

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

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VOLUME IV — PART IV
(CHAPTERS 53 TO 79)

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ABBREVIATIONS

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

PART IV

THE JALGAON DISTURBANCES

CHAPTER 53
THE JALGAON INQUIRY

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- 53.2 The proceedings.
- 53.6 Suspension of police officers.
- 53.8 Officers during the relevant period.
- 53.9 The case of the Muslim parties.
- 53.10 The case of the Hindu parties.
- 53.14 The case of the suspended police officers.
- 53.15 The case of the District Police Officers, and the Special Investigation Squad, Jalgaon.
- 53.16 The *prima facie* merits of the rival cases.

CHAPTER 53

THE JALGAON INQUIRY

Communal disturbances in the Jalgaon District

53.1 In the afternoon of May 8, 1970 communal disturbances broke out in the city of Jalgaon. The Police and the Homeguards opened fire at different places and in all 53 rounds were fired. Forty-three persons lost their lives in the disturbances, 42 of them being Muslims and one a Hindu. According to the official estimate, 90 houses were completely burnt and 16 houses were partially burnt; 29 houses suffered minor damage while 137 houses were looted. The estimate of total loss suffered by the Muslims was Rs. 33,90,997 and by the Hindus was Rs. 83,725. The disturbances were suppressed that very evening. The disturbances led to tension in some places in the Jalgaon District, but apart from a minor riot at Patonda in Amalner Taluka where a few houses were set on fire and in respect of which some Hindus were convicted, no incident took place in any other part of the District (Ex. P 898, C.W. 21/14/2866, P.W. 67/120/2327).

The proceedings

53.2 In all 108 witnesses were examined in the Inquiry relating to the Jalgaon disturbances. These witnesses were—

- (i) 7 witnesses called by the Government—C.W. 1, 2, 4 and 11 to 14;
- (ii) 30 witnesses called by the Executive Magistrates and Police Officers of the Jalgaon District—P.W. 67 to P.W. 96;
- (iii) 24 witnesses called by the Jamiet-ul-Ulema, Jalgaon—JU(J) W. 1 to 24;
- (iv) 1 witness called by the Jamiet-ul-Ulema, Maharashtra State—JU(M) W. 2;
- (v) 11 witnesses called by the Jalgaon Janadhikar Saunrakshan Samiti—J.J.S.W. 1 to 11;
- (vi) 11 witnesses called by the suspended police officers—S.P.O.W 1 to 11; and
- (vii) 24 witnesses summoned by the Commission—C.W. 6 to 28 and 33.

53.3 The documentary evidence dealing exclusively with the Inquiry into the Jalgaon disturbances consisted of 462 Exhibits, namely:—

- (i) 9 from the possession of the Government—Exhibits G 203 to G 210 and G 331;
- (ii) 367 from the possession of the Executive Magistrates and Police Officers—Exhibits P 694 to P 1060;

- (iii) 1 from the possession of the Jamiet-ul-Ulema, Maharashtra State — Exhibit JU(M) 5 ;
- (iv) 6 from the possession of the Jamiet-ul-Ulema, Jalgaon — Exhibits JU(J) 1 to JU(J) 6 ;
- (v) 5 from the possession of the Jalgaon Janadhikar Saunrakshan Samiti — Exhibits JJS 1 to JJS 5 ;
- (vi) 1 from the possession of the suspended police officers — Exhibit SPO 1 ;
- (vii) 7 from the possession of the Jalgaon Municipal Council — Exhibits JMC 1 to JMC 7 ; and
- (viii) 66 from the possession of or in the course of evidence of the witnesses examined by the Commission other than the employees of the Jalgaon Municipal Council — Exhibits Nos. 3 to 68.

53.4 The recording of the evidence in this particular Inquiry took 76 days. The total number of pages of oral evidence recorded by the Commission in this Inquiry was 992 pages and affidavits running into about 354 pages were made part of the deposition of witnesses. The arguments were partly written and partly oral. The written arguments consisted of 779 pages and the oral arguments for clarifying the written arguments filed by the parties took 13 days.

53.5 The Commission visited Jalgaon on July 13, 1970 for local inspection. At the request of Counsel for the Jan Sangh and the Jalgaon Janadhikar Saunrakshan Samiti to examine the witnesses of these organizations in Jalgaon, the Commission held ten sittings in Jalgaon in February 1972 and examined these witnesses as also some other witnesses. While in Jalgaon, on February 16, 1972 the Commission took local inspection of the affected localities and other relevant places with Counsel and representatives of parties.

Suspension of Police Officers

53.6 Ten police officers were suspended pending an inquiry into their conduct during the disturbances in Jalgaon. These police officers are—

- (1) Dy. S.P., V. R. Ghorpade (C.W. 23), Dy. S.P., S.D.P.O., Chalisgaon Division,
- (2) V. R. Sawant (S.P.O.W. 6), Inspector-in-charge, Jalgaon City Police Station,
- (3) R. M. Patil, Police Inspector, D.S.B., Jalgaon District,
- (4) S. P. Bhalerao (S.P.O.W. 10), P.S.I., Jalgaon City Police Station,
- (5) K. P. Karhadkar (S.P.O.W. 9), P.S.I., Jalgaon City Police Station,
- (6) B. R. Kolte, P.S.I., Jalgaon Taluka Police Station,
- (7) M. M. Walvekar (S.P.O.W. 11), P.S.I., District Special Branch, Jalgaon,
- (8) L. R. Nemade, P.S.I., Foodgrain Branch, Jalgaon,
- (9) Girdhar Chiman Bendale (S.P.O.W. 8), Unarmed Head Constable, Grade III, Buckle No. 380, Jalgaon City Police Station, and

(10) Dashrath Shripat Joshi (S.P.O.W. 7), Head Constable, Buckle No. 17, District Special Branch, Jalgaon.

53.7 The conduct of Deputy Superintendent, Ghorpade, Inspector Savant, Sub-Inspectors Bhalerao, Karadkar and Walvekar and Head Constables Bendale and Dashrath Joshi was inquired into by the Commission as their conduct came within the scope of the Inquiry into the Jalgaon disturbances. The remaining 3 officers, namely, Inspector R. N. Patil and Sub-Inspectors B. R. Kolte and L. R. Nemade were suspended for not proceeding immediately to Bhiwandi when directed to do so on May 8, 1970. This conduct had no connection with the disturbances which took place at Jalgaon and was, therefore, not inquired into by the Commission as such an inquiry would have been outside its scope. Dy. S.P., Ghorpade was prematurely retired on November 19, 1971. Inspector Savant, Sub-Inspectors Bhalerao, Karhadkar and Walvekar and Head Constables Joshi and Bendale still continue under suspension.

Officers during the relevant period

53.8 In addition to the ten suspended police officers mentioned in paragraph 53.6 above, the officers whose names are mentioned below were holding at the relevant time the office specified against their respective names:—

- (1) R. L. Pardeep (C.W. 21), Collector and District Magistrate, Jalgaon,
- (2) S. H. Koli (P.W. 79), Sub-Divisional Magistrate, Chalisgaon Division.
- (3) S. L. Kulkarni (P.W. 70), Sub-Divisional Magistrate, Jalgaon Division.
- (4) Mohamedkhan Dildarkhan (P.W. 72), Special Land Acquisition Officer, Jalgaon.
- (5) Anant Janardan Mahabal (P.W. 88), Steno to the Collector.
- (6) Pandharinath Waman Mali (P.W. 89), Movement Officer.
- (7) P. K. Sonalkar (P.W. 91), District Home Guards Commandant, Jalgaon.
- (8) Balwant Dagajirao Patil (P.W. 92), Second in Command, Home Guard Organization, Jalgaon.
- (9) V. A. Gokhale (G.W. 4), Deputy Inspector General of Police, Bombay Range.
- (10) S. T. Raman (P.W. 67), Superintendent of Police, Jalgaon District.
- (11) Trimbakrao Govindrao Paturkar (G.W. 12), Deputy Inspector General of Police, Armed Forces, Bombay.
- (12) Tanajirao Martandrao Kadambande (G.W. 13), D.I.G. (Training and Special Units), Maharashtra State.
- (13) R. S. Mahajan (P.W. 96), Dy. S.P., C.I.D. (Crime).
- (14) V. R. Patankar (G.W. 11), Dy. S.P., C.I.D. (Intelligence).
- (15) Charansing Azad (P.W. 78), Asstt. S.P., Jalgaon Division.
- (16) Baban Pandu Badgujar (C.W. 22), Sub-Inspector of Police, Local Intelligence Branch, Jalgaon.

The case of the Muslim parties

53.9 The Muslim parties who have pleaded a positive case with respect to the Jalgaon disturbances are the Maharashtra State Muslim League and the Jamiet-ul-Ulema-e-Hind, Jalgaon District. In brief, their case is as follows:—

Though amity and friendly relations existed between the Hindus and Muslims of Jalgaon for generations and they participated in each other's festivals, anti-Muslim feelings were generated in the Hindus slowly and systematically by the Jan Sangh, the R.S.S., the Hindu Mahasabha and the Shiv Sena. Boards containing anti-Muslim writings were put up by the Jan Sangh and an organization known as Shree Ram Tarun Mandal formed by communal-minded Hindus belonging to the Jan Sangh, the R.S.S. and the Shiv Sena. Communal tension was further created by the annual 'kirtans' of the 'kirtankar', Buwa Afale; the inflammatory speech made by the Shiv Sena Chief, Bal Thackeray, on April 16, 1970 to celebrate the first anniversary of a local Marathi daily 'Batmidar'; and the repeated throwing of stones on the Jumma Mosque in Maniyar Wada. The riots were pre-planned and large mobs of Hindus armed with deadly weapons such as swords, spears, knives, axes, crow-bars, acid-bulbs, crude bombs and burning torches attacked different Muslim localities, killing and injuring Muslims and setting fire to Muslim properties. The Muslim parties have made several allegations of dereliction of duty on the part of the Police and levelled serious charges of misconduct against the police officers and policemen who were on the spot including the charges against some of them of actively assisting the Hindu rioters.

The case of the Hindu parties

53.10 The Hindu parties who have pleaded a positive case with respect to the Jalgaon disturbances are the Maharashtra Pradesh Hindu Mahasabha, the Maharashtra Pradesh Jan Sangh, the Jalgaon Janadhikar Saunrakshan Samiti and Brahmachari Vishwanathji of Masurashram. Their cases are substantially the same. According to them the disturbances at Jalgaon were not communal disturbances. They have alleged that the proximate or immediate cause of the disturbances at Jalgaon was that on May 8, 1970 some Muslim youths molested a married Hindu woman, by the name of Bahinabai Kisanrao Kale (C.W. 8); her relative thereupon went to demand an explanation from these Muslims; on seeing them these Muslims ran away shouting that the Hindus had beaten them, and the other Muslims from adjoining houses started throwing stones and soda-water bottles on Bahinabai's relatives; the news of this incident spread in Muslim localities and a faction fight took place between the Hindus and the Muslims, but the Police brought the situation under control. They have further

alleged that the Hindus co-operated with the Police but the Muslim mobs were defiant, non-co-operative and aggressive, and that even then the Police arrested several innocent Hindus who had no connection with the incident. According to them, some police officers were suspended on the complaints of the Muslims without any *prima facie* inquiry to satisfy the whim of the Muslims. They have praised the conduct of the suspended police officers during the disturbances.

53.11 With respect to the fire to the house of Abdul Gafoor Shaikh Ukhardu [J.U.(J.)W. 18], in which about 25 Muslims belonging to a marriage party died, and the fires to the other Muslim houses, the case of the Hindu parties is as follows:—

The members of the marriage party in the house of Abdul Gafoor Shaikh Ukhardu, feeling scared by the disturbances, locked themselves inside the house. At that time fire-wood stacked near the stoves in the compound accidentally caught fire and in turn set fire to Abdul Gafoor's house and the adjoining houses, filling the locality with dense, suffocating smoke. Hindus and Muslims who had gathered outside shouted to the people inside Abdul Gafoor's house to come out, but on account of suffocation, they were unable to do so. The Hindus and Muslims gathered outside, though they were anxious to save the persons trapped inside the house, were also unable to do so as the doors were locked from inside. The Muslims, however, thought that their houses had been deliberately set on fire by the Hindus and they thereupon came out and set fire to Hindu houses with incendiary bombs. The fires to three Hindu houses which were completely burnt, spread to adjoining Muslim houses. The Muslim owner of the Maratha Durbar Aggarbatti Works, however, deliberately set fire to his own house to recover the insurance money.

53.12 The Hindu parties have further alleged that the D.M. placated the Muslims and acted in a vindictive manner against the Hindus. They have further alleged that he procured false certificates from the Civil Surgeon to show that those who had in fact died of suffocation had met their death due to other causes, refused to institute prompt proceedings in the matter of the outrage to the modesty of Bahinabai, refused to institute cases against the Muslims from whom incendiary materials and arms were unearthed by the Police, showed the arrested Hindus to the witnesses before holding identification parades, and got only Hindus arrested.

53.13 The case alleged in the affidavit of Chhabildas Daulat Bhavsar (affidavit No. 63), the President of the Jalgaon City Jan Sangh, is, however, different. He has alleged in his affidavit that for several days stones were thrown from inside the Jumma Mosque in Maniyar Wada on the Shree Ram Temple which is situate just near it, but the Government failed to pay any heed though complaints were made in this behalf, and that on May 8, 1970 as a result of the throwing of soda-water bottles and stones at different places by the Muslims everyone out of fear confined himself to his house, and that after some

time some 'goondas' gathered there and taking advantage of the situation destroyed and set fire to whatever they could lay their hands on. He has further alleged that the Muslims themselves poured kerosene on their own houses and set fire to them and then ran away and that on account of the fires set by Muslims to their own houses Hindus residing in the neighbourhood also suffered considerable loss and that at night a Muslim house caught fire as the explosives stored therein exploded.

The case of the suspended police officers

53.14 According to Dy. S.P., Ghorpade (C.W. 23), Inspector Savant (S.P.O.W. 6) and P.S. Is., Bhalerao (S.P.O.W. 10) and Karhadkar (S.P.O.W. 9), the disturbances in Jalgaon were not communal disturbances, but were the result of some Muslims outraging the modesty of a Hindu woman, Bahinabai Kisanrao Kale, and an assault on some Muslims at the pan shop situate in Rath Chowk. They have further alleged that the non-co-operative attitude adopted by the municipal authorities hampered the police officers in bringing the situation under control.

The case of the District Police Officers, and the Special Investigation Squad, Jalgaon

53.15 The case of the police officers of the Jalgaon District and of the Special Investigation Squad, Jalgaon, is that the proximate or immediate cause of the disturbances was the attempt by some Muslims to outrage the modesty of a Hindu woman, Bahinabai Kisanrao Kale, which incensed the Hindus who thereupon retaliated against the Muslims.

The prima facie merits of the rival cases

53.16 The *prima facie* merits of the rival cases can be judged from the following three undisputed facts:—

- (i) all who died an unnatural death in the course of the Jalgaon disturbances (except one) were Muslims,
- (ii) almost every property which was destroyed totally or partially by arson in the course of the disturbances was Muslim Property, and
- (iii) the only persons who were arrested during the course of the disturbances were three Muslims.

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CHAPTER 54

JALGAON

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54.4 Communal geography.

54.6 Jalgaon City Police Station.

CHAPTER 54

JALGAON

General

54.1 Jalgaon is situate on the Bombay-Itarsi railway line. With the division of the Old Khandesh District into East and West Khandesh Districts, Jalgaon was made the headquarters of the East Khandesh District and Dhulia the headquarters of the West Khandesh District. After the formation of the State of Maharashtra these districts were named after their headquarters and became the Jalgaon District and Dhulia District respectively. Jalgaon District along with Greater Bombay, Thana, Kolaba, Ratnagiri, Nasik and Dhulia Districts is included in Bombay Division. Its police administration is under the D.I.G. (B.R.). The Court of the District and Sessions Judge, Jalgaon, the headquarters of the Collector and District Magistrate and of the Superintendent of Police as also of the Sub-Divisional Police Officers of Jalgaon and Chalisgaon Sub-Divisions are all situate at Jalgaon.

54.2 According to the 1951 census, the total population of Jalgaon was 68,412. According to the 1961 census, it was 80,361, out of which 65,370 were Hindus, 10,601 Muslims and 4,390 belonged to other communities. Thus, the percentage of Muslim population to the total population in Jalgaon in 1961 was 13.1. The census report published in January 1971 gives the population of Jalgaon City as 1,06,000. The city of Jalgaon is divided into two parts, Old Jalgaon being the eastern part of the city and New Jalgaon being the western part of the city. The Collectorate, the District Court, the Police Headquarters, the Municipal office and the Jalgaon City Police Station are all situate in the western part. There is a wireless receiving station at the Police Headquarters. The main road, namely, Mahatma Gandhi Road, which continues as the Jalgaon-Asoda Road, bisects Jalgaon City from west to east. The City Police Station and the Municipal Office are situate in Baliram Peth next to each other on the northern side of the Mahatma Gandhi Road and the Zilla Parishad Office is situate behind the City Police Station. A little further to the north are the Taluka Police Station and the Mamlatdar's Office [P.W. 67/1(2)/2291(1), 8/2235 ; S.P.O.W. 6/2/2980].

54.3 There are a number of schools in Jalgaon run by the Municipal Council. There is also a Government hospital. The railway line which runs west to east lies to the north of Mahatma Gandhi Road.

Communal Geography

54.4 Appendix O to this Report is a sketch of Jalgaon showing

the incidents which took place in Jalgaon during the communal disturbances on May 8, 1970. This sketch also gives a clear picture of the communal geography of Jalgaon showing the localities which are purely Hindu localities, purely Muslim localities and mixed localities. As shown by this sketch, there are only a few Muslim houses situate in New Jalgaon, the majority of the Muslim localities being situate in Old Jalgaon. The concentration of Muslim localities is in the central part of Old Jalgaon. These localities are surrounded on all sides and separated from one another by Hindu localities and form small islands in their midst. The localities which suffered in the disturbances were these Muslim localities of Old Jalgaon, the Muslim localities of New Jalgaon remaining completely unaffected. About a mile and half outside Jalgaon to the west is a tank known as Mehrun Tank near which is a Muslim locality which also remained unaffected in the disturbances (P.W. 67/58/2268, 120/2327).

54.5 According to the rough estimate given by Inspector Sawant, in 1970 the population of Rath Chowk, Maniyar Mohalla, Fakir Mohalla, Bagwan Mohalla and Joshi Peth was about 20,000 of which 4,000 were Muslims, 12,000 Hindus and 4,000 belonged to other communities, and the population of Bhilpura, Islampura and Subhash Chowk was about 15,000 of which 10,000 were Hindus, 3,000 Muslims and 2,000 belonged to other communities. [SP.O.W. 6/1(1)/2979(1)].

Jalgaon City Police-Station

54.6 The Inspector in charge of the Jalgaon City Police Station from May 24, 1969 till the date of his suspension on May 26, 1970 was B. R. Sawant (S.P.O.W. 6). There were two Sub-Inspectors attached to this police station, namely K. B. Karhadkar (S.P.O.W. 9) and S. P. Bhalerao (S.P.O.W. 10). Karhadkar was attached to the Jalgaon City Police Station from November 12, 1969 till May 26, 1970, on which date he was suspended, and Bhalerao was attached from January 6, 1970 till May 26, 1970, on which date he was suspended. The area of jurisdiction of Jalgaon City Police Station is $6\frac{1}{4}$ square miles (P.W. 67/99/2285). The City Police Station is situate in the western part of the city on the northern side of the Mahatma Gandhi Road in Baliram Peth. The office of the S.D.P.O., Jalgaon, is situate in the City Police Station itself while the office of the S.D.P.O., Chalisgaon is situate in the compound of the City Police Station at a distance of about 40 feet from it (P.W. 67/99/2285 ; P.W. 77/5/2350).

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CHAPTER 55

POLITICAL PARTIES AND OTHER ORGANIZATIONS IN JALGAON

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CHAPTER 55

POLITICAL PARTIES AND OTHER ORGANIZATIONS IN JALGAON

The political situation

55.1 At the relevant time there were a number of all-India political parties and other organizations operating in Jalgaon, namely, the Congress, the Jan Sangh, the R.S.S., the P.S.P., the Communist Party of India, the Jamaat-E-Islami-E-Hind and the Jamiet-ul-Ulema-E-Hind. There was also another organization formed in Jalgaon which operated in Jalgaon, namely, the Shree Ram Tarun Mandal. It is not necessary to deal with the activities of all these parties and organizations, but only of such of them in respect of which allegations have been made before the Commission.

55.2 According to S.P., S. T. Raman, the political situation in Jalgaon was developing into a changing and fluid pattern during the five years preceding the disturbances. The Indo-Pak War in 1965, the general elections in 1967, the International Court's Award with respect to the Rann of Kutch in 1968, the election of Mr. V. V. Giri as the President of India in 1969 and the split in the Congress Party, the news regarding the desecration of the Al-Aqsa Mosque in Jerusalem in August 1969, the Ahmedabad communal riots in September 1969, the visit of Khan Abdul Gaffar Khan to Jalgaon and Khiroda in January 1970 and the by-election in the last week of April 1970 for the Buldhana Parliamentary constituency (which includes three Talukas of Jalgaon District) were incidents which made a great impact on the minds of the people in the Jalgaon District.

General elections

55.3 The general elections of 1967 went off peacefully. There were in all 12 Assembly constituencies and 2 Parliamentary constituencies in Jalgaon District. S. S. Sayed was elected on the Congress ticket from the Jalgaon Parliamentary constituency polling 1,25,638 votes, while his nearest rivals, G. R. Garud of the P.S.P., B. B. Patil of the S.S.P., S.M.S. and P. R. Patwardhan of the Jan Sangh, polled 59,577, 56,768 and 50,918 votes respectively [P.W. 67/1(4-6)/2229(1-2)].

The Jamaat-E-Islami-E-Hind

55.4 There is no evidence before the Commission that the Jamaat-E-Islami-E-Hind had any branch or office in Jalgaon. The only activities of this party in Jalgaon during the relevant period which have come on the record of the Commission are that during the Shab-E-Miraj

celebrations the Jamaat-E-Islami leader, Maulana Naimullah Qurashi, toured Jalgaon District and was in Jalgaon on October 8, 1969 and addressed a public meeting that night at Katya File, that on January 23 and 24, 1970 Shams Pirzada, the Amir of the Jamaat-E-Islami-E-Hind Maharashtra State, visited Jalgaon, and that on February 6 and 7, 1970 a Conference of the Jamaat-E-Islami Hind of the two Districts, Nasik and Jalgaon, was held in Jalgaon and a public meeting as also some private meetings were held during this conference.

The Shab-E-Miraj meetings of Jamaat-E-Islami

55.5 The night of October 8, 1969 was the Shab-E-Miraj, that is, the night on which Prophet Mohamed is said to have ascended to heaven to receive Divine Revelation, Maulana Naimullah Qurashi, the Jamaat-E-Islami leader, toured Jalgaon District in connection with these celebrations and he was in Jalgaon on that day. That night a public meeting was held in the Katya File Mosque in Jalgaon. This meeting was covered by an Urdu shorthand reporter of the Intelligence C.I.D., Aurangabad, who was specially sent for by the S.P., Jalgaon, at the request of Inspector Sawant, and he has made his report dated October 10, 1969 (Ex. P 843) in respect of the said meeting (S.P.O.W. 6/28/2995). This report shows that the main speakers were Maulana Naimullah Qurashi who is described as Nazem (organizer), Jamaat-E-Islami, Vidarbha, Nagpur, and Abdul Qayab of Jalna who is described as Nazem (organizer), Jamaat-E-Islami, Marathwada. The audience consisted of about 150 to 200 persons. The speeches dealt with the life of Prophet Mohamed and exhorted the Muslims to follow the teachings of the Quran.

55.6 A report dated October 9, 1969 (Ex. P 724) was made to the P.S.I., D.S.B. by H.C., B. N. Bhure of the District Special Branch. H.C. Bhure has reported that Maulana Naimullah described in the said report as Divisional Secretary of the Jamaat-E-Islami, Aurangabad, held discussions with the local Jamaat-E-Islami, workers and sympathisers privately and told them that the Muslims had suffered heavily during the communal disturbances at Ahmedabad and urged the Muslims to donate whole heartedly in aid of the riot victims. He called upon the Muslims to unite and to enrol themselves as members of the Jamaat-E-Islami.

55.7 On the face of it there does not appear to be anything objectionable in these private discussions, though in what light the Ahmedabad disturbances and the suffering of the Muslims therein were depicted in the course of these discussions is a matter of speculation, particularly in the light of the communal speeches subsequently made during the Nasik and Jalgaon Districts Conference of the Jamaat-E-Islami held on February 6 and 7, 1970 in Jalgaon.

The visit of Shams Pirzada to Jamner

55.8 It appears from the note Exhibit No. 47 filed by D.M., Pardeep that Shams Pirzada, Amir, Jamaat-E-Islami, Maharashtra State, visited

Jamner on the night of January 23, 1969 and that on the next day, that is, on January 24, 1969, he held a private meeting at the residence of one K. Y. Zuberai at which he stressed the need of making the Jamaat-E-Islami strong by enrolling members and collecting funds. He impressed upon the audience the need for unity in order to face any eventuality and asked them to subscribe to the party organ the "Shanti Marg". After the Jumma prayers in the Jumma Mosque he gave a short religious sermon and again carried on a propaganda for the 'Shanti Marg'. He stated that the Jamaat-E-Islami was established to safeguard the interests of the Muslims and therefore an all-out effort should be made to popularize it by systematic propaganda, enrolling members and collecting funds. He further stated that the Congress was bringing an undue pressure on the Muslims, but the Muslims should not pay any heed to such tactics. He complained that the Congress indulged in giving false promises and in reality did nothing to ameliorate the conditions of the Muslims and was giving a step-motherly treatment to them. He also referred to the prevailing conditions in Pakistan and blamed President Ayub Khan for them.

The Jamaat-E-Islami Conference

55.9 A conference of the Jamaat-E-Islami-E-Hind, Maharashtra State, of the two districts of Nasik and Jalgaon was held in Jalgaon on February 6 and 7, 1970, and a public meeting as also some private meetings were held during this conference. Inspector Sawant (S.P.O.W. 6) has made a report dated February 9, 1970 (Ex. P 881) on this conference. For the public meeting held on February 6, 1970 at Sawant's request the S.P. had requisitioned the services of an Urdu shorthand reporter from Aurangabad. The shorthand reporter's report of the public meeting is Exhibit P 844. Delegates had come to this conference from Bhusaval, Faizpur, Jamner and Malegaon and the Jalgaon delegate was also present and their names are mentioned in Sawant's report. For this meeting Rashid Osmani of Malegaon and Shams Pirzada, Amir of the Jamaat-E-Islami-E-Hind, Maharashtra State had also come to Jalgaon. On February 6, 1970 at about 2 p.m. after Namaz, Shams Pirzada held a private meeting in the Katya File Mosque where he discoursed on the Koran. About 25 persons attended this meeting. That night a public meeting was held at Katya File where the principal speakers were Rashid Osmani and Shams Pirzada. About 200 persons attended this meeting. Rashid Osmani said that after Independence efforts were being made to destroy the culture and civilization of the Muslims and some persons were being trained for that purpose. He criticized the method of education and the text books which were prescribed. He said that there were two ways of destroying the culture and civilization of a community, namely, either by finishing off the whole community or by debarring children of that community from getting their own religious teachings. He exhorted the Muslims to provide 'Deen-i-Talim' or religious teachings to their children by opening 'Deen-i-Schools' and appealed to the Government

for its assistance in this behalf. He criticized the Government for interfering in the administration of the Muslim Aligarh University. He said that the Koran was a divine book and a complete code and its teachings embraced all aspects of life, and there was no power in anyone to change it. Shams Pirzada said that Islam was a way and system of life revealed by Allah through His Prophet Mohammed and therefore no one could change it. He denied the charge that the Jamaat-E-Islami was a communal organization and criticized Hamid Dalwai and Mr. M. C. Chagla. He also criticized the resolution for Indianization passed by the Jan Sangh. He spoke against the changes in the personal law of Muslims and family planning.

55.10 The next day, that is, on February 7, 1970, Shams Pirzada held a private meeting from 9 a.m. to 10 a.m. in Maharana Pratap Hall. About 30 persons were present. He said that religion was being brought into politics and changes were being made in the Shariat law and the Muslims were compelled to adopt family planning. He again reiterated that Islam was a complete code of life and therefore no change could be made in it and the Jamaat-E-Islami was doing work keeping this aim in view. That afternoon he held another private meeting in the Municipal Hall from 5 p.m. to 6 p.m. About 155 persons attended this meeting. Questions were asked at this meeting on family planning, the Bigamous Marriages Act, the protest against the burning of Al-Aqsa Mosque and the admission of Hindus in the Jamaat-E-Islami. Replying to these questions Shams Pirzada said that Islam opposed family planning because from the scientific and moral point of view it was harmful to use contraceptives, that a Muslim who could not remain loyal to his wife could obtain Talaq under the law and there are very few Muslims who married more than one woman, that protest was made against the burning of the Al-Aqsa Mosque because it was one of the three main mosques, that the Jamaat-E-Islami had also protested against the throwing of bombs on mosques during the Indo-Pak War, and that Hindus could become members of the Jamaat-E-Islami but it was important for them to observe some conditions laid down by Islam. He left Jalgaon that night.

