hartal with the aura of a just cause.

28.27 On the day of the hartal all the shops, however, remained open till about 10-30 a.m. Thereafter Hindu shops in most of the Hindu localities remained closed. The Muslim shops, however, remained open as did schools and power-loom factories (P.W. 4/290/776 ; Ex. G 298).

The ban on the R.U.M. meeting

28.28 The R.U.M. wanted to hold a public meeting on July 12, 1969 to thank the Hindus for observing the hartal called by it on the previous day. In view of the tense situation in the town, orders under section 144 Cr.P.C. were promulgated banning the holding of public meetings and as a result thereof the proposed meeting could not be held [P.W. 38/1(49)/857(17)].

The tutoring of complainants

28.29 As seen in paragraphs 16.22 and 16.28 the incidents of July 1969 led to a spate of complaints and some leaders of both communities took active interest in the complaints which were being lodged.

They accompanied the complainants to the Town Police Station and prompted them to give the names of the accused and even putting the names of the accused in their mouth when they did not mention any names and attempting to see that there were at least five accused so as to make these cases cognizable. Apart from Baliram More, the Shakhapramukh of the Bhiwnadi Branch of the Shiv Sena, almost all of these Hindu leaders were R.U.M. leaders and either belonged to the Jan Sangh or were pro-Jan Sangh. The important ones amongst them were Dr. Vyas, Uddhav Teje, Sharad Patwardhan, Bhaskar Mali and Datta Punyarthi. As we have seen in paragraph 16.28 this tutoring stopped only when Dy.S.P., Diwate complained about it to Bhausaheb Dhamankar and thereafter the D.M. and the D.I.G. (B.R.) sent for members of the Peace Committee and discussed the situation with them and a notice was put up at the Town Police Station stating that only the complainants should approach the Station-House Officer for lodging their complaints

The R.U.M. chalks out its future programme

28.30 A meeting of the leaders of the R.U.M. was held on July 30, 1969 at 9-30 p.m. in the dispensary of Dr. Vyas. Inspector Pradhan's report, dated July 31, 1969 on this meeting is Ex. P 61. It was decided at this meeting that the R.U.M. would separately celebrate the death anniversary of Lokmanya Tilak and would not participate in the programme arranged by the Congress Party. It was further decided to hold weekly meetings on Mondays in different temples and to hold meetings on the 1st and the 16th of every month in the Neelkantheshwar Temple. These weekly meetings (which were styled as prayer meetings) and the fortnightly meetings in Neelkantheshwar Temple became the means for the R.U.M. to propagate regularly its communal views and philosophy.

The morcha to Murtaza Fakih's house

28.31 Some meetings of the Steering Committee of the Peace Committee were held in August 1969 in the house of Murtaza Fakih (B.R.W. 1). The leaders of the R.U.M., probably riled at this importance given to a Muslim leader, objected to this venue for the meetings and in order to protest against it they wanted to take out a morcha to the house of Murtaza Fakih at the time of the Steering Committee meeting to be held there on August 19, 1969. At a private meeting of the R.U.M. held in the house of Dr. Vyas on August 17, 1969 it was, however, decided to cancel the morcha as senior Government officials were going to be present at the said meeting (Ex. P 62).

The opposition to the Al-Aqsa procession

28.32 The Bhiwandi Branches of the M.T.M. and the Mushavarat had organized a silent procession and had given a call to observe a hartal on August 29, 1969 to protest against the arson to the Al-Aqsa Mosque in Jerusalem. The R.U.M. was opposed to this hartal and

the procession and it circulated hand-bills (Ex. P 509) making an appeal to the people of Bhiwandi not to participate either in the hartal or the procession. It was stated in that hand-bill that the Government of Israel had arrested a fanatic, namely, Michael Dennis William Rohel, and proceedings according to law were pending against him and that while the R.U.M. strongly protested against the attempt made to cause damage in any manner to any religious place and understood the grief felt by the Muslims of Bhiwandi, they were against observing any hartal on this occasion and made an appeal to everyone to carry on their activities as usual. As appears from Inspector Pradhan's report dated August 30, 1969 (Ex. P 49) the calling of the hartal, the R.U.M.'s opposition to it and the procession led to tension in the town.

Resignations of Dattatraya Mahadeo More and Suresh Kondalkar

28.33 In the beginning of September 1969 Dattatraya Mahadeo More, Baliram More's brother, who was the Vice-President of the R.U.M., and Suresh Kondalkar, a Shiv Sena worker who was the Secretary of the R.U.M. (S.S.W. 1/18/2168), resigned from their respective offices and distributed leaflets captioned "APPEAL TO PUBLIC" (Ex. G 524) explaining the reason for their resignations. In the said leaflet they stated:

"At present all the work of the Rashtriya Utsav Mandal is going on according to the wishes of Dr. Vyas, and Shri Bhaskar Mali, the President of the Rashtriya Utsav Mandal, is playing politics with the advice of Dr. Vyas and the workers of the Jan Sangh are supporting it.

Therefore, the people should think properly in this behalf and help the Government in maintaining law and order in our town of Bhiwandi."

28.34 These resignations and the leaflet distributed by Dattatraya More and Suresh Kondalkar clearly show who the dominant party figure of the R.U.M. was and the political affiliations of the persons who were guiding its policies and directing its activities.

28.35 A meeting of the Executive Committee of the R.U.M. was held on the night of September 5, 1969 to discuss the situation brought about by these resignations. Dr. Vyas asserted at this meeting that the R.U.M. was not pursuing the policy of any political party and that its membership consisted of persons belonging to various parties. He further declared that Dattatraya More and Suresh Kondalkar were not at any time office-bearers of the R.U.M., an incorrect statement: for at the public meeting held by the R.U.M. on March 11, 1970 Dr. Vyas himself, trying to make out that the R.U.M. was a non-party organization, said that when the R.U.M. was formed Dattatraya Mahadeo More had been elected its Vice-President because the R.U.M. did not believe in any party politics.

28.36 At the aforesaid Executive meeting it was further decided to cancel the membership of Dattatraya Mahadeo More and Suresh

Kondalkar and also to draft a constitution for the R.U.M. The report dated September 19/20, 1969 by the D.I.G. (Int.) to the Home Secretary on this meeting is Ex. G 301.

The Ganpati festival

28.37 The Ganpati festival was celebrated between September 15, 1969 and September 24, 1969. A Peace Committee meeting in connection therewith was held on August 19, 1969. Invitations for the meeting were issued both in Marathi and in Urdu and Bhaskar Mali raised an objection that in future invitations should be issued only in Marathi. Dr. Vyas supported Bhaskar Mali and when Bhausahab Dhamankar pointed out that invitations were issued in Urdu also for the benefit of those who did not know Marathi, Dr. Vyas demanded that invitations should then be issued in all languages and not only in Marathi and Urdu. After considerable wranglings on matters which had no relation to the celebration of the Ganpati festival, the members finally settled down to discuss the arrangements to be made for the festival, Uddhav Teje again raising the point that the roads on which the procession passed should be got repaired and Bhaskar Mali saying that at the time of the procession it usually became dark towards the end and the Municipal Council should make arrangements for lighting and inform the R.U.M. accordingly. Both these points were agreed to. Datta More requested that a member of the R.U.M. should be co-opted on the Peace Committee, which was also agreed to. S.P., Bhav's report dated August 21, 1969 on this meeting is Ex. P 110.

28.38 Thereafter a meeting of the Steering Committee was held on September 3, 1969 in Murtaza Fakhri's house. The Hindu leaders said in this meeting that no one should throw 'gulal' at a mosque, while the Muslim leaders wanted that no 'gulal' should be thrown on roads in front of a mosque. Dr. Vyas, though he agreed that no 'gulal' should be thrown at a mosque, said that the throwing of 'gulal' on roads in front of it could not be prohibited. Inspector Pradhan's report on this meeting is Ex. P 111.

28.39 Meanwhile the R.U.M. leaders managed to contact and win over the organizers of most Ganpati Mandals with a view to take over the complete control of the celebrations from the older Hindu leaders. At the Executive Committee meeting of the R.U.M. held at 10 p.m. on September 9, 1969 in Devi Mandir, Kasar Ali, at which about 30 to 40 persons were present including Bhaskar Mali, Dr. Vyas and Datta Punyarthi who were also the organizers of the Sarwajanik Ganpati Utsav Mandal, it was decided not to attend any Peace Committee meeting in connection with the Ganpati festival. Inspector Pradhan's report on this meeting is Ex. P 63. Accordingly, although about 120 invitations were issued for the Peace Committee meeting to be held later that night, only about 25 or 30 persons attended the meeting. S.P., Bhav's report dated September 12, 1969 on this meeting is Ex. P 112. It was decided at this meeting that

the procession would go by the usual route and there would be no objection to the playing of music in front of mosques but the procession should not linger near mosques for a long time nor should excessive 'gula' be thrown within a distance of 50 feet on either side of a mosque. It was also decided to call a meeting of the Steering Committee.

28.40 Accordingly, a meeting of the Steering Committee was held on September 13, 1969. S.P., Bhavé's report dated September 16, 1969 on this meeting is Ex. P 113. This meeting was attended by the organizers of the Ganpati Mandals and the leaders of the R.U.M. as also by the D.M. and the S.P. Another meeting of the Steering Committee was also held on September 22, 1969 to discuss the arrangements for the Immersion procession. S.P., Bhavé's report dated September 24, 1969 on this meeting is Ex. P 114. At this meeting Dr. Vyas strongly objected to the ban on the entry of G. M. Puntambekar, the Jan Sangh leader from Malegaon, who was invited by the R.U.M. to give a public speech on September 21, 1969 and said that the ban required to be protested against but the subject would be discussed after the Ganpati festival was over.

28.41 The Ganpati festival passed off peacefully. The complete control of both the Installation and the Immersion processions was in the hands of the R.U.M. and its leaders. They managed to put the other Hindu leaders completely in the background. By this strategy of theirs their prestige soared in the eyes of the Hindu populace and particularly in the eyes of the hot-headed Hindu youngsters and thenceforth they stood forth as the champions of Hindu rights and aspirations.

The ban on the entry of G. M. Puntambekar

28.42 During the Ganpati festival the R.U.M. arranged a public meeting on September 21, 1969 at which the main speaker was to be the Jan Sangh leader from Malegaon, G. M. Puntambekar. The subject of his speech was to be 'Is nationalism at all necessary for India?' Puntambekar's speeches were known for their communal character and he was already facing a prosecution under section 153A I.P.C. for having made such a speech in the Nasik District. The R.U.M. leaders could not be ignorant of these facts. They could also have hardly failed to realize that a speech with the title 'Is nationalism at all necessary for India?' if delivered in Bhiwandi with its atmosphere already surcharged with communal tension and that too in the middle of the Ganpati festival, was likely to spark off communal trouble. The Police made efforts to persuade the R.U.M. to give up the idea of having Puntambekar as a speaker. Efforts were also made to persuade Puntambekar through the Nasik Police not to come to Bhiwandi. These efforts, however, did not succeed. Thereupon by his report dated September 20, 1969 (Ex. P 553) S.P., Bhavé requested D.M., Capoor to issue an order under section 144, Cr.P.C. banning Puntambekar's entry into Bhiwandi from September 20, 1969 to September 24, 1969 and an order to that effect was issued that

very day by the Taluka Magistrate, Bhiwandi (Ex. P 389). However, before this order could be served upon Puntambekar, he entered the town without any fanfare and suddenly appeared at the venue of the meeting and started addressing. He was physically removed therefrom by the Police, put in a vehicle and taken to Kalyan. Dr. Vyas condemned at the said meeting this action of the Police and Shantaram Tavre said that they would see that Puntambekar addressed a meeting in Bhiwandi. Bhaskar Mali suggested to the meeting that a morcha should be taken out to protest against the removal of Puntambekar. Inspector Pradhan's report dated September 22, 1969 on this meeting is Ex. P 126. The next day the R.U.M. presented a memorandum of protest to the Taluka Magistrate against this action taken by the Police [P.W. 4/163/677, 328/800 ; P.W. 38/1(56)/867(19)].

The Brahman Alli meeting of September 29, 1969

28.43 On September 29, 1969 the R.U.M. held a meeting at Ganpati Mandir, Brahman Alli. The subject of the said meeting was, "Hidden trend of Muslim thought". Inspector Pradhan's report dated September 30, 1969 which is a detailed one is Ex. P 127. The D.I.G.(Int.) also sent on October 6, 1969 a brief report to the Home Secretary (Ex. G 146). Dr. Vyas was requested to conduct the meeting. The first speaker was Sharad Patwardhan. He said :

"The subject of today's meeting is 'Hidden trend of Muslim thought'. *Just as the coal remains pitch-black however much it is rubbed, in the same way however much you may search the hearts of Muslims, they will always be black. They adopt duplicity. There is a vast difference between Muslims and us. I do not think that they have any sense. Their customs are diametrically opposed to our customs. We have one wife each. They have many wives. Shahjahan had 5,000 wives. There is difference in how they wash their hands and how we wash our hands. How do we write ? How they write ? There is an ordinary stone kept in Mecca. They circle round it as a mark of respect, just like Hindus. This is because of old traditions. It was a temple of Lord Shankar. Our calendar is based on movements of the sun. Theirs is based on movements of the moon. We are generous. They are not. They only want to oppose us. We treat the cow as sacred. They consider the pig as sacred. They are united. We are not. What is there in Koran ? What is Islam ? A person who does not respect Islam is punished with death.*"

28.44 After referring to the book on national integration written by Balasaheb Joglekar (N.H.W. 53) and reading out extracts from it, Sharad Patwardhan said :

"Muslims in different countries are loyal to Turkistan. They have no nation of their own. They believe that the world is divided into two parts ; the one where Muslims live, another where Muslims do not live. *We should learn a lesson from the Ahmedabad riots. We should know the proceedings of the Gandhi Murder Case and the evidence of Morarji. There can be no national Muslim. This is what*

Vallabhai Patel said in an open meeting in U.P. *There are many Muslim Leaguers occupying important posts from top to bottom. They have married Hindu ladies. There are twenty thousand such persons. They are spying. Government cannot do anything about it. Government shouts slogans of National Indian Muslims. There were communal riots in Ahmedabad. The Indian Hindus do not know words like communal riots. Mecca was a temple of Lord Sun. There is old documentary evidence to this effect. They unnecessarily impose restrictions on playing of music, marriage festival on public roads, etc. They unite and cause riots. If Hindus start riots, they run away. They approach the Government and cry for protection.*"

He then spoke on the communal riots which had taken place in the late nineties and said, "*Hindus took revenge in Bombay on 12-8-1893. Thousands of Hindus were arrested. Lokmanya Tilak was then in Bombay at that time*". He then talked about the Nagpur riots, the Mopla riots, the Razakar movement, East Pakistan, the Hazrat Bal affair, etc. Drawing a sketch of the Taj Mahal on a blackboard he said that it was really the palace of Mansingh. He concluded by saying :

"You must remain alert and unite and learn to resist. You must show that you are not cowards."

28.45 Dr. Vyas was the next speaker. He, *inter alia*, said :

"We shall survive only if we unite and learn to resist. Otherwise, I am doubtful whether the Hindu religion would survive."

28.46 Bhai Nagale *alias* A. T. Nagale speaking last, said that information had been received that some Muslims would attend the Ramleela in disguise and called upon the audience to be alert, as otherwise the Hindus might be beaten.

28.47 There can be no doubt that the above speeches of Sharad Patwardhan, Dr. Vyas and A. T. Nagle satisfy the test laid down in paragraph 6.8 and were therefore communal speeches. These speeches were a direct incitement to violence, but strangely enough we find that no action at all was taken in respect thereof, S.P., Bhave could give no explanation for this because he was unable to trace the original of Inspector Pradhan's report in his office and therefore could not find out from the endorsements, if any, made thereon, whether he took any action and if so, what. Endorsements, if any, on the original report would hardly alter the position that there is no excuse for not taking action against these speakers.

The drafting of the R.U.M. constitution

28.48 A meeting of some of the leaders of the R.U.M. was held in the dispensary of Dr. Vyas at night on October 1, 1969 with Bhaskar Mali in the chair and at this meeting the constitution of the R.U.M. was drafted. The constitution of the R.U.M. will be dealt with in Chapter 30. At this meeting it was also decided to take out a procession on the Dassera Day. The report dated October 17, 1969 by the D.I.G(Int.) to the Home Secretary on this meeting is Ex. G 305.

The Kanheri meeting on October 7, 1970

28.49 In the end of September 1969 and in the first week of October 1969 minor incidents of assault took place in which both Hindus and Muslims were involved and complaints and counter-complaints of assaults were registered in that behalf. These incidents have been dealt with in paragraph 16.36 above. The R.U.M., finding these incidents a ready-made opportunity for increasing its influence amongst certain sections of the Hindus in Bhiwandi, called an emergency meeting on October 7, 1969 at 9-30 p.m. in the Telugu School, Kanheri. Inspector Pradhan's report on this meeting is Ex. P. 66. The subject of the meeting was "The injustice done to Hindu society". Bhaskar Mali, who was in the chair, stated that this emergency meeting was called at the request of the Padmashalis (that is, the Telugu speaking immigrants from Andhra Pradesh) of that locality. The audience consisted mostly of Padmashalis and he told them that they were oppressed by others and they should ventilate their grievances in public. Accordingly, some Padmashalis got up and said that they were molested and beaten and that when they went to the Police they did not get any justice as the Police did not know their language.

