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REPORT
OF THE
COMMISSION OF INQUIRY
ON
COMMUNAL DISTURBANCES

SHOLAPUR

(September 17, 1967)

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List of Abbreviations used in the Report

A.D.M.	Additional District Magistrate.
Add.	Additional.
A.H.C.	Armed Head Constable.
A.M./a.m.	ante meridiem.
A.P.	Andhra Pradesh.
A.P.C.	Armed Police Constable.
C.I.D.	Crim'nal Investigation Department.
C.P.I.	Circle Police Inspector.
C.P.I.	Communist Party of India
Cr.P.C.	Crim'nal Procedure Code.
D.I.G.	Deputy Inspector General.
D.M.	District Magistrate.
Dy.S.P./D.S.P.	Deputy Superintendent of Police.
Dr.	Doctor.
F.I.R.	First Information Report.
ft.	Feet.
H. No.	House Number.
H.P.I.	Home Police Inspector.
I.P.C.	Indian Penal Code.
L.I.B.	Local Intelligence Branch.
M.L.A.	Member Legislative Assembly.
M/s.	Messrs.

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No.	Number.
P.C.	Police Constable.
P.D. Act	Preventive Detention Act.
P.I.	Police Inspector.
P.M./p.m.	Post meridiem.
P.Stn/P.S.	Police Station.
P.S.I.	Police Sub-Inspector.
r/o	Resident of.
R.S.S.	Rashtriya Swayamsevak Sangh.
S.D.M.	Sub-Divisional Magistrate.
S.D.P.O.	Sub-Divisional Police Officer.
S. I.	Sub-Inspector.
Smt.	Shrimati.
S/o	Son of.
S. P.	Superintendent of Police.
S.R.P.	Special Reserve Police.
S.S.P.	Samyukta Socialist Party.
Š.T. Stand	State Transport Bus Stand.
U.H.C.	Unarmed Head Constable.
U.P.C.	Unarmed Police Constable.

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r/o	.	.	.	Resident of.
R.S.S.	.	.	.	Rashtriya Swayamsevak Sangh.
S.D.M.	.	.	.	Sub-Divisional Magistrate.
S.D.P.O.	.	.	.	Sub-Divisional Police Officer.
S. I.	.	.	.	Sub-Inspector.
Smt.	.	.	.	Shrimati.
S/o	.	.	.	Son of.
S. P.	.	.	.	Superintendent of Police.
S.R.P.	.	.	.	Special Reserve Police.
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PART I
CHAPTER I
Introductory

1.1 A number of commercial disturbances occurred at various places in the country between the months of August and October, 1967, and the Central Government decided to appoint a Commission to inquire into these disturbances.

1.2 The text of the notification issued by the Central Government on 1st November, 1967, is as follows:—

NOTIFICATION

“S.O. 3960.—Whereas the Central Government is of opinion that it is necessary to appoint a Commission of Inquiry for the purpose of making an inquiry into a definite matter of public importance, to wit, the communal disturbances that have occurred in the country since the first day of August, 1967:

Now, therefore, in exercise of the powers conferred by section 3 of the Commissions of Inquiry Act, 1952 (60 of 1952), the Central Government hereby appoints a Commission of Inquiry consisting of the following persons namely:—

Chairman

- (1) Shri Raghubar Dayal, Retired Judge of the Supreme Court of India.

Members

- (2) Col. B. H. Zaidi, Bar-at-Law, Member of Parliament.
- (3) Shri M. M. Philip, formerly Secretary to the Government of India.

(i) The terms of reference of the Commission shall be as follows:—

- (a) to inquire into the causes and course of the major communal disturbances since the first day of August, 1967, at the places and on or between the dates specified in the Schedule to this notification;
- (b) to inquire into the adequacy of the administrative measures taken to prevent and deal with the said disturbances;
- (c) to recommend measures which may be adopted for preventing the recurrence of such disturbances; and
- (d) to consider such other matters relating to communal disturbances as the Commission may think fit.

(ii) The Commission shall make a report to the Government on the disturbances at each place as it completes its inquiry in relation to that place and will be expected to complete its inquiry and submit its final report to the Central Government by 30th April, 1968.

2. And, whereas, the Central Government is of opinion having regard to the nature of the inquiry to be made by the Commission and other circumstances of the case, that all the provisions of sub-section (2), sub-section (3), sub-section (4) and sub-section (5) of section 5 of the Commissions of Inquiry Act, 1952 (60 of 1952), should be made applicable to the Commission, the Central Government hereby directs, in exercise of the powers conferred by sub-section (1) of the said section 5, that all the provisions of sub-section (2), sub-section (3), sub-section (4) and sub-section (5) of that section shall apply to the Commission.

SCHEDULE

1. Ranchi-Hatia (August 22—29).
2. Jainpur and Suchetpur (District Gorakhpur, U.P.) (September 24-25)
3. Ahmadnagar (September 18)
4. Sholapur (September 17)
5. Malegaon (Maharashtra) (September 24)
6. Sursand (District Muzaffarpur—Bihar) (October 13—15)."

1.3 The time for submitting the final report was later extended by Government to 31st July, 1970.

1.4 The first meeting of the Commission was held on 20th November, 1967 and thereafter meetings were held as and when necessary. In their letter No. 19/47/67-Poll.I(A), dated 30th November, 1967 the Government of India made a request to the Commission that the Commission should sit in private while recording evidence. This request was made under the proviso to rule 1A of the Central Commissions of Inquiry (Procedure) Rules, 1960. According to this proviso, a request made by the Central Government has to be accepted by the Commission and the request was, therefore, accepted. All evidence was recorded *in camera*.

1.5 In accordance with rule 2(b) of the Central Commissions of Inquiry (Procedure) Rules, 1960, a notification was published in the press inviting all persons acquainted with the subject-matter of the inquiry to furnish a statement relating to such matters as were specified in the notification. The following is the text of the notification :—

NOTIFICATION

"WHEREAS by the Ministry of Home Affairs Notification No. 19/47/67-Poll.I(A), dated the 1st November, 1967, the Central Government has appointed a Commission of Inquiry to inquire into the communal disturbances that have occurred in the country since the first day of August, 1967 :

NOW, THEREFORE, this notification is issued by and under the order of the said Commission inviting all persons acquainted with the subject-matter of the inquiry to furnish to the Commission statements relating to the matters specified below :—

- (i) the causes and course of the communal disturbances that occurred in Malegaon (Maharashtra) on 24th September, 1967;
- (ii) whether there have been other communal disturbances in recent years in Malegaon (Maharashtra);
- (iii) whether there was any tension between the communities immediately preceding the disturbances of September 24, 1967; if so, whether any information was sent to the authorities or any attempt made locally to resolve the tension;
- (iv) whether there is any organisation or group in the locality which has fomented communal tension or directly or indirectly created provocative situations;
- (v) are there any places of worship, properties, customary festivals or processions in the locality that tend to create friction between the communities;
- (vi) has there been any attempt in the local press to raise communal issues in a manner that might create communal tension;
- (vii) were the administrative measures taken to prevent and deal with the said disturbances adequate;
- (viii) was medical aid for the injured timely and adequate;
- (ix) what, in the estimate of the person furnishing the statement, was the extent of casualties and loss of property;
- (x) what, in the opinion of the person furnishing the statement, are the measures that could be adopted to prevent the recurrence of such disturbances.

2. Every statement furnished to the Commission should be accompanied by an affidavit in respect of the facts set out in the statement and sworn by the person furnishing the statement.

3. Every person furnishing a statement shall also furnish to the Commission along with the statement a list of documents, if any, on which he proposes to rely and forward to the Commission wherever possible the original or true copies of such documents as may be in his possession or power and shall state the name and address of the person from whom the remaining documents may be obtained.

4. The statements should reach the office of the Commission, Reserve Bank Building, Second Floor, Parliament Street, New Delhi-1. by the 31st January, 1968."

1.6 The notification was published in the following newspapers on the dates noted against each :—

Times of India, Bombay—28th December, 1967.

Indian Express, Bombay—27th December, 1967.

Vishwamitra, Bombay—28th December, 1967.

Maratha, Bombay—27th December, 1967.

Loksatta, Bombay—27th December, 1967.

Navshakti, Bombay 29th December, 1967.

Hindustan, Urdu, Bombay—28th/29th December, 1967.

1.7 The Government of Maharashtra was also requested to give wide publicity to this notification and to furnish the following information :—

- (i) brief facts regarding other communal disturbances that may have occurred in Maharashtra in recent years;
- (ii) whether Ahmednagar, Sholapur and Malegaon are particularly susceptible to communal disturbances; if so, what preventive measures have been taken by the State Government;
- (iii) what arrangements exist for the collection of intelligence regarding communal tensions;—was there any prior information that communal disturbances were likely to occur in Ahmednagar, Sholapur and Malegaon;
- (iv) were any lists of potentially dangerous persons in the area maintained; if so, were any preventive arrests made;
- (v) what steps have been taken by the State Government for the rehabilitation of victims of the disturbances and for restoring confidence amongst the minority community.

1.8 The last date for receiving statements was subsequently extended to 15th February, 1968, on requests received from several persons and organisations. At the request of the Government of Maharashtra the date for receiving their Memorandum and the statements of their officers was extended up to the 15th April, 1968.

1.9 In response to notification dated the 19th December, 1967, 59 affidavits and statements were received and one person merely intimated his desire to be summoned. A list of persons and organisations who furnished affidavits and statements will be found in Annexure I.

1.10 Out of the 59 affidavits/statements, seven affidavits were from State Government officers. Out of the balance of 52 affidavits/statements, pertaining to non-officials and organisations, two were from one Mohd. Haroon Mohd. Sabir, one of which he submitted through the Jamiatul-Ulema Hind, Malegaon, in his individual capacity and the other through the Muslim Majlis-e-Mushawarat, Malegaon, in his capacity as the Secretary of C.P.I. Thus, in effect, only 51 persons/organisations filed affidavits/statements.

1.11 Six organisations filed affidavits/statements. They are the Muslim Majlis-e-Mushawarat, Malegaon; C.P.I., Malegaon; All India Majlis Tameer-e-Millat, Hyderabad (A.P.); Hindi Communist Party (Marxist), Malegaon; Jamiatul-Ulema Hind, Malegaon and Malegaon Powerloom Workers Union. The affidavit on behalf of the Muslim Majlis-e-Mushawarat, Malegaon, was filed by two of its Secretaries jointly; the President of the State Organisation also filed an affidavit. Further the organisation forwarded 12 affidavits from others, of which six were from persons alleged to have been injured during the disturbances. The Jamiatul-Ulema Hind also forwarded affidavits from 11 persons, of which two were from Hindus.

1.12 Excluding the organisations and State Government officers, 44 individuals filed affidavits/statements, either directly or through organisations. Out of these 22 were Muslims and 22 were Hindus. Again, of these 44, many were associated with political and other organisations. Five were Congressmen, two belonged to the C.P.I., one to the S.S.P., one to the Socialist Party, one to the Jan Sangh, one to the R.S.S., one to the Republican Party, two to the Rotary Club, one to the Lions Club and one to the Anjuman-i-Islam. Two were Press Correspondents.

1.13 The affidavits and statements from the public and organisations were received within the time allowed. Affidavits from six of the officers were received on 11th April, 1968 and the affidavit from the seventh officer was received on the 29th April, 1968. The State Government's statement of the incidents also reached the Commission on 27th May, 1968.

1.14 The State Government was requested to furnish to the Commission the names of organisations, groups or individuals who could be addressed separately and asked to furnish information on the disturbances. This list was received from the State Government on the 19th March, 1968. A revised list with complete details was also received from them on the 11th June, 1968.

1.15 Under rule 3(1) of the Central Commissions of Inquiry (Procedure) Rules, 1960, the Commission has first to record the evidence, if any, produced by the Central Government. The Central Government, however, intimated that they had no evidence to produce before the Commission.

1.16 The Commission recorded oral evidence at Bombay in October, 1969. In all 27 witnesses were examined. The names of witnesses examined and dates on which they were examined are given in Annexure II. The names of persons who were summoned to give evidence but did not appear are given in Annexure III.

1.17 A list of documents exhibited in the course of oral evidence is at Annexure IV.

1.18 List of documents summoned by the Commission for perusal is at Annexure V.

1.19 We would like to express our appreciation and gratitude to the Maharashtra Government and its officers for their full co-operation and making available all the material the Commission considered necessary for its consideration very promptly.

CHAPTER II

Mode of Inquiry

2.1 Rule 5 of the Central Commissions of Inquiry (Procedure) Rules, 1960, provides for the representation of persons by a legal practitioner. The rule is in these words :—

“The Central Government, every person referred to in rule 4 and with the permission of the Commission, any other person whose evidence is recorded under rule 3—

- (a) may cross-examine a witness other than a witness produced by it or him;
- (b) may address the court; and
- (c) may be represented before the Commission by a legal practitioner or, with the consent of the Commission, by any other person.”

2.2 The right to be represented by a legal practitioner is, it would appear, given to the Central Government and to such persons to whom notice is issued under rule 4 which reads thus :—

“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.”

2.3 Any other person whose evidence is recorded under section 3 included other witnesses appearing before the Commission and so any one of them could cross-examine the witnesses other than those examined by himself and be represented by a legal practitioner only with the permission of the Commission. The Central Government did not exercise its right to be represented by a legal practitioner. The inquiry was *in camera*. The possibility of a person examined requesting permission to cross-examine other witnesses and be represented by a legal practitioner implied the presence of the person concerned throughout the proceedings of the Commission and seeking the permission of the court for cross-examining any witness at any stage of the proceedings. To keep such a possibility open would have rendered the proceedings *in camera* futile and it was, therefore, decided by the Commission that no legal practitioner would be allowed to any person examined as a witness. The Commission issued no notice under rule 4 to any person and, therefore,

no right accrued in favour of any person to be represented by a legal practitioner. In the result, no counsel appeared for any one before the Commission.

24 Copies of written statements filed by persons in response to the notice issued under rule 2 were not supplied to the other persons filing written statements. It was further decided by the Commission not to recognise any person as a party to the proceedings. There were no parties to the proceedings. The Commission was just to collect evidence and probe into the matter referred to it under the terms of its appointment.

CHAPTER III

Scope of Inquiry

3.1 The Commission decided to confine the examination of the witnesses to clarify the points in the written statements sent by them. Evidence was also taken about the matters, not mentioned in those statements, but considered relevant to the enquiry. The Commission, however, did not record evidence about the details of every incident but confined itself to such details as were considered necessary for determining the course of the disturbances.

PART II

CHAPTER I

Theft and Slaughter of the Cow

1.1 There is no dispute that the cow belonging to one Shri Narayan Ramchandra Joshi, resident of House No. 310 in Shaniwar Ward of Malegaon, was stolen some time between midnight and 3-30 A.M. during the night between the 23rd and the 24th September, 1967. Joshi, finding the cow missing and only the calf present in front of his house at about 3-30 A.M. when he got up, proceeded to Chandanpuri outpost close to his house, and met Head Constable Deore on the way. He told the Head Constable about the missing of his cow and that he would lodge the report, after checking at the slaughter house first. The Head Constable took the description of the cow and learnt that the cow was wearing an anklet. He happened to meet Mohd. Bashir Shah Mohd. a criminal during his night patrol. On search of this person at the Outpost, he found an anklet, which is used for animals. The Head Constable then took him along with the anklet to Joshi's house. Joshi's wife, who was present, identified the anklet to be of their cow. The suspect too is said to have admitted having stolen the cow and to have slaughtered her later in another house No. 420 close-by in the same Shaniwar Ward. In the meantime Joshi also arrived. The suspect thereafter took the Head Constable and Joshi to the house No. 420. Joshi recognised the dead cow to be his own. Thereafter, the Head Constable informed Sub-Inspector Gundi, who was in charge of Chandanpuri Police Station. According to Sub-Inspector Gundi, he was informed of the incident and of what had happened by then at about 4 or 4-30 A.M. at his house, he proceeded to the house No. 420 and found there the accused, the flesh of the cow and three or four constables but nobody else.

1.2 Sub-Inspector Gundi has also deposed that during his presence at the place of the cow slaughter, some neighbours came up and stood at the corner of the lane. They neither shouted nor said anything.

1.3 Sub-Inspector Gundi sent for the Veterinary Doctor and for the complainant Joshi. In about 15 minutes or half an hour, Shri Puntambekar and Shri Madhav Patil, who live close-by, arrived there. Puntambekar is said to be a Jan Sangh and R.S.S. worker. The request of Puntambekar and Joshi, for handing over the flesh of the cow for arranging a religious burial, was rejected. The Sub-Inspector sent the flesh for disposal with the municipal staff. He sent the accused to the lock-up at the Camp Police Station. Shri Madhav Patil and Shri Puntambekar went to their houses and Sub-Inspector Gundi went to the Police Station after staying at the Chandanpuri Outpost for a minute or so, where he reached at about 6 A.M. and registered a case about the incident.

1.4 Shri M. G. Patil, Ex-Secretary, Malegaon Congress Committee and Municipal Councillor, Malegaon Municipal Council; Haji Din Mohomed Abdul Raheman, resident of Malegaon; Smt. Aasma Hajjin, wife of Haji Din Mohomed Abdul Raheman and Bechu Makadam, s/o Haji Sarfraz of Malegaon; who delivered their written statements to the workers of Jamait-e-Ulema-e-Hind have stated about what happened early that morning at the house, where the cow was slaughtered. Of these, Shri M. G. Patil and Shri Mohd. Iqbal Akil Rahemani who delivered his written statement to the Secretary, Majlis-e-Mushawarat, Malegaon were summoned. Shri Rahemani did not appear. Shri Patil was examined as a witness.

1.5 Shri M. G. Patil has stated in his written statement that, on being informed about the incident at about 4 A.M., he went to the spot and found Puntambekar, Sub-Inspector Gundi and other people there. He stated that he asked for the dispersal of the crowd and the crowd decreased and that Sub-Inspector Gundi refused to deliver the flesh of the cow to Puntambekar. The Sub-Inspector took the accused to the Police Station.

1.6 So far there is not much of difference between his statement and the statement of Sub-Inspector Gundi.

1.7 In his statement before us Shri Patil times his visit at about 5 A.M., gives the number of people he found at that place at about 100 and states that, after the dispersal of the people, only Puntambekar and the Police remained on the spot. He further deposed that he had advised the police to take legal action against the culprits and not to release them on bail, even though it may be allowed by law, in view of the local atmosphere, and that the Sub-Inspector agreed to this course of action. The Sub-Inspector has not deposed about such an advice and it is difficult to believe that Shri Patil could have advised the Sub-Inspector not to accept the bail, even if it be allowed by law.

1.8 Shri Patil further deposed that Puntambekar wanted the flesh of the cow to be handed over, but that he dissuaded the Police from doing so and ultimately the Police agreed to this. The statement implies that the Police was inclined to accept Puntambekar's request, again something which would not have been the normal conduct of the Police and which is not deposed to by the Sub-Inspector.

1.9 He also deposed that, when the Police was taking away the culprits with handcuffs, Puntambekar struck one with a cane and he himself held him back and dissuaded him from acting in that manner. This fact is not mentioned in the affidavit and is not consistent even with the statement of Sub-Inspector Gundi, who deposed that he had noticed Puntambekar striking a cane blow to one of the accused at the corner of the lane, when he was being taken away by the constables.

1.10 Shri Patil stated in his written statement:—

"I with Shri Puntambekar Vakil went to the Chandanpuri Police Chowki. There I suggested Shri Puntambekar to contact the Dy. S.P. Shri Mandke and report to him about the

matter. Even he could meet Shri Kasbekar, the D.S.P. He agreed. I went home for taking bath."

1.11 Sub-Inspector Gundi denies that Patil and Puntambekar visited him at the Police Outpost.

1.12 Shri Patil deposed before us:—

"I spoke to Shri Puntambekar to refer the matter to the Dy. S.P. and not to take any steps which might disturb the peace of the city. I, however, felt that he was not agreeable to such a course. I then asked Sub-Inspector Gundi to arrest Puntambekar. S. I. Gundi did not pay due regard to my request and did not take any action against Puntambekar."

1.13 Sub-Inspector Gundi does not support this statement. According to him, he was assured by Shri Patil that Puntambekar would not refer the matter to higher authorities and Shri Patil did not ask him to arrest Puntambekar. Shri Patil himself does not mention in his written statement about his asking the Sub-Inspector to arrest Puntambekar. In fact, his statement that, when both Puntambekar and he left for home for bath, he asked Puntambekar to meet him later, so that they could ring up the Dy. S.P. at Nasik, goes against his present statement that Puntambekar was not agreeable to such a course and that, therefore, he had asked the Sub-Inspector to arrest him.

1.14 We further find that Shri Patil gave an interview to the representative of the Weekly, Shorish of Malegaon, published in the paper dated the 2nd October, 1967. The record of the interview shows that he was satisfied with the action of the police and that he made no mention of either Puntambekar's striking an accused with a cane or of asking the Sub-Inspector to arrest Puntambekar. It follows, therefore, that his two statements made before us and having a bearing on the conduct of Puntambekar on the spot and indicating his determination not to let the matter rest with the police taking action only, had been made to support the latter theory that all that had happened at Malegaon on the 21st September was the result of the evil intentions of Puntambekar and other workers of the Jan Sangh and the R.S.S.

1.15 Haji Din Mohd.'s statement would show that he got up on account of the shouting at about 3-30 A.M., went to his roof and saw on the street below a crowd of about 20 or 25 Hindus and a Police Officer. His statement further mentions:—

"Shri Puntambekar, Pleader, was belabouring Shri Murtuza and Shri Badruddoja who were alleged to have some hand in the slaughter of the cow. They were crying like anything. I saw Puntambekar beating them with a lathi in his hand. The Police Officer probably the P.S.I. tried to persuade him not to beat them and also not to take the law in his hand. But Shri Puntambekar could not be controlled by the P.S.I. and did not hear him. The P.S.I. then snatched away the lathi from the hands of Shri Puntambekar. There was a little scuffle between Shri Puntambekar and the P.S.I.

Then Shri Puntambekar shouted slogans of 'gow-mata-ki-ja' and 'gow mata ke khoon ka badla khoon se lenge' and 'ham se jo takraiga mitti me mil jaiga' and these slogans were repeated by his followers. The situation had taken a tense turn as Puntambekar began to insist upon taking the flesh of the alleged slaughtered cow into his possession. The Police officer was resisting the same. There was exchange of hot words between the P.S.I. and Shri Puntambekar. Then one Madhav Ganpat Patil appeared there who found out a solution that the flesh would be buried and would not be given to anybody. Shri Puntambekar agreed to this proposal in case the flesh is removed in his presence and be buried honourably in his presence. The P.S.I. agreed and the matter was over. But while going Shri Puntambekar and his followers again shouted the aforesaid slogans."

1.16 Haji Mohd's wife, Smt. Aasma Hajjin, practically states the same thing but times the incident at about 5 A.M. She, however, states that Murtuza Hasan was a sick person and his son Badruddin was a lunatic.

1.17 Bechu Makadam s/o Haji Sarfraz states that, on being informed at about 6 A.M. about this illegal cow slaughter, he went to the spot and noticed that Puntambekar was shouting provocative slogans, that Police Officers were pacifying him and that, when the flesh had been removed, and the house in question had been locked, Puntambekar, with his followers numbering 20—25 persons, went away shouting provocative slogans that they would take revenge on the Muslims for the slaughter of mother cow and that, if Muslims came in their way, they would finish them off.

1.18 In his written statement Mohd. Iqbal Akil Rahemani stated that he went to the spot where the police was investigating the slaughter of the cow that morning and further stated :—

"Shri Puntambekar Vakil with some associates was taking active interest in the proceeding. I saw that the beef was loaded in the police van and the police arrested the butcher. Shri Puntambekar beat the butcher with a stick which he was carrying in his hand. The constable tried to prevent Shri Puntambekar from doing so and told him that his action was illegal because the butcher was under arrest and the matter was to be dealt according to law by a court. However, Shri Puntambekar was not prepared to listen to this and replied that he had no faith in the proceeding and wanted to deal directly with the culprits. During this time, the P.S.I. arrested the butcher and also the alleged owner of the house and his son. They were all taken away in the police van."

1.19 Mohd. Rahemani further described the arrival of a crowd of 150 Hindu youths with a tin of kerosene in order to set fire to the house and about his and a relative of the house owner going to the Chandanpuri Police Chowki to inform them of the situation where one of the three constables said :—

"You do not inform the police when you slaughter a cow but you ask for help when Hindus want to take revenge."

1.20 They then went to the Madrasa-e-Millet and informed Moulvi Nomani of the situation. On return to the spot they found there police constable Bhaurao by name and a group of students shouting slogans against Muslims. The Municipal Councillor of the Ward succeeded in sending them away and thereafter the Muslims too went away.

1.21 Mohd. Rahemani has described his residence as House No. 641 Nayapura Ward, Malegaon and also as House No. 426/27 Motipura, which probably is nearer to House No. 420 of Shaniwar Ward. This throws doubt on his statement.

1.22 The statements of these four witnesses with regard to the incidents at the place before 6 A.M. appear to be much exaggerated and are not acceptable. It is also open to question how far the four witnesses—Haji Din Mohd., his wife, Bechu Mukadam and Iqbal Rahemani—were cognizant of the contents of their written statements which are in English and do not appear to have been translated and interpreted to them at the time of their verifying the contents before the Taluka Magistrate. In fact, the typed words “interpreted by me” in Urdu in the affidavit of Hajji Din Mohd. have been struck-out.

1.23 Further the location of the alleged place of slaughter has become doubtful as will appear from the following. According to the written statement of the S.P., a cow was slaughtered in House No. 420, Shaniwar Ward, Malegaon, in which Mohamad Bashir Shah Mohamad, Murtaja Ismail and his son Badru Duwa Murtaja resided. The place of cow slaughter has been differently shown in the plan supplied by the Government of Maharashtra with its narrative, with an index about the various places of incidents that day. The index states that the theft of a cow took place at Shaniwar Ward, House No. 310 marked as [] and the cow slaughtered in House No. 420, Shaniwar Ward marked as [] The two places so marked correspond to House No. 310 and one of the houses Nos. 332, 333 and 334 adjacent to the temple in Sheet No. 53 of Malegaon City Survey supplied to us on behalf of the State during the hearings.

1.24 This Survey Sheet No. 53 shows House No. 310 to be Joshi's house correctly but shows House No. 352 to be the place of cow slaughter. This house is very close to Joshi's house and would be about 40 yds. to its west. The same sheet, however, shows that House No. 420 is much farther from Joshi's House No. 310 and is situated north-east at a distance of about 160 yds. and across Chandanpuri road and another street, which may be Motipura Street, as deposed to by certain witnesses. It appears that in the first instance the place of the slaughter of the cow was shown to be House No. 420 but later on an attempt was made to obliterate it and the place of slaughter was shown as House No. 352. If the cow was slaughtered at House No. 352 or at one of the Houses Nos. 332 to 334, Mohd. Iqbal Akil Rahemani, Haji Din Mohd. and his wife whose houses are in Motipura Street, could not have observed what they

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deposed to have seen. Haji Din Mohd. saw the incident from the roof of his house. He definitely stated in his written statement that the butcher had slaughtered the cow in House No. 420, Shaniwar Peth. His wife Aasna Hajjin states to have learnt of the incident on her way to public latrine and is not expected to have passed either House No. 332 or House No. 352. Mohd. Rahemani could not have seen the incident whether he resided in House No. 420 Motipura or in House No. 641 of Nayapura if the incident had not taken place at House No. 420. According to his statement:—

“the incident of cow slaughter took place in the same lane in which my house is situated.”

The statement would suggest that the place of the slaughter was House No. 420.

1.25 Further, Mahadev Patil has stated in his written statement:—

“On investigation the police found the slaughtered cow with its beef in a room of a chawl of Shri Ishak Doman in **Shaniwar Ward**. A person informed me that the people had assembled due to this happening. He requested me to accompany him to that place, there Shri Puntambekar Vakil and the P.S.I. Shri Gundi and other people were present.”

Can it be that House No. 352, was the chawl of Shri Ishak Doman?

1.26 The conduct of P.S.I. Gundi after registering the case at 6 A.M. indicates that by that time nothing had ostensibly happened which would have made him think of the possibility of trouble on account of the incident.

1.27 Sub-Inspector Gundi states in his written statement:—

“Shri Puntambekar showed an attitude that this incident has hurt the religious feelings of Hindus. Shri Madhav Patil convinced Shri Puntambekar and promised me that nothing will be done by Shri Puntambekar in the matter and they went home.”

1.28 Sub-Inspector Gundi has deposed before us that Puntambekar had told him that the slaughter of the cow was highly improper and that he would speak about it to his superior officer viz. the Deputy Superintendent of Police. The Sub-Inspector replied that that would be all right and that he would take all possible legal action. According to the Sub-Inspector, Puntambekar did not, at the time, say anything about organising a public protest or of creating any incident. Sub-Inspector Gundi explained that, by his statement in the affidavit about Shri Madhavrao Patil promising that nothing would be done by Shri Puntambekar, he really meant that Puntambekar would not speak to the Deputy Superintendent of Police, as the case had been worked out. He further deposes that, even in the absence of such an assurance, he would not have acted differently, as there had been, at that time, no indication of any trouble being raised on account of the incident.

1.29 Sub-Inspector Gundi has deposed that, despite the communal incidents in other parts of the country and at Ahmednagar and at Sholapur and the directions of the superior officers to be alert, he did not anticipate the cow slaughter incident to lead to any communal trouble at Malegaon and, therefore, did not contact higher officers other than the Inspector, Shri Chorge.

1.30 Sub-Inspector Gundi appears to have erred in his assessment of the situation in the context of communal history of the village and the riots at Sholapur and Ahmednagar on the 17th and 18th September, 1967.

CHAPTER II

Action taken and events up to 9-15 a.m.

2.1 According to the statement of Sub-Inspector Gundi, Inspector Chorge, at his request reached the Police Station, Chandanpuri, at about 7-30 A.M. and, till then, no report of any effect or reaction of the incident of the morning reached the Police Station.

2.2 Inspector Chorge deposed that he got a verbal message through a messenger in a jeep between 7-30 A.M. and 8 A.M. at his residence, which is about two and a half miles from Chandanpuri Police Station; that the message was about the theft and slaughter of a cow of a Hindu; that it led to some commotion in the town and that he should go to the thana immediately. He left his place and reached the thana at about 8-15 A.M. On the way to the thana, he did not see any collection of people anywhere except 20 or 25 people at the house of the owner of the cow; they were talking among themselves and, on being asked to go away, left the place.

2.3 Sub-Inspector Gundi has deposed that he sent the message in a jeep to Inspector Chorge after reaching the Police Station, which would be at about 6 A.M. It was natural for him to have informed the Inspector promptly. He has further stated that the Inspector reached the thana at about 7-30 A.M. We prefer Sub-Inspector Gundi's estimate of the timing to that of the Inspector as that fits in more with the significant timing of certain events in the wireless log books of the Control Room and the mobile vehicle.

2.4 According to Sub-Inspector Gundi, a constable rang up the Police Station at about 8 A.M. informing that people were talking about the incidents at various places in the city and that, on receiving this information, Inspector Chorge with one or two constables went to the city on a vehicle and he himself followed on a cycle to Chandanpuri Police Chowki and from there to Town Chowki. He reached Town Chowki at about 8-30 A.M. or 9 A.M. and advised the groups of people, whom he met on his way at five or six places, to go home as nothing particular had happened. Each group consisted of about 10 persons from the neighbouring houses.

2.5 Inspector Chorge deposed that, at the Police Station, he directed Sub-Inspector Gundi not to keep the arrested accused there at the private building of the thana and asked him to send them to the Camp Police Station. This contradicts the statement of Sub-Inspector Gundi that he sent the accused from the spot to the lock-up at the Camp Police Station. Inspector Chorge's statement finds support from the following note made by P.S.I. Gundi in the case diary of the cow theft case:—

“Seeing this situation we asked the driver of the mobile van to take *the accused* to the lock-up and then proceed to the Circle Inspector Malegaon to tell him the situation and also take him on the spot to examine the situation.”

Further, Inspector Chorge states that he directed Sub-Inspector Gundi to call up the available policemen in order to have them at hand in case of any necessity. Sub-Inspector Gundi, however, deposed that he did not issue any instructions early that morning at the thana for calling up the constables who were off duty but later on he rang up the Head Constable at the Police Station from Town Chowki to call up the available constables.

2.6 Inspector Chorge's further statement is that he proceeded to the place, from where the cow was stolen, on the police vehicle and sent it back to the thana from there as there was only one vehicle at the thana and started moving in the town on foot.