55.11 The views expressed at the said public meeting and the other meetings which have been summarized above were clearly communal. The speeches sought to excite the communal feelings of Muslims, exhorting them to unite against the threat to their religion. It implied that the Government was out to destroy Islamic culture and civilization and was interfering with the teachings of the Koran. It equated the Government with Hindus and excited feelings of hatred and dissatisfaction by trying to instil in the mind of the audience that during the Indo-Pak War the Indians had bombed mosques in Pakistan. These speeches satisfy the test of a communal speech laid down by me in paragraph 6.8 of chapter 6 and were, therefore, communal speeches.

The Jamiet-ul-Ulema-E-Hind

55.12 The Jalgaon City Committee of the Jamiet-ul-Ulema-E-Hind

was formed much prior to 1951 [J.U.(J.)W. 7/12/2681]. At the relevant time Shaikh Noor Mohamed Shaikh Amir was the President of the Jamiet-ul-Ulema-E-Hind Jalgaon City Committee, and Gulam Rasul Bagban [J.U.(J.)W. 3] was the President of the Jamiet-ul-Ulema-E-Hind, District Khandesh, Jalgaon [J.U.(J.)W. 7/1(1)2678(1), J.U.(J.)W. 3/1/(1)/2623(1)]. Akbar Rahemani, the Jalgaon District correspondent of the Inquilab and an assistant teacher in the Anglo-Urdu High School, has been since 1968 the Secretary of the Jalgaon Jamiet-ul-Ulema Jalgaon City Committee [J.U.(J.)W. 1/2/2392].

55.13 Shaikh Noor Mohamed has deposed that the Jamiet-ul-Ulema-E-Hind is not a communal body but, "is so to say the Muslim wing of the Congress" and that Moulana Abdul Kalam Azad and Rafi Ahmed Kidwai had been the Presidents of this body and that this was the only Muslim organization which had been opposed to Partition. It also took part in the struggle for Independence. He further deposed, "The Jamiet-ul-Ulema is an entirely different body from the Jamaat-E-Islami and the aims, objects and activities of both these bodies are entirely different. The Jamaat-E-Islami may be called a communal body. The Jamiet-ul-Ulema is in no way connected or concerned with the M.T.M.", that is, the All India Majlis Tameer-E-Millat [J.U.(J.)W. 7/2/2679]. What Shaikh Noor Mohamed has deposed is corroborated by I.G.P., Rajadhyaksha who has testified that he has not come across any glaring communal activities on the part of Jamiet-ul-Ulema-E-Hind (G.W. 2/30/94).

55.14 The activities of the Jamiet-ul-Ulema with reference to Jalgaon which have come on the record are that Akbar Rahemani, the Secretary of the Jamiet-ul-Ulema, Jalgaon City Committee, was one of the organizers of the procession to protest against the burning of the Al Aqsa Mosque, it sponsored a Cut Motion by the M.L.A. Nihal Ahmed Ansari in the Maharashtra Legislative Assembly by reason of the happenings in Jalgaon and the General Secretary of Jamiet-ul-Ulema-E-Hind, Moulana Asad Madani, made a speech on April 29, 1970 in the Rajya Sabha about the situation in Jalgaon. The Cut Motion and the Rajya Sabha speech will be dealt with in the chapter entitled "The seven months and seven days before the disturbances"

The Anjuman-E-Talimul Muslemeen

55.15 The Anjuman-E-Talimul was not a political body or organization, but was conducting a high school, with Urdu as the medium of instruction, known as the Anglo-Urdu High School. Shaikh Noor Mohamed Shaikh Amir, the President of the Jamiet-ul-Ulema Jalgaon City Committee, was also the President of the Anjuman-E-Talimul Muslemeen [J.U.(J.)W. 7/2/2679].

The All India Majlis Tamir-E-Millat

55.16 The All India Majlis Tamir-E-Millat (M.T.M.) did not have any office or branch in the Jalgaon District and did not carry on any activities either in the Jalgaon District or the city of Jalgaon.

The Branches of the R.S.S.

55.17 According to the note on the R.S.S. filed by the I.G.P. (Ex. G 100), the strength of the R.S.S. in Jalgaon District in 1970 was about 1,275. The evidence of witnesses belonging to the R.S.S., however, shows that the R.S.S. was quite active both in Jalgaon District and the city of Jalgaon. It had both a District Branch for the Jalgaon District and a City Branch for Jalgaon. Dr. Avinash Acharya (the deponent of affidavit No. 183) an Honorary doctor in the Government Hospital, Jalgaon, was the Sahar Sanghchalak of the Jalgaon District Branch of the R.S.S. and Madhusudan Govind Khadilkar (J.J.S.W. 8) was the City Secretary of the Jalgaon Branch of the R.S.S. (P.W. 67/60/2269, J.J.S.W. 8/2/2445). The office of the R.S.S. was situate in Baliram Peth behind the municipal office. According to Soma Jayaram Koli, who declared that he emphatically believed in the ideologies of the R.S.S., about 15 years ago there were 11 Shakhas of the R.S.S. in Jalgaon. One of such Shakhas known as Vikramaditya Shakha was being held every evening in the compound of Marathi School No. 1 which is a municipal primary school situate at Mahatma Gandhi Road in the same line as the Municipal Girls School [J.J.S.W. 1/9/2407]. This is the same school from the compound of which fire-balls were thrown in the disturbances. There was also a branch of the R.S.S. known as Valmiki Shakha in Bhagirathi Nagar on Asoda Road. In the programmes held by these Shakhas training in weilding lathis was imparted, lathi games were played and parades were held (J.J.S.W. 1/9/2407). According to Vasant Kanhyalal Sharma (J.J.S.W. 6), a Jan Sangh worker from the beginning and the Secretary of the Jalgaon Janadhikar Saunrakshan Samiti, who has been a member of the R.S.S. since 1932, in 1970 there were about 8 or 9 Shakhas of the R.S.S. in the city of Jalgaon situate in Shivaji Nagar, Zilla Peth, Baliram Peth, Bhavani Peth, Joshi Peth, Navi Peth and some other places which he did not remember and that about 7 or 8 years ago there were R.S.S. Shakhas also in Shani Peth and Valmiki Nagar. According to him, the R.S.S. Shakhas are really playgrounds where different units of the R.S.S. hold their programmes daily in the morning and evening. The Zilla Peth Shakha used to hold its programme on the plot belonging to the Cotton Market, the Navi Peth Shakha on the open plot near the Town Hall, the Bhavani Peth Shakha in the compound of Marathi School No. 1 (municipal primary school), the Shivaji Nagar Shakha on the open ground of a municipal school and the Joshi Peth Shakha in the compound of Municipal School No. 7. He has deposed that on an average about 80 to 90 persons participated in these programmes (J.J.S.W. 6/4/2432-3). The Shani Peth Shakha known as Netaji Shakha used to hold its programmes in the compound of Marathi Boys School in Kumbhar Alli which is a municipal school (J.J.S.W. 8/2/2446). On the tenth day of Dassera festival the R.S.S. used to hold a parade in the morning (J.J.S.W. 1/8/2406). On January 11 and 12, 1969 the R.S.S. celebrated Tilgul Samarambha. It also took out a route march on March 19, 1969 and it took out another route

march on October 19, 1969, the tenth day of Dassera to celebrate Vijayadashmi (G.W. 11/17/2909).

55.18 It was alleged by the Muslim parties that some time after the Ahmedabad riots Balasaheb Devras, the General Secretary of the R.S.S., had visited Jalgaon. Questions on this point were put by Mr. Quraishi to Madhusudan Govind Khadilkar (J.J.S.W. 8) who belongs to the R.S.S. since about 1956 and was the Secretary of the Jalgaon Branch of the R.S.S. The following answers given by Khadilkars speak for themselves (J.J.S.W. 8/12/2448-9):—

“Q. : Did Balasaheb Devras visit Jalgaon and if so when ?

A. : I do not remember.

(Question repeated)

A. : He did not come during this period.

(Question repeated)

A. : I cannot say when he came to Jalgaon. I do not remember whether he came during a couple of months after the Ahmedabad riots. I do not remember whether he at all came to Jalgaon. Balasaheb Devras is the General Secretary of the R.S.S.”

55.19 Four witnesses who gave evidence before the Commission admitted that they belonged to the R.S.S. They were Soma Jayaram Koli (J.J.S.W. 1), a Municipal employee, Vasant Kanhyalal Sharma (J.J.S.W. 6) also an active member of the Jan Sangh and the Secretary of the Jalgaon Janadhikar Saunrakshan Samiti, Madhusudan Govind Khadilkar; the Secretary of the Jalgaon Branch of the R.S.S., and P. K. Zare, the President of the Municipal Council who joined the R.S.S. in 1947 and regularly used to attend its Shakha but stopped attending them when he was expelled from the Jan Sangh on March 25, 1969 on account of some dispute with the Maharashtra State Jan Sangh (C.W. 25/1/3037, 9/3044).

55.20 The visits to Jalgaon District of R.S.S. leaders from outside have been set out by D. M. Pardeep in a note filed by him (Ex. No. 47). From December 7, 1968 to December 10, 1968 D. N. Bhide, the Sanghchalak of Poona, and Nanasaheb Dhoble visited Jalgaon and conducted intellectual classes from 10 a.m. to 8 p.m. and held parades and games in the mornings and evenings. In his concluding speech Bhide said that the Shakhas of the R.S.S. should be increased and Akhand Bharat should be achieved by facing aggression from Pakistan and China. Balasaheb Devras, the General Secretary of the R.S.S., visited Chalisgaon on July 10, 1968 and stressed the need for uniting Hindus as they were in a majority in India. Vasantrao Oak visited Jalgaon on July 10, 1968 for the observance of Guru Purnima day. During this period a private meeting of some R.S.S. leaders was held in Anandibai Deshmukh Sanskar Kendra. There is no report of what transpired at this meeting.

55.21 After the disturbances, by an application dated May 25, 1970 (Ex. No. 51) addressed to the Collector, Jalgaon District, D. H. Tayde, M.L.C., complained that it had come to his notice that Shakhas of

"the communal organisation, R.S.S." were being held after 5 p.m. in the compound of Municipal School No. 1 in Bhawani-Polan Peth, Municipal School No. 4 in Shivaji Nagar, Municipal School No. 7 in Joshi Peth and Municipal School No. 21 in Valm'k Nagar, all municipal schools run by the School Committee of the Jalgaon Municipal Council, and that the holding of the Shakhas of the R.S.S. in the school premises in the atmosphere then prevailing in Jalgaon was highly dangerous. By this application he requested that inquiries should be made and steps taken to see that Shakhas were not held in the premises of these schools. A copy of this application was sent to the Chairman of the School Committee of the Jalgaon Municipal Council. The Collector forwarded this application to the S.P., Jalgaon, for inquiry. By his letter dated July 22, 1970 (Ex. No. 52) S.P., Raman stated that a close watch was maintained at the four schools mentioned in the said application as also other municipal primary schools and it was noticed that the R.S.S. Shakha was being held only in the premises of Municipal School No. 4 in Shivaji Nagar and was being attended by about 5 or 6 youths and 15 to 20 boys daily in the morning and evening and that the Shakhas were not being held in the Municipal School No. 1 in Polan Peth for the last one month, in Municipal School No. 7 in Joshi Peth for the last 5 or 6 months and in Municipal School No. 21 in Valmik Nagar for the last 3 months. The said letter further stated that as there were school vacations, the Shakhas were not being regularly held, but a watch on the schools was continued. No further report was made to the D.M. thereafter (C.W. 21/56/2969).

55.22 So far as the State Intelligence is concerned the only reports received in the office of the D.I.G. (Int.) about the activities of the R.S.S. in the city of Jalgaon were about the Tilgul Samarambha on January 11 and 12, 1969 and the route marches on March 19, 1969 and October 19, 1969 (C.W. 11/17/2909).

The Jalgaon City Branch of the Bharatiya Jan Sangh

55.23 The Jalgaon City Branch of the Bharatiya Jan Sangh was established in 1952. The Bharatiya Jan Sangh contested the general elections from Jalgaon as also took an active part in municipal politics. Its activities in municipal politics will be dealt with in the chapter on municipal politics. The office of the City Jan Sangh is situated in Chiram Peth near Baliram Mandir at some distance from the office of the R.S.S. (S.P.O.W. 6/73/3028, J.J.S.W. 6/4/2432). The Jan Sangh used to display boards containing writings of a political and communal nature, a topic which will be considered in a separate chapter. The note filed by the D.M. (Ex. No. 47) shows that the Jan Sangh leader, U. L. Patil, visited Parola on September 2, 1968, Jalgaon on January 19, 1970, Raver on January 28, 1970, Yawal on January 29, 1970, Kurha and Antroli on January 30, 1970, Taluka Edlabad on January 31, 1970 and Parola again on February 16, 1970. The speeches made by him during these visits were political speeches criticizing the Government and the Congress. On May 6, 1970, Atal Bihari Bajpayee, the

then President of All India Bharatiya Jan Sangh, was to visit Jalgaon. The Jan Sangh, Maharashtra Pradesh Office, however, postponed this visit. Gajanan Tryambak Ghanekar, the Treasurer of the Jalgaon City Jan Sangh, when questioned about it, was unable to assign any reason for this postponement [J.U.(J).W. 3/6/2416]. One of the three Shiv Jayanti processions taken out in Jalgaon on May 7, 1970 was taken out by the Jalgaon City Jan Sangh.

55.24 Some office-bearers and workers of the Jalgaon City Jan Sangh have given evidence before the Commission. They are Gajanan Tryambak Ghanekar (J.J.S.W. 3), the Treasurer of the Jalgaon City Jan Sangh; Narayan Narhar Bhusari (J.J.S.W. 4), an advocate and the Vice-President of the Jalgaon Janadhikar Saunrakshan Samiti, who from its very inception was an active member of the Jan Sangh and was in 1965 and 1966 the President of the Jalgaon City Jan Sangh, and had contested the 1968 municipal elections on the Jan Sangh ticket; Vasant Kanhyalal Sharma (J.J.S.W. 6), an R.S.S. worker who also joined the Jan Sangh right from its inception and was the Secretary of the Jalgaon Janadhikar Saunrakshan Samiti; Jagannath Vithal Bhagwat (J.J.S.W. 7) who was in 1970 the Secretary of the Jalgaon City Jan Sangh and was in 1972 the Joint Secretary.

55.25 In 1969-70 Chabbildas Bhavsar was the President of the Jalgaon City Jan Sangh, Gajanan Pannalal Joshi was the Vice-President, Vasant Tryambak Kulkarni was the Secretary, Jagannath Vithal Bhagwat, Ramesh Daulat *alias* Bhaiyya Patil and Keshav Tryambak Bhiote were the Joint Secretaries, and Gajanan Tryambak Ghanekar (J.J.S.W. 3) was the Treasurer.

The Shree Ram Tarun Mandal

55.26 Three notes have been filed about the Shree Ram Tarun Mandal (hereinafter for the sake of brevity referred to as "the R.T.M."). They are Exhibit P 751 filed by S.P., Raman, Exhibit No. 48 filed by D.M., Pardeep and Exhibit No. 49 prepared by the D.I.G. (Int.) and contained in his circular dated February 26, 1971, headed "Notes on organizations in Maharashtra State" and filed by D.M., Pardeep.

55.27 The R.T.M. was established in Jalgaon City in the end of 1966 or early 1967. It appears that the R.T.M. did not have a constitution, but certain conditions were printed on the reverse of the receipts issued by it. A translation of the said conditions (Ex. P 836) is as follows:—

- "(1) I shall remain loyal to the Mandal.
- (2) I shall not defy the directives of the Mandal.
- (3) I shall pay my subscription regularly.
- (4) I will not do anything which would disrepute the Mandal.
- (5) I shall abide by the rules and conditions."

The office-bearers of the R.T.M. occasionally collected subscriptions and donations from the public and were reported to spend it in the celebrations of Ganapati and Shiv Jayanti festivals, though no accounts appear to have been published. The R.T.M. carried on its activities in

Rath Chowk areas (C.W. 21/43/2881). The R.T.M. did not have a permanent office and according to the S.P.'s said note Exhibit P 751, it carried on its work at the place of either Ramesh Daulat Patil *alias* Bhaiyya Patil, a local Jan Sangh leader, or Baliram Nathu Bawiskar, the brother of Ichharam Nathu Bawiskar, a former police havaldar.

55.28 The active membership of the R.T.M. was about 200 to 250. In 1968 and 1969 it applied for permission to celebrate the Ganapati festival. On May 6, 1970 Vasant Tryambak Bhoite, the then President of the R.T.M., applied for permission to take out a Shiv Jayanti procession and to hold a 'kirtan' on the nights of May 7, 8 and 9, 1970.

55.29 The R.T.M., though formed for the ostensible object of celebrating festivals, also conducted a gymnasium in the Gadhi area in Rampeth, namely, Bhoite Gadhi, situate at a distance of about 300 feet from the Maniyar Wada Jumma Mosque. The R.T.M. also displayed at Rath Chowk boards of a communal nature and against the municipal administration. These boards will be discussed in a separate chapter.

The R.T.M. and the Jan Sangh

55.30 Gajanan Tryambak Ghanekar, the Treasurer of the Jalgaon City Jan Sangh, deposed that there were some members of the Jan Sangh who were members of the R.T.M., but they did not constitute a majority of the membership of the R.T.M. (J.J.S.W. 3/11/2417). The evidence before the Commission, however, reveals a totally different picture. It appears that the R.T.M. was a successor to another similar organization with a similar object called 'Ram Zunzar' which was established in the year 1965 under the leadership of P. K. Zare (C.W. 25) when Zare was the Secretary of the Jalgaon City Jan Sangh. The R.T.M. was formed in 1966 or 1967 when Zare was the Secretary of the Jalgaon District Jan Sangh. The evidence further shows that every office-bearer of the R.T.M. either belonged to the Jan Sangh or was admittedly pro-Jan Sangh. Ever since the formation of the R.T.M. Ramesh Daulat Patil *alias* Bhaiyya Patil was its dominant figure and its President until 1970. He was an active local Jan Sangh leader and in 1966 was the Joint Secretary of the Jalgaon City Jan Sangh, in 1967 its Vice-President and from 1968 to 1970 the Secretary of both the Jalgaon City Jan Sangh and the District Jan Sangh. Vasant Tryambak Bhoite, who was the Vice-President of the R.T.M. in 1968 and its President in 1970, belonged to the Jan Sangh. Ramesh Tryambak Bhoite, who was the Joint Secretary of the R.T.M. in 1968 and its Secretary in 1969 and 1970, also belonged to the Jan Sangh. Rajaram Sahebrao Shinde, a member of the Jan Sangh, was the Secretary of the R.T.M. in 1968 (J.J.S.W. 3/8/2416). Shantaram Karanji who was the Vice-President of the R.T.M. in 1969 and 1970, Ichharam Nathu Bawiskar who was the Treasurer of the R.T.M. in 1969 and 1970, Ramesh Baliram Marathe and Ramesh Eknath Wani, both office-bearers of the R.T.M., were either members of the Jan Sangh or were pro-Jan Sangh.

55.31 Subhash Shivram Shinde (J.J.S.W. 11), a political worker who had travelled from party to party, with his usual disregard for truth deposed that he did not know whether any member of the Jan Sangh or the R.S.S. was a member of the R.T.M. but finally brought himself to say that persons belonging to different parties, such as the Congress, the Jan Sangh, the R.S.S., the S.S.P. and the Shiv Sena, were members of the R.T.M. (J.J.S.W. 11/12/2478). No worker of any party other than the Jan Sangh is, however, shown to have been an active member or an office-bearer of the R.T.M. and the evidence of Subhash Shinde on this point, as on other points, has to be discarded.

55.32 The close identity of interest between the Jalgaon City Jan Sangh and Shree Ram Tarun Mandal is further shown by the fact that when in the Municipal Council attempts were being made to topple P. K. Zare (C.W. 25) by canvassing support of members of Zare's group, Shree Ram Tarun Mandal displayed two boards at Rath Chowk, one on April 3, 1970 (Ex. P 720) and the other on May 5, 1970 (Ex. P 1004) against the municipal administration. That the R.T.M. was merely an organization to carry out the policies of the Jalgaon City Jan Sangh and the Jalgaon District Jan Sangh under a different label is also borne out by the fact that at the Peace Committee meeting held on March 17, 1970 when D.M., Pardeep raised a question of boards with communal writings thereon being displayed, though the D.M.'s comments referred to the board displayed by the R.T.M. on March 9, 1970, Ghanekar, the Treasurer of the Jalgaon City Jan Sangh and Anant P. Atravalkar, the Secretary of the Jalgaon District Jan Sangh (deponent of Affidavit No. 51) defended these boards and ultimately gave an assurance that such boards would not be displayed (Ex. P 727).

55.33 Reliable evidence on the record thus clearly establishes that the R.T.M. was merely an organization of the Jalgaon City Jan Sangh and was established, controlled and managed by the Jalgaon District Jan Sangh and the Jalgaon City Jan Sangh and followed their policies.

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CHAPTER 56
MUNICIPAL POLITICS

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CHAPTER 56

MUNICIPAL POLITICS

The Jalgaon Municipal Council

56.1 Jalgaon Municipality was established in 1864 and on the enactment of the Bombay Municipal Boroughs Act, 1925, was governed by that Act. On the coming into force of the Maharashtra Municipalities Act, 1965, it became an 'A' Class Municipal Area known as the Jalgaon Municipal Council. There are 36 municipal wards in the city of Jalgaon (P.W. 67/99/2285). The Municipal Council consists of 36 elected members and 3 nominated members. Municipal politics are said to have played a significant role in Jalgaon in fomenting communal tension and provoking the communal disturbances of May 8, 1970. The details of these municipal politics are to be found in the evidence of S.P., Raman [P.W. 67/1(9)/2229(3-5), 1(21)/2229(9-10), 49/2264], D.M., Pardeep (C.W. 21/13/2865-6, 13/2865-6, 17/2869, 26/2873), and P. K. Zare (C.W. 25/1-43/3037-58), as also in certain Exhibits, namely, a statement showing the Municipal Councillors and their party affiliations and castes (Ex. P 846), a statement giving information about the Municipal Presidents and Vice-Presidents (Ex. P 847), a statement containing the list of no-confidence motions moved during the period July 15, 1966 to June 1970 (Ex. P 848) and a statement giving the names of candidates together with their castes and party affiliations for the 1968 municipal elections from certain wards (Ex. P 849).

Pandit Ukha Kolhe

56.2 According to D.M., Pardeep, S.P., Raman and P. K. Zare, a dominant figure in municipal politics was Pandit Ukha Kolhe, a Leva Patidar. Pandit Ukha Kolhe was formerly an R.S.S. worker. When the Jan Sangh was formed, he joined that party. In 1956 externment proceedings were proposed against him, but were subsequently dropped, and he thereafter joined the Congress. Later he joined the Samyukta Maharashtra Samiti, Jalgaon, of which he became the Treasurer. He was associated with S. N. Bhalerao (C.W. 20), a Communist leader. He joined the Congress (R) in 1971. There was another proposal for his externment in 1965 for certain alleged criminal activities. There were also charges against him of embezzling municipal funds and of mismanaging municipal affairs. These proceedings were, however, dropped, but instead he was detained under the Defence of India Rules, 1962.

56.3 Pandit Ukha Kolhe was elected to the Municipality in 1952

on the Jan Sangh ticket. Both in 1956 and 1961 he was re-elected as an Independent. In 1961 he formed a group in the Municipality called the Janata Group. He was elected the Municipal President from November 24, 1961 to January 4, 1965. After him one Ramchandra Shankarlal Sikwal was elected President and was succeeded on July 7, 1965 by Tukaram Shripat Chaudhari. Pandit Ukha Kolhe did not stand for election in 1968 but continued to maintain his hold over the Municipal Council.

The municipal elections of 1968

56.4 On September 1, 1967 the administration of the Municipality was taken away from the elected members and an Administrator was appointed by the Government. The Municipality remained in charge of the Administrator until February 9, 1968. In 1968 the multi-member constituencies were replaced by single-member constituencies and the municipal wards were realigned and elections were held in early 1968. The community-wise break up of the 36 elected Councillors was 9 Leva Patidars, 5 Marathas, 2 Gujar Patils, 1 Koli, 1 Mali, 1 Gawli, 1 Shimpi, 2 Sindhis, 1 Gujarati, 2 Scheduled Castes, 2 Marwadi Brahmins, 2 Maheshwaris, 1 Jain, 1 Bari, 1 Maharashtrian Brahmin, namely, P. K. Zare (C.W. 25) and four Muslims (C.W. 25/16/3048). The party-wise composition was 11 Congress Councillors including 3 Muslim Councillors, 5 Jan Sangh, 2 Communist, 1 S.S.P., 3 Independent supported by the Congress, 3 other Independent supported by the Jan Sangh and 11 Independent. Three Councillors were co-opted, namely, one Muslim and two Hindus. They were Gulam Rasool Bagban [J.U.(J.)W. 3], Bhaurao Marathe and Keshavrao Bhoite.

56.5 What followed after these municipal elections makes one wonder whether the Municipal Councillors found time to attend to any civic affairs. According to P. K. Zare, municipal politics in Jalgaon were not entirely communal and groups were formed, dissolved and formed again according to the need of the moment. Defections were the order of the day. For instance, three Municipal Councillors elected on the Jan Sangh ticket joined Zare's group about four months prior to his being elected the Municipal President, even though by that time Zare had been expelled from the Jan Sangh, and four months after he became the Municipal President four Leva Patidar Councillors also joined his group.

Municipal Presidents

56.6 Between March 19, 1968 and May 6, 1970 there were eight no-confidence motions against municipal Presidents.

56.7 In the newly-elected Municipal Council the first President was Waman Pandit Khadke elected on February 10, 1968. About a month thereafter, on March 19, 1968 a no-confidence motion was tabled against him and it was passed at a special meeting held on March 27, 1968. In his place Tukaram Shripat Chaudhari was elected the President on April 10, 1968. Three no-confidence motions were moved against him,

the first on May 21, 1968, the second on August 8, 1968 and the third on December 30, 1968. The first two failed but the third was passed on January 7, 1969. Thereupon Abdul Majid Mohamed Ibrahim Salar was elected the Municipal President on January 28, 1969.

56.8 It appears that Abdul Majid Salar was the first Muslim to be elected the Municipal President. On the very date that he was elected Municipal President, a no-confidence motion was brought against him and was passed on February 6, 1969, 23 Municipal Councillors voting in favour of the said motion and 12 Municipal Councillors against it. The success of this no-confidence motion led to considerable bitterness amongst the Muslims and a report about it appeared in the 18th February 1969 issue of the 'Urdu Times' [Ex. JU(J) 2] as also in the 19th February 1969 issue of the 'Inquilab' [Ex. JU(J) 1]. It appears from these newspaper reports that the no-confidence motion was signed by 13 Congress Municipal Councillors and that the Congress Councillors and the Jan Sangh Councillors voted in favour of it. These articles expressed the disappointment felt by the Muslims at this incident. The *Urdu Times* stated:—

“After the success of the said no-confidence motion, a popular agitation has spread among the Jalgaon people and particularly in the Muslim quarter. A Muslim candidate was elected as President after 104 years and he too was not liked by any one even for a moment. All are surprised over this policy and the members of the Muslim community are giving serious thought as to what policy they should adopt in future.”

The Jan Sangh witness Vasant Sharma has alleged in his affidavit that both the *Inquilab* and the *Urdu Times* while reporting about the said no-confidence motion had held out a threat that revenge would be taken for this ouster of the Muslim Municipal President [J.J.S.W. 6/1(12)/2431(6-7)]. In cross-examination Sharma was forced to admit that he did not know Urdu and did not himself read these news items [J.J.S.W. 6/1(12)/2431(6-7), 6/2434]. A perusal of these news items shows that they did not contain any such threat.

56.9 After Abdul Majid Salar, the next Municipal President was Trimbak Shivram Marathe. He was elected the Municipal President on February 27, 1969. He had contested the Municipal Presidentship as an Independent although he had been elected a Municipal Councillor on the Congress ticket. Within a fortnight on March 12, 1969, a no-confidence motion was moved against him, but it failed. He, however, tendered his resignation on August 1, 1969. The reason for his resignation was that a group of 21 Municipal Councillors, including Trimbak Marathe and P. K. Zare, to which he belonged, had arrived at a mutual understanding that every President from the said group would resign after six months so as to enable the other members of the group to get a chance to be Municipal President. After Trimbak Marathe's resignation P. K. Zare was elected the President on September 23, 1969 with the support of all Muslim Councillors except Tamij

Piran Bagwan. P. K. Zare had become a member of the R.S.S. in 1947 and had joined the Jan Sangh in June 1961. He was elected to the Municipal Council on the Jan Sangh ticket from Ward No. 21 which included Baliram Peth. As a result of disputes he had with the Maharashtra State Jan Sangh, he was expelled from the Jan Sangh on March 25, 1969. Thereafter he did not join any party. He, however, declared in the witness-box that he still continued to believe in the teaching and philosophy of the R.S.S. and its head, M. S. Golwalkar. He also used to attend the Shakhas of the R.S.S. until the time he was expelled from the Jan Sangh. Zare, however, did not adhere to the understanding whereunder he should have resigned after six months because, according to him, when he had stood for election as Municipal President, some persons from his group who were opposed to him left the group and joined other groups, while some Municipal Councillors from other groups, including three Jan Sangh Municipal Councillors, defected to his group.