28.50 Dr. Vyas then addressed the meeting. The theme of his speech was the same as the theme of all his public speeches as can be seen from the extract given below. He said :

"Injustice is being done to our religion for the last thousand years. Two limbs of Bharatmata were cut off and there was bloodshed. *We have given them Pakistan. Even then Hindu temples are being attacked in places. Even in Bhiwandi Hindus are being harassed. Ladies are suffering indignities. How long are you going to watch the injustice that is being done to you for the last 3 days? You cannot get peace by remaining peaceful.* According to our tradition, we do not hate any religion. The reason for the injustice being done is that we are not united. If we are united, no one would be able to stand near you. *If any one of you is being attacked, you should not just watch it. You should rescue him unitedly.* Peace does not mean surrender. Rashtriya Utsav Mandal has been established only to rescue you. It is not connected with any political party like Jan Sangh, P.S.P., Congress. Meeting of Rashtriya Utsav Mandal are held every Monday. You should attend these meetings."

28.51 Uddhav Teje, Datta Punyarthi, Ramchandra Patri and Bhaskar Mali then addressed the meeting and each of them exhorted the audience to become united and to resist any injustice meted out to them and that if they had any complaint, they should approach the R.U.M. who would see to it that the complaint was removed. Uddhav Teje also exhorted the audience not to purchase mutton from a particular shopkeeper in Kanheri; for, according to him, that shopkeeper was in the habit of carrying stories to others. It does not require much imagination to understand that according to these speeches the oppressors were the Muslims and the Padmashalis were exhorted to unite and resist the Muslims.

28.52 The next morning at about 11-30 a.m. Bhausaheb Dhamankar (C.W. 2), Sikander Fakhri (B.R.W. 2), Ibrahim Maddu, Anwar Bubere and some other Muslim leaders came to the Bhiwandi Town Police Station and informed Inspector Pradhan that the speeches made at this meeting were inflammatory and communal and that they would meet the D.M. and the S.P., and complain to him in that behalf. Inspector Pradhan has made a note of this interview at the foot of his said report Ex. P 66. According to this note Pradhan suggested that they should contact Dr. Vyas and ask him about it, but they expressed their unwillingness to do so. Pradhan, however, again told them that as Dr. Vyas was a member of the Steering Committee, the Steering Committee should ask for his explanation. They left stating that they would consider what to do. On reading this note we wonder whether Inspector Pradhan, who has himself made a detailed report on this meeting, was serious in the suggestion he made, for the most inflammatory speech at the said meeting was that of Dr. Vyas and it would, therefore, be obvious to anyone that to complain to Dr. Vyas about it would have been futile.

28.53 The aforesaid speeches made by Dr. Vyas, Uddhav Teje, Datta Punyarthi, Ramchandra Patri and Bhaskar Mali satisfy the test laid down in paragraph 6.8 and were, therefore, communal speeches.

Mahatma Gandhi's Birth Centenary

28.54 Strange as it may seem, the R.U.M., whose leaders in all their speeches were advocating violence as a solution to communal problems, celebrated on October 8, 1969 Mahatma Gandhi's birth centenary which fell on October 2, 1969 (P.W. 66/19/1116).

The R.U.M. hartal and procession against desecration of temples

28.55 In conjunction with the Jain Sakal Mandal the R.U.M. leaders and workers offered a fast in the Jain Temple near Navi Chawl and took out a procession from Bhaji Mandai upto the Taluka Magistrate's Office on October 11, 1969 to protest against the desecration of Hindu temples by the Muslims. Prior to this a hand-bill (Ex. P 64) was circulated by the R.U.M. The said hand-bill requested the people of Bhiwandi to join the procession in large numbers. It stated :

"Citizen brothers, you might be knowing that in the month of September some 'goondas' attacked the Hindus' sacred Jagannath Mandir in Ahmedabad and beat holy cows and saints. Similarly, sacred religious places were damaged. Similarly, at the same place the Sacred Book 'Ramayana' was insulted.

The idols from the sacred Jain Temple of Jalore, District Ahor, in Rajasthan were stolen in the last month. Similarly, some 'goondas' had killed a 95 years old saint living in Lord Shankara's Temple and looted it."

28.56 The veracity of most of the statements made in the said hand-bill is doubtful.

28.57 What transpired at the time of the procession is to be found in Inspector Pradhan's report dated October 12, 1969 (Ex. P 65). It

was a silent procession of about 2,000 to 2,500 persons and no slogans were shouted but the processionists carried placards bearing the following legends :—

- “ (1) The oppression of the New-Buddhists should be enquired into.
- (2) The oppression of the Harijans must be enquired into.
- (3) The Jagannath Temple episode must be enquired into.
- (4) The insult to Ramayana must be enquired into.
- (5) The Untouchability Act must be enforced.
- (6) The plan for second partition of India should be defeated.
- (7) Victory to Hindu Religion.
- (8) Victory to Rashtriya Utsav Mandal.
- (9) Enquiry should be made into the theft of Jain idols and damage to the idol of Buddha in Ahmedabad.”

28.58 At the Taluka Magistrate's office a deputation consisting of Bhaskar Mali, Dr. Vyas, Shantaram Tavre and other R.U.M. leaders and some Jain leaders handed over two memoranda to the Taluka Magistrate, one from the R.U.M. and the other from the Jain Sakal Mandal. Thereafter these leaders returned to the procession and addressed the processionists. After both the memoranda were read out, Dr. Vyas said that the Hindus were being oppressed everywhere and the Government was unable to do anything about it. He further said that the limbs of Bharātmata were cut off when Pakistan was created. He added that a plan was hatched to create a new Pakistan.

28.59 An incident which happened in the course of this procession requires to be noted. One of the processionists who was marching at the head of the procession was carrying a Bhagwa flag tied to a spear. On noticing this, Dy.S.P., Diwate asked him to remove the spear as orders under section 37 of the Bombay Police Act were in force and accordingly the spear was removed (P.W. 66/85/1150).

28.60 The R.U.M. had also given a call for hartal to be observed that day and at the time of the procession most of the Hindu shopkeepers closed their shops but the Muslim shops remained open. As Inspector Pradhan's said report states, the people of Bhiwandi were enthusiastic about this procession. The D.I.G. (Int.) by his reports dated October 9, 10 and 18, 1969 (Exs. G 302, G 303 and G 307 respectively) kept the Government informed about these happenings. The report Ex. G 307 states, “All Hindus irrespective of classes attended this morcha. The Hindus from Bhiwandi have supported this programme organized by the Rashtriya Utsav Mandal.”

28.61 The said hand-bill circulated by the R.U.M. and the third, fourth, sixth and ninth legend set out in paragraph 28.57 above satisfy the test laid down in paragraph 6.7 and were communal writings. The said speech made by Dr. Vyas to the processionists satisfies the test laid down in paragraph 6.8 and was, therefore, a communal speech. No action was, however, taken against Dr. Vyas in respect of this speech nor against the R.U.M. for issuing the said hand-bill and for taking out a procession carrying placards bearing the said four legends.

28.62 S.P., Bhave has stated in his affidavit that this silent procession of the R.U.M. was "a reaction to the silent procession organized by the M.T.M. in Bhiwandi in protest against the Al-Aqsa incident." Inspector Pradhan's said report Ex. P 65 states, "This was the first religious procession of the Hindus. People were enthusiastic about it." We wonder whether either of them is serious in what he says. The hand-bill Ex. P 64, the said legends on the placards and the said speech of Dr. Vyas leave no doubt who according to the R.U.M. were the desecrators of the temples and the Ramayana. Very serious communal riots had taken place in Ahmedabad and in the Gujarat State in September 1969 and, as we have seen, instructions were issued by the Government, and the I.G.P., by Exs. G 17, G 18, G 45 and G 46 against rumour-mongering and requiring firm action to be taken against rumour-mongers including the detention of those publicly talking about things which they had not seen or spreading rumours about the Ahmedabad disturbances. The said hand-bill, the said legends on the placards and the said speech of Dr. Vyas squarely fell within the mischief which these circulars and crash wireless messages aimed to prevent. These communal writings obviously had the desired effect because, as appears from the said reports of Inspector Pradhan and the D.I.G. (Int.), the procession and hartal created great enthusiasm amongst Hindus of all classes and yet the Inspector in charge of the police station of Bhiwandi Town called this procession in his report "a religious procession" and the S.P. in charge of the district in which this town is situate described this procession as "a reaction to the silent procession organized by the M.T.M. to protest against the burning of the Al-Aqsa Mosque." The Al-Aqsa Mosque procession was obviously not intended either against the Hindus or to create any bitter communal feelings between Hindus and Muslims, while the hand-bill, the fast, the procession, the legends on the placards and the speech of Dr. Vyas were all directed to exciting the feelings of the Hindus and the Neo-Buddhists against the Muslims.

The Ganpati Temple meeting of October 13, 1969

28.63 A meeting of the R.U.M. was held in the Ganpati Temple, Prabhu Alli, on October 13, 1969 at 10 p.m. to decide on the arrangements to be made for the Vijaya Dashmi celebrations. The S.P.'s report dated October 17, 1969 on this meeting is Ex. P. 628. Pandu Vastad was in the chair. Addressing the audience Uddhav Teje referred to the incident at the time of the R.U.M. procession taken out on October 11, 1969 when Dy.S.P., Diwate had the spear, to which a Bhagwa flag was tied, removed. He said in the midst of applause, "If anyone touches our flag hereafter, we shall cut off his hands." Uddhav Teje also referred to another incident which had happened on October 11, 1969 and in which he was concerned. He said :

"A thing which can never take place in Bhiwandi town has been demonstrated on 11st October 1969. I had gone to the police station in the evening in connection with some work. The S.D.P.O.

was sitting there at that time. Two or three Muslims were sitting with their chairs touching his chair. Amongst the persons sitting was an owner of an oil-presser from Nizampur. At that time Shri Diwate addressed me as 'Hindu Tatwanishta Udhavrao' (Hindu-minded Udhavrao) I felt very sorry. He ought not to have said that in their presence."

28.64 Dy.S.P., Diwate has, however, deposed that in the said speech Uddhav Teje had twisted the whole incident. According to Diwate, this incident took place on October 13, 1969 and not on October 11, 1969. Diwate had gone to the Town Police Station that evening because he had learnt that some persons in Bhiwandi including some Municipal Councillors were in the habit of eating snake-curry as an aphrodisiac and that as a result thereof one Councillor had taken very ill. While Diwate was at the police station, a Muslim Councillor and two other Muslims were passing by. As this Councillor was one of the persons whose name Diwate had heard in this connection, he hailed him and ragged him about it. Meanwhile Uddhav Teje was passing by on his bicycle. The previous evening Uddhav Teje had gone to Kalyan to attend the meeting addressed by the Shiv Sena Chief Bal Thackeray. It was reported to Diwate that in his speech Bal Thackeray had attacked the Jan Sangh and called the followers of Jan Sangh "Hindu Tatwanishta". Seeing Diwate in the police station Uddhav Teje had got down from his bicycle, come inside and wished him. Uddhav Teje belongs to the Jan Sangh and knowing that he had been to Bal Thackeray's meeting, Diwate asked him in fun, "Have you come after getting nice abuses from Thackeray, after being called Hindutwanishta"?". Uddhav Teje smiled and went away (P.W. 66/141/1185-6).

28.65 Between the version given by Uddhav Teje in his said speech and what has been deposed to by Dy.S.P., Diwate in his evidence, I have no hesitation in accepting Diwate's evidence. The fact that Uddhav Teje had gone to Kalyan to listen to Bal Thackeray is borne out by the fact that in his said speech Uddhav Teje himself referred to his visit to Kalyan and further said that he had met Bal Thackeray and that Bal Thackeray had promised to visit Bhiwandi.

The R.U.M. celebrates Dassera

28.66 For the first time in Bhiwandi a procession was taken out on Vijayadashami (Dassera) which fell on October 20, 1969. The said procession was taken out by the R.U.M. It passed through the town and ended at Kanheri where an effigy of Rawana was burnt [P.W. 38/1 (59)/867(20)]. Thereafter a public meeting was held. The D.I.G. (Int.) by his report dated October 28, 1969 (Ex. G 308) has reported these events to the Home Secretary. There does not, however, appear to be any report by the local Police either on this procession or this meeting which seems strange in view of the contents of the said report of the D.I.G. (Int.). The said report of the D.I.G. (Int.) shows that several slogans were shouted by the processionists, some of them innocuous but others highly objectionable; the innocuous slogans being shouts

of 'Jai' (Victory) for the Hindu religion, Lord Rama, Bhavani Mata, Durga Mata, Shivaji, Rana Pratap, Sardar Vallabhbhai Patel and the R.U.M. The objectionable slogans were (1) "Aale Re Aale, Hindu Aale" ("Coming, Coming, the Hindus are coming"), and (2) "Oopar Hindu, Niche Hindu, Idhar Hindu, Udhar Hindu, Gali Gali Me Hindu" [Hindus on top, Hindus below, Hindus here, Hindus there, Hindus everywhere (in every lane and by lane)]. These two slogans were obviously intended to be a challenge to the Muslims of Bhiwandi and a warning to them to beware of the overwhelming might of the Hindus. The persons who prominently participated in this procession were Bhaskar Mali, Dr. Vyas, Sharad Patwardhan, Uddhav Teje, Shantaram Tavre, P. B. Patil and Datta Punyarthi.

28.67 Dr. Vyas in his speech at the public meeting which followed the procession warned the audience against the increased number of fifth-columnists and said that loyalty should be created amongst those who had shown affiliations to China, Pakistan or Russia. So far as the so-called affiliation to Pakistan is concerned, we find that this is one of the usual charges made in their speeches and writings by Hindu communalists against the Muslims. This charge creates a belief in the mind of the audience that the Muslims with very few exceptions are anti-national and possess extra-territorial loyalties. This speech of Dr. Vyas, therefore, satisfies the test laid down in paragraph 6.8 and was a communal speech.

Anonymous threatening letters

28.68 On October 23, 1969 Dr. Vyas received an anonymous letter through the post which according to the postmark was posted from Ahmedabad. It was dated October 20, 1969 and signed 'Pan Islam'. It stated, "Challenge to all, Ahmedabad revenge will be taken in Bhiwandi, very soon". Similar letters were also received by other Hindu leaders. This topic is dealt with in Chapter 19 and we have seen there that the R.U.M. leaders made capital out of this fact to stir up communal feelings. Dr. Vyas talked about this letter to his friends and co-workers, showed it to Inspector Solanki of Balsar, wrote a letter of complaint on October 27, 1969 to the Bhiwandi Town Police Station, took it back from the Police because he wanted to give it publicity at the R.U.M. meeting to be held that evening, gave publicity to it along with other R.U.M. leaders at the R.U.M. meeting held at Neelkantheshwar Temple that night and handed it over to Sharad Patwardhan to take it to Bombay to show it to S. V. Agashe, the editor of the pro-Jan Sangh Marathi weekly *Pathik* (the deponent of affidavit No. 142) and thus got it published in the 31st October 1969 issue of the *Pathik*.

The meeting at Bholanath Temple in Gauripada

28.69 The R.U.M. held a meeting in the night of November 17, 1969 at Bholanath Temple in Gauripada. Inspector Pradhan's report on this meeting is part of Ex. P 144 collectively. It was decided at this

meeting to celebrate Guru Nanak Jayanti. On November 15, 1969 Dr. Vyas along with some other R.U.M. leaders had visited Pundas and he related at this meeting what had happened during his visit to Pundas. The visit of the R.U.M. leaders to Pundas will be dealt with in the next chapter.

Guru Nanak Jayanti celebrations

28.70 On December 1, the R.U.M. celebrated Guru Nanak Jayanti by holding a public meeting. This was the first time that this Jayanti was celebrated in Bhiwandi [P.W. 38/1(63)/867(21); P.W. 66/19/116].

The R.U.M. declares its future programme

28.71 A meeting of the R.U.M. was held in Neelkantheshwar Temple in the night of December 8, 1969. Inspector Pradhan's report on this meeting is Ex. P. 68. At this meeting it was agreed to have a community dinner at Varala Devi Temple on December 21, 1969. It was announced at this meeting that the R.U.M. had invited G. M. Puntambekar, V. R. Patil, Bal Thackeray and Hamid Dalwai to address public meetings in Bhiwandi. The future programme of the R.U.M. thus consisted of holding a number of public meetings to be addressed by persons, many of whom were known for their communal views and speeches.

The visits of G. M. Puntambekar and V. R. Patil

28.72 The R.U.M. circulated hand-bills (Ex. P 552) announcing that G. M. Puntambekar would address a public meeting called by the R.U.M. on January 11, 1970 and that the subject of his talk would be "Causes of Communal Disturbances" and that at another public meeting called by the R.U.M. on January 17, 1970 V. R. Patil would give a talk. The meeting to be addressed by V. R. Patil was, however, held on January 23, 1970. The meeting of January 11, 1970 has already been dealt with in paragraphs 24.16 to 24.21 and that of January 23, 1970 in paragraphs 22.10 to 22.12 and, as stated therein, the speeches made by G. M. Puntambekar and A. G. Nimkar at the meeting held on January 11, 1970 and by V. R. Patil at the meeting held on January 23, 1970 satisfy the test laid down in paragraph 6.8 and were communal speeches.

The R. U. M. morcha and memorandum on Bakri-Id

28.73 Prior to Bakri-Id, on February 12, 1970 the R.U.M. took out a morcha to the Tahsildar's office and submitted a memorandum demanding that milch animals and animals useful for agricultural purposes should not be slaughtered on Bakri-Id Day [P.W. 4/1(45)/236(26); P.W. 38/1(70)/867(22)].

The R.U.M. protest meeting on the so-called assault on Shashikant Alashi

28.74 A brawl took place between Shashikant Alashi, the pro-Shiv Sena Secretary of the R.U.M., Ashok Niphadkar and some Hindus

on the one hand and some Muslims on the other which has been related in paragraph 17.9. Just as the R.U.M. had done in July 1969 at the time of the affray between Bhaskar Mali and his brother on the one hand and some Muslim boys on the other, the R.U.M. called a public meeting to protest against what they called the assault on Shashikant Alashi. The meeting was banned by the Taluka Magistrate and thereupon R.U.M. held a private meeting on February 23, 1970 at which Shashikant Alashi was congratulated and it was said that he had faced 40 to 50 Muslims. This meeting has been dealt with in detail in paragraph 17.10.