2.7 Inspector Chorge does not speak of leaving the Police Station after the information about the collection of people at various places in the city but there is no reason to doubt Sub-Inspector Gundi's statement in this regard which is consistent with the probabilities of the situation and the other evidence and material on record.

2.8 On reaching Tilak Chowk which is at about 500 ft. from the place of the incident and is at the north-east corner near the house of Raje Bahadur, Inspector Chorge found 10 or 15 people and about 20 or 25 boys and a young calf and noticed Puntambekar telling people about the slaughter of the cow and asking them to observe hartal as such incidents were taking place in the town. Inspector Chorge had the calf returned to the owner and told Puntambekar that what he was doing was not right and that it might lead to some trouble. Puntambekar and the others then went away. He then went to the Town Chowki and reached there at about 9 A.M.

2.9 Inspector Chorge must have reached the Town Chowki by 8.40 A.M. when, according to the log books of the Control Room and the mobile van, the van left Town Police Chowki for collecting policemen as per order of the Circle Police Inspector.

2.10 Shri Gundi has also stated that on his way to Town Chowki he learnt from people gathered near the complainant's house that Puntambekar was trying to get people ready for hartal and had gone to the bazar asking people to observe hartal. He has further stated:—

“The call for the hartal was at about 8 o'clock. When I heard of Puntambekar's organising hartal it did not occur to me that the Muslims might object to observe the hartal and that might lead to some trouble.”

2.11 So this incident in Tilak Chowk must have taken place between 8 and 8-30 A.M.

2.12 Inspector Chorge rang up the Control Room at Nasik, conveyed the information about the incident and the commotion and asked for sending of further force. The message was conveyed to the Superintendent of Police by H. P. I. at 9-15 A.M.

2.13 Inspector Chorge rang up the Camp Police Station and gave a message for the Sub-Inspector to make bandobast to meet the situation in the town. Sub-Inspector N. Z. Patil states to have received Inspector Chorge's telephonic message through a constable at about 8 A.M. The Thana Station Diary records at 8-35 A.M. about Sub-Inspector Patil's and three constables leaving for Sangmeshwar area. This would show that Inspector Chorge reached Town Chowki at about 8 A.M.

2.14 He also rang up the Taluka Magistrate's Office but no one picked up the telephone. There was no telephone at the S. D. M's office or the residence of the Taluka Magistrate. The residences of both the Taluka Magistrate and the Sub-Divisional Magistrate were near the residence of Inspector Chorge in the Camp area. Sub-Inspector Gundi in the first instance should have conveyed the information to these magistrates at the time when he conveyed the information to Inspector Chorge. Inspector Chorge himself should have, on his way to the Chandanpuri Police Station, informed these officers about the incident of the theft of the cow and its being slaughtered. Both these officers failed in this regard. Ringing up the Taluka Magistrate's office at 9 A.M. even if the telephone had been picked up there *was futile* as the information would have to be sent to the Taluka Magistrate at his residence, as he could not have been expected at his office at 9 A.M. It would have been easier for Inspector Chorge to send information to the magistrates at their residences rather than for the staff of the Taluka Magistrate if any had been available at that time to convey the information.

2.15 The news of such an incident spreads very quickly and must have spread throughout Malegaon soon after daybreak. The news would have set people talking and discussing about the matter in view of the past communal history in that town. P.S.I. Gundi's note in the case diary of the cow theft case confirms this. The note is:--

"The news of the cow stolen, slaughtered and discovered spread in the surrounding area in no time and people were seen talking about this in groups..... We then went to the city because there were groups of people standing in every corner and discussing about this case. The Circle Inspector went in the police van and we came on cycles to the place where the cow was stolen. There we found people were making discussion and they were not in proper and normal order of mind."

2.16 Haji Din Mohd. Smt. Aasma Hajjin and Bechu Makadam deposed about the coming of the Hindu boys twice to the place, where the cow was slaughtered. On the first occasion they struck the doors of the house with lathis and on the second occasion they were armed with kerosene oil tins and *mashals* and were shouting that the house be set on fire. At the admonition of these people, they, however, left the place. These two attacks, according to their statements, followed within half an hour of Sub-Inspector Gundi's leaving the spot and, therefore, should have taken place latest by 7 A.M.

2.17 Shri R. T. Patil deposes to have gone to the place of slaughter at about 7 A.M. and found Madhav Patil, Puntambekar, a crowd of about 50 people, a Police Sub-Inspector and 10 or 12 constables there. The people after discussion decided to organise a strike that day in order to bring the matter to the notice of the Government. The crowd then melted away when the Police made an effort to disperse them. The statement not only mentions what happened when Sub-Inspector Gundi was making enquiries on the spot but goes on to state about the decision to call a hartal which happened later after the Sub-Inspector had left the place at about 6 A.M.

2.18 Abdul Razak Kaukab, Member of the Malegaon City Congress Working Committee, states in his written statement that at about 8 A.M., on learning about Puntambekar's agitating on the question of cow slaughter in Shaniwar Ward, he went there and found some Hindu students shouting anti-Muslim slogans. Puntambekar was not there then. He then proceeded to Town Chowki and when trying to check the Hindu mob which came there to call for a strike, was advised by Shri Bachchu Pande to go away lest he might be put to trouble in the mob frenzy. A Police van arrived and he got on to it. The Police van proceeded towards Nehru Chowk where a Hindu mob stoned it. The van, however, made its way rapidly to the Camp Police Station where A. R. Kaukab got down. He said that at that time a Hindu mob set the Kohinoor Talkie on fire. The Kohinoor talkie was set on fire at about 11 A.M.

2.19 Shri Khatik Ansari, Member of the Samyukta Socialist Party states to have learnt of the incident at 9 A.M. and went to the place where the cow had been slaughtered. He found Inspector Chorge and some constables there. Some non-Muslims were also there. Nearly 200 or 300 people had gathered on the spot. This crowd included Puntambekar. According to him, this crowd was very furious and was shouting that it would not get peace unless it sets fire to all Muslim houses and kill all Muslims. He interceded with them not to create trouble. In the meantime Puntambekar lifted the calf on his back and the other people followed him in a procession, abusing all Muslims. According to his statement, some Police constables including Inspector Chorge and Sub-Inspector Gundi were present. His statement appears to be exaggerated and is unacceptable.

2.20 Neither of these two Police Officers was in the procession taken out by Puntambekar and after 9 A.M. Puntambekar, according to other evidence, was at a different place.

2.21 Shri M. G. Patil further stated in his written statement:—

"As I was busy in my morning routine a Police constable came to me and informed me that Shri Puntambekar Vakil was taking meetings at various corners of the streets. He was engaged in exciting the feelings of the Hindus by narrating the facts of this incident. On hearing this news after hurriedly completing my morning routines, I immediately went to Tilak Chowk. Till this moment Shri Puntambekar Vakil having collected a group of boys and started shouting slogans and reached near the main office of the Grahak Sangh on Tilak

Road. Thereupon I requested Shri Chorge the P.S.I. to stop the procession from proceeding onwards and accordingly with the help of 29 to 50 police constables he stopped the procession. At that moment some one informed me that there is a big crowd gathered near the place of incident. He requested me to accompany there. So I again went to the site of incident. I persuaded the crowd to disperse and they complied with accordingly, while returning to Tilak Chowk that the mob consisting of both the major communities was facing with each other at the Mata Math."

2.22 Before us Shri Patil has deposed:—

"At about 8 or 8-30 A.M. a constable came to call me and asked me to come quickly as Puntambekar was taking out a procession with a calf.

I proceeded and met Puntambekar at the Tilak Chowk which is at about 1000-1500 feet north of the Chandanpuri Chowki. They were shouting "Whoever had cut the cow, we have to cut him." "That cow killing be banned."

I then noticed Inspector Chorge coming near a garage which is about 400 feet from Tilak Road Chowk. I then heard that a large crowd had gathered near the site of the slaughtered cow. I then asked Inspector Chorge to keep Puntambekar in control there and myself proceeded towards the place of slaughter which is in the midst of Muslim *abadi*.

On reaching the place I found that a crowd of 1000—1500 people there. I and my associates appealed to the crowd and made them go back without doing any mischief there. I had simply heard about the crowd's intention of setting fire to the houses but did not see any material to set on fire while I was there. The time now would be 9 or 9-30 A.M."

2.23 Both these statements, specially the statement before us, indicate that it was after over an hour of Patil's leaving the place where the cow was slaughtered, and which was at about 6 A.M., that he learnt of Puntambekar's taking out a procession and that on this information he went to Tilak Chowk and found Puntambekar there. Both these statements further show that at Tilak Chowk he was informed that a big crowd had gathered at the place where the cow had been slaughtered. Though the community of the crowd is not mentioned in either of these statements, the oral statement before us would tend to indicate that the crowd must have been a Hindu crowd, as the crowd was in a Muslim *abadi* where the place of incident was, that he learnt that the crowd intended to set fire to the houses and that the crowd heeded the appeal of Mahadev Patil and his associates and went back without doing any mischief. These points are not consistent with the version of his interview published in the *Shorish* of 2nd October, 1967

2.24 The published statement as translated is:—

“Just as I reached my house, I got information that Muslims were collected at the place of incident and that on this Puntambekar, with his followers, was spreading excitement and tendency to mischief and agitating Hindus by holding corner meetings. I felt anxious. Immediately in the condition I was in, I somehow reached the place of incident and admonished my Muslim brethren. They felt satisfied and dispersed. But on the other side, Puntambekar's wilful activities continued and he did not desist from them and in the meantime had got up a procession moved with a calf on his shoulders and exciting people. In ending the matter, I got help of Inspector Chorge who had arrived there.”

2.25 It is clear from this that he learnt of the collection of the Muslims at the place of incident just on reaching his house, i.e., about 6 A.M., and not at Tilak Chowk, that Puntambekar was inciting the Hindus on the collection of these Muslims and that on reaching the place of incident, Patil advised the Muslim brethren who constituted the crowd and on being satisfied, dispersed.

2.26 It may be that his written statement prepared on the 29th January, 1968 and his statement before us on the 18th October, 1969, had been materially changed with a view to keeping back the great excitement which prevailed among the Muslims also as a result of the incident and the arrest of the alleged culprits.

2.27 It may also be mentioned that Shri Patil stated in the written statement that the procession was stopped by Inspector Chorge with the help of 29 or 50 constables. Such a large number of constables could not possibly be present there by 8-40 A.M. Anyway, the incidents deposed to by Shri M. G. Patil must have taken place much earlier than 9 A.M. as Inspector Chorge reached Town Police Chowki at about 8 A.M.

2.28 Apart from these statements which refer to the attempts at hooliganism by Hindu youngsters at the place of the cow slaughter, there is material to show that the incident had created widespread feeling of concern throughout Malegaon and that some incidents might have taken place prior to 9 A.M.

2.29 Police Sub-Inspector Momin, who was sent with the Reserve Armed Police from Nasik to Malegaon on the 22nd September, 1967 said before the Magistrate who held an enquiry into the firing incident of the 24th September, that he received a message at 7-30 A.M. on the 24th September calling him to the Camp Police Station. He went there and learnt that there was some disturbance in the city and he should go there immediately and that some Police force had already left. He proceeded to Perry Chowk with three constables of his party and about 15 or 20 minutes later drove the crowd of 50 or 60 people at the Perry Chowk towards Kidwai Road.

2.30 Sub-Inspector N. Z. Patil deposed that on receiving information about 8 A.M. from Inspector Chorge about the incident, he proceeded to the Camp Police Station, deployed some force at various places and was himself to leave for Perry Chowk when he learnt that some people were gathering in different places in Sangmeshwar. He proceeded to that side and found a mob of 100 or 150 people on the road north of Sandawa. These people were just talking among themselves and, on his asking them to disperse they went away. He posted two policemen there and returned to the thana at 8-30 A.M. He then went to Inspector Chorge in the Fort area passing Perry Chowk where at the time there was no collection of people.

2.31 Shri N. M. Patil, a C.P.I. worker, deposed that at about 8-30 A.M. on that day, he went to the usual meeting place on the Suleman Mian Road and found 10 or 12 Muslims there who told him that they had heard that some cow had been slaughtered and Hindus had taken out a procession and that there was commotion.

2.32 Mohd. Haroon Sabir, Secretary, C.P.I., Malegaon, states that at about 8-30 A.M. he was told by people that almost all the shops on Mohd. Ali Road west of Gupta Dairy, Kidwai Road and Mullawada Road were closed. He then went to Perry Chowk and found some boys asking a betel seller to close his shop. On learning the reason for the boys' conduct, he told them to go away and that their elders would settle the matter. He also asked the betel seller to close his shop.

2.33 In his written statement Mohd. Haroon Sabir mentioned that he was told by the people at 8-30 A.M. that looting of shops in the vegetable and fruit market was going on and that shops had been closed due to the disturbances.

2.34 Sub-Inspector Gundi has also deposed that on learning of Puntambekar's attempt to organise a hartal he deputed some Home Guards and constables to the various places with directions to disperse the people.

2.35 First Information Report of Crime No. 166/67 of Police Station, Chandanpuri, is by Shri Daulatram Panalal Tapde of Malegaon, who was Second Commander in Reserve Home Guards. In this report he has mentioned:—

“On 24-9-1967 at 7 A.M. I along with 34 home guards working under me, were on duty at Malegaon Town Chowky. I was to remain present at 7 A.M. at Town Chowky. After distributing duties, I took my men to old motor stand as a riot and pelting of stones started there. I remained in the area with my men for the whole of the day.”

This old motor stand, also called Juna Motor Stand, is on the Kidwai Road and is denoted in the map as Tonga Stand. This should indicate that either some trouble had actually taken place at Kidwai Road somewhere about 8 A.M. or at least the people there were astir on account of the incident as appears from the statement of Sub-Inspector, Momin.

2.36 First Information Report with respect to Crime No. 173/1967 of Chandanpuri Police Station is by Shri Babandas Madhavlal Patel of Malegaon. In this he states that when he was about to open his shop at 7 A.M. or 8 A.M. on the 24th September, he came to know that riot had taken place in the city and so, he returned to his house without opening his shop. His shop is in Killa Mohalla where some incidents took place that morning according to evidence and to which reference would be made later.

2.37 Similar is the inference from the statement of Sub-Inspector N. Z. Patil of Camp Police Station in the written statement that at about 8 A.M. he was informed by a constable about a telephonic message from Inspector Chorge about the incident, asking him to make proper arrangements and to come to his help with available force to Fort area.

2.38 First Information Report regarding Crime No. 178/1967 of Chandanpuri Police Station is by Shri Prabhakar Bansilal Gupta of Malegaon, owner of sweet shop M/s Gupta Dairy on Mohd. Ali Road and records that he opened the shop at 7 A.M. as usual, that there was tension in the city and Hindu and Muslim groups began to collect on Mohd. Ali Road and so he closed his shop at 8 A.M. and went home. It may be noted that the official translation missed giving the time of closing the shop and omitted the mention of the collection of Hindu and Muslim groups.

2.39 First Information Report regarding Crime No. 169/1967 is by Shri Rameshchandra Jivanlal Patel resident of Nehru Chowk. He had a shop in Sardar Nagar which is three or four furlongs east of Perry Chowk. He stated in the report that when he was proceeding to his shop on the morning of the 24th September, he learnt that riots were taking place in the town and that the shops were being looted.

2.40 First Information Report of Crime No. 170/1967 of Chandanpuri Police Station by Shri Shankar Sonu Sonawane of Malegaon states that about 8 O'clock that morning (24-9-67), while he was about to go to his shop he heard about the tension in the city and further came to know that it might turn into a serious riot.

2.41 First Information Report regarding Crime No. 182/1967 of Chandanpuri Police Station is by Shri Hajibhai Deochand Patel of Malegaon. He stated therein that he opened his shop in Azad Nagar at 8 A.M. that day (24-9-67) and closed it at 9 O'clock on learning that all the shops had been closed.

2.42 First Information Report of Crime No. 176/1967 of Chandanpuri Police Station is by Mohd. Yusuf Abdul Musalman of Malegaon. He had a tea and sweet shop in Rawiwar Ward, House No. 3, in front of the Library. He stated that they were at work at 6 A.M. on 24th September, 1967. Some people were becoming rowdy. He closed his shop at about 8 A.M. This library seems to be the Urdu Library which is south of the market and north of the Municipal Office at a distance of about 400 ft. from the Killa Mohalla. His time fits in with the timing of the report regarding Crime No. 173/1967.

2.43 First Information Report of Crime No. 167/1967 of Chandanpuri Police Station is by Shri Jiwanbhai Aminchand Patel of Malegaon. He stated in his report that he was at his shop and learnt at about 8-30 A.M. that there was communal disturbance in the town and some untoward incidents might take place. He, therefore, closed the shop. His shop is in Mohalla Nawapura, a Muslim area east of the Suleman Mian Road, about three furlongs from the place of the cow slaughter.

2.44 It would be clear from the contents of these reports that the information about the incident had spread as far north as the Kidwai Road and on the east as far as Nawapura by about 8-30 A.M. and that people were apprehensive of riots taking place either merely on the basis of the reports of the incident or on account of some communal incidents having already taken place. It is a matter of surprise that despite Police patrolling information about such spreading of news and apprehension among the people did not reach any of the two Police Stations of Chandanpuri and Camp.

2.45 That the news had spread widely and that the people were agitated at it, find great support from the entries of the log books of the Control Room and the mobile van. The mobile van is described as KG4 and the Control Room as KG3. The entries show that at 8-40 A.M. the mobile van left town Police Chowki for collecting policemen as per order of the Circle Police Inspector.

2.46 Further, from the log book entries it appears that at 9-07 A.M. there was a big crowd on the road at Sardar Chowk which is at the western end of the Mohd. Ali Road, the main road of the town. The note at 9-10 A.M. in the log book is—

“Note all the shops are closed and so much crowd on the road. Vehicle on the Town Police Chowki with all Police officers except Sub-Divisional Police Officer. Near Town Police Chowki.”

This shows that a large crowd had gathered by 9-10 A.M. between Sardar Chowk and Town Police Chowki and that the Police Inspector and Sub-Inspectors Gundi and N. Z. Patel were there at the Town Police Chowki.

2.47 Two incidents appear to have taken place by 9-15 A.M.

2.48 Sub-Inspector Gundi has deposed that about five or ten minutes after his arrival at the Town Chowki, which was about 8-30 A.M. or 9 A.M. he heard about the collection of both the communities in the Fort area. He proceeded to that site and found about 50 people (Hindus) at the Chowk known as the Muslim Library Chowk at the north-eastern corner of the Municipal Office and about 100 or 200 Muslims collected at the north-eastern corner of that Chowk itself, the distance between the two crowds being about half a furlong. They were discussing among themselves and shouting at one another. On his asking the two groups to disperse, some people went away but in the meantime exchange of brickbats took place

between the two groups at about 9.30 A.M. The party towards whom the Sub-Inspector moved stopped throwing brickbats. The exchange of brickbats continued for about 15 minutes. Sub-Inspector Gundi then left for Town Police Outpost and went through various mohallas. It has been shown earlier that he was at the Town Police Outpost at 9.10 A.M. This means that he returned to the Outpost after dealing with the situation before 9.10 A.M. and that this stone throwing incident must have taken place earlier.

2.49 It appears that Sub-Inspector Gundi is referring to an incident different from that deposed to by Shri M. G. Patil, and which according to the map took place at about a furlong from this incident.

2.50 Shri M. G. Patil deposed that when he was at the place of incident after 8 or 8.30 A.M. he learnt that groups of both the communities had collected at Mata Math, which is west of Raje Bahadur Wade in Muslim Mohalla. He found that each of the two groups were 1,000 to 2,000 strong and brickbats were being exchanged between the two. There was no police. He with some other Hindus and some Muslims, Councillors, and others tried to pacify the two groups, appealing to them that such fighting was not good for the city. They succeeded in pacifying the two groups in about an hour. He and the others remained there throughout the day except for once going towards Mohd. Ali Road at about 12.30 P.M. In his written statement he did not mention that when he reached Mata Math exchange of brickbats was in progress and that he went to Mohd. Ali Road at about 12.30 P.M. In fact, he stated that he and others with him were unaware of the happenings in the rest of the city.

2.51 It has been stated in some affidavits that the shops at Bhaji Bazar were forcibly closed by the processionists led by Puntambar and that some shops were also looted. It had been reported to some witnesses that the commotion arose due to the burning and looting of fruit and vegetable shops in the Bhaji Market. Shri S. A. Hakeem has stated before us:—

“I learnt from the cobblers whose shops were there on Mohd. Ali Road that some trouble by way of burning fruit and vegetable shops in the Bhaji Market has led to this commotion.”

2.52 Shri Mohd. Sabir also stated:—

“On 24th of September, 1967, I took my breakfast at about 8.30 A.M. and thereafter took my bicycle for going to my factory. Suddenly some persons from my Mohalla (Mohd. Ali Road) came to me in desperate condition and told me that looting of fruit shops in the vegetable market area was going on and the shops have been closed due to this disturbance.”

He, however, did not depose so before us.

2.53 Sub-Inspector Gundi has deposed that till 9 A.M. when he was in the Fort area he had not heard of any looting in the Bhaji Bazar, which extends practically from the Urdu Library to north-west of Jama Masjid and has its entrance on the east, very close to the Town Police Outpost. He, however, learnt on his way to Town

Chowki of the steps being taken to observe hartal. This is consistent with the statement of Inspector Chorge about Puntambekar's attempt to organise a hartal. Inspector Chorge was also at the Police Outpost from about 8 A.M. to 9.15 A.M. He then went to the Bhaji Bazar and found that the permanent shops were open but the hawkers with their baskets had left the market. He also said that none of the shops appeared to have been attacked and that on coming out from the market, he noticed Puntambekar and a few other persons, at about 100 yards from him, proceeding towards Sardar Chowk.

2.54 This indicates that Puntambekar and his party had left the Bhaji Market earlier than 9.15 A.M. and that the party had neither forced any shopkeeper to close his shop nor looted any shop there.

2.55 Both Shri Sali, acting S.D.M. and Shri Jaware, the Taluka Magistrate depose that they had been at Town Police Outpost from 9.30 A.M. till about 11.30 A.M. and that nothing happened at the Bhaji Market during their stay at the Police Outpost.

2.56 We have only one report with respect to the looting of a shop in Bhaji Bazar. It is the F.I.R. in connection with Crime No. 177/1967 of Malegaon Camp Police Station. Mohd. Mustafa Mohd. runs a restaurant in Bhaji Bazar. In this report he stated that he opened his tea stall at about 6 A.M. and sold articles up to 9 or 9.30 A.M. Then he closed his shop on hearing that looting was going on. This supports the statements of the Police Officers and leads to the inference that the looting, if any, of some shops in Bhaji Market took place later and in view of the statements of the two magistrates, possibly when the general looting took place in other parts of the town.

2.57 An allegation has been made that a Malabari Hotel near the Royal Talkies was looted by the processionists by 9.15 A.M. The Royal Talkies is on a side lane between Tilak Road and another road running east of Wadia Hospital. No report of this incident was lodged. Sub-Inspector Gundi has deposed that he did not learn of the looting of this hotel on the 24th September but learnt it on the 25th. Considering that this place would be within a furlong of the Town Police Chowki and that both Inspector Chorge and Sub-Inspector Gundi were near about that place, it is difficult to believe that neither of them would have learnt about this incident at about this time. It too might have been looted after the general disturbances started.

CHAPTER III

Events between 9-15 a.m. and 2-00 p.m.

A. SEQUENCE OF EVENTS

3.1 The situation now deteriorated faster and ultimately became uncontrollable leading to firing by the police at Perry Chowk, on the Kidwai Road and on Mohd. Ali Road, east of Gupta Dairy and up to the corner of Dr. Salim's dispensary. The situation thereafter came under control though some incidents leading to firing by the police took place at some places till about 1.30 p.m.

3.2 A description of the topography of the area where most of these incidents took place in this period may be noted here to help in the appreciation of the developments and the course of the disturbances.

3.3 Sardar Chowk is about 160 yards north of the Town Police Chowki and is approached by Shivaji Road, which runs from near the Urdu Library up to the Chowk. On the left of this road are the vegetable market and the Jumma Masjid. From Sardar Chowk, Mohd. Ali Road goes eastward. To the north-east of the Chowk is Sardar Talkies. Mosam river runs between Sangmeshwar area which is on the west of it and the main Malegaon city on the east of it. A bridge over the river meets Sardar Chowk on the west and is known as Sandwa. At about 160 yards east on Mohd. Ali Road is the place known as Perry Chowk. Kidwai Road runs north of it and Bhuse Galli runs south of it. At a distance of about 60 yards is the Gupta Dairy and to the east of the dairy runs the Mulla Wada Road south from Mohd. Ali Road. The area to the east of Kidwai Road and north of Mohd. Ali Road is known as Islampura. The area on the west of Kidwai Road and north of Mohd. Ali Road has Sardar Talkies, already mentioned, Central Talkies and Kohinoor Talkies which are located on the western side of this area. Two roads run east-west in this area known as Kumbhar Wad Road and the Central Talkies Road. On the east of Kidwai Road and practically opposite the junction of Kumbhar Wad Road with it is the Tonga Stand or the old motor stand and from there runs a street eastwards through Islampura area. Islampura Ward has got many lanes running north to south and has got three streets running east to west. The central street is known as Menar Road and the northern road as Ansari Road.

3.4 A road runs practically east to west north of the Kohinoor Talkies and at some distance from the Islampura area, Kidwai Road meets this road. On the north-west to Kohinoor Talkies and across this road is the Camp Police Station. A road runs northward on the east of the Camp Police Station and is known as Vasantvadi Road. The S.T. Stand is opposite the Camp Police Station on the east of Vasantvadi Road. The junction of the two roads is known as Ambedkar Chowk. Agra Road runs east-west at some distance further

north and Karim Talkies is to the east of Vasantvadi Road and to the west is situated Kakani Talkies. Nihal Nagar is on the north of this Agra Road.

3.5 It would be better to refer to the entries in the log book for fixing the times of the various incidents deposed to by the witnesses before the Commission or in their written statements. We have already noted about the collection of a large crowd between Sardar Chowk and Town Police Chowki by 9.10 A.M.

3.6 The log book records at 9.10 A.M. that the situation was not peaceful at Gupta Dairy and at 9.15 A.M. that there was 'so much crowd' on Mohd. Ali Road. At 9.20 A.M. it records that the situation was not peaceful on this road (Mohd. Ali Road) and at 9.21 A.M. it speaks of a large crowd on Hire Lane. We do not know to which lane this refers as the lane must be between Gupta Dairy and Daregaon Police Station which is further east of Dr. Salim's dispensary. Hire Lane must lie somewhere in between as there is an entry of the vehicle passing Daregaon Police Chowki at 9.23 A.M. A Hire Lane, as shown in the map Survey Sheet No. 53, is south of Raje Bahadur Wade, very much south of Mohd. Ali Road.

3.7 At 9.28 A.M. the log book records the receiving of certain information by the Control Room on phone about some clashes near Gupta Dairy on Mohd. Ali Road and the Control Room directing the vehicle to proceed to that spot. The vehicle reached Gupta Dairy at about 9.30 A.M. and the entry at this time says that the situation was not peaceful there, and that there was a lot of crowd on the road but there were no clashes.

3.8 At 9.40 A.M. the record speaks of the presence of a much larger crowd there (Gupta Dairy) and says that leaders were present and that they and the police officers were addressing the crowd.

3.9 At 9.50 A.M., 10 A.M. and 10.10 A.M. again the situation near Gupta Dairy is described to be 'not peaceful'. At 10.20 the Control Room directed the vehicle to proceed with Circle Police Inspector to Town Police Chowki. The vehicle therefore appears to have remained stationary there from 9.30 A.M. to 10.20 A.M. and it was at Town Police Chowki at 10.40 A.M.

3.10 At 10.42 A.M. it is recorded that order under section 144 Cr. P.C. had been declared to come into force from 10.45 hours. This Control Room log book entry says "Inform Circle Police Inspector Malegaon". The corresponding note in the log book of the vehicle is "Informed CPI Malegaon". The above is mentioned in view of the statements of Police Inspector Chorge and of Mamlatdar and of the acting S.D.M. that a written order under section 144 Cr. P.C. was handed over to Inspector Chorge for announcement when he visited Town Police Outpost, and so no question of informing him arose.

3.11 The vehicle then kept on announcing the declaration of the order under section 144 Cr. P.C. and it reported the situation to be very tense on Kidwai Road at 11.10 A.M. The entry made at 11.12 A.M. is:—

“Please note on Kidwai Road throwing the stones on Policemen and one Pan Shop robbed. You (Control Room) inform Police Station Officer ring up to Town Police Cky. for Circle Police Inspector.”

This note implies that Police Circle Inspector was at the Town Police Chowki at the time. The evidence on record, however, is different and is about his presence near about Perry Chowk.

3.12 At 11.15 A.M. the vehicle was moving in Sardar Chowk and the entry at 11.20 A.M. requires Control Room to inform Police Station Officer that one Pan Shop was on fire near Central Talkies. At 11.25 A.M. the Control Room directed the vehicle to go back to Camp Police Station as one injured Police constable was to be sent to the Civil Hospital. The vehicle reached Camp Police Station and left it at 11.28 A.M. with the injured Police constable Sakha Ram (Sakha Ram Vedu Pagar). At 11.29 A.M. it is recorded that the vehicle was on Kidwai Road and that the crowd was throwing stones on policemen. After dropping the constable at the Civil Hospital at 11.32 A.M. the vehicle reached Perry Chowk at 11.35 A.M. and the entry at this time says that the situation was very tense. At 11.39 A.M. again there is an entry that the public were continuing to throw stones. At 11.45 A.M. it is reported that one furniture shop and Navrang Shoe shop were robbed. At 11.50 A.M. the log book entry says that the vehicle was on Kidwai Road and on account of throwing of stones on the vehicle, one side glass, of the vehicle was broken and one Badale and also the driver of the vehicle were injured. At 11.55 A.M. the vehicle was at Camp Police Station.

3.13 At 12 O'clock the log book recorded that some buildings were on fire at Perry Chowk. At 12.02 P.M. the entry says—

“Already fired at Perry Chowk by Policemen as per order of Prant Officer, Malegaon.”

At 12.05 P.M. the message requires the Control Room to inform the Police Officer Camp Police Station to ring up the Fire Brigade Dhulia as per order of Prant Saheb (Assistant District Magistrate) (S.D.M.). If the Prant Officer mentioned in the message given at 12.02 P.M. refers to the same officer who is mentioned as 'Prant Saheb' in the entry at 12.05 P.M. the message that the firing by the police was under the orders of the Prant Officer, i.e. S.D.M., becomes very intriguing as the S.D.M. never, according to his statement, ordered any firing or was actually present at the time of firing by the policemen. Possibly, "Prant Officer" referred to Circle Inspector.

3.14 At 12.16 P.M. the vehicle left Perry Chowk for Taluka Police Station for collecting ammunition. At 12.25 P.M. the message from the vehicle is:—

“Received the Sub-Divisional Police Officer at Perry Chowk and leaving Taluka Kacheri with ammunition 150 rounds for Perry Chowk with Police Constable Badge No. 857.”

The Taluka Police Station is not at Perry Chowk and, therefore, the two notes about the receiving of the Sub-Divisional Police Officer at Perry Chowk and leaving Taluka Kacheri for Perry Chowk requires clarification. Possibly the S.D.P.O. reached Perry Chowk immediately after the vehicle had passed on the message at 12.16 P.M. and mentioned the fact of S.D.P.O.'s arrival at Perry Chowk in the next message at 12.25 P.M. It is clear, therefore, that the S.D.P.O. did not arrive at Perry Chowk before 12.16 P.M. and that the S.D.P.O.'s statement to have reached Malegaon Police Station at 11.30 A.M. and Perry Chowk at about 11.45 A.M. is not correct.

3.15 At 12.40 P.M. is a message to inform Police Station to ring up Fire Brigade, Nasik, Satara and Manmad. At 12.50 P.M. is a note that—

“Situation very worst in city. Policemen are firing.”

At 12.55 P.M. again is a report that situation in the city is ‘very worst’ and at 1 O'clock was the message that ‘so much buildings are on fire.’ At 1.05 P.M. the situation was out of control. At 1.10 P.M. is the message that Karim Cinema Talkies was on fire. At 1.15 P.M. the vehicle was passing State Transport Bus Stand and again reported the situation to be ‘very worst’. At 1.20 P.M. the vehicle was moving in Sangmeshwar and reported that the situation was tense and at 1.30 P.M. it reported that it was near Kakubai Bage and Ratnasagar Bage and that there was ‘so much crowd’.