Municipal Vice-President

56.10 Coming now to the Municipal Vice-Presidents, in the newly elected 1968 Municipal Council Gajanan Pannalal Joshi was elected Vice-President on the Congress Ticket on February 10, 1968. A no-confidence motion was tabled against him and he resigned on March 15, 1969. Thereupon Jalam Chamandi Nidhane, who belonged to Zare's group, was elected the Vice-President on April 2, 1969. A no-confidence motion was tabled against him on October 6, 1969 but was defeated by 17 votes to 14 votes. He, however, resigned on April 15, 1970. On May 6, 1970 Bhima Bala Gavali was elected Vice-President. In order to achieve this, Gavali along with six others defected from Zare's group to the group in opposition to Zare.

The centenary celebrations

56.11 The Jalgaon Municipality completed its centenary in 1964. No centenary celebrations were, however, held, but during Zare's tenure as Municipal President these celebrations took place on March 14, 15 and 16, 1970. Thereupon several Councillors who were opposed to Zare boycotted these celebrations. The Jan Sangh exhibited a board at Shahane Chowk publicizing this boycott (Ex. P 722). It also issued leaflets signed by 13 Municipal Councillors who had boycotted these celebrations (Ex. P 723). A public meeting was also organized by Pandit Ukha Kolhe on March 15, 1970, a report of which is Ex. P 850, and when Mr. M. D. Chaudhari, the then Education Minister, who was the chief guest arrived for the celebrations, a black-flag demonstration was held (Ex. P 850).

The resignation of P. K. Zare

56.12 Zare has deposed that both his election as Municipal President and his administration during his tenure as Municipal President caused resentment among certain sections in Jalgaon. Accord-

ing to him, his election as Municipal President created tension in Wards Nos. 1 to 5. On October 11, 1969, a no-confidence motion was moved against him but was defeated, as only 14 Councillors voted in favour. All the Muslim Councillors had opposed this motion. One Yeshwant Soma Chaudhari, a Councillor belonging to the Leva Patidar community, had stood against him for the municipal presidentship and his defeat at Zare's hand also caused resentment against Zare amongst Chaudhari's supporters. The group in opposition to him in the Municipality was under the influence of Pandit Ukha Kolhe who was on inimical terms with Zare since 1963. During his tenure as Municipal President, the maximum amount of octroi was collected and in order to do so he suspended 9 or 10 municipal employees amongst whom were some relatives of Municipal Councillors and of former Municipal Councillors including Municipal Councillors belonging to the Leva Patidar community. This act of Zare caused further resentment against him. The orders of suspension of these employees were removed during Zare's tenure on their giving a written undertaking not to commit such acts in the future and agreeing to their dismissal from the municipal service if they did so. To prevent defalcations in the Octroi Department he also transferred some municipal employees including four relations of Pandit Ukha Kolhe to other departments.

56.13 The resentment against Zare led to the boycott by several Councillors, including all Jan Sangh Councillors, of the centenary celebrations of the Jalgaon Municipality. The R.T.M. which, as we have mentioned in the preceding chapter, was a body formed and controlled by the local Jan Sangh, also displayed two boards at Rath Chowk against Zare's administration. The first of these boards was put up on April 3, 1970 (Ex. P 720). It protested against politics and favouritism in municipal administration and warned the Municipal Councillors of the consequences of such activities. The second board was displayed on May 5, 1970 (Ex. P 1004). It threatened to organize public opinion by taking out a 'morchá' unless the road from Shani Gate to Neri Naka was repaired.

56.14 After the defection of Bhima Bala Gavali and six other Municipal Councillors from Zare's group to the opposition group so that Bhima Bala Gavali would get elected the Municipal Vice-President, Zare's group consisted of 16 elected Councillors and 2 co-opted Councillors, while the opposition group consisted of 20 elected Councillors and 1 co-opted Councillor. All the five Muslim Councillors at that time belonged to Zare's group. Immediately after the election of Bhima Gavali a no-confidence motion against Zare was submitted to the Collector on May 6, 1970 signed by about 18 Councillors and considerable pressure was exercised on the Muslim Councillors to withdraw their support from him (C.W. 25/40-42/3056). In view of the no-confidence motion tabled against him and the fact that his group was then in a minority in the Municipal Council, Zare resigned on May 16, 1970 and Waman Pandit Khadke was elected in his place on June 2, 1970.

The Muslim Municipal Councillors

56.15 The four elected Muslim Municipal Councillors were Shaikh Bashir Shaikh Vazir from ward No. 12 which included parts of Islam-pura and Bhilpura. Ibrahim Haji Gulam Nabi Maniyar from ward No. 6 which included parts of Maniyar Wada, Abdul Majid Salar from ward No. 18 which also included the remaining parts of Maniyar Wada and Tamij Piran Bagwan from ward No. 8 which included parts of Bagwan Mohalla. According to Zare, Abdul Majid Salar, Ibrahim Maniyar and Shaikh Bashir Shaikh Vazir were at one time friends of Pandit Ukha Kolhe but had fallen out. Zare had received the support of all elected Muslim Councillors, except Tamij Piran Bagwan, at the time of his election as Municipal President and of all the Muslim Councillors including the co-opted Municipal Councillor Gulam Rasool Bagban [J.U.(J.)W. 3] at the time of the no-confidence motion against him on October 11, 1969. He has deposed that during his tenure as Municipal President, Pandit Ukha Kolhe had tried his best to bring over to his group Ibrahim Maniyar, Abdul Majid Salar and Shaikh Bashir Shaikh Vazir but he did not succeed in doing so and that considerable pressure was exercised on all Municipal Councillors to withdraw their support from him.

56.16. In the disturbances the houses of two Muslim Municipal Councillors Gulam Rasool Bagban and Tamij Piran Bagban, were set on fire and completely burnt down.

The supersession of the Jalgaon Municipal Council

56.17 Fortunately for the people of Jalgaon, by an order dated October 4, 1972 (Ex. G 331), the Government of Maharashtra superseded the Jalgaon Municipal Council and in exercise of the powers vested in it under sub-section (1) of section 313 of the Maharashtra Municipalities Act, 1965, appointed A. P. Das-Gupta, Assistant Collector, Jalgaon Division, Jalgaon, as Administrator. The grounds upon which the said order was made were set out in the annexure to the said order and show mismanagement of Municipal funds and gross maladministration.

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CHAPTER 57
MOSQUES AND TEMPLES

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CHAPTER 57

MOSQUES AND TEMPLES

The unauthorized construction of the Madina Mosque

57.1 There are several mosques in Jalgaon, of which two have featured prominently in this Inquiry. They are the Jumma Mosque in Maniyar Wada and the Madina Mosque in Islampura, a part of Bhavani Peth. The Jumma Mosque in Maniyar Wada is situate at a distance of about 100 feet from Rath Chowk. It is a very old mosque held in high veneration not only by the Muslims of Jalgaon but also by Muslims from outside Jalgaon and when Khan Abdul Gaffar Khan visited Jalgaon on January 15, 1970 he went to pray in this mosque (P.W. 67/75/2276, 95/2285). There is a municipal girls' school in Bhavani Peth situate at Ghanekar Chowk at the junction of Mahatma Gandhi Road and Kasturba Road. Madina Mosque is situate at the end of a block of houses in a lane to the rear of the said school. In his affidavit Purushottam Mishrilal Joshi (J.J.S.W. 2/1-5/2411-3) had stated that the said mosque was constructed unauthorizedly.

57.2 Under the Government resolution in the Revenue Department No. IND. 1059/133352-C, dated October 31, 1960 (Ex. No. 23) the Government of Maharashtra had directed that Collectors should not give non-agricultural permission for construction of temples, churches and mosques or sell Government land for the construction of such buildings without the previous approval of the Government or the Commissioner of the Division, as the case may be, and that in the case of lands vested in Municipalities, Local Boards, Janapada Sabhas or Village Panchayats, the local authorities concerned should be advised to consult the District Magistrate before transferring their land for construction of such religious structures.

57.3. Joshi had made an application for permission to construct a temple. The said application was not granted by the Commissioner Bombay Division, on the ground that permission could be given only after a trust was made. By his letter dated June 15, 1966 (Ex. JJS 1) addressed to the Collector he objected to this decision and pointed out that the Madina Mosque had been constructed without obtaining permission and that in spite of the said fact no action had been taken by any revenue or city survey officer. In the said letter he queried whether such permissions were required to be obtained for temples only and not for mosques. In cross-examination Joshi stated that when he saw the said mosque being constructed he had gone to the Municipality to inquire whether it had granted permission for its construction and on being informed that permission had been granted to use the struc

ture as residential premises and not as a mosque, he went to the Collector's office to make the said inquiry.

57.4 D.M., Pardeep has filed a note (Ex. No. 21) setting out the true facts relating to the construction of the Madina Mosque. The fact that the said mosque was constructed was first brought to the notice of the Collector's office by Joshi's said letter dated June 15, 1966. Inquiries were thereafter made by the City Survey Officer, Jalgaon, and they revealed that the said mosque was constructed by the Islampura Masjid Committee and that its construction began in or about 1962 after obtaining municipal permission on February 24, 1962. The permission of the Collector was, however, not obtained. The construction of the said mosque was completed in 1964 and a completion certificate was issued by the Municipality on June 12, 1964. When an inquiry was made from the Municipality how the building permission for the construction of the said mosque was given without any permission from the Government in that behalf, the Municipality stated that this position was not known to it. Thereupon an inquiry was made with the S.P., Jalgaon, whether there was any objection to this mosque from the law and order point of view. The S.P. stated that he had no objection to granting an *ex post facto* sanction to the construction of the said mosque. Meanwhile, the Madina Masjid Trust, Islampura, Jalgaon, had also been registered under the Bombay Public Trusts Act, 1950, on August 19, 1966. In view of the S.P.'s remarks, a report was submitted to the Commissioner, Bombay Division, on April 15, 1968 for *ex post facto* sanction to the construction of the said mosque. The Commissioner raised certain points by his letter dated March 31, 1970 which were replied to on October 22, 1971. On the date when the said note was prepared, namely, March 19, 1972, the final orders of the Commissioner, Bombay Division, had not yet been issued.

57.5 Joshi has alleged in his affidavit that the disturbances took place at Jalgaon on May 8, 1970 because "The Muslim community has been making efforts to incite their religious sentiments from the olden times." After referring to the fact that the Muslims had unauthorizedly constructed the Madina Mosque at a distance of 35 to 40 feet from the Municipal Girls' School without obtaining permission for its construction, he alleged in his affidavit, "In this way, the Muslims have made attempts to create the tense communal atmosphere." In cross-examination he stated that the construction of the said mosque amounted to an attempt to create a tense communal atmosphere because it was being constructed in a mixed locality and was near the Municipal Girls' School. In cross-examination he admitted, "This was the only attempt made by the Muslims in Jalgaon to create a communal situation."

The unauthorized construction of temples

57.6 From the note (Ex. No. 24) on the unauthorized construction of temples in Jalgaon filed by D.M., Pardeep it appears that there are

four temples in the city of Jalgaon which have been constructed un-authorizedly without obtaining the requisite permission. These temples are (1) the Datta Temple in the compound of the Jalgaon City Police Station, (2) the Marimata Temple in Bhilpura, (3) the temple on the municipal land leased to the Agricultural Produce Market Committee, Jalgaon, and (4) the temple at Mahatma Gandhi Road near Marathi School No. 1.

57.7 The Datta Temple was constructed on the plot of land bearing C.T.S. No. 2182 which was earmarked in the City Survey Record for the City Police Station. There is no note about the construction of the said temple either in the City Survey records or the municipal records. On inquiry made by the I.G.P., S.P., Raman by his letter dated April 30, 1970 stated that the said temple was constructed about 35 years ago and in the course of years, some parts of the said temple were badly damaged and thereupon in 1968, some religious-minded policemen carried out repairs and restored the temple by Shramadan.

57.8 The Marimata Temple in Bhilpura was constructed on municipal land by the side of the road years ago in the days when the Bhils were residing in that locality. There was no trust created in respect of this temple nor is there any record as to the year of its construction either in the City Survey records or the Municipal records.

57.9 The third temple was constructed on a corner of the land, bearing C.T.S. No. 2111-A/12, leased to the Agricultural Produce Committee, Jalgaon, by the Jalgaon Municipal Council. There is no record in the Property Register Card with respect to the said temple. According to an inquiry made from Govind Nathu Chaudhari, the chief trustee of this temple, the trust in respect of the said temple was registered under the Bombay Public Trusts Act, 1950, and permission for renovation as well as for making a pucca construction was obtained in 1962 from the Jalgaon Municipality when Pandit Ukha Kolhe was the Municipal President. According to the Municipality, the temple was existing at the said place long before 1958.

57.10 The fourth temple was constructed on municipal land by the side of the Mahatma Gandhi Road. There is no record either in the City Survey Office or in the Municipality to show that permission for construction or renovation of this temple was granted by the Municipality or the Collector.

Conclusions

57.11 Apart from the affidavit of Purushottam Mishrilal Joshi no other Hindu affidavit has made a grievance about the construction of the Madina Mosque. There is equally no grievance made in any Muslim affidavit about the construction of any of the aforesaid four temples. The only reason why the facts relating to these unauthorized constructions have come on the record was because of the aforesaid allegations in the affidavit and deposition of Joshi. The evidence, however, clearly reveals that neither the unauthorized construction of the

Madina Mosque nor the unauthorized construction of these temples in any way created any communal ill-feeling or tension except resentment in the mind of Purushottam Joshi who felt riled that while the Madina Mosque was allowed to be constructed, permission was refused to him to build a temple. This might have caused also similar resentment in the minds of some other persons to whom Joshi might have talked about it. Joshi has clearly magnified the unauthorized construction of the Madina Mosque into an attempt by the Muslims to create a tense communal atmosphere and as an effort on their part to incite religious sentiments — an irresponsible allegation amounting to nothing.

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CHAPTER 58

THE COMMUNAL HISTORY OF JALGAON PRIOR TO OCTOBER 1969

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- 58.1 Prefatory observations.
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CHAPTER 58

THE COMMUNAL HISTORY OF JALGAON PRIOR TO OCTOBER 1969

Prefatory observations

58.1 The communal history of Jalgaon falls into two convenient parts, the first consisting of the incidents which took place prior to October 1969 and the second consisting of the incidents which took place between October 1, 1969 and May 7, 1970.

The atmosphere of communal amity

58.2 The relations between the Hindus and Muslims of Jalgaon City and even of the residents of those localities affected by the May 1970 disturbances were harmonious, and no communal disturbances or riot had taken place in Jalgaon prior to May 8, 1970. The city had a tradition worthy of emulation in other places by members of both communities. Both Hindus and Muslims participated in each other's religious festivals. Lalsha Miyan Dargah in Jalgaon is greatly revered by the Muslims and even Hindus offer coconuts there. Its Urs is celebrated every year and members of both communities took part in these celebrations. For these celebrations a committee is set up annually. Prior to 1970 two Hindus were being co-opted on this committee, but in 1970 four Hindus were taken on the committee and were made office-bearers, namely, President, Vice-President and Secretaries. On Kartik Ekadashi the Rath which is kept in the Rath Chowk, and from which the Chowk derives its name, is taken out in a procession and the Muslims also honoured the Rath by offering 'pan-supari' both at the Maniyar Wada Jumma Mosque and at the Bhilpura Mosque. Muslims and Hindus both participated in the Moharram processions and for 7 days preceding the 10th day of the Moharram, both Hindus and Muslims used to take out 'swaris'. For the Moharram procession Hindus would come in their own processions from their localities and join the main procession. For the 1970 Moharram also Muslims as well as Hindus took out 'swaris'. No incident occurred at any time at the time of either the Bakri-Id, the Ganpati or the Dassera festivals or at the time of the Shiv Jayanti processions, though the Shiv Jayanti processions used to pass through Muslim localities. It was believed that the water in the 'hauz' of the Maniyar Wada Jumma Mosque possessed supernatural curative properties and Muslims as well as Hindus used to come to the 'hauz' and take away the water after a prayer was said over it. 'Prasad' used to be distributed at Rath Chowk both to Hindus and Muslims at the time of Ramnavmi [P.W. 67/17/2245-6 J.U.(J).W. 3/47/2646; J.U.(J).W. 6/7-9/2676].

The piglet incident

58.3. The earliest communal incident in Jalgaon which has been brought on the record of the Commission is of the year 1954. In that year some piglets were killed and thrown inside the Maniyar Wada Jumma Mosque. This incident was deposed to by Sadashiv Narayan Bhalerao (C.W. 20), a Communist worker and at the time when he gave evidence before the Commission a member of the Secretariat of the Maharashtra Committee of the Communist Party of India, who mentioned it along with some other incidents when cross-examined on the communal situation in Jalgaon by Mr. M. R. Deshpande, Counsel for P.I., Sawant and P.S.Is., S. P. Bhalerao and Karhadkar. According to S. N. Bhalerao, this incident occurred five or six years prior to the disturbances, but the relevant file of the Jalgaon City Police Station showed that it actually took place in 1954 (C.W. 20/17/2726; S.P.O.W. 6/29/2996).

58.4 The throwing of a slaughtered piglet inside a mosque, and particularly a mosque held in such high veneration as the Maniyar Wada Jumma Mosque, was an act capable of rousing the Muslims to a pitch of religious frenzy and in most circumstances would have led to serious communal riots. No one in Jalgaon, however, appeared to have taken this incident seriously, the Muslims of Jalgaon probably considering it as the work of a mad man or a mischief-maker. None of the Muslim affidavits make any mention of the incident nor has any Muslim witness deposed about it. The incident does not appear to have created any communal tension and it was unfortunate that it should have been resuscitated after the communal disturbances of May 1970 had poisoned the communal feelings of the Hindus and Muslims of Jalgaon.

The fast against cow slaughter

58.5 In November 1966 Shree Shankaracharya observed a fast against cow slaughter. To support this on November 20, 1966 a morcha of about 200 persons was taken out in Jalgaon and on December 31, 1966 the local Hindu merchants observed a hartal in response to a call given by the Sarva Daliya Goraksha Maha Abhiyan Samiti [P.W. 67/1(5)/2229(2)].

The elopement of a Hindu girl with a Muslim

58.6 In September 1967 a Muslim youth and a Hindu girl about 22 years old eloped and got married. After some time they returned to Jalgaon and put up at a hotel. They were arrested by the local police from there and the girl was sent to the Remand Home, Nasik, and a case was registered against the Muslim for kidnapping a minor girl. Rumours began flying in the city that a Muslim had kidnapped a Hindu girl and this created tension in the city amongst the Jan Sangh workers and the Sindhi community as the girl belonged to that community, for there are no more effective means of exciting communal feelings than a rumour of rape, abduction, kidnapping or molestation by a man

of one community of a girl or woman of another community. Investigation, however, revealed that the girl was not a minor and that both of them had eloped voluntarily. Accordingly a 'C' Final Report (that is, a case based on a mistake of fact) was submitted to the Court and was granted by the Judicial Magistrate, First Class, Jalgaon, on August 8, 1968 [C.W. 21/7/2862; C.W. 20/17/2726; S.P.O.W. 6/1(2)/2979(2); S.P.O.W. 10/1(2)/3140(2), 7/3146; P.W. 93/1(5)/3166(2)].

Eve-teasing by a Muslim

58.7 On October 12, 1967, a young Muslim, Shaikh Abdul Satar Shaikh Daud, a resident of Koli Peth, teased a Hindu girl. The affidavits of P.I., Sawant, P.S.I., Bhalerao, and D.I., V. L. Limaye (P.W. 93) of the Special Investigation Squad, Jalgaon, described this incident as an attempt to molest a Hindu girl, but, as admitted by P.S.I., Bhalerao, it was not a case of molestation but of eve-teasing. On learning about this incident, persons of both communities gathered on the road, but nothing untoward happened. The Muslim was arrested under section 151, Cr. P.C. and a case under section 107, Cr. P.C. was filed against him. The case was, however, dropped by the Court on September 1, 1968 [S.P.O.W. 6/1(2)/2979(2); S.P.O.W. 10/1(2)/3140(2), 8/3146; P.W. 93/1(5)/3166(2)].

58.8 None of the Hindu affidavits refer to either this incident or to the earlier incident of the elopement of a Hindu girl with a Muslim, though the elopement incident was narrated by S. N. Bhalerao (C.W. 20) in answer to questions by Mr. Deshpande, advocate for P.I., Sawant and P.S.I., Bhalerao. The only affidavits which mention these two incidents are the affidavits of P.I., Sawant, P.S.I., Bhalerao and D.I., V. L. Limaye. P.I., Sawant and P.S.I., Bhalerao have averred that it was due to the timely action on the part of the Police that the situation was brought under control. Incidents of eve-teasing by a member of one community of a girl belonging to another community or the elopement of a boy and a girl belonging to different communities excite considerable communal feelings and animosity and these incidents must have led to some tension in the city. The absence, however, of the mention of either of these incidents in their affidavits by any Hindus, who in these two cases might be said to have been the aggrieved community, would show that the tension created by these two incidents was only temporary and transitory and did not leave behind any permanent effect.

Disciplinary action against two Muslim policemen

58.9 Clauses (i) and (ii) of sub-rule (2) of Rule 389 of the Bombay Police Manual, Volume I, 1959 edition, provides as follows:—

“(i) Government servants shall not attend or participate in any conference which is organised by communal bodies. It is not permissible for a Government servant to become a member of or to associate himself with the activities of any political body or commu-

nal organisation of a political nature. Any person who violates these orders will render himself liable to disciplinary action.

(ii) No Government servant shall participate in the activities of or associate himself with institutions whose membership is confined to members of a particular community or class of communities even if the institutions are of a social and educational nature."

58.10 Mr. Pradhan, Counsel for the Maharashtra Pradesh Jan Sangh and the Jalgaon Janadhikar Saunrakshan Samiti, in his cross-examination of S.P., Raman put him questions with respect to a Brevet Jamadar and a police constable against whom action was taken under sub-clauses (i) and (ii) of the said Rule 389(2). The facts relating to these policemen as deposed to by Raman are that Brevet Jamadar Shaikh Daud Shaikh Yasim from Police Headquarters, Jalgaon, was dismissed from service by Raman's predecessor-in-office by his order dated May 31, 1968 for being closely associated with the Tablig Jamaat and for actively participating in its deliberations by accompanying the Tablig Jamaat party headed by Abdul Razak Saheb and Ammubhai Poonawalla from Jalgaon to Pahur on December 3, 1967 and for delivering a religious sermon on behalf of the Tablig Jamaat on December 4, 1967 in Jumma Masjid, Pahur. His appeal against the said order of dismissal to the D.I.G.(B.R.) and his revision application to the I.G.P. were both dismissed. On the same charges police constable Sarawarali Samadali Syed, a relative of S. S. Syed, the M.P. from Jalgaon Parliamentary Constituency from 1967 to December 1970, was retired compulsorily from service by an order dated June 4, 1968 made by Raman's predecessor-in-office. His appeal to the D.I.G.(B.R.) was rejected. He preferred a revision application to the I.G.P. who exonerated him of the charges and reinstated him in service by his order dated July 13, 1969 (P.W. 67/53/2266).

58.11 In paragraph 8 of the affidavit of Vasant Kanhyalal Sharma (an active worker of the Jan Sangh from its inception and of the R.S.S. since 1939 and the Secretary of the Jalgaon Janadhikar Saunrakshan Samiti since its inception) it is stated that these two policemen were suspended "last year" for having carried on communal propaganda and that "It is learnt that they did that work very systematically" [J.J.S.W. 6/1(8)/2431(5)]. In cross-examination he admitted that he had no personal knowledge about what was stated in paragraph 8 of his affidavit.

58.12 As deposed to by Shaikh Noor Mohammed Shaikh Amir, a Tablig Jamaat is a purely religious body preaching and explaining Islam to Muslims only and has nothing to do with politics [J.U.(J).W. 7/3/2679] and apart from Sharma no one else has attached any importance to the disciplinary action against these two policemen and this incident does not appear to have had any effect on the communal atmosphere of Jalgaon.

The Holi Festival of 1968

58.13 At the time of the Holi Festival in March 1968 wooden

planks of some Muslim shops as also of some Hindu shops were removed by the Holi revellers and thrown in the Holi fire. Though no complaint was lodged with the Police by any of the Muslim affected by this, S. S. Syed, the then M.P. from Jalgaon, who was elected to the Lok Sabha from the Jalgaon Constituency in 1967 General Elections on the Congress Ticket, complained about this incident to the then Union Home Minister Mr. Y. B. Chavan when he visited Jalgaon on March 16, 1968. D. M., Pardeep as also the then S.P., T. G. L. Iyer were present at that time. They made inquiries and ascertained the correct facts and found that there was nothing communal in this incident. Some Muslims including Shaikh Noor Mohammed Shaikh Amir [J.U.(J.)W. 7], along with S. S. Syed, had also approached the Collector to claim compensation for the loss suffered by them by reason of this incident. The Collector rejected their claim as there was no provision for granting such a claim [C.W. 21/6/2861-2, S.P.O.W. 6/1(3)/2979(2); S.P.O.W. 10/1(2)/3140(3); J.U.(J.)W. 7/20/2685].

58.14 Gulam Rasul Bagwan, Shaikh Noor Mohammed Shaikh Amir and Sayed Chand Sayed Amir have sought in their affidavits to magnify this matter into a serious communal incident [J.U.(J.)W. 3/1(13)/2623(5); J.U.(J.)W. 7/1(1)/2678(1); J.U.(J.)W. 13/1(1-3)/2735 (1-2)]. According to Gulam Rasul Bagban, Hindu communal organizations were responsible for this incident and he has included this incident in the list of incidents which, according to him, constituted the causes of the riots. According to Shaikh Noor Mohammed this incident showed that mischief was being played against the Muslims for a long time and that it was a communal incident as only the Muslims were affected. While Gulam Rasul Bagban and Shaikh Noor Mohammed have stated that complaints were made to the D.M., Sayed Chand Sayed Amir has stated that the next morning a complaint was lodged at the police station. No such complaint was in fact lodged at the police station. According to Sayed Chand's affidavit late at night he heard the noise of something breaking and suspected that the door of the Jumma Mosque was broken open. He came out of the house and went upto the Jumma Mosque and saw a gathering of 50 to 60 persons collected there breaking the wooden planks of shops. He waited there for some time and came back to the Mohalla waking up the persons concerned and informing them. He has given the names of only four Muslim shopkeepers whose planks were thus broken.

58.15 Pilfering of wooden articles to throw them in the Holi bonfire is a very common experience and persons of all communities have suffered from this. D. M., Pardeep has categorically deposed that when inquiries were made he found that not only the planks of Muslim shopkeepers but also of Hindu shopkeepers were taken away and thrown in the Holi fire. The D.M. has shown conspicuous impartiality between the two communities in dealing with all communal matters which have come on the record. There is no reason, therefore, why his evidence on this point should not be accepted. I find that these three Muslim witnesses have grossly exaggerated this incident and

have attempted to magnify an ordinary act of mischief committed during Holi revelry into a serious communal incident.