The visit of Pandit Brij Narayan Brajesh

28.75 When Pandit Brij Narayan Brajesh, the President of the Hindu Mahasabha, toured the Thana District between March 7, 1970 and March 11, 1970 the R.U.M. sponsored his visit to Bhiwandi on March 10, 1970. This meeting has already been dealt with in detail in paragraph 22.16, and, as stated in paragraph 22.17, the speech made by Pandit Brij Narayan Brajesh at the said meeting satisfies the test laid down in paragraph 6.8 and was a communal speech.

The death anniversary of Sambhaji

28.76 For the first time the death anniversary of Shivaji's son Sambhaji was observed in Bhiwandi. This was done by the R.U.M. by holding a public meeting on March 11, 1970 (P.W. 66/19/1116). The report of the Shorthand Reporter, P.S.I.(D.S.B.), Thana, on this meeting is Ex. P 73. Bhaskar Mali was in the chair and the star speaker of the evening was Ramesh Sambhus. He was preceded by Dilip Tamhane, Dr. Vyas and Uddhav Teje. Dilip Tamhane stated that the R.U.M. was established with a view to ensure that the Hindus were not harassed by the Muslims in Bhiwandi and if at all there was any harassment, they should be able to unite and resist. He said that some people from the Jan Sangh both in Bhiwandi and outside thought that the R.U.M. was a branch of the Jan Sangh but this was not true, for the R.U.M. was independent and that whoever joined it must have faith in Hinduism and must be a nationalist. He said that they were ready to take Muslims in the R.U.M. but those Muslims should be loyal to the nation, but instead they were loyal to Pakistan.

28.77 Dr. Vyas then addressed the meeting. He said that Dilip Tamhane had mentioned the reasons why the R.U.M. was formed. He said:

"When we started celebrating festivals of Shivaji Maharaj in Bhiwandi, some anti-nationalists tried to put obstructions. Restriction were imposed on us asking us not to throw 'gular' within a distance of 50 feet on either side of a mosque. We want to resist these restrictions. People who ask us not to throw 'gular' are anti-nationalists. You know who they are. Any nationalist belonging to any religion or party can become a member of the Rashtriya Utsav

Mandal. He should love the country. Only then he would be eligible to become a member. We had elected Datta More as Vice-President of the Rashtriya Utsav Mandal when the Rashtriya Utsav Mandal was established. This is because Rashtriya Utsav Mandal does not not believe in any party politics."

The above reference to Dattatraya Mahadeo More sounds amusing when we remember the assertion of Dr. Vyas at the said Executive Committee meeting of the R.U.M. held on the night of September 5, 1969, to discuss the situation brought about by the resignations of Datta More and Suresh Kondalkar, that neither of these two was at any time an office-bearer of the R.U.M.

28.78 Uddhav Teje, speaking next, said that as long as people did not know what was happening in Bhiwandi, they would not be awakened and therefore the R.U.M. was holding meetings to point out to the people what was happening in Bhiwandi. He then referred to the hartal in Bhiwandi observed on March 2, 1970 in pursuance of the call for 'Maharashtra Bandh' given for that day by Bal Thackeray. On that day a Hindu threw stones at a mosque in Thange Ali. He was prosecuted and convicted [P.W. 4/1(48)/236(27)]. Uddhav Teje gave a totally wrong version of this incident. He said that a small Bhaiyya boy was singing a song on hearing which Sayyad Gafoor started shouting for Police help and asked them to beat the boy and arrest him. Uddhav Teje condemned this alleged attitude of Sayyad Gafoor. He said :

"But we will not tolerate this hereafter. Those people who behave in this anti-national fashion against the interest of the nation have no right to live here. They should go to Pakistan. Some people had created trouble in Ahmedabad. They had committed aggression on religious places. What was wrong if Hindus retaliated? The Tameer-E-Millat people went there with the aid of lakhs of rupees. What is this nonsense? We will not allow anti-nationals to move about. We shall not rest till they are finished."

28.79 Ramesh Sambhus spoke on the life of Sambhaji. Concluding his speech he said :

"We must remember the life of Shivaji Maharaj and create many such great men. This is the only way to bring prosperity. It was only because Shivaji Maharaj was born that our 'shendi' has remained."

Bhaskar Mali, moving a vote of thanks condemned the attitude of the Municipal Council in not co-operating with the R.U.M. in holding its meetings. He added, "Whenever we take out any procession, the administration imposes various restrictions on us. Moharram is being observed now. No restriction is being imposed on the Muslims. Drums are beaten for the whole night. The administration should restrict this. *If drums are beaten like this in our area, and if any untoward incident takes place, the administration will be responsible for this.*"

28.80 The speeches made by Dilip Tamhane, Dr. Vyas, Uddhav Teje, Ramesh Sambhus and Bhaskar Mali satisfy the test laid down in paragraph 6.8 and were, therefore, communal speeches.

The R.U.M. board on the atrocities against Hindus

28.81 On March 13, 1970, the very day on which a meeting of the Peace Committee was to be held for considering the arrangements to be made for the Holi and Moharram festivals, the R.U.M. exhibited on a blackboard an extract from the editorial published in that day's issue of the *Nav Bharat Times*. Portions of the corner walls of a house belonging to Zumberlal Kalantri, situate at the corner of a lane leading to the Vegetable Market and the Bazar Peth, were painted black and thus turned into a blackboard and the said writing and all other writings of the R.U.M. were exhibited on this board. The place where the said board was situate was a prominent place being on the road by which villagers coming to Bhiwandi for shopping would pass. These villagers would thus read the writings on the said board. This writing was allowed to remain and no steps were taken by the Police to get it erased, though this board led up considerable discussion in the town and created discontent amongst the Muslims and inflamed the Hindus against the Muslims [P.W. 4/1(49)/236(28), 153/672]. This topic has been already dealt with in paragraph 17.22.

R.U.M.'s role during the Moharram festival

28.82 The R.U.M. leaders played an important role during the Moharram festival. This topic has also been dealt with in paragraphs 17.34 to 17.37.

Shahaji Raje Bhonsale's death anniversary

28.83 The R.U.M. observed the 376th death anniversary of Shahaji Raje. Bhonsale on March 18, 1970. This was the first time that the death anniversary of Shivaji's father was observed in Bhiwandi [P.W. 59/1(16)/1000(8); P.W. 66/19/1116]. Inspector Pradhan's report dated March 19, 1970 on this meeting is Ex. P. 76. A verbatim report of the speech made by Dr. Vyas at this meeting was also taken down by a Shorthand Reporter of the State C.I.D. and is Ex. P 1480. The main speaker billed for the evening was again Ramesh Sambhus but he did not turn up. Addressing the audience first, Dr. Vyas referred to the incidents which had taken place at the time of the 'Bengal Bandh' on the previous day and said that it was alleged that at that time there were Hindu-Muslim riots. He, however, called upon the audience to see that the Moharram procession passed off peacefully. He then stated that Shiv Jayanti was going to be celebrated on May 7, 1970 on behalf of the R.U.M. and it must be celebrated on a grand scale and called upon everyone to co-operate in doing so. An amusing incident happened during this meeting. Bhaskar Mali while addressing the meeting, by a slip of the tongue, said, "Shahajahan Maharaj" instead of "Shahaji Maharaj". This led to a loud burst of laughter and he immediately corrected himself (P.W. 66/142/1186).

28.84 This meeting shows that for some months prior to Shiv Jayanti the R.U.M. had decided to take over the Shiv Jayanti celebrations and to manage these celebrations themselves in the way they wanted. All their subsequent activities which took place in April 1970 were directed towards achieving this end.

The R.U.M. Prayer meeting of March 30, 1970

28.85 A weekly prayer meeting of the R.U.M. was held under the presidentship of Pandurang Barku Patil *alias* Pandu Vastad on March 30, 1970 at 10 p.m. Inspector Pradhan's report, dated March 31, 1970 on this meeting is Ex. P 79. At this meeting speeches were made by Uddhav Teje and Dr. Vyas condemning the speeches made at the M.T.M. meeting held on March 28, 1970. They alleged that Abdul Khaliq Momin in the course of his speech had threatened to kill Dr. Vyas as also to burn down the Town Police Station. At this meeting Uddhav Teje announced that the R.U.M. would perform a Satyanarayan Puja on April 7, 1970 at which Ramesh Sambhus, would speak and that they should invite all villagers for this puja. In the course of this meeting Chintaman Joglekar suggested that the Shiv Jayanti should be celebrated jointly by the R.U.M. and the Shiv Sena.

The Satyanarayan Puja of April 7, 1970

28.86 A Satyanarayan Puja was performed by the R.U.M. in the night of April 7, 1970 followed by a meeting held near the Municipal Vegetable Market in Bhiwandi. About 1,500 persons were present. The report of the State C.I.D. Shorthand Reporter on this meeting is Ex. P 80. At this meeting Bhai Nagale, Dr. Vyas and Uddhav Teje condemned the speeches made at the M.T.M. meeting held on March 28, 1970 and Shantaram Taware suggested that the M.T.M. should be banned. In the course of his speech Dr. Vyas said that they were told that the Shiv Jayanti procession should not be taken by certain routes and that this was an insult to the nation. He also charged the Muslims with being disloyal. He said that it was an admitted historical fact that Aurangzeb had desecrated Kashi Vishweshwar Temple and he exhorted the Hindus to unite.

28.87 The aforesaid speech made by Dr. Vyas satisfies the test laid down in paragraph 6.8 and was, therefore, a communal speech.

Other activities of the R.U.M.

28.88 The activities of the R.U.M. in Padgha, Pundas and other villages round about Bhiwandi have been dealt with in the next Chapter, while the activities of the R.U.M. in the last three weeks of April 1970 and in the first week of May 1970 have been dealt with in the Chapter entitled "The setting for Shiv Jayanti".

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CHAPTER 29
ACTIVITIES OF THE RASHTRIYA UTSAV MANDAL
IN VILLAGES

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CHAPTER 29

ACTIVITIES OF THE RASHTRIYA UTSAV MANDAL IN VILLAGES

Prefatory observations

29.1 The R.U.M. leaders, after successfully establishing their hold over the extremist sections of the Hindus in Bhiwandi and their influence over the Padmashalis of the Kanheri locality, planned to extend their activities to the villages surrounding Bhiwandi and the first place they selected was Padgha village. They were assisted in this by a pleader practising in Padgha, A. G. Nimkar, who was a Jan Sangh worker. With the help of Nimkar they succeeded in opening a branch of the R.U.M. in Padgha. They then sought to extend their influence to Pundas village and as the Shiv Jayanti approached nearer they widened their area of operation with a view to ensure that as many villagers as possible joined the Shiv Jayanti possession of May 7, 1970. Prior to 1970 few villagers used to attend the Shiv Jayanti processions in Bhiwandi but due to the efforts of the R.U.M. at least 3,000 to 4,000 villagers according to the Police estimate, and about 7,000 to 8,000 villagers according to the Muslim estimate, participated in the Shiv Jayanti procession of May 7, 1970. In this connection, the words of the then S.P., Thana, in his report, dated May 20, 1964 (Ex. P 1513) on the 1964 Shiv Jayanti come to mind. He had stated, "As the Hindus of Bhiwandi Town are in minority, it is learnt, the Hindus residing in the surrounding villages are in the habit of coming to the rescue of the Hindus in Bhiwandi Town in case of trouble. This aspect will also have to be borne in mind while making bandobast arrangements during the trouble."

The R.U.M. opens a branch at Padgha

29.2 A meeting of the R.U.M. leaders and some of the residents of Padgha was held in the temple of Lord Shankar on October 13, 1969. About 100 persons were present at this meeting. It was decided at this meeting to open a branch of the R.U.M. in Padgha. Sixty persons enrolled themselves as members that evening. On October 14, 1969 at 9-30 p.m. a public meeting was held by the R.U.M. in the same temple. It was attended by about 300 persons and the guests of honour were Dr. Vyas and Anna Mistri. A. G. Nimkar presided at the said meeting. P.S.I., G. G. Mane of Padgha Police Station has made a report dated October 15, 1969 on both the said meetings (Ex. P 497). The report dated October 16, 1969 of the D.I.G. (Int.) to the Home Secretary on this meeting is Ex. G 306.

29.3 Nimkar declared at the said meeting that the R.U.M. branch at Padgha would be under the control of the R.U.M. at Bhiwandi.

The speeches made at the said meeting by Uddhav Teje, Datta Punyarthi, Dilip Tamhane, Dr. Vyas and Nimkar all harped on the same theme. They stated that the Government was negligent in handling the communal riots at Ahmedabad though the temples of Hindus were damaged and the houses of Hindus burnt; that the Government protected the minority community and did not protect Hindus but instead harassed them; that the Government was unable to control the riots at Ahmedabad; and that though they had elected Bhai Patil as their M.L.A., he appeared to have become a Muslim and therefore the Hindus ought to unite and if any act was committed against their religion, they should not tolerate it nor should they abide by any restrictions. It was decided at the said meeting that to protest against the inability of the Ahmedabad Police to control the riots, about a hundred men would go on a fast in front of the Padgha Police Station and a silent procession taken to that police station on October 18, 1969. It was further decided that Hindus should assemble in different temples every Saturday and offer prayers.

29.4 The R.U.M. thus succeeded in opening a branch in Padgha and in getting members enrolled as a result of the communal feelings incited by its leaders by dwelling upon the Ahmedabad disturbances and the atrocities alleged to be perpetrated upon the Hindus in the course thereof.

29.5 The speeches of Uddhav Teje, Datta Punyarthi, Dilip Tamhane and A. G. Nimkar referred to above satisfy the test laid down in paragraph 6.8 and were, therefore, communal speeches. Once again no action was taken against any of the speakers for the speeches made at the said meeting and all the circulars and instructions issued by the Government and the I.G.P. about rumour-mongering with respect to the Ahmedabad disturbances, the detention of rumour-mongers, etc., might as well have been a dead letter.

The R.U.M. fast and morcha at Padgha

29.6 In pursuance of the decisions taken at the said R.U.M. public meeting, in the morning of October 18, 1969, 45 persons sat fasting in the Ganpati Temple opposite the Padgha Police Station. They gave up their fast at 5 p.m. and a silent morcha was then taken out which included about 350 persons. The report dated October 19, 1969 of the P.S.I., Padgha, on the said procession is Ex. P 498. A deputation from the procession handed over a memorandum to the Circle Police Inspector. The memorandum stated that the religious places in the country were being attacked resulting in communal riots and instances were given of the Jagannath Temple at Ahmedabad, Lord Shankar's temple in Rajasthan, Lord Buddha's temple at Aurangabad and the theft of the idols from a Jain temple in Ahor village in Jalore District. The procession was followed by a public meeting. At the said meeting Datta Punyarthi said that India had given a good position in India to the Muslims living in India, but still with a view to maintaining power the rulers were imposing more restrictions on

the Hindus and that the R.U.M. had been formed to remove these restrictions, Uddhav Teje said that they should openly criticize the idea of secularism and that the R.U.M was making people aware of this. He said that temples of Hindus were damaged and religious heads kicked but the Government did nothing. He concluded by stating that if such atrocities continued, the Hindus would not rest until they broke their heads. Dr. Vyas said that the people responsible for hurting religious feelings and temples should be severely punished. In the course of his speech Nimkar said that cows were slaughtered on Id Day but the Government and the Padgha Police did not pay any attention and that thenceforth the R.U.M. would take up the matter and not allow any cow to be slaughtered.

29.7 The aforementioned speeches made by Datta Punyarthi, Uddhav Teje, Dr. Vyas and A. G. Nimkar satisfy the test laid down in paragraph 6.8 and were, therefore, communal speeches. No one, however, bothered to take any action in respect of any of the said speeches. Perhaps like Inspector Pradhan at the time of the R.U.M. hartal and procession against the desecration of temples taken out in Bhiwandi on October 11, 1969, everyone thought that the Padgha procession was a "religious procession of the Hindus".

The R.U.M. celebrates Dassera at Padgha

29.8 On October 20, 1969, which was Dassera, mass prayers were offered at Padgha in the evening in the temple of Lord Shankar and thereafter Nimkar gave a speech in which he called upon the Hindus to unite. The report of the P.S.I., Padgha, on these celebrations is Ex. P 499.

The Padgha meetings

29.9 After the Dassera festival the tempo of R.U.M. activities in Padgha increased and as a result five meetings were held between November 17, 1969 and December 15, 1969. The reports of Sub-Inspector A. P. Sawant of the Padgha Police Station on these meetings are Exs. P 500 to P 504 respectively. These are very sketchy reports. From them we find that these meetings were held at night at about 9 or 9-30 p.m. in different temples and that Nimkar was the main speaker at each of these meetings. From these reports it further appears that at the first meeting held on November 17, 1969 Nimkar discoursed upon the Hindu religion and its principles and the necessity for the Hindus to unite and the advantages of unity (Ex. P 500); at the second meeting held on November 26, 1969 he exhorted the Hindus to unite because the Government had created considerable confusion and discoursed upon how the Hindu religion came to be established (Ex P 501); at the third meeting held on December 3, 1969 he once again spoke on how and when the Hindu religion was established, what a Bhagwa flag could do, why it was necessary for the Hindus to unite, why communal tension was created and the Government's responsibility for the same (Ex. P 502); at the fourth meeting held on December 8, 1969 he spoke on the customs and traditions of the Hindu religion and why other religions had progressed (Ex. P 503);

and at the fifth meeting held on December 15, 1969 he spoke on the death of Afzalkhan and once again exhorted the Hindus to unite and become strong (Ex. P 504).