3.16 The various messages from 1.40 P.M. onward indicate that the situation was becoming normal in Sangmeshwar, Nawapura and Mamlatdar Lane. A message at 1.55 P.M. also said that the District Superintendent of Police was moving in the city and that the Central Reserve Police Force was standing on point to point. At 2.15 P.M. the Control Room informed the vehicle of information being received from Police Station Officer Malegaon that Idgah of Kalikutty was being damaged.

3.17 Thereafter there is no entry of any importance in the log book except that at 6.15 P.M. the vehicle gave a message that one dead body was found near Minara Masjid. The Control Room Diary of Malegaon Police Station reports at 3.33 P.M. of a phone message from Nawapura that a deceased person soaked in blood was lying near Minara Masjid. Sub-Divisional Police Officer was informed about it immediately at 3.34 P.M. and was requested to take further action in the matter. At 5.35 P.M. again the Control Room Diary records a phone message regarding one person lying dead due to bullet injury. It would appear, therefore, that at least for about three

hours the person dead on account of the bullet injury remained lying on the spot.

3.18 The Control Room Diary also notes that at 11 A.M. the Control Room was opened as riots had started in the town and that Shri Ansari Vakil telephoned that police made lathi charge in Perry Chowk and near Gupta Dairy.

3.19 We may now refer to some of the entries in the Station Diary of the Camp Police Station. The entry at 9.15 A.M. is a phone message about a mob increasing at Perry Chowk and Sub-Inspector Patil asking for all the available men from Police Station for bandobast. The entry at 9.30 A.M. is about the sending of one Head Constable and seven constables to Perry Chowk and three armed police constables to the corner at Taxi Stand and on Kidwai Road.

3.20 At 10.51 A.M. is an entry of getting information that the situation at Sangmeshwar was calm and of a request of police for patrolling. Sub-Inspector Patil and men from the guards proceeded to that side. It may be noted that Sub-Inspector Patil might have proceeded from Perry Chowk and not from the Police Station, as would appear from his statement to be discussed later.

3.21 At 11 A.M. is an entry about Police Constable Deshmukh coming to the Police Station and informing that one panpatti shop on Kidwai Road was broken open and stones were pelted. The information was conveyed to the Town Chowki. This is the information which the wireless vehicle transmitted to the wireless control room at 11.12 A.M. and which has been mentioned earlier.

3.22 At 11.15 A.M. is an entry about the collection of people near Ambedkar statue and starting to come towards the Police Station. A Head Constable and four constables were sent to control the mob. At 11.20 A.M. was an entry about the information conveyed about the burning of the panpati shop near Central Talkies and the collection of people near Umar Bidi shop. At 11.21 A.M. the entry said that information was received from a constable informing the wireless station that a mob had set fire to 'Khokhas' near Central Cinema. A message was sent to Fire Brigade to send water tanks to the spot. At 11.22 A.M. Head Constable Deore informed of the presence of 'heavy mob' in Mamlatdar Gali and asked for assistance which was sent there when men were available. On the west of the Mamlatdar Gali is the Hindu locality and on the east is the Muslim locality. At 11.36 A.M. a private person informed about the disturbance at Perry Chowk. At 11.45 a constable telephoned from Pivala Pump that a mob had assembled there and asked for assistance. At 12.10 is an entry of one Badale informing on phone that looting and arson were going on in Perry Chowk. Reports of arson in a factory in the slaughter-house area, in Daregaon Chowk area and in a factory in Nawapura were noted at 1 P.M., 1.05 P.M. and 1.35 P.M. At 1.30 P.M. there was the report of the collection of a big mob near Kashi-nath Oil Mill. Reports of collection of big mobs near Pivala Pump was received at 1.45 P.M. and 1.55 P.M. At 2.20 P.M. is an entry about a phone message being received that one ration shop situated in Islampura locality was being looted.

3.23 The aforesaid entries in the Station Diary of Camp Police Station mostly tally with the entries in the wireless log book and further indicate that trouble spread to distant areas after it had subsided in the Mohd. Ali Road area.

3.24 Out of the very few entries made in the Station Diary of Chandanpuri Police Station after the entry about the cow slaughter incident at 6 A.M., the only relevant entry is at 9.30 A.M. The three intermediate entries are of routine nature. No entry is made about the information being conveyed by a constable about the collection of people at various places, deposed to by Sub-Inspector Gundi. The entry at 9.30 A.M. reads:—

“As per above entry No. 6, the accused stole away the complainant's cow and slaughtered it. As the news spread around Shri Puntambekar Pleader discussed the matter and took out a procession (morcha) and thereby people started breaking, looting and burning the shops in the city and Mohammad Ali Road. On receipt of this information senior officers were informed. Similarly Camp P. Station and Chowkies were also contacted and informed on phone, so also informed to send men to Sardar Talkies Mohd. Ali Road area for bandobast.”

3.25 According to this entry looting and burning of shops in the city and on Mohd. Ali Road had started by 9.30 A.M. There is no other evidence about such looting and burning of shops by that time. The entry may have been recorded much later.

3.26 The next entry is made at 10 A.M. and is about the telephonic information given by the Medical Officer of the Wadia Hospital to the effect that people were throwing stones at the hospital and that patients were running away from the hospital. The note further says that Town Chowki and Camp Police Station were informed for immediate help as only the Head Constable and office orderly and two constables were present at the Police Station.

3.27 The next entry was made at 1 P.M. on receipt of a message of rioters damaging a factory of Mishri Lal.

3.28 In view of such scanty entries in the Station Diary, it is possible that the entry purporting to be made at 9.30 A.M. could have been actually recorded much later than 9.30 A.M. There is no allegation that any shop had been burnt by that time anywhere in the city.

3.29 It is clear from the above narration of the various entries that there was a lot of crowd on Mohd. Ali Road between Sardar Chowk and Dargaon Police Outpost between 9.14 A.M. and 9.28 A.M. and that the situation was not peaceful near Gupta Dairy between 9.30 A.M. and 10.20 A.M. during which period the wireless vehicle remained practically stationary there. During this period the public leaders and the police officers were reported addressing the people at 9.40 A.M. The situation seems to have continued to be the same between 10.20 A.M. when the vehicle left for the Town Police Outpost and 11 A.M. when a report about lathi-charge in Perry Chowk and near Gupta Dairy was received at the Thana Control Room. The incidents

after 11 A.M. would later be discussed with reference to two localities, Sardar Chowk and the Kumbharward locality and the islam-pura locality bounded by Mohd. Ali Road and Kidwai Road.

3.30 The first actual incident, according to the report of the wireless vehicle, took place sometime about 11.12 A.M. when the report about the throwing of stones on policemen and about the looting of a betel shop on Kidwai Road was made. The disturbance on Kidwai Road up to Perry Chowk appears to have been controlled by about 11.28 A.M. when the wireless vehicle left Camp Police Station for the hospital and passed Kidwai Road, Perry Chowk and possibly the western portion of Mohd. Ali Road and Shivaji Road on its way to the Civil Hospital. It covered this distance in about three minutes as the injured constable was reported to have been admitted in the hospital at 11.32 A.M. This indicates that there was not much of a mob on this road and the vehicle had a clear passage.

3.31 The trouble on the portion of Mohd. Ali Road east of Perry Chowk appears to have subsided by about 12 O'Clock as at 12.02 P.M. it was reported that the police had already fired at Perry Chowk. We may note here that the oral evidence of the Police Officers mostly conformed to the inferences from the recorded reports and their timings in these log books. According to Inspector Chorge and Sub-Inspector Gundi, the firing by them and under their orders started at 11.10 A.M. and finished by 11.50 A.M. The only firing by Sub-Inspector Gundi which took place outside this period was at 1.30 P.M. in Sardar Nagar.

3.32 We have already noted that the S.D.P.O. must have arrived at Perry Chowk after 12.16 P.M. According to Shri V. A. Mandke, S.D.P.O., he arrived from Satara at Malegaon Police Station at 11.30 A.M. and after staying at the thana for a short while, proceeded to Perry Chowk via Kidwai Road where he met the Taluka Magistrate and proceeded towards the west of Mohd. Ali Road from Perry Chowk and had to fire at the crowd found looting Narang Boot House about 125 paces from Perry Chowk. He gave the time of firing as about 11.30 A.M. The time of firing at this place as noted in the chart with the plan showing the places of firing is given as 11.45 A.M. Considering that he arrived at Perry Chowk at about 12.15, we should advance the timing of his firing by at least half an hour. That would give us the time of his first firing at Mohd. Ali Road at 12.15 P.M. and the time of his last firing in the city opposite the slaughter house as 1.10 P.M.

3.33 The fact that instructions were given to ring up the Power Station to shut off the lights at 12.28 P.M. and that instructions to ring up the Fire Brigade at Nasik, Satara and Manmad were given at 12.40 P.M., sufficiently indicates that the fire was in full swing at the various places which had been set on fire.

3.34 Before dealing with the evidence about the incidents during this period, we may deal with one other point and that relates to the action taken by the Executive Officers, namely, Taluka Magistrate and Sub-Divisional Magistrate. We have already referred to the omission by the police officers to inform the magistrates about the

incident of the stealing and slaughter of the cow early that morning. It is not deposed to by Inspector Chorge but we find that in the first information report with respect to Crime No. 228/67 of Camp Police Station, recorded by the Inspector himself, it is said that he informed the Taluka Magistrate in writing at 9.05 hours. However, we find that it has been wrongly translated into English as—

“I then informed the Taluka Magistrate in writing. In the morning at about 9.05 hours orders u/s 144 Cr.P.C. were proclaimed and given wide publicity through police wireless van.”

3.35 The Government narrative made no mention about the part played by Taluka Magistrate and Sub-Divisional Magistrate in the incidents of the 24th September, but on getting the reports submitted by these two officers to the District Magistrate, Nasik, we summoned these two magistrates and also the Talati of Malegaon city, Shri D. L. Jagtap, who conveyed the news of some trouble to Taluka Magistrate. The Talati has deposed that on his way to his office which is in the same building in which the Town Police Outpost is, at about 8.30 A.M. from Sangmeshwar, he heard a few people talking among themselves about the slaughter of a Brahmin's cow and the closing of shops that day. He, therefore, at once went to Taluka Magistrate's house to inform him about this. Thereafter the Taluka Magistrate directed him to go to his office. Taluka Magistrate D.M. Jaware deposed that he had to go to Shri R. B. Sali, Sub-Divisional Magistrate, on being called for some other business and informed him about the incident. Shri R. B. Sali was not the Sub-Divisional Magistrate of Malegaon but simply held charge as S.D.M. He was posted at Malegaon as Special Deputy Collector, Ravalgaon Sugar Factory. The Sub-Divisional Magistrate had gone on transfer after making over charge on the 22nd September, 1967 and his successor arrived on the 5th October.

3.36 There was no telephone either at the Taluka Magistrate's residence or at the residence of the S.D.M. or at the residence of Shri Sali. On learning of the incident Shri Sali and Shri Jaware started for the city from Shri Sali's residence, which is about two miles from the Camp Police Station. Having gone half way, they met the previous S.D.M. (who was still in Station) in a jeep and then in the same jeep went to the Town Police Chowki, passing the Camp Police Station. They reached Town Police Chowki at about 9.30 A.M.

3.37 Shri Sali has deposed that he did not notice anything unusual on the way or any extra police or any group of people coming from Sangmeshwar side and that the situation then appeared to be normal.

3.38 Shri Jaware has deposed practically to the same effect. His statement gives the route which they took to the Town Police Chowki and the route was *via* Kidwai Road, Mohd. Ali Road and Sardar Chowk. It would appear from what we have noted earlier from the wireless log book that, during this period between 9.10 A.M. and 9.30 A.M., this route especially from Perry Chowk up to Town Police Chowki, was full of people and that the shops were closed.

It would, therefore, appear that these officers are making a wrong statement about noticing the situation on the route to be quite normal at that time, whether they reached the Town Police Chowki at 9.30 A.M. as deposed or shortly before 10.42 A.M. when the order under section 144 Cr.P.C. was issued. In fact, the later they passed on this route, the larger would have been the crowd and the more turbulent the situation. It appears that they continued to stay at the Town Police Chowki till about 12 O'clock.

3.39 We find from the Station Diary of Malegaon Camp Police Station that at 10.52 A.M. a clerk from the Mamlatdar's Kacheri phoned to the effect that the Mamlatdar and the S.D.M. were at the Town Police Chowki and could be contacted there if required. This entry indicates that these officers reached the Town Chowki shortly before 10.42 and not at 9.30 A.M.

3.40 According to Shri Sali, on reaching the Town Police Chowki they sent a constable to call the Police Inspector and Sub-Inspector Gundi. Sub-Inspector Gundi arrived in about 10 minutes' time and told them that there was nothing serious as the culprit had been arrested. Sub-Inspector Gundi did not tell them about any procession asking people to observe hartal or about any incident of stone throwing between people of the two communities. Shri Sali however, asked the Taluka Magistrate to ring up the Additional District Magistrate at Nasik about the tension in the city and about sending additional force. He states that he asked for the additional force anticipating that the situation might lead to the assemblage of crowd of both the communities and that larger force would be necessary to keep them in order. After some time Inspector Chorge reported about the collection of people and the order under section 144 Cr. P.C. which was ready was issued by the Taluka Magistrate.

3.41 Fifteen or twenty minutes later, according to Shri Sali, some citizens came in a municipal vehicle and informed him that Inspector Chorge had been surrounded and that the situation was dangerous. So he and the Taluka Magistrate proceeded to Perry Chowk in the municipal van *via* Sardar Chowk. He found Mohd. Ali Road up to Perry Chowk deserted. He also noticed that some boots taken out from a shop had been set on fire. A soda water factory at Perry Chowk was also set on fire. According to him, the time would be about 11.30 A.M. There was no Inspector or Sub-Inspector at Perry Chowk. There was no crowd on the road. He could see up to 500 feet east of Perry Chowk along Mohd. Ali Road but he did not see any police officer except one or two policemen. No crowd was visible in that area up to 500 feet. He did not hear any gun fire or any sound of gun fire since his arrival at Perry Chowk.

3.42 Shri Sali's statement would lead to the inference that he and the Taluka Magistrate reached Perry Chowk after the firing by the police officers had ceased i.e., at about 12 O'clock. This does not fit in with the statement that he left in a van on learning of Inspector Chorge being surrounded at Perry Chowk. If he had left on getting such news in a van *via* Mohd. Ali Road, he would have reached Perry Chowk, two furlongs away in a few minutes. We are not, therefore, prepared to accept his statement.

3.43 Shri Jaware, the Taluka Magistrate, does not fully support the Sub-Divisional Magistrate. He states that Sub-Inspector Gundi came there at about 10 A.M. and told him about the incident and also about his dispersing the collection of people at different places. According to him, when they got information about Inspector Chorge being surrounded at Perry Chowk, he and the S.D.M. proceeded in a vehicle and tried to go *via* the lanes but finding a lot of people on Mullawada Road and at some points articles of furniture on fire, they could not proceed further in the vehicle and had to go back *via* Sardar Chowk to Perry Chowk. He also states that he did not find any crowd on the road up to Perry Chowk *via* Sardar Chowk, found Apna Soda Water Bottle Factory and the adjacent shops on fire, and neither any crowd nor any police there. He asked his clerk to ring up Fire Brigade from the Municipality and also from other places like Manmad and Dhulia.

3.44 We know that instructions for ringing up the Fire Brigade at Dhulia were passed at 12.05 P.M. and to ring up the Fire Brigade at Nasik, Satara and Manmad at 12.40 P.M. It is, therefore, clear from his statement that the two magistrates reached Perry Chowk at about 12 O'clock.

3.45 Shri Jaware has also deposed that during the period he was at Perry Chowk no firing took place in the vicinity and that the Dy. S.P. reached Perry Chowk about 15 minutes after his arrival. The Dy. S.P., according to our calculation, reached Perry Chowk after 12.16 P.M. This statement would again make him arrive at Perry Chowk after 12 O'clock.

3.46 Another startling statement made by Shri Jaware is:—

“As an Executive Magistrate, I do not have much occasion to visit the city.....

As I had nothing to do with the city, I do not know the places and spots of trouble there. It is usually through the police that we Executive Magistrates know about local conditions. Sometimes the Talati informs us of the local situation.”

3.47 The Taluka Magistrates have got powers under sections 107 and 144 of the Cr.P.C. Shri Jaware had been the Taluka Magistrate at Malegaon since March, 1967, *i.e.*, about six months prior to the incident. We should have thought that it was essential for an Executive Magistrate to acquaint himself with the vulnerable places of trouble in his jurisdiction and especially in a place like Malegaon which had a communal history of its own and where, according to past history, trouble can start suddenly for no valid reason.

B. INCIDENTS OF PERRY CHOWK

3.48 We may now come back to what happened at Perry Chowk and the area on either side of it.

3.49 The official version of the incidents at Perry Chowk and around it is contained in the statements of Sub-Inspector Patil, Sub-Inspector Gundi and Inspector Chorge.

3.50 Some reference may be made to the statements by Sub-Inspectors Momin and Ainapure during the Magisterial enquiry in connection with the firing.

3.51 When asked by Inspector Chorge to go back to Perry Chowk and make bandobast there, Sub-Inspector Patil went there and found Sub-Inspectors Momin, Ainapure and Nakhre and about 22 or 23 constables at Perry Chowk. None of these constables had any arms. The time would be about 9.15 A.M. By this time Muslim mobs were collecting on Mohd. Ali Road and the lanes. He with Sub-Inspector Momin went up to those people 250 or 300 in number and asked them to disperse. These persons went away. Thereafter he noticed Puntambekar coming with about 25 boys and 25 adults from the side of Sardar Talkies to Perry Chowk. Inspector Chorge too arrived by this time near Gupta Dairy. Inspector Chorge stopped the procession at Gupta Dairy and asked them to proceed via Mullawada and not to proceed further along Mohd. Ali Road. Sub-Inspector Patil who was at the time standing in By-lane No. 2 also went there. Muslim mob also came on to Mohd. Ali Road from the lanes. Some leaders also arrived there and asked Puntambekar and party to go to the police station for redress of their grievances. The time now, according to the wireless log book, would be about 9.40 A.M. The leaders' appeal had no effect on the persons. Some Muslims threw a chappal at Nihal Ahmad. The leaders then left the spot and the police pushed back the processionists with lathis. The Muslims disappeared in the by-lanes and reappeared on Kidwai Road. The time now would be about 10.10 A.M. Sub-Inspector Patil then proceeded to Kidwai Road and asked the mob there to go away. The mob did not listen and began to throw stones at the police. The police party which consisted of Sub-Inspector Patil and 10 or 15 constables was hit with stones which were being thrown from the lanes. Sub-Inspector Patil made a lathi charge and the mob proceeded to the lane again near Perry Chowk.

3.52 Reaching Perry Chowk, he noticed about 25 persons proceeding from Sardar Talkies side and throwing stones at the shops on both sides of the road. He and the constables pushed back that mob to Sandawa.

3.53 Thereafter events took place in the area of Sardar Talkies, Central Talkies and Kumbharwada with which we shall deal separately later on.

3.54 Inspector Chorge, we have already stated, noticed after 9.15 A.M. Puntambekar and a few other persons proceeding towards Sardar Chowk. He did not notice any police party accompanying these people. He himself then proceeded to Mohd. Ali Road via Bhusegali and found Sub-Inspector Patil and other at Perry Chowk. The time now would be about 9.30 A.M. All the shops on Mohd. Ali Road were found closed with the shop-keepers standing in front of their shops. The wireless log book entries show that all the shops were closed by 9.10 A.M. In about 5 minutes Puntambekar and his party arrived at Perry Chowk, i.e., at about 9.35 A.M. These people were shouting 'Gau mata ki jai'. 'Those who clash with us will be finished', 'hartal karo' etc. Persons began to collect at Perry Chowk.

Persons returning from the vegetable market spread rumours that something had happened.

3.55 Inspector Chorge then deposed about his stopping Puntambekar and his party from proceeding further along Mohd. Ali Road, the collection of people on the road, the arrival there of the leaders and the Municipal van with the Vice-President, Tukaram Patil and the mobile police van. By 10.30 A.M., according to Inspector Chorge, nothing had happened at Perry Chowk. He then left for the Town Chowki where the S.D.M. and the Taluka Magistrate were. He suggested the issue of an order under section 144 Cr. P.C. and the Taluka Magistrate issued the order. He asked the municipal van to announce the order under section 144 Cr. P.C. in the city and himself returned to Perry Chowk and told the people there of the issue of the orders under section 144 Cr. P.C. and asked them to go home. The time now, according to Inspector Chorge, would be about 11 A.M. He found by now that the crowd on Mohd. Ali Road and the Kidwai Road numbered about 3,000 and a crowd of about 2,000—3,000 was behind the processionists at Perry Chowk. Most of the first crowd consisted of Muslims and most of the other crowd consisted of Hindus. After giving them warning to disperse, he ordered lathi charge on both the sides. Sub-Inspector Patil and police men pushed back the processionists and the people behind them towards Sardar Chowk. He and the police party pushed back the crowd on Mohd. Ali Road up to Gupta Dairy. Stone throwing which had started before the lathi charge, increased in intensity after the lathi charge.

3.56 What Inspector Chorge has stated in his written statement is somewhat different from his oral statement before us. There he has stated:—

“I requested them to go to their houses. One Chindu Kasar and Jinwarlal Chordia asked the followers of Puntambekar to go to Police Station and hold this demonstration there instead of Perry Chowk. Accordingly a section of crowd proceeded towards P. Stn. Puntambekar, however, persisted going to Islampura. He wanted that the Muslims also should observe hartal. As Perry Chowk is a busy centre of the city, people of both the communities started gathering in Perry Chowk area in the junction of Kidwai and Mohamad Ali Roads. I, therefore, called the leaders of both the communities and through them requested the mob to disperse from that place for maintaining law and order. Sarvashri Y. N. Jadhav, Harun B.A., Dr. Abdul Salam, Y. N. Shirke, Datta Wadge, Ramkisanlal Radale, Nihal Ahmed, MLA, addressed the mobs over Police loud-speakers van. The crowds were getting turbulent and started manhandling Shri Nihal Ahmed, an MLA. Some one from Muslim mob threw chappal at him. The Muslims also pushed him alone. In the meantime I had contacted the Taluka Magistrate and requested him to proclaim sec. 144 Cr. P.C. in the interest of peace in the city. On receipt of the orders from the Taluka Magistrate, I declared that sec. 144 Cr. P.C. is in force and thus people should disperse from the

streets. This proclamation has also been flashed in the city over the loud-speaker. The leaders of both the communities also requested the citizens to follow the orders of the Taluka Magistrates. In the meantime somebody spread a rumour that Jama Mosque has been damaged and hurt by Hindus and Hindus are molesting Muslim women in the city. These rumours made the Muslim mob to turn wild. They started shouting that they should be allowed to go to Jumma Mosque as it was allegedly burnt. Some of the Muslims from the mob rushed towards the Mosam river bank and they caught hold of one Hindu woman and molested her. This provoked Hindus on the bank of Mosam river, and they also started shouting and advancing. Police was all the while busy in controlling the mob. The Muslims then started pelting stones, soda water bottles, bricks, iron bars etc. on Police as well as Hindus. We, therefore, ordered them to disperse from the place but they did not pay any attention to my orders. I ordered lathi charge in order to clear Perry Chowk and surrounding area. The mob was pushed back on Mohamad Ali and Kidwai Roads. P.S.I. Patil went towards Sardar Chowk following the mob while I went towards Gupta Dairy."

3.57 This version mostly fits in with the statement of Sub-Inspector Patil.

3.58 It is to be noticed that Inspector Chorge's earlier statement in the written statement does not mention that the processionists were shouting slogans, makes it clear that Puntambekar wanted to go to Islampura and the Muslims also to observe hartal and makes out that the Muslims who showed turbulence during the leaders' discussion, turned wild on hearing rumours about the damage to Juma Mosque and the molestation of Muslim women and they later threw stones etc. on the Police and the Hindus.

3.59 The question is, when the processionists were pushed back, i.e., whether the first lathi-charge took place at about 10.10 A.M. as stated by Sub-Inspector Patil or at about 11 A.M. as stated by Inspector Chorge.

3.60 Sub-Inspector Ainapure stated that he used his stick to disperse the crowd gathered at Islampura, that the crowd continued to retreat and come forward again and again for about 15 or 20 minutes till about 10.15 or 10.30 A.M. when he was sent by Shri Tambe to ring up Nasik on phone and convey information about the situation. The S.P.'s statement that he got wireless message from C.I.D. Sub-Inspector Tambe at 10.15 A.M. possibly refers to the message sent through Sub-Inspector Ainapure. The wireless log entries refer to the situation being not peaceful from 9.50 A.M. to 10.10 A.M. and the calling of the Inspector to Town Chowki at 10.20. These various considerations favour the statement of Sub-Inspector Patil that the processionists were pushed back at about 10.10 A.M.

3.61 Further, the statements of Y. N. Jadav and Mohd. Haroon Ansari seem to indicate the same. They went to inform D.M. and

S.P. at Nasik but met them on the way at about 25 miles from Malegaon at about 11.30 A.M. They would have taken about an hour to cover the distance. Shri Jadav stated in his written statement that he was on the spot till about 10.45 A.M. when finding situation beyond control left for Nasik for bringing more force. Shri Mohd. Haroon Ansari deposes to have left Malegaon a little after 9 A.M. after a futile attempt to ring up District Magistrate from Police Station and Post Office and to have met Jadav on the Kidwai Road where Ansari had found a crowd of 400 or 500 persons—Hindus and Muslims—at about 8.30 A.M. Shri Jadav did not turn up when summoned and Shri Ansari did not make any reference in his written statement to his and Jadav's proceeding to Nasik to inform D.M. and S.P.

3.62 Shri Nihal Ahmed Maulvi M. Usman, M.L.A., expressed his presence at the place, presumably the Gupta Dairy, when the Hindu crowd was trying to enter the Muslim mohalla and Hindus and Muslims came face to face.

3.63 Of the persons mentioned in his written statement, to have been with him on the spot, Shri Madhav Ganpat Patil, examined before the Commission, has stated that he was at the time busy at Killa Mohalla.

3.64 In his statement before us Shri Nihal Ahmed states that when he reached near Gupta Dairy at about 9 A.M. he noticed a procession of about 100 or 150 people of R.S.S. and Jan Sangh from the western side proceeding towards the east shouting "Observe Hartal", "Cow has been cut", "Whoever would oppose us would go to dust", and that the procession was accompanied by police including Inspector Chorge and Sub-Inspector Patil. These two officers did not accompany the procession. We have already referred to their statements. He however, stated in his written statement that the police accompanied the procession from the very beginning while they were supposed to stop the procession. In fact, he could not have known whether any police was accompanying the procession from the very beginning. His reference to the duty of the police to stop the procession seems to refer to the earlier stages of the procession and not to the stopping of the procession at the Gupta Dairy where the witness himself states that the police tried to stop the procession from proceeding towards Muslim area which started from near that place. His further statement before us is:—

"At about 9.30 A.M. social workers tried to persuade the people to disperse but they failed in their attempt. In the meantime rumour spread among the Muslims that Jama Masjid had been broken. I and a friend of mine proceeded to the mosque to verify. The mosque had not been broken but stones had been thrown at the mosque. When I was returning to inform the people of the inaccuracy of the rumour and had reached near Sardar Talkies on Mohd. Ali Road, I found that looting had started on that Road. I saw a shop belonging to a Muslim in Kumbharwada just north of Mohd. Ali Road, being broken open by the rioters. I noticed only one policeman standing near the place. I did not notice other policemen. I dispersed the rioters from the shop. The rioters then went

by the back side of Kumbharwada. I went to my house. The police started announcing that the people should go. After I had reached my house, I heard sounds of gun fire. I remained at my house. I did not notice any other incident."

3.65 According to Sub-Inspector Gundi, he heard the rumour about the burning of the Jama Mosque at about 10 A.M. It follows, therefore, that Shri Nihal Ahmed left Gupta Dairy at about 10 A.M. It may, however, be mentioned that he did not state in his written statement about hearing the rumour, proceeding to Jama Masjid to verify it and then noticing the looting of a shop at Sardar Talkies. S. I. Patil states to have heard Muslim boys shouting on the west of Sardar Talkies about a mosque being burnt and women being molested and that the shouting took place at about 10 or 10.20 A.M.

3.66 Shri P. B. Shah, Vice-President, Rotary Club of Malegaon, did not turn up on being summoned. In his written statement he states about his observation from the corner of Gupta Dairy. According to him, there was a group of 3,000 and more Muslims on one side and 200—300 Hindus on the other. The Hindus were marching peacefully. He has stated that the police were also with the procession and the police would not have allowed the procession to proceed further if they had any previous information about the mounting communal tension and that, therefore, it was not necessary for the Muslims and their leaders from the Islampura area to stop the procession at Gupta Dairy. He further states:—

"It is my contention that they purposely stopped the procession to create panic and communal riot. This very thing proves that there were prearranged preparations to create communal riot at Malegaon. The Hindus who were in the procession were in very small numbers. Seeing the surging mob of very big numbers they started withdrawing and at the same spot Muslim started looting Hindu's shops and were setting on fire many more. Seeing all this catastrophic conditions, though the police force at the above centre was quite inadequate in numbers, still they tried their level best to resist and disperse the mob almost of all the Muslims. When it proved all beyond their power to resist and control the surging mob and being under the continuous shower of pelting stones though they were hurt and in order to protect themselves and under such grave circumstances police at the spot were forced to open fire to disperse the unruly mob. As soon as the police started firing the big mob started running recklessly through their lanes to Islampur side."

3.67 He has further stated that he along with other prominent persons of both the communities was present at the spot and they tried their level best to stop looting and arson. Finding themselves helpless they withdrew to a safer place from which place he saw all that had happened. He then goes on to state:—

"I also saw firing, rioting and four corpses. In the whole mob I experienced that many Hindu boys and youths had taken refuge to protect themselves from the onslaught of the Muslim mob. Most of the Hindus were out of orbit of this

particular rioting hot centre because most of the population of Sangameshwar and Camp were blocked and well guarded at the Mosam bridge and at the causeway by the local police force, otherwise the communal rioting would have been of very severe nature."

3.68 Shri Y. S. Shirke, General Secretary of the City Congress Committee, Malegaon, member of the Pradesh Congress Committee and Secretary of anti-communal front of Malegaon and also a political and social worker did not appear on being summoned. Shri Shirke states to have given information of what he had personally seen of the disturbances but the manner of his reply to the questionnaire with respect to the incidents on the 24th September, 1967 would indicate that what he has mentioned was probably based on what he came to know later.

3.69 The statements of these two persons, Shri Shah and Shri Shirke, do not help us in the assessment of the incidents either with respect to their timing or their details.

3.70 Of the four persons who had witnessed the incidents and deposed before us, one is Shri R. T. Patil and the other three are Mohd. Haroon, Mohd. Sabir, Secretary, C.P.I. and Municipal Councillor, Shri Shabir Ahmad Hakeem, Member, C.P.I. and Shri N. M. Patil, also a C.P.I. worker. All these three witnesses gave their written statements to Maulana Abdul Kadir, Vice-President of Jamiat-Ulema-e-Hind. Mohd. Sabir had also given a copy of the report of the C.P.I. to Secretary of the Majlis-e-Mushawarat who had enclosed it within his affidavit.

3.71 Shri Shabir Ahmad Hakeem deposed that Puntambekar with 25 children and about 8 or 10 workers arrived near Gupta Dairy between 9.30 A.M. and 10 A.M. but they were told by some social workers including Congress workers there not to go to Muslim mohallas and hartal would be observed by all. He further states:—

"Within 10 or 15 minutes of the arrival of Puntambekar, the S.I. with 10 or 12 constables arrived there. When Puntambekar advanced eastwards I asked the S.I. to check Puntambekar's advance. The S.I. asked Puntambekar not to go further and made a show of lathi charge. The result was that Puntambekar and his party returned to the Gupta Dairy. One of the workers of Puntambekar slapped Nihal Ahmed. There was actually no lathi charge but only a show of lathi charge. Puntambekar spoke in two or three places. I could not catch what he was saying in Marathi but the few persons there told me that he had said that revenge would be taken for the blood.

I moved on Mohd. Ali Road and Kidwai Road till about 11.30 A.M. or 12. I noticed small collections of people in the roads and the lanes. They were not more than 20 or 25 and they appeared to be peaceful crowds. Some boys who came on the road shouting began to throw brickbats at us. I did not think it worthwhile remaining there and returned to my house where I remained for the rest of the day. While coming down from my house in the morning at 8.30 A.M. I sent my family to my relations in law in Pawar Gali.

The police party which had arrived on the spot went away about 15 minutes after getting Puntambekar and party to retreat to the Gupta Dairy. Shortly after I reached my house I heard of the imposition of curfew and thereafter I did not come down.