The speeches of Hamid Dalwai

58.16 In August and September 1968 the writer and lecturer Hamid Dalwai, sub-editor of the Marathi daily "*Maratha*", visited Jalgaon District. He delivered three speeches in Jalgaon City on August 13, 14 and 15, 1968 respectively under the auspices of Samajwadi Vichar Sabha and on August 15, 1968 at Chopda under the auspices of Dnyan Prasarak Mandal. He delivered another speech at Chopda on September 30, 1968 under the auspices of Nagar Vachanalaya Mandir. The reports of these speeches are Exhibits P 1014 to P 1018 respectively. For the Jalgaon meetings an admission fee of Re. 0.50 p. was charged and handbills were circulated advertising these meetings and describing these speeches as revolutionary and thought-provoking and as having been lavishly praised by the Marathi newspapers when delivered in other cities. The first speech dealt with Hindu-Muslim relations during the pre-Independence period, the second speech dealt with Hindu-Muslim relations during the post-Independence period and the subject of the third speech and of the two Chopda speeches was Indo-Pak relations. On the first day in Jalgaon the audience consisted of about 500 persons, the next day it increased to about 600 persons and the third day to about 800 persons. P.P. Deshmukh presided at the first meeting and Murlidhar D. Gandhi introducing Hamid Dalwai said that the problem of Hindu-Muslim unity had assumed importance because Pakistan was creating trouble and Hamid Dalwai's revolutionary thoughts on the subject were worth listening to. No one presided at the second meeting. Mrs. Latifa Kazi presided at the third meeting. The Chopda meetings were presided over by Devidas Vishnu Gandhi and Babulal Chhaganlal Gujrathi respectively. Akbar Rahemani [J.U.(J.)W. 1], a reporter of the Urdu daily '*Inquilab*' and since about 1968 the Secretary of the Jamiet-ul-Ulema, Jalgaon City, attended the meetings addressed by Hamid Dalwai in Jalgaon. He sent reports of these meetings to the '*Inquilab*', which were published in the 17th and the 18th September 1968 issues of that daily [Ex. J.U.(J.) 6 (Colly.)]. In the 19th September 1968 issue of the '*Inquilab*' comments by Hindu leaders on these speeches were published. The reports of these speeches in the '*Inquilab*' are headed "Shri Hamid Dalwai's Speeches in Jalgaon : Strange Utterances About Islam and Muslims". According to Akbar Rahemani he was the only Muslim who attended these three meetings, except for Mrs. Latifa Kazi who also attended them and who presided at the third meeting. Akbar Rahemani has given the following three reasons why the Muslims did not attend these meetings [J.U.(J.)W. 1/27/3209-10]:—

- (1) That the Muslims generally are opposed to the thoughts and ideology of Hamid Dalwai,
- (2) Hamid Dalwai never speaks on Hindu-Muslim unity but makes provocative speeches and creates hatred against Muslims, and

(3) He talks against Prophet Mohamed and attacks Islam which hurts the religious feelings of the Muslims."

He has further deposed, "Hamid Dalwai is not a Muslim because in the speech made by him on August 15, 1968 he said that he did not consider himself to be a Muslim but people considered him a Muslim". He also deposed that at the third meeting Mrs. Latifa Kazi thanked Hamid Dalwai and that she did not express any sentiments or speak any word against what he had said.

58.17 On July 21, 1972 Mrs. Latifa Kazi made an application to the Commission, supported by an affidavit, to examine her as a witness. In her application she stated that she was a prominent social worker of Jalgaon District, a member since 1968 of the Central Committee of Sampradayikata Virodhi Committee (Committee against communalism), the only member from Maharashtra of the Central Executive Committee of the Insani Baradari sponsored by Khan Abdul Gafar Khan in 1970 for the propagation of human brotherhood, a member of the District Defence Committee and of other organizations and belonged to the Congress (R). The application further stated that she had read a report of the evidence given by Akbar Rehmani before the Commission in the 22nd June 1970 issue of the *Inquilab*. This news item has not been produced before the Commission, but from what she states in her affidavit it appears that according to it Akbar Rehmani had deposed that perhaps Mrs. Kazi did not express any opinion on the speeches made by Hamid Dalwai because she was in agreement with his views and that now she might have changed. This did not appear to the Commission to be a point of any substance requiring her evidence to be taken but since there were other allegations made by the Hindu parties against her in connection with the Hajrabai incident, the Commission permitted her to be examined as a witness by her advocate to enable the Counsel for these parties to cross-examine her. She has deposed that at the meeting held on August 15, 1968 at which she presided, and which was the only meeting addressed by Hamid Dalwai which she had attended apart from herself there were about 15 to 20 other Muslims present and that after Hamid Dalwai finished speaking she spoke for about half an hour to three-fourths of an hour. She has further deposed that her views and those of Hamid Dalwai were wholly different because he belonged to the Socialist Party while she belonged to the Congress. In the course of his speech Hamid Dalwai had stated that it was not possible for India and Pakistan to come together. In her presidential address she disputed this proposition and pointed out that India and Pakistan had a common cultural heritage and that they could come together. She has further deposed that at this particular meeting Hamid Dalwai did not speak anything about Islam or Prophet Mohamed and that when she presided at the said meeting, she was not aware fully about the opinions held by Hamid Dalwai because at that time his writings appeared mostly in Marathi newspapers which she rarely read (C.W. 33/1-6/3449-52).

58.18 S. S. Syed, the then Congress M.P. from the Jalgaon constituency, made an oral complaint to the D.M. that the speeches delivered by Hamid Dalwai were intended to create communal disharmony. Thereupon the D.M. called for reports of these meetings from the S.P. and after perusing them by his letter dated October 26, 1968 (Ex. P 1019) pointed out to Syed that he felt that the ideas of Hamid Dalwai were "modern, progressive and away from communalism" and that the speeches were not intended either to create disharmony between any sections of the Muslims or between the other communities and the Muslims.

58.19 In about December 1968 a programme of public meetings to be addressed by Hamid Dalwai and Mr. M. C. Chagla was being arranged. Thereupon S. S. Syed, Gulam Rasool Bagban, Shaikh Nur Mohamed Shaikh Ishak, Amir Badliwala and some others approached the S.P. and told him that they would not allow Hamid Dalwai and Mr. M. C. Chagla to hold any meetings. Thereupon those who had invited them got their visit to Jalgaon cancelled. Inspector Sawant was at that time in the Local Intelligence Branch, Jalgaon District, and he has deposed that he was present at this interview and that at that time these Muslim leaders stated that Hamid Dalwai and Mr. M. C. Chagla were not Muslims, but were Kafirs (S.P.O.W. 6/45/3003-4). The following question was put to Sawant in cross-examination by Mr. A. M. Salik who appeared in the Jalgaon Inquiry on behalf of Sayyad Chand Sayyad Amir, Sayyad Nazir Inayatulla and Abdul Samad Shaikh Nadar (S.P.O.W. 6/72/3028):—

"Q.: I put it to you that the Muslim delegation did not call Hamid Dalwai and Mr. Chagla Kafirs but they asked the S.P. not to allow their visits as Hamid Dalwai's speeches delivered at Jalgaon in August 1968 had incited Hindus against Muslims and the Muslims resented his caustic remarks on Islam and the Prophet." Sawant denied this suggestion. The said question, however, showed that the Muslim parties accepted the fact that the local Muslim leaders had objected at least to the visit of Hamid Dalwai.

58.20 The speeches and articles of Hamid Dalwai have not played any role so far as the matter into which the Commission has to inquire are concerned and it is, therefore, unnecessary for the Commission to express any opinion thereon.

The ouster of the Muslim Municipal President

58.21 The motion of no confidence against Abdul Majid Mohamed Ibrahim Salar, the first Muslim to be elected the Municipal President, tabled on January 28, 1969—the very day on which he was elected—and his ouster from the municipal presidentship on February 6, 1969 have already been dealt with in Chapter 56.

The Al-Aqsa Mosque procession

58.22 On August 21, 1969 the Al-Aqsa Mosque in Jerusalem was set on fire. The Muslims in Jalgaon and Bhusaval took out protest

processions. The Jalgaon procession was taken out on August 29, 1969. It started from the Madina Mosque and after passing through the areas of Ghanekar Chowk, Katya File Road, Shani Mandir, Bhilpura Mosque, Balaji Mandir, Rath Chowk, Joshi Peth, Mohara Masjid, Subhash Chowk, Dana Bazar, Shahane Chowk, Police Station and Congress Bhavan, it terminated near the Congress Bhavan and a public meeting was held there. About 4,000 Muslims attended the procession. It was a silent procession, but placards were displayed demanding an international inquiry into the desecration of the Al-Aqsa Mosque and protesting against Israel's desecration of this mosque. The organizers of this procession, according to S.P., Raman and Inspector Sawant were Gulam Rasool Bagban, Shaikh Noor Mohamed Shaikh Amir and Akbar Rahemani [P.W. 67/1(10)/2229(5)]. Inspector Sawant has made a report dated August 30, 1969 to S.P., Jalgaon about this procession (Ex. P 1005). The procession and meeting both passed off peacefully (J.J.S.W. 11/3/2474).

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CHAPTER 59

THE SEVEN MONTHS AND SEVEN DAYS BEFORE THE DISTURBANCES

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CHAPTER 59

THE SEVEN MONTHS AND SEVEN DAYS BEFORE THE DISTURBANCES

The Jan Sangh board at Rath Chowk and its aftermath

59.1 In September 1969 violent communal disturbances took place in Ahmedabad and in other parts of Gujarat State. On October 1, 1969 the Jan Sangh exhibited a blackboard at Rath Chowk near the Ram Mandir with a writing thereon purporting to be an extract from the Marathi daily, the '*Maharashtra Times*'. The said writing was as follows (Ex. P 718) :—

“Bharatiya Jan Sangh — 1-10-69.

The hand of Pakistan behind the Ahmedabad riots.

The Ahmedabad riots were not of an ordinary type. There was some plan behind it. Shri Randhirsingh, an M.P. who had gone to Ahmedabad, said that there was a foreign hand behind these riots, at whose instance, a Muslim police officer of the Gujarat Government kicked the “Ramayan” on Janmashtami day, which is the birthday of Lord “Krishna”. The riots started from the encroachment on the Jagdish Mandir. Some cows of the Mandir strayed into the gathering of people-offering prayers near the Mandir and some people were injured. Because of this some Muslims were enraged and they beat some ‘Sadhus’. Even if this is true, how did it happen that some groups of Muslims in the gathering threw acid-bulbs and exploded crackers? Did they even in their dreams anticipate that they would require acid-bulbs and crackers? It is clear that these riots were pre-planned in order to create trouble and some persons had come to this gathering completely prepared.

From The Maharashtra Times.”

59.2 The writing on the said board satisfies the test laid down in paragraph 6.7 of Chapter 6 and was, therefore, a communal writing.

59.3 Rath Chowk is a crowded, mixed locality and the putting up of a board containing communal matters of this type excited the feelings of the Hindus against the Muslims with the result that incidents of stone-throwing and assaults on Muslims took place the next evening and on October 3, 1969. There were complaints of stones having been pelted in the evening of October 2, 1969 on the Maniyar Wada Jumma Mosque. This caused an apprehension in the minds of the Muslims and in the night S.P., Raman personally went to the spot and had the writing on it erased [P.W. 67/1(12)/2229(5-6), 34/2256, 54/2267].

There were further incidents against the Muslims in the evening of October 3, 1969 in respect of which Sayed Chand Sayed Amir [J.U. (J.)W. 13], Shaikh Ibrahim Haji Gulam Nabi, a Municipal Councillor, and Shaikh Aslam Shaikh Chotu Bagwan, a municipal clerk, lodged complaints with the Police that very evening. Sayed Chand's complaint (Ex. P 949) was that as he was about to leave his house in Maniyar Mohalla at about 7-30 p.m. to go for his tuition, he saw about ten or fifteen Hindu boys walking along the road in Maniyar Mohalla, one of whom picked up a copper vessel belonging to a Muslim lying near a tap, but as the said Muslim warned him, he put back the vessel, abused the Muslim and ran away. The said complaint further stated that these boys roamed about in groups and assaulted little children on the way and that finally they picked up a cot lying on the road belonging to a Muslim and ran away towards the Gadhi. Sayed Chand has mentioned in his said complaint the names of Shriram Uttam and Ramesh Baliram Marathe as being the leaders of this gang. Shaikh Ibrahim's complaint (Ex. P 950) was that while going to Rath Chowk from his home in Maniyar Mohalla, he saw a gang of ten to fifteen boys roaming about on the road, abusing, shouting and threatening Muslim boys ; that one of these boys hit Shaikh Kassam Shaikh Noor with an iron bicycle chain ; that they also picked up a cot belonging to a Muslim and carried it away ; and that when three or four grown-ups warned them, they put the cot down and ran away. Shaikh Ibrahim has further stated in his said complaint that he went upto two policemen who were sitting on the 'ota' of a grocery shop in front of the Jumma Mosque and asked them to deal with these boys and that at that time a stone fell on the Jumma Mosque and rolled down on the road. Shaikh Noor also showed this stone to the policemen. The policemen, however, told him that it was not their duty and Shaikh Noor should go to the police station and report the matter. According to Shaikh Aslam's complaint (Ex. P 951) while he was at his house in Bagwan Mohalla, in the evening at about 6-30 p.m. he saw 20 to 25 Hindu boys going about shouting, abusing and teasing goats and dogs on the road ; he asked them why they were behaving in this fashion, whereupon they shouted "Landya, Bandy, shut up. You are puffed up too much" and they went away shouting at him ; he learnt that these boys were from the Gadhi.

59.4 On October 4, 1969 three out of these boys, namely, Shriram Uttam Thakur, Ramesh Baliram Marathe and Vasudeo Kitkul Mistry, were shown to Sayed Chand and he identified them. He gave a statement to the Police (Ex. P 952) to the effect that as they were young he did not want legal proceedings to be taken against them but they should be warned and released. Sayed Chand has deposed that he gave this statement because the Police told him that if proper legal action was taken against these boys, their parents would become hostile towards the complainants and the situation would become worse and therefore he left the matter to the Police to take such action as they wanted [J.U.(J.)W. 13/9/2738].

59.5. The same day, that is, on October 4, 1969, 11 Hindus and 6 Muslims, who were relatives of the boys involved in these incidents, were called to the Jalgaon City Police Station and an assurance in writing (Ex. P 726) was taken from them that they would keep the boys concerned in control thenceforth and see that they did not misbehave in any way and that if the boys did misbehave, they would be responsible for it.

59.6. On October 6, 1969 Ramesh Baliram Marathe was arrested by the Police and proceedings under clause (b) of section 109, Cr.P.C. were adopted against him. In these proceedings he was charged with being a vagabond and going about pilfering articles from Maniyar Mohalla, Bagwan Mohalla, Rath Chowk, Ram Peth and other localities. S.D.M., Kulkarni (P.W. 70) passed the following order (Ex. P 725) on October 15, 1969 :—

“The boy is of 17 years. He admits the charge but requests for pardon once. There also does not appear to be a *prima facie* case against him. In view of this the Opponent is ordered to be discharged.”

59.7 While referring to these incidents Inspector Sawant has stated in his affidavit, “Muslim sentiments were thereby perturbed and actually a fight took place between the Muslim and Hindu boys.” [S.P.O.W. 6/1(2)/2973(3)]. In cross-examination he deposed that though there was no cross-complaint by a Hindu of an assault by a Muslim, in the inquiry which the Police made, Vasudeo Kitkul Mistry, a boy about 16 years old, had made a statement to the Police on October 3, 1969 to the effect that he had been assaulted by some Muslim boys and that it was by reason of this fact as also from the fact that the Police had called the parents and other relatives of both Hindu and Muslim boys to the police station and had warned them that he has made this statement in his affidavit (S.P.O.W. 6/68/3025). The said writings (Ex. P 726) given by the parents and relatives of these boys support what Inspector Sawant has said.

59.8 These incidents show that following upon the exhibition by the Jan Sangh of this board in the Rath Chowk area, stones were thrown on the Maniyar Wada Jumma Mosque and Hindu boys went about creating trouble, giving abuses and pilfering petty articles in Rath Chowk, Maniyar Mohalla and Bagwan Mohalla. S.P., Raman (P.W. 67) made a report dated October 5, 1969 on these incidents to the I.G.P. (Ex. P 833). A copy of the said report was sent to the (D.I.G.) (Int.). The said report shows that as a preventive measures police patrol was maintained in the city. In the said report Raman has stated, “As this exhibition of board was likely to incite the feelings of hatred amongst the Hindus, the Police moved in the matter immediately and had the board removed”. The fact that the said board was removed is also repeated in Raman’s affidavit. However, in his cross-examination we find that all that had happened was that he had the writing on the said board erased and had neither confiscated nor taken charge of the said board nor had it removed. Neither in the said report nor in the evidence of

S.P., Raman or of Inspector Sawant (S.P.O.W. 6) is there any mention of any action at any time being taken against any of the local Jan Sangh leaders for putting up such a board and it is clear that apart from erasing the writing on the said board, the Police took no other steps in connection with it.

59.9 Another disbursing feature of this incident is that the Police on their own did not come to know about this board. For two days the board remained where it had been exhibited, exciting communal passions and it was only in the night of October 2, 1969 when S.P., Raman went there on receiving complaints about the stone-throwing on the Jumma Mosque that he learnt about the said board and had the writing on it erased.

59.10 A third disturbing feature is that the local intelligence branch, the D.S.B., did not even make a report on this matter to the S.P. and, contrary to what one would have normally expected, the S.P. did not even give any special instructions to the D.S.B. in this matter, the reason for this given by him in the witness-box being that it was a part of their duty to keep a watch for such writings (P.W. 67/34/2256). If so, they had clearly failed to carry out their duties and it was, therefore, his duty to have pulled them up.

59.11 In the course of the arguments Mr. Mandrekar on behalf of Inspector Sawant submitted that the local Jan Sangh leader, Ramesh Daulat Patil, was warned against displaying any such boards in the future. There is no evidence, either oral or documentary, on the record in support of this argument and this argument is without any basis. In fact, D.M., Pardeep (C.W. 21) by his letter dated October 18, 1969 (Ex. No. 43) pointed out to S.P., Raman (P.W. 67) that such boards might lead to an ugly situation and inquired whether the matter could not be dealt with under the Bombay Police Act and requested Raman to submit his remarks immediately to him. As this letter shows, D.M., Pardeep had also personally discussed this matter with Raman earlier. No reply was at any time sent to this letter.

The visit of Maulana Naimullah Qurashi

59.12 The tour of the Jalgaon District of the Jamaat-E-Islami leader, Maulana Naimullah Qurashi, and the public meeting addressed by him on October 8, 1969 at the time of the Shab-E-Miraj celebrations and the discussions held by him with the local Jamaat-E-Islami workers and sympathizers has already been dealt with in Chapter 55.

The National Integration Conference at Jalgaon

59.13 On December 21, 1969 a National Integration Conference was held at Jalgaon and a report dated December 22, 1969 (Ex. P 915) on the said conference was made by Inspector Sawant, Principal Y. S. Mahajan of the M. J. College (Mulji Jetha College) and later a member of the Lok Sabha, presided at the said conference. Three persons spoke at the said conference, namely, S. N. Bhalerao (C.W. 20), the Communist leader, Mrs. Subhadra Joshi of Congress (R) and B. R.

Goyal, a journalist from Delhi. In the course of her speech Mrs. Subhadra Joshi criticised the R.S.S. and the communal sections amongst the Hindus and the Muslims both. She also referred to how the Ahmedabad riots started. The R.S.S. and Jan Sangh worker Vasant Kanhyalal Sharma (J.J.S.W. 6), the Secretary of the Jalgaon Janadhikar Samiti since its inception, had stated in his affidavit that in the course of her speech Mrs. Subhadra Joshi shielded the Muslims and made a fiery speech against the Hindus and that thereupon Prof. Mrs. Lata Patankar left the meeting expressing her displeasure [J.J.S.W. 6/1(7)/2431(5)]. In his affidavit he has given the date of the said Conference as December 14, 1969, but in cross-examination he admitted that he did not remember the date when the said Conference was held and that it might have been held on December 21, 1969. He further stated that he was himself not present at the said Conference, but had read about it in 'Janashakti', at that time a weekly, but later a daily, published in Jalgaon (J.J.S.W. 6/5/2434). The issue of the 'Janashakti' in which the news report of the said conference is said to have appeared has not been produced, nor has Sharma given the date of the particular issue of the 'Janashakti' in which the said news report is supposed to have been published. Sharma has made several statements in his affidavit which have not been borne out by the evidence on the record, and his version of what transpired at the said Conference cannot be accepted. It is clear that, riled at the attack on the R.S.S. and the communal sections among the Hindus, he has made the aforesaid allegations in his affidavit.

Khan Abdul Gafar Khan's visit to Jalgaon

59.14 In January 1970 Khan Abdul Gafar Khan toured Jalgaon District in connection with the Mahatma Gandhi Centenary celebrations. He visited Jalgaon, Faizpur and Khiroda. He was in Jalgaon on January 15, 1970 and attended the prayers in the Maniyar Wada Jumma Mosque and gave advice to the Muslims who had assembled there. Thereafter he delivered the inaugural speech at the Gandhian Philosophy Camp at Faizpur and in the night he delivered another speech at Jalgaon when a purse was presented to him by the then State Education and Cultural Affairs Minister, Mr. M. D. Chaudhari, on behalf of the All-Party Samiti. Khan Abdul Gafar Khan also gave interviews to the Press and to some prominent persons. The District Special Branch did not make any report on this visit. By his letter, dated (the date being omitted) January 1970 received by Raman on February 2, 1970 the D.I.G. (Int.) asked the Ss.P. of several districts including Jalgaon to "report reaction to his (that is, Khan Abdul Gafar Khan's) visit among the people, particularly among the Muslims", giving their own assessment (P.W. 67/1(14)/2229(6), 111/2292). Accordingly, Raman made a special report dated 11, 1970 (Ex. P 880). S.P., Raman's assessment of the reaction to Khan Abdul Gafar Khan's visit as contained in the said report was as follows:--

"On the whole, at the end of the said tour, it was found that it

did not create any strong and particular influence on the minds of the people of this district. As usual on the occasion of the Gandhi Centenary Celebrations he has only tried to remind the people of his philosophy and to prove that the present situation is otherwise. The public did not find anything new in it.

"It appeared that it was not liked to a certain extent by the Hindus in that while referring to communal riots Shri Khan Saheb gave them a serious warning about the fate of 1½ crores of Hindus living outside India.

"It is found that the Muslims are happy over the aforesaid words used by Shri Khan Saheb. However, they are disappointed to find that their hopes that he would find some solution in respect of the present communal tense situation are shattered. Taking into consideration the aforesaid facts, there seems to be no possibility of there being any improper effect on the situation prevailing in this District."

The incident of the injured cow

59.15 The details of this incident are to be found in the evidence of Inspector Sawant (S.P.O.W. 6/4/2980-1) and in the report dated January 21, 1970 (Ex. P 997) made by him to the S.P., Jalgaon, and the special report dated January 31, 1970 made by D. M., Pardeep to the Home Department (Ex. No. 42). The above oral and documentary evidence shows that on January 21, 1970 at about 7-30 a.m. Gajanan Tryambak Ghanekar (J.J.S.W. 3), the Treasurer of the Jalgaon City Jan Sangh, informed the Jalgaon City Police Station that an unknown Muslim had injured a cow on her udders and vagina and that the cow was lying in the compound of the L. N. Sarvajanic High School. Sawant went to the spot. He found the cow lying in the compound of the said school with her udders and vagina cut off. He sent the cow in a police van to the Government Veterinary Hospital for treatment and returned to the police station. Sawant made inquiries in the matter and the true facts as ascertained by him were that at about 5 or 5-30 a.m. that morning, the cow had come running from the Woman's Training College towards the L. N. Sarvajanic High School chased by ten to twelve dogs. She tried to get into the compound through the barbed wire fencing and received abrasions on her body as a result thereof. She, however, managed to enter the compound through a small gate. In the meantime the dogs hung on to her vagina and udders and ultimately chewed them off. The cow fell down in the school compound drenched with blood. The eye-witness Bhila Fula Patil on seeing the incident drove away the dogs by throwing stones at them. The cow lay there until the school classes commenced at 7 a.m. when a number of school children who saw the blood-drenched cow lying in the compound began saying that the Muslims had injured the cow. Sawant took down the statement of this eye-witness. He also obtained an opinion from the veterinary surgeon, Dr. Apte, who confirmed that the abrasions on the cow's body were caused by barbed wires and that her udders and vagina were chewed off by dogs.

59.16 At about 9-30 a.m. four Jan Sangh workers, namely, Gajanan Ghanekar, Waman Vithal Bhagwat, the brother of Jagannath Vithal Bhagwat (J.J.S.W. 7), the Secretary of the Jalgaon City Jan Sangh, Vasant Krishnaji Kanaldekar and Anant Natekar, came to the City Police Station. Inspector Sawant told them as also some other persons in the town, what his inquiries had revealed, so as to remove any misunderstanding and suspicion from their minds. He also caused a Police patrol to be maintained in certain localities of the city.

59.17 Nothing tends to excite the Hindu mind more than the fact that a Muslim has slaughtered or injured a cow and rumours of cow slaughter or injuries to a cow by a Muslim have been the cause of several riots. The above incident is a clear instance of how such riots can be caused by rumours of this type. The moment a cow is seen lying injured on the road, it is taken for granted that a Muslim must have injured her. Sometimes though knowing the true facts or without caring to ascertain them, even when they are capable of easy verification, some communal minded Hindus deliberately and mischievously spread the rumour that a Muslim was responsible for injuring the cow. The feeling of the Hindus are thereupon aroused, excitement runs high and the hooligans amongst the Hindus take to the streets; the Muslims are filled with apprehension and the hooligans amongst the Muslims also take to the streets either under the guise of protecting themselves or to retaliate or to scotch any attack on the Muslims by themselves attacking the Hindus first.

The visit of Shams Pirzada to Jamner

59.18 The visit of Shams Pirzada, the Amir of the Jamaat-E-Islami, Maharashtra State, to Jamner and the private meeting held by him there on January 24, 1969 has already been dealt with in Chapter 55.

The Jamaat-E-Islami conference

59.19 The conference of the Jamaat-E-Islami, Maharashtra State, of the two Districts of Nasik and Jalgaon held in Jalgaon on February 6, 1970 and the meetings held in the course of the said conference have also been dealt with in Chapter 55.

The Urs of Lalsha Miyan Dargah

59.20 For the 1970 Lalsha Miyan Urs instead of two Hindus being co-opted on the committee for the celebration of the Urs as was usually done, four Hindus were taken on the committee and made office-bearers, namely, President, Vice-President and Secretaries, and as usual members of both communities took part in these celebrations (P.W. 67/17/2245).

Assault and stone-throwing on March 1, 1970

59.21 Holi and Moharram both fell in the month of March 1970

and from the very first day of that month the tempo of events in Jalgaon quickened. The first incident of that season (at one time a festive season, but now a season of communal tension and of law and order problems) took place on March 1, 1970. For the Holi festival wooden articles for being thrown in the Holi fire are customarily collected, sometimes even ten to fifteen days before the festival. In Jalgaon the custom was to collect them about fifteen to twenty days before the Holi festival (S.P.O.W. 6/69/3026). The fracas which took place on March 1, 1970 in Maniyar Mohalla had its origin in this custom.

59.22 The principal narrator of this incident is Sayed Chand Sayed Amir [J.U.(J).W. 13/1(6-7) 2735(3-4), 2/2736, 12-14/2739-41], at that time a student about 22 years old. The house in which he resided was the sixth house from the road in Maniyar Wada Lane, the distance between his house and the Maniyar Wada Jumma Mosque being about 90 to 100 feet, and, as admitted by him, it is not possible to see the entrance of the mosque from his house. According to him, on March 1, 1970 some boys from the Gadhi started removing wooden articles such as sheep pens, poultry pens, fire-wood, etc., kept on the 'otas' of the Muslim houses in Koli Peth for throwing them into the Holi fire. When people attempted to stop them, they started giving filthy abuses. Thereupon, a complaint was written out in Marathi by Shaikh Musa Abdul Nabi and signed by him, Sayed Chand and five others (Ex. P 948). According to this complaint, the ages of these boys were about 13 to 14 years. The said complaint was presented to the City Police Station by one Shaikh Mahnoon Shaikh Salam. The officer on duty there asked him to bring the boys who were indulging in this mischief. Sayed Chand and some others subsequently caught hold of three of these boys who had again come to Maniyar Mohalla for committing mischief, but while Sayed Chand and two others were taking them to the police station, about twenty-five to thirty boys attacked them from behind and after beating them, rescued the boys. Sayed Chand was hit on the head with a 'Zara' (a wooden sieve-like ladle for draining off oil while frying). He has given the name of his assailant as Ashok Bagwan Mali. Sayed Chand and his two companions thereupon went to the City Police Station and lodged another complaint. Sayed Chand's statement (Ex. P 1011) was recorded at the police station and his signature taken thereon. According to the said statement, there were only two assailants and not twenty-five to thirty as mentioned in the said complaint. Sayed Chand was directed to the Civil hospital where he was examined and his injuries were opined to have been caused within twenty-four hours by some hard and blunt substance. These injuries, as set out in the medical certificate, were a scalp deep contused lacerated wound on the cap mid-line of the head, and abrasions on both his knees, the right side of his face and the right clavicle. Sayed Chand's complaint was registered in the N.C. Register (Ex. P 732) and he was referred to the Court. In between, some persons attacked and beat up Abdul Samad Shaikh Mohammed.

He also went to the police station to lodge a complaint. This complaint was also registered as an N. C. complaint (Ex. P 733). According to this complaint, three or four boys from the Gadhi suddenly caught hold of Abdul Samad, abused him, kicked him and hit him with their fists. They tore his shirt and his right elbow was injured. He too was referred to the Court.

59.23 Sayed Chand did not file any complaint in Court. He has deposed that he had told the Police that he was assaulted by twenty-five to thirty persons and not by two persons as taken down in the said statement and the said entry in the N. C. Register (Ex. P 732) and that is was for the Police to take action. He has supported this by pointing out that there were three of them at that time and they had caught hold of three Hindu boys and were taking them to the police station and since they were three, only two boys as mentioned in his said statement and the said entry in the N. C. Register would not have been able to beat them up.