29.10 We have also on the record a brief though somewhat more detailed report of the said first public meeting held at Padgha on October 14, 1969 (Ex. P 497). Brief as this report is, we find from it that the speeches made at the said meeting including that by Nimkar were communal speeches. We have also a report of the speech made by Nimkar in Bhiwandi on January 17, 1970 (Ex. P 69) and we have seen that the speech made by him at that meeting was also a communal speech. Even from the themes of his speeches set out in Sub-Inspector Sawant's aforesaid five reports, it is quite clear that these were subject-matters which afforded enough opportunities to a person accustomed to making communal speeches to propagate communalism and in all probability most of the speeches made at these meetings were communal speeches. It is not surprising that Sub-Inspector Sawant's reports are so enigmatically brief on this point. He had a communal bent of mind and was anti-Muslim and during the disturbances (as Ex. P 396 shows) he was placed under suspension from June 4, 1970 pending a disciplinary inquiry and by the final order of the S.P. dated February 16, 1971 a deduction of Rs. 15 per month in his salary was ordered for a period of two years, the charge found against him being "Perverse conduct and gross dereliction of duty in that he failed to give protection to Muslims of Bappaon and Rahur in spite of their request with the result that there were incidents of arson and looting on May 9, 1970, May 10, 1970 and May 12, 1970 affecting Muslims."

V. R. Patil's visit to Padgha

29.11 On January 23, 1970 a public meeting was held at Padgha under the auspices of the R.U.M. at which the main speaker was V. R. Patil, the Vice-President of the Maharashtra Pradesh Hindu Mahasabha. This meeting has been discussed in detail in paragraph 22.9 and as held therein, the speeches of Dr. Vyas, V. R. Patil and Jagdishchandra Thakkar made at the said meeting satisfied the test laid down in paragraph 6.8 and were communal speeches. In the context of this chapter, however, all that need be said here is that in the course of his speech Dr. Vyas stated that the aim of the R.U.M. was to foster national tendencies and to finish those who would try to ruin the nation or would have enmity with the nation, the reference obviously being to the Muslims.

The R.U.M. meeting of April 18, 1970 at Padgha

29.12 Another public meeting was held by the Padgha Branch of the R.U.M. on April 18, 1970 which was addressed by the R.U.M. leaders of Bhiwandi. This meeting was really held in connection with the R.U.M.'s propaganda for the forthcoming Shiv Jayanti celebrations and should more appropriately be discussed in Chapter entitled "The setting for Shiv Jayanti"

The R.U.M. activities in Pundas village

29.13) A few days after it formed its branch in Padgha an opportunity presented itself to the R.U.M. to extend its activities to Pundas. Pundas is a village situate about 11 kms. from Bhiwandi. Its population in the beginning of May 1970 was about 530 out of which about 430 were Hindus and about 100 were Muslims. There were in all 11 Muslim houses in Pundas and all the Muslim residents of Pundas were agriculturists (P.W. 4/55/306 ; B.R.W. 11/5/1458). There was also a Harijan colony in Pundas and some of these Harijans were employed in the Sanitary Department of the Bhiwandi-Nizampur Municipal Council. One Hasan Bardi, a resident of Pundas, was carrying on money-lending business particularly amongst the Harijans and on November 5, 1969 a quarrel took place between him and his son Sattar on the one hand and one Narayan Maya Jadhav, a Harijan, on the other about the return of a loan borrowed by Narayan from him. Soon, as usually happens, other Harijans and Muslims became involved in the quarrel and complaints and cross-complaints of assault were filed with the Police. Narayan's mother Binibai complained that Hasan, his son and two other Muslims had assaulted Narayan. The Muslim complainants alleged that Narayan had hit Sattar on the head with a stick thereby fracturing his skull. Another Muslim complained that he had been assaulted by Narayan and some other Harijans at Angaon. On the next day one Rama Kalu Jadhav of Pundas complained that some Muslims had set upon him and his companions with an axe on the Angaon Road and had injured him. Rama was removed to the hospital for treatment. The report of the Medical Officer shows that the injury received by him was not from an axe but from a stick. These complaints and cross-complaints are Exs. P 144 (collectively) and P 531 and P 532. Those Harijans of Pundas who were employees of Bhiwandi-Nizampur Municipal Council thereupon went to Dr. Vyas and complained to him that the Muslim residents of that village were harassing them. Dr. Vyas accompanied by Mohan Gaikwad, Bhai Nagle and other Harijan leaders visited Pundas on November 15, 1969. The report dated November 17, 1969 of P.S.I., Padgha, to the S.P. (part of Ex. P 144 collectively) shows that these R.U.M. leaders told the Harijans that they would assist them at any time and asked for their co-operation in establishing a branch of the R.U.M. in Pundas. It was also decided that the R.U.M. would hold a public meeting at Pundas on November 23, 1969. A subsequent report dated November 26, 1969 from P.S.I., Padgha, to the S.P. (part of Ex. P 144 collectively) shows that the response of the other Hindus of Pundas to this move on the part of the R.U.M. was poor and no public meeting was, therefore, held.

29.14 On the day when Dr. Vyas and other R.U.M. leaders visited Pundas, the Sarpanch of the Group Gram Panchayat of Pundas, Sikander Dadamiya Bardi, a resident of Pundas, made an application to P.S.I., Padgha, stating that about 25 to 30 Harijans from outside the village had visited Pundas and 14 Harijan residents of Pundas,

including the said Narayan, were with them and that these persons went through the village pointing out every Muslim house one by one. In the application he stated that danger was apprehended and that steps should be taken in that behalf to prevent a breach of the peace. On the same day another application was made by the Police Patil, Vithal Babaji Patil, who stated that 25 to 30 Harijans from outside the village as also from the village itself had come to Pundas and that steps should be taken to see that no trouble arose and no breach of the peace committed. The names of the said Harijans from Pundas were set out in the said application and included the said Narayan.

29.15 -On November 17, 1969 a meeting was held by the R.U.M. at 10 p.m. at Bholanath Temple, Gauripada in Bhiwandi, at which Bhaskar Mali Presided. Dr. Vyas related his Pundas visit and said that a Harijan of Pundas had borrowed money from a Muslim and when he had gone to return the loan, the Muslim had demanded Rs. 2 as interest for eight days and that on the Harijan debtor replying that he would pay the interest later he was accosted on his way home, assaulted and robbed of Rs. 300 which he was carrying. Inspector Pradhan's report dated November 18, 1969 on this meeting is part of Ex. P 144 (collectively). The complaint made by Narayan's mother, however, makes no mention, of Narayan having been robbed of Rs. 300 and Dr. Vyas was clearly exaggerating the whole incident in order to excite the feelings of his audience

29.16 A matter of controversy has been the speech made by Dr. Vyas when he visited Pundas on November 15, 1969. According to the Muslim witnesses, Alamgir Husain Miyan Bardi (B.R.W. 11) and Alamgir Fakir Mahomed Shaikh (B.R.W. 12), Dr. Vyas held a public meeting in Pundas and exhorted the Harijans to harass the Muslims and force them to leave the village and thus take away their lands and properties stating that all Muslims were Pakistanis and, therefore, enemies of India and of the Hindus and should be treated as such (B.R.W. 11/1-6/1455-9 ; B.R.W. 12/1-3/1460-2). Both of them alleged that they along with some other Muslims listened to the said speech from the house of one Gulam Bahuddin Ambekar from the rear of which they could see the meeting being held and hear the speech of Dr. Vyas. Both of them have deposed they knew Dr. Vyas. Amongst the complaints and cross-complaints between the Muslims and the Harijans, one of the complaints was that of Alamgir Husein (Ex. P 531) given on November 16, 1969, that is, the day after Dr. Vyas and the other R.U.M. leaders visited Pundas. In the said complaint he stated that on the previous day a meeting was held in Harijan Wada and thereafter 10 to 12 persons and some others passed through the Muslim Mohalla and that the Muslims were, therefore, afraid and had informed the Police Patil and the Panchas and had sent a Muslim to the police station to lodge a complaint. Not only is Dr. Vyas's name not mentioned in this complaint, but there is no mention in it of any inflammatory speech having been made by any person For this reason I am not prepared to accept the evidence of

either of these two Muslim witnesses. From this, however, it does not follow that the speech of Dr. Vyas was quite as innocuous as is made out in the report of P.S.I., Padgha. We have seen the type of speeches Dr. Vyas was in the habit of making and it would not be unnatural to presume that this speech too must have been a speech intended to rouse the ire of the Harijans against the Muslims and to hold out the R.U.M. before them as a champion of their rights.

29.17 So far as the action by the Police on this visit of the R.U.M. leaders is concerned, not being satisfied with the reports received from P.S.I., Padgha, S.P., Bhave by his letter dated November 21, 1969 called upon him to submit a detailed report which the P.S.I. did by his report dated November 26, 1969 (both part of Ex. P 144 collectively). Thereafter Bhave required Dy.S.P., Diwate to meet him and discuss the matter personally with him. Diwate went and saw Bhave on December 11, 1969 and after the discussion Bhave thought that no further action was necessary. (P.W. 4/23/264).

29.18 Yet another matter of controversy between the parties is whether Dr. Vyas and the R.U.M. leaders subsequently visited Pundas before the Shiv Jayanti of May 7, 1970, it being the Muslim case that they did while it being the case of the Police that they did not. As this topic is closely connected with the Shiv Jayanti, it will be dealt with in the Chapter entitled "The setting for Shiv Jayanti".

29.19 During the disturbances two cases were registered of murders of Muslims of Pundas. In one of them 15 Hindus were arrested and in the other 14 Hindus were arrested, all of them residents of Pundas. Some of the accused persons were common to both cases and out of them 5 were Harijans, being permanent employees of the Sanitary Department of the Bhiwandi-Nizampur Municipal Council. All of them were released under section 169 Cr.P.C. on the ground that there was not sufficient evidence against them. Amongst the Muslims killed was the Sarpanch of Pundas (P.W. 66/190/3912-3; B.R.W. 11/2/1457).

29.20 The Pundas incident shows the considerable hold that by November 1969 the R.U.M., and particularly Dr. Vyas, had acquired over the Hindus of Bhiwandi; for when the Harijans of Pundas, some of whom being employees of the Bhiwandi-Nizampur Municipal Council, wanted someone to champion their cause, the person they first thought of was Dr. Vyas.

The R.U.M. activities in other villages

29.21 In the last week of April 1970 and in the first week of May 1970 the R.U.M. leaders held several meetings in villages round about Bhiwandi, particularly in Kamatghar, Kamba, Kasheli, Kalher, Purna, Karivali, Kalwar and Padgha. These meetings were held for the purpose of carrying on propaganda to induce the villagers to join the Shiv Jayanti procession in Bhiwandi in large numbers and will, therefore, be dealt with in the chapter entitled "The setting for Shiv Jayanti".

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CHAPTER 30
THE NATURE OF THE ACTIVITIES OF THE R.U.M.

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CHAPTER 30

THE NATURE OF THE ACTIVITIES OF THE R.U.M.

The constitution of the R.U.M.

30.1 The R.U.M. did not have a written constitution in the beginning. The 19 persons who had walked out of the Shiv Jayanti Utsav Samiti meeting on April 6, 1969 and some others, including Dr. Vyas, at a meeting held by them in Neelkantheshwar Temple on May 21, 1969 decided to celebrate the Shiv Rajyabhishek Din on May 29, 1969 and formed a Mandal called 'Shiv Rajyabhishek Utsav Mandal' for this purpose. Thereafter these persons decided to extend their activities and not confine themselves merely to celebrating only one occasion and, therefore, at another meeting held on May 23, 1969 at the Neelkantheshwar Temple it was unanimously decided to change the name of the body to the 'Rashtriya Utsav Mandal'. No written constitution of the R.U.M. was, however, drafted until after the resignations of Dattatraya Mahadeo More, the Vice-President of the R.U.M., and Suresh Kondalkar, the Secretary of the R.U.M., in the beginning of September 1969 on the ground that the R.U.M. was indulging in politics under the advice of Dr. Vyas and the workers of the Jan Sangh. At the meeting of the Executive Committee of the R.U.M. held on the night of September 5, 1969 to discuss the situation brought about by these resignations it was for the first time decided to draft a constitution for the R.U.M. A constitution was thereafter drafted and was publicized amongst the people of Bhiwandi by distributing circulars containing its text. A copy of this circular was forwarded by the S.P., Thana, along with his letter dated April 3, 1970 (Ex. P 58) to the D.I.G. (Int.). The circumstances under which this constitution came into being make it abundantly clear that the object of the said constitution was to repel the charge made by Dattatraya Mahadev More and Suresh Kondalkar that the R.U.M. was dominated by the Jan Sangh and was pursuing the policies of the Jan Sangh. Under its constitution the jurisdiction of the R.U.M. was expressed to be Bhiwandi Town and Bhiwandi Taluka and its membership was kept open to all persons above the age of 18 in these places.

The ostensible aims of the R.U.M.

30.2 The ostensible aims of the R.U.M. as set out in its constitution were—

- (1) to celebrate festivals according to Indian tradition ;
- (2) to organize religious, social and cultural programmes ;
- (3) to develop Indian culture consistent with the modern scientific age ;

- (4) to foster nationalistic tendencies ;
- (5) to curb anti-national activities ; and
- (6) to foster national integrity.

The real aims of the R.U.M.

30.3 The real aims of the R.U.M. were, however, different and they become apparent from the activities of the R.U.M. and the utterances of its own leaders and of those whom it invited to speak at public meetings organized by it and to whom it made its platform available. The activities of the R.U.M. were communally motivated right from the beginning. The majority of its leaders consisted of hot-headed Hindu youngsters imbued with communalism and, as the evidence shows, the guiding spirit of the R.U.M. was Dr. Vyas, the President of the Bhiwandi Branch of the Jan Sangh. In all matters likely to create communal tension the R.U.M. adopted a militant and aggressive attitude and set itself up as the champion of what it considered to be the rights of the Hindus against the Muslims and so to say to teach the Muslims their place and if they were not willing to learn their place, to teach them a lesson. It even went out of its way to create such occasions. The speeches made by the R.U.M. leaders and their invitees at public meetings organized by the R.U.M. leave no doubt what their intention was. At a public meeting held in Telugu School at Kanheri on October 7, 1969 (Ex. P 66) Dr. Vyas stated that Hindu temples were being attacked in different places and that even in Bhivandi Hindus were being harassed and Hindu ladies were made to suffer indignities and that peace could not be had by remaining peaceful and that it was, therefore, necessary to unite so that no one would be able to stand up against the Hindus and that the R.U.M. was established only to rescue the people. At a public meeting of the R.U.M. held at Padgha on October 18, 1969 (Ex. P 498) Datta Punyarthi said that though Pakistan had been created, a good place in society had been given to the Muslims living in this country, yet with a view to maintaining power the rulers were imposing more and more restrictions on the Hindus, and the R.U.M. had been formed to remove these restrictions. Udhav Teje at the same meeting said that they would try to change the set up of the Government and should openly criticize the idea of secularism. In his speech made at the R.U.M. meeting held on January 11, 1970 (Ex. P 69), at which G. M. Puntambekar was the main speaker, Dr. Vyas said that the R.U.M. had made efforts to curb communal disturbances, which efforts had been crowned with success. At a public meeting held on January 23, 1970 at Padgha (Exs. P 70 and P 502), at which V. R. Patil, the Vice-President of the Maharashtra Pradesh Hindu Mahasabha, was the main speaker, Dr. Vyas said in his welcome speech that the R.U.M. was established after the happenings at the time of the 1969 Shiv Jayanti celebrations and that the aim of the R.U.M. was to foster national tendencies and to finish those who tried to ruin the nation or would have enmity with the nation. In the course of his speech V. R. Patil eulogized the R.U.M. for protecting

the honour of the Hindus and said that the R.U.M. was an organization of Hindu youths out to destroy those who were anti-national and wanted to destroy India. The clearest pronouncement of the specific aim of the R.U.M. was made by Dilip Tamhane at the R.U.M. meeting held on March 11, 1970 to observe the death anniversary of Shivaji's son Sambhaji (Ex. P 73). He said that the R.U.M. was established with a view to ensure that the Hindus were not harassed by the Muslims in Bhiwandi and that if at all there was any harassment, the Hindus should be able to unite and resist such harassment and that those who joined the R.U.M. must have faith in Hinduism and must be nationalists. Dr. Vyas also in his speech made on that occasion accepted with approval the said aim of the R.U.M. as enunciated by Dilip Tamhane and he further said that restrictions had been imposed on Hindus asking them not to throw 'gula' within a distance of 50 feet on either side of a mosque and that the R.U.M. wanted to resist these restrictions. Uddhav Teje at the same meeting said that the R.U.M. was holding meetings to point out to the people of Bhiwandi what was happening in the town. As the 7th of May 1970 drew nearer, the aim of the R.U.M. became crystalized into asserting its claim that the Shiv Jayanti procession should go past the Nizampura Jumma Mosque and to resist and put down any obstruction to this route.

An analysis of the activities of the R.U.M.

30.4 From the very inception the nature of the R.U.M. activities was not only communal but aggressively communal and this can be seen from the objectionable behaviour at the time of the 1969 Shiv Jayanti procession of those who later became its founders and leaders. These were the persons who had walked out of the Shiv Jayanti Utsav Samiti on the ground that the Shiv Jayanti procession ought to go past the Nizampura Jumma Mosque and that no restrictions with respect to slogans or the throwing of 'gula' should be reduced to writing or printed in any pamphlet setting out the programme for the Shiv Jayanti celebrations. They along with Dr. Vyas thereafter wanted to take out a separate procession to celebrate Shiv Jayanti and also wanted to invite V. R. Patil, the Vice-President of the Maharashtra State Hindu Mahasabha, to give a speech on this occasion but were ultimately dissuaded from doing so. The procession itself, which otherwise passed off peacefully and in an atmosphere of amity and festivity, was marred by these persons. They boycotted the procession and did not participate in it but met the procession at different points and threw excessive 'gula' on the processionists and particularly on the Muslim leaders to annoy them and shouted slogans including "Hamse Jo Takrayega, Woh Mitti Me Mil Jayega" and "Hindustan Hinduonka, Nahi Kisike Bapka".