This S.I.'s name is Namdeo Patil.

The firing in that area started after 12."

3.72 He does not speak of the presence of Inspector Chorge at the Gupta Dairy. He tries to minimise the strength of the various groups on Mohd. Ali Road and describes their behaviour as peaceful. On the throwing of brickbats he goes back to his house and does not stir out again. His statement that the firing started after 12 does not appear to be correct in view of what we have said much earlier. The whole of his conduct appears to be unnatural. He states that he had sent away his family to his relations in law in Pawar Gali when he was coming down from his house, on hearing some noises at about 8.30 A.M. According to his version, he did not know at the time of anything which had happened in the city. The sending of his family from the house would indicate his apprehension of trouble at that time. According to Shri Hakeem, the mild lathi charge to disperse the processionists took place about 15 or 20 minutes after his arrival near the Gupta Dairy and would, therefore, appear to have taken place nearabout ten O'clock.

3.73 Shri N. M. Patil has stated before us that on learning of the commotion at about 8.30 A.M. he proceeded to Mohd. Ali Road and found the procession of about 100 boys led by Puntambekar east of Gupta Dairy. During the suggestions by the persons there to the processionists to go back, someone struck Shri Nihal Ahmed and one Avasthi attacked Shri N. M. Patil and Shri N. M. Patil retaliated. In his written statement, he has stated:—

"Meanwhile, Shri Nihal Ahmad, MLA, reached on the spot and was beaten by Shri Avasthi the rioter. I also requested Shri Puntambekar to go back for the sake of peace, but he scolded me and pronounced me as an agent of the Muslims.

When he did not concede to my request, I pushed him back forcibly. Thereupon, the communal minded Hindus rushed upon me and in the scuffle, I too gave him a few slaps."

This is not consistent with his present statement.

3.74 He has further stated before us:—

"By this time the Police arrived and about 4000/5000 Muslims and about 1000 Hindus had gathered there. A small Police party consisting of less than 6/8 in number were accompanying the procession. The Police lathi-charged the procession. Some of the persons fled and some others retreated by Perry Chowk where the Hindu gathering of about 1000

were. The Muslim gathering of 4000/5000 was east of the flour mill where I had first met the procession. Four or five persons from the procession then went by the southern lane and reached the flour mill where the Muslim crowd was. These four or five persons started shouting slogans.

CHHATRAPATI SHIVAJI KI JAI

GAOO MATA KI JAI

The Muslims objected to this shouting and asked them to go away. Then these persons were surrounded by the Muslims. The Hindu crowd on Perry Chowk thought that the trouble had started there and began to loot the cycle shop. This cycle shop was on the corner of the Rangra Gali. I remained at the Atta Chakki throughout. Some Muslims then looted the Yarn shop near that place. This shop belonged to some Gujarati. Noticing that the trouble was developing I returned to my house. The time now would be about 10.30 or 11 A.M."

His written statement did not describe anything further of the incident of that day except that an addition in manuscript was made "Then the procession went round the Anjuman Road and came from the Muslim mohalla." His statement before us about the police accompanying the procession and about a few of the processionists, after the lathi-charge, reaching the flour mills where the Muslim crowd was and their provoking the Muslims who surrounded them, does not appear to be correct. We have already mentioned that no police party accompanied the procession. Only a few Hindus would not dare to behave in this manner in the situation then prevailing on the spot. His further statement that the Hindu crowd at Perry Chowk misunderstood the surrounding by the Muslims of a few Hindus and thereby started the loot of the cycle shop at the corner of Rangra Gali, appears to be a piece of imagination. According to Malegaon City Survey Sheet No. 42, Rangra Gali runs practically parallel to Mohd. Ali Road about 100 yds. south of it and there are many houses in between the two roads. No shop at the corner of this Gali could possibly be visible from the place where Shri Patil was at the time. He then returns to his house at about 10.30 A.M. or 11 A.M. The lathi charge to disperse the procession would thus be at about 10.15 A.M.

3.75 Shri R. T. Patil has stated about Puntambekar and party reaching Gupta Dairy at about 10 A.M. and being stopped by about 100 Muslims. On this, discussion to ease the situation followed and in the meanwhile 1,000 Muslims and 40 or 50 Hindus gathered. By the time the police decided to disperse it, the Muslim crowd had increased to 8,000. On failure of the people to disperse, police made a lathi charge on both the Hindus and Muslims at about 10.30 or 10.45 A.M. The Hindus dispersed and a few Hindus were taken in custody. The Muslims did not disperse but their number swelled to 15,000—20,000. It may be noticed that no other witness has deposed about the arrest of a few Hindus on this occasion.

3.76 Mohd. Haroon Mohd. Sabir stated that at about 9 A.M. Puntambekar with a crowd of 300—400 people and with a calf came to Perry Chowk from the west and Puntambekar delivered a speech the gist of which he had reproduced in his written statement dated the 27th January, 1968. He has stated that there was no police when Puntambekar arrived, thus supporting the statement of the Police officers and contradicting the statements of certain witnesses that the police was accompanying the procession. The statement that a calf was being carried by the procession at the time, does not appear to be correct as, according to Inspector Chorge the calf which Puntambekar and some of his followers were carrying near Tilak Chowk earlier in the day had been returned to the owner and that the owner had taken it home. When Mohd. Sabir asked Sub-Inspector Patil not to allow Puntambekar to proceed further, the Sub-Inspector asked him to call some Muslim leaders and other respectable people to remain there and to see to the maintenance of peace by the people. Mohd. Sabir then went away asking Sub-Inspector Patil to see what could be done about Puntambekar. After going some distance eastwards he found a crowd of 600 or 700 Muslims who enquired from him as to what had happened and on being told that nothing had happened, they did not feel satisfied and told him that they had heard that some Muslim shops had been looted. After great persuasion the Muslim mob agreed to disperse at about 9.45 A.M. On the other hand Puntambekar and his party advanced 12 ft. east of Gupta Dairy at about 10 A.M. The police made lathi charge to disperse the procession. A part of the procession went to the Mulla-wada Road and part of the procession to Bhavsar Lane. The Muslim mob also dispersed and Mohd. Ali Road became empty.

3.77 It is to be noted that none of the witnesses has deposed that this lathi charge took place after the promulgation of the order under section 144 Cr. P.C. at 10.42 A.M.

3.78 Thus it is clear that the lathi-charge took place at about 10.15 A.M. as practically every witness we have referred to so far states the same, and thus supports what has been deposed to by Sub-Inspector Patil.

C. INCIDENTS IN KUMBHARWADA AREA

3.79 With respect to the incidents in the Kumbharwada area we have the statements of Sub-Inspectors Gundi and Patil and of Sabir. Sub-Inspector Gundi has deposed that at 9 or 9-30 A.M. he received information of the collection of people at Sardar Chowk. He proceeded to that place with a few constables and home guards.

3.80 On reaching Sardar Chowk he found 25 Hindu boys throwing stones at Sardar Talkies and at Jamma Masjid. He dispersed them and returned to Town Chowki. The time is now about 9-45 A.M. Five or ten minutes later he learnt again of the re-assembly of the people at Sardar Talkies and he proceeded there. He found 25 or 40 people there. They were throwing stones at Sardar Talkies and Jamma Masjid. He again dispersed those people.

3.81 He met Sub-Inspector Patil at Sardar Talkies. They noticed about 500 Hindus from Sangmeshwar area advancing across the river towards the main abadi. They tried to prevent their crossing the

river at the causeway. These persons were advancing with a frontage of about a furlong. The police officers, however, did not fully succeed and at least 200—400 people succeeded in coming across.

3.82 Sub-Inspector Gundi reached near Central Talkies, about a furlong north of Sardar Talkies and noticed the crowd of about 200—300 persons on either side of the Municipal Primary School. The passage to the north of the Municipal Primay School is known as Central Talkies Road or the Khadda (ravine) and the road on the south is known as Kumbharwada Road. Both these roads meet Kidwai Road on the east. According to Sub-Inspector Gundi, the time now would be about 10-30 A.M. Exchange of brickbats started between the Hindu and Muslim mobs here. Sub-Inspector Gundi and five or six constables with him tried to disperse the mobs but did not fully succeed. The Muslim mob caught a constable at the Central Talkies and Sub-Inspector Gundi rescued him. P.C. Babu Damu Bhamare, who was examined at the Wadia Dispensary at 11-05 A.M. seems to be this constable. Shortly after he learnt that a Sub-Inspector was being assaulted at Kumbharwada he proceeded from 'khadda' to Kumbharwada and found a Muslim crowd there but did not find anyone being caught by it. He tried to push back that Muslim crowd from the road and reached Juna Motor Stand on Kidwai Road. He noticed 10 or 15 policemen scattered on the road and the lanes running east-west and the sides of Kidwai Road full of Muslims. He and his constables were trying to check this mob from advancing along Kidwai Road and Mohd. Ali Road. These people then began to throw brickbats and soda water bottles at his party. By this time two or three Hindu shops on Kidwai Road had been broken open. The time now would be about 11 A.M. as information reached the Camp Police Station at 11 A.M. about the looting of a pan shop on Kidwai Road. Shri Gundi rushed to these shops and asked those people not to throw stones and to go back. In the meantime a stone struck Constable Sangpal Vittal. A stone also hit the Sub-Inspector. Both these injured police officers then went to Dr. Gondkar's dispensary and had their injuries attended to. He met Sub-Inspector Patil who had been injured and was in bed at the dispensary. He directed the unarmed Head Constable to keep an eye on the injured persons and himself proceeded to Perry Chowk where he noticed a lot of flames.

3.83 Sub-Inspector Patil has stated before us :-

"I and my constables pushed the mob back with lathis to Sandwa. In the meantime 50—60 Muslim boys appeared on the west of Sardar Talkies in Kumbharwada and shouted that a Masjid had been set on fire and women were being molested. These boys continued to throw stones and also tried to molest women who were washing clothes on the river. I went to Central Talkies side. When I reached near the Municipal High School some persons from the school attacked me with stones etc. The Muslim crowd on the other side of the road began to pelt stones at the Police. Some of these stones hit me behind the right ear and I fell down and became unconscious and I was then taken to Gõmkar Hospital. I remained at the hospital till 5 P.M. that day. Thereafter I was taken

to my house. I learned later on that I was admitted in the hospital at 11-05 A.M. Upto the time I was there no firing had taken place nor had any other incident taken place except pelting of stones.

Shouting about mosque having been burnt was received at about 10 A.M. or 10-20 A.M. Jama Masjid would be about 300 yards."

3.84 After the lathi charge on the procession near Perry Chowk Mohd. Sabir noticed some trouble near Sardar Talkies and he and a few leaders went there. They found some shops burning and a number of people in the middle of the river and hundreds of them on the other side of the river. About 25 people who were in the river had lathis and bamboos and were asking others to come over to their side. They asked the mob not to cross the river. Eighty or ninety people first burnt the furniture of the shops and then burnt Sardar Talkies, Central Talkies and Kohinoor Talkies. According to Mohd. Sabir, during all this period there was just one constable who was running hither and thither with a lathi. There was no other police there. He happened to notice an L.I.B. man whom he requested to arrange for more police. The L.I.B. man told him about the shortage of police and said that whatever police was there was busy elsewhere. The mob began to attack Mohd. Sabir and others. They returned to Perry Chowk. This would be at about 10-30 A.M.

3.85 It seems that Mohd. Sabir proceeded to Sardar Talkies long after Sub-Inspectors Patil and Gundi had reached there. Mohd. Sabir reached there after some shops had been burnt. Shops were burnt after 11 A.M. His timing of his return to Perry Chowk from Sardar Talkies at about 10-30 A.M. appears to be erroneous.

3.86 Sub-Inspector Gundi has stated :—

"By the time I came to Juna Motor Stand, no attack on the Sardar Talkie or the Central Talkie took place. The Hindu crowd which crossed from Sangmeshwar side and the Muslim crowd on either side of the Municipal School were kept back by police."

He has also stated that when he was trying to push back the crowd, looting and burning had not commenced near the Sardar Talkies and that he noticed looting and burning of the shops for the first time when he reached Juna Motor Stand. He also noticed that shops of both Hindus and Muslims were looted and general looting had started on Kidwai Road.

3.87 It appears that in the Kumbharwada area after Sub-Inspectors Gundi and Patil had been injured and had left the area situation worsened and the mob, presumably the Hindu mob, set fire to certain shops near the Central Talkies. At 11-20 A.M. the mobile van sent a message that one betel shop near the Central Talkies was set on fire. At the same time, i.e. 11-20 A.M., one Abdul Hamid Noomani informed the Camp Police Station about the burning of

the betel shop and also about the assembling of people near Umar Bidi Shop and at 11-21 A.M. a constable informed the wireless station that a mob had set fire to a 'Khokha' (stall) near the Central Cinema. All these reports at the times they made establish that the burning of shops in the area started at about 11-20 A.M. when Sub-Inspector Patil was in the hospital and Sub-Inspector Gundi had come back from the hospital after getting his injuries treated.

3.88 At 11-50 A.M. there is an entry in the Camp Police Station Diary that a mob started assembling near the Ambedkar statue and started moving towards the police station. A Head Constable and four police constables were sent to control it.

3.89 Kohinoor Talkies which is close to this statue was attacked by the mob at about this time. Mohmed Rafiq Haji Hamid Ulla, one of the partners of Kohinoor Talkies, was summoned by us but did not appear. He delivered a written report at the Malegaon Camp Police Station at 3-30 P.M. on 26th September, 1967—F.I.R. relating to Crime No. 291/1967. The report does not indicate that he was a witness to the incident. He made a verbal statement at the Police Station that the incident took place on the 24th September, 1967 at 11-30 A.M. The report says that the damage caused amounted to Rs. 2,78,850.

3.90 Another report with respect to Crime No. 296/1967 was lodged by Abdul Gafoor Abdul Shakur of Islampura at the Malegaon Camp Police Station. In this report he stated that he closed his 'pan' shop in Kohinoor compound at about 10 hrs. and noticed from the Industrial Society Building at about 11 A.M. that a big mob of 100 to 150 persons armed with lathis and iron bars entered the Kohinoor compound and damaged the articles of shop owners there and that afterwards the mob set fire to the Kohinoor Talkies.

3.91 The written statement filed by Haji Hamid Ulla is really a copy of the representation he sent to the Chief Minister on the 30th September, 1967 and the main burden of the representation appears to be his complaint that the police officers remained silent spectators of the ghastly act and took no steps despite telephonic requests made to the police station to disperse the goondas. A special complaint is made against Police Sub-Inspector R. R. Patil who was said to be standing near the Industrial Cooperative Building on Kidwai Road, just opposite the cinema house. It is stated that he was approached and requested to help to save the situation but strangely enough he curtly refused to do anything in the matter. Nothing is said as to who approached and requested the Sub-Inspector.

3.92 According to the Survey Maps, Sheet Nos. 34 and 41, the distance between the Kohinoor Talkies and the Industrial Association (Cooperative) Building would be about a furlong along the road. The Industrial Association Building is on Kidwai Road. The representation has not been verified on oath and no finding can be based with respect to the complaint against the police on its basis.

3.93 It follows that the Hindu mob which committed loot and arson in the various cinemas to the east of the Mosam river and in

the western area of Kumbharwada came from Sangmeshwar side by crossing the river and indulged in looting and arson in that area from about 11 A.M. till after 12 O'clock and that this could be possible as there was no police officer in the area and there were very few, if any, police constables. Absence of a police officer accounts for no effective action being taken against the rioters who looted and burnt property in this area.

D. FURTHER INCIDENTS IN KIDWAI ROAD, PERRY CHOWK AND MOHD. ALI ROAD

3.94 The area covered by Kidwai Road from Juna Motor Stand up to Perry Chowk and of Mohd. Ali Road from Perry Chowk up to Dr. Salim Sheikh's corner which is about a furlong from Perry Chowk had been the scene of widespread looting and rioting between 11 A.M. and 12 noon and the police force under Inspector Chorge and Sub-Inspector Gundi had to open fire on several occasions at different places in this area.

3.95 The statement (Annexure VI) tabulates the details in connection with these firings. This shows that the first firing was done by Inspector Chorge at 11-10 A.M. at the Tonga Stand also known as the Juna Motor Stand on Kidwai Road and that the last firing by him at 11.50 A.M. was also done under his orders near Dr. Salim Sheikh's dispensary near Kasai Masjid on Mohd. Ali Road. The various places where the firing took place are Perry Chowk, Gupta Dairy Chowk, the lanes in Islampura opp. Mohd. Ali Road, one near Bandu Chakki, the other opp. Gupta Dairy and the third opposite Jahir Bidi Shop.

3.96 At Tonga Stand firing was also done by Sub-Inspector Gundi and under his orders at 11-20 A.M. Both Sub-Inspector Gundi and Inspector Chorge ordered firings within an interval of 10 minutes in a lane in Islampura near Bandu Chakki. The other firings were done under the orders of Inspector Chorge.

3.97 In his written statement Inspector Chorge has described the incident thus:—

“While returning back to Perry Chowk I noticed a mob of 2/3 thousand Muslims near Tonga Stand in Islampura, so I asked them to disperse from that place but the mob attacked Police by pelting stones, bricks, etc., in which myself and subordinates received injuries. At this time, I noticed that this mob is setting shops and property on fire and was looting shops. At this juncture I warned the mob over the loud speaker that I will have to take the extreme step of opening fire. As this was also of no use and looting and burning was intensified by the mobs, I opened fire on the most dangerous parts of the mob with my revolver. I opened fire in the interest of the safety of person and property, life and prevention of arson and looting. After this the mob dispersed from Kidwai Road and gathered at Perry Chowk. There also mob started arson and loot which made me to open fire near Perry Chowk and Gupta Dairy, after necessary warning. As the result of the firing,

the streets were deserted and the situation came under control. Then I attended to the injured and sent them in Police vehicle to the Municipal Hospital."

3.98 Inspector Chorge described before us the circumstances of the first firing at 11-10 A.M. near the Tonga Stand on Kidwai Road thus :—

"I was in front of the Apna Soda Water Factory when I got information that Sub-Inspector Patil was being beaten near the Central Talkies. I proceeded with a few constables to the place. I could not see Sub-Inspector Patil at the place he was said to have been beaten. I then returned to Perry Chowk. I found the mobs throwing stones and looting and burning the furniture shop on Kidwai Road. That furniture shop is at the corner of the Tonga Stand.

I tried to disperse them with lathi charge. The people began to throw big stone pieces. The people there were armed with pointed iron pieces used in the working of the powerlooms and began to throw these pieces. At that stage I fired 6 rounds from my revolver. Nobody fell down there. All the people fled away.....

When I fired with revolver, I ordered the constables with me to fire also. I do not recollect how many shots were fired. One of the constables was Darekar."

The note (Annexure VI) about the firing opened by the police officers and men on the 24th September, 1967 shows that Darekar fired four rounds at this spot.

3.99 Inspector Chorge has further stated before us :—

"The shops in Perry Chowk had also been subjected to loot and arson. These shops belonged to both the communities. I fired here also on both the sides i.e. towards Mohd. Ali Chowk and also Kidwai Road. At the firing, all the people fled away. The time would be about 11-15 A.M.....

I then went towards Gupta Dairy. Gupta Dairy and other shops there had been attacked. Property from the shops was being taken out on the road and burnt. I and the police party consisting of 4 to 5 constables fired. Some people were injured and one of them died as a result of this firing. I do not know his name.

Further on near Dr. Salim Sheikh's corner a solitary tea shop was being looted. I fired 4 shots there. One person fell down injured. The road was clear of the people by then. The time would now be about 12.

In all these 4 shootings that I did, I fired 22 revolver shots and constables fired under my orders 45 shots.....

I sent the injured and the dead to the hospital—3 dead persons were found on the road and 3 or 4 injured persons.

The policemen with me fired in lane Nos. 1, 2 and 3 under my orders. Of the 3 dead, 2 were found in lane No. 2 and one was found on Mohd. Ali Road."

3.100 From the hospital, Sub-Inspector Gundi returned via Juna Motor Stand to the Chowk and found that large scale arson and looting of shops had started. The police and he tried to control the people with lathis but found them out of control. The strength of the mob on Kidwai Road and the lane running westward would be 5,000—7,000. This mob was looting and setting fire to shops on Kidwai Road. The time would be about 11 or 11-15 A.M. Three armed constables and an armed Havildar happened to arrive from the police station. The armed Havildar and one constable were retained by Sub-Inspector Gundi and the other two armed constables were sent to Inspector Chorge who was at Perry Chowk. He then warned the crowd to desist and disperse and warned them that otherwise, firing would be resorted to. This had no effect on them. They continued throwing brickbats and showed a determination to attack the police party. Sub-Inspector Gundi then fired four rounds from his revolver and ordered his constables to fire. One of them fired two rounds and the other four rounds. Two persons from among the rioters fell down injured. Nearly 90% of the mob in the lane in front of Juna Motor Stand fled away. This lane is between plot Nos. 750 and 713. The firing took place at about 11-20 A.M. according to the note—Annexure VI, regarding fire opened by the Police Officers and men on the 24th September, 1967.

3.101 Sub-Inspector Gundi on return to Perry Chowk found Inspector Chorge and the Police Party there. What he did later is described by him thus :—

"Noticing some trouble between the people and the police in front of the lane a little east of Gupta Dairy, I proceeded to that spot. There were crowds on both sides of the Perry Chowk and Mohd. Ali Road. I found 2 shops south of Mohd. Ali Road on fire and a shop on the other side of the road burning. Arson and looting was going on on both sides of the Mohd. Ali Road between Perry Chowk and the place where I found the mob dispersed. I did not notice whether any one was to disperse them and they were attacking the police. The people having trouble with the police were dispersed by lathi charge but the looting and arson did not stop.

I fired with revolver at that place on the crowd at the mouth of the building. I did not notice any one fall down.

Simultaneously with my firing, Armed Constable Vetal, Armed Constable Ahire and Darekar fired few rounds also there. Of these constables, Constable Darekar who was of the Unarmed Police must have got the gun from somewhere. These constables fired within two seconds of my firing. Then the mob dispersed. I did not notice whether any one was hit and fell down there or not."

3.102 Mohd. Sabir has deposed that he returned to Perry Chowk from Sardar Chowk at about 10-30 A.M. He then moved on to Kidwai

Road in order to see what was happening near Kohinoor Talkies and Central Talkies and found crowds of Muslims, 300 strong, standing on the lane opening on to Kidwai Road and the leaders stopping them from proceeding further. According to him, these people were angry and when they noticed flames from Central Talkies they got out of control and threw brick-bats on the N.V. dispensary and Mahila Mandal. This took place between 11 A.M. and 11-15 A.M. The Muslims looted the Sikh furniture shop on Kidwai Road and pushed Mohd. Sabir and others towards Perry Chowk up to Sardar Furniture Mart owned by a Sikh. Thus the timing given by Mohd. Sabir of this arson incident fits in with the statement of Sub-Inspector Gundi.

3.103 Mohd. Sabir also deposed about noticing some shops on Kidwai Road and Malabari Hotel being looted and burnt by Hindus. There was exchange of brick-bats between the two crowds, Hindus and Muslims. The Hindu crowd threw soda water bottles on the Muslim crowd. Mohd. Sabir then went up to Hindustan Library and from there saw a Muslim mob breaking open a Muslim shop, taking out oil and burning Sardar Furniture Mart and the Kashmiri Hotel. The only police force to deal with these violent mobs at that time, according to Mohd. Sabir, consisted of Inspector Chorge and a few constables, who had failed to control the mobs.

3.104 Mohd. Sabir further deposes :—

“R. N. Pawar, Constable, in civil dress on a jeep happened to arrive there. There were armed constables in the jeep. The jeep was stopped near the Hindustan Library. Pawar got down and with another constable fired, three or four shots, inside the lanes going eastwards passing between the Hindustan Library and the Sardar Furniture Mart. There is a Muttawali Mosque at the first crossing on this lane.

The firing took place at about 12-55 P.M. Before this I heard no other sounds of gun fire.”

3.105 In the written statement filed through the Jamiat-ul-Ulema, Mohd. Sabir stated :—

“We saw 2 constables, 2 PSIs and Shri Ranganath Pawar (constable in civil dress) went towards camp police station and came back on the same spot (Tonga Stand) in 7 minutes. They alighted from the jeep and we saw that Shri Ranganath Pawar (constable in civil dress) snatched a rifle from a police and fired three-four shots towards the galli of Maddo Seth's mosque where the Muslim mob was standing as a spectator. We shut the window and doors. Meanwhile we heard 25 to 30 shots were fired continuously. The first fire by Shri Ranganath Pawar was shot at 12-55 noon.”

These statements appear to be wrong. We have already indicated that according to the police evidence firing on Mohd. Ali Road and Kidwai Road took place between 11-10 A.M. and 11-50 A.M. except for the firing by the constable on the jeep by which Dy. S. P. Mendke

was going round the city. The two lists of constables of Police Stations of Malegaon and Chandanpuri deployed for bandobast on the 24th September, 1967 do not mention any constable by the name of R. N. Pawar.

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3.107 We have noted earlier that Shri R. T. Patil stated that the Muslim crowd did not disperse but it got swollen to about 15,000 to 20,000. He then continued to state :—

“They pressed on the police party which, being inadequate in number, had to retreat towards Kidwai Road. By this time the Muslim crowd started looting the Gupta Dairy and the Lakshmi Stores opposite. The Gupta Dairy is south of Mohd. Ali Road and the yarn shop was also looted. Thereafter the S.I. opened firing. About 8 or 10 rounds were fired. The Muslim crowd then dispersed towards Islampura and Nayapura. The police continued to stay at Perry Chowk. The firing took place at 11 A.M. While retreating the Muslims shouted ‘Allah O Akbar’. No other incident took place in my view during that time.”

3.108 Now we may refer to certain statements of the persons who were injured due to firing. Of these the written statements of Nisar Ahmed Mohd. Hanif, Shabbir Ahmed Abdul Aziz, Anis Ahmed Mohamed Haneef and Haroonur Rashid Hakim Valiulla were enclosed with the written statement filed by the Secretary of the Majlis-e-Mushawarat, Malegaon.

3.109 Nisar Ahmed Mohammed Hanif resided at Rajebahadur Jhopadpathi, Guruwar ward, Malegaon. His residence is south of Mohd. Ali Road. This is clear from the route for a mobile patrolling party, mentioned in Appendix 2 to Riot Emergency Scheme, Precautionary Stage for Malegaon City, which is Chandanpuri Chowkey to Raje Bahadur Jhopadpatti, Tin Kandil, Panch Kandil to Killa Mohalla. His statement is:—

“At about 10 A.M. on 24th September, 1967 I went to the vegetable market for purchasing vegetables. Suddenly there were cries that communal disturbances had occurred. I passed through Kumbharwada and the Urdu Boys’ High School No. 1. When I came near Madhu Seth’s Mosque in Islampura I was struck by a bullet which pierced through my back. After walking a few steps I fell down and I do not remember what happened next. I became conscious in the hospital and found that my wound was dressed. I was hit at about 12 noon. The bullet was fired from the back and it pierced through. When I was sent to Nasik for treatment the police people harassed me. The wound has not healed fully and treatment still continues. I did not take any part in the disturbances.”

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3.110 His house being south of Mohd. Ali Road, he had no business to be near Madhu Seth's Mosque in Islampura north of Mohd. Ali Road when, according to his statement, he was returning from the vegetable market where he had gone to purchase vegetables. His written statement as originally typed had an expression :—

“Suddenly there were cries that communal disturbances had occurred. I started to run towards my house. I passed through Kumbharwada and the Urdu Boy's School No. 1. When I came near Madhu Seth's Mosque in Islampura I was struck by a bullet in the back.”

The sentence “I started to run towards my house” was struck off presumably at the time of verification. This tends to support our view that the way to his house from the vegetable market would not have taken him to Madhu Seth's Mosque.

3.111 Shabbir Ahmed Abdul Aziz resident of Motitalao states in his written statement :—

“On the day of incident, I was going to purchase grains when the police fired at me near my house. The bullet struck me in the right thigh. I was severely wounded. This happened at about 12 noon. I was taken to the local dispensary in Municipal ambulance car. Then I was taken to Nasik for treatment where the wounded thigh was plastered. My both thighs plasters were removed on 19th January 1968. Latest X-ray film reveals that they are still not united. I cannot move.”

3.112 Anis Ahmed Mohamad Haneef resident of House No. 641, Navapura, states in his written statement :—

“On 24th of Setpember, 1967, I had visited my aunt's house. At about 12 noon when I was returning to my house, I was struck by a bullet near School No. 7 on Mohd. Ali Road. The incident took place near the house of one of my relatives named Shri Suleman Samman. The bullet had struck me above the knee piercing the thigh. No medical aid was provided on the spot. I was afterwards admitted in the Civil Hospital at Nasik where the thigh was plastered. The wound did not heal even after two months. I still feel pain while walking. When I was passing along the road, it was clear and there was no traffic. The police fired at me deliberately.”

3.113 Haroonur Rashid Hakim Valiulla has stated before us :—

“I reside in Nayapura but I have got a Hakim Shop at Mohd. Ali Road at Malegaon. I run a power-loom. It is only when it is closed that I sit in the Hakim's shop.

My power-loom was not working for 2 or 3 days before this incident. I was not going there. I was then attending the shop in Mohammed Ali Road.

I went to the shop at 8 A.M. My shop is about 7 to 8 galis east of the Gupta Dairy. The commotion took place at about 12 or 12-30 P.M. No commotion took place earlier. Public was running on the road. I closed the shop and was starting

for my house: When I got down the shop, firing took place and I got hit on the leg. I fell down on the road. 2 to 4 policemen came. They asked me whether I was a Hindu or a Muslim. On my telling that I was a Muslim they lathi-charged me. I became unconscious afterwards. I got conscious in the hospital at Malegoan. I was sent to the Nasik Hospital the same day. I remained at the Hospital for 25 or 26 days. My thigh was plastered and I was then allowed to go home.

When I became conscious in the hospital, I did not feel any injury other than the bullet injury on my body."

3.114 His version is different in his written statement. The following is the transcript of his written statement:—

"My name is Haroonur-Rashid Hakim Valiullah and I am a resident of House No. 93, Nayapura, Malegaon (Nasik Distt.) I run a power-loom which is situated on Pawar Gali Road.

On the day of incident I closed down the loom and started for my brother's house. When I came on the road I was hit by a police firing. I was severely injured and fell down. After some time, the police came to me and inquired whether I was a Muslim or a Hindu. When they learnt that I was a Muslim they began to beat me with lathi. Then they took me to the local hospital and then to Nasik for treatment. My fractured right thigh was plastered. The plaster was removed on 17th December, 1967.

The firing had taken place after 12 noon."

3.115 It is noticed that, according to his written statement, he was leaving his loom, which was in Pawar Gali for his brother's house when he was hit by police firing and thus the location of his being shot would be somewhere in Pawar Gali. The statement before us is that he had closed his shop on Mohd. Ali Road and was starting for his house which is in Nayapura when he was hit by the bullet—a very different place from Pawar Gali.

3.116 A look at the original written statement, however, indicates that his statement before us is in conformity with the statement as it stood before amendment and that the inconsistent alteration had been made in that written statement presumably at the time of verification before a magistrate. Valiullah seems to have forgotten the alteration and appears to have refreshed his memory from the original and uncorrected typed copy. This affects the value of the written statements as evidence.

3.117 His injury report by the Resident Medical Officer, Civil Hospital, Nasik is as follows:—

"History of bullet injury on 24th September 1967.

(1) A punctured wound on right thigh anteriorly size 1/3" diameter.

(2) A punctured wound posteriorly on middle 1/3" portion posteriorly."

3.118 It would be seen from this report that there is no lathi injury on his person. It would appear, therefore, that all this story about his being beaten with lathi on his telling the police that he was a Muslim, is a got-up one. In this connection it may also be mentioned that Shabbir Ahmed Hakeem supports Valiullah's statement of being beaten by the police on learning that he was a Muslim. Shabbir Ahmed Hakeem, a member of the C.P.I., has stated before us :—

"One of the injured told me after his recovery and return from the hospital that when he fell down on getting a bullet hit, a policeman asked him whether he was Hindu or a Muslim and on learning that he was a Muslim, struck him with lathis. His name is Haroon Rashid Valiullah."

3.119 It may be mentioned that "the story of firing in the words of the injured" published in Awami Awaz of the 27th October, 1967 had only the following account about Valiullah being injured :—

"Haroonur Rashid Hakim Valiullah who resides over his shop on Mohd. Ali Road was found lying injured in front of his shop. Bullet entered the thigh of this youngman 20 years of age."