59.24 There is substance in what Sayed Chand says because his said statement (Ex. P 1011) shows that three boys were in fact caught by them. Now, it would not have been possible for Sayed Chand alone to catch hold of three boys and take them to the police station. Though his companion Haji Gulam was about 60 years of age, his other companion Shaikh Yusuf was about 35 years of age and Sayed Chand himself was a strong and well-built young man of about 22. If there were three of them, even if one of them was 60 years old, two boys by themselves would not have found it easy to assault them and escape. It is clear from the said statement and the said N. C. Register entry that the boys who were caught by Sayed Chand and his companions had escaped and from the injuries on Sayed Chand it is obvious that these boys were rescued by others. There must have, therefore, been more than two persons who assaulted Sayed Chand, though the number given by Sayed Chand might be an exaggeration.

59.25 Sayed Chand has also deposed that that night there was heavy and continuous stone-throwing on the Jumma Mosque and that these incidents were deliberately planned by the R.T.M. to provoke the Muslims.

59.26 It was submitted on behalf of the Executive Magistrates and Police Officers, that in none of the aforesaid complaints was there any mention of stone-throwing and, therefore, no reliance can be placed upon this part of Sayed Chand's evidence. In cross-examination Sayed Chand stated that between March 1, 1970 and March 22, 1970 he had witnessed stone-throwing on the Jumma Mosque when he had gone there for saying his prayers and that such stone-throwing used to take place between 7 p.m. and 10-30 or 11 p.m. He has, however, admitted that there was no continuous or heavy stone-throwing, but occasionally a stone or two would be thrown on the mosque and as the 'hauz' had a sloping roof, the stone would roll down the roof. He further deposed that this showed that the stones had come from opposite the entrance to the mosque and that he had himself sometimes seen stones coming

from that side. He was cross-examined on the omission to mention the fact of stone-throwing in the said complaint Exhibit P 948 signed by him and six other Muslims and his answer was :—

“There is a group consisting of Ichharam Natu Bawiskar, former police havaldar, Raja Bapu Shinde, Keshav Trimbak Bhoite, Vasant Trimbak Bhoite and Ramesh Daulat Patil. They and others belonging to their group used to throw stones on Jumma Mosque from Ichharam Havaldar's house. I did not mention to the Police in my complaint Exhibit P 948 his name or any of the other names because these persons are so dangerous that had I or anyone else mentioned any of these names to the Police, it would have been unsafe for me or anyone mentioning their names to continue to stay in Jalgaon.”

59.27 The fact, however, that there was stone-throwing on the Jumma Mosque is admitted by Inspector Sawant himself in his affidavit [S.P.O.W. 6/1(5)/2979(3)]. Sawant also made a report dated March 3, 1970 to the S.P. on the incidents of March 1, 1970 (Ex. P 740). After referring to Sayed Chand coming to the police station to lodge his complaint, he has stated in the said report :—

“..... we learnt from him only that stone-throwing was being indulged into between groups of boys in Ram Peth Ward. Thereupon, we along with the staff on duty immediately went to the scene of the incident. At that time no stone-throwing of any sort took place in our presence, but it was learnt that minor stone-throwing had taken place before we went there. Thereupon, when we personally saw, made inquiries and collected information secretly, we found that stone-throwing had taken place between boys and boys on the road in Maruti Peth as a result of trouble between the boys. The stone-throwing was of a very minor nature.”

In view of what is stated in Sawant's affidavit and in the said report Exhibit P 740, the contention that there was no stone-throwing on March 1, 1970 at or near the Jumma Mosque must be rejected.

59.28 In his said report Inspector Sawant has further stated that in order to prevent any untoward incident from occurring as a result of the spreading of rumours and unnecessary discussion on this incident, he had called “some prudent Hindu and Muslim citizens” of that locality, namely, Syed Amir Syed Supru [J.U.(J.)W. 6], Shaikh Samad's father Shaikh Mohamed, Gulam Maniyar, the father of Municipal Councillor Ibrahim Maniyar, and two or three other Muslims, and some Hindu businessmen, and had pointed out the facts to them and had requested them to warn the boys to see that no breach of the peace took place and that these persons had given him an oral assurance to that effect. Sawant maintained police patrol in Ram Peth area and personally remained there till 1-30 a.m. He also made arrangements with his informants for giving him information in case anything unusual was found (S.P.O.W. 6/44/3003). Sawant also posted a fixed picket of two constables at Rath Chowk and of one constable at Ram Peth Chawdi from March 1, 1970. These pickets continued throughout March, April and May 1970 and were there when the disturbances

broke out, sometimes their strength being augmented, as for example, at the time of the Holi and Moharram festivals (P.W. 67/70/2275). By his letter dated March 3, 1970 (Ex. P 832) S.P., Raman drew Sawant's attention to what had happened in 1968 at the time of the Holi festival and to the incident of March 1, 1970 and instructed him to be more vigilant and take necessary precaution to avoid any incident taking place and to tighten the machinery and bring the mischief-mongers to book in good time.

59.29 Sawant has stated in his affidavit that Hindu leaders, namely, Bhoite, Ramesh Daulat Patil and Gajanan Ghanekar (J.J.S.W. 3), all of them Jan Sangh workers and Municipal Councillors, Gulam Rasool Bagban [J.U.(J.)W. 3] and other Muslim leaders unnecessarily gave a communal colour to these incidents and created tension in the city. Gulam Rasool Bagban has admitted that in the first week of March 1970 Sawant called him and some other Muslim leaders as also Gajanan Ghanekar (J.J.S.W. 3), Vasant Tryambak Bhoite, a Jan Sangh worker, Ramesh Daulat Patil, the President of the R.T.M. and the Joint Secretary of the Jalgaon City Jan Sangh and other Jan Sangh workers and had talked to them on the road outside the Jumma Mosque about a stone-throwing incident. The questions put to him in this connection by Mr. Deshpande, Advocate for Inspector Sawant, and the answers given by this witness are worth quoting [J.U.(J.)W. 3/42/2644] :—

“Q. : I put it to you that at that time Inspector Sawant asked you. Noor Mohamed, Gajanan Ghanekar, Vasant Bhoite and others to compromise the matter and not to make a complaint and not to give a communal colour.

A. : We pointed out to Inspector Sawant from where the stones had been thrown. They had been thrown from the direction of Hindu houses. We told him that several such incidents had taken place and we had been repeatedly complaining about them but no action was being taken and that he should take proper action. Sawant did ask us not to file a complaint. He did not ask us to compromise the matter or not to give a communal colour to the incident.

Q. : I put it to you that when Inspector Sawant asked you not to give a communal colour to the incident you got angry and told Sawant that you would teach him a lesson one day.

A. : This is not true. When Sawant asked us not to lodge a complaint I told him that if we were not to make a complaint to the Police, where were we to go and what were we to do.

Noor Mohamed and some Muslim leaders had gone in a deputation to S.P., Raman (P.W. 67) to complain to him that the Police were not paying any heed to the complaint of Muslims about stone-throwing on Jumma Mosque. I was not in that deputation as I was out of Jalgaon.”

59.30 That some communal-minded persons were trying to take advantage of the situation and create tension is also apparent from the affidavit of Soma Jayaram Koli (J.J.S.W. 1), a Municipal clerk working in the Octroi Department, who declared in the witness box that he

emphatically believed in the ideology of the R.S.S. He has stated in his affidavit that on March 2, 1970 he had gone in the morning to the Ram Mandir to offer prayers when he found special police bandobast in that locality and on making inquiries had learnt that the Muslims had thrown stones in the night on the Ram Mandir and, therefore, there was tension in that place. He then went to his octroi post and in the course of talks there, the previous night's incident came up for discussion and his colleague Abdul Gani Shaikh Bandu told him that men from Maniyar Mohalla had come to their house to ask for their help and on being asked why they needed help, they told him that the Hindus used to throw stones on them and that Abdul Gani and others told them to go to the Hindu leaders and point out their difficulties to them and not to indulge in disputes and quarrels as nothing would be gained by them. Apart from what Soma Koli alleges he had heard, no other witness has mentioned any stones being thrown on the Ram Mandir on the night of March 1, 1970. Soma Koli has proved to be an unsatisfactory witness and no reliance can be placed upon his evidence. None the less, his affidavit shows how rumours had been put in circulation and the stone-throwing on the Jumma Mosque changed by Hindu rumour-mongers into stone-throwing on the Ram Mandir.

59.31 We have already seen the immediate action which the Police took on the complaint Exhibit P 948 filed by Sayed Chand and the six other Muslims. So far as the investigation of the said complaint was concerned, it appears from the endorsements thereon that it was forwarded by P.S.I., Karhadkar on March 12, 1970 to a Head Constable who had no concern with Ram Peth Ward in which Koli Peth is situate. Accordingly, on March 17, 1970, this Head Constable returned it with an endorsement that it should be sent to the Head Constable, Ram Peth Ward. The next day Inspector Sawant forwarded it to the concerned Head Constable, namely, Head Constable Padgaonkar, with an endorsement "You should take action on the original application and make a report". The complaint was received by the Head Constable on March 21, 1970. The same day, Padgaonkar recorded the police statement of Sayad Chand (Ex. P 953). In the said police statement Sayed Chand stated that some boys between 12 and 14 years old, whose names he did not know and who were strangers to him, had attempted to take away his cot and the firewood kept in front of his house and requested that they should be dealt with and the Police should take rounds in his lane and mitigate the harassment to its residents and warn the boys. No report, however, appears to have been made by Head Constable Padgaonkar for none has been produced before the Commission.

59.32 On April 22, 1970 P.S.I., Bhalerao made an application in respect of the N. C. complaints of Sayed Chand and Shaikh Samad (Exs. P 732 and P 733) stating that as the complainants had not lodged their complaints with the Magistrate and as it was suspected that the accused persons might cause some trouble in an attempt to create

a tense atmosphere, permission under section 155(2), Cr. P.C., should be given to him to investigate the matter. On April 23, 1970, the Magistrate passed an order that the complaints should be referred to Court as early as possible (Ex. P 731).

The Tablig Jamaat Ijtema

59.33 On March 7 and 8, 1970 an Ijtema (a gathering) of the Tablig Jamaat was held in Jalgaon at the Muslim graveyard near the Idga. Shaikh Noor Mohamed Shaikh Amir has described a Tablig Jamaat as a purely religious body preaching and explaining Islam to the Muslims only and having nothing to do with politics [J.U.(J.)W. 7/3/2679]. Kazi Ahmed *alias* Rabbani Miya has deposed that those who organize Ijtemas travel about in different parts of India arranging these gatherings [J.U.(J.)W. 15/11/2754]. Two detailed reports were made on the said Ijtema, one by Inspector Sawant (Ex. P 845) and the other by M.C., Thakur of the D.S.B., (Ex. P 913), both dated March 9, 1970. According to Inspector Sawant's said report, the organizers were Noor Mohamed Shaikh Amir [J.U.(J.)W. 7], Gulam Rasool Bagban [J.U.(J.)W. 3] and Babushet of Taj Hotel. The attendance was about 100. Gulam Rasool Bagban has denied that he was one of the organizers. He has deposed that he was invited to attend the said Ijtema and accordingly he attended it [J.U.(J.)W. 3/6/2625]. Shaikh Noor Mohamed has also denied that he was one of the organizers or that he made any speech at the said Ijtema. He has stated that he did not attend the said Ijtema and that he did not receive any information that any communal speech was made at the said Ijtema and that it was a purely religious gathering [J.U.(J.)W. 7/3/2679]. Kazi Ahmed had attended the said Ijtema on both the days and he has deposed that he did not see at the said Ijtema either Gulam Rasool Bagban [J.U.(J.)W. 3] or Noor Mohamed [J.U.(J.)W. 7] or Akbar Rehmani [J.U.(J.)W. 1] or Abdul Majid Badliwalla (the deponent of affidavit No. 33) or Amir Badliwalla or Majid Salar [J.U.(J.)W. 15/11/2754]. The presence or absence of any particular individual at a religious gathering of this nature would have been immaterial but for what some of the Hindu witnesses belonging either to the Jan Sangh or the R.S.S. or both have deposed about the said Ijtema.

59.34 The first witness on this point was Soma Jayaram Koli (J.J.S.W. 1/1-15/2404-10), a municipal employee in the Octroi Department who had begun service as an octroi peon and in course of time had become an octroi clerk and who has deposed that he emphatically believed in the ideology of the R.S.S. He had a colleague in the Octroi Department by the name of Abdul Gani Shaikh Bandu, whom he described as one of his best friends and a man of reformed ideas. From his evidence it appears that Abdul Gani was the one great source of his information for all the allegations he has made in his affidavit. So far as the said Ijtema is concerned, he has stated in his affidavit:—

‘Subsequently, one Tablig session was held here at Jalgaon. They asked for permission from Shri Abdul Gani Shaikh Bandu, the then

trustee of Bhilpura Mosque, to hold a meeting for preparing for the said session. However, my colleague Abdul Gani Shaikh Bandu being of reformed ideas opposed it and did not allow to hold the propaganda meeting of Tablig in Bhilpura Mosque. According to him if religion is to be preached among the public, it should be preached on the open road in the presence of all the persons and religion is never bad and therefore, if anything is to be stated about religion, it should be stated in the open ground. For this reason, the members of 'Tablig' in Bhilpura Mohalla became very much displeased with the trustee, Abdul Gani Bandu. Out of them, Mehboob Shah Fakir, Bata Shoe Agent, Nabi Bandwala, Namdar Ahlekar Phalwala, Mr. Munaf and others made false applications and false complaints to the Charity Commissioner against Shri Abdul Gani and therefore Abdul Gani resigned from the trusteeship. During the course of such talks, I learnt from Shri Abdul Gani that Maniyar men and the 'Tablig' leaders (including Majeed Salar, Bashir member, Shaikh Saheb Ghasletwala) had collusively stored in Maniyar Wada acid, L-shaped iron pipes, sticks, big sticks, Rampuri knives, jaxes, soda-water bottles, stones, bricks, kerosene, petrol and also fireworks material likely to cause harm to the life obtained from 'shikalkars' (a polisher or furnisher of weapons and tools) who were residing on that side and amongst whom many persons knew about fireworks."

He has also alleged in his affidavit that for taking away a small wooden box for the purpose of throwing it later in the Holi fire a Muslim beat a Hindu boy of 10 or 11 years until he became unconscious. There is, however, no record anywhere, except in the affidavit of Soma Koli, of any such incident ever having taken place. He has also alleged that stones were thrown on the Ram Mandir every day. He has further alleged that on one occasion while going home after midnight and on seeing a number of Muslims sitting in groups in the areas of Islampura and Bhilpura Mosques, he went into the lanes and by-lanes of the Hindu localities to alert their Hindu residents, but he did not find any Hindu awake and that he thereafter inquired from Abdul Gani why the Muslims were keeping awake and Abdul Gani had told him that they had been keeping awake for the last four nights because they were under the impression that the Hindus were likely to attack them. According to him, Abdul Gani further told him that these persons belonged to the "Tablig" and had stored acid, soda-water bottles and explosive materials and articles of the value of about Rs. 1,200 to Rs. 1,400 and that "they were remaining awake with pre-planning". He asked Abdul Gani whether he too thought that Hindus would attack the Muslims and Abdul Gani replied that the Hindus would not do anything but only persons belonging to the "Tablig" intended "to bring about riots at Jalgaon because they thought that how long they should continue to be afraid of Hindus". Soma Koli has further alleged, "I think persons belonging to the Tablig and the Pakistan Government were behind the said riots and the said rioting

was their aim". In his cross-examination it transpired that he did not know what the Tablig was and had heard this word only from Abdul Gani and that Abdul Gani had told him that a meeting of the Tablig had been held in the Muslim graveyard and that he did not give any information to the Police about what he had come to learn. He at first stated that it did not occur to him at any time to give such information to the Police and then admitted that it had occurred to him to go to the Police, but he thought that if an ordinary person like him knew these facts, the Police must also know them. He also admitted that he had no personal knowledge of any of the incidents alleged in his affidavit and that his one source of information for all these alleged incidents was Abdul Gani. When asked what he had meant by describing Abdul Gani in his affidavit as a man of "reformed ideas", his reply was that the only reason why he had described Abdul Gani as a man of "reformed ideas" was that he could mix with all kinds of people. He deposed that he himself was also a man of "reformed ideas". He has deposed that he was formerly attending programmes of the Valmiki Shakha of the R.S.S. in Bhagirathi Nagar on the Jalgaon-Asoda Road and that he had given up attending the R.S.S. programmes because he was not able to take part in the games which were played there. He stated, "I found it too much of an exertion to take part in lathi training, lathi games and parades". He has denied that he was an organizer or looking after the programmes of the Vikramaditya Sakha of the R.S.S. in Marathi School No. 1, a Municipal Primary School. He stated that Abdul Gani had resigned as a trustee of Bhilpura Mosque about two weeks before the disturbances on account of applications and complaints made against him to the Charity Commissioner. He, however, disowned all knowledge of what those charges were or whether a suit for misappropriation of trust funds was filed against Abdul Gani. He admitted that he did not know anything about the activities of the Tablig and that he had stated in his affidavit that "persons belonging to the Tablig and the Pakistan Government were behind the said riots and the said rioting was their aim" because this was what was told to him by Abdul Gani and that he had not made any inquiry in the matter because, as he deposed, "I was sure that my colleague Abdul Gani would not tell me a falsehood".

59.35 In this connection the evidence of Abdul Nabi Shaikh Amir [J.U.(J).W. 4/2-3/2662-3] is relevant. He was a trustee of the Bhilpura Mosque Trust and since January 1970 its Honorary Secretary. Abdul Nabi's evidence shows that Abdul Gani was the managing trustee of the said trust and for 14 years had been looking after the accounts and collecting the rents of the trust properties. There were complaints against him of misappropriation of trust funds and of not rendering accounts. In January 1970 he did not succeed in getting elected as managing trustee, but he continued to be a trustee and the cashier of the said trust. By his letter dated May 17, 1971, that is, one year and one week after the disturbances and not two weeks prior thereto as deposed by Soma Jayaram Koli, he submitted his resignation, but he

did not render any accounts and thereupon the continuing trustees filed a suit against him on October 4, 1971, being regular Civil Suit No. 389 of 1971 in the Court of the Civil Judge, Junior Division, Jalgaon, claiming reliefs with respect to his wrongful retention of the trust property. Abdul Nabi has denied that anyone had at any time approached or applied to the trustees for holding any meeting of the Tablig Jamaat in the Bhilpura Mosque. So far as Soma Koli is concerned, Abdul Nabi has stated that he knew him because he often used to go to the Octroi Naka for taking delivery. His shop is situate opposite the Municipal Office and he used to see Soma Koli pass by. He also used to see him taking part in the R.S.S. parades in the compound of Marathi School No. 1 on Mahatma Gandhi Road as this school is on the way from his residence to his shop. He has also deposed that he used to see Soma Koli taking a leading part in the Dassera processions and that Soma Koli used to remain in the front part of the procession and control the procession. According to Abdul Nabi, these processions were organized by the R.S.S. and his reason for saying so was the dress of the processionists, namely, Khaki half pants, white short-sleeved shirts, boots and black caps. Soma Koli has deposed that on the tenth day of the Dassera festival the R.S.S. holds a parade in Jalgaon and in the evening a Vijaya Dashami procession is taken out and that he does not participate in these processions. He admitted that "all people take part in the evening procession on the tenth day including those belonging to the R.S.S.". When further questioned he also admitted that in the evening he used to go like all other persons to collect 'apta' leaves and when the leaf-gatherers returned, they all returned together in the form of a procession.

59.36 The evidence of Soma Jayaram Koli does not inspire the least confidence. His demeanour in the witness-box was most unsatisfactory and he did not show any regard for truth. His affidavit was one of the several filed before the Commission which contained wild, reckless and irresponsible allegations made without any basis in facts.

59.37 The second witness on this point is Kashinath Rampratap Vyas (J.J.S.W. 10/1-5/2411-3), the Joint Secretary of the Jalgaon Janadhikar Saunrakshan Samiti and the person who gave a call for Jalgaon Bandh on August 25, 1970 for getting the Hindus arrested in riot cases released on bail. His affidavit contains as many irresponsible allegations as those in the affidavit of Soma Koli. This is what he has stated in his affidavit about the Tablig Jamaat Ijtema :

"For the three days viz. the 7th, 8th and 9th of March 1970, a conference of the Muslim communal organisation 'Tamir-E-Millat' was held at the place where there is the graveyard for the Muslim community. On the date the 8th when I was returning home from the temple of the deity (Kavitchi Devi) situate outside the town, after performing 'Puja' and taking the 'Prasad', meals etc. I came by the side of the said Muslim graveyard. At that time about three to four thousand Muslim delegates were sitting in the 'audience hall' big enough to accommodate five to seven thousand persons

which had been constructed there. A speaker who was from an outside place was delivering a speech vehemently. I stopped there and heard that speech. As a loud-speaker was fitted, I could hear the voice very clearly. In his speech the speaker said, "The time has now come. We have to fight with the Hindus. We have to answer bricks with stones. If a blow is given to us, we have to give a stronger blow. We have to increase our population a lot. Now the Hindus have started reducing their population by practising birth control. This is the time when it is necessary to increase our population so that within ten years our population will exceed that of the Hindus and we will be able to rule over Delhi." In this way feelings of hatred were created in the minds of the Muslims against the Hindus, a craving for authority and power was created in their minds and slogans such as "Jo Hamse takarayega, mittime mil Jayega" were being shouted at that time. A number of delegates from outside places had come there. The following Muslims from Jalgaon viz. (1) Babusheth — owner of the Taj Hotel, (2) Gulam Rasool Bagban and (3) Noor Mohamedshet had taken a prominent part in the said programme. Three or four Muslim policemen were standing outside in plain dress. No persons other than Muslims were allowed to enter the audience hall."

59.38 His cross-examination revealed the extent of his knowledge and the reliability of what he has stated in his affidavit. He deposed that the Tameer-E-Millat, the Tablig and the Muslim League were different names for the same body and that at this Ijtema a board was put up and that the only words written on it were the words "Tameer-E-Millat" written in Hindi and that there were a number of persons there amongst whom he saw workers of the Muslim League and the Tameer-E-Millat and that he waited for five to ten minutes and listened to the speeches. He further stated that there was only one entrance to the audience hall where the said Ijtema was being held and when he heard the speech referred to in his affidavit, he was not anxious to listen to the rest of it nor did he try to go inside the audience hall because as the audience consisted only of Muslims, there was no question of any non-Muslim going inside there. He deposed that it was for this reason that he had stated in his affidavit that no persons other than the Muslims were allowed to enter the audience hall. When asked how he could say that the audience consisted exclusively of Muslims, when he had not gone inside the audience hall, his reply was, "Since the audience consisted only of Muslims there was no question of any Hindus going there." He did not inform anyone about the speech which he alleges he had heard. He did not know who had called the said Ijtema nor who had taken a prominent part in the programme. According to him, he only saw three prominent persons, namely, Gulam Rasool Bagban, Babusheth and a third person whose name he did not remember going inside the audience hall. He replied that he only knew Babusheth by sight and did not know what he was doing. When faced with the state-

ment in his affidavit that Babusheth was the owner of the Taj Hotel, he could not give any answer except "I had forgotten that fact". He admitted that all that he saw these persons doing was entering the hall. He further admitted that he had stated in his affidavit that they had taken a prominent part in the said programme because as they were prominent persons and he had seen them going inside the hall he thought that they must have taken a prominent part and that when these three persons came, the audience of 3,000 to 4,000 had already arrived and the speeches had commenced. In sharp contrast to what he had stated earlier, namely, that he waited there and listened to the speech, he deposed later that "I heard the speech as I was walking along the road". It appears that a few months after the disturbances this witness was called to the City Police Station in connection with a case of causing injury to a cow. He was one of the persons suspected by the Police of having caused such an injury. He was charge-sheeted along with Purushottam Sitaram Soni and Prabhakar Gangadhar Punde with inciting Hindu boys to assault the Muslim owner of the cow (Ex. P 917).

59.39 The evidence given by Rampratap Kashinath Vyas speaks for itself and shows the weight to be attached to it and to the allegations made by him in his affidavit.

59.40 The third witness on this point is Subhash Shivram Shinde (J.J.S.W. 11/1-28/2473-86), a temporary 'mukadam' in the employ of the Jalgaon Municipal Council. His political activities and peregrinations commenced quite early. According to him, at the age of 14 he joined the Communist Party of India and four or five years later became the Secretary of its Jalgaon Branch office and resigned at the time of the Chinese aggression, returning his membership card. According to the Communist leader, S. N. Bhalerao, however, Shinde was not at any time a member of that party (C.W. 20/6/2721). Shinde then became a full-time "pracharak" (propagandist) for the P.S.P. from 1966 till March or April 1970. After the Jalgaon disturbances he joined the Jan Sangh in its agitations in connection therewith by going on an indefinite hunger strike of about one day against not granting of bail to the Hindu accused in the Jalgaon riot cases. He first appeared before the Commission as a witness on February 9, 1972. That evening he joined the Congress (R) and the next morning he stepped into the witness-box proudly supporting a Congress cap and when asked, replied that thenceforth he was going to carry on propaganda for that party. His evidence showed that he had as little attachment for truth, as he had for various political parties to which he from time to time belonged. He has stated in his affidavit that a meeting of the Tameer-E-Millat was held in Jalgaon in March 1970, for which purpose a large 'paandal' was erected in an open graveyard on the outskirts of the town and that the said meeting went on for about three days and several speakers, propagandists and workers had come from outside for this purpose and that at that time speeches were made, as usual making vile and provocative propaganda against

the Hindus and inciting the Muslims to fight against them in an organized manner and that "since that time only, the Muslim goondas were waiting for the opportunity for disturbances". In cross-examination he admitted that he did not know whether there was a branch of the Tameer-E-Millat in Jalgaon and whether the said meeting was a meeting of the Tameer-E-Millat or not. He then said, "4000 to 5000 Muslims were present. Some speeches were being made there. I therefore thought that it must be a meeting of the Tameer-E-Millat or the Tablig Jamaat. Both these are very much the same." He admitted that he did not attend the said meeting, but while returning home he had passed by the place where the said meeting was being held and, seeing a crowd, stood there for five minutes and listened to the speeches. He admitted that he did not report to the Police the fact that inflammatory speeches were made at the said meeting. The reasons given by him for this was that there was police bandobast at that place. This witness's evidence speaks for itself and no comment is required thereon.

59.41 The reports made by Inspector Sawant (Ex. P 845) and H.C., Thakur of the D.S.B. (Ex. P 913) on the Ijtema of the Tablig Jamaat are detailed and exhaustive. The substance of the speeches made at the said Ijtema as set out in the said reports has been correctly summarized in S.P., Raman's affidavit. Raman has stated in his affidavit that the speakers "advised the audience to devote time for Tablig propaganda and stressed the importance of the principles of the Koran and urged them to follow them scrupulously, offer Namaz and give alms regularly. They wanted the people to enlist their names for religious education in Delhi for 40 days and announced that the All India Tablig Ijtema was to be held at Aurangabad from 17th to 19th May 1970." [P.W. 67/1(18)/2229(8)]. These reports even give the names of those persons who volunteered to go to Delhi for the Ijtema. These reports show that the audience consisted of about 100 persons only.

59.42 Without even knowing what the Tablig Jamaat was, the above three witnesses, Soma Jayaram Koli (J.J.S.W. 1), Kashinath Rampratap Vyas (J.J.S.W. 10) and Subhash Shinde (J.J.S.W. 11), have, without any sense of responsibility, made unfounded and reckless allegations in their affidavits. Their affidavits belong to that class of affidavits filed by both Hindu and Muslim deponents before the Commission which is characterized by gross exaggeration, wild allegations against the opposite community and a complete disregard for truth. Affidavits and witnesses of this type have merely added to the work of the Commission resulting in unnecessary waste of time in inquiring into the matters alleged by them, which at the first blush appeared to be very serious, but turned out on cross-examination to be pure and unadulterated perjury.

Applications by the Muslims

59.43 In the first week of March 1970, two applications were made

by the Muslims to the authorities. The first application was dated March 6, 1970. It was made to the Police by Sayed Hasan Nabi Maniyar, a fire-wood merchant, requesting for protection against theft during the Holi festival [P.W. 93/1(5)(n)/3166(4)]. The second application came to be made because in view of what had taken place on March 1, 1970, a delegation of Muslim leaders, including Gulam Rasool Bagban and Shaikh Noor Mohamed Shaikh Amir, met Mr. M. D. Chaudhari, the then Minister for Education and the Minister in charge of the district, and he advised them to set out their complaints in writing. Thereupon Shaikh Noor Mohammed drafted an application and he, Gulam Rasool Bagban, who was the President of the Jumma Masjid Trust Committee, and 26 other Muslims signed it. The said application (Ex. G 58) was addressed to the I.G.P. and copies of it were sent to the Chief Minister and Mr. M. D. Chaudhari. A copy of the application was also handed over personally to the D.M. [J.U.(J)W. 3/1(13)(iv)/2623(6); J.U. (J.)W. 7/1(3)/2678(2), 9/2680; P.W. 67/20/2248]. The said application stated:

"Since about a week there have been incidents of stone-pelting and removal of petty articles from the locality of the Jumma Mosque and in some cases the residents of Maniyar Mohalla were threatened and even assaulted by anti-social elements and mischief-mongers and in one case though some mischief-mongers were caught and were being taken to the police station, they were forcibly rescued by their associates.