30.5 After its formation the R.U.M. celebrated Shiv Rajyabhishek Din, the Gandhi Jayanti and the Guru Nanak Jayanti and observed the death anniversaries of Lokmanya Tilak, Veer Savarkar, Shahaji Raje and Sambhaji. Out of these functions the Shiv Rajyabhishek

Din and the Guru Nanak Jayanti were celebrated and the death anniversaries of Shahaji Raje and Sambhaji were observed for the first time in Bhiwandi (P.W. 66/19/1116). The very first occasion which was celebrated by the R.U.M. was the Shiv Rajyabhishek Din and there is very little doubt that this occasion was celebrated because it coincided with Id-E-Milad. The death anniversary of Shahaji Raje Bhosale, Shivaji's father, was observed during the 1970 Moharram festival. These celebrations and observances took place for the first time in Bhiwandi and their coincidence with the Muslim festivals must have presented a powerful reason to the R.U.M. leaders in arriving at their decision to have public functions on these two days. In March 1970 the R.U.M. also exhibited on a blackboard an extract from an editorial in the *Navbharat Times*. According to this extract a large number of Hindus were being driven out from Pakistan and the other Hindus in Pakistan were forcibly converted to Islam and whenever there were riots in Pakistan Hindu ladies became the first target of assault. This board was exhibited by the R.U.M. on March 13, 1970, the very day on which the Peace Committee was to be held for considering the arrangements to be made for the Moharram and Holi festivals and can hardly augur a peaceful introduction to these two festivals. As seen in paragraph 17.50 above the R.U.M. leaders also instigated the widening of Holi pits outside Navi Chawl. A number of public meetings were held at Bhiwandi and some also in Padgha and in Pundas. In April and the beginning of May 1970 meetings were also held in Kamatghar, Kamba, Kasheli, Kalher, Purna, Karivali, Kalwar and other villages. These meetings were for the purpose of carrying on a propaganda to induce the villagers to join the Shiv Jayanti procession in Bhiwandi. The speeches made at most of the meetings held by the R.U.M. satisfy the test laid down in paragraph 6.8 and were communal speeches.

30.6 The R.U.M. used to hold weekly prayer meetings in different temples and the attendance at these meetings went on increasing with each week [P.W. 38/1(60)/867(20)]. Bhausahab Dhamankar has correctly stated, "In such meetings prayers were not the real object but inflammatory speeches calling upon the members of the Hindu community to take the law into their own hands for protection were propagated. The feelings had been imparted that the present administration was not competent enough and did not uphold the rights of the members of the Hindu community in the matters which touched their sentiments in serious manner" [C.W. 2/1(14)/1692(15)]. The venue of a temple for these meetings invested with the aura of religious sanctity and halo the communal propaganda carried on by the speeches made at these meetings and thus gave it greater force and effect. The R.U.M. invited leaders of the Hindu Mahasabha and the Jan Sangh, such as V. R. Patil, Pandit Brij Narayan Brajesh, G. M. Puntambekar and A. G. Nimkar, and also invited other communal Hindu speakers, such as Ramesh Sambhus, to deliver speeches from its platform.

30.7 After the Ahmedabad riots the R.U.M. carried on an intensive

communal propaganda. Its leaders made much of the anonymous letters received by Dr. Vyas, observed hartal and took out a morcha on October 11, 1969 against the desecration of temples in which procession objectionable placards were carried. They also took out a procession in Bhiwandi on October 20, 1969 to celebrate Vijaydashami in which objectionable slogans were shouted. It also observed a fast and took out a morcha at Padgha on October 18, 1969 against the desecration of temples. From October 1969 onwards the speeches made at R.U.M. meetings became more and more communal, harping on the Ahmedabad disturbances and inflaming the minds of the Hindus of Bhiwandi against the Muslims.

Communal speeches made at R.U.M. meetings

30.8 Out of the speeches made at different R.U.M. meetings which have come on the record of the Commission the following speeches clearly satisfy the test laid down in paragraph 6.8 and were communal speeches :—

- (1) The speech made by Ramesh Sambhus on May 29, 1969, the Shiv Rajyabhishek Din (Ex. P 62).
- (2) The speech made by Datta Salvi at the said meeting (Ex. P 62).
- (3) The speech made by Dattatraya Mahadeo More at the public meeting held on June 5, 1969 at Kombadpada (Ex. P 566).
- (4) The speech made by Uddhav Teje at the said public meeting held on June 5, 1969 (Ex. P 566).
- (5) The speech made by Dr. B. P. Vyas at the said public meeting held on June 5, 1969 (Ex. P 566).
- (6) The speech made by Ramesh Sambhus at the said public meeting held on June 5, 1969 (Ex. P 566).
- (7) The speech made by Sharad Patwardhan at the public meeting held on September 29, 1969 at Ganpati Mandir, Brahman Alli (Ex. P 127).
- (8) The speech made by Dr. B. P. Vyas at the said public meeting held on September 29, 1969 (Ex. P 127).
- (9) The speech made by Bhai Nagle *alias* A. T. Nagle at the said public meeting held on September 29, 1969 (Ex. P 127).
- (10) The speech made by Dr. Vyas at the public meeting held on October 7, 1969 in Telugu School, Kanheri Bhiwandi (Ex. P 66).
- (11) The speech made by Uddhav Teje at the said public meeting held on October 7, 1969 (Ex. P 66).
- (12) The speech made by Datta Punyarthi at the said public meeting held on October 7, 1969 (Ex. P 66).
- (13) The speech made by Ramchandra Patri at the said public meeting held on October 7, 1969 (Ex. P 66).
- (14) The speech made by Bhaskar Mali at the said public meeting held on October 7, 1969 (Ex. P 66).
- (15) The speech made by Dr. Vyas on October 11, 1969 after the R.U.M. procession to protest against the desecration of the Mandirs (Ex. P 65).

- (16) The speech made by Uddhav Teje at the public meeting to establish the Padgha Branch of the R.U.M. held at Padgha on October 14, 1969 (Ex. P 497).
- (17) The speech made by Datta Punyarthi at the said public meeting held on October 14, 1969 (Ex. P 497).
- (18) The speech made by Dilip Tamhane at the said public meeting held on October 14, 1969 (Ex. P 497).
- (19) The speech made by Dr. Vyas at the said public meeting held on October 14, 1969 (Ex. P 497).
- (20) The speech made by A. G. Nimkar at the said public meeting held on October 14, 1969 (Ex. P 497).
- (21) The speech made by Datta Punyarthi at the public meeting held on October 18, 1969 after the morcha taken out to protest against the desecration of temples (Ex. P 498).
- (22) The speech made by Uddhav Teje at the said public meeting held on October 18, 1969 (Ex. P 498).
- (23) The speech made by Dr. Vyas at the said public meeting held on October 18, 1969 (Ex. P 498).
- (24) The speech made by Dr. Vyas at the public meeting held on October 20, 1969 after the Vijayadashmi procession (Ex. G 308).
- (25) The speech made by G. M. Puntambekar at the public meeting held by the R.U.M. on January 11, 1970 (Ex. P 69).
- (26) The speech made by A. G. Nimkar at the said public meeting held on January 11, 1970 (Ex. P 69).
- (27) The speech made by V. R. Patil at the R.U.M. meeting held at Padgha on January 23, 1970 (Ex. P 505).
- (28) The speech made by Dr. Vyas at the said meeting held on January 23, 1970 (Ex. P 505).
- (29) The speech made by Jagdishchandra Thakkar at the said meeting held on January 23, 1970 (Ex. P 505).
- (30) The speech made by V. R. Patil at the public meeting held by the R.U.M. in Bhiwandi on January 23, 1970 (Ex. P 70).
- (31) The speech made by Pandit Brij Narayan Brajesh at the public meeting held by the R.U.M. on March 10, 1970 (Ex. P 72).
- (32) The speech made by Dilip Tamhane at the public meeting held by the R.U.M. on March 11, 1970 to observe the death anniversary of Sambhaji (Ex. P 73).
- (33) The speech made by Dr. Vyas at the said public meeting held on March 11, 1970 (Ex. P 73).
- (34) The speech made by Uddhav Teje at the said public meeting held on March 11, 1970 (Ex. P 73).
- (35) The speech made by Ramesh Sambhus at the said public meeting held on March 11, 1970 (Ex. P 73).
- (36) The speech made by Bhaskar Mali at the said public meeting held on March 11, 1970 (Ex. P. 73).
- (37) The speech made by Dr. Vyas at the meeting held in Bhiwandi on April 7, 1970 (Ex. P 80).
- (38) The speech made by Ramesh Sambhus on April 11, 1970

- at the public meeting held by the R.U.M. at Taralipada, Kamatghar (Ex. P 81).
- (39) The speech made by Sharad Patwardhan at the R.U.M. meeting held at Kamba on April 12, 1970 (Ex. P 82).
 - (40) The speech made by Shankarrao Gavli at the said meeting held on April 12, 1970 (Ex. P 82).
 - (41) The speech made by Shantaram Tavare at the said public meeting held on April 12, 1970 (Ex. P 82).
 - (42) The speech made by Dr. Vyas at the said public meeting held on April 12, 1970 (Ex. P 82).
 - (43) The speech made by Ramesh Sambhus at the said public meeting held on April 12, 1970 (Ex. P 82).
 - (44) The speech made by Uddhav Teje at the R.U.M. meeting held in Vithal Temple, Wani Alli, Bhiwandi, on April 13, 1970 (Ex. P 83).
 - (45) The speech made by Bhai Nagle at the R.U.M. meeting held at Padgha on April 18, 1970 (Ex. P 506).
 - (46) The speech made by Datta Punyarthi at the said meeting held on April 18, 1970 (Ex. P 506).
 - (47) The speech made by Dr. Vyas at the said meeting held on April 18, 1970 (Ex. P 506).
 - (48) The speech made by Uddhav Teje at the R.U.M. meeting held on April 20, 1970 at Maruti Temple, Hanuman Tekdi, Bhiwandi (Ex. P 84).
 - (49) The speech made by Lohagaonkar at the said meeting held on April 20, 1970 (Ex. P 84).
 - (50) The speech made by Dr. Vyas at the R.U.M. meeting held on April 27, 1970 at Satyanarayan Temple, Dhamankar Naka, Bhiwandi (Ex. P 85).

30.9 The correctness of none of the reports which contain the substance or the verbatim reports of the speeches listed above has been challenged by the R.U.M. before the Commission though this body had appeared in the Inquiry through Counsel.

30.10 In addition to the speeches mentioned above, as observed in paragraphs 29.16 and 29.10 respectively, there are strong grounds to believe that the speech made by Dr. Vyas at Pundas on November 15, 1959 and the speeches made by A. G. Nimkar at the meetings held in different temples in Padgha on November 17, 1969 (Ex. P 500), November 26, 1969 (Ex. P 501), December 3, 1969 (Ex. P 502), December 8, 1969 (Ex. P 503) and December 15, 1969 (Ex. P 504) also satisfy the test laid down in paragraph 6.8 and were communal speeches.

30.11 As shown in Chapter 32, there is also strong reason to believe that the propaganda in connection with the 1970 Shiv Jayanti procession carried on by the R.U.M. leaders and workers in conjunction with Ramesh Sambhus in villages round about Bhiwandi was of an inflammatory communal nature and satisfied the test of a communal speech laid down in paragraph 6.8.

30.12 Besides the aforesaid speeches the slogans mentioned in paragraph 28.66 above shouted at the time of the Vijaydashami procession organised by the R.U.M. on October 20, 1969 in Bhiwandi (Ex. G 308) satisfy the test laid down in paragraph 6.8 and were communal utterances.

Communal writings by the R.U.M.

30.13 The evidence before the Commission shows that some of the writings circulated or exhibited by the R.U.M. satisfy the test laid down in paragraph 6.7 and were, therefore, communal writings. They were—

- (1) The handbill circulated by the R.U.M. on or about October 11, 1969 to protest against the desecration of temples (Ex. P 64).
- (2) The legends on the placards, mentioned in paragraph 27.61, carried at the time of the procession to protest against the desecration of temples, taken out by the R.U.M. on October 11, 1969.
- (3) The blackboard exhibited by the R.U.M. on or about March 13, 1970 about the atrocities against the Hindus in Pakistan (Ex. P 74).

The pro-R.U.M. bias of Zumberlal Kalantri

30.14 Zumberlal Kalantri (N.H.W. 42) was the Congress M.L.C. in the Maharashtra Legislative Council as the representative of the Municipal Councils and Local Boards in the District of Thana for the period 1963 to 1968 and of the Municipal Councils and the Zilla Parishads in the District of Thana for the period 1968 to 1974 and thus held a position of some responsibility and influence in Bhiwandi. His evidence will be material when we come to the Shiv Jayanti procession of 1970. In the light of this it is necessary to consider his attitude towards the R.U.M. In the witness-box he admitted that the speeches made at the R.U.M. meetings were anti-Muslim. He, however, added that they were not provocative. He was immediately forced to agree that as a result of these speeches there was panic amongst the Muslims. He had given a Calling Attention Notice in the Maharashtra Legislative Council in the case of speeches made at the public meetings held by the M.T.M. on March 28, 1970. He deposed that he did not think it necessary to give any such Calling Attention Notice in respect of the R.U.M. speeches because they did not refer to the prevailing conditions in Bhiwandi as the M.T.M. speeches did. A perusal of the said speeches, relevant extracts from which have been quoted in this Report, shows that this explanation is not correct. He also admitted that he did not draw the attention of the Government to the prayer meetings or the public meetings held by the R.U.M. because the Bhiwandi Town Police Station used to submit to it reports about these meetings. The hollowness of this explanation was immediately demonstrated by his having to admit that the Bhiwandi Town Police Station had also submitted reports about the M.T.M. meetings

(N.H.W. 42/6/2037). Kalantri came as a witness on behalf of the Nagarik Hitarakshak Mandal, a body set up after the disturbances and formed for the purpose of giving relief and for conducting the case before the Commission. The pro-R.U.M. bias of Zumberlal Kalantri is thus clearly apparent on the record.

30.15 Even Mohanlal Karwa, who can hardly be said to be pro-Muslim and whose affidavit though it listed the various acts on the part of the Muslims of Bhiwandi which created tension and avoided any mention of similar acts on the part of the Hindus, had to admit in the witness-box that some of the speeches made at the R.U.M. meetings were anti-Muslim (N.H.W. 53/4/2103).

Connection between the R.U.M., the Jan Sangh and the Shiv Sena

30.16 As we have seen, the R.U.M. was formed by the 19 persons who walked out of the meeting of the Shiv Jayanti Utsav Samiti on April 6, 1969 and some others at a meeting presided over by Dr. Vyas. Out of these 19 persons at least 15 belonged to the Jan Sangh or were pro-Jan Sangh. They were (1) Sharad Shankar Patwardhan, (2) Shantaram Tavre, (3) Dattatraya Gajanan Punyarthi, (4) Atchhut P. Shetty, (5) Bhaskar Ganpat Mali, (6) Ambadas N. Ballal, (7) Madhav Kanitkar, (8) Anna Vagal, (9) Hasmukh Thakkar, (10) Anant Ramchandra Phadke, (11) S. C. Pimpalkhare, (12) Shankar Kolekar, (13) Shankar Govind Mundhe, (14) B. K. Joshi and (15) Pandu Vastad *alias* Patil. Dr. Vyas, the President of the Bhiwandi Branch of the Jan Sangh, was the guiding spirit of the R.U.M. The Jan Sangh thus dominated the R.U.M. and this is clearly demonstrated by the fact that Dattatraya Mahadeo More, who did not belong to any party and who was the Vice-President of the R.U.M., and Suresh Kondalkar, the Secretary of the R.U.M., who belonged to the Shiv Sena, resigned from the R.U.M. in the beginning of September 1969 on the ground that the R.U.M. was being conducted according to the dictates of the local Jan Sangh President and the other Jan Sangh workers.

30.17 So far as the Shiv Sena is concerned, only one of the original founders, namely, A. T. Nagle *alias* Bhai Nagle, who was also one of the persons who walked out of the said Shiv Jayanti Utsav Samiti, belonged to the Shiv Sena. However, more and more Shiv Sena workers joined the R.U.M. Right from the beginning the R.U.M. leaders started wooing the support of the Shiv Sena. At the very first public function organized by the R.U.M. namely, the celebration of the Shiv Rajyabhishek Day on May 29, 1969, it was decided to invite the Shiv Sena Chief Bal Thackeray to address the gathering. As Bal Thackeray could not attend, Datta Salvi, a Shiv Sena leader, was invited and he addressed the meeting (Exs. P 1492 and P 60).

30.18 Baliram More, the Shakhapramukh of the Shiv Sena, Bhiwandi Branch, sought to make out in the witness-box that he was not a sympathizer of the R.U.M. and did not approve of its objects of holding weekly meetings and of celebrating national festivals because of the situation prevailing in Bhiwandi. Baliram More has thus sought

to dissociate himself from the R.U.M. and its activities. Like most of what Baliram More has deposed, this portion of his testimony also does not carry much conviction. He admitted that he did not forbid any member of the Shiv Sena from becoming a member of the R.U.M. (S.S.W. 1/17/2161). In addition to A. T. Nagle *alias* Bhai Nagle, Suresh Kondalkar, who became the Secretary of the R.U.M. till his resignation in September 1969, was from the inception a member of the Shiv Sena (S.S.W. 1/18/2162). Shashikant Alashi, the Joint Secretary of the R.U.M., belonged to the Shiv Sena and so did Dilip Tamhane, the Up-Shakhapramukh of the Bhiwandi Branch of the Shiv Sena (G.W. 2/87/615 ; P.W. 4/94/615).