This does not contain any mention of his being beaten with lathis and supports his statement before us that he was hit with the bullet in front of his shop on Mohammad Ali Road.

3.120 Mohd. Ishaque Jumman was summoned but he did not appear before the Commission. He made over his affidavit to Vice-President of the Jamait-e-Ulema. He has stated in his written statement that he resided at 837 Islampura and had gone to Hindustan Library on Kidwai Road. Finding Puntambekar Vakil with a calf on his shoulder leading a procession and the assembly of the Hindus in large numbers in Mohalla Kumbharwada, he stood near the Hindustan Library to find out the facts.

3.121 He was accused No. 67 in Sessions case No. 131 before Addl. Sessions Judge, Nasik. The judgment in the case shows that according to his statement he was going to Mominpura which is east of Islampura. In that case he would have no occasion to come to Hindustan Library on Kidwai Road.

3.122 Mohd. Ishaque Jumman further states in connection with his being hit by a bullet :—

"It was unnecessary to open fire as there was no great mob near the Library premises. It was sufficient to disperse the mob by using tear gas shells and light lathi charge. But the police authority started firing without giving any prior warning. Hearing the sound of the firing the people began to run in panic in different directions. I too ran away but unfortunately a bullet struck my head from one side and passed to the other side, injuring my eye. I became unconscious after receiving the bullet shot."

3.123 His statement that firing was 'unnecessary' cannot be taken at its face value. He, however, admits that there was sufficient mob to justify the use of tear-gas shells and lathi charge.

3.124 Shri A. B. Hakeem was summoned but did not turn up. He has stated in his written statement about witnessing the incident of the damage done to the Idgah. He states that at about 12 noon he saw that students of the Gandhi Vidya Mandir College armed with implements tried to destroy the Idgah and succeeded in breaking the two minarets. He phoned up the police station but before the police could arrive the students had gone from the place.

3.125 The Station Diary of the Camp Police Station has an entry at 2-15 P.M. about a telephonic message from Shri Hakeem about the Idgah being damaged and requesting police force. The entry further notes that a vehicle with policemen was sent to the spot. The entry in the wireless log-book confirms this.

E. BURNING OF A NEO-BUDDHIST

3.126 Another incident took place near Dr. Khalil's dispensary which is at some short distance from the slaughter house. There one neo-Buddhist is alleged to have been burnt alive. His name is Bhaurao Chindha Jagtap. Shri S. H. Bhalerao a social worker and a member of the Republican Party stated in his written statement:—

"He was a neo-Buddhist. At 11 A.M. that day he was burnt alive on Mohd. Ali Road (in Mominpura, Islampura Ward) when the goods stored in Gujarat Textile Shop were burnt right in the middle of the road. In this fire itself Shri Jagtap was dipped in oil and burnt."

3.127 The written statement mentions that on the 26th September, 1967, the President of the Malegaon Municipality (Dr. Khalil Ansari) directed the sweepers to collect the ashes of whatever was burnt at that spot and that the contents removed contained the skeleton of the deceased and were thrown at the Compost Depot. The skeleton was recovered from the municipal compost depot on the 4th November, 1967. It was taken out of the heap of rubbish 3 ft. deep.

3.128 One Nurul-Huda Mohamad Umar who was prosecuted for the murder of Bhaurao Chindha Jagtap was convicted by the Addl. Sessions Judge, Nasik on the 7th September, 1968 and sentenced to imprisonment for life. The High Court allowed his appeal, set aside the conviction and acquitted him.

3.129 It appears from the judgment of the Sessions Judge that this incident took place between 11 A.M. and 12 NOON on the 24th September, 1967 and that the statements of the witnesses were that the victim was thrown alive into the blazing fire of the articles and goods in front of Gujarat Mills Stores, that the news of a human being thrown alive into the blazing fire spread in the town but it was suppressed by the witnesses for some time due to the fear of reprisals, that the sweeper who cleaned the debris from the place found human bones and threw them in the compost pit under instruction of Mukadam, that the father of the victim informed the

police of the missing of his son by an application on the 27th September, 1967 and that later, on the 7th October, 1967 Shri Bhalerao sent an application to the Dy. S.P. Ultimately the case was investigated by Inspector Chorge.

3.130 If this incident took place between 11 A.M. and 12 NOON, it shows that there had already been rioting in this area possibly earlier than the trouble in Perry Chowk, as the victim was thrown into the blazing fire after the setting of the looted articles on fire, which must have taken place some time earlier.

F. FIRING BY DY. S.P. MENDKE

3.131 Dy. S.P. Mendke, as already noted, arrived at Malegaon from Satara at about 12 O'clock and at Perry Chowk at 12-16 P.M. that day. He took three unarmed policemen from the Camp Police Station and provided them with arms and ammunition. He has stated :—

“With these Constables I went to Perry Chowk *via* Kidwai Road. I found people were running about in panic on Kidwai Road and people standing along the road also. I found the road littered with stones specially the portion from the Municipal Primary School up to Perry Chowk. Two or three shops on the road were on fire at that time. I did not meet any constable up to Perry Chowk. I found a Mamledar standing at the mouth of the first lane going north of Perry Chowk. The Mamledar just told me the situation was beyond control and orders under Section 144 Cr. P.C. had been promulgated. I hardly talked with him for a minute when I heard some noise from west of Perry Chowk and proceeded to that side. I did not notice any Police Officer at Perry Chowk. I noticed Narang Boot House and Umar Bidi shops being looted. The number of people looting would be hundreds. There are lanes running south of Mohd. Ali Road. People were seen in the lanes as well as on house tops. Narang Boot House is about 100/125 paces from Perry Chowk. I could not make out whether the looters were Hindus or Muslims. I warned the mob and then resorted to cane charge. I had a long cane and charged the leaders with them. As a result of the cane charge the looters went to the lanes running south but re-appeared again. As a last resort I asked the constables accompanying me to fire in the air. I first ordered firing in front of these two shops. The three constables with me were Nos. 1340, 2304 and 1709, namely, R. G. Sonvare, S. V. Patil and A. S. Dusane. As shown in the list attached to the plan showing places of arson and other disturbances, by about 11-30 A.M. 13 shots were fired up to Sardar Talkies. All these were fired in the air.

There was no other policeman on Mohd. Ali Road. From Sardar Chowk I went south passing Jamma Masjid, Town Chowki and the Lakshmi Narain Temple. Throughout this route I found people running in panic. Beyond Lakshmi Narain Temple was the shop of Habib-Ullah—a yarn shop, which was being looted. There would be about 50 people who were looting the shop. There was another shop which also was being

looted. The shop belonged to the Muslim. I got down from the jeep. These people, on seeing me, would go into the temple and come back and so I ordered firing in the air. All the three constables fired in all 12 rounds. I reached Lakshmi Narain Temple only after 20 minutes after leaving the Police Station. I stayed for about 5 minutes in the Lakshmi Narain Temple. I left the jeep there as the jeep had to go for fueling. From there I walked. I walked on and I reached Pawar Gali. I met Dr. Sultan for the first time there. I noticed Muslims collected in the house; I told Dr. Sultan to tell the Muslims not to get panicky. They should go to their houses. He agreed to do so and he assured me that there would be no trouble from them. From there I went to Nehru Chowk. I learnt there was a lot of trouble in Teenkandil area. I got the jeep at Nehru Chowk and proceeded to Teenkandil area into the jeep. Teenkandil area would be about a furlong from the Nehru Chowk. A crowd of hundred there was looting the shops. I warned them, told them to go, chased them, caned them and thereafter I ordered firing there. 12 shots of firing were ordered in the area. The mob dispersed temporarily. I do not know if any people returned to the place of looting after my departure. They must have got the fear. I stayed in Teenkandil area for about 5 or 10 minutes. Then I proceeded to Madni Road side. There again also shops were being looted. The crowd would be about 100. My warning and lathi-charge had no effect and then again I ordered firing in the air. 11 rounds were fired. As a result of the firing the people dispersed. Before reaching Madni Road, I found two shops were being looted and there was arson there. About hundred people were there. Here again I also ordered firing in the air. Five rounds were fired.

From Madni Road I proceeded to slaughter house. 7 or 8 shops on both sides were being looted by a crowd of few hundreds. Here again I warned, then again I ordered firing in the air. 14 shots were fired here. I returned from Mohd. Ali Road to Kashiwara. I found a few shops were being looted. It would be about 12.45 or 1 O'clock."

3.132 Thus, under Shri Mendke's orders firing took place at six places where shops were being looted by mobs and in all, 67 rounds were fired, all in the air.

3.133 The report of Shri S. B. Deshmukh, A.D.M., Nasik who conducted magisterial enquiry into the Police firing shows that 75 rounds were used in firing at 7 places. The details of rounds shown fired at various places in the report do not mostly tally with those mentioned before us.

3.134 On reaching Perry Chowk he found Inspector Chorge and Sub-Inspector Gundi injured. There was no trouble then on the road. Some shops were found burning. Fire brigade was on the spot.

3.135 A fact worth noting is that Shri Mendke does not appear to have disclosed the fact of his firing to his superior officers till the 25th September, 1967. The Superintendent of Police deposed :—

“On the 25th morning on a reconstruction of the events of the previous day I learnt about the firing under the orders of Dy. S.P. Mendke.”

3.136 D.I.G. of Police has also deposed :—

“It was on the 25th morning that I learnt about Mr. Mendke having opened fire in various places. He told us about the firing when we were reconstructing the events about firing. This was in reply to my asking the officers what they had done.”

3.137 The S.P. has further deposed :—

“In the meantime Dy. S.P. Mendke arrived there in a jeep with police constables fully armed. I got the arms unloaded.... I asked Mendke about the situation and he told me that it was quiet then and that Inspector Chorge and other police officers had fired. Some places were on fire. He was not composed. He appeared to be perturbed. He did not tell me about his firing. Firing was done by his constables from his jeep.”

3.138 The D.M.'s statement that he learnt of the police firing when he and the S.P. reached the city must in the circumstance refer to the firing by the Inspector and the Sub-Inspectors and not by the S.D.P.O.

3.139 Shri Mendke did not himself depose that he had told the S.P. when he met him that he had ordered firing at various places during his earlier round of the city. He simply said before us:—

“I was going to Kohinoor Talkies when I noticed the S.P. and D.M. arriving. I went to the office, explained to them the situation and then accompanied them on rounds of the city.”

3.140 Why Shri Mendke did not inform his superior officers immediately on his meeting them about so much firing under his orders remains unexplained for the simple reason that Shri Mendke's statement was recorded a day earlier than the statements of the S.P. and the D.I.G. and there had been no mention about this fact in the written statements filed by these officers. For similar reasons we could not ascertain as to when the account of the ammunition issued to the constables who accompanied Shri Mendke was rendered at the Police Station from where ammunition had been taken. It, however, appears from the letter of the S.P., Nasik to the A.D.M. dated 5th May, 1970 and the enclosed extracts from the relevant registers that it was on the 25th September that the account of 240 rounds issued on the 24th September, 1967 was rendered, which showed that 85 rounds were fired and 155 rounds were deposited. This letter further shows that the Armed Policemen from Nasik fired 59 rounds on the 24th September, 1967. Shri Mendke's silence

in this connection at the relevant time and his being not composed and being perturbed, as observed by the Superintendent of Police, can only be due to the lot of firing done by him and to the death of Abdul Hafiz Abdul Razak who was hit at Madni Road and to the injuries to one more person near the slaughter house. This other person appears to be Abdul Rais Nazir, resident of Sardar Nagar, referred to by Shri Mendke in his written statement.

3.141 Shri Mendke deposes that none was injured on account of the firing under his orders but that in the evening information was received that one person was found killed in Madni Road area. His name was Abdul Hafiz Abdul Razak. He could not say how he could have died on account of firing in that area under his orders. Abdul Hafiz Abdul Razak had one lacerated wound on right side of abdomen lower half about 1/3" in diameter margin inverted. He also had another lacerated wound on right side of back lower half about 1/2" in diameter margin inverted. These wounds could not have been due to the firing in the air. Shri Mendke had suggested the possibility of that person getting injured on account of the firing ordered by Inspector Chorge in the Madni Road area. We, however, do not find any firing by Inspector Chorge or under his order in the Madni Road area. It appears from the facts that Mendke ordered firing nearabout the place where Abdul Hafiz Abdul Razak was found lying injured and he was hit by one of the bullets fired by a constable negligently towards the mob instead of in the air.

3.142 Further Shri Mendke himself stated in his written statement :—

"Further, in the area surrounding Madni Road during the firing on the riotous mob one Abdul Hafiz Abdul Razak died of a bullet injury. Immediately on knowing of the injured persons arrangements were made to remove the persons to the hospital."

3.143 This statement would imply and indicate that Abdul Hafiz Abdul Razak was hit during the firing on the riotous mob under Shri Mendke's order and that his suggestion before the Commission that this person was injured on account of the firing ordered by Inspector Chorge is an afterthought.

3.144 Shri Mendke's statement that immediately on knowing of the injured persons arrangements were made to remove the persons to the hospital, is not correct in so far as the removal of Abdul Hafiz Abdul Razak is concerned. We have already mentioned that the Control Room of Malegaon Police Station received a telephonic message at 3-30 P.M. that a deceased person soaked in blood was lying near Minara Masjid and that the Sub-Divisional Officer, viz., Shri Mendke, was informed immediately and was requested to take further action in the matter. The body was, however, noticed by the mobile van at 6-15 P.M. lying at the same place despite the message at 5-30 P.M. Why Shri Mendke took no steps to have the dead body removed on getting the first information at 3-30 P.M. is not clear. No enquiry in this connection seems to have been made by any superior officers. Possibly the fact was not brought to their notice.

3.145 Shri Mendke's written statement further mentions :—

“At the places which I had visited for quelling the riots wherever fire had to be resorted to, I saw none falling down as a result of firing. Later enquiries showed that Abdul Rahis Nazir r/o Sardar Nagar was injured in the firing in the area in the vicinity of the slaughter house, where shops on both the sides were looted and some set on fire.”

3.146 Shri Mendke has stated before us that none was injured near the slaughter house due to his firing.

3.147 The Superintendent of Police has deposed :—

“The rules about firing strictly enjoin effective firing and countermand firing in the air. So the firing under Shri Mendke's orders in the air was not according to the rules though it so happened that such firing did prove effective in sending away the people from the roads.”

3.148 Shri Mendke himself has stated in connection with the repeated firing under his orders :—

“Repeated firing were resorted to as people hang on despite the earlier firing. My idea was to create an impression on the people and to deter them from acting violently.”

3.149 In his written statement Sri Mendke had been more expansive in this connection and he has stated :—

“In opening the fire there was only one point before me, i.e., to restore law and order as quickly as I could. While assessing the situation and dealing with the rioters firmly at some places, it was thought fit to open fire in air to deter the miscreants from indulging in further mischief with a view to causing minimum loss of life and in bringing the situation under control immediately. The miscreants had gathered in lanes and bye-lanes and had taken shelter at convenient places and yet went on with arson, looting and stone throwing. Effective fire on them might have resulted in the casualty of innocent residents, which, if adopted would have worsened the matter and the results would have been otherwise. Thus, firing some bullets in air did have the desired effect in these peculiar circumstances and proved to be really effective. This saved life and the property both. The goal was achieved. That was achieved in such a short time of one hour only. The trouble was spreading like wild fire from the nucleus of Perry Chowk where the riotous mob was dispersed after firing to the peripheral parts of the city and there was none to arrest the miscreants who were operating fearlessly and defiantly. This firing did check the miscreants immediately within about one hour. I had to be judicious in resorting to fire taking precautions to see that as far as possible there was minimum loss of life and further damage to the property stopped. This firing had kept the miscreants indoor virtually clamping the curfew in the city, which later on was promulgated on arrival of the District Magistrate. Had this stern step not been taken,

perhaps there would have been much more damage to the property and loss of life. This object, to my mind, was fully achieved. I was the seniormost officer on the spot and had to be judicious in bringing the situation under control."

It appears that Shri Mendke's main idea in ordering such frequent firing was more to instil fear among the people than to just drive them away from the spots, in order to keep them from committing any mischief.

3.150 We understand that there are very clear and specific instructions as to how and when firing is to be resorted to. Firing is to be done as a last step and it has to be effective with as few shots as may be necessary. It is felt that if firing is used to create terror, mere firing in the air will, after some time, have no more effect than crackers, and violent mobs will take no more notice of firing than of tear gas or lathi charge. Bullets will become crackers and not serve as the final stopping weapon.

G. INCIDENTS IN SARDAR NAGAR

3.151 Sub-Inspector Gundi deposed that at about 1.50 P.M. he was informed at Perry Chowk that looting and arson were in progress at Sardar Nagar. He went there in the jeep of the D.S.P. with four constables two of whom were armed. On reaching there, he found a crowd of about 1000 or so on Mohd. Ali Road and noticed looting of two shops—one of Grahak Sangh and the other of loom parts. The contents of the shops were taken out on the road and burnt. The crowd was around the two shops. He, therefore, got down from his jeep at about 50 paces from the crowd and warned them. The crowd began to throw stones at the police party. One stone hit a constable by his side and under Sub-Inspector Gundi's order the Head Constable fired one round. As a result of this firing, the crowd began to disperse and out of the people who ran towards the police party, he succeeded in getting 29 people arrested. Some of these people ran into a Bissi (a shelter for labour). The Sub-Inspector followed those persons and found one person lying injured at the door of the Bissi. He put him in the jeep and sent him to the hospital. His name was Mohd. Hanif Mehboob. The people who had gone inside the Bissi escaped by the other end. He denies that Mohd. Hanif Mehboob was shot inside the Bissi.

3.152 Mohd. Hanif Mehboob's affidavit was filed along with the consolidated affidavit on behalf of the Majlis-e-Mushawarat. In this affidavit it is stated:—

"I am a power-loom weaver. I am a lodger and boarder of Nisar Bissi. I was inside the house (Bissi) on the day (i.e., 24th September). The door was bolted from inside. The Police however broke open the door and shot me. The bullet struck me in the hip because I was sick and was lying in bed. Despite injury by the bullet, the police did not show any mercy. They beat me with lathi and dragged me out."

3.153 The statement in the affidavit purports to be thumb marked by Mohd. Hanif Mehboob but the thumb mark under the declaration

of the affidavit has been struck out. There is a note signed by some one "I know Mohd. Hanif Mehboob who has signed". This is wrong as there is no signature of Mohd. Hanif Mehboob. The declaration does not appear to be signed by the Taluka Magistrate. The statement, therefore, has no value. Mohd. Hanif was summoned as a witness but the summons could not be served on him.

3.154 Dr. Khalil Ahmad Ansari states in his written statement:—

"There was an incident when an old sick man named Mohamad Hanif Mehboob was shot at blank range in the house after forcing open the door. I have shown the site to responsible police officers."

3.155 He has deposed before us:—

"The house of Mohd. Hanif Mehboob who died in the Sardar Nagar is a furlong farther east from slaughter house. When I went to the Bissi where Mohd. Hanif Mehboob, along with other labourers, used to eat his meals and sleep I found the door in a broken condition and a gunny bag inside with blood stains."

3.156 These observations do not establish that Mohd. Hanif was shot in the house after forcing open the door.

3.157 There seems to be no particular reason why the door of the Bissi should have been opened and a sick person shot deliberately. We accept Sub-Inspector Gundi's statement that Mohd. Hanif Mehboob was injured on account of the firing on the riotous mob and not in bed inside the Bissi.

CHAPTER IV

Situation after 2 p.m. on the 24th September, 1967

4.1 The District Magistrate and the Superintendent of Police reached Malégaon at 12.45 p.m. They reached the Camp Police Station and noticed Kohinoor Talkies in flames. According to the statement of Shri Mòhoni, District Magistrate, there were about 1,500—2,000 people collected near the Bus Stand and there were people in the thana compound also. Curfew order was issued and the police took steps for patrolling by an officer and two constables on a vehicle. The crowd near the Bus Stand was sent away or was allowed to sit down there. The S.P. has stated that he asked the Bus Stand Controller to allow the passengers to go in the outgoing buses and has further stated that some of the persons at the Bus Stand were arrested on being pointed out to have been among the rioters by a constable.

4.2 These two officers then went round the city and found no crowd on the streets. They did not see any people looting or burning shops anywhere. They neither saw, nor received report of any fresh incident taking place during their round of the city for about two hours.

4.3 They could arrest a few people by following a trail of wheat flour. They found an injured person and later learnt that near that place a man had been burnt alive. The injured man was sent to the hospital.

4.4 Deputy Minister Hirey met these officers at about 3 or 3.30 p.m. A Peace Committee was formed that evening.

4.5 There was no incident till 1.30 p.m. on the 25th September but according to the S.P., the feelings between the two communities continued to be strained.

4.6 At about 1 p.m. on the 25th September, the shop of Habibulla & Son which had been broken open and partially damaged on the 24th September, caught fire. It appears that the fire was on account of electric short circuit. The District Magistrate, the D.I.G. of Police and the S.P. reached the spot after getting a report and saw to the putting out of the fire. The District Magistrate has deposed that he and the other officers who went to the spot found that no one could have gone to the shop and set it on fire and that, therefore, it appeared that the fire was due to some electric short circuit. The S.P. has deposed that at least two S.R.P. men were on duty at this shop and it, therefore, appeared that the fire was on account of electric short circuit and not on account of arson or any mischief. The rumour about the shop being set on fire by the Hindus was contradicted.

4.7 The S.P. has also deposed about another report of arson from a factory. They found one or two boxes burning and did not consider it to be a genuine case of arson.

4.8 The night following had some turbulent incidents. The S.P. has stated about these incidents in his written statement and we quote therefrom:—

“In the evening there was panic from 20.00 hrs to about 23.00 hrs as the Muslim crowd started shouting war cries “Allah Ho Akbar. Nare Takbir.” The Hindus became panicky as these war cries started mounting in chorus all round the city in different Mohallas. At one place the Police party led by S.P., Nasik was assaulted by a group of Muslims in Kassai-pura. They were arrested on the spot with incriminating articles like hot water mixed with chilli powder. The persons in the Mohallas were found with dangerous weapons like knives and other lethal weapons. In all 40 persons were arrested at this locality by the S.P., Nasik and his party and trouble was nipped in the bud due to steps taken by the Police. At another place Sardarnagar (Sonapur) an S.I. and the patrolling party was attacked. He was assaulted by a spear by the Muslim crowd. At various other places small determined Muslim crowds were seen collecting and advancing towards places of rival community or smaller Police parties. As soon as they were challenged by patrolling parties or by a sentry with fire arms, they used to disappear in nearby houses. The Police, therefore, had a hard task in maintaining law and order which was successfully done by vigorous patrolling at different places. Some menacing members of the unlawful assembly had to be taken into custody by chasing them in their hideouts. The tension started growing towards 10 O'clock in the night as frantic telephones specially from Hindus started pouring in at the Police Control Room. The people were assured that the Police were in complete command of the situation and they would do well in not getting scared of the slogans of the Muslims. Influential members of both the communities were approached by senior officials and were told to devote themselves to the first task of restoring law and order in the city and to avoid any acts that might increase the tension. The panic ultimately died down after 23.00 hrs. due to Police measures.”

4.9 Three reports of these incidents were lodged at the Police Station, Malegaon. The first is a report of Crime No. 292/67 by P.C. B.V. Shevale, B. No. 805 of Wadner Khakurdi Police Station. It relates to an incident which took place between 8.30 and 9 p.m. in which hot chilli water was alleged to have been thrown over the Police party. Eight persons were arrested on the spot. The case ended in acquittal.

4.10 The next report is in respect of Crime No. 293/67 by Constable P. R. Chavan, B. No. 405, S.R.P., Group No. VI Dhulia 'B' Company, about an incident which took place between 8.30 and 9 p.m. It is about the Police party being attacked with an iron bar during its pursuit of a number of people. Constable Chavan got injured. Fifteen persons were arrested. This case also ended in acquittal.

4.11 The third report is in respect of Crime No. 294/67 by Head Constable S. B. Deshmukh, B. No. 1336 of the Task Force, Nasik, about an incident which took place between 9 and 9.30 P.M. in which a group of 25 or 30 persons who had been shouting 'Allah Ho Akbar, Nare Takbir' and were armed with lathis, knives etc., threw stones at the Police party and one person rushed with a knife towards Dy. S. P. Bajaj. The assailant was overpowered and arrested. The other persons in the group were also arrested. This case ended in conviction.

4.12 Two cases were reported to have taken place in Chandanpuri Police Station. The first report by Constable D. B. More of the S.R.P. is with respect to Crime No. 183/67 regarding an incident which took place at about 9 P.M. In this report he dictated that he heard shouts "Chalo, Looto, Maro" and "Allah Ho Akbar" from a mill near the Chowki, that he and the Police party proceeded there and found a gathering of 25—30 persons and that on being accosted one of the persons threw a spear which struck him on the right thigh. Another colleague N. N. Bandodkar was also assaulted with an axe. On the arrival of the Police Vehicle, the mob fled away but the Police party could arrest five persons which included the person who was alleged to have struck the reporter (D. B. More) with a spear. Of the five persons, one was released under section 169 Cr. P.C., one was absconding and three were sent up for trial. Of these, one was convicted and two were acquitted.

4.13 The S.P. has stated that it appeared to him that there was a deliberate plan to attack the Police that night. This might be on account of complaints being made on the 25th about the police firing only on the Muslims as a result of which four persons died.

4.14 The description as to how the trouble subsided is interesting and is indicative of what a person carrying great influence with his community, can achieve. In this connection the S.P. deposed thus:—

"Afterwards the D.I.G., the D.M. and I visited the place from where the shouts were coming. D.I.G. suggested going to Mr. Nomani, President of the Majlis-e-Mushawarat. We took with us Messrs Shirke and Jadhav and went to Mr. Nomani and asked him why such things were happening. Mr. Normani said that Police had been harassing the Muslims and that the Muslims were praying for protection. I told him that there was no question of harassment by the Police and related to him the latest incident in which I was attacked with chilli water and told him that the Police would take action against any mischief maker. Mr. Shirke and Mr. Jadhav also told Mr. Nomani about this when he said that they were forcing him to be a communalist, one who was an erstwhile nationalist. The D.I.G. intervened and said apportionment of blame could be done later and that the immediate need was for the maintenance of peace in the city. Mr. Nomani ultimately agreed and the situation was calmed down. We left his place and within 15 minutes the shouting from the mosques stopped."

4.15 The D.I.G. of Police has deposed:—

“After dusk we heard shouts of ‘Allah Ho Akbar and Nare Takbir.’ These shouts created some panic. We went out on patrol. We received reports that Police party was being attacked by people. Many people had gathered in the Police compound because of the panic. The people in the compound were specifically asked to stay in the Police compound. Frantic telephonic calls started coming because of the panic. The calls included the call from Rajebahadur. Rajebahadur even suggested calling of Army. At about 10.30 p.m. the District Magistrate, Supdt. of Police and I decided to contact Mr. Nomani. We went to him along with Messrs Jadav and Shirke. I asked Mr. Nomani as to why the shouts of ‘Allah Ho Akbar’ were going on. He replied that the shouts only indicated that Muslims were praying. I told him that they should pray in quiet. There was some exchange of hot words between him and the Supdt. of Police. M/s. Shirke and Jadav also asked him to maintain peace. Mr. Nomani in return told them that they have been calling him communalist whereas he has been a member of the Congress. I pacified him and told him that this matter could be postponed and that at the moment we were all concerned with maintaining peace. He then agreed to co-operate. When we reached his place he was sitting near the telephone. I presumed that he was in contact with the people outside.”

4.16 The statements of these officers with regard to the effect of these shouts on the Hindus are also interesting. The S.P. has deposed:—

“We then went to Sardar Rajebahadur. He and other Hindus had been making telephone calls expressing their fears and suggesting that the police had failed and that Military should be called. The D.M. told him that he and other officers were in charge of the situation and were doing their best to deal with the situation and they would be prepared to call the army if the police felt the necessity. Ultimately we satisfied him.”

4.17 The D.I.G. of Police has deposed:—

“From Mr. Nomani’s house we went to Rajebahadur’s house, who was in a panicky condition. The District Magistrate pacified him telling him that if he felt panicky it meant spreading panic and that the best for him was to go to bed and leave the maintenance of peace of the city to the authorities. Thereafter we went back at about 11.30 p.m.”

4.18 The S.P. has also deposed that when the Muslims raised the slogans, the Hindus came out of Sangmeshwar Temple. On the approach of the Police party on a vehicle, they fled away. Some of them entered the temple compound and a few of them could be arrested for defying the curfew order.

4.19 Thereafter the funerals of the four dead persons were arranged; their relations were called and arrangements for their conveyance was made. The funeral took place at about 4 A.M. on the 26th September. After their relations had gone back to their respective houses, these officers returned.

4.20 On the 26th September morning a meeting of the Peace Committee was again held. As the Peace Committee had not been very helpful in restoring confidence on the 25th evening, the authorities made it clear at the meeting that they were fully prepared to tackle the situation and that they required the co-operation of the members of both the communities. This brought forth a promise of co-operation from the members and it was decided to lift the curfew. The importance of this decision is clear from the statement of the D.I.G. which is:—

“It was a great risk to lift the curfew but the idea behind this decision was that if the labour remained idle their minds would be working in different directions whereas if the work started people would get busy with their day to day work and the working condition would help restore normalcy. The expectation came true. Power looms worked, people got busy and everything passed on peacefully. Thereafter no further incident took place and the conditions continued to be normal and the curfew was not re-imposed.”

4.21 The D.I.G.'s statement that the curfew was not re-imposed seems to have reference to the non-imposition of curfew during day time on any subsequent day. The curfew was, however, re-imposed from 6 P.M. on the 26th September till 6 A.M. on the 27th September and also during the nights between the 27th and 28th September and between the 28th and 29th September as well.

CHAPTER V

Persons injured during the disturbances and medical treatment

5.1 Fifteen Muslims were injured in firing by the Police of whom four died. Thirty-one persons, both Hindus and Muslims, were injured due to stone throwing or lathi charge. Twenty-four Police Officers received injuries due to stone throwing.

5.2 Of the four persons who died due to firing, one had a lacerated wound on the right side of chest, another had a lacerated wound on the left side of the back, the third had a lacerated wound below the clavicle and the fourth had a lacerated wound on the right side of the abdomen. Of the injured, Rais Ahmad Nazir (Abdul Rahim Nazir) had a lacerated wound on the right side of the back and another on the left shoulder; Imdadkhan Bashirkhan had a punctured wound on the right infra scapular region; Mohd. Isakh, i.e., Mohd. Ishaque Jumman had a lacerated wound on the right temporal region; Mohd. Sadik had a lacerated wound on the right side of the back; Nisar Ahmad had a punctured wound on the left lateral chest. Khalik Ahmad Gula Ali had a lacerated wound on the left shoulder. The location of the injuries on these persons indicates that the firing was not always directed towards legs and feet of the rioters according to the standing instructions.

Medical treatment

5.3 Mohd. Ishaque Jumman, who was hit with a bullet and both of whose eyes were damaged, possibly on account of lacerated wound on the right temporal region, according to the report of the Resident Medical Officer, Civil Hospital, Nasik, complains about his treatment in the hospital and states:—

“I regained consciousness at Nasik Hospital. There in the Hospital I was treated negligently by the doctors. The eye ball bulged out for about 18 days. Then I was sent to Bombay and after receiving the treatment I was discharged. I did not receive proper and due treatment at Nasik. My relatives requested the authorities of the Nasik Civil Hospital to send me somewhere else for better treatment but the requests were not attended to.”

5.4 Dr. Khalil Ahmad Ansari has stated:—

“The treatment of the patients at the Malegaon dispensary was satisfactory. The same cannot be said in the case of patients who were sent to Nasik. I happened to visit Nasik Hospital about a week later. I found that none of the patients with fractures was properly cared for. None of them was plastered nor was given the tension to bring the broken bones closer. This shows negligence on the part of the staff and I think it was due to communal feelings.”

5.5 The statement is not correct about the non-plastering of the fractures.

5.6 Haroonur Rashid Hakim Valiulla has stated that his fractured right thigh was plastered and that the plaster was removed on the 17th December, 1967. Shabbir Ahmed Abdul Aziz has also stated in his written statement that he was taken to Nasik for treatment, where the wounded thigh was plastered and that both his thigh plasters were removed on the 19th January, 1968. Anis Ahmed Mohamad Haneef has also stated in his written statement that he was afterwards admitted to the Civil Hospital, Nasik, where his thigh was plastered. Dr. Ansari's statement, therefore, that during his visit to Nasik Hospital about a week after the incident he found that "none of the patients with fractures was properly cared for" or "was plastered", cannot be correct.