"On the same day about a week ago at 8 p.m. when people were going to offer Isha (night) prayers, the Jumma Mosque was surrounded by a mob of 300 to 400 persons who pelted many stones on and inside the mosque. The Police were informed and they immediately rushed to the scene of occurrence and they dispersed the unruly mob. After this incident also there have been daily incidents of stone-pelting during night time. Because of such occurrences safety of the lives and property of the inhabitants of the abovesaid area is in great danger and there is a great apprehension and fear in the minds of the people about their safety. The situation is very tense and there is a great likelihood of a breach of the peace resulting in commission of serious offences if no preventive steps are taken.

"In the past also steps were taken by the Police against mischief-mongers under similar circumstances.

"We, therefore, request that immediate action in the matter may kindly be taken."

59.44 The incident of the attack on the Maniyar Wada Jumma Mosque mentioned in the said application is alleged therein to have taken place at 8 p.m. on the same day as that on which took place the incidents of stone-pelting and the removal of petty articles from the said locality and the catching hold of the Hindu boys by Sayed Chand. This would be, therefore, March 1, 1970. If as alleged in the said application such a large mob had surrounded the said mosque

and the Police had come and dispersed it, one would have expected the Police witnesses, particularly Inspector Sawant (S.P.O.W. 6), who is under suspension and interested in showing that he took proper, adequate and prompt measures to maintain law and order in Jalgaon, to have deposed about it. There is, however, no mention of any such incident either in the evidence of Sawant or of any other police witness. There is also no complaint by any Muslim prior to March 9, 1970 of such an incident having taken place nor is there any entry in the station diary of the Jalgaon City Police Station in respect of the said alleged incident.

59.45 In order to show that such an incident did happen, the Muslim parties relied upon the evidence of Sayed Chand Sayed Amir and Gulam Rasool Bagban. Sayed Chand has stated in his affidavit,

On the same night there was heavy and continuous stone-throwing on Jumma Mosque" [J.U.(J.)W. 13/1(7)/2735(4)]. It is pertinent to note that there is no mention of any mob surrounding the said mosque. Further, what Sayed Chand has stated in his affidavit loses all value when we turn to his cross-examination and find that according to him he had witnessed the stone-throwings on the Jumma Mosque which took place between March 1, 1970 and March 22, 1970 and that there was no continuous or heavy stone-throwing on the said mosque, but occasionally a stone or two would be thrown on the said mosque [J.U.(J.)W. 13/14/2740]. Gulam Rasool Bagban was a Congress M.L.A. from 1952 to 1957 and was the President of the Jamiet-ul-Ulema-E-Hind, Khandesh District, and of the Jumma Masjid Trust Committee, Jalgaon. He has deposed that he was personally present when the said incident took place [J.U.(J.)W. 3/17/2629]. In his affidavit, however, all that he has stated is, "After the Ahmedabad riots, communal organized groups were trying to incite the Muslims by playing various types of mischiefs, that is, stone-throwing in Jumma Mosque and in surrounding Muslim localities". An unruly mob of 300 to 400 surrounding a mosque and throwing stones at it is not a 'mischief', but is a serious riot and had such an incident actually taken place, Gulam Rasool would have mentioned it without fail in his affidavit.

59.46 One would have expected that the said incident would at least have been mentioned in the affidavit of the draftsman of the said application, Shaikh Noor Mohamed, or deposed to by him in the witness-box. Noor Mohamed has deposed that he usually went to the Maniyar Wada Jumma Mosque for all the five prayers and that in the months of February and March 1970 the prayer times were about 6 a.m., 1-45 p.m., 5 p.m., 6-55 p.m. and 9 p.m. There is no mention of any such incident in his affidavit and all that he has deposed about the stone-throwing on the said mosque is that while the prayers were going on, stones would fall on the roof of the mosque and that only once while he was standing outside the mosque he personally saw a stone thrown at the said mosque [J.U.(J.)W. 7/15/2683]. If Muslim witnesses have laid so much stress on a handful of stones thrown on

the Maniyar Wada Jumma Mosque, it is inconceivable that they would forget to mention such an incident in their affidavits had such an incident in fact taken place.

59.47 I, therefore, hold that the said incident as set out in the said application (Ex. G 58) is a gross exaggeration, having no relation to the actual facts, and the only effect of making the said application and collecting the signatures of so many Muslims on it was to increase the communal tension by spreading panic amongst the Muslims and inciting them against the Hindus; for, just as a Hindu mind gets enraged on hearing about the slaughter of a cow or about an injury to a cow, so does the Muslim mind get equally enraged on learning about the throwing of stones or 'gula' on a mosque.

59.48 The I.G.P. sent a copy of the said application (Ex. G 58) to the S.P. for his remarks. The S.P. submitted his remarks on the said application along with his remarks on the other happenings in Jalgaon by his report dated March 30, 1970 (Ex. G 59). This report makes strange and interesting reading in parts and will be dealt with in the chapter entitled "Preventive measures and their adequacy".

The R.T.M. board of March 9, 1970

59.49 On March 9, 1970 the R.T.M. exhibited a blackboard against the wall of a building at the corner of Rath Chowk with a writing thereon purporting to be an extract from the Marathi daily, the 'Tarun Bharat'. The said writing was as follows (Ex. P 719):—

"9-3-70

SHREE RAM TARUN MANDAL, RATH CHOWK, JALGAON Unholy alliance of the Communists and the Muslim League in Bengal

"On Bakri-Id the Communists and the Muslim Leaguers at Ram Pada in Murshidabad District (where there is a majority of Hindu inhabitants) attempted to slaughter a cow. The public objected and the matter went to the Government. As the Hindus were organized, no riots took place and there was no cow-slaughter, but mischievous persons who were not successful here attacked neighbouring towns in Bihar and Ramkrishnapur. Hundreds of Muslim from outside attacked and surrounded these towns.

"Murder, looting, arson and outraging the modesty of women took place. Two Hindus were killed and 30 injured. Property worth about 4 lakhs was destroyed. 132 houses of Hindus were set on fire. No damage was caused to the adjoining houses of Muslims near Hindu houses.

From Tarun Bharat."

59.50 It will be noticed that though the heading of the said writing was political, the contents had nothing political about them but were purely communal. The unholy alliance of the Communists and the Muslim League in Bengal mentioned in the heading was not

a political alliance, but was alleged to be an alliance for attempting cow-slaughter and for attacking the Hindus in the neighbouring towns and the whole of the writing was couched in such a way as to inflame communal feelings. Just as in the case of the board displayed by the Jan Sangh on October 1, 1969 (Ex. P 718), the writing on the said R.T.M. board (Ex. P 719) satisfies the test laid down in paragraph 6.7 of Chapter 6 and was, therefore, a communal writing.

59.51 Exhibit P 1012 is a statement showing the police bandobast in Rath Chow and the number of constables posted there from March 1, 1970 to May 7, 1970 and from the said statement it appears that on March 9, 1970 there were two police constables patrolling in Rath Chowk from 9 a.m. till noon and from 5 p.m. till midnight. Neither of these constables reported about this board to the City Police Station. The District Special Branch also did not report about this board at any time to the S.P. The S.P. came to learn about this board for the first time from the report dated March 11, 1970 (Ex. P 838) made to him by Inspector Sawant. It was left to a private individual, one Kazi Ahmed *alias* Rabbani Miya Mohmood Saheb [J.U. (J.)W. 15], to report this matter to the police station. Accompanied by four or five persons, Kazi Ahmed went to the police station and lodged a complaint (Ex. P 954) about this board. After his complaint was noted down, a police writer was sent to copy out the writing on the said board, which he accordingly did.

The reaction to the R.T.M. board

59.52 A board containing inflammatory communal writing such as the said board displayed by the R.T.M. (Ex. P 719) is bound to excite communal feelings. The feelings created by the said R.T.M. board appear in the evidence of Kazi Ahmed *alias* Rabbani Miya Mohmood Saheb. He has deposed that after reading the said board, non-Muslims were enraged and discussed amongst themselves the advisability of the Muslims being allowed to remain in India and were saying that the Government was timid and that the Muslims should all be killed [J.U.(J)W. 15/1(3)/2749(1-2)].

The police action on the R.T.M. board

59.53 After Kazi Ahmed lodged his complaint at the City Police Station on March 9, 1970 about the said R.T.M. board exhibited on that day, the same day Ramesh Daulat Patil, the President of the R.T.M. and the Joint Secretary of the Jalgaon City Unit of the Jan Sangh, was called to the police station and a statement in writing (Ex. P 835) was taken from him. In the said statement Ramesh Daulat Patil stated that during 1970 the R.T.M. had enrolled 150 members. The said statement then continued :

“Generally on behalf of our Shree Ram Tarun Mandal, extracts from papers relating to injustice to anybody, or other social or political complaints of the public, if any, are also written daily on the news board kept in Rath Chowk near Santosh Hotel.

“To-day on 9th March 1970 on our news board news about the slaughter of a cow on Bakar-Id festival in a village in West Bengal State is written. The same news appeared in the Sunday edition of the news-paper, the Tarun Bharat, and it is written on the board by the Mandal. The news on the board is not written with the intention of hurting anybody’s feelings.”

59.54 The Police were apparently satisfied with the said statement of Ramesh Daulat Patil that the writing on the said board was not intended to hurt anybody’s feeling, for no further action was taken in spite of the inflammatory communal nature of the writing on the said board.

59.55 Even though none of the constables posted in Rath Chowk had reported about this board to the City Police Station nor had the D.S.B. reported about this board to the S.P., on their own admissions, Sawant did not ask for any explanation from the said constables and Raman did not give any special instructions either to Inspector Sawant or to the D.S.B. with respect to any such board which might be exhibited thereafter. The reason which Raman gave for not doing so was that in his said report Exhibit P 838 Sawant had stated that steps had been taken to keep proper vigilance and that so far as the D.S.B. was concerned, there was no question of giving them special instructions to keep a watch for these boards because it was a part of their duty to do so (P.W. 67/34/2256). This was a strange reason for the head of the Police in the District to have given. If the Intelligence Branch in the District—the D.S.B.—grossly fails in the discharge of its duties, the least one would have expected the S.P. to have done was to have pulled up the officers of the D.S.B.

The aftermath of the R.T.M. board

59.56 Just as it happened the day after the exhibition of the said Jan Sangh board on October 1, 1969, so also on March 10, 1970, that is the day after the aforesaid Shree Ram Tarun Mandal board was exhibited, some stones were thrown on the Jumma Mosque [S.P.O.W. 6/1(6)/2979(4)]. That evening at about 8 p.m. P.S.I., Bhalerao had gone to Subhash Chowk on patrol duty as directed by the S.P. While moving about in that area he learnt from two persons that a few stones had been thrown and the stones were shown to him. He asked these persons from where or from which direction these stones had come and whether they suspected anybody. They were, however, not able to give any particulars to Bhalerao. They also refused to give a written complaint either to Bhalerao or at the police station. By his report dated March 10, 1970 (Ex. P 1030) made to the S.P., after setting out the aforesaid incident, Bhalerao opined that two constables should be posted on fixed duty for 24 hours in front of the Jumma Mosque upto the end of the Holi festival and two constables in plain clothes and two constables in uniform should be posted for patrolling the area from 6 p.m. till 12 midnight.

59.57 From March 11, 1970 three constables in uniform and two plain-clothes constables were posted in Rath Chowk from 8 a.m. till noon and from 5 p.m. till midnight (Ex. P 1012). One of these plain-clothes constables was posted on the terrace of a house near the Jumma Mosque and the other on the terrace of a house near the Laxminarayan Temple. Policemen in uniform and in plain clothes were asked to patrol Koli Peth, Maruti Peth and Bagwan Mohalla, all situate in Ram Peth Ward, and P.S.I., Bhalerao was asked to go frequently to the said localities (P.W. 67/70/2275 ; Exs. P 741, P 838 and P 1012).

59.58 By his order dated March 12, 1970 (Ex. P 841) S.P., Raman directed Inspector Sawant to depute P.S.I., Bhalerao and a party of one H.C. and four P.Cs. for patrol duty in the said area from 5 p.m. till 2 a.m. continuously. The said order further directed that the P.S.I. and his party were to wait at the Mulki (Revenue) Chavdi. In the said order Raman pointed out that the feelings of the Muslim community were hurt by the writing on the said board in the Rath Chowk.

59.59 By his report dated March 13, 1970 (Ex. P 741) P.S.I., Bhalerao intimated to the S.P. that though no actual complaints of stone-throwing had been received in the preceding two days, rumours were current that stones were thrown on the Jumma Mosque, the temples and some houses and that this had led to a lot of discussion amongst the residents of the said locality and that as it was summer and, therefore, people were sleeping outside their houses on the roads and on the terraces, there was more unnecessary discussion amongst them. In the said report Bhalerao pointed out that as a result of these discussions enmity was growing between the Hindus and the Muslims and that in order to ensure that no untoward incident should happen at the time of the Moharram or Holi festival the Police were trying to strengthen the bandobast and to contact the prominent Hindus and Muslims of that area. He further stated in the said report that the lanes and by-lanes in that area were narrow and requested that for this reason in order to ensure frequent patrolling by police officers in that area a police jeep should be made permanently available to the City Police Station or at least till Holi in order to obviate the necessity of sending for a vehicle from the headquarters every time it was required.

The Jan Sangh board against the municipal centenary celebrations and its aftermath

59.60 The centenary celebrations of the Jalgaon Municipality have already been dealt with in Chapter 56 (paragraph 56.11). On the opening day of the centenary celebrations, namely, March 14, 1970, the Jan Sangh exhibited a board at Shahane Chowk calling upon the people to boycott the said celebrations. The writing on the said board read as follows (Ex. P 722):—

“14-3-70 — BHARATIYA JAN SANGH

“Boycott of the centenary celebrations of the Municipal Council by a group of Municipal Councillors.

“The administration of the group in power in Municipality is partial and extravagant. The administration is against public interest and illegal. Hence as a protest a public statement regarding the boycott by them has been published.”

The said public statement, in the form of a leaflet in Marathi, was signed by 13 Municipal Councillors including Waman Pandit Khadke (Ex. P 723). It stated:—

“The activities of the present ruling clique in the Jalgaon Municipal Council is against public interest, illegal, arbitrary and full of favouritism. Therefore, in protest against this we, the undermentioned councillors, are boycotting the entire centenary celebrations.”

59.61 According to S.P., Raman the real cause for boycotting the centenary celebrations was that they were being held during the tenure of P. K. Zare (C.W. 25) who was expelled from the Jan Sangh on March 25, 1969 and who had become the President of the Municipality with the support of the Muslim Councillors and had thus broken the monopoly of the group controlled by Pandit Ukha Kolhe [P.W. 67/1 (21)/2229(9-10)].

59.62 As it happened on each of the two previous occasions when a board containing an inflammatory communal writing was displayed, so also on March 15, 1970, that is, the day after the Jan Sangh board calling for a boycott of the municipal centenary celebrations was exhibited, some stones were thrown on the Jumma Mosque in spite of the police party patrolling the locality [S.P.O.W. 6/1(2)/2979(4); S.P.O.W. 10/1(3)/3140(4)].

59.63 Sub-Inspector Bhalerao's report on this incident made on the same day to the S.P. is Exhibit P 742. According to the said report, while Bhalerao was patrolling along with six police constables after the night prayers in the Jumma Mosque were over, Shaikh Noor Mohamed [J.U.(J.)W. 7] informed the police constable near the mosque that a stone had been thrown on the mosque. The police constable replied that he had not heard the sound of any stone being thrown. The said constable along with other constables made some inquiries, but they were unable to find the person who had thrown the stone. Bhalerao tried to convince Shaikh Noor Mohamed, but Noor Mohamed was not satisfied. Shaikh Noor Mohamed has deposed that he was standing outside the mosque when the stone was thrown and that he not only pointed the stone out to the constable on duty, but also mentioned this fact to the S.P. when he met him and the S.P. replied that the said fact had already been reported to him [J.U.(J.)W. 7/15/2683].

59.64 In his said report Bhalerao has stated, “It is surprising that a stone is thrown when all the policemen are doing their duties very strictly... Unnecessary discussions to that effect go on as usual”. The fact that the constable near the mosque did not hear the sound of a stone striking the mosque cannot, however, surprise us much. After all, the constable did not see the boards containing inflammatory communal writings which were right before their eyes and there is no

warrant for supposing that in these matters their sense of hearing would be sharper than their vision.

The Peace Committee meeting of March 17, 1970

59.65 On March 17, 1970 a Peace Committee meeting was held at the City Police Station. Exhibit P 727 is a copy of the proceedings of the said meeting prepared by the D.M. Amongst those present were Ramesh Daulat Patil, the President of the R.T.M. and the Secretary of the Jalgaon City Jan Sangh, Gajanan Tryambak Ghanekar (J.J.S.W. 3), the Treasurer of the Jalgaon City Jan Sangh, Gulam Rasool Bagban [J.U.(J)W. 3], the D.M., the Addl. D.M., the S.P., the S.D.P.O., Jalgaon Division, the Communist leader, S. N. Bhalerao (C.W. 20), the Municipal President, P. K. Zare (C.W. 25), and other officers and local leaders. At the said meeting the D.M. made a plea for communal harmony and asked for the co-operation of all those present in maintaining peace during the Holi and Moharram festivals. He further stated that there were some complaints of stone-throwing on the Jumma Mosque; that the Police were inquiring into the matter; that the situation remained to be watched by the people and the Police very carefully and that no chances would be taken, but all steps would be taken to curb the communal elements behind these incidents when found. S.P., Raman pointed out that during the last few days some boards had been exhibited containing matters harmful to communal harmony. He requested that such boards should not be exhibited. The D.M. also emphasized this and stated that if such inflammatory matters were published on boards, legal action would be taken against the person responsible for the same. Gajanan Ghanekar said that only news published in newspapers had been written on the boards and there should be no objection to publishing such news. The D.M. again explained that inflammatory news was harmful to the maintenance of peace and the person writing such news on the board would be proceeded against. Anant Pandit Adravalkar (deponent of affidavit No. 51), the Secretary of the Jalgaon District Jan Sangh, thereupon gave an assurance that such news would not be published in the future. Shikh Noor Mohammed Shaikh Amir also gave an assurance that law and order would be maintained during the Moharram festival and co-operation would be extended to the Police and the Government officials. He, however, complained that stones were being thrown on the Jumma Mosque and requested that steps be taken against the persons responsible. All those present then assured the officials of their co-operation in maintaining law and order during these festivals. D.M., Pardeep has deposed that in the Peace Committee meeting no complaint was made by anyone about stones being thrown on any temple, but such complaints were made when he visited Rath Chowk on the night of the 20th or the 21st March 1970 (C.W. 21/21/2871).

Moharram and Holi

59.66 Moharram was celebrated in Jalgaon on March 17, 18 and

19, 1970 and Holi on March 22 and 23, 1970. These festivals were marked by tension, rumours, stone-throwing incidents and a near riot.

59.67 For the Moharram festival a police patrol was maintained on March 17, 18 and 19, 1970 from 8 a.m. till noon and from 4 p.m. till midnight in the areas of Rath Chowk, Vithal Peth and Maruti Peth. After March 19, 1970 a police constable was also posted on 24-hour fixed-point duty at the Jumma Mosque (Ex. P 1012).

59.68 Hindus and Muslims both took out 'sawaris' for Moharram. According to the report dated March 20, 1970 (Ex. P 744) made by Inspector Sawant, there were in all 53 'sawaris', 4 'melas' and 7 'tabuts' taken out by both Muslims and Hindus. According to S.P., Raman, there were 25 'sawaris', out of which 12 were taken out by the Muslims and 13 by the Hindus (P.W. 67/17/2245). No untoward incident took place when the processions passed through Rath Chowk playing music. There were, however, discussions amongst the people of this locality about the stone-throwing incidents and the atmosphere was consequently tense. For this reason Inspector Sawant and P.S.Is., Bhalerao and Thakur remained there throughout from the time the different processions arrived at Rath Chowk till they passed through that locality.

59.69 According to Inspector Sawant's said report dated March 20, 1970 (Ex. P 744), on each of the three days on which the Moharram festival was celebrated namely, March 17, 18, 19, 1970, at about 9 p.m. a few stones were thrown on the temples and the Jumma Mosque. The said report does not, however, mention the name of any of these temples. According to the said report, this led to considerable discussion among the residents and people started crowding in Rath Chowk inquiring what had happened. In his said report Sawant has stated:—

"I am sure that some mischievous boys and persons stealthily throw such stones with the object that something should happen. However, because of timely continuous patrolling by the Police and because of the continuous watch kept by me nothing happened. However, nothing can be said as to what may happen and when out of such trivial matters."

He, therefore, requested that 3 H.Cs. and 12 P.Cs. from the District Police Headquarters be posted for patrolling the Rath Chowk locality for one month and if such petty incidents of stone-throwing did not stop by Holi, then under section 22 of the Bombay Police Act the D.M. be requested to recover the expenditure incurred in connection with such policemen from the residents of that locality.

59.70 A very different kind of incident is narrated by the Jamiet-ul-Ulema, Jalgaon witness, Abdul Nabi Shaikh Amir [J.U.(J.)W. 4]. According to him, on March 18, 1970 after the Isha Namaz or night prayers in the Jumma Mosque he along with many other Muslims was listening to a taperecorded sermon being played in the mosque. At that time stone-throwing on the mosque started and about 50 to 75 young persons came to the mosque and tried to break open the door

with large stones. A few constables who were present tried to stop them, but they abused the constables and threatened to burn them alive. According to Abdul Nabi, Sayed Ansar Sayed Masoom, Mohamed Rafique Sahebji Bagwan and Gulam Rasool Bagban [J.U.(J.)W. 3] complained to the Police about this incident and thereupon police bandobast was strengthened, but none the less the crowd continued collecting on the wooden platforms of the shops opposite Jumma Mosque and in the lanes [J.U.(J.)W. 4/1(2-3)/2661(1-2), 14/2667]. The records of the Jalgaon City Police Station do not show that any such complaint was lodged by anyone, nor has any other Muslim witness made any mention of this incident. If Gulam Rasool Bagban had lodged such a complaint, he would have certainly mentioned this incident and the complaint lodged by him. Not only has Gulam Rasool Bagban not done so, but on the contrary on March 28, 1970 he publicly expressed his appreciation of the peace and harmony which was maintained during the Moharram and Holi festivals and the efforts made by the police officers in that behalf (Ex. G 60). I therefore disbelieve the evidence of Abdul Nabi on this point and hold that no such incident as alleged by him took place. It is clear that Abdul Nabi has exaggerated a few stones thrown on the Jumma Mosque into a mob of 50 to 75 persons attempting to break into the mosque by battering down its door with large stones.

59.71 Abdul Nabi resided in Balaji Peth in which Bhilpura, a Muslim locality, is situate. He has deposed that he discussed the above incident with the other residents of his locality [J.U.(J.)W. 4/6/2664]. On his own admission he is guilty of rumour-mongering and provoking the Muslims and inciting their feelings with false and exaggerated stories.

59.72 On March 18, 1970 between 11-30 p.m. and 11-45 p.m. three or four stones were thrown on the 'pan-bidi' shop of Dhondu Tukaram Bari at Rath Chowk, causing minor injuries to Atmaram Bhavdu Wani and Suresh Baburao Nimbalkar, two Hindu residents of Rath Chowk. The injured did not give any written complaint at the police station nor did they know who had indulged in stone throwing. This incident was reported by Inspector Sawant to the S.P. by his report dated March 19, 1970 (Ex. P 839).

59.73 On the night of March 20, 1970 at about 12-15 a.m. a constable on patrol duty in Old Jalgaon reported to the City Police Station that a person had complained to him that stone-throwing was going on in the Panjrapole locality. P.S.I., Bhalerao immediately went to the spot in a police van with the police staff on night duty. On making inquiries he found that about seven or eight stones were thrown on the corrugated iron sheet roofs of some houses in the said locality. Nothing untoward, however, took place thereafter. Inspector Sawant has made a report (Ex. P 743) on that very day, namely, March 20, 1970, to the S.P. In that report he has pointed out that Panjrapole locality is at a considerable distance from Rath Chowk and all the residents of that locality were Hindus and that the stones were thrown

exactly at midnight. From this he concluded, "someone had played a mischief out of fun without any reason". In this report also he made a request for an additional police force of 5 H.Cs. and 15 P.Cs. from the Jalgaon Police Headquarters upto the end of the Holi festival for the purpose of patrolling the locality in order to deal with the stone-throwing incidents. He also pointed out that it was necessary to patrol frequently in a vehicle in that locality until Holi and as the lanes were narrow, a jeep should be made available immediately for the said purpose. By an order endorsed on the said report, the S.P. directed that a police party of 5 H.Cs. and 15 P.Cs. with lathis and a vehicle should be made available for bandobast duty on March 20, 1970. While agreeing with Inspector Sawant that this was a mischief played by someone and was in itself not a communal incident, it is difficult to accept his further conclusion that this mischief was played "out of fun without any reason". When the atmosphere in Rath Chowk and the surrounding localities was becoming more tense every day on account of stone-throwing incidents and rumours of stone-throwing incidents, this mischief, even assuming it was played by a member of the same community, would make the residents of that locality imagine that it was played by some Muslims and thus aggravate the tension.

59.74 What transpired the next day, that is, on March 21, 1970, is to be found in the report dated March 22, 1970 (Ex. P 745) made by Sawant to the S.P. A police party patrolled throughout the day in Rath Chowk. There were, however, a number of rumours flying about. A Muslim orally complained to a police constable posted near the Jumma Mosque that a stone had been thrown on the Jumma Mosque at about 3-50 p.m. At about 11-30 p.m. seven or eight stones were thrown from the side of Jainabad on a house situate by the side of Lendi Nala. Within a short time P.S.I., Bhalerao went there. He found the people of the locality awake, sitting in groups and discussing the matter. Nothing untoward, however, happened thereafter. Inspector Sawant along with Bhalerao patrolled the area from midnight till 3 a.m. They found five or six Muslims carrying on discussions in the house of a Municipal Councillor, one Ibrahim, and a number of other Muslims awake in other houses feeling agitated. He also found discussions taking place amongst the Hindus that some Muslims had collected acid-bulbs, soda-water bottles, stones and brick-bats in their houses. The report dated March 30, 1970 made by S.P., Raman to the I.G.P. (Ex. G 59) states that in addition to these rumours there were also rumours that the Muslims had sent away their families. Thereupon the houses of some Muslims, who according to the rumours had collected the missiles, were searched but no such articles were found, or, as Raman's said report puts it, "discreetly the police officers 'visited' the houses of the 'suspects' named and found these rumours to be baseless".

59.75 Coming to the night of March 22, 1970, the report dated March 23, 1970 (Ex. P 747) made by Inspector Sawant to the S.P. states that strict police bandobast was kept at various places where

Holi fires had been lighted in the evening in order to prevent the boys who had lighted the fire from stealing wooden articles and throwing them into the fire and that in spite of such police bandobast, three stones — one at 12-30 a.m., the second at 1 a.m. and the third at 1-30 a.m.— came from the Muslim locality of Maniyar Mohalla and fell on the corrugated iron sheet roofs of Hindu houses in Rath Chowk. No one was injured. The Hindus who had gathered round the Holi fire, however, got enraged and tried to go into Maniyar Mohalla and the Muslim localities but the Police prevented them and at about 3 or 3-30 a.m., the atmosphere became quiet. It is clear from this that the situation had got almost out of hand and had the Hindus entered the Muslim localities, a riot would have taken place. The temper of the crowd could be judged from the fact that it took over two hours for the situation to quieten down. According to the said report, the same night while 'Bhajans' were going on in the Laxminarayan Temple situate in Rath Chowk, two stones were thrown on the corrugated iron sheets of the Laxminarayan Temple from the Muslim locality of Bagwan Mohalla, but no one was injured. It is difficult to imagine how any stone could have been thrown from Bagwan Mohalla on the Laxminarayan Temple or, if thrown, could have ever landed on that temple or anywhere near it since Bagwan Mohalla is more than a furlong away from Rath Chowk with innumerable houses situate in between. In the said report Sawant requested that in addition to the 19 policemen already given to him for bandobast in that locality, two P.S.Is. should also be made available, so that one of them could by turn keep continuous watch over the policemen for the purpose of bandobast. The report concluded by stating:—

“It is learnt that because an atmosphere of fear has been created in the manner set out above among members of both the communities, the following persons belonging to the said communities secretly collect together members of those communities in Maniyar Mohalla, Bagwan Mohalla and in the Hindu Mohalla of Bhoite Gadhi in Rath Chowk, hold private meetings and have discussions on this subject every day.