30.19 The R.U.M. leader Uddhav Teje who attended the Shiv Sena meeting held on March 17, 1970 made an appeal to the Shiv Sena for support (Ex. P 77). Baliram More in his evidence has sought to make out that Uddhav Teje was not invited to the meeting but that he came of his own accord and requested to be allowed to speak for five minutes and that, therefore, he was permitted to speak. This explanation is unconvincing. Again at the Shiv Sena morcha taken out on April 4, 1970 Bhaskar Mali, the President of the R.U.M., waited at the Old Fish Market (the place where the morcha was expected to be stopped) and when the Shiv Sena delegation went inside the Town Police Station to hand over a memorandum of protest to Dy.S.P., Diwate, he led the slogan (Exs. P 526 and G 317). Baliram More himself attended the meeting called by the R.U.M. on April 17, 1970 to discuss the forthcoming Shiv Jayanti celebrations (Ex. P 146). Further, at the R.U.M. meeting held on March 30, 1970 it was *inter alia* suggested that the Shiv Jayanti should be celebrated jointly by the R.U.M. and the Shiv Sena and as appears from Inspector Pradhan's report dated April 10, 1970 (Ex. P 145), there was a section of Hindu public opinion in favour of this course

30.20 The evidence establishes that Baliram More initially did not align himself with the R.U.M. lest he should alienate the Muslim Municipal Councillors whose defections to his group he was attempting to bring about ; but when by reason of the compromise arrived at between the Municipal Councillors in February 1970 he found that he was not likely to recapture power, he openly allied himself with the R.U.M.

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CHAPTER 31
THE THEORY OF RETALIATORY SELF-DEFENCE

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CHAPTER 31

THE THEORY OF RETALIATORY SELF-DEFENCE

“Retaliatory self-defence”

31.1 It is alleged by the Government, the Police and the Hindu parties that the Mushavarat and the M.T.M propagated amongst the Muslims the theory of “retaliatory self-defence”. I.G.P., Rajadhyaksha has explained that the phrase “retaliatory self-defence” is loosely used and what is meant by that phrase is “an offensive taken in anticipation or apprehension of an attack, as for example, attacking a procession when trouble or attack is apprehended from the processionists” (G.W. 2/105/128). In the course of his evidence S.P., Bhavne has pointed out the distinction between “self-defence” and “retaliatory self-defence” as follows (P.W. 4/113/626):—

“By ‘self-defence’ I understand the right of protecting oneself even by inflicting injury upon the assailant as provided by the Indian Penal Code. But the leaders of the M.T.M. in their meetings exaggerated the atrocities alleged to be committed against the Muslims and advised the Muslims to be ready to offer sacrifice and to unite for this purpose. The concept of self-defence in the Indian Penal Code refers to an individual and not to a group of persons. When a group of persons or a community unites and makes preparations for the purpose of self-defence, there is a likelihood of their exceeding the limits of the right of self-defence prescribed by the Indian Penal Code. There is also a likelihood in such a case of such a group or community attacking some person or persons who are not directly assaulting them. I understand the phrase “retaliatory self-defence” in the sense deposed to by me above.”

31.2 The Home Secretary L. G. Rajwade has admitted that the expression “retaliatory self-defence” is not used in so many words in any of the speeches made by the Muslim leaders. He has, however, stated that it is a theory which can be inferred from various utterances of the Muslim leaders from time to time [G.W. 1/102(6)/1102(3)].

31.3 The Muslim parties have, however, denied that any Muslim party has advocated the theory of “retaliatory self-defence”. In this Inquiry we are concerned with the activities of two Muslim parties, namely, the Mushavarat and the M.T.M., and the utterances of their leaders. It may be stated at the outset that in none of the reports of speeches produced before the Commission does the phrase “retaliatory self-defence” occur. It is, however, not necessary that the word “retaliatory” should have been used in order to find that this allegation is true. The real point is whether the leaders of these parties have

at any time preached the doctrine of self-defence, not as set out in the group of sections on the right of private defence enacted in the Indian Penal Code, but in the aggressive or retaliatory sense as defined by I.G.P., Rajadhyaksha and S.P., Bhave, and which in substance really amounts to propagating that attack is the best form of defence. On a perusal of the reports of some of the said speeches, the answer can only be that this allegation against the Mushavarat and the M.T.M. has been rightly made.

“Retaliatory self-defence” and the Mushavarat

31.4 The resolution passed by the working committee of the Mushavarat on October 10, 1967 (Appendix K to Ex. G 102) reproduced in paragraph 21.16 *inter alia* stated :

“However, the Majlis wishes to remind Muslims of the pertinent difference between cowardice and being the oppressed, to offer effective resistance and light in self-defence is a right acknowledged by Shariat law of the land and morality.”

31.5 Dr. Sayyad Mahmud, the then President of the Mushavarat, was reported to have given an interview to the special correspondent of the *Deccan News* which interview appeared in the 28th October 1967 issue of the Urdu daily *Dawat*. A translation of the said news report is Ex. G 133. According to this news report, he is reported to have said that as the Government had utterly failed to stop communal disturbances, a feeling of insecurity was being born amongst the Muslims and it was necessary that “without putting their trust in the Government, the Muslims should gird up their loins for their self-defence.” Further, according to the said news report, he sent a message to the Muslims that the Muslims should give up their attitude of despair and through their unity and united efforts should come into the field of practical action for their defence which was their right.

31.6 Shabbir Ahmed Ansari (C.W. 3), the Vice-President of the Bhiwandi Branch of the Mushavarat and after the death of its President in about 1969 the all-in-all in the said Bhiwandi Branch, has made several speeches which have come on the record advocating this theory. They are :

- (1) the speech delivered by him on December 12, 1969 (Ex. P 54),
- (2) the discourse delivered by him at the Vaz meeting held in Bhiwandi on March 28, 1970 (Ex. P 56),
- (3) the discourse delivered by him at the Vaz meeting in Vaje Mohalla held on March 29, 1970 (Ex. G 187), and
- (4) the discourse delivered by him at the Vaz meeting held in Thange Alli on April 1, 1970 (Ex. P 57),

31.7 The theory was also advocated at the said Vaz meeting held on April 1, 1970 by Mahomed Hussein Aslami, a Jamaat-E-Islami leader (Ex. P 57).

31.8 In the light of the above facts, it must be held that the Mushavarat, and particularly its Bhiwandi Branch, has been propagating this theory.

“Retaliatory self-defence” and the M.T.M.

31.9 In the written arguments filed on behalf of the M.T.M. by its General Secretary Mr. Rahim-Quraishi, it has not been denied that the M.T.M. and its leaders and workers have been propagating the theory of self-defence for the Muslims. It was, however, contended that the administration and the Police were so infected by the communal virus that they turned a blind eye whenever Muslim lives were taken and Muslim properties destroyed and they never made any earnest attempt to apprehend Hindu rioters but indulged in making indiscriminate arrests of Muslims while exculpating on flimsy pretexts Hindus involved in riot offences and implicated on baseless grounds as many Muslims as possible. According to the M.T.M., this naturally created a feeling of perturbation, frustration and insecurity amongst the Muslims and that what the M.T.M. had done was to criticize strongly certain Hindu communal organizations which had been promoting hatred and enmity amongst the Muslims and whose activities were not checked by the administration.

31.10 This is, however, not the whole picture. The M.T.M. writings and the speeches of its leaders go much beyond merely criticizing communal Hindu parties and organizations and the attitude of the administration and the Police. The evidence produced before the Commission clearly shows that since the passing of the resolution on self-defence by the Mushavarat on October 10, 1967 the M.T.M., which was a constituent unit of the Mushavarat, has been actively propagating this theory. At the conference of the Maharashtra State M.T.M. held at Aurangabad on May 11 and 12, 1968 (Ex. G 103) the M.T.M. also passed resolutions giving a call to the Muslims to organize themselves on the principle of self-defence and to meet any attack on them with courage and strength. These resolutions have been reproduced in paragraphs 26.4 and 26.5. It also issued a booklet (Ex. G 132) at the time of this conference, which reproduced the decision taken by the Central Committee of the M.T.M. in its session held on January 20 and 21, 1968, to the effect that the time had come to give a practical shape to self-defence and that no member of the M.T.M. would sleep or get sound sleep until the Muslims would become ‘Mujahideen’ (crusaders) on the principle of self-defence. The said passage has been reproduced in paragraph 26.3. The speech of Gaus Khamoshi at the said conference was on the same theme calling upon the Muslims to organize themselves and to fight against the Hindu communal elements (Appendix ‘B’ to Ex. G 103).

31.11 A perusal of the reports of some of the speeches made by the M.T.M. leaders and workers in Bhiwandi also do not leave any doubt that what the M.T.M. has been preaching is a kind of aggressive or retaliatory self-defence. The correctness of these reports has not been challenged by the M.T.M. before me. Instances of such speeches made by the All India and local M.T.M. leaders are :

- (1) the speech made by Suleman Sikander, the Chief Organizer

- of the M.T.M., at the M.T.M. meeting held on November 3, 1968 at Bhiwandi (Ex. P 43);
- (2) the speech made by Abdul Ajij of the Kalyan Branch of the M.T.M. at the said public meeting held on November 3, 1968 at Bhiwandi (Ex. P 43);
 - (3) the speech made by Ahmed Kazi of the Kalyan Branch of the M.T.M. at the said public meeting held on November 3, 1968 at Bhiwandi (Ex. P 43);
 - (4) the speech made by Sardar Zafrullah Khan, the Vice-President of the Bhiwandi Branch of the M.T.M., at the M.T.M. meeting held on May 24, 1969 at Kalyan (Ex. G 291);
 - (5) the speech made by Mohamed Kasim at the said public meeting held on May 24, 1969 at Kalyan (Ex. G 291);
 - (6) the speech made by Abdul Khaliq Momin the President of the Bhiwandi Branch of the M.T.M., at the M.T.M. meeting held on May 26, 1969 at Bhiwandi (Ex. P 46);
 - (7) the speech made by Saad Ahmed Kazi at the said public meeting held on May 26, 1969 at Bhiwandi (Ex. P 46);
 - (8) the speech made by Shabbir Hussein at the said public meeting held on May 26, 1969 at Bhiwandi (Ex. P 46);
 - (9) the speech made by Sardar Zafrullah Khan at the said public meeting held on May 26, 1969 at Bhiwandi (Ex. P 46);
 - (10) the speech made by Mohamed Kasim at the M.T.M. meeting held on June 27, 1969 at Bhiwandi (Ex. P 47); and
 - (11) the speech made by Saad Ahmed Kazi at the said public meeting held on June 27, 1969 at Bhiwandi (Ex. P 47).

“Retaliatory self-defence” and the Hindu communalists

31.12 The evidence before the Commission shows that it is not only some Muslim communal parties and leaders who have been advocating the theory of “retaliatory self-defence” but also some Hindu communal parties and communal leaders. Reports of such speeches made by Hindu leaders have come on the record of the Commission and their correctness has not been challenged by any party. These speeches are those made by some of the leaders of the R.U.M., the Hindu Mahasabha, the R.S.S., the Jan Sangh and the Shiv Sena. The theme of these speeches is that the Muslims are anti-national and disloyal and harbour secret loyalty to Pakistan; that they are intransigent and have been responsible for all communal riots which have taken place in India; and that if the Hindus wished to preserve their religion and culture, they should unite and fight and crush the Muslim menace.

“Retaliatory self-defence” and the R.U.M.

31.13 With reference to the allegation made in paragraph 9 of the said memorandum submitted by the Muslim leaders (Ex. P 15) that at its prayer meetings the R.U.M. “systematically tried to whip up the religious feeling of the Hindus to the highest pitch, instigating

them to rise up against the Muslims”, S.P., Bhawe, in his report dated April 21, 1970 (Ex. G 64) to the I.G.P., has stated, “In their weekly prayer meeting the R.U.M. did advocate the policy of retaliatory self-defence. They stressed the various incidents in which the alleged injustice was caused by Muslims” (P.W. 4/113/627). The real object of holding these prayer meetings was thus described by Bhausaheb Dhamankar [C.W. 2/1(14)/1692(15)] :

“In such meetings prayers were not the real object but inflammatory speeches calling upon the members of the Hindu Community to take the law into their own hands for protection were propagated. The feeling had been imparted that the present administration was not competent enough and did not uphold the rights of the members of the Hindu community in the matters which touched their sentiments in serious manner.”

31.14 The reports of speeches made by R.U.M. leaders and others invited by them to speak at the public meetings held by the R.U.M. clearly establish that what was preached at these meetings was a kind of aggressive or “retaliatory self-defence”. As a result thereof the R.U.M. succeeded in gaining considerable influence over a large number of sections of the Hindu youths in Bhiwandi and the nearby villages (P.W. 4/171/688). Reports of the speeches made at the public and prayer meetings held by the R.U.M. have been produced before the Commission and their correctness has not been challenged by any party.

31.15 Instances of such speeches made in Bhiwandi by the R.U.M. leaders and Ramesh Sambhus, whom they repeatedly invited at their meetings, are :

- (1) the speech made by Ramesh Sambhus on May 29, 1969 (Ex. P 60) ;
- (2) the speech made by Ramesh Sambhus on June 5, 1969 (Ex. P 566) ;
- (3) the speech made by Dattatraya Mahadeo More on June 5, 1969 (Ex. P 566) ;
- (4) the speech made by Sharad Patwardhan on September 29, 1969 (Ex. P 127) ;
- (5) the speech made by Dr. B. P. Vyas on September 29, 1969 (Ex. P 127) ;
- (6) the speech made by Dr. Vyas on October 7, 1969 (Ex. P 66) ;
- (7) the speech made by Uddhav Teje on October 7, 1969 (Ex. P 66) ;
- (8) the speech made by Datta Punyarthi on October 7, 1969 (Ex. P 66) ;
- (9) the speech made by Ramchandra Patri on October 7, 1969 (Ex. P 66) ;
- (10) the speech made by Bhaskar Mali on October 7, 1969 (Ex. P 66) ;
- (11) the speech made by Dilip Tamhane on March 11, 1970 (Ex. P 73) ;
- (12) the speech made by Dr. Vyas on March 11, 1970 (Ex. P 73) ;
- (13) the speech made by Uddhav Teje on March 11, 1970 (Ex. P 73) ;

- (14) the speech made by Bhaskar Mali on March 11, 1970 (Ex. P 73) ;
 - (15) the speech made by Dr. Vyas on March 11, 1970 (Ex. P 73) ;
 - (16) the speech made by Uddhav Teje on March 17, 1970 (Ex. P 77) ;
 - (17) the speech made by Bhai Nagle on March 17, 1970 (Ex. P 77) ;
 - (18) the speech made by Dr. Vyas on April 20, 1970 (Ex. P 84) ;
and
 - (19) the speech made by Lohagaonkar on April 20, 1970 (Ex. P 84).
- 31.16 Instances of such speeches made in villages nearby Bhiwandi by R.U.M. leaders and Ramesh Sambhus are—
- (1) the speech made by Uddhav Teje at the meeting held on October 14, 1969 at Padgha (Exs. P 497 and G 306) ;
 - (2) the speech made by Datta Punyarthi at the meeting held on October 14, 1969 at Padgha (Exs. P 497 and G 306) ;
 - (3) the speech made by Dilip Tamhane at the meeting held on October 14, 1969 at Padgha (Exs. P 497 and G 306) ;
 - (4) the speech made by Dr. Vyas at the meeting held on October 14, 1969 at Padgha (Exs. P 497 and G 306) ;
 - (5) the speech made by A. G. Nimkar at the meeting held on October 14, 1969 at Padgha (Exs. P 497 and G 306) ;
 - (6) the speech made by Datta Punyarthi on October 18, 1969 at Padgha (Ex. P 498) ;
 - (7) the speech made by Uddhav Teje on October 18, 1969 at Padgha (Ex. P 498) ;
 - (8) the speech made by Dr. Vyas on October 18, 1969 at Padgha (Ex. P 498) ;
 - (9) the speech made by A. G. Nimbar on October 18, 1969 at Padgha (Ex. P 498) ;
 - (10) the speech made by Dr. Vyas on January 23, 1970 at Padgha (Ex. P 505) ;
 - (11) the speech made by Jagdishchandra Thakkar on January 23, 1970 at Padgha (Ex. P 505) ;
 - (12) the speech made by Ramesh Sambhus on April 11, 1970 at Taralipada in Kamatghar (Ex. P 81) ;
 - (13) the speech made by Dr. Vyas on April 12, 1970 at Kamba (Ex. P 82) ;
 - (14) the speech made by Sharad Patwardhan on April 12, 1970 at Kamba (Ex. P 82) ;
 - (15) the speech made by Shantaram Tavre on April 12, 1970 at Kamba (Ex. P 82) ;
 - (16) the speech made by Ramesh Sambhus on April 12, 1970 at Kamba (Ex. P 82) ;
 - (17) the speech made by Dr. Vyas on April 18, 1970 at Padgha (Ex. P 506) ;
 - (18) the speech made by Datta Punyarthi on April 18, 1970 at Padgha (Ex. P 506) ; and
 - (19) the speech made by Bhai Nagle on April 18, 1970 at Padgha (Ex. P 506).

“Retaliatory self-defence” and the Hindu Mahasabha

31.17 Speeches of two Hindu Mahasabha leaders, namely, V. R. Patil, the Vice-President of the Maharashtra Pradesh Hindu Mahasabha, and Pandit Brij Narayan Brajesh, the then President of the Hindu Mahasabha, advocating the theory of “retaliatory self-defence” against the Muslims have been produced before the Commission. These speeches are—

- (1) the speech made by V. R. Patil at the public meeting held on May 31, 1967 at Thana (Appendix D to Ex. G 98);
- (2) the speech made by V. R. Patil at the public meeting held on May 29, 1968 at Aurangabad (Appendix F to Ex. G 98);
- (3) the speech made by V. R. Patil at the public meeting held on August 15, 1968 at Sholapur (Appendix G to Ex. G 98);
- (4) the speech made by V. R. Patil at the R.U.M. meeting held on January 23, 1970 at Padgha Village (Ex. P 505);
- (5) the speech made by V. R. Patil at the R.U.M. meeting held on January 23, 1970 at Bhiwandi (Ex. P 70);
- (6) the speech made by Pandit Brij Narayan Brajesh at the All India Session of the Hindu Mahasabha held on April 27, 1969 at Nagpur (Appendix H to Ex. G 98);
- (7) the speech made by Pandit Brij Narayan Brajesh at the public meeting held on March 7, 1970 at Dombivli (Ex. P 135);
- (8) the speech made by Pandit Brij Narayan Brajesh at the public meeting held on March 8, 1970 at Kalyan (Ex. P 136);
- (9) the speech made by Pandit Brij Narayan Brajesh at the public meeting held on March 9, 1970 at Ulhasnagar (Ex. P 137);
- (10) the speech made by Pandit Brij Narayan Brajesh at the public meeting held on March 10, 1970 at Bhiwandi (Ex. P 72); and
- (11) the speech made by Pandit Brij Narayan Brajesh at the public meeting held on March 11, 1970 at Thana (Ex. P 138).