CHAPTER VI

Causes

6.1 Malegaon is susceptible to communal disturbances and the issues that disturb the communal peace are the playing of music before mosque or illegal cow slaughter.

6.2 The disturbances on the 24th September, 1967, were due to the agitated feelings of the Hindus at the theft and slaughter of a milch cow on the previous night and the reaction of the Muslims at the attitude of some Hindus alleged to be led by Puntambekar in taking out a procession in protest and calling observance of hartal throughout the city. There are historical reasons behind the hostile attitude of the two communities on such occasions despite the fact that normally good and cordial relations exist between them and there have been instances of exhibition of good feeling during the disturbances themselves.

6.3 Shri K. B. Khankari, President of Bhartiya Jan Sangh, Malegaon Branch, had deposed before us:

"The relations between the Muslims and the Hindus are normally good because each community has to depend on the other for their business. The Hindus feel about the slaughter of cows illegally but have got reconciled to this. The Muslims also do feel about the playing of music before mosques but are similarly reconciled to it. Ordinarily the relations between the individuals of the two communities does not raise any question of communal trouble. At about 11.30 A.M. a mob of 200—250 Muslims was coming by the lane running west to east. I requested them not to proceed further and they obeyed. I took the help of a Muslim neighbour of mine in asking the mob not to proceed further. There was a Marwari shop in that lane. I requested the mob not to enter that shop and it did not do any harm to that shop."

6.4 Shri Mendke has deposed:—

"There were instances in which members of one community had protected the property of the other. One such instance is that when smoke was noticed coming out of Habeebulla's shop we found that the Hindus had been taking out the property of the shop which was burning.

There have been instances of members of both communities helping in the maintenance of peaceful conditions in their localities. At the meeting called after the disturbances, Minister Hiray praised the efforts of such people. The meeting was attended both by Hindus and Muslims."

6.5 The S.P. has described the relations between the two communities thus:—

“Relations between the two communities at Malegaon upto 24th September, 1967 used to be cordial. They had no hostile sort of feelings. They had some sort of restraint feelings. Such feeling used to be on account of molestation of women, playing of music before the mosque during processions and the incidents of illegal cow slaughter. On the economic plane the relations between the two communities were very good and were inter-dependent.”

6.6 The S.P. has filed a statement of extracts from the village crime note book for the period 1922—1966 (Exhibit VI). These show that besides the question of music and cow slaughter, one other major factor in creating communal trouble at Malegaon has been the molestation of Hindu women by Muslims and that communal feelings had been noticed to be on the increase even in 1952.

6.7 A brief narrative of the extracts is given below. The earliest complaint of indecent behaviour by Muslims towards Hindu women was made in 1922. Reference to such conduct is made in 1932 which is:—

“In Malegaon about 20 per cent. Momins are of such type. But there is no adequate proof to arrest them under any clause or rule. These people are mischievous and they are expert in tormenting the ladies with jestful remarks or pushing them slightly and be ignored as if they have done nothing and they are gentlemen. These people force or attract the ladies to indulge in immoral activities. This results in furious riots and disturbances.”

6.8 Question regarding playing of music before mosques arose in 1923—1929, 1932, 1937 and 1952. It appears that music had to be stopped when a procession passed by a mosque usually by virtue of agreement between the leaders of the communities. A riot, however, took place in 1932.

6.9 In 1929 some suggestion was made by a Hindu for the stoppage of slaughter of bulls. In 1950 some pamphlets were distributed by a Maulana to persuade the Muslims to slaughter big animals.

6.10 The general feeling of the Hindus is referred to in 1932 thus:—

“In Malegaon the position of Hindus and Muslims is so critical that nobody knows when the Muslims will be aggravated on any matter and there will be a disturbance. The history of Malegaon is that Muslims get aggravated on a simple matter. So it is essential that everybody should be cautious.”

6.11 Another note says:—

“Whenever the Hindus see a group of Momins going anywhere, the Hindus feel that the Momins are going to cause some riots. They get frightened.

There was a meeting of the prominent people belonging to Hindu and Muslim communities of Malegaon and in that meeting the Hindus expressed that no one could say as to when the Muslims would create riots."

6.12 The communal feeling appears to have found expression in the meetings of the Municipal Committee also. A note says that:—

"Members of the Municipal Committee of Malegaon have communal feelings and they are partial to their community."

6.13 A note in 1952 refers to a public meeting at which it was said that communal feeling was increasing between the Hindus and the Muslims.

6.14 In 1956, a couple of incidents of injuring two Muslims at different times with sharp pointed weapons by some Hindus took place. The incidents led to rumours and to the possibility of communal disturbances.

6.15 On 23rd August 1963 a few Muslims objected to the playing of music by the Ganpati installation procession in front of the Jumma Mosque. A meeting to protest against the playing of music took place on the 24th August, 1963. Eventually a serious communal riot took place in Malegaon during the passage of the Ganpati immersion procession on the 2nd September, 1963 when it was passing in front of the Jumma Masjid. The relevant note says that all of a sudden stone throwing started from the Masjid and adjoining area. The situation did not come under control by resorting to tear-gas and lathi charge. Muslims started looting the shops and the police opened fire. As a result of the firing, six Muslims were killed and 14 were injured. Stone throwing accounted for injuries to 46 Muslims, 57 Hindus and 20 policemen.

6.16 Injuries to the Muslims due to stone throwing show that stones were also thrown by the Hindus.

6.17 According to the information furnished by the District Magistrate, two Hindus were injured due to lathi charge by the Police and one Hindu was stabbed by two Muslims.

6.18 Subsequent to the riots, a Muslim Defence Committee was established which collected funds and complained of injustice being done to Muslims whose lives and property were not safe in India. The Hindus also established an organisation named Hindu Nagrik Sangathan in order to defend the Hindus from Muslim attack.

6.19 The note in the extracts further says:—

After the setting up of the Muslim Defence Committee, this Committee excited the Muslims to attack Hindus every now and then. As such the Hindu Nagrik Sangathan was set up..... The Muslim Defence Committee hired Muslim goondas from outside Malegaon and made them attack Hindus. The Hindu Nagrik Sangathan strongly protested against it and did their best to save Hindus from such attacks."

6.20 The note further speaks of the inability of the Peace Committee formed to do any effective work due to the working of the Muslim Defence Committee and the Hindu Nagrik Sangathan.

6.21 On the Shiv Jayanti occasion in May 1964, there was some stone throwing on the Ganapati procession near Gupta Dairy. The processionists thereafter changed their route and did some mischief when passing Gaware Masjid.

6.22 In May 1966 there was some dispute between the wife of a Hindu constable and Muslim ladies. Some more Muslims joined them and the constable and his wife were injured.

6.23 The Government narrative states that as a result of the communal riots of September 1963, the Muslims at Malegaon developed a tendency to boycott the Hindu traders and set up their own shops in Muslim localities, indirectly trying to oust the Hindu traders. Some further instances are also mentioned in the Government narrative.

6.24 On the 26th July, 1964 five Muslims attacked a Police Chowki and assaulted a S.R.P. constable who had intervened in the quarrel at a water tap where two Muslim boys were alleged to have teased a Hindu girl.

6.25 A case of illegal cow slaughter took place on the 14th April 1965. The case ended in conviction.

6.26 Again on the 13th August, 1965 a Muslim trying to recover some dues from a Harijan caused him to be tied and beaten. A crowd of about 300 Harijans collected on the above occasion. The case was compounded in the court.

6.27 On the 15th August, 1965 an incident took place among some Hindu boys and Muslim boys when the latter were trying to take photographs of Hindu girl students playing Kabadi. While an injured Hindu student was being taken to the hospital, the students taking him were set upon by Muslim students.

6.28 On the 10th September, 1965 a Muslim outraged the modesty of a Hindu girl. He was convicted.

6.29 Four cases of illegal cow slaughter took place in 1966 on the Bakr Id day; three cases ended in conviction and the fourth case was *sub-judice* in May 1968 when the Government narrative was received.

6.30 On the 15th May 1966 a quarrel took place between a Hindu woman and some Muslim women over the tap water. The Muslims of the locality took side of the Muslim women and belaboured the Hindu woman and her husband. Four Muslims were convicted. This may be the case of the Hindu constable and his wife already referred to in para. 6.22.

6.31 On the 27th September, 1966 a Muslim was found playing mischief with a Hindu girl. Action under section 110 Cr.P.C. was taken. The case was *sub judice* in May 1968 when the Government narrative was received.

6.32 On the 28th September, 1966 a packet of Gulal was found thrown on the Jumma Masjid.

Cow slaughter

6.33 On the 23rd March, 1967 the Bakr Id day, two incidents of illegal cow slaughter took place; one case ended in conviction and the other was *sub judice* in May 1968 when the Government narrative was received.

6.34 The feeling about cow slaughter became intense after the agitation for banning cow slaughter in the country in 1966. In 1966, 43 cases of illegal cow slaughter in Malegaon were reported and 34 offences till the 24th September, 1967. Many a case might have gone unnoticed.

6.35 There is ample evidence on record to show that illegal slaughter of cows is fairly common at Malegaon, as the sanctioned quota for the slaughtering of cows in the slaughter house was far less than the needs of the increasing Muslim population of Malegaon.

6.36 Dr. Khalil Ahmed Ansari has stated before us:—

“Of course illegal slaughter of cattle leads to resentment by the other community. Subsequent to the riots of 1967 the quota of cattle to be slaughtered was doubled. It was again doubled in 1968. So now the quota is practically four-fold to what it was prior to riots.”

6.37 Inspector Chorge has deposed:—

“Illegal slaughter goes on in Malegaon occasionally. This becomes difficult for the police to detect such cases. There are some well known places where cows are slaughtered but the police on patrol find it difficult to detect about the slaughtering of the animal. Illegal cow slaughtering goes on in Malegaon. The number of slaughter houses in Malegaon has been increased.”

6.38 The Government narrative rightly points out that anti-Muslim feeling started growing in Malegaon in view of the frequent occurrence of illegal cow slaughter since 1966.

6.39 Shri R. T. Patil has deposed that there were 50 places in Malegaon where cattle were slaughtered by the butchers against the law. In this connection he sent a representation to the Home Minister of Maharashtra State on the 24th August, 1967. In this representation he complains about frequent theft of cattle, difficulty of investigating the offences because the cattle are usually slaughtered immediately and the police not properly investigating the complaints made to it. He has complained of the theft of his own two bullocks on the 23rd June, 1967.

6.40 The figures supplied by the District Magistrate in connection with the theft of cattle in the town of Malegaon are as follows:—

1963	1964	1965	1966	1967
6	8	15	12	12

6.41 Shri Rajebahadur deposed that there are several places where slaughter of cows is done quite frequently though secretly and this causes apprehension of trouble. He has further deposed that any minor individual incident between the two communities is at times treated as grave both by the Muslims and the Hindus.

6.42 Syed Abbas Ali Qasim Ali Qazi, President of the Malegaon Municipal Committee, states that in Malegaon seven or ten cows are slaughtered every day by the people concerned at different places. But no trouble had ever taken place on account of such slaughtering of cows as that is always done with the connivance of the police. He has further deposed that objection was taken to the slaughtering of cows on the 24th September, 1967 as the cow had been stolen and it had a young calf.

6.43 Syed Qazi further stated in his written statement that due to the communal disturbances which occurred at Ahmednagar and Sholapur in 1967, the Jan Sangh and R.S.S. organised processions against cow slaughter and this created some tension in the city which flared up when a cow was slaughtered by a butcher on the 24th September, 1967 but has stated before us that such processions were organised at places other than Malegaon.

6.44 In the written statement filed by Majlis-e-Mushawarat it is stated:—

“It may be noted that cow slaughter is not an issue or point of dispute between Hindus or Muslims of Malegaon. Thus there was no occasion for Jan Sangh leaders of Malegaon to raise a dispute about cow slaughter.”

6.45 This does not appear to be fully correct. The Hindus did not raise any objection to the slaughter of the cattle at the slaughter house but the 1967 application of Shri R. T. Patil shows that the Hindus were not reconciled to the theft of cattle and their slaughter outside the slaughter house.

6.46 It is clear, therefore, that the Hindus might have become reconciled by and large to the slaughter of cows in the slaughter house but were not reconciled to the illegal slaughter of cows, and their feeling against it became intense with the increase in such cases. The slaughter of the milch cow, after stealing it, so close to the owner's house enraged some Hindus and led them to organise a procession and hartal against the occurrence of such an incident. The District Magistrate has clearly summed up the position in his deposition thus:—

“The cases of cows being slaughtered has increased four-fold. Illegal cow slaughtering takes place quite often but the

Hindus do not interfere as they do not get offended by it. This incident of cow slaughter of the 24th September was of the case of a stolen milch cow, which was stolen and slaughtered in the heart of the mixed abadi. The shouts of the owner of the cow had attracted people there. These factors distinguish the case with an ordinary case of cow slaughter."

Music before mosques

6.47 The question of playing of music before mosques may have also lost its intensity but is strong enough to sustain the hostility between the communities.

6.48 Shri Rajebahadur, President, Rotary Club, Malegaon, has stated before us:—

"The playing of music before mosques which used to be a frequent source of trouble in the past even though compromise had been arrived at between the communities some time back, is no more a source of trouble at Malegaon and now processions pass with music before mosques without any trouble."

6.49 Syed Abbas Ali Qasim Ali Qazi, President of the Malegaon Municipal Committee, has also deposed that there has been no dispute about music before mosques in Malegaon during the last few years and that the Muslim community does not feel any kind of tension now on this account. It may be noted that as late as 1963 there was a communal-riot because of the playing of music before a mosque.

6.50 In his written statement he has stated that in 1923 it was decided by the influential political leaders of both the communities that music be not played within a distance of 40 paces of a mosque, that such restrictions should be particularly observed at the time of prayers and that this agreement was again accepted in 1937 when some tension was caused on account of the playing of music.

6.51 Syed Qazi then refers to the incident during the Ganapati procession of 1963 when disturbances took place. He was one of the persons arrested by the police at the site and states that his and others' arrest was without any cause and indicated that the arrest was one-sided and only in respect of the Muslim members of the Peace Committee. He concludes that an impartial and non-communal executive could have controlled and avoided the situation.

6.52 In the written statement filed on behalf of the Majlis-e-Mushawarat, Malegaon, by Abdul Rasheed Usmani it was stated that the communal harmony which existed in Malegaon till 1963 was damaged in recent years by the emergence of certain Hindu political elements who organised themselves under Jan Sangh or R.S.S. and stated with respect to the 1963 incident:—

"In the year 1963 an agitation was started by these elements against the Government with the demand that the Hindus had the unfettered right to carry their religious processions anywhere they liked. They claimed this as their fundamental right under the Constitution.

It was this agitation by the Jan Sangh elements that was the cause for the communal riot that took place on the 2nd September, 1963. Under the Notification referred to above issued by the District Magistrate the Ganapati Procession could not pass by the Juma Mosque but the processionists deliberately went along that route and tried to create mischief near the Juma Mosque. This caused the riot of 1963 which the Ganapati processionists had provoked. It may be noted that the police resorted to firing on Muslims thereby causing death of 7 Muslims. During 1963 riots the police showed partiality against Muslims by arresting large number of Muslims who were gathered for prayer in Juma Mosque.

It may be noted that after riots of 1963, the ancient tradition in respect of religious procession came to an end. In the new circumstances responsible Muslim leaders persuaded the Muslims to agree to the religious processions to pass by places of worship provided processionists followed the Government orders and police regulations in this respect."

6.53 The Notification referred to in the above statement does not prohibit the passing of any procession by Juma Mosque. One of the restrictions laid down in para 2 was that 'no Ganapati procession will be allowed to pass during 23rd August 1963 to 2nd September 1963 upto 4.30 P.M. through Motipura Masjid.' The disturbances took place before Juma Mosque.

6.54 Relevant portion of Para 13 of the Notification (Jahirnama) as translated is:

"The Mela or processions may avoid, as far as possible, the roads which pass through the Masjids. If at all they have to pass through any Masjid, they or the people going with the procession and all other people who gather there, while going through the Masjid should pass straightway without stopping at the Masjid. Besides this, while passing through the Masjid they should not play, should not ring Tipri, should not sing, should not shout, should not make indisciplined noise or should not play on any Tam-tum or any other kind of musical instrument. The words "should not shout" do not impose any ban on usual sound of lecture or expression."

6.55 The directions do not prohibit the passing of the Ganapati procession or any procession by Jumma Mosque and, therefore, the statement that under the Notification issued by the District Magistrate, referred to above, the Ganapati procession could not pass by Juma Mosque, is not correct.

6.56 Shri A. R. Usmani, General Secretary, Majlis-e-Mushawarat, Malegaon supports the statement of Shri Rajebahadur that the mosques remain open and prayers are also offered without in any way affecting the passage of the procession by a mosque though for some time after the riots of 1963 Muslims used to close their mosques, and even put off their prayers, when a procession was to pass by a

mosque. He, however, complains that the processionists now throw gular at the mosque and this hurts the feelings of the Muslims.

6.57 Shri Shamsherkhan Himmatkhan stated before us:—

“The Muslims of Malegaon did/do not object to playing of music before mosque as such. What we object to is their stopping in front of the mosques for a considerable time and behaving in a provocative manner. That is why we close our mosque, lock it and go away.”

Molestation of Hindu women

6.58 The third major factor contributing to communal disharmony has been the molestation of Hindu women by Muslims.

6.59 Shri R. T. Patil deposed that cases of molestation of women in the town were frequent, that only Hindu women were molested by Muslims and that he submitted a complaint (Exhibit I) to the Police Sub-Inspector in 1961. The report is dated the 24th October, 1961 and complains of the bad characters of Malegaon harassing women who usually never complain for fear of losing respect in society.

6.60 The figures about the molestation of women and rape are as follows:—

1963	1964	1965	1966	1967
2	2	4	9	1

6.61 Reports of such cases are not usually made to avoid publicity.

6.62 These figures supplied by the District Magistrate do not specify the community to which the victim belonged but the statements of Police Inspector Chorge and Shri Keskar indicate that the reports were about the molestation of Hindu women by the Muslims.

6.63 Inspector Chorge has deposed before us:—

“The offences of molestation of Hindu girls by Muslims are reported but no case of Muslim girl being molested by any Hindu has been reported. I have already submitted such reported cases in 1965 to 1967 in my written statement.”

6.64 In the written statement he has stated:—

“On 17th March 1965 at about 3 A.M. one Abdul Khalik Abdul Hakim Ansari of Malegaon entered the house of Housabai w/o Ananda Pawar. Housabai was sleeping in the Verandah. Abdul Khalik cut her hair by scissors but he was caught red handed. Prior to this incident, Abdul was always winking at her. But she never encouraged him. An offence at C.R. No. 47/65 u/s 454, 294, 426 etc. I.P.C. was registered and sent up to the court of law where he was convicted.

On 10th September 1965 at about 20-45 hours one girl from LIC was going for her studies on bicycle. One Shri Shikandar Shaikh knocked her down and molested her. An offence at C.R. No. 162/65 u/s 354/341 I.P.C. was registered and the case was charge-sheeted. He was convicted.

On 15th July 1966 three ladies namely Danyabai, Reshmabai and Vimlabai were fetching water from the public tap. Three Muslim persons followed them and molested one of them. An offence to that effect was registered against the above accused and they were convicted.

One married woman viz., Bajubai w/o Baghunath Patil was kidnapped from Malegaon by one Muslim Mustafa Dada Miya. She was kept at Chalisgaon for some time. On complaint they were brought back to Malegaon and proceeded against by the Police.

On 27th September 1966 one Muslim named Rahimatulla Chhadi outraged the modesty of a Hindu girl while passing by the road. This was noticed by some Hindus. They belaboured Rahimatulla and produced him in the Police Station. He was convicted."

6.65 Shri S. S. Kasar, Organiser, Rashtriya Swayamsewak Sangh, has stated in this connection:—

"A few other incidents of girls being kidnapped by the Muslims had also taken place in the previous year or so. The number of cases of kidnapping reported to the Police may be about 10 in a year but the cases known to the public would be three or four. In all these cases Hindu girls were kidnapped. No case came to public notice in which Muslim girl was kidnapped by a Hindu."

6.66 The trouble came to a head on the 24th September, 1967 when the Muslims excited at the rumour of damage being done to Jumma Mosque and of the molesting of Muslim women by Hindus rushed towards the Mosam river and molested a Hindu woman. Inspector Chorge has stated in the written statement:—

"In the meanwhile somebody spread a rumour that Jumma Mosque has been damaged and hurt by Hindus and Hindus are molesting Muslim women in the city. These rumours made the Muslim mob to turn wild. They started shouting that they should be allowed to go to Jumma Mosque as it was allegedly burnt. Some of the Muslims from the mob rushed towards the Mosam river bank and they caught hold of one Hindu woman and molested her. This provoked Hindus on the bank of Mosam river, and they also started shouting and advancing. Police was all the while busy in controlling the mob. The Muslims then started pelting stones, soda water bottles, bricks, iron bars etc. on Police as well as Hindus."

6.67 Sub-Inspector Patil stated in the written statement:—

“While I was on cause-way on Mosam river I noticed 50/60 Muslims coming from Kumbharwada side raising shouts: “Muslims. What do you watch? Hindus have burnt the mosque and molested your women”. This very mob pelted stones on a Hindu woman washing clothes in the river and some of them tried to catch her. No sooner I saw this I ran towards them and caned them, they ran away. Hindu woman also ran away towards Gulbazar side. I chased this Muslim mob with the help of Policemen upto Central Khadda.”

6.68 He has also deposed to the same effect before us.

6.69 The other factors affecting communal harmony at Malegaon are practically the same as have been dealt with in our report on the communal disturbances at Ranchi and the report on the communal disturbances at Ahmednagar. Shri Nihal Ahmed has stated before us:—

“Malegaon had nationalist thoughts. It changed its mentality after partition. Partition created a sort of distrust between the communities and this distrust went on increasing. This attitude was encouraged by the attitude of Government servants. This would apply to the whole country. The working of the Government servants on different occasions in the past in a purely communal manner tended to increase this distrust.

About 15/20 persons of Malegaon were detained during the Indo-Pak conflict of 1965. Some of these persons were very strong nationalists and opposed to the creation of Pakistan. This must have hurt their feelings.”

6.70 This question of the distrust between the communities as a result of the partition of the country has been dealt with by us in paragraphs 10.50 to 10.56 of Chapter X, Part II, of the report on the disturbances at Ahmednagar and in paragraph 1, Part V, of the report on the communal disturbances at Ranchi.

6.71 The Hindu feeling of anti-national conduct of the Muslims has been dealt with in paragraphs 10.57 to 10.68 of Chapter X, Part II, of the Ahmednagar report, dealing with the instances of certain incidents which took place in Maharashtra and which tended to support the Hindu feeling.

6.72 It may be mentioned that a green flag was found hoisted in Malegaon also in August 1965. Syed Abbas Ali Qasim Ali Qazi, President of the Malegaon Municipal Committee, in his written statement, refers to the hoisting of a green flag on a post in the area of Panch Kandil on the 15th August 1965 and alleges that some Jan Sangh workers must have done it as in that exclusively Hindu locality no Muslim could dare to do such a thing unnoticed.

6.73 In his letter dated the 6th October, 1963 to the Finance Minister, Government of India, Shri Jadhav stated:—

“Unfortunately after and even before the China and Pakistan aggression on India a larger section of the Muslim population was and is interested in tuning Pakistan Radio and not Indian Radio. These facts make it crystal clear that they have got sympathy in their heart of hearts for Pakistan.”

6.74 Shri P. B. Shah, Vice President, Rotary Club, Malegaon has stated in his written statement in this connection:—

“Even after freedom most of them have an inclination and love for Pakistan than for India. Therefore I experienced in theatres that many Muslims do not honour the national anthem and also when we move through Muslim areas through night, they tune up radios for Pakistan news than for Indian news.”

These statements appear to be wide and general statements based more on supposition, in the present communal atmosphere than on actual facts.

6.75 The effect of the previous incidents of the desecration of temples, mosques, dargahs etc. in Maharashtra during 1965-67 has been dealt with in paragraphs 10.17 to 10.26 of Chapter X, Part II, of the Ahmednagar report.

CHAPTER VII

Adequacy of Police arrangements and comments thereon

7.1 Strictly speaking, there was no arrangement to prevent the outbreak of the disturbances on the morning of the 24th September, 1967. This was due to several reasons.

7.2 The first and the important reason seems to be that the local police officers failed to assess the gravity of the situation arising out of the theft and subsequent slaughter of a milch cow. Till about 9 O'clock they did not consider the situation to be so disturbing as to inform the district officers at Nasik, 66 miles away.

7.3 The other reason was that it was very difficult to collect the available policemen for deploying them in an emergency. The normal strength of the police force at Malegaon and any place for that matter is fixed according to the normal needs of the place. It is always a strain on the police force when anything exceptional takes place and which requires the use of a larger police force. The following table indicates the position of the availability of the police force at Malegaon:—

(i) *Strength available at Malegaon*

	P.Is.	P.S.Is.	UHCs	UPCs	AHCs	APCs.
1. Malegaon	1	2	16	68	5	16
2. Chandanpuri . . . . .	..	2	16	69	1	3
3. Malegaon Taluka . . . . .	..	1	5	14	1	3
4. Headquarters Temporary from 22-9-67 . . . . .	..	1	..	..	11	19

(ii) *Strength detailed on duty and retained at Police Stations*

Strength detailed on duty

1. Malegaon Camp.	1	2	11	42	4	8
2. Chandanpuri . . . . .	..	2	14	52	1	8
3. Malegaon Taluka . . . . .	..	1	6	8	1	3
4. Headquarters . . . . .	..	1	..	..	11	19
	..	1				
	Reader S.I.					

It may be mentioned that these figures relate to the available force on the 24th September and deployed during the day but do not give a correct position of the force available for duty in the emergency that morning as would be indicated later.

Strength retained at Police Station

1. Malegaon Camp . . . . .	..	..	3	2 (1 + 4 at Tal. lockup guard).	1 UHC 3 APCs at	8 Guard and Camp
2. Chandanpuri . . . . .	..	..	1	2	..	1
3. Malegaon Taluka . . . . .	..	..	..	6	..	..

7.4 Malegaon has three police stations—Malegaon Camp, Chandanpuri and Malegaon Taluka.

7.5 There are no quarters for the police constables at Chandanpuri Police Station. Only one Head Constable and two constables are on duty at the police station. The distribution of duties of the staff takes place during the night before and the duties are to take effect from 8 A.M. the next day. The constables are told their duty for the next day at about 8.30 P.M. No roll call takes place in the morning and the constables go to their duty after reporting at the thana.

7.6 It follows that in any emergency, as stated by Sub-Inspector Gundi, constables who are off duty can be contacted only through messengers picked out of the staff at the Outpost or on patrolling duty. It is probably due to this difficulty of sending messengers to call the constables and also due to the wrong assessment of the situation that Sub-Inspector Gundi did not consider it necessary to issue instructions for the calling up of the constables who were off duty at the time that morning. He, however, rang up the Head Constable later on to call up the available constables. The net result of this was that constables could report for duty at random on learning of the commotion in the city or on receiving a message of being called. In the situation prevailing at Malegaon that morning it was not possible to send messages to call the constables off duty and it just happened that some constables did turn up for duty by 9 A.M.

7.7 At Camp Police Station there are, however, 39 quarters of policemen both posted at Camp Police Station and at Chandanpuri Police Station. The remaining constables, i.e., about 98 unarmed constables and 19 armed constables, reside in the city outside the two police stations. Sub-Inspector Patil, was, however, fortunate in finding 25 constables at Camp Police Station from the lot which had been deployed the previous night on duty for the 24th September. He then deployed 4 policemen at Sangmeshwar, 6 in Nihal Nagar, 4 in Camp and 2 in Pila Pump and about 8 in Perry Chowk. No Sub-Inspector was available and he had to leave for Perry Chowk. So, he gave instructions to the Head Constable at the Police Station to send more men to Perry Chowk and Kidwai Road.

7.8 In these circumstances, the brunt of the whole arrangement fell on Inspector Chorge and Sub-Inspectors Gundi and Patil. What they did has been mentioned elsewhere. By the time the procession led by Puntambekar reached Perry Chowk at about 9.30 A.M. about 20 constables had been detailed in that area. The crowd there was pretty large. All the shops west of Gupta Dairy had been closed by then and people of both the communities were agitated. It was not possible for this small force and Inspector Chorge and Sub-Inspector Patil to do anything more than what they did in trying to keep the peace. Help of local leaders was sought to explain the situation to the people and to persuade them to go back to their places. The people were not in a mood to listen and eventually broke into violence.

7.9 Apart from the permanent police strength at Malegaon that morning, a force consisting of one Sub-Inspector, 11 Armed Head Constables and 19 Armed Police Constables was at Malegaon on the 24th September, it being sent there on the 22nd September by the S.P. merely as a precautionary measure in view of the communal disturbances at Sholapur and Ahmednagar on the 17th and 18th September, 1967 respectively.

7.10 The Sub-Inspector-in-Charge was Sub-Inspector Momin. His statement before the Addl. District Magistrate who conducted a magisterial enquiry into the firing relates to the utilisation of this police force. The relevant portions from his statement may be quoted:—

“We reported ourselves for duty to Shri Patil, Senior Police Sub-Inspector at Camp Police Station, Malegaon. On the very day at night Shri Chorge, Inspector, divided my party Jawans between Marenpura (Chandanpuri) and Camp Police Stations. I do not remember how many Jawans were posted to each Police Station. I was deputed as Reserve PSI at Malegaon Taluka Police Station..... People who had come with me from Nasik on 22-9-67 were entrusted with the patrolling duty by the Circle Inspector, Malegaon Camp Police Station. And the rest of the people were given some other duty by the Sub-Inspector of Marenpura (Chandanpuri) in his area. While on patrolling duty my people were given lathis and their rifles were kept in Taluka Police Station. At the night of 22-9-67 I was put on duty at Taluka Police Station and passed my night there. I did not do any patrolling or even went out anywhere. People who went at 8-30 P.M. for patrolling were on duty upto 5 A.M. On 23-9-67 my people were put on duty the whole day. On 23-9-67 whole the day I was present in the office of Camp Police Station. I did not go anywhere for bandobast in the city. On 23-9-67 at 8-30 P.M. my people were given patrolling duty. I do not know the area where patrolling duty was done by my people. On 23-9-67 whole of the night I was present in the Taluka Police Station. On 24-9-67 I received a message at 7-30 A.M. that a telephone call has come and I should immediately rush to the Camp Police Station. Out of my party men only three persons had returned. They were on rest. I went to the Camp Police Station immediately at 7-30 A.M. along with my three constables. At Camp Police Station I was told that in the city there was some disturbances and I should go there immediately. I was further told that some police force had already gone there. I did not see Shri Patil or Shri Chorge at Camp Police Station. I alongwith my three constables went to Perry Chowk. I did not see any policeman there.”

7.11 We feel that the armed police specially deputed as a precautionary measure could have been better utilised in the form of pickets and Sub-Inspector Momin, the Officer-in-charge of that

force, should not have been so cut off from his party. The S.P. has deposed:—

“Some of the armed constables I had sent on the 22nd September in view of the situation were utilised in patrolling and other duties. They could have been taken by Sub-Inspector Momin and utilised on the morning of the 24th.”

7.12 After the riot started, extra police force including S.R.P. from outside Malegaon was obtained. With the arrival of the extra police force curfew order could be strictly enforced and the situation kept under control. The figures of the persons arrested on the 24th and 25th September are:—

	No. of persons arrested for breach of curfew		No. of persons arrested for substantive offences	
	Hindu	Muslim	Hindu	Muslim
24th September, 1967	90	157	9	60
25th September, 1967	34	104	4	47

7.13 We need not repeat what we have said about the wrong assessment of the situation by Sub-Inspector Gundi and Inspector Chorge and their omission to inform the S.D.M. and the Mamlatdar promptly of the main incident about the theft and the slaughter of the cow.

7.14 This is regrettable in view of the instructions issued by the Superintendent of Police on the 19th September, 1967 after riots had occurred at Sholapur and Ahmednagar on the 17th and 18th September, respectively. The S.P. issued instructions to the S.D.P.O., Malegaon on the 19th September to keep a watch on the rumours and a close watch on the known communal leaders and communalists, to keep material ready for P.D. Act as also a revised list of goondas; both political and communal. He has deposed before us that his instructions also required the sending of information to him, however small it might have been.

7.15 The further visited Malegaon on the 21st September and was told by all the local officers including the S.D.M. and Taluka Magistrate that the situation was quite normal and that there was no possibility of any breach of the peace. He, however, left instruction for making out cases under the P.D. Act and Cr. P.C. without hesitation if the situation so demanded. He also sent the armed force for additional bandobast on the 22nd September, 1967.