“ Names of leading Muslims

- (1) Sayed Amir Sayed Supdu Maniar, Maniar Wada.
- (2) A. Samad Sk. Nadar, Maniar Wada.
- (3) Haji Sk. Gulab A. Raheman, Maniar Wada.
- (4) Ibrahim Sk. Gulab, Maniar Wada.
- (5) Noor Mahomed Amir Shaikh, Jaikisan Wadi.
- (6) A. Majid Badliwala, Joshi Peth.
- (7) Isak Tamboli.
- (8) A. Majid Sk. Ibrahim Salar — Katyafail.

“ Names of leading Hindus

- (1) Keshav Tryambak Bhoite, Rath Chowk.
- (2) Vasant Tryambak Bhoite, Rath Chowk.

- (3) Bhaskar Motiram Bhoite, Rath Chowk.
- (4) Rajaram Sahebrao Shinde, Rath Chowk, Jalgaon.
- (5) Ramesh Daulat Patil, Rath Chowk, Jalgaon.
- (6) Chhabildas Daulat Bhavsar, Joshi Peth.
- (7) Ramdas Madhav Koli, residing at Maniar Wada.

"Therefore, a strict watch has been kept on the persons mentioned above and after getting special information I shall be submitting a report as to what action should be taken against them."

It may be mentioned that no report about the action to be taken against these Muslim and Hindu leaders was ever submitted by Inspector Sawant.

59.76 The Holi celebrations in Rath Chowk were on a much larger scale than in the other parts of Jalgaon. On the second day of Holi, that is, March 23, 1970 Dhuli-Vandan was also celebrated in Rath Chowk on a much larger scale. On that day, according to the report dated March 24, 1970 made to the S.P. (Ex. P 748) and signed by P.S.I., Bhalerao on behalf of Inspector Sawant, a few stones were thrown on a Hindu house from the side of Maniyar Wada and thereupon Sawant immediately went there but no untoward incident took place. The said report states that there was no definite information about the place from where these stones were thrown or how or by whom they were thrown and it concludes by stating, "The Muslim brothers keep awake throughout the night unnecessarily. As the Muslims do not speak out as to why they are afraid, it is not possible to know about it."

59.77 When we turn to Bhalerao's evidence, it appears that this incident really happened on the night of March 22, 1970 and was the same incident of the near riot mentioned by Inspector Sawant in his said report dated March 23, 1970 (Ex. P 747). It will be best to set out the version of the said incident given by Bhalerao in cross-examination in his own words. He has deposed (S.P.O.W. 10/19/3153):—

"I had gone for night patrolling on March 22, 1970 which was the first day of Holi. At that time stones were thrown from Maniyar Mohalla side towards Bhoite Ghadhi. Some Hindus who were on the road told me that stones were being thrown from that direction and they would go and see who were throwing stones. I did not allow them to go but went there myself. I saw that everything was quite there. People were sleeping and I did not see anyone throwing stones. This incident lasted about 10 to 15 minutes.

Q.: I put it to you that this incident commenced at about midnight and you were able to bring the situation under control at about 3 or 3-30 a.m.

A.: This incident took place at about 12 or 12-30 in the night and I patrolled in that area till about 4-30 a.m."

It is difficult to reconcile this part of Bhalerao's testimony that he had gone to Maniyar Mohalla and found that everything was quiet and people were sleeping with what he has stated in the concluding

portion of his said report Exhibit P 748 that the Muslims were keeping awake throughout the night unnecessarily. Further, his evidence conveys the impression that there were only some Hindus on the road who merely wanted to go towards the direction from which the stones had come to find out who had thrown the stones. This is in sharp contrast to Inspector Sawant's said report Exhibit P 747 which shows that the Hindus congregated round the Holi fire had got enraged and had attempted to enter the Muslim localities and had to be prevented from doing so by the Police and that it took till 3 a.m. or 3-30 a.m. to bring the situation under control. P.S.I., Bhalerao has not impressed the Commission either as a witness or as a police officer and no importance can be attached either to his oral testimony or to any report made by him when in conflict with the evidence or the reports of more reliable and trustworthy witnesses.

59.78 Two Muslim witnesses—Sayed Chand Sayed Amir and Gulam Rasool Bagban—have deposed about what happened during the day on March 22, 1970. According to Sayed Chand, on March 22, 1970 he had gone to the Jumma Mosque for prayers at about 1-45 p.m. He left the mosque and went to a nearby hotel for tea till about 2-30 p.m. and was in the hotel for about 10 to 15 minutes before returning home. When he came out of the mosque, he saw P.S.I., Bhalerao sitting on a chair on the road opposite the mosque. At about 2-30 p.m. a boy threw a stone on the Jumma Mosque from the building of Dr. Manohar Ramchandra Joshi. A constable on duty arrested him from the terrace of the building and the boy was found holding another stone in his hand. The constable took charge of the stone which had been thrown by the boy and wrapped it in his handkerchief. The boy was taken in a police van and later on released [J.U.(J)W. 13/1(8)/2735(4), 20/2741, 22/2742].

59.79 Gulam Rasool Bagban has stated in his affidavit [J.U.(J)W. 3/1(13)(ix)/2623(6)]:—

“On the eve of Holi festival, 22/3/1970 some stones were pelted on Jumma Masjid. At that time I and N. A. Shaikh, Kazi Salauddin Zuberi, were present. We reported to the P.S.I. Bhalerao, who was near the Masjid. He sent one police constable, who caught one boy red-handed, he was taken to police station, but he was released without taking any action, and when we insisted for action he told us that it is trivial matter and if any action is taken it may take serious communal trouble.”

In cross-examination he stated that he did not know the name of the boy, but it was a Hindu boy. He also did not recollect who had caught the boy, whether a private individual or a police constable, and admitted that he had gone to the police station to inquire what had happened to the boy [J.U.(J)W. 3/44/2645].

59-80 It is clear that he was not a party to the conversation with P.S.I., Bhalerao alleged in his affidavit. It should be borne in mind that by this time the Muslims were greatly agitated. They had gone in deputation to Mr. Chaudhari, the then Minister for Education, the

D.M. and the S.P. and had submitted a written application to various authorities. If at last one of the mischief-makers was actually caught and in spite of their insistence released, the one thing we would have expected these Muslim leaders to have done was to send a written complaint or make a representation to the higher authorities or at least to the D.M. No such complaint or representation was made by them. Their oral testimony about a boy being caught while throwing stones and allowed to go is highly unsatisfactory and I disbelieve it.

59.81 In order to show that the incidents which took place during the Moharram and Holi festivals of 1970 were very minor and trifling the suspended police-officers have led the evidence of Bhimrao Shivrao Pawar (S.P.O.W. 5), an agriculturist from Nagardevle Village in Taluka Pachora, who resided in Nhavi Peth, Jalgaon. In his affidavit Pawar has stated that a few days prior to the Holi and Moharram festivals he learnt that about four or five stones were being thrown at night on the Jumma Mosque and the Laxminarayan Temple and that thereupon he made inquiries with some Muslim and Hindu friends residing in that area and they told him that these were pranks played by children and from this information and from his general observations he concluded that at no time were any ill-feelings aroused amongst the Hindus and Muslims as a result of such minor stone-throwing [S.P.O.W. 5/1(2)/2520(1)]. In cross-examination he was unable to give the names of any of these Muslims friends and all that he could state was that they were Bagwans and plantain vendors and that he had made inquiries from only one Hindu friend, namely, Damu Tivane (S.P.O.W 5/5/2522). The evidence and opinion of this witness are equally worthless.

59.82 In spite of the attempts made by P.S.I., Bhalerao both in his reports and in evidence to minimize the situation, the other reports and the evidence of other witnesses make it quite clear that during the Moharram and Holi of 1970 considerable communal tension prevailed in the localities of Old Jalgaon and this position is equally apparent on reading between the lines of P.S.I. Bhalerao's own reports.

The last week of March 1970

59.83 The situation during the last week of March 1970, as set out in the report dated March 29, 1970 (Ex. P 1031) made by P.S.I., Bhalerao and signed by him on behalf of the Police Inspector, was that though there were no complaints of stone-throwing, an atmosphere of panic prevailed amongst the Muslims. They kept awake till late in the night and the Muslim leaders apprehended great danger and thought it a matter of life and death and approached leading persons in Jalgaon with their complaints. P.S.I., Bhalerao, whenever he used to meet these Muslims on the road or anywhere else, would ask them why they kept awake sitting in groups and whether anyone had actually threatened them. They would not tell him anything, but would say that they were afraid because they had learnt that stones were being thrown.

Bhalerao's report concludes by stating :—

“As Muslims are making unnecessary discussion, as they are keeping awake till late at night and as they are sitting in groups, the Hindus also from here are discussing that unnecessarily.” This shows that rumours were rife not only among the Muslims, but also among the Hindus.

The R.T.M. board against 'Matka' gambling and illicit liquor

59.84 The month of March 1970 ended as it began with a board displayed by the R.T.M. at Rath Chowk. The said board was displayed on March 31, 1970 with the following writing on it :—

“Shree Ram Tarun Mandal, Rath Chowk, Jalgaon.

31-3-70.

“Beware :

“Shree Ram Tarun Mandal will launch a big campaign against 'Matka', gambling and liquor.

“At present, 'Matka', gambling and liquor are very much on the increase in Jalgaon town. On that account, it has become difficult for the common man to live. Large dens are being conducted openly. But the Police Department is ignoring them. Why is that so? Therefore, Shree Ram Tarun Mandal is thinking of launching a big campaign in this respect.”

59.85 P.S.I., Bhalerao made a report dated April 1, 1970 (Ex. P 1003) to the S.P. enclosing a copy of the said writing on the board. S.P., Raman (P.W. 67) made the following endorsement on the said report :—

“The P.I. may request the Tarun Mandal to stop the Matka business by 'Satyagraha' and also give the names of persons in the Tarun Mandal who are also addicted to Matka playing.”

The only construction we can place on these remarks is that Raman was ridiculing the pretensions of the R.T.M.

The R.T.M. board against municipal administration

59.86 On April 3, 1970 another board was put up by the R.T.M. at Rath Chowk with the following writing on it (Ex. P 720) :—

“Shree Ram Tarun Mandal, Rath Chowk, Jalgaon — 3-4-1970

“Committee to solve people's problems to be established.”

“For the last so many days the Mandal has been solving a number of problems. Hereafter also Shree Ram Tarun Mandal will not hesitate to solve more problems especially the politics and favouritism in the Jalgaon Municipal Council which have become very harassing for the common citizen. In this connection all the Councillors of the Municipal Council should think of the consequences and stop these politics and solve the problems of the common citizens.”

59.87. As mentioned in Chapters 55 (paragraph 55.32) and 56 (paragraph 56.13), the said board was directed against the administration of the Municipal President, P. K. Zare, and was a part of the campaign by the Jan Sangh Councillors and the Jan Sangh to topple Zare.

The Cut Motion

59.88 Gulzar Ahmed Azmi [J.U.(M.)W 21], the Secretary of the Jamiet-ul-Ulema, Maharashtra, received a letter from Salahuddin Zubairi, ex-Secretary, Jalgaon District Jamiet-ul-Ulema, along with a copy of the said application dated March 9, 1970 made by Gulam Rasool Bagban, Shaikh Noor Mohamed and others (Ex. G 58). He gave a copy of this application, though not of the said letter, to the M.L.A., Nihal Ahmed Ansari, for raising a question thereon in the Maharashtra Legislative Assembly [J.U.(M.)W. 2/10/2401]. Thereupon Ansari tabled the following motion for a cut of one rupee from the police grant of Rs. 18,11,31,500 :—

“For having a discussion about the stone-throwing on the mosque which took place in Jalgaon city and about the panic created thereby in the minds of the Muslims and about the inability of the Police.”

59.89 On notice of the said Cut Motion being received in the Home Department information was called for from the I.G.P. by the letter dated March 26, 1970 to enable an answer to be given in the House. The I.G.P. thereupon sent a wireless message (Ex. G 209) to the S.P., Jalgaon, calling for information. S.P., Raman submitted to the I.G.P. his report dated March 29, 1970 (Ex. G 210). On the basis of this report a detailed note was prepared in the I.G.P.'s office (Ex. G 207) which was forwarded to the Home Department by the letter dated March 31, 1970 (Ex. G 206). On the basis of this note the Home Department prepared its note (Ex. G 208) for the information of the Minister to enable him to give a reply in the House. The source of the Home Department's note was thus the I.G.P.'s note and the source of the I.G.P.'s note was the said report made by the S.P.

59.90 The said report dated March 29, 1970 submitted by the S.P. to the I.G.P. is a strange and surprising document. It contains incorrect statements and half-truths and anyone reading it would be misled about what was happening in Jalgaon, as was the I.G.P. and through him, the Home Department, and through the Home Department, Mr. Kalyanrao Patil, the then Minister of State for Home, who, relying upon the said note of the Home Department, said in the House on April 3, 1970 in reply to the said Cut Motion that no stones had been thrown on the said mosque, and that these were rumours, and that the Collector had warned the people to stop them (Ex. P 882). The S.P.'s said report would be considered in detail in the chapter entitled “Preventive Measures and their Adequacy”

The speech of P. V. Jog

59.91 On April 13, 1970 P. V. Jog, a Shiv Sena leader from Poona, visited Jalgaon and addressed a public meeting at Subhash Chowk at

9-30 p.m. There were about 500 to 600 persons present. The executive editor of the Shiv Sena Marathi daily the 'Batmidar', Shrikrishna D. Jalukar (C.W. 6), had made arrangements for this meeting. Inspector Sawant has made a report dated April 14, 1970 on the said meeting (Ex. P 916) and according to Jalukar the said report was correct, except that Jalukar did not preside at the said meeting as stated therein, but had only introduced Jog (C.W. 6/17/2461, 24/2463). From Sawant's said report it appears that in his speech Jog criticized the Congress and the Jan Sangh and carried on propaganda for the Shiv Sena. Ram Maniram Jadhav, the proprietor and editor of a Marathi daily, the "Navi Rachana", and the proprietor of a laundry called the "Maharashtra Nirmalini Laundry", who had filed before the Commission an affidavit, appeared before the Commission and requested that his evidence be recorded. The said application was granted by the Commission. Jadhav had attended the said meeting and in his affidavit he has stated, "Jog, a prominent associate of Bal Thackeray, visited Jalgaon and carried on persistent propaganda against the Muslims. It was the most vicious propaganda. It was a combination of Jan Sangh and Shiv Sena ideologies which described Muslims as traitors to the country" [C.W. 19/1(7)/2652(3), 5/2654].

59.92 That Jog's speech was intemperate and highly provocative is clear from the fact that at the public meeting held in Jalgaon three days later on April 16, 1970 the Shiv Sena Chief, Bal Thackeray, after telling the audience that two persons had written in the Marathi daily 'Gaokari' that after hearing Jog's speech they had lost all regard for the Shiv Sena, sought to excuse Jog's speech by saying that Jog had spoken in his own fashion and that it was upto the audience to see how much of what he had said was acceptable to them and that Jog was "an odd, eccentric chap" whose style was the same as P. K. Atre's which people liked and therefore they should also like Jog's speeches. According to Inspector Sawant's report, Jog had *inter alia* criticised the Congress. We have seen in various speeches referred to in the course of this Report that in the case of certain political parties such as the Jan Sangh and the Shiv Sena one of the criticisms almost always levelled against the Congress is that the Congress has been following a policy of appeasing the Muslims and that the system of family planning introduced by the Government worked against the Hindus and in favour of the Muslims. In substance, very often a criticism of the Congress by certain speakers belonging to the said two parties has usually boiled down to an attack on the Muslims.

Bal Thackeray's visit to Jalgaon

59.93 The 'Batmidar' is a Shiv Sena Marathi daily published in Jalgaon. It commenced publication in 1969 as a weekly and later in the same year became a daily. At the relevant time Shrikrishna D. Jalukar (C.W. 6) the Secretary of the Jalgaon City Journalist Association and a reporter for the Press Trust of India, was its executive editor. Jalukar originally belonged to the Congress, but when the Shiv

Sena started, he joined it as a social worker. In 1969 he joined the 'Batmidar' as an executive editor, in June 1970 he left the 'Batmidar' and started his own Marathi daily, the 'Uttar Maharashtra', in Jalgaon. After the mid-term Parliamentary elections, in March 1970 the proprietor of the 'Batmidar' and its editor, Sharad Nehete, both left the Shiv Sena and joined the Congress (R).

59.94 On April 16, 1970, the 'Batmidar' celebrated its first anniversary and for this occasion the Shiv Sena Chief Bal Thackeray along with another Shiv Sena leader, Datta Salvi, came to Jalgaon and addressed a public meeting held that day. The report dated April 21, 1970 of the short-hand reporter of the State Intelligence on the said meeting is Appendix 'F' to Exhibit G 99.

59.95 The said meeting commenced with Bal Thackeray garlanding a picture of Shivaji which was kept on the stage. Thereafter Nehete thanked him for accepting the invitation to be the chief guest at the first anniversary celebration of the 'Batmidar'. Datta Salvi then spoke. He praised the Shiv Sena and Bal Thackeray and attacked the Prime Minister, Mr. Y. B. Chavan, the then Union Home Minister, and the Congress. He said that if the Muslims wanted to live in the State of Maharashtra, they should remain loyal to it and if they wanted to live in India, they should remain loyal to India and that if they were loyal to any foreign country, then not only the Government, but everyone including the Shiv Sena, must kick them out. Continuing he said, "Had the rulers given a thought to all this, there would have been no need for the Shiv Sena." In the course of his speech Bal Thackeray attacked the Government, the Jan Sangh and the P.S.P. He took pride in the fact that after he was detained in February 1969 under the Preventive Detention Act there were violent riots in Bombay. He called upon the Muslims to root out the Muslim League. He told the audience, "If Shivaji Maharaj had not been there, you would all have been circumcised. The circumstances are not similar, still you have been circumcised". He attacked family planning and charged Mahatma Gandhi with having pampered the Muslims and said, "We are reaping the fruits of the poisonous plant nurtured by him". He also charge the Government and the Prime Minister with pampering the Muslims.

59.96 The portions of the speeches made at the said meeting by Datta Salvi and Bal Thackeray which refer to the Muslims satisfy the test laid down in paragraph 6-8 of Chapter 6, and were, therefore, communal speeches.

The aftermath of the Shiv Sena meeting

59.97 After the Shiv Sena meeting was over, there were incidents of stone-throwing on Muslim houses and oral complaints were made by the Muslims to this effect to the S.P. (P.W. 67/72/2276). Inspector Sawant has made a report dated April 17, 1970 (Ex. P 749) about these incidents to the S.P. In his report he has stated that when he returned to the City Police Station at about 11-45 p.m. after the meeting

addressed by Bal Thackeray was over, P.C., Govind Deola, who was on duty at Rath Chowk, came and informed him that a few stones had been thrown on the road and on the houses near the Jumna Mosque and the Laxminarayan Temple. Sawant thereupon sent P.S.Is. Bhalariao and Karhadkar to the spot. The said report then continued:—

“At that place no one made any written or oral complaint to them as regards the said stone-throwing or as regards any damage caused as a result thereof. People say that a very few stones were thrown at that place. The policemen who were posted there state that in all four to five stones were thrown at that place. It was not known as to who threw the said stones and why he threw them. As the said incident took place at about 23-30 hours in the night when it was dark, no one could see anyone throwing stones.”

59.98 The endorsement made by the S.P. on April 21, 1970 on the said report was as follows:—

“The P.I. will personally detect the mischief-mongers instead of putting up (Illegible) reports. If this is not detected the P.I.'s ability to control the Police Station will be doubted.”

59.99 Two Muslim witnesses, namely, Haji Abdulla Shaikh Bhuru Bagwan [J.U.(J)W. 8] and Gulam Rasool Bagban [J.U.(J)W. 3], have deposed about the aforesaid stone-throwing incidents. Haji Abdulla has stated that at the time when the said meeting got over, shops were open and there were passers-by on the road and that he himself was sitting in the shop of one Babu Sheth near the Jumma Mosque. At that time some residents of Koli Peth and Narkha Wada passed by the said shop. They had apparently come from the said meeting because they were talking about it and the speech made by Bal Thackeray and while passing by they picked up some stones from the road and threw them at the Jumma Mosque. Haji Abdulla reported this matter to Gulam Rasool Bagban the next morning [J.U.(J) W. 8/1(1)/2686(1), 6/2688]. His evidence is corroborated by Gulam Rasool Bagban who has stated that he did not personally attend the said meeting, but had received information about stones having been thrown on the Jumma Mosque from those who had gone to the mosque [J.U.(J)W. 3/18/2630].

The stone-throwing incidents of April 21, 1970

59.100 On April 21, 1970 at about 11-30 p.m. some stones were thrown on Hindu houses in Ram Peth and Koli Peth. A complaint in this behalf was given to the police-station by Villas Divakar Kulkarni, a resident of Ram Peth, and Rama Motiram Mistri, a resident of Koli Peth. No one was injured in this stone-throwing. Inspector Sawant posted more policemen in that area and made a report dated April 22, 1970 (Ex. P 750) to the S.P. The S.P. made the following endorsement on the said report:—

“P.I. should collect confidential information as to who is behind such mischief.”

Cross-complaints of assault

59.101 On April 28, 1970 at 7-05 p.m. one Rasool Piran Bagwati came to the police station and lodged a complaint charging Shama Kalu Joshi and one Pakya with having assaulted his son Abdul Rahim with a bicycle chain outside Shama's 'pan-bidi' shop situate at the corner of Bagwan Mohalla. In the said complaint he stated that the said assault was on account of a quarrel, while playing cards, which had taken place that morning. The complainant's son Abdul Rahim was sent to the Government Dispensary for treatment. The medical certificate issued to him shows that he complained of pain in his abdominal region and that he had no external injury but only a slight tenderness, and that these injuries were caused by some hard and blunt substance within six hours of the examination. The said complaint was taken down in the Register of Non-Cognizable Cases and Rasool referred to the Court. Rasool signed in Marathi the entry in the N.C. Register which also was in Marathi (Ex. P 840). Abdul Rahim has given evidence before the Commission [J.U.(J)W. 14/1-8/2746-8]. He has stated in his affidavit that Shama's 'pan-bidi' shop was just a front to cover his real business of illicit liquor and a gambling club and accepting 'Satta' bets and that "unsocial and 'goonda' elements of Joshi Peth used to gather at his shop daily". According to him, on the morning of April 28, 1970 while his younger brother and some other children were playing on the road, a boy from Joshi Peth, about 15 to 16 years old, started teasing them and when they tried to stop him, he threw stones at Abdul Rahim's brother; Abdul Rahim asked him why he had hit his brother with a stone; thereupon Shama came down from his shop and caught hold of Abdul Rahim by the neck; on Abdul Rahim telling Shama what had happened, Shama told him that he could go, but they would see to all the Bagwans; the same evening at about 5 or 6 p.m. while Abdul Rahim was going to his shop on a bicycle, while passing by Shama's shop, Shama with about 10 to 15 young boys rushed at him, caught hold of his bicycle, pulled him down and they all beat him with their fists and cycle chains and kicked him; Abdul Rahim fell down unconscious; a small boy informed his parents and they reported the matter to the Police; he was taken in a van to the police station and then sent to the hospital where he was kept for the whole night and X-rayed; in the night at about 2 a.m. P.S.I., Bhalerao came to the hospital and asked why they were disturbing the peace and why he had beaten and threatened others; Abdul Rahim thereupon told Bhalerao that it was he, on the contrary, who had been beaten; on May 2, 1970 a police havaldar came to his house and asked him and his father what should be done in the matter; his father replied that it was the duty of the Police to take action and that they would come to the police station and ask the Inspector to take proper action; they also requested those persons who were present at the time of the incident to give evidence, but meanwhile the riots broke out and they were, therefore, unable to take any further action. Abdul Rahim has

alleged in his affidavit that the Police showed undue favour to Shama and connived at his illegal activities.

59.102 The version given by Abdul Rahim is falsified by the medical certificate produced by him. Had he been as seriously beaten as he has sought to make out, there would have been some external injuries on his person, such as abrasions, lacerations and contusions. On the contrary, except for a complaint of pain in his abdominal region and some slight tenderness, he had no other injury. He sought to explain away the reason for the quarrel given by his father in the complaint filed by him by stating that when he regained consciousness in the hospital, his father told him that he had stated at the police station that the incident had taken place as a result of a quarrel among boys, but the Police had taken it down as a dispute while playing cards. On being questioned by the Commission, Abdul Rahim stated that he had not mentioned this fact in his affidavit because his advocate told him that he should only mention in his affidavit what his father had told the Police in the complaint. Realizing that his affidavit did not contain what his father had told the Police, he immediately changed his answer and stated that he had told his advocate that the Police had taken down his father's complaint wrongly, but his advocate did not ask him to include this fact in the affidavit. He admitted in cross-examination that he had not been X-rayed in the hospital but had been only screened. He further admitted that he did not lodge a complaint about his brother having been injured with a stone and did not approach the Court with respect to the assault on him. His explanation as to why he did not file a complaint in the Magistrate's Court, namely, that four or five days later the disturbances broke out, cannot be accepted. The fact that a constable came to his house on May 2, 1970 to inquire what they intended to do in the matter is obviously false because his father had already on April 28, 1970 signed the entry in the N.C. Register to the effect that he was told to approach the Court. The constable must have come to Abdul Rahim's house on May 2, 1970 in respect of the cross-complaint filed by Shama against him on May 1, 1970.

59.103 I disbelieve this witness. The very fact that he has himself stated that Shama's shop is a gambling club bears out that this assault on him must have been the result of a previous quarrel over gambling or while playing cards. It is unfortunate that the time of the Commission should have been wasted over this trifling quarrel between persons of doubtful character by reason of interested parties seeking to give a serious communal shape to it.

59.104 On registering Rasool's said complaint Inspector Sawant sent for Shama and recorded his statement. Meanwhile, Ramesh Daulat Patil, the President of the R.T.M. and the Joint Secretary of the Jalgaon City Jan Sangh, came to the police station and wanted Shama should be released forthwith. Sawant refused to do this and told Ramesh Daulat Patil to leave the police station. After recording Shama's statement Sawant passed an order directing H.C., Jagannath Gajanan

Devre to go immediately to the spot and do what was necessary for the purpose of filling proceedings under section 107 Cr.P.C. That Ramesh Daulat Patil was friendly with Shama also appears from the affidavit of Abdul Rahim who has stated that he used to visit Shama's 'pan-bidi' shop off and on [J.U.(J)W. 14/1(7)/2746(3)].

59.105 On May 1, 1970 Shama lodged his cross-complaint against Abdul Rahim (Ex. P 842). According to this complaint, at 11 a.m. on May 1, 1970 on account of a previous quarrel Abdul Rahim abused Shama on the road outside his shop and threatened him that he would see how Shama continued to reside in Joshi Peth. The said complaint being a non-cognizable one, Shama too was referred to the Court. On this occasion he was not accompanied by Ramesh Daulat Patil (S.P. O.W. 6/70/3027).

Maulana Madani's speech in the Rajya Sabha

59.106 Gulzar Ahmed Azmi, the Secretary of Jamiet-ul-Ulema, Maharashtra State, forwarded a letter received by him from Salubuddin Zubairi, the former Secretary of the Jalgaon District Jamiet-ul-Ulema, to Maulana Asad Madani, the General Secretary of the Jamiet-ul-Ulema-E-Hind, for raising a question in the Rajya Sabha in a debate on the working of the Ministry of Home Affairs on April 30, 1970 [J.U.(M.) W. 2/10/2401]. In the course of the said debate Maulana Madani spoke on the communal situation in the country and referred to various communal disturbances [Ex. J.U.(M.) 5]. So far as Jalgaon was concerned, he said:—

“I submit that last month at the time of Holi, I received a painful letter from Jalgaon in which along with other details of looting, it was also written that some months ago in Jalgaon a cow was injured and its udder was cut. This resulted in spreading tension in the atmosphere and rioting by the communal elements in the town. But fortunately one respectable Hindu had seen the said act committed by the mischief-monger—a non-Muslim—who had injured the cow and cut its udder. He boldly told that the said act was committed by the person who belonged to the majority community. Thus the riot was prevented then. But tension in the atmosphere remained. After some days an attempt to cause riot was made by accusing a Muslim tongawala of having relations with a non-Muslim lady. But again some respectable Hindus intervened and exposed this conspiracy. But even then communalist elements did not lose heart and big boards were put up at important places in the town on which inflammatory writings against the Muslims were written. The news about the riot in Murshidabad (West Bengal) which took place a few days back was written on the boards in an inflammatory way. Inflammatory speeches were made. In this situation many cases of looting and assault took place. Reports of these incidents were made to the Home Minister and the District Collector, but no action was taken in that behalf. If a report was made to the Police, the next day provocative things were written against the person

who had made the report on the same board and threats were given. So, this is what is happening.”