“Retaliatory self-defence” and the R.S.S.

31.18 Some of the speeches of the late M. S. Golwalkar, popularly known as Guruji Golwalkar, the Sursanghchalak of the R.S.S. produced before the Commission showed that in them also the theory of “retaliatory self-defence” against the Muslims was advocated. Instances of these speeches are—

- (1) the speech made on August 30, 1957 at Ichalkaranji in Kolhapur District (Appendix C to Ex. G 100);
- (2) the speech made on December 8, 1968 at a public meeting in Warora in Chandha District (Appendix F to Ex. G 100); and
- (3) the speech made on October 20, 1969 at a public meeting in Nagpur (Appendix G to Ex. G 100).

“Retaliatory self-defence” and the Jan Sangh

31.19 A number of R.U.M. leaders either belonged to the Jan Sangh or were pro-Jan Sangh as mentioned in paragraph 30.16. Out of these, those who have made speeches advocating the theory of

“retaliatory self-defence” are Dr. B. P. Vyas, the President of the Bhiwandi Branch of the Jan Sangh, Sharad Patwardhan, Datta Punyarthi, Uddhav Teje, Bhaskar Mali, A. G. Nimkar and Shantaram Tavre. These speeches have already been set out in paragraphs 31.15 and 31.16 above.

31.20 Another Jan Sangh leader who has made a speech advocating this theory is G. M. Puntambekar. This is the speech made at the R.U.M. meeting held in Bhiwandi on January 11, 1970 (Ex. P 69).

“Retaliatory self-defence” and the Shiv Sena

31.21 Out of the R.U.M. leaders, the two prominent ones who belonged to the Shiv Sena were Dilip Tamhane and A. T. Nagle *alias* Bhai Nagle. They too have made speeches at various R.U.M. meetings advocating the theory of retaliatory self-defence. These speeches have already been referred to in paragraphs 31.15 and 31.16 above. In addition to these two, this theory was also advocated in Bhiwandi by the Shiv Sena leader Datta Salvi at the R.U.M. meeting held on May 29, 1969 (Ex. P 60) and by Baliram More, the Shakhapramukh of the Bhiwandi Branch of the Shiv Sena at the Shiv Sena meeting held on March 17, 1970 (Ex. P 77).

31.22 Speeches made by Shiv Sena leaders at places other than Bhiwandi in which this theory was propagated have also come on the record of the Commission and will be dealt with in the parts of the Report dealing with the Jalgaon and Mahad disturbances respectively. These speeches are :

- (1) the speech made by Datta Salvi at the Shiv Sena meeting held on September 8, 1968 at Kalyan (Appendix A to Ex. G 99) ;
- (2) the speech made by Manohar Joshi at the said Shiv Sena meeting held on September 8, 1968 at Kalyan (Appendix A to Ex. G 99) ;
- (3) the speech made by the Shiv Sena Chief, Bal Thackeray, at the said Shiv Sena meeting held on September 8, 1968 at Kalyan (Appendix A to Ex. G 99) ;
- (4) the speech made by Datta Salvi at the Shiv Sena meeting held on September 29, 1968 at Kalyan (Appendix A to Ex. G 99) ;
- (5) the speech made by Bal Thackeray at the said Shiv Sena meeting held on September 29, 1968 at Kalyan (Appendix A to Ex. G 99) ;
- (6) the speech made by Datta Salvi at the Shiv Sena meeting held on October 12, 1969 at Durgadi Fort, Kalyan (Ex. P 535) ;
- (7) the speech made by Manohar Joshi at the said Shiv Sena meeting held on October 12, 1969 at Durgadi Fort, Kalyan (Ex. P 535) ;
- (8) the speech made by Bal Thackeray at the said Shiv Sena meeting held on October 12, 1969 at Durgadi Fort, Kalyan (Ex. P 535) ;
- (9) the speech made by Bal Thackeray at the Shiv Sena meeting held on November 2, 1969 at Bombay (Ex. G 257) ;

- (10) the speech made by Datta Salvi at the public meeting held on April 16, 1970 at Jalgaon (Appendix F to Ex. G 99); and
- (11) the speech made by Bal Thackeray at the public meeting held on April 16, 1970 at Jalgaon (Appendix F to Ex. G 99).

Conclusions

31.23 The evidence before the Commission thus shows that the theory of "retaliatory self-defence" is not a monopoly of any one party or of communal leaders belonging to any one community. Even in the limited compass of this Inquiry the reports of speeches made by various political leaders show that leaders of several parties, both Hindu as well as Muslim, have advocated this theory in one form or the other, but in whatever form the theory was advocated the basis of it was violence and the substance of it was that attack is the best form of defence.

CHAPTER 32
MUNICIPAL POLITICS

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CHAPTER 32

MUNICIPAL POLITICS

Prefatory observations

32.1 The municipal politics after the 1967 municipal elections constituted an important contributory factor to the increase of communal tension in Bhiwandi. The reason for this was the setting up by the Bhiwandi Branch of the Mushavarat of a party known as the Bhiwandi Seva Samiti to fight the municipal elections and the emergence in municipal politics of Baliram More, the Shakhapramukh of the Bhiwandi Branch of the Shiv Sena. The 1967 elections were the first elections held under the Maharashtra Municipalities Act, 1965, and the life of the new Municipal Council was marked by power politics, defections, quarrels amongst Municipal Councillors, charges and counter-charges hurled by them at one another and, above all, maladministration and neglect of civic affairs. Fortunately for the people of Bhiwandi the life of the Municipal Council was prematurely terminated by the Government of Maharashtra on October 23, 1971 by appointing under section 313(I) of the Maharashtra Municipalities Act the Deputy Collector, Bombay Division, P. D. Pawar, as the Administrator.

The convention with respect to the election to offices

32.2 Though the Muslim population was in a large majority in the town, during the past few decades a convention had existed that the offices of President and Vice-President of the Municipality should go to Hindus and Muslims by turn. Thus, if a Muslim was elected President for one term, a Hindu would be elected Vice-President for that term and in the next term a Hindu would be elected as President and a Muslim as Vice-President. Similarly, a convention existed of allotting chairmanship and vice-chairmanship of different sub-committees alternately to Councillors of both communities. This was the result of the economic and commercial inter-dependence of the two communities which existed in Bhiwandi [B.R.W. 3/1(6)/1416(3); P.W. 38/1(23)/867(7), 12/867]. Prior to 1967 Mohanlal Karwa was the Municipal President [N.H.W. 53/1(1)/2101(1)]. The 1967 elections, however, put an end to this era of communal harmony in municipal affairs. The reason for this was that under section 52 of the Maharashtra Municipalities Act, 1965, the tenure of office of the President and the Vice-President, was increased to five years by being made conterminous with the tenure of office of elected Councillors.

The Bhiwandi Seva Samiti

32.3 The Bhiwandi Seva Samiti was formed on October 15, 1966 by the leaders of the Bhiwandi Branch of the Mushavarat. Shabbir Ahmed Ansari, the Vice-President of the Bhiwandi Branch of the Mushavarat, became the Vice-President of the Bhiwandi Seva Samiti and guided its policies. It is the case of the Police that the Bhiwandi Seva Samiti was a civic front of the Mushavarat and was a communal body, while the Muslim parties denied that it had any connection with the Mushavarat and contended that it numbered Hindus amongst its members and had put up Hindus as candidates in the 1967 elections. It is not possible to accept the Muslim case. The policies of the Bhiwandi Seva Samiti were guided by Shabbir Ahmed Ansari who was all in all in the Bhiwandi Branch of the Mushavarat and though it did include some Hindus amongst its member its stand was communal (P.W. 4/166/682-3). When a party consists of members of one community the fact that a few members of the other community join it does not make that party a non-communal body. There are always persons willing to join any party for the sake of getting an office and it is such people who are usually induced by communal bodies and parties to become their members in order to window-dress their communal character. In this the Bhiwandi Seva Samiti went one better, for it made a Hindu, Rajaram Mutayya Kodam, its President (C.W. 3/5/1777-8).

The 1967 municipal elections

32.4 The municipal elections took place in Bhiwandi on August 13, 1967 (P.W. 38/35/880). By this time the communal situation in Bhiwandi had changed considerably by reason of the detention of some Muslim leaders in 1965 during the Indo-Pak war, the formation of the Branch of the Shiv Sena with Baliram More as its Shakhapramukh and of the Bhiwandi Seva Samiti by the Mushavarat, and the communal riots which had taken place on May 11, 1967 at the time of the Shiv Jayanti procession. The Bhiwandi Seva Samiti put up 14 candidates for these elections including Rajaram Kodam and supported 2 Hindu candidates who had stood as independent candidates though they were members of the Bhiwandi Seva Samiti (C.W. 3/5/1778). The communal nature of the propaganda carried on by the Bhiwandi Seva Samiti can be seen from the fact that several Muslims who stood as independent candidates lost to the Seva Samiti candidates. Thus Gulam Mahomed Momin (the deponent of affidavit No. 329 and an accused in the Bhiwandi Conspiracy Case) who at that time was a local leader of the P.S.P. and was formerly a Municipal Vice-President, contested as an independent candidates from two wards, namely, wards Nos. 5 and 28, comprising the Muslim localities of Nizampura and Islampura respectively and lost to the Seva Samiti candidates. Again when in 1967 he contested as an independent candidate the by-election from ward No. 23 comprising the Muslim localities of Waje Mohalla and Old Thana Road he lost to the Seva

Samiti candidate. His own analysis of his defeat was that he was regarded by the Muslims as an anti-Muslim for his failure to support the Muslim stand [P.W. 4/1(14)/236(7) ; P.W. 38/30/879, 71/1272]. Ibrahim Maddu, also an accused in the Bhiwandi Conspiracy Case, who belonged to the C.P.(M.) and who had successfully contested the municipal elections, had strongly campaigned against the Bhiwandi Seva Samiti in those elections. Another Muslim, Jasim Sardar, who had also stood as an independent candidate from ward No. 24 comprising the Muslim localities of Dargah Road and Bhusar Mohalla lost to the Bhiwandi Seva Samiti candidate. Amongst those elected on the Seva Samiti ticket were Shabir Ahmed Ansari and Abdul Salam Abdul Razak Ansari who had stood from ward No. 6 comprising the Muslim locality of Hamalwada (P.W. 38/80/1279). The Hindu voting in his election was on no less a communal line. Those Hindu candidates who had taken a leading part in the Shiv Jayanti Utsav Samiti of 1967 were elected as Councillors from Hindu localities. Amongst them were Vasudeo Pandit, President of the Shiv Jayanti Utsav Samiti, and Baliram More, the Sakhapramukh of the Bhiwandi Branch of the Shiv Sena, whose ward included the locality of Thange Alli (S.S.W. 1/12/2158).

32.5 The composition of the Municipal Council after the 1967 elections was 19 Muslims and 12 Hindus. Out of the 12 Hindu Councillors 2 were co-opted Councillors, namely, Rajaram Kodam, who at that time was the President of the Bhiwandi Seva Samiti and had unsuccessfully contested the elections on its ticket, and Dr. Gandhi who belonged to the opposition. Out of the 19 Muslim Councillors 16 had contested the elections on the Seva Samiti tickets and the remaining 3 as independent candidates. Thus the Seva Samiti group in the Municipal Council consisted of 16 Muslim Councillors and 1 Hindu Councillor, namely, Rajaram Kodam, while the opposition group of which the leader was Baliram More consisted of 11 Hindu Councillors and 3 independent Muslim Councillors. The Seva Samiti had thus a majority of 3 members. This narrow majority and the fact that under the Maharashtra Municipalities Act, 1965, the term of office of the President and Vice-President had been made five years furnished ready-made opportunities for manœuvring defections by holding out promises of Municipal Presidentship and Vice-Presidentship to the defectors.

The attempt to break the convention

32.6 In the new Municipal Council Shabbir Ahmed Ansari (C.W. 3) and K. K. Joglekar *alias* Balasaheb Joglekar (N.H.W. 54) were elected unanimously as President and Vice-President, The Seva Samiti, however, being in a majority tried to break the convention of allotting chairmanship and vice-chairmanship of Municipal Committees alternately to Councillors of both communities. They ultimately did not do so because it was otherwise found impossible to form committees by reason of the disputes and quarrels over division of seats between the majority and the minority parties (P.W. 38/12/872).

The municipal administration and the behaviour of the Municipal Councillors

32.7 Inspector Pradhan has vividly described in his affidavit how the Municipal Council functioned. He has stated [P.W. 38/1(23)/867 (7-9)] :

“ The working of the General Board meeting in the Municipality and the behaviour of the members of both the groups used to be such, which used to generate tension in the town. Since that time there has hardly been any general board meeting which was conducted in a peaceful atmosphere. The majority party had only a majority of 1 and as such the Board's position was not stable. No-confidence motions were passed 3 times since August, 1967. It was clear that members defected from one group to another with a view to gaining positions of power. The party in opposition rarely allowed the party in power to take any decisions on any matter. Many times pandemonium prevailed and the meetings ended in chaos. On occasions the President had asked for the Police bandobust at the time of the General Board meetings. There were some occasions when hot words were exchanged resulting in filthy abuses and some non-cog. complaints in respect thereof have been registered at the police station. The members of the public supporting the two groups used to collect for such general board meetings and taking advantage of the chaos, they also used to take part in hurling abuses and passing unbecoming remarks about members of the opposite group. This used to generate tension. As a result of such behaviour on the part of the elected representatives and their sympathizers of both the communities, there always existed a danger of these incidents flaring up into a large-size communal trouble. There used to be so much tension in the general board meetings that they could not even take a decision of removing the encroachment near the Khutala Mosque in spite of several references from the Police and the District Magistrate. So also they could not take a decision in respect of unauthorized constructions including mosques. The majority being of Muslims, they could have at least taken these decisions but their inaction created a doubt in the minds of the Hindus and their natural reaction was that Muslims did not want to do it. In respect of Khutala Tank, the municipal board did not do anything in spite of the Collector's order in February 1969. This inaction was resented by the Hindus and it was reported that the Shiv Sena branch of Bhiwandi was contemplating to take the issue in its own hand. Thus Bhiwandi-Nizampura Municipal affairs and party politics had their own impact on the general peace of the Town and many a time it was feared that it might disturb the public peace and many a sensible member of the public sincerely desired the early supersession of the Municipal Board. They openly condemned the actions of both the parties and demanded a probe by Government. Meanwhile the enquiry into the alleged maladministration and several other charges was being conducted by the Prant Officer.”

32.8 To give but one instance of the abuse of their position by Municipal Councillors, the Municipal Councillors, and particularly the leaders of various parties in the Municipal Council, considered it their right to use the municipal jeep for private trips within municipal limits (S.S.W. 1/20/2/2163).

Defections

32.9 Soon after the new Municipal Council was formed the minority group led by Baliram More tried to win over Muslim Councillors from the Seva Samiti group in order to secure a majority and the Seva Samiti group tried to win over Councillors from the opposition group in order to increase its majority or to swing back the balance of power in its favour. The Seva Samiti succeeded in making Mushtaq Qureshi defect in November 1967 and Ramayya Balal in March 1968. These defections were, however, offset by two Councillors of the Seva Samiti, namely, A. B. Sayed and Imam Kharbe, leaving that group and joining the opposition group. In November 1968 Mrs. Zaibunnisa also joined the minority group and she was followed in February 1969 by Abdul Salam Abdul Razak Ansari. The balance of power in the Municipal Council thus altered and Baliram More's group came in majority. In February 1969 Mushtaq Ahmed Momin was the Municipal President. A motion of no-confidence was moved against him by Baliram More's group on February 17, 1969 and it was passed on February 25, 1969 and as the price of his defection, on March 13, 1969 Abdul Salam Ansari was elected the Municipal President with the support of almost all Hindu Councillors and a few Muslim Councillors [P.W. 4/1(14)/236(7-8), 90/610], for Baliram More's group had promised Abdul Salam that he would be made the Municipal President if he defected to their group [P.W. 4/1(14)/236(7-8); S.S.W. 1/50/2173].

Baliram More's tactics to win over the Seva Samiti Councillors

32.10 With a view to make Muslim Councillors of the Seva Samiti group defect to his party Baliram More did not join the extremist sections of the Hindus in the Peace Committee and the Shiv Jayanti Utsav Samiti. Further when the Moharram procession passed by the Wada Stand in Thange Alli on March 29, 1969 he served sherbet to it [P.W. 38/1(44)/867(15)]. Baliram more, however, denied that he had served any sherbet in 1969 and alleged that he had done so at the time of the 1968 Moharram procession. The reason he gave was that very few people partook of the sherbet he provided at the time of the 1968 procession and for which he had spent Rs. 250 and most of it was, therefore, wasted because someone had spread the rumour that something must have been put in the sherbet. I accept his statement that he provided sherbet at the time of the 1968 Moharram procession. That would be in keeping with his manœuvres to win over the Muslim Councillors of the Seva Samiti group. I, however, do not believe him when he says that he did not serve sherbet at the time of the 1969

Moharram procession. At that time some Muslim Councillors had defected to his group and he would be even more anxious to please them so that they may not defect back. Further, he has not stated this fact in his affidavit and he could assign no reason for this omission [S.S.W. 1/6/2156, 35/2168 ; P.W. 38/1(44)/867 (15)].