7.16 The omission on the part of the police officers to inform the superior officers also amounted practically to the disregard of the directions laid down in the Emergency Riot Scheme for Malegaon. Under the heading “The issues over which disturbances may arise” is stated that disturbances may also arise when cows are

slaughtered. Under the heading "Likely form of violence or trouble it may start", is mentioned 'stone throwing, looting of shops and hotels and cases of stray assaults.' Under the heading "Localities which are likely to be affected" are mentioned Chandanpuri, Perry Chowk, Sardar Chowk, Mohd. Ali Road and Matha Math. Practically all the places figured in the disturbances of the 24th September. A police officer having a knowledge of the Emergency Scheme should have considered the likelihood of disturbances on account of the theft and subsequent slaughter of the milch cow. Due to the communal disturbances at other places in August and September, 1967 and especially the disturbances at Sholapur and Ahmednagar on the 17th and 18th September, 1967 the police officers should not have taken it lightly and should not have depended on their own confidence that either no trouble would take place or the trouble would be of such dimensions that they themselves would be able to control it.

7.17 The Emergency Scheme operates in two phases: One is called 'The Precautionary Stage' and the other is called 'The Active Stage'. The Precautionary Stage is to be declared at the first sign of trouble or incident such as desecrating of mosques or temples due to which some tension may be created at the place. The mention of desecration of mosques or temples in this context is not exhaustive but is only illustrative as it has already been stated that disturbances might arise on account of cow slaughter. It was a proper case for the declaration of the 'Precautionary Stage' as cow slaughter had taken place and had given rise to some tension in the city which is evident from what we have said earlier about the excitement among the members of both the communities soon after the incident was known early that morning.

7.18 The Precautionary Stage could be declared by the Superintendent of Police in consultation with the District Magistrate. The omission of Inspector Chorge and Sub-Inspector Gundi to inform the Superintendent of Police promptly, therefore, becomes significant as till the S.P. could be informed of the position at Malegaon, no declaration of the Precautionary Stage under the scheme could have been made.

7.19 When the S.P. was informed even after 9 A.M. and the S.P. talked with Inspector Chorge on the phone, he does not appear to have been told of the possibility of trouble taking place as the S.P. has deposed that Inspector Chorge appeared to be confident and told him that he would be able to control the situation but required some task force. Such an assurance from Inspector Chorge in the circumstances of September 1967 in regard to communal disturbances in the country and in Maharashtra in particular should not have been taken for granted and should have led the S.P. to think of declaration of the Precautionary Stage.

7.20 On the declaration of the Precautionary Stage certain steps have to be taken in regard to the tightening up of the intelligence system, marshalling of the police personnel, equipment, arms etc., marshalling of other equipment like fire-fighting equipment, water tankers transport etc., arrangements for medical aid by giving

the medical authorities advance intimation of the likelihood of trouble, formation of a Peace Committee and setting up of a Control Room. The setting up of the Peace Committee in the early stages that morning might have eased the situation. The intervention of the leaders at Perry Chowk came at a late stage when the people had been sufficiently agitated over the matter.

7.21 The declaration of the Precautionary Stage would have led to action of a preventive nature also. Such action consists of action against bad characters by arresting them under section 151 Cr. P.C. or under section 69 of the Bombay Police Act 1951 and the issuing of prohibitory order under section 144 Cr. P.C. or under sections 33, 37 and 40 of the Bombay Police Act. The order under section 144 Cr. P.C. could have been issued by the Mamlatdar at Malegaon and he did actually issue such an order at 10.42 A.M., when it was too late to be of any effect. The preventive action also includes patrolling in accordance with the details given in the scheme itself and of the posting of guards and pickets, also given in the scheme.

7.22 The steps which were possible to be taken even without the S.P.'s declaring the Precautionary Stage under the Emergency Scheme, were that the police officers on the spot could have contacted the local magistrates at the very first instance and asked for the issue of the order under section 144 Cr. P.C.

7.23 Shri Mendke deposed that it is not usual that magistrates are not consulted on occasions like this and that it just happened that the magistrates from Malegaon were not contacted promptly through messengers. He, however, states that there are instructions that police should take instructions from Mamlatdars and Magistrates when occasions like this arise. Shri Mendke himself did not attempt to follow these instructions when he failed to ask the Mamlatdar to accompany him on the jeep in view of the possibility of the necessity of firing during his round of the city.

7.24 The Police Officers could have utilised the police force available for the purpose of patrolling and posting of guards and pickets. We have already mentioned about the difficulty of collecting the constabulary in the station. This difficulty would not have arisen in connection with the armed guards which fortunately had been sent to the city on the 22nd September, 1967 by the Superintendent of Police, if that force had not been frittered away in performing duties which the ordinary unarmed constables posted at the thana could very well perform. In fact, the armed police was utilised as unarmed police in so far as their muskets had been kept at the police station and they were issued lathis. The result of so using them was that they were not available as a party of 30 people at about 7.30 or 8 A.M. on the 24th September, when the police needed their services for the purpose of maintaining peace in the city. The police could have also, without any declaration of the Precautionary Stage, rounded up the bad characters, but for that too the police force was not available.

7.25 It appears, therefore, that in a real emergency which is deemed to arise only when some untoward incident happens suddenly, the various steps to be taken under the Emergency Scheme could not be effectively taken at Malegaon. It is immaterial whether the Precautionary Stage is declared or whether the local police officers want to take necessary action to prevent the occurrence of a disturbance and in controlling it, if it actually takes place. We may make this clear by referring to certain data mentioned in the Emergency Scheme. The marshalling of forces under the Precautionary Stage contemplates the utilisation of extra forces from no less than 9 places to make up the total forces required during that stage. 48 armed constables and 153 unarmed police constables were necessary from outside to put the scheme into effective operation. This outside help is calculated on the basis that the entire local police force would be available at that stage which, as we have earlier shown, was not possible at Malegaon on the morning of the 24th September. The whole Emergency Scheme consequently can only be effective when trouble is anticipated and does not take place suddenly. It may be anticipated either due to its being one of the periodic occasions when trouble is apprehended or due to any other indication. Moreover there should be sufficient interval to organise all the arrangements contemplated under the Emergency Scheme.

7.26 The 'Active Stage' is to be declared again by the Superintendent of Police in consultation with the D.I.G. and the District Magistrate and is to be declared as soon as an incident of assault or looting or stone throwing takes place. Again it looks to be more of a paper scheme than a scheme which can be actually effective. Once an incident of assault or looting or stone throwing takes place between the communities, the whole trouble would flare up in no time and the arrangements contemplated under the 'Active Stage' would be very belated to scotch the trouble. Looting or burning or assaults would not wait for the detailed steps which are contemplated under the scheme.

7.27 We would consider it essential for the successful operation of an Emergency Riot Scheme for any place that the power of declaring the emergency in the Precautionary Stage under the scheme be given to the senior most local police officer present, that the normal police force available at the station should be at least equal to the force considered necessary for operating during the 'Precautionary Stage' and that the arrangements for the 'Active Stage' should not wait till the first case of assault or looting or arson but should get into operation the moment the 'Precautionary Stage' has been declared as that would make the forces available much earlier after the first case of assault etc. if not even before it. It is also essential for the successful working of an Emergency Scheme that the various officers who have to be on duty should know beforehand where they are to operate and in what manner so that the mere knowledge of the declaration of the emergency would take the various officers to their posts of duty.

7.28 Two main criticisms have been made by the Muslims against the Police in connection with its dealing with the situation. One relates to the non-arrest of Puntambekar at an early stage and the other to its being partial and having a communal bias in favour of the Hindus. We now deal with these.

7.29 One of the points urged in the various statements is that if the police had arrested Puntambekar at the early stage of his advocating a hartal on the 24th September, 1967, the disturbances would not have taken place. Apart from this being hypothetical and a matter of assessment of the situation by the local authorities, the question is to be looked into from the legal aspect as well.

7.30 Sub-Inspector Gundi stated before us:—

“When I learnt on my way to Town Chowki in the morning that Shri Puntambekar was trying to get people ready for hartal, I did not take any action against him as I was thinking that the Inspector might deal with the situation. I did not think of arresting Shri Puntambekar as I did not know what had happened in other areas.”

7.31 Sub-Inspector Gundi stated before us:—

“I did not arrest Puntambekar as the Police force with me was very little. All the Hindus were affected by the cow slaughter and any immediate arrest could have led to immediate disturbances in the city. Extra Police arrived at about 12 O'clock.”

7.32 Dy. S. P. Mendke stated:—

“Action against Puntambekar earlier in the day could have acted both ways. It might have nipped the trouble in the bud or the trouble could have flared up much earlier than it actually did. The question depended on the discretion of the officer on the spot.”

7.33 The Superintendent of Police has deposed that when he spoke to Inspector Chorge on the telephone Inspector Chorge appeared to be confident and told him that he would be able to control the situation. He further stated that he directed Inspector Chorge to take all possible action and also to arrest Puntambekar and others and have orders under section 144 Cr. P. C. issued.

7.34 In his written statement the Superintendent of Police simply stated:—

“I instructed the C. P. I. to take firm action and that I was arranging to send him additional force.”

The S. P. made no mention of directing Inspector Chorge to arrest Puntambekar and others and to have orders under section 144 Cr. P. C. issued. The omission is significant as the S. P. has taken pains to

mention in detail the other steps ordered and taken and as he further stated in his written statement:—

“I contacted the D. M., Nasik and requested him to intimate the S. D. M., Malegaon to issue 144 Cr. P. C. orders if requested by the local Police.”

7.35 It cannot, therefore, be stated definitely that Inspector Chorge failed to comply with the directions of the Superintendent of Police in regard to the arrest of Puntambekar.

7.36 In Sessions Case No. 77 of 1968 State vs. Puntambekar and others, decided by Sessions Judge, Nasik on the 18th July 1968, it has been held that the procession led by Puntambekar did not shout any provocative slogans. It has been further held that the sole aim or purpose of Puntambekar and his companions was to organise a hartal against the cow killing and wanton wounding of the religious susceptibilities of the Hindus.

7.37 The Sessions Judge concluded that Puntambekar and his party did not constitute an unlawful assembly and that what they wanted to do was strictly within the bounds of law.

7.38 In the circumstances, the Police cannot be blamed for not arresting Puntambekar that morning.

7.39 The other criticism of Police being partial and communal is mainly based on the result of Police firing.

7.40 Due to the Police firing 11 persons were hit with bullets and 4 persons died. All these persons were Muslims. This has led to the allegation that the Police had been partial and showed communal bias in shooting at the Muslims only. The allegation is sought to be reinforced by the other allegation that similar results followed the Police firing on the communal rioters in Malegaon in 1963. This is a serious charge.

7.41 The mere fact that as a result of Police firing only Muslims were injured is not sufficient to establish the charge of partiality against the Police. We have the statements of Sub-Inspector Gundi and Inspector Chorge about the circumstances in which firing took place and we see no good reason to disbelieve their statements that they fired at the mobs in the lanes of Islampura and on Kidwai Road and Mohd. Ali Road when the mobs were throwing stones and pointed iron pieces and were engaged in looting and committing arson.

7.42 We are of the view that D.I.G. Pradhan has well explained as to why the Muslims got hit by the firing. He states:—

“The result of the firing in Malegaon has been that only Muslims have been killed and injured. This may be due to the fact that firing was made on a huge crowd of Muslims who formed the mob. The other factor could be that the Hindus who inhabited that area are mostly Marwaris and Brahmins who are likely to run away at the first sound of firing. The

militant Hindus mostly reside on the Sangmeshwar area. The result of firing depends on the circumstances in which firing takes place and the crowd on which firing is made."

7.43 Shri P. B. Shah, Vice-President, Rotary Club, Malegaon, has stated in the written statement:—

"It is my contention that they purposely stopped the procession to create panic and communal riot. This very thing proves that there were prearranged preparations to create communal riot at Malegaon. The Hindus who were in the procession, were in very small numbers. Seeing the surging mob at very big numbers they started withdrawing and at the same spot Muslim started looting Hindus' shops and were setting on fire many more. Seeing all this catastrophic conditions, though the police force at the above centre was quite inadequate in numbers, still they tried their level best to resist and disperse the mob almost of all the Muslims. When it proved all beyond their power to resist and control the surging mob and being under the continuous shower of pelting stones though they were hurt and in order to protect themselves and under such grave circumstances police at the spot were forced to open fire to disperse the unruly mob. As soon as the police started firing the big mob started running recklessly through their lanes to Islampura side.

The mob particularly at the Gupta Dairy spot being mostly of Mohamedans, it is quite evident and logical that the persons under the cover of firing would die, that is why four Muslims died in the firing at the spot.....

I also saw firing, rioting and four corpses. In the whole mob I experienced that many Hindu boys and youths had taken refuge to protect themselves from the onslaught of the Muslim mob. Most of the Hindus were out of orbit of this particular rioting hot centre because most of the population of Sangameshwar and Camp were blocked and well guarded at the Mosam Bridge and at the causeway by the local police force, otherwise the communal rioting would have been of very severe nature."

7.44 Shri Shah's statement that 'there were prearranged preparations to create communal riot' cannot be accepted. His description of what happened on the spot is very brief and cannot be taken to summarise the events very accurately. His statement about the circumstances of firing supports the version of the Police Officers, though he is wrong in stating that 4 Muslims died on the spot. The statement of most of the Hindus being out of orbit of this particular rioting explains Hindus being not the victims of firing and supports D.I.G.'s explanation but is not a true picture of the Hindus from Sangameshwar and Camp being blocked on the Mosam bridge as we have shown earlier that this mob looted and burnt certain shops and cinemas on the west of Kumbharwada area.

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7.41 The mere fact that as a result of Police firing only Muslims were injured is not sufficient to establish the charge of partiality against the Police. We have the statements of Sub-Inspector Gundi and Inspector Chorge about the circumstances in which firing took place and we see no good reason to disbelieve their statements that they fired at the mobs in the lanes of Islampura and on Kidwai Road and Mohd. Ali Road when the mobs were throwing stones and pointed iron pieces and were engaged in looting and committing arson.

7.42 We are of the view that D.I.G. Pradhan has well explained as to why the Muslims got hit by the firing. He states:—

“The result of the firing in Malegaon has been that only Muslims have been killed and injured. This may be due to the fact that firing was made on a huge crowd of Muslims who formed the mob. The other factor could be that the Hindus who inhabited that area are mostly Marwaris and Brahmins who are likely to run away at the first sound of firing. The

7.45 Sub-Inspector Gundi has deposed :—

“The shops which were burning on either side of Mohd. Ali Road between the Gupta Dairy and the lane where I fired were of Hindus. Muslim shops were also being looted and burnt.

The looting and the arson had started earlier than my arrival. The looting and burning was in progress when I reached there. The persons looting those shops were both inside the shops and on the sides of the road.

When I reached there the shops on the south of Mohd. Ali Road were on fire but were not being looted. Therefore, the firing took place at the crowd in front of the shops on the north of Mohd. Ali Road. The crowd then entirely dispersed.....

I can only say that the shops on the both sides of Mohd. Ali Road are mixed shops. I cannot say to whom the shops on the north of the road towards which the firing took place belonged and to which community the shops on the south of Mohd. Ali Road belonged.”

7.46 Sub-Inspector Gundi has also stated :—

“Hindus did not attack the police but Police constables were injured by the Muslim crowd. It was just a coincidence only that the Muslims attacked the Police and that only the Muslims got injured or killed due to police firing.”

7.47 Inspector Chorge states :—

“All the firing was done on the people who were actually engaged in arson and looting. It just happened that we learnt later on that only Muslims got injured by gun shots.....

The Hindu mob was dealt with by SIs. Patil, Nakhre and Ainapuri. The shops from Perry Chowk up to Gupta Dairy were of Hindus and Muslims both. In this area shops of both Hindus and Muslims were burnt. It cannot be presumed that Hindu shops were burnt by Muslims only and Muslim shops by Hindus only. The burning of property is usually done by goondas of both the communities. It is just a chance that only Muslims were hit.”

7.48 Sub-Inspector Gundi's statement that “Muslim shops were also being looted and burnt” must, in the context, be taken to be Muslim shops elsewhere and probably between Perry Chowk and Gupta Dairy and not to the east of Gupta Dairy where firing by him took place. Inspector Chorge's statement does not necessarily mean that the people actually engaged in arson and looting and fired upon consisted of both Hindus and Muslims as he has stated soon after that S.Is. Patil, Nakhre and Ainapuri dealt with the Hindu mob. We have earlier dealt with Sub-Inspector Patil's following the Hindu groups towards Sardar Chowk and dealing with them and the Hindus coming from Sangameshwar side.

7.49 From the beginning, the crowd on the east of Perry Chowk and particularly east of Gupta Dairy was a Muslim crowd. Hindus could not have entered into that crowd. The statements of Inspector Chorge and Sub-Inspector Gundi about Muslim shops being burnt and looted appear to relate to the shops between Perry Chowk and Gupta Dairy.

7.50 The Hindu crowd at Perry Chowk had been pushed back westward and southward at about 10-10 A.M. when lathi charge took place and there is no evidence of its advancing again eastwards.

7.51 The messages from the wireless van between 11 and 12 A.M. do not mention of any crowd on Mohd. Ali Road west of Perry Chowk. In fact, the messages tend to indicate that there was no mob there. The van moved between Kidwai Road and Sardar Chowk between 11-12 and 11-15 A.M., again passed along these places to Camp Police Station between 11-25 and 11-28 A.M., 11-28—11.32 A.M. and 11.32—11.35 A.M. It was at Perry Chowk at 11.35 A.M.

7.52 Twenty-one Hindu and 22 Muslim shops were burnt. Fifty-seven Hindu and 22 Muslim shops were looted. Some of the Muslim shops looted and burnt were in the Kumbharwada area where there was no Police at the time. No shop on Mohd. Ali Road west of Perry Chowk was burnt. Most of the shops burnt, according to the plan showing communal disturbances, were on the Islampura side on Kidwai Road and Mohd. Ali Road to which side the firing took place.

7.53 We may also note that there is no direct reliable evidence to show that the police deliberately and wantonly fired at the Muslim mob and ignored the Hindu mob at the time.

7.54 Further the chart Annexure VI prepared by the A.D.M. shows that 6 revolver shots were fired at Perry Chowk towards Bhavsar Lane where the Hindus were. Mohd. Sabir states:—

“When lathi charge was made part of the procession went into Mullawada Road running each of Gupta Dairy and part of the procession went to Bhavsar Lane, which is to the west of Gupta Dairy and runs southwards.”

7.55 This makes it clear firing was not solely towards the Muslims. There is no evidence that Hindus who had gone to the southern lanes reappeared on Mohd. Ali Road and took part in the incidents there and thus could be fired at by the police.

7.56 The charge appears to be wrong also from the consideration of the number of shots fired and the number of persons injured. 27 revolver shots were fired and none was injured therefrom. The firing was by Inspector Chorge and Sub-Inspector Gundi. This is no indication of any deliberate firing to kill or injure Muslims.

7.57 The policemen, in this area, fired 68 rounds and could injure 12 persons in all, 3 of whom died. The other 3 persons, one of whom (Mohd. Hanif) died were fired upon at other places—in Sardar Nagar under orders of P.S.I. Gundi; Mohd. Rais fired at near slaughter house under Dy. S.P. Mendke's order and the fourth dead

person was fired at on Madani Road under the order of Dy. S.P. Mendke. A deliberate indiscriminate shooting of 68 rounds under emotion could have hit more than 12 persons when the firing was on mobs unless it be that the constables were bad marksmen or fired at random, which should not be easily presumed. Three of the 5 constables who fired these 68 rounds belonged to the Armed Police party sent to Malegaon on the 22nd September. Even members of the unarmed constabulary are given training in the use of muskets and undergo a training course every year.

7.58 We may now also mention another complaint against the police action after the disturbances were over. Dr. Khalil Ahmad Ansari complains against the police in his written statement as follows :—

“During the curfew hours, the behaviour of the regular police and the S.R.P. towards the Muslims was inhuman and partial. I am Chairman of the Malegaon Peace Committee and President of the Malegaon Municipal Council. I was taking rounds of the town along with the local M.L.A. Shri Nihal Ahmad. We were also not spared the insulting behaviour of officer of the S.R.P., what to talk of actual assaults on Muslim members of the Municipal Council and members of the Peace Committee who had been working ceaselessly to bring peace to the unfortunate city.”

7.59 He, however, deposed before us :—

“After the constitution of the Peace Committee by Shri Heeray on the night of the 24th September, 1967 Shri Nihal Ahmad, MLA and I decided to go round the city. At one place some SRP men did not allow us to proceed further. Civil Police officers who recognised us advised us to go back. We did not have at that time any passes to show that we were Members of the Peace Committee and could go round the city.”

7.60 This incident should not be construed as ‘inhuman and partial’ behaviour of the S.R.P. towards the Muslims. In fact, the incident shows that the S.R.P. people did their duty in stopping Shri Nihal Ahmed and Dr. Khalil Ansari from proceeding further when they did not have any passes with them.

7.61 The D.I.G. of Police has deposed :—

“We the Police Officers consider all members of the force as Policemen and the force as a whole works on the same lines irrespective of the community to which the force or the mob belong.”

7.62 The Superintendent of Police has deposed :—

“Even in the circumstances prevailing in the country today I am of opinion that the Hindu police will open fire on the Hindus when so ordered.

In 1958 at Yeola firing was opened on the Hindus."

7.63 In view of the above, we do not consider the allegation about the partiality of the Police and its shooting the Muslims only due to communal bias established.

7.64 Our colleague, Col. B. H. Zaidi, does not subscribe to some of the comments made in this chapter about the conduct of the Police forces. His views on this subject are noted below:—

- (1) There was a communal riot in Malegaon in 1963 when the Police had to open fire, and all the persons killed or injured as a result of it were Muslims. We do not know about the circumstances of that riot, and the fact that all the persons killed or injured were Muslims could have been a co-incidence.
- (2) Due to the Police firing on 24th September, 1967, 11 persons were hit with bullets and 4 persons died. All the persons were Muslims. This has led to the allegation that the Police had been partial and showed communal bias against the Muslims.
- (3) D.I.G. Police, Pradhan, has stated:—

"The result of the firing in Malegaon has been that only Muslims have been killed and injured. This may be due to the fact that firing was made on a huge crowd of Muslims who formed the mob."

This is a vague statement and does not mean that the mob consisted only of Muslims. The D.I.G. has gone on to say:—

"The other factor could be that the Hindus who inhabit that area are mostly Marwaris and Brahmins who run away at the first sound of firing."

People who do the greatest amount of mischief and indulge in violence are the goondas and anti-social elements irrespective of the community to which they might belong. We find that 21 Hindus and 22 Muslims shops were burnt and 57 Hindu and 27 Muslim shops were looted. The burning and looting of Muslim shops could not have been the work of the Marwaris and Brahmins. Such foul acts are committed by goondas who would not run away at the first sound of firing.

- (4) It is interesting to note that according to the oral evidence of Shri Kasbekar, the Superintendent of Police, when he and the D.M. went to Perry Chowk at about 12-45 P.M. and met Inspector Chorge there they found Puntambekar and another person nearabout and the S.P. ordered their arrest.

- (5) Inspector Chorge has stated :—

“All the firing was done on the people who were actually engaged in arson and looting. It just happened that we learnt later on that only Muslims got injured by gunshots.....”

The shops from Perry Chowk to Gupta Dairy were of Hindus and Muslims both. In this area shops of both Hindus and Muslims were burnt. It cannot be presumed that Hindu shops were burnt by Muslims only and Muslim shops by Hindus only. It is just a chance that only Muslims were hit.”

- (6) Sub-Inspector Gundi, in his statement, has given yet another reason. He has stated :—

“Hindus did not attack the Police but Police Constables were injured by the Muslim crowd. It is just a coincidence that Muslims attacked the Police and that only the Muslims got injured or killed due to Police firing.”

This appears to mean that the Police had to open firing on the Muslims in self-defence and not because the crowd indulging in arson and looting was composed only of Muslims. Sub-Inspector Gundi has also deposed :—

“The shops which were burning on either side of Mohd. Ali road between Gupta Dairy and the lane where I fired were of Hindus. Muslim shops were also being looted and burnt.”

- (7) Sub-Inspector Gundi has further deposed :—

“The firing took place at the crowd in front of shops on the North of Mohd. Ali Road. I cannot say to whom the shops on the North of the road towards which firing took place belonged, and to which community the shops on the South of Mohd. Ali Road belonged.”

My distinguished colleagues are of the opinion that the statements of Inspector Chorge and Sub-Inspector Gundi about Muslim shops being burnt and looted appear to be vague but I do not know why they left things vague. True, that “there is no direct reliable evidence to show that the Police deliberately and wantonly fired at the Muslim mob at the time.” But the totality of evidence before us certainly creates grave doubts in my mind about the possible partiality of the Police constables.

- (8) Inspector Chorge and Sub-Inspector Gundi fired 27 revolver shots and none was injured therefrom. I agree that “this is no indication of any deliberate firing to kill or injure Muslims.” However, the Police constables fired 68 rounds hitting 12 persons all of whom were Muslims. I wonder if the lower ranks of the Police have not been at all affected by the communal tension prevailing in certain parts of the country and more particularly in Maharashtra.”

CHAPTER VIII

Investigation of Cases Registered and its Result

8.1 Twenty-one crimes were registered in connection with the riots at Camp Police Station, Malegaon—Crime Nos. 282—302. Twenty-five crimes were registered at the Chandanpuri Police Station—Crime Nos. 164—188. We have already referred to some of the reports earlier. Three of the reports at the Police Station, Malegaon relate to the incidents of the 25th September, 1967; they relate to Crime Nos. 292, 293 and 294. One report at Chandanpuri Police Station with respect to Crime No. 183/67 relates to an incident of the 25th September about an attack on the police party and three reports regarding Crime Nos. 184, 186 and 188 relate to later incidents. Report regarding Crime No. 186/67 is with respect to an incident which took place on the night between the 25th and the 26th September. Another report regarding Crime No. 188/67 is with respect to incidents of the 25th and the 26th September, 1967.

8.2 Final reports were submitted in 32 cases. Fourteen cases were sent up to courts. One of the cases sent up was split up by the Sessions Court into two cases—one against the Muslims and the other against the Hindu accused. Out of the 15 cases, nine cases ended in acquittal and five in conviction. The conviction of the accused in one case was set aside on appeal. We do not know the results of appeal, if any, in other cases. In the nine cases which ended in acquittal, 80 persons had been challaned—of whom 46 were Muslims and 34 Hindus. In the five cases which ended in conviction, 106 persons—all Muslims—had been sent up. Of them 46 were convicted and 60 acquitted.

8.3 A complaint under section 153-A I.P.C. against Puntambekar and others was filed in the court of a Magistrate on the 20th December, 1968. The State Government sanctioned the filing of the complaint under section 196 Cr. P.C. on the 27th June, 1968. The case is still pending.

8.4 On the whole the investigation of the cases and their disposal by the courts were done without any undue delay.

8.5 The delay in the filing of the complaint under section 153-A I.P.C. was partly due to the delay in obtaining the sanction of the State Government and partly in considering the legality of filing the complaint after the main case against Puntambekar had ended in acquittal.

8.6 The order sheet of this case under section 153-A I.P.C. shows that the hearing was adjourned five times for want of time, thrice on the application of the Public Prosecutor and once on the application of the accused. The hearing was adjourned thrice for furnishing copies of the statements of witnesses to be called by the prosecution—between 16th September, 1969 and 7th November, 1969.

The prosecution is required under Section 173 Cr. P.C. to furnish the copies to the accused before the commencement of the trial and this should have been done soon after the 11th April, 1969 when all the accused had appeared in court. It was the duty of the court under section 251 to satisfy itself on the appearance of the accused that the copies had been furnished to them.

8.7 Another adjournment became necessary on the 13th January, 1970 when no witness had been summoned and an application was made to summon witnesses.

8.8 The case had been adjourned on 9th and 20th April, 1970 on the request of the Public Prosecutor that the State was desirous of preferring a revision against the order dated the 16th February, 1970 holding that the prosecution was estopped from bringing the same evidence of facts it had led in the main case.

CHAPTER IX

Rehabilitation

9.1 During the riots four Muslims died due to police firing and one neo-Buddhist was burnt alive by the Muslims. A number of shops belonging to both Hindus and Muslims were looted and burnt. According to the Government narrative:—

“Heavy damage was caused to property in these riots, damage to the property of Hindus being over Rs. 8,21,153 and Muslims Rs. 6,51,500. Twenty-one shops belonging to Hindus were burnt and 57 were damaged or looted while 22 shops belonging to Muslims were burnt and 22 looted or damaged.”

9.2 The Government placed Rs. 25,000 at the disposal of the Collector of Nasik on the 7th October, 1967 for distribution as gratuitous relief to sufferers of Malegaon riots in accordance with the standing orders and the special directions *vide* Government resolution of the 2nd January, 1959, in order to ensure that the relief was granted only to innocent sufferers and not to deliberate participants in the riots and that the relief should not be given to sufferers whose financial position was such as to enable them to provide for themselves.

9.3 The Tehsildar, Malegaon, by his order dated the 25th October, 1967 sanctioned Rs. 5,030 to 61 persons taking into consideration the loss suffered by them, their annual income and the number of earning members in the family. The minimum amount of relief sanctioned was Rs. 40 and the maximum was Rs. 200. The highest amount was awarded to five persons and the lowest to three persons.

9.4 Families of the four deceased Muslims and of the neo-Buddhist were granted Rs. 200 each by the Tehsildar by his various orders.

9.5 By his order dated the 10th November, 1967, 16 persons were awarded relief by the Tehsildar on the lines of the order dated the 25th October, 1967. The total amount thus sanctioned was Rs. 1,740.

9.6 By his order dated the 16th January, 1968, the Tehsildar sanctioned Rs. 1,865 gratuitous relief to 17 other persons. The delay of about four months in granting relief to these persons has not been explained.

9.7 Thus the total amount of relief granted comes to Rs. 9,635 to the families of five deceased persons and 94 other sufferers.

9.8 It may be mentioned that according to the “statement showing information of communal riot at Malegaon” supplied by the D.M., the number of sufferers was 188.

9.9 No complaint about relief to the sufferers has been made to us.

9.10 It may also be mentioned that a sum of Rs. 3,002 was donated by certain local bodies—Rs. 1,001 by the Chairman, Girna Sahakari Sakhar Karkhana, Dabhadi; Rs. 500 by the Chairman, Merchants' Cooperative Bank Ltd., Malegaon; and Rs. 1,501 by the Chairman, Shetkari Sahakari Sangh, Malegaon. This amount was allowed to be utilised for the replacement of the milch cow to the owner who lost it on the 23rd September, 1967 and for giving additional amounts to the sufferers of riots in deserving cases.

9.11 The Government narrative supplied to us earlier mentions that Rs. 10,035 had been granted as gratuitous relief to 101 persons who suffered loss in the communal disturbances, that annuities had been granted to the four victims, presumably the victims of police firing, for a period of ten years and that applications for loans were being vetted. The discrepancy in the amount of gratuitous relief and the number of persons to whom it had been granted in the Government narrative and the figures supplied by the District Magistrate to the Commission sometime in October, 1969 remains unexplained.

9.12 District Magistrate Mohoni has deposed before us that loans were granted to the persons in need, but has not mentioned about the grant of amount referred to in the Government narrative

CHAPTER X

Recommendations

10.1 We have dealt with the general recommendations for improving the relations between the communities and for the prevention of communal disturbances in the other reports, especially the reports on the disturbances in Ranchi and at Ahmednagar. We need not repeat what we have said in those reports. We confine ourselves to some special suggestions applicable to the local conditions at Malegaon.

10.2 Malegaon is an industrial town having a large number of powerlooms to manufacture textiles. Its population according to the 1961 census consisted of 65 per cent. of Muslims, 30 per cent. of Hindus and 5 per cent. of others, the total population being 1,21,408. In the last ten years the population has much increased.

10.3 The District Magistrate has described the peculiar features of Malegaon thus:—

“Malegaon has some peculiar features. It has a flourishing trade of powerlooms which provides employment opportunities to a number of persons every year. This has given rise to a large scale immigration and mostly Muslims from U.P., Bhopal and Hyderabad come there every year for securing employment. Their living conditions in the slum areas are far from satisfactory. Most of them have to undergo a short period of waiting before they can secure employment. In the new atmosphere, they do not become responsible until they get well established. This gives rise to criminal tendencies at least in the beginning and because they are not well known in the localities, they feel more safe in indulging in crime. A regular scheme for the rehabilitation of slum dwellers is, in my opinion, the first and foremost measure which can reduce the causes of tension, between the communities in the city.”