59.107 Since this part of Maulana Madani's speech was based on the said letter of Salahuddin Zubairi, one can only deplore the distorted and inaccurate version of some of these incidents set out in the said letter and lament the false rumours circulating about them. So far as the cow incident is concerned; we have seen in Chapter 58 (paragraph 58.6) that the Hindu eye-witness did not say that the cow was injured by a Hindu, but what he had stated was that the cow was chased by stray dogs and in seeking to escape from them had got entangled in the barbed wire fencing and its udders and genitals had been chewed off by the dogs. There never was any accusation against a Muslim tongawalla of having had relations with a Hindu woman, an incident alleged to have taken place a few days after the cow incident which happened on January 21, 1970. Perhaps what was referred to was the incident of a Muslim eloping with a Hindu girl and getting married to her which happened in September 1967. No looting or assaults as alleged had at any time taken place, unless what was meant was the stealing of articles for throwing them into the Holi fire and the minor assaults which have already been dealt with.

The second R.T.M. board on municipal administration

59.108 On May 5, 1970 a board was put up by the R.T.M. at Rath Chowk with the following writing on it (Ex. P 1004):—

“Shree Ram Tarun Mandal — 5-5-72

“Municipal delays and citizens' hardships.

“On several occasions the Mandal brought to the notice of the Municipal Council that the road from Shani Gate to Neri Naka should be repaired. But this has been ignored. As a matter of fact this road is in such a bad state that without undergoing hardship persons cannot go along this road even to the cremation ground; let alone living persons.

“There are so many puddles of dirty water on this road that one cannot walk straight along this road and has to suffer terrible hardship. Therefore, the Municipal Council should consider this fact and repair the road as early as possible before the monsoon; otherwise the Shree Ram Tarun Mandal will make preparations for organizing public opinion and taking out a morcha in this connection.”

59.109 This board was also a part of the campaign carried on by the Jan Sangh against the Municipal President, P. K. Zare.

The S.D.P.O. leaves for Faizpur

59.110 On May 5, 1970 Charansingh Azad, S.D.P.O., Jalgaon Division, left Jalgaon for Faizpur for the annual inspection of the Faizpur Police Station which he had fixed from May 5, 1970 to May 9, 1970. He had taken with him his whole staff consisting of a Reader P.S.I., a senior clerk, a junior clerk, a constable orderly and the constable driver of his vehicle. He returned to Jalgaon on his own

at about 2-30 p.m. on May 8, 1970 to write up the case diary of a criminal case which he was investigating (P.W. 78/3/2268).

The Shiv Jayanti celebrations

59.111 Shiv Jayanti is not an important festival in Jalgaon District (C.W. 21/36/2877). In 1970 it was celebrated in Jalgaon City by the R.T.M., the Jan Sangh and the Shiv Sena each taking out a separate procession. The R.T.M. also arranged a 'kirtan' to be delivered that night by Sadashiv Shirwalkar, popularly known as Shirwalkar Buwa. Inspector Sawant has made a report dated May 8, 1970 (Ex. P 837) to the S.P. about these processions and 'kirtan'.

The Shiv Jayanti processions

59.112 The Shiv Jayanti procession taken out by the Shiv Sena started from the office of the Shiv Sena Marathi daily, the 'Batmidar', at about 9 a.m. and ended at about 11 a.m. It consisted of about 25 persons and a statuette of Shivaji was carried in a tonga, the procession being accompanied by music.

59.113 The procession taken out by the Jan Sangh, also carried a statuette of Shivaji in a tonga and was accompanied by music. It started from Durgadevi in Baliram Peth at 8 a.m. and ended at 11 a.m. It consisted of about 50 persons.

59.114 The largest procession was the one taken out by the R.T.M. Inspector Sawant throughout accompanied this procession on foot. It started from Rath Chowk at about 9 a.m. and after passing through Ram Peth, Vithal Peth, Joshi Peth, Subhash Chowk, went past the City Police Station and the Zilla Parishad office and then through Baliram Peth, Shani Peth, Bhilpura and returned to Rath Chowk via Balaji Mandir at about 12-30 p.m. or 1 p.m. Inspector Sawant has described this procession. According to him, the processionists were not carrying anything in their hands. There was a bullock cart with a float in which Pandit Ukha Kolhe's son, dressed as Shivaji and carrying a sword, was sitting and two other persons, dressed as Mavlas' with spears in their hands, were standing, one on each side of him. The bullock cart was decorated with leaves and coloured paper and small children were sitting in it. The blades of the spears were coloured red. Inspector Sawant was unable to say whether the spears were real or were theatrical spears (S.P.O.W. 6/22/2991-2). There was also a person dressed as Shivaji riding a horse. Music was played in the procession and an exhibition of 'lezim' and other athletics was given by some processionists. No untoward incident took place in the course of the procession.

59.115 Gulam Rasool Bagban had gone for morning prayers to the Jumma Mosque. After the prayers were over, he stayed in the mosque reading the Koran. According to him, the Shiv Jayanti procession came there at about 8 a.m. and it lingered outside the Jumma Mosque playing music for about half an hour to three-fourths of an hour [J.U.(J)W. 3/1(13)(iv)/2623(5), 14/2628]. S. D. Jalukar, on the

other hand, has deposed that he was present when this procession started from Rath Chowk and it did not linger near the Jumma Mosque (C.W. 6/23/2462). Jalukar, who was at that time the executive editor of the Shiv Sena daily 'Batmidar' and belonged to the Shiv Sena, had taken an active part in organizing the two Shiv Sena functions in Jalgaon, namely, the public meeting addressed by P. B. Jog on April 14, 1970 and the public meeting addressed by Bal Thackeray on April 16, 1970. It would be natural, therefore, for him to be with the Shiv Sena procession which started at about the same time from the office of the Batmidar. He, therefore, could not have been at Rath Chowk for any appreciable length of time. Since the R.T.M. procession started from Rath Chowk and consisted of about 300 persons, it must have taken some time for the processionists to gather and take the form of a procession. Meanwhile music, as is usual on such occasions, must have blared forth. This is also apparent from the evidence of Haji Abdulla Shaikh Bhuru Bagwan who too had gone to the Jumma Mosque that morning for his prayers and after the prayers were over had also sat in the mosque for about an hour and had then returned home. He has deposed that on his way home he saw the procession getting ready near Rath Chowk [J.U.(J.)W. 8/8/2689]. The Jumma Mosque is at a distance of about 100 feet from Rath Chowk and Gulam Rasool Bagban, when he heard music being played for about half an hour to about three-fourths of an hour as the procession was being formed, must have presumed that the processionists were deliberately lingering playing music near the Jumma Mosque.

59.116 It is interesting to look at the evidence of Subhash Shinde on the point of the R.T.M. procession. At that time this witness of many political affiliations had left the P.S.P. and was working as a reporter with the 'Batmidar' (J.J.S.W. 11/27/2485-6). In his affidavit he has stated [J.J.S.W. 11/1(7)/2473(5)]:—

“The nationalist-minded persons from this place decided to celebrate Chhatrapati Shivaji Jayanti Utsav on a grand scale on the 7th May 1970. Children, youths, adults and old men and women had participated in the procession of the image of Shri Shivaji and the said festival as a national festival approved by the Government. These anti-national Muslims had intended to cause obstruction in the said programme. However, it did not materialize as there was good Police Bandobast. But the atmosphere was of course, tense.”

59.117 In cross-examination he stated that he had personally not participated in any of these three Shiv Jayanti processions, but had watched the R.T.M. procession from Subhas Chowk and had then walked along with it for a distance of about 50 feet and left it after it passed the Bhilpura Mosque. He has deposed that he was with this procession for about half an hour to about three-fourths of an hour and no attempt was made by anyone to obstruct the procession. He explained what he meant by the statement in the affidavit, “These anti-national Muslims had intended to cause obstruction in the said programme”. His explanation was that he had learnt that the procession

was to pass by the Bhilpura Mosque playing music and sprinkling 'gual' and that the Muslims were going to obstruct this and that he had, therefore, used the phrase, "These anti-national Muslims" in his affidavit. He has further deposed that the information that the Muslims were going to obstruct the procession was given to him by one Bhargave, a reporter of the other Marathi daily published from Jalgaon, the 'Gaokari' and, believing what Bhargave told him to be true, he went to Subhash Chowk to see what would happen. He said that he did not believe everything that his reporter friends told him, but he accepted this particular information to be true because he had verified it. He deposed, "I went to the spot and saw that the Police had made good bandobast there and therefore, I knew that the information was correct." (J.J.S.W. 11/26/2485). A strange verification indeed ! His evidence on this point as on other points is worthless, but none the less a significant fact emerges from his evidence. It is that the R.T.M. procession took over half an hour to three-fourths of an hour to cross fifty feet in order to go past the Bhilpura Mosque playing music and sprinkling 'gual'.

59.118 Three Muslim witnesses have deposed that the processionists in the R.T.M. procession were carrying weapons. These witnesses are (1) Haji Abdulla Shaikh Bhuru Bagwan [J.U.(J.)W. 8/1(3)/2686(1-2), 2/2687, 8/2689], (2) Kazi Ahmed *alias* Rabbani Miya Mohmood Saheb [J.U.(J.)W. 15/1(6)/2749(2), 8/2753-4], and (3) Hajrabi, widow of Abdul Samad [J.U.(J.)W. 16/1(3)/2758(1), 5/2759].

59.119 Haji Abdulla Bhuru has stated in his affidavit that he saw a cart full of lethal weapons with the said procession and that the said procession was led by Ramesh Daulat Patil, Ichharam Havaladar, Rajabhau and other workers of the R.T.M. His cross-examination disclosed that he saw the procession when it was passing through Rath Chowk while he was returning from the Jumma Mosque after saying his morning prayers. At that time the procession was getting ready near Rath Chowk. There was a rush of people there and he had to go there by another route. He was in Rath Chowk for about five to six minutes and saw swords, spears and shields being tied to the bullock cart. He discussed this matter with other Muslims and five or six days after the disturbances, he also mentioned this fact to Gulam Rasool Bagban. It will be noticed that the procession passing through Rath Chowk has changed in his cross-examination to the procession getting ready near Rath Chowk and a cart full of lethal weapons has become swords, spears and shields being tied to the bullock cart. If this witness had mentioned the facts alleged in his affidavit to Gulam Rasool Bagban as deposed to by him, we would have expected these facts to find a place in Gulam Rasool Bagban's affidavit. On the contrary, Gulam Rasool Bagban, though he talks of the processionists lingering near the Jumma Mosque playing music, does not make any mention of having received any such information. For this reason I disbelieve the evidence of Haji Abdulla Bhuru on this point.

59.120 Kazi Ahmed *alias* Rabbani Miya has stated in his affidavit that lethal weapons such as swords, daggers, spears, 'pattas' (metal

belts), lathis and fire-rings were carried in the procession. According to his cross-examination, while returning from his morning prayers at about 8-30 a.m., on the way he saw the procession and the bullock cart in it. The three sides of the bullock cart were enclosed by wooden screens on which were hung spears, shields, daggers, 'pattas', lathis and fire-rings. He saw this bullock cart outside the house of one Raja Bapu from where, according to him, the procession started. He has deposed that the processionists were, however, not carrying any weapons in their hands. The evidence of this witness on this point does not inspire much confidence. According to his affidavit the processionists were carrying weapons while, according to his cross-examination, the processionists were not carrying any weapons, but the weapons were hanging on the wooden screens enclosing the three sides of the bullock cart.

59.121 The third Muslim witness on this point is Hajrabi. In her affidavit she has stated, "A day before the riot, a long procession was arranged and the participants had spears, naked swords and lethal weapons in their hands". In her cross-examination she has deposed that the procession came from the side of the Rath Chowk and passed by her house and that weapons such as spears and daggers were carried in the procession. During the disturbances Hajrabi watched her house burnt down with her four children and her mother inside. She had become so distracted with grief that even while giving evidence before the Commission every time a question was put to her about her children or about the arson to her house, she would break down and could not proceed for some time. In this mental condition she was susceptible to any suggestion which could be planted in her mind. She is illiterate and has put her thumb impression on her affidavit and it is debatable how much she understood of this affidavit or how much of its contents were on instructions given by her. Inspector Sawant has told us that the procession did not pass by Hajrabi's house and in support of this has referred to the application filed by Vasant Tryambak Bhoite, who had by then become the President of the R.T.M., specifying the route of the procession (S.P.O.W. 6/22/2991).

59.122 It is clear that in the affidavits of the above three witnesses the sword carried by the person taking the role of Shivaji and the spears carried by those who were playing the part of Shivaji's 'Mavlas' have been magnified into swords, spears and daggers. That there were some spears and a sword (whether real or theatrical properties) and some lathis carried in the procession is stated in the report of Inspector Sawant himself. In my opinion, the evidence and report of Inspector Sawant give the correct picture and I prefer them to the evidence of these three Muslim witnesses.

The D.M. leaves for Mussoorie

59.123 D.M., Pardeep left Jalgaon by car in the early hours of May 7, 1970 for Mussoorie in order to attend a seminar to which he was deputed by the Government of Maharashtra. The said seminar was

arranged by the National Academy of Administration, Mussoorie, under the Ministry of Home Affairs. On May 6, 1970 he had informed S.P., Raman about his having to go for attending the said seminar. Though May 7, 1970 was Shiv Jayanti, Pardeep did not expect any trouble on that day because Shiv Jayanti was not an important occasion either in Jalgaon City or in any other part of Jalgaon District and was not celebrated in that district in any elaborate manner (C.W. 21/8/2862, 18/2869, 36/2877).

The S.D.M. leaves for Bhusaval

59.124 At about 3 p.m. on May 7, 1970 S. L. Kulkarni, S.D.M., Jalgaon Division (P.W. 70), left Jalgaon by jeep for Bhusaval as directed by the D.M. in order to get water released from the reservoir of the Maharashtra Electricity Board by reason of the acute water shortage in Bhusaval. He returned to Jalgaon at about 2-30 p.m. on May 8, 1970 (P.W. 70/3/2308-9).

The Addl. D.M. leaves for Bombay

59.125 In the night of May 7, 1970 the Addl. D.M., who was also the Resident Deputy Collector, left Jalgaon for Bombay in order to attend an urgent meeting. After him the seniormost district officer was S. L. Kulkarni, S.D.M., Jalgaon Division, who was at that time in Bhusaval (P.W. 70/3/2308-9).

The S.P. leaves for Pachora

59.126 As the Shiv Jayanti processions in Jalgaon passed off peacefully and as the reports from the other police stations in the District were clear, S.P., Raman left Jalgaon for Pachora at 9-30 p.m. on May 7, 1970 for the inspection of the 'muddemal' of the Pachora Police Station. A Reader P.S.I., Raman's stenographer and a clerk had accompanied Raman to Pachora. Raman has stated in his affidavit that this inspection was scheduled previously [P.W. 67/1(28)/2229(13)]. He has elaborated upon this in his evidence. In 1970 his inspection work for 1969 was considerably in arrears and in the first four months of 1970 he could not do much inspection work because of Khan Abdul Gafar Khan's visit in January 1970 and some deaths due to methyl alcohol poisoning in Bhusaval and because he was busy with Holi and Moharram bandobast and with the Parliamentary bye-election from the Buldhana constituency. Further, one of his S.D. P.Os., D. G. Aras, had died and until the vacancy caused by his death was filled, he had to look after his work also. He had arranged for the Pachora inspection subject to the Shiv Jayanti celebrations going off peacefully (P.W. 67/17/2246). He had drawn up a general inspection programme for 1970 which was circulated to all police stations in the District. According to this programme Pachora was to be inspected in February 1970. He has stated that in order to confirm the programme for an inspection tour, he had to contact the concerned police station by telephone and not necessarily in writing. It was put to him that he

had gone to Pachora not for inspection, but for the marriage function of a son of Murlidhar Mansingh Mansinghka of the Mansinghka Industries Private Ltd. He denied this and stated that the said marriage function was not on May 8, 1970 and he produced the invitation card which showed that both the marriage and the reception were on May 17, 1970 at Calcutta (P.W. 67/33/2255, 103/2289, 110/2292).

59.127 Pachora is at a distance of 40 miles from Jalgaon and one can motor down from Pachora to Jalgaon in about an hour's time (P.W. 67/18/2247). Since the Shiv Jayanti celebrations had passed off peacefully, there was nothing wrong in the S.P. leaving Jalgaon for Pachora for a much delayed routine inspection.

Shirwalkar's kirtan

59.128 The 'kirtankar', Sadashiv Shirwalkar of Dombivali, gave a 'kirtan' at Rath Chowk on the night of May 7, 1970. The 'kirtan' was arranged by the R.T.M. and Vasant Tryambak Bhoite, who had by then become the President of the R.T.M., had made an application for permission for this 'kirtan'. The 'kirtan' was to be spread over three nights, namely, on the 7th, 8th and 9th May 1970, though on account of the disturbances it could not be given except on the night of May 7, 1970. The subject of the 'kirtan' was not mentioned in the said application (S.P.O.W. 6/33/2998). A stage was erected for the 'kirtan' and according to Inspector Sawant's oral evidence, about 500 persons attended (S.P.O.W. 6/37/3001), while according to his report (Ex. P 837) the audience consisted of 300 persons. Sawant's report states that the 'kirtan' lasted from 9 p.m. till about midnight and no untoward incident happened. There was an arrangement for loud-speakers for the 'kirtan'. According to Ram Maniram Jadhav, the proprietor and editor of the 'Navi Rachana', this 'kirtankar' "tells stories of Shivaji Afzalkhan episode with atrocious exaggerations and provokes the sentiments of Hindus against Muslims" and the "venomous kirtan" delivered by him that night "contributed to the occurrence of the riots". He has further deposed that in the course of his said 'kirtan', Shirwalkar stated that during Shivaji's days, the Hindus had started becoming conscious and fought the Muslims and that his said 'kirtan' was such as to rouse the feelings of the Hindus against the Muslims [C.W. 19/1(5)/2652(2-3), 4/2653].

59.129 Jadhav is corroborated in what he has stated about the said 'kirtan' by S. N. Bhalerao and D.M., Pardeep.

59.130 S. N. Bhalerao did not attend the said 'kirtan', but his workers informed him that it was provocative and communal [C.W. 20/1(14)/2719(4), 16/2725]. D.M., Pardeep has deposed that after the disturbances several persons had informed him that Shirwalkar's 'kirtan' dealt with Shivaji and Afzalkhan and that in the course of his 'kirtan', he dwelt on the theme that under Afzalkhan the reign of injustice and atrocities prevailed until Shivaji put an end to it with the sword of 'Dharma' (C.W. 21/15/2866-7, 35/2877).

59.131 Inspector Sawant's report on the 'kirtan' (Ex. P 837) is extremely sketchy. Further details about the subject of this 'kirtan' have, however, been brought out in his evidence. He stated that the first night's 'kirtan', which he had attended, dealt with the marriage of Shivaji's father, Shahaji, to Jijabai. He admitted that the 'kirtan' did not deal only with the marriage of Shivaji's parents but began with a discourse on Shivaji's character and the age in which he was born and then referred to Shivaji's parents and their marriage (S.P.O.W. 6/33/2998, 79/3029-30).

59.132 We must bear in mind that Shirwalkar's 'kirtan' on Shivaji's life was to spread over three nights. We have already seen in the course of this Report examples of how different episodes from Shivaji's life become a weapon in the hands of the communalists to provoke and incite communal feelings. The episode of Shivaji and Afzalkhan particularly lends itself to this treatment. The evidence on the record clearly shows that this was a communal 'kirtan' and must have incited the feelings of the Hindus against the Muslims.

Afale Buwa's 'kirtans'

59.133 A 'kirtankar' who almost annually visited Jalgaon before the disturbances and gave a series of 'kirtans' was Afale Buwa. After the disturbances, D.M., Pardeep banned under section 144, Cr.P.C. his entry into Jalgaon District as he felt that his 'kirtans' would lead to communal tension. In 1972 he unsuccessfully contested the election to the Maharashtra Legislative Assembly on the Shiv Sena ticket (C.W. 21/15/2866, 35/2877). Ram Maniram Jadhav has deposed that he usually attended the 'kirtans' which Afale Buwa gave in Jalgaon and that the last of such 'kirtans' which he had attended was about four months prior to the disturbances (C.W. 19/3/2653). In his affidavit he has stated [C.W. 19/1(4)/2652(2)]:—

"One Afale, a widely known Kirtankar of Maharashtra is almost annually invited by the Jana Sangh leaders to deliver sermons through Kirtan before Bhawani Mandir. Shri Afale, as a rule, in his Kirtans carries on most poisonous propaganda against the Muslims. He narrates stories of Hindu-Muslim riots in which he depicts Hindus as noble, generous and kind and damns Muslims as inhuman, beastly and cruel. He uses particularly Naokhali riots as a handle for this purpose. His Kirtans are most provocative and full of intense hatred against the Muslims. Last year the Kirtan of Afale was in full swing, Shantaram Wani, the prominent Jan Sangh worker, drove a cow into the crowd of the audience and declared that the mischief was played by some Muslims. This was obviously intended to create communal tension."

He has deposed that there was an audience of about 2,000 to 3,000 at the said 'kirtan' performance at which the cow incident took place, that the said 'kirtan' was being delivered opposite the Bhawani Temple and he was standing near one of the shops, while Shantaram Wani was standing near the Bhawani Temple. His implicating Shanta-

ram Wani does not, however, carry much conviction because it has been elicited in cross-examination that there was a dispute between him and Shantaram Wani with respect to a plot of land leased to him by the Executive Engineer, on which he had constructed a shed and in which he was running a laundry, the Maharashtra Nirmalini Laundry, and that he had contested the municipal elections in 1968 in which Shantaram Wani was one of the rival candidates and that both of them had lost (C.W. 19/11-12/2655-6). None the less, in spite of the fact that Jadhav appears to be falsely implicating Shantaram Wani in the incident about the cow mentioned in his affidavit, there appears to be substance in what he states about the nature of the 'kirtans' given by Afale Buwa from the fact that after the disturbances, the D.M. thought fit to ban his entry into Jalgaon District to prevent him from giving 'kirtans' which would lead to communal tension.

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CHAPTER 60
THE JAN SANGH AND THE R.T.M. BOARDS

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CHAPTER 60

THE JAN SANGH AND THE R.T.M. BOARDS

The case of the District Police-Officers and the Hindu parties

60.1 The case of the District Police Officers and the Hindu parties is that apart from the six boards, the writings on which have been produced in evidence, the other boards exhibited by the Jan Sangh and the R.T.M. contained writings of an innocuous nature such as announcements of meetings, programmes, etc. The said six boards are the two boards exhibited by the Jan Sangh and the four boards exhibited by the R.T.M., namely :—

- (1) the Jan Sangh board of October 1, 1969 about the Ahmedabad disturbances (Ex. P 718),
- (2) the R.T.M. board of March 9, 1970 about the attempt at cow-slaughter and the communal riots in Murshidabad District (Ex. P 719),
- (3) the Jan Sangh board of March 14, 1970 calling for the boycott of the centenary celebrations of the Jalgaon Municipality (Ex. P 722),
- (4) the R.T.M. board of March 31, 1970 about the campaign to be launched by the R.T.M. against 'matka' gambling and illicit liquor business (Ex. P 1003),
- (5) the R.T.M. board of April 3, 1970 about politics and favouritism in municipal administration (Ex. P 720), and
- (6) the R.T.M. board of May 5, 1970 about the failure of the Jalgaon Municipal Council to repair the road from Shani Gate to Neri Naka (Ex. P 1004).

60.2 Out of these six boards, only the Jan Sangh board of October 1, 1969 (Ex. P 718) and the R.T.M. board of March 9, 1970 (Ex. P 719) contained writings of a communal nature. The rest of the boards dealt mainly with municipal politics and administration.

The police witnesses

60.3 Two police witnesses have been examined in support of the above case, namely, S.P., Raman and Inspector Sawant.

60.4 S.P., Raman has deposed that the R.T.M. board was exhibited on some occasions only and that sometimes the writings thereon related to intimation of a programme or function and that in respect of writings of this nature there were no reports, but that there were reports in respect of other writings on the board which had any bearing on Intelligence (P.W. 67/23/2250). Inspector Sawant has testified that boards were daily displayed by the Jan Sangh at Shahane Chowk,

Subhash Chowk, Rath Chowk, opposite the Jalgaon City Police Station and outside the Jan Sangh office in Baliram Peth and that there were no written reports about these boards except about the boards in Rath Chowk. He has further deposed, " My constables and head constables used to inform me about these boards. My plain-clothes Head Constable Babukhan Sardarkhan used to copy out the writings on these boards in his note book if he found them worth reporting. The writings on the boards containing notices of programmes etc. were not copied out in his note book. The writings on the board which have been copied out in his note book have been exhibited " (S.P.O.W. 6/73/3928).

60.5 The evidence of these two officers would seem to convey that whenever a board other than the one containing intimations of programmes or functions was put up, some policeman or the other reported it and the writing on the board was copied out. This is, however, not borne out by the evidence on the record. This alleged police vigilance in reporting this type of boards and copying out the writings thereon was conspicuously absent on both the admitted occasions when boards containing inflammatory communal writings were exhibited, namely, by the Jan Sangh on October 1, 1969 and by the R.T.M. on March 9, 1970. So far as the said Jan Sangh board of October 1, 1969 was concerned, the Police came to learn about it only when S.P., Raman went to Rath Chowk in the night of October 2, 1969 on receiving complaints about stones being pelted on the Jumma Mosque and had the writing on it erased [P.W. 67/1(12)/2229(5-6), 34/2256]. It is obvious that the writing on the said board was copied out only at that time. So far as the said R.T.M. board of March 9, 1970 was concerned, the Police learnt about it only when a private individual, Kazi Ahmed *alias* Rabbani Miya Mohmood Saheb [J.U.(J.)W. 15], accompanied by four or five persons went to the City Police Station and lodged a complaint (Ex. P 954) and it was after his complaint was taken down that a police writer was sent to copy out the writing on the said board. There is no reason to believe that had boards with inflammatory communal writings been displayed on other occasions, the Police would have shown any greater vigilance than they did on these two occasions.

The Hindu evidence

60.6 We have on record the evidence of a witness who should know better than any other person about the boards exhibited by the Jan Sangh. This witness is Gajanan Tryambak Ghanekar (J.J.S.W. 3), the Treasurer of the Jalgaon City Jan Sangh. He has deposed (J.J.S.W. 3/5/2415):—

" The office of the Jalgaon City Jan Sangh is in Baliram Peth near my shop. Boards are displayed by the Jalgaon City Jan Sangh at Shahane Chowk, Subhash Chowk, Rath Chowk, opposite the City Police Station and outside the Jan Sangh office in Baliram Peth. *These boards contained propaganda propagating the Jan Sangh views and some news items and information. News items relating to the Muslims and Hindu-Muslim incidents also sometimes appear on*

these boards. These news-items are copies of the news-items which have appeared in the weekly 'Organizer' and the Marathi dailies the 'Tarun Bharat', the 'Navshakti' and sometimes the 'Maratha'."

60.7 We have also on the record a statement made by a person who should know the most about the boards displayed by the R.T.M., namely, Ramesh Daulat Patil, the President of the R.T.M. and the Joint Secretary of the Jalgaon City Jan Sangh. In his police statement recorded in connection with the said R.T.M. board of March 9, 1970 he has stated:—

"Generally, on behalf of our Shree Ram Tarun Mandal, extracts from papers relating to injustice to anybody, or other social or political complaints of the public, if any, are also written daily on the news board kept in Rath Chowk near Santosh Hotel."

This is a clear admission that the R.T.M. displayed daily at Rath Chowk boards of the same type as the board displayed by it on March 9, 1970.

The contents of the other Jan Sangh and R.T.M. boards

60.8. Since the Police have not copied out the writing on any board other than the aforesaid six boards, we must turn to the other evidence on the record to find out what the contents of these other boards were. As admitted by Gajanan Tryambak Ghanekar (J.J.S.W. 3), the Jan Sangh boards propagated the Jan Sangh views and sometimes contained also extracts of news-items relating to the Muslims and Hindu-Muslim incidents which had appeared in the pro-Jan Sangh weekly the 'Organiser' and the Marathi dailies the 'Tarun Bharat', the 'Navshakti' and sometimes the 'Maratha'; while as admitted by Ramesh Daulat Patil, the R.T.M. boards contained "extracts from papers relating to injustice to anybody, or other social or political complaints of the public". We have on the record two instances of news-items relating to the Muslims and the Hindu-Muslim incidents, said to be copied from Marathi dailies, namely, the writing on the Jan Sangh Board of October 1, 1969 (Ex. P 718) and on the R.T.M. board of March 9, 1970 (Ex. P 719). There is no reason to believe that other boards containing copies of news-items relating to the Muslims or Hindu-Muslim incidents or containing complaints of injustice to anybody or other social or political complaints of the public would have been any different in tone and substance.

60.9 Three Muslim witnesses have also deposed about the contents of these other boards. They are Shaikh Noor Mohammed Shaikh Amir [J.U.(J.)W. 7], Kazi Ahmed *alias* Rabbani Miya Mohmood Saheb [J.U.(J.)W. 15] and Mohamed Ismail Shaikh Ibrahim [J.U.(J.)W. 22].

60.10 Shaikh Noor Mohamed Shaikh Amir has deposed that two boards were being regularly put up in Rath Chowk, one by the Jan Sangh and the other by the R.T.M., and that on his daily visits to the Jumma Mosque for prayers