32.11 In February 1969 the Maharashtra-Mysore boundary dispute agitation launched by the Shiv Sena led to riots in Bombay, Thana and Kalyan. Bhiwandi, however, remained quiet. This was the period when Abdul Salam Ansari was about to defect to Baliram More's group and had Baliram More followed the Shiv Sena line it would have displeased the Muslim Councillors and snatched away from his grasp the chance of obtaining power in the Municipal Council [P.W. 38/1/(41)/867(14), 46/884]. Baliram More has, however, denied this, reason he has given for not starting any agitation in Bhiwandi was that had such an agitation been started it would have taken a communal turn as by reason of the non-participation of the boys of the Rais High High School in the 1969 Republic Day celebrations the situation in the town was tense (S.S.W. 1/5/2156). The reason given by Baliram More hardly deserves to be considered for the evidence shows that when it suited his purpose the one thing which did not bother him was the situation taking a communal turn. In fact, Baliram More succeeded in his objective in not giving a call for Bhiwandi Bandh, for this action pleased the Muslim Councillors and they thanked him for it at the public meeting held on February 20, 1969 as is shown by the S.P.'s report dated February 22, 1970 (Ex. P 106).

32.12 With a view to keep in the good books of the Muslim Councillors so that his group could continue to remain in power in the Municipal Council, Baliram More adopted a conciliatory attitude towards their demands and grievances both in the Peace Committee meetings and in the Shiv Jayanti Utsav Samiti meetings and unlike the other extremist Hindu members of these Committees he did not press that the Shiv Jayanti procession should go past the Jumma Misque as is shown by the reports of the meetings held on the 4th, 6th, 14th and 15th April 1969 (Exs. P 121. P 122. P 123 and P. 108 respectively), nor did he like them, boycott the 1969 Shiv Jayanti procession.

The Shiv Sena felicitates Abdul Salam Ansari

32.13 On March 16, 1969 a public meeting was held at Old Wada Stand to felicitate Abdul Salam Ansari on his election as Municipal President. According to the Police this meeting was held by the Bhiwandi Branch of the Shiv Sena (P.W. 38/46/884 ; P.W. 66/58/1135). Baliram More has, however, denied that the Shiv Sena had anything to do with this meeting. According to him, this meeting was arranged by one Abdul Aziz Ansari, an employee of Abdul Salam and a resident of Thange Ali, and he had gone there merely because he had received an invitation to do so. He has, however, admitted that the only political leaders present at the said meeting were he and Vasantrao Marathe who also belonged to the Shiv Sena and was at that time the President

of the Thana Municipal Council and both of them had addressed the said meeting. He has further admitted that Marathe presided at the said meeting and garlanded Abdul Salam Ansari (S.S.W. 1/7/2156, 92/2196). It is not possible to accept Baliram More's case. The only political party which associated itself with this meeting was the Shiv Sena. The meeting was held in Thange Ali from which locality Baliram More was elected to the Municipal Council. At that time Baliram was making every effort to win over the Muslim Councillors to his group and thus obtain power in the Municipality. It was he who had brought about the defection of Abdul Salam and as he has himself admitted, his group had promised him that if he were to defect from the Seva Samiti he would be made the Municipal President. He has also admitted that during Abdul Salam's tenure as the Municipal President his group throughout supported Abdul Salam (S.S.W. 1/50/2173) and that for this reason a vote of no-confidence brought against Abdul Salam was thrown out on May 9, 1969 (Ex. P 581).

The Urdu inscriptions on municipal vehicles

32.14 The name of the Bhiwandi-Nizampur Municipal Council indicating its ownership was painted in English and Marathi scripts on municipal vehicles. Under the oral orders of Abdul Salam Ansari in the month of April 1969 the name of the Bhiwandi-Nizampur Municipal Council was added in Urdu script on Municipal Fire Brigade vehicles. This caused considerable resentment amongst some Hindus. How these Urdu inscriptions came to be removed from the municipal vehicles has already been related in paragraphs 28.14 to 28.17 and, therefore, need not be repeated here.

Further defections

32.15 Rauf Punjabi, though not a Municipal Councillor himself, wielded considerable influence over some Councillors and in June 1969 efforts were made by him to win back some Muslim Councillors to the Seva Samiti group. These efforts ultimately proved successful. Scinting that he was about to lose power in the Municipal Council, Baliram More submitted a written representation dated June 30, 1969 (Ex. SS 1) to the Chief Minister, Mr. V. P. Naik, who had visited Bhiwandi that day to name the Arts, Science and Commerce College, and also orally complained to him that the members of the Seva Samiti were making provocative speeches calculated to disturb the communal peace and harmony of Bhiwandi and that it was as a result of the said speeches that there was an attack on the Shiv Jayanti procession in May 1967 and requested for an inquiry into the activities of the Seva Samiti. The object of making this representation becomes transparently clear when we find that on or about the same day two former Seva Samiti Councillors, A. B. Sayed and Mrs. Zebunnissa, defected back to the Seva Samiti with the result that Baliram More's group lost both its majority and its power in the Municipal Council. Immediately, on July 1, 1969 a notice of no-confidence motion was

given by the Bhiwandi Seva Samiti Councillors against Abdul Salam Ansari and K. K. Joglekar, the Municipal President and Vice-President respectively. The motion was fixed for discussion on July 9, 1969, but but both Abdul Salam and Joglekar tendered their resignations on July 8, 1969. Since Rauf Punjabi was the real architect of Baliram More's defeat the relations between him and Baliram More became strained. Baliram More sent a copy of this representation for publication to the Shiv Sena Marathi weekly *Marmik* and it was published in the 6th July 1969 issue of that weekly under the heading, "Hold inquiry into Bhiwandi Town Seva Samiti", the sub-heading being "This is a memorandum submitted to the Chief Minister, Honourable Vasant Rao Naik by Mr. Baliram More. We are publishing it with a view to shedding light on the present happenings in Bhiwandi.— Editor", the editor being Bal Thackeray, the Shiv Sena Chief (P.W. 4/92/614; S.S.W. 1/51/2174). The said representation to the Chief Minister was sent to the D.M. for inquiry and report who in turn forwarded it to the S.P., Bhave and Bhave made his report dated September 2, 1970 thereon (Ex. P 660). In this report he stated that there was no substance in the allegations made by Baliram More and that the M.T.M. and the Mushavarat carried on independent activities which had no concern with the Bhiwandi Seva Samiti and Baliram More seemed to have made these allegations contained in his said representation only in order to achieve his ends and due to power politics in the Municipal Council. Thereafter no further notice was taken of this representation as none really deserved to be taken.

32.16 The feelings of animosity and hostility which Baliram More and Rauf Punjabi entertained towards each other came to a head on July 8, 1969, the very day on which Abdul Salam and Joglekar tendered their resignation as Municipal President and Vice-President. We have seen that on that day, following upon a quarrel which had taken place the previous day between some students of the Rais High School and some boys attending the Samyukta Krida Mandal, a fight took place between Bhaskar Mali, his brother Kamlakar and some other Hindus on the one hand and some boys of the Rais High School on the other and that thereupon a number of local leaders rushed up to the Rais High School where a very undignified and unbecoming exchange of words took place between Baliram More and Rauf Punjabi, Rauf Punjabi calling Baliram More a gambler and a bootlegger. The resentment felt by Baliram More at his defeat in the Municipal Council can be judged from the fact that he thereupon went straight to the police station and lodged a complaint that Rauf Punjabi had used derogatory words about the entire Hindu community which complaint, we have seen, was false. These incidents have already been dealt with in paragraphs 16.18 to 16.26.

32.17 Not satisfied with the false complaint lodged by him against Rauf Punjabi, Baliram More thought of taking revenge against A. B. Sayed and on or about July 26, 1969 he gave information to the Police alleging that Sayed's son had abducted a minor married

Hindu girl. As a result of this complaint, Sayed's son was prosecuted, and committed to the Sessions where he was acquitted [P.W. 4/1(35)/236(20); P.W. 38/1(50)/867(17), 4/868]. The date of Baliram More's complaint against A. B. Sayed's son is significant and shows his motive in giving the complaint, for on July 26, 1969 a notice of a no-confidence motion was given by Baliram More's group against Abdul Gafoor Badruddin and Ramayya Balal, the Municipal President and Vice-President belonging to the Seva Samiti group, and very probably this complaint was given in order to bring pressure upon A. B. Sayed, as the price of the withdrawal of this complaint, to rejoin Baliram More's group to ensure the success of the no-confidence motion. There tactics did not succeed for on August 2, 1969 the motion failed (Ex. P 581).

Baliram More recaptures power

32.18 Baliram More succeeded in recapturing power in the Municipal Council by Managing to make Zuber Patel, a Seva Samiti Councillor, defect to his group, the price of such defection as usual being the promise of Municipal Presidentship. Thereupon a notice of a no-confidence motion was given by Baliram More's group against the Municipal President and Vice-President. The motion was carried on October 16, 1969 and thereafter Zuber Patel was elected the Municipal President (Ex. P 581 ; P.W. 4/1(14)/236(9) ; S.S.W. 1/50/2174).

The compromise to prevent defections

32.19 It appears that many Councillors were getting tired of the constant defections and re-defections and determined to defeat Baliram More at his game of causing defections. A meeting was, therefore, held in February 1970 at the house of Ahmedshah Nasikkar, who was not a Municipal Councillor, at which all Municipal Councillors, except Baliram More and one Jawahar Gupta, were present and it was decided that the Municipal President and Vice-President and the Chairman of various Committees should resign every six months and in their place others selected by a Committee of five Councillors jointly appointed by both groups and consisting of Ismail Jokhu, Aziz Lalmahomed, Gafoor Murshad, Vasudeo Pandit and Imam Kharbe should be elected. Baliram More has deposed that he did not attend this meeting at which the aforesaid compromise was arrived at because he was not in favour of it. He has further deposed that this agreement was honoured by both groups [P.W. 4/1(14)/236(9), 305/782 ; S.S.W. 1/50, 52/2175].

The effect of the compromise and the change in Baliram More's attitude

32.20 As a result of the aforesaid compromise arrived at between the two groups the necessity of making Councillors defect from one group to the other in order to tilt the balance of power disappeared and no defection took place thereafter. Realizing that there was

now hardly any hope or chance of his gaining a majority in the Municipal Council, Baliram More totally changed his attitude, for it was no more necessary for him to placate the Muslim Councillors or to make any show of goodwill and friendliness towards them as he had done in the past when he served sherbet at the time of the Moharram processions. In sharp contrast to the attitude adopted by him in February 1969 when he did not start any agitation in Bhiwandi even though riots took place in Bombay, Kalyan and Thana as a result of the Shiv Sena agitation on the Maharashtra-Mysore boundary dispute, Baliram More gave a call for Bhiwandi bandh on March 2, 1970 in pursuance of the call for Maharashtra bandh on that day given by the Shiv Sena. As a result of this he was arrested under section 151, Cr.P.C., and released after he gave an undertaking to the Police that peace would be maintained. Nonetheless there were stray incidents of stone-throwing by a Hindu at the Thange Allí Mosque in Thange Alli the stronghold of Baliram More, and some mischievous Hindu boys toppled a Muslim vendor's handcart. Again in sharp contrast to his attitude at the time of the previous Moharrams, at the time of the March 1970 Moharram Baliram More got the Holi pits at the Wada Stand in Thange Alli widened and the Holi fires lit intensively by his followers. Baliram More also inspired a news-report in the *Shiv Garjana* ridiculing the efforts of the Police cordon off the Holi pits. He also lodged a false complaint that Muslims in the Moharram procession had shouted "Pakistan Zindabad" and got a news-report in respect thereof published in the *Shiv Garjana*. Further, Baliram More who had not at any time demanded nor joined the R.U.M. in demanding that the Shiv Jayanti procession should go past the Nizampura Jumma Mosque, at a public meeting of the Bhiwandi Branch of the Shiv Sena called on March 17, 1970 (Ex. P 77) declared that that year they would take the procession by a route decided by them and, if there was any opposition, he would resign from the Peace Committee and, if there was any resistance to the procession, the Shiv Sena would give a fitting reply. He thus unequivocally declared himself on the side of those who desired to take the Shiv Jayanti procession past the Nizampura Jumma Mosque. Further, Baliram More who till then had not attended any meetings of the R.U.M. and not taken part in any of its activities invited the R.U.M. leader Uddhav Teje to the said meeting where Uddhav Teje not only spoke in the same vein but went one better in declaring that if any one put obstacles in the way of the Shiv Jayanti procession going past the route decided by them, he would be murdered. Baliram More thus joined hands with the R.U.M. and also attended the meeting held by the R.U.M. in Neelkantheshwar Temple on April 17, 1970 in order to discuss the forthcoming Shiv Jayanti celebrations.

The effect of municipal politics on the Peace Committee meetings

32.21 The reports of the Peace Committee meetings and the Steering Committee meetings exhibited before the Commission show that

though in 1967 and 1968 most of the Councillors used to attend the Peace Committee meetings or the Steering Committee meetings, thereafter, as a result of the game of power politics in the Municipal Council, Councillors from the group in opposition did not remain present at these meetings. This is particularly borne out by the reports of the meetings held on March 22, 1969, August 19, 1969, September 3, 1969 and September 9, 1969 (Exs. P 107, P 110, P 111 and P 112 respectively). Further, municipal politics, which had nothing to do with the deliberations of the Peace Committee and Steering Committee, were time and again introduced in the discussions of these bodies and marked their deliberations as shown by the reports of meetings of these two bodies.

The effect of municipal politics on the communal atmosphere

32.22 Apart from a few office-seeking Hindu Councillors, who were members of the Seva Samiti, and three independent Muslim Councillors, who belonged to the opposition, all the Councillors in the Seva Samiti group were Muslims and all the Councillors in Baliram More's group were Hindus. Some of these independent Muslim Councillors too fell to the lure of offices and defected back and forth. In substance, therefore, the two groups in the Municipality were the Muslim group and the Hindu group. The behaviour of the Municipal Councillors, which has been so graphically described by Inspector Pradhan in the passage quoted in paragraph 32.1 above, greatly contributed to the communal tension in the town. Municipal politics embittered the discussions in the meetings of the Peace Committee and the Steering Committee, led to fights and quarrels between Councillors outside the Municipal Council as exemplified by the quarrel between Baliram More and Rauf Punjabi, and to the filing of false complaints and the making of false charges by and against Municipal Councillors. Municipal politics in Bhiwandi must, therefore, bear a heavy responsibility for setting up Hindus against Muslims and Muslims against Hindus in Bhiwandi.

The charge of communalism in filling vacancies in the municipal service

32.23 Some of the Hindu parties have contended that since the Muslims were in majority in the Municipal Council almost all vacancies in the municipal service were filled by appointing Muslims and that this was one of the reason which led to communal bitterness in Bhiwandi. On the face of it this contention does not appear to be true because, as we have seen, for quite some time Baliram More's group which consisted mostly of Hindus was in power. In any event, this contention is wholly falsified by a statement showing the total number of posts in the Municipal service filled between April 1, 1967 and May 31, 1971 prepared by the Chief Officer of the Municipal Council and which has been exhibited as Ex. P 1505. This exhibit shows that for the period April 1, 1967 to March 31, 1968; 34 posts in the municipal service were filled out of which

21 were filled by appointing Hindus and 13 by appointing Muslims ; for the period April 1, 1968 to March 31, 1968, 59 posts were filled out of which 37 were filled by appointing Hindus and 22 by appointing Muslims ; for the period April 1, 1969 to May 7, 1970, 71 posts were filled out of which 41 were filled by appointing Hindus and 30 by appointing Muslims ; and for the period May 8, 1970 to May 31, 1971, 29 posts were filled out of which 15 were filled by appointing Hindus and 14 by appointing Muslims. Thus, for the entire period April 1, 1967 to May 31, 1971, out of the 193 posts which were filled 114 were filled by appointing Hindus and 79 by appointing Muslims and for the relevant period April 1, 1967 to May 7, 1970, out of the 164 posts which were filled 99 were filled by appointing Hindus and 65 were filled by appointing Muslims. Thus, inspite of the Muslims being in majority in the Municipal Council and in power for the greater period more vacancies were filled by appointing Hindus than Muslims.

The supersession of the Municipal Council

32.24 In view of the maladministration in the Bhiwandi-Nizampur Municipal Council, D.M., Capoor conducted a detailed inspection of the Municipal Council office in February 1970. Thereafter by his letter dated April 22, 1970 addressed to the Municipal President he called upon the Municipal Council to comply with the requirements set out in his inspection note. He also forwarded a copy of his inspection note to the Director of Municipal Administration, Bombay. Subsequently some more complaints were received about the functioning of the Municipal Council. Thereupon the Director of Municipal Administration himself conducted an inspection in September 1970 and made a report thereon to the Government. By the letter dated December 15, 1970 (Ex. P 649) from the Under Secretary to the Government of Maharashtra, Urban Development, Public Health and Housing Department, the Government called upon the Bhiwandi-Nizampur Municipal Council to show cause why an administrator should not be appointed under section 313(I) of the Maharashtra Municipalities Act, 1965. The Municipal Council submitted its reply to the said show cause notice and Capoor made a report to the Government on the said reply. The Government found that the various allegations made against the Municipal Council were true and were serious enough to warrant action under section 313 of the said Act and thereupon it superseded the Bhiwandi-Nizampur Municipal Council by appointing under sub-section (I) of the said section 313 the Deputy Collector, Bombay Division, P. W. Pawar, the Administrator of the Bhiwandi-Nizampur Municipal Council (P.W. 59/20/1011 ; Ex. P 1507).