This very well summarises the various statements made by persons in their written statements. We, therefore, suggest that some town planning scheme be evolved and proper dwellings be provided for immigrant Muslim workers so that they are not tempted towards committing offences and especially offences which affect communal relations.

10.4 The D.I.G. of Police has made a good suggestion that all the powerlooms working in the residential houses be shifted to proper shops and sheds.

10.5 There is a licensed slaughter house at Malegaon. One of the main reasons for illegal slaughter of cattle in the town has been mentioned to be the inadequacy in the sanctioned quota of cattle for slaughter at the slaughter house considered in relation to the entire

Muslim population of the city. The quota has been increased a couple of times since the disturbances in 1967. The authority fixing the quota should, however, keep on reviewing the quota sanctioned as the population of the city increases.

10.6 We have to make several suggestions on the administrative plan which will be conducive to the prompt tackling of the situation with potential for communal disturbances. They are:—

- (i) residential quarters be provided for all the police staff posted at Malegaon and, as far as possible, they should be all in one colony or be distributed thana-wise;
- (ii) the executive magistrates, viz., the Mamlatdar and the Sub-Divisional Magistrate, should also have official residences close to the city;
- (iii) all the police officers and the magistrates should have telephones installed at their residences;
- (iv) the police force should be increased and should be at least equal to the police force necessary at the 'Precautionary Stage' under the Emergency Riot Scheme;
- (v) in addition to this increase of the ordinary local police, some S.R.P. force should also be posted at Malegaon so that it may be promptly available when any trouble is anticipated or arises;
- (vi) the number of transport vehicles should also be increased so that the police officers are able to move about more quickly when some trouble is apprehended.
- (vii) powers to declare Precautionary Stage for the purposes of the operation of Riot Emergency Scheme be vested in the highest police officer present at the place.

10.7 Suggestions have been made for making Malegaon a district in place of a mere Sub-division of Nasik district. The proposal deserves careful consideration in view of the increasing population of Malegaon, its importance as an industrial town, the communal history of the place and it being at a long distance—66 miles—from Nasik, the district headquarters. The mere creation of the district will automatically lead to an increase in the police force there.

(Sd.) RAGHUBAR DAYAL.

Chairman.

(Sd.) B. H. ZAIDI.

Member.

(Sd.) M. M. PHILIP.

Member.

NEW DELHI;

Dated 22nd July, 1970.

ANNEXURES

ANNEXURE I

List of persons and organisations who submitted affidavits/statements on the communal disturbances at Malegaon (September 24, 1967).

(Para. 1·9 of Part I)

A.—AFFIDAVITS

- | S. No. | Name and Address |
|--------|-------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. | Shri Tukaram Gopal Patil,
Bajrangwadi, Circle No. 224,
Member, Malegaon Municipality,
Malegaon (Nasik). |
| 2. | Shri R. K. Badale,
Member, Malegaon Municipality,
Malegaon, 1934, Karwar Peth,
Malegaon. |
| 3. | Shri Vithal Shriram Bakre,
Cloth Merchant and Commission Agent,
Malegaon. |
| 4. | Shri Shyam Joshi,
Correspondent, 613, Main Road,
Malegaon—2. |
| 5. | Shri Govind Narayan Patil,
Member, Organisation Committee,
Malegaon City Central Consumer's
Cooperative Association Ltd.,
Malegaon. |
| 6. | Shri Dattatraya Udhava Awasthi,
Correspondent, Malegaon. |
| 7. | Shri Abdul Razak Kaukab,
Belbag, Malegaon (Member, Malegaon
City Congress Working Committee)
Malegaon. |
| 8. | Shri Kantilal Virchand Shah
Pleader, Tilak Road,
Malegaon. |
| 9. | Sardar B. G. Rajebahadur,
President, Rotary Club,
Malegaon. |
| 10. | Dr. N. B. Shah,
Ex-President, Malegaon
Borough Municipality,
President, Lions' Club,
Malegaon. |
| 11. | Maulana Abdul Kadir,
Vice-President, Jamiat-ul-Ulema Hind,
Malegaon, Rasulpura,
Malegaon. |

12. Haji Din Mohomed Abdul Rahman,
Shaniwar Peth,
Malegaon.
13. Shri Shamsheer Khan Himmat Khan,
Abbasia Building,
Behind Pila Pump, Mutawalli
and Secretary,
New Mosque of Maddu Seth,
Sapati Bazar,
Malegaon.
14. (i) Shri Abdul Rashed Usmani,
General Secretary,
Majlis-e-Mushawarat,
Malegaon.
- (ii) Shri Abdul Aziz Abid Ansari,
Secretary, Majlis-e-Mushawarat,
Malegaon.
15. Shri A. Khalil A Hakim,
Rasulpura, Malegaon,
Editor of "Jabane Khalk", Weekly,
Malegaon.
16. Shri Mohommad Iqbal Akil Rahemani,
House No. 641, Nayapura Ward,
Malegaon.
17. Mohd. Haroon Mohd. Sabir,
Malegaon.
18. Ghulam Jilani Mohd. Ghous,
Malegaon.
19. Haroonur-Rashid Hakim Valiulla,
House No. 93, Nawapura,
Malegaon.
20. Nisar Ahmed Mohammed Hanif,
Rajebahadur Jhopadpatti,
Guruwar Ward,
Malegaon.
21. Abdul Rais Mohd., Nazir,
Malegaon.
22. Shabbir Ahmed Abdul Aziz,
Motitalao,
Malegaon.
23. Mohomad Haneef Maheboob,
Nawapura Ward,
Malegaon.
24. Anis Ahmad Mohomad Haneef,
House No. 641,
Navapura Ward,
Malegaon.

25. Dr. Khalil Ahmad Ansari, M.B.B.S., D.P.H.,
President, Municipal Council Malegaon and
Chairman Malegaon Peace Committee,
Malegaon.
26. Shri Sayyad Abbas Ali Qasim Ali Qazi,
Malegaon.
27. Abdul Hameed Nomani,
President, Muslim Majlis-e-Mushawarat,
Malegaon.
28. Shri A. B. Hakeem,
Ex-Member, Legislative Assembly,
Malegaon.
29. Shri Pannalal B. Shah,
Vice President, Rotary Club,
Malegaon.
30. Shri Abdul Rauf, S/o Abdul Raheman,
Mohalla Nawapura, Near Suleman
Haji Khet,
Malegaon.
31. Shri Madhu Ganapat Patil,
Ex-Secretary, Malegaon Congress Committee
and Municipal Councillor,
Malegaon.
32. Shri Bechu Mukadam Haji Sarfraz,
Councillor,
Malegaon Municipal Council,
Malegaon.
33. Shrimati Aasma Hajjim,
Mohalla Motipura,
Malegaon.
34. Mohd. Ishaque Jumman,
837, Islampura, (Barkatpura),
Malegaon.
35. Mohd. Haroon Mohamed Sibir,
House No. 357, Mangalwar Ward,
Mohomad Ali Road,
Secretary, CPI Malegaon,
Malegaon.
36. Shri Haroon Ahmed Ansari,
Ex-MLA, Member, Maharashtra
Prantik Congress Committee,
House No. 1157, Islampura,
Malegaon.
37. Shri Narayan Mahadeo Patil,
Communist Party Worker,
Malegaon.

38. Shri Shabbir Ahmed Hakeem,
Member, C.P.I. Malegaon Branch,
Municipal Councillor,
Mohammed Ali Road,
Malegaon.
39. Dr. G. M. Bhawsar,
Khadda Gin,
Malegaon.
40. Shri Shivaji Namdeo Patil,
Somwar Peth,
Malegaon.
41. Shri Somnath Sitaram Kasar, M.A., LL.B.,
Organiser, R.S.S.,
Malegaon.
42. Shri Rambhau Tanaji Patil,
Somwar Ward, Bhusegalli,
Malegaon.
43. Shri S. H. Bhalerao,
House No. 569, Raviwar Peth,
Chandanpuri Gate,
Member, Republican Party,
Malegaon.
44. Shri Nihal Ahmad :
Maulvi Mohd. Usman, M.L.A..
749, Nayapura,
Malegaon.
45. Shri Yadavrao Narayanrao Jadhav,
550-D, Sangameshwar,
Malegaon.
46. Shri Yeshwant Sadashiv Shirke
General Secretary,
City Congress Committee,
Malegaon.
47. Shri Kashinath Beniram Khankari,
President, Bharatiya Jan Sangh,
Malegaon.
48. Shri S. G. Pradhan,
Dy. Inspector General of Police,
Bombay Range, Nasik.
49. Shri S. P. Mchoni,
District Magistrate, Nasik,
(now P. S. to the Chief Minister,
Maharashtra State),
Bombay.
50. Shri M. S. Kasbekar,
Superintendent of Police,
Nasik.
51. Shri V. A. Mandke,
Dy. Superintendent of

Police, (S.D.P.O. Malegaon Divison) (now Vice-Principal, Central Police Training College, Nasik.)

52. Shri S. S. Chorge,
Circle Police Inspector,
Malegaon.
53. Shri D. N. Gundi,
P.S.I., Chandanpuri,
Police Station,
Malegaon.
54. Shri N. Z. Patil,
P.S.I. Malegaon Camp Police Station,
Malegaon.
55. Shri Pandit R. Khairnar,
President, Powerloom
Workers Union Centre,
Kusumba Road,
Malegaon.

B.—STATEMENTS

1. Mohd. Rafique Haji Hamidulla,
Partner, M/s. Kohinoor Talkies,
Malegaon.
2. Secretary, Hindi Communist Party
(Marxist), Malegaon Committee,
333, Islampura,
Malegaon.
3. Shri M. A. Rahim Quraishi,
Executive Member, All India
Majlis-Tameer-e-Millat,
Madina Mansion, Narayanguda,
Hyderabad.
4. Shri A. A. Peerbhoy,
President, Anjuman-I-Islam,
Advant, 31, Foreshore Road,
Bombay.

ANNEXURE II

Names of witnesses examined at Bombay and dates on which examined.

(Para. I·16 of Part I)

<i>S. No.</i>	<i>Date</i>	<i>Name</i>
1.	6th October, 1969	Sardar B. G. Rajcbahadur, President, Rotary Club of Malegaon, Malegaon.
2.	Do.	Sayyad Abbas Ali Qasim Ali Qazi, President, Malegaon Municipal Committee, Malegaon.
3.	7th October, 1969	Shri Shamsheer Khan Himmat Khan, Abbasia Building, Behind Pila Pump, Malegaon.
4.	8th October, 1969	Shri R. T. Patil, Somwar Ward, Bhusegali, Malegaon.
5.	Do.	Shri M. G. Patil, Municipal Councillor, Malegaon.
6.	Do.	Shri Abdul Rasheed Usmani, General Secretary, Muslim Majlis-e-Mushawarat, Malegaon.
7.	9th October, 1969	Shri Shabbir Ahmad Hakeem, Member, Communist Party of India, Municipal Councillor, Malegaon.
8.	Do.	Shri Haroonur-Rashid Hakim Valiulla, House No. 93, Nawapura, Malegaon.
9.	Do.	Shri Nihal Ahmed Maulvi Mohd. Usman, M.L.A., 749, Nayapura, Malegaon.
10.	10th October, 1969	Shri M. M. Patil, C.P.I. Worker, Malegaon.
11.	11th October, 1969	Dr. Khalil Ahmad Ansari, M.B.B.S., D.P.H., Municipal Councillor, Malegaon.

<i>S. No.</i>	<i>Date</i>	<i>Name</i>
12.	11th October, 1969.	Shri Haroon Ahmed Ansari, House No. 1157, Ansari Road, Islampura, Malegaon.
13.	Do.	Maulana Abdul Kadir, Vice-President, Jamiat-ul-Ulema Hind, Rasulpura, Malegaon.
14.	13th October, 1969	Shri Kashinath Beniram Khankari B.A., LL.B. Pleader, President, Bhartiya Jan Sangh, Malegaon.
15.	Do.	Shri Somnath Sitaram Kasar, M.A., LL.B., Organiser, R.S.S., Malegaon.
16.	Do.	Shri Mohd. Haroon Mohd. Sabir, Secretary, Communist Party of India, Municipal Councillor, House No. 357, Mangalwar Ward, Mohd. Ali Road, Malegaon.
17.	14th October, 1969	Shri K. R. Khairnar, President, Powerloom Workers Union, Kusumba Road, Malegaon.
18.	14th October, 1969 and 15th October, 1969	Shri D. N. Gundi, Sub-Inspector of Police, P. S. Chandanpuri, Malegaon.
19.	15th October, 1969	Shri N. Z. Patil, Sub-Inspector of Police, Malegaon Camp P.S., Malegaon.
20.	Do.	Shri S. S. Chorge, Circle Inspector of Police, Malegaon.
21.	16th October, 1969	Shri V. A. Mendke, then Dy. S. P. and Sub-Divisional Police Officer, Malegaon, now Vice-Principal, Police Training College, Nasik.
22.	Do.	Shri R. B. Sali, then Sub-Divisional Magistrate Incharge, Malegaon.

<i>S. No.</i>	<i>Date</i>	<i>Name</i>
23.	16th October, 1969	Shri S. P. Mohoni, then District Magistrate Nasik, now P. S. to Chief Minister, Maharashtra, Bombay.
24.	Do.	Shri D. M. Jaware, Tahsildar and Taluka Magistrate, Malegaon.
25.	Do.	Shri D. L. Jagtap, Talathi, Malegaon.
26.	17th October, 1969	Shri M. S. Kasbekar, then Superintendent of Police, Nasik.
27.	Do.	Shri S. G. Pradhan, then D.I.G., Bombay Range, Nasik.

ANNEXURE III

List of persons who were called to give oral evidence but who did not appear either due to their own fault or inability to serve the summons on them

(Para. 1.16 of Part I)

<i>Sl.No.</i>	<i>Name and Address</i>	<i>Date on which called.</i>	<i>Reasons for non-appearance</i>
1.	Shri Govind Narain Patil, B.A., B.Com., Ganesh Prasad, Somwar Ward, Malegaon.	6th October, 1969	Summons served but did not appear.
2.	Shri A. B. Hakeem, Ex-M.L.A., Malegaon.	7th October, 1969	Summons served but could not appear due to illness.
3.	Shri Mohammed Iqbal Akhil Rahemani, 641, Nayapura Ward, Malegaon.	8th October, 1969	Summons served but did not appear.
4.	Shri Y. N. Jadhav, 560-D, Mahatma Gandhi Road, Sangameshwar, Malegaon.	Do.	Do.
5.	Shri Pannalal Bahagchand Shah, Vice-President, Rotary Club, Malegaon.	Do.	Do.
6.	Shri Mohd. Ishaq Jumman, 837, Islampura (Barkatpura), Malegaon (Nasik).	9th October, 1969	He had expired.
7.	Shri Mohd. Rafique Haji Hamidulla, Partner, Kohinoor Talkies, Malegaon.	10th October, 1969	Summons served but did not appear.

1	2	3	4
8.	Shri Mohd. Hanif Maheboob, Nayapura Ward (Nissar Basti), Malegaon.	10th October, 1969	Summons could not be served as the whereabouts of the witness were not known
9.	Shri Y. S. Shirke, General Secretary, City Congress Committee, Malegaon.	13th October, 1969	Summons served but did not appear.

ANNEXURE IV

Documents exhibited in the course of oral evidence.

(Para. 1.17 of Part I)

Exhibit No.	Name of witness filling the exhibit	Date	Description of exhibit.
	Shri R. T. Patil, Somcar Ward, Busegali, Malegaon.	8-10-69	Copy of his application (original in Marathi), dated 24-10-61 submitted to the Police Sub-Inspector, Malegaon City regarding cases of molestation of Hindu women.
	Do.	Do.	Copy of petition (Original in Marathi) dated 24-8-67 submitted by him to the Home Minister, Maharashtra State, regarding cases of theft and illegal slaughter of cows in Malegaon.
	Shri Somnath Sitaram Kasar M.A., LL.B. Advocate, Organiser, R.S.S., Malegaon.	13-10-69	Supplementary statement about the causes of Hindu Muslim riots in general and remedies/suggestions.
	Shri D. N. Gundi, P.S.I., Chandanpuri Police Station, Malegaon.	14-10-69	Disposition of duties of the various staff of the Thana on the night of 23rd September for 24th September, 1967.
	Shri N. Z. Patil, P.S.I., Malegaon Camp Police Station, Malegaon.	15-10-69	Statement giving deployment of the Police force at the Thana on the 24th September, 1967.
	Shri M. S. Kasbekar, S. P. Nasik.	17-10-69	Extracts (original in Marathi) from the Village Crime Note Book of Malegaon from 1922 to 1966.

ANNEXURE V

List of documents summoned by the Commission for perusal.

(Para. 1.18 of Part I, Chapter I)

1. Inquiry reports and Post-mortem reports issued by the N. N. Wadia Dispensary, Malegaon in respect of persons injured/killed in the disturbances.
2. FIRs Nos. 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302 of 1967, of Malegaon Camp P. S. and FIRs Nos. 162, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188 of 1967, of Chandanpuri P. S (Malegaon).
3. Case diaries in respect of the above cases.
4. Committal orders of the Magistrate and Order-sheets of the Sessions Court in respect of Sessions Cases Nos. 77, 131, 76, 51, 75, 63, 38, 42 of 1968 of Nasik District.
5. Copies of Judgments in Sessions Cases Nos. 77, 131, 43, 51, 63, and 75 of 1968 of the Additional Sessions Judge, Nasik.
6. Order of discharge dated 22-3-68 of the Judicial Magistrate, 1st Class of Malegaon in Case Cr. No. 165 of 1967 of Chandanpuri P.S.
7. Judgment convicting the accused in Chandanpuri Cr. No. 183/67 by the Judicial Magistrate, 1st Class, Malegaon, dated 4th July, 1968.
8. Orders of acquittal of the accused in Cases arising from Chandanpuri Cr. No. 184 of 1967 and Malegaon Camp P. S. Cr. No. 292 and 293 of 1967, by the Judicial Magistrate, 1st Class, Malegaon dated 13th August, 1968.
9. Charge sheets in respect of the cases mentioned against S. No. 2.
10. Summary of important events by D.P.O., Nasik, dated 26-9-67.
11. Entries in the Civil Hospital, Nasik, in respect of the eight persons taken thereto.
12. Weekly diaries (DIB reports) sent by the S.P., Nasik for July, August and September, 1967.
13. Extracts from the entries in the Telephone Register of Malegaon Camp P. S. from 0925 hrs. on 23-9-67 to 26-9-67.
14. Extracts from the Station Diary of Malegaon Camp P.S. of entries from 0000 hrs. on 24-9-67 to 24 hrs.
15. Extracts from the Station Diary of Chandanpuri P.S. of entries from 6.00 to 14.15 hrs. on 24-9-67, and from 16.00 hrs. to 20.30 hrs. on 25-9-67.
16. Riot Emergency Scheme of Malegaon.
17. Log books and copies of entries of wireless messages between Mobile Wireless Sets and Police Stations in Malegaon on 24-9-67.
18. Wireless Message No.100/INT and No. Nil, dated 24-9-67 from S.I., Police Intelligence, Malegaon.

19. Wireless Message dated 24-9-67 from S. P., Nasik to I.G.P., Bombay.
20. Wireless Message No. 48 dated 24-9-67 from Commandant S.R.P. GR. Six to I.G.P., Bombay.
21. Wireless Message dated 24-9-67 from IGP, Bombay to all Commissioners of Police and S. Ps. in Maharashtra.
22. Wireless Message No. 100/DSB/67, dated 26-9-67, from S. P. Nasik Camp, Malegaon to IGP, Bombay.
23. Letter No. 100/COM/DSB/1967, dated 28-9-67 from the S. P., Nasik Camp Malegaon to the Secretary to the Government of Maharashtra Home Department.
24. Copy of judgment by the J.M.F.C., Malegaon, dated 28-3-1968 in case No. 3232 of 1967 (FIR 162/67 of Chandanpuri P. S. in the case relating to the theft of Joshi's cow).
25. Judgment of the Sessions Judge, Nasik, dated 27-5-68 in Criminal appeal No. 108/68, arising out of the case mentioned in S. No. 24.
26. Extracts from the Fire Register for 24-9-67 and 25-9-67 of the Malegaon Municipal Council.
27. (1) Rozanama (Order Sheet) in Cri. Case No. 2573/68 in the Court of the Jt. C. J., Malegaon in the case u/s 153A IPC against Puntambekar and others.
- (2) Copy of Exhibit No. 26 in the above case and order passed by the Magistrate on 16-2-70.
- (3) Copies of Exhibits Nos. 28 and 30 in the above case.

ANNEXURE V

List of documents summoned by the Commission for perusal.

(Para. 1-18 of Part I, Chapter I)

1. Inquiry reports and Post-mortem reports issued by the N. N. Wadia Dispensary, Malegaon in respect of persons injured/killed in the disturbances.
2. FIRs Nos. 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302 of 1967, of Malegaon Camp P. S. and FIRs Nos. 162, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188 of 1967, of Chandanpuri P. S (Malegaon).
3. Case diaries in respect of the above cases.
4. Committal orders of the Magistrate and order-sheets of the Sessions Court in respect of Sessions Cases Nos. 77, 131, 76, 51, 75, 63, 38, 42 of 1968 of Nasik District.
5. Copies of Judgments in Sessions Cases Nos. 77, 131, 43, 51, 63, and 75 of 1968 of the Additional Sessions Judge, Nasik.
6. Order of discharge dated 22-3-68 of the Judicial Magistrate, 1st Class of Malegaon in Case Cr. No. 165 of 1967 of Chandanpuri P.S.
7. Judgment convicting the accused in Chandanpuri Cr. No. 183/67 by the Judicial Magistrate, 1st Class, Malegaon, dated 4th July, 1968.
8. Orders of acquittal of the accused in Cases arising from Chandanpuri Cr. No. 184 of 1967 and Malegaon Camp P. S. Cr. No. 292 and 293 of 1967, by the Judicial Magistrate, 1st Class, Malegaon dated 13th August, 1968.
9. Charge sheets in respect of the cases mentioned against S. No. 2.
10. Summary of important events by D.P.O., Nasik, dated 26-9-67.
11. Entries in the Civil Hospital, Nasik, in respect of the eight persons taken thereto.
12. Weekly diaries (DIB reports) sent by the S.P., Nasik for July, August and September, 1967.
13. Extracts from the entries in the Telephone Register of Malegaon Camp P. S. from 0925 hrs. on 23-9-67 to 26-9-67.
14. Extracts from the Station Diary of Malegaon Camp P.S. of entries from 0000 hrs. on 24-9-67 to 24 hrs.
15. Extracts from the Station Diary of Chandanpuri P.S. of entries from 6.00 to 14.15 hrs. on 24-9-67, and from 16.00 hrs. to 20.30 hrs. on 25-9-67.
16. Riot Emergency Scheme of Malegaon.
17. Log books and copies of entries of wireless messages between Mobile Wireless Sets and Police Stations in Malegaon on 24-9-67.
18. Wireless Message No.100/INT and No. Nil, dated 24-9-67 from S.I., Police Intelligence, Malegaon.

ANNEXURE VI.

Statement showing the information regarding fire opened by the Police Officers and men on 24-9-67 at Malogaon.

(Paras. 3·95, 3·98, 3·100 and 7·54 of Part II—Chapter III).

A.—Officerwise.

No	Name of the officer who fired	Place where fired	Time	No. of Round		Name of the S Officer Present
				Musket	Revolver	
(1)	Shri S. S. Chorge Police Inspector, Malogaon.	(i) Tonga Stand Kidwai Road	1110		6	P. I. Shri Chorge
		(ii) Perry Chowk toward	1120		6	"
		(iii) Gupta Dairy Chowk, Mohamadalli Road.	1130		6	"
		(iv) Near Dr. Salim Shaikh Corner on Mohammadalli Road.	1150		4	"
				<u>22</u>		
(2)	Shri D. N. Gundi PSI, Chandanpuri.	(i) Tonga Stand on Kidwai Road towards Islampura Lane.	1120		4	P.S.I. Shri Gundi
		(ii) Lane of Islampura near Bandu Chakki on Mohammadalli Road	1130		1	"
				<u>5</u>		
(3)	Ganpat Motiram Vetal HC, B.No. 420, HQ Nasik.	(i) Tonga Stand on Kidwai Road towards Islampura.	1120	2	..	P.S.I. Shri Gundi

No. 420 HQ Nasik.	(ii)	Mohammadalli Road in Islampura Lane opposite Gupta Dairy.	1130	3	..	P. I. Shri Chorge	
	(iii)	Mohammadalli Road II Lane of Islampura near Bandu Chakkiwala	1140	3	..	"	
	(iv)	Mohammadalli Road in III Lane of Islampura, Jahir Bidi Shop	1145	3	..	"	
	(v)	On Mohammadalli Road near Dr. Salim Shaikh near Kasai Masjid	1150	8	..	"	
				<hr/> 19 <hr/>			
(4)	P. C. Navji Kalu Waghmare B. No. 210 of Malegaon Camp Police Station.	(i)	Tonga Stand on Kidwai Road	1120	4	..	P.S.I. Gundi
		(ii)	Gupta Dairy	1130	3	..	P. I. Chorge
		(iii)	III Lane in Islampura opp. Jahir Bidi Shop	1145	3	..	P.I. Chorge
			<hr/> 10 <hr/>				
(5)	P. C. Vithal Sadashiv Mashane, B. No. 294, H.Q. Nasik.	(i)	Gupta Dairy	1130	4		P. I. Chorge
		(ii)	III Lane of Islampura opp. Jahir Bidi	1145	10		"
		(iii)	Dr. Salim Shaikh on Mohammadalli Road near Kasai Masjid	1150	5		"
			<hr/> 19 <hr/>				
(6)	P. C. Uttam Satwa Ahire B. No. 239, H. Q. Nasik.	(i)	Between Perry Chowk and Gupta Dairy	1125	4		P.I. Chorge
		(ii)	Gupta Dairy towards I Lane of Islampura	1130	2		"
		(iii)	II Lane of Islampura on Mohammadalli Road	1140	2		"
		(iv)	III Lane of Islampura Opp. Jahir Bidi	1145	2		"
			<hr/> 10 <hr/>				

1	2	3	4	5	6	7
(7)	P. C. Papat Narayan Darekar B. No. 2045—Malegaon Camp P.S.	(i) Tonga Stand on Kidwai Road (ii) II Lane of Islampura opp. (iii) III Do. (iv) Dr. Salim Shaikh corner towards Kasai Masjid	1110 1140 1145 1150	hrs. 4 2 2 2	.. .. ..	P. I. Chorge. " " "
					<u>10</u>	
(8)	P. C. Anaji Savliram Dusane B. No. 2304 of Malegaon Camp.	(i) Gupta Dairy Chowk (ii) Umar Bidi on Mohammadalli Road (iii) Laxminarayan Mandir (iv) Tin Kaadil Chowk (v) Nawapura Road near well (vi) Dr. Shaikh Salim Corner Kasai Mas- jid	1135 1145 1155 1220 1230 1240	" 4 " 5 " 4 " 6 " 4 " 5	.. .. .. .. ..	Dy. S.P. Mandke. " " " " "
					<u>28</u>	
(9)	P. C. Revji Ganpat Sonawane B. No. 1340 Malegaon Camp P. S.	(i) Gupta Dairy (ii) Perry Chowk (iii) Laxminarayan Mandir (iv) Tin Kandil Chowk (v) Hadani Rd. opp. Noorani Masjid Nawapura Ward (vi) Dr. Salim Shaikh corner near Kasai Mosque	1135 1145 1200 1220 1230 1240	" 4 " 4 " 5 " 5 " 5 " 5	.. .. .. .. ..	Dy. S.P. Mandke. " " " " "
					<u>28</u>	

(10)	P. C. Shahu Vishan Patil B. No. 1709 Malegaon Camp P. S.	(i) Perry Chowk	1145	..	4	..	D.S.P. Mandke.
		(ii) Laxminarayan Mandir	1200	..	3	..	"
		(iii) Nawapura Farshad Manali Chowk	1225	..	6	..	"
		(iv) Opp. Slaughter house on Mohedelli Road	1235	..	6	..	"
					<u>19</u>		
(11)	P. C. Madhukar Balu B. No. 2087 Chandanpuri P.S.	(i) On Sarda Nagar Road opp. Janata Workshop	1350	..	1	..	P.S.I. Gundi.
					<u>1</u>		
		Grand Total			<u>144</u>	<u>27</u>	

B.—Locationwise

Sl. No.	Place of firing	Time	Officers	Musket	Revolver
1.	(1) Tonga Stand, Kidwai Road	1110 hrs.	(1) P. I. Chorge (2) P. C. Popat Narayan Darekar	..	6
				4	..
				<hr/>	<hr/>
				4	6
2.	(2) Tonga Stand, Kidwai Road	1120 "	(1) P.S.I. Gundi (2) HC Ganpat Motiram Vetal (3) PC Navji Kaluwaghmare	..	4
				2	..
				4	..
				<hr/>	<hr/>
				6	4
(3)	Perri Chowk	1120 "	(1) P. I. Chorge	..	6
				<hr/>	<hr/>
					6
(4)	Perri Chowk (Dy. S. P. Mandke)	1145 "	(1) PC Reoji Ganpat Sonawane (2) PC Shahu Vishnu Patil	4	..
				4	..
				<hr/>	<hr/>
				8	..
3.	(5) Between Perri Chowk Gupta Dairy Chowk.	1125 "	(1) PC Uttam Satwa Ahire (Under P I. Chorge)	4	..
				<hr/>	<hr/>
				4	..
				<hr/>	<hr/>

4.	(6) Gupta Dairy	1130	"	(1) P. I. Chorge (2) PC Ganpat Motiram Vetal (3) PC Nawji Kalu Waghmare (4) PC Vithal Sadashiv Mashane. (5) PC Uttam Satwa Ahire	.. 3 3 4 2	6
					12	6
	(7) Gupta Dairy	1135	"	(1) PC Anaji Sawlaram Dusane (2) PC Reoji Ganpat Somawane (under Dy. S.P. Mandke)	4 4	....
					8	..
	(8) II Lane of Bandu Chekki- wale.	1150	"	(1) P. S. I. Gundi	..	1
	(9) II Lane of Bandu	1140	"	(1) H. C. Ganpat Gotiram Vetal (2) PC Uttam Satwa Ahire (3) PC Popat Narayan Darekar (under P.S.I. Gundi)	3 2 2	......
					7	1
6.	(10) III Lane Opposite Jabir Bidi.	1145	"	(1) Ganpat Gotiram Vetal (2) PC Nawji Kalu Waghmare (3) PC Vithal Sadashiv Mashane (4) PC Uttam Satwa Ahire (5) PC Popat Narayan Darekar	3 3 10 2 2	4
					20	4
7.	(11) Dr. Sali Saikh Corner	1150	"	(1) P. I. Chorge (2) H. C. Ganpat Gotiram Vetal (3) P. C. Vithal Sadashiv Waghmare (4) P. C. Popat Narayan Sarekar	.. 8 5 2	4
					15	4

1	2	3	4	5	6	7
(12) Dr. Salim Shaikh Corner ..	1250 hrs	(1) P. C. Anaji Sawleram Dusane (2) Reoji Ganpat Sonawane (under Dy. S.P. Mandke)	5	..	5	..
			<u>10</u>			
8. (13) Under Bidi Shop Mahmadali Road.	1145 "	(1) PC Anaji Sawleram Dusane (under Dy. S. P. Mandke)	5	..	5	..
			<u>5</u>			
9. (14) Laxminarayan Mandir . . .	1155 "	(1) P C Anaji Sawleram Dusane (2) PC Reoji Ganpat Sonawane . (3) PC Shahu Vishnu Patil (under Dy. S.P. Mandke)	4	..	5	..
			3		<u>12</u>	
10. (15) Tin Kandil	1220 "	(1) PC Anaji Sawleram Dusane . (2) PC Reoji Ganpat Sonawane (under Dy. S. P. Mandke)	6		5	
			<u>11</u>			
11. (16) Farad Manzil	1225 "	(1) Shahu Vishnu Patil (under Dy. S. P. Mandke)	6		6	
			<u>6</u>			

12.	(17) Madani Road (Well)	1230	„	(1) Reoji Ganpat Somawane (2) Anaji Sawleram Dusale (under Dy. S. P. Mandke)	5 4	
					9	
13.	18) Opposite Slaughter House Mohd. Ali Road.	1240	„	(1) Shahu Vishnu Patil	6	
					6	
14.	(19) Sardar Nagar	1350	„	(1) Madhukar Balu Jadhav (PC) (under PSI Gundi).	1	
					1	
					144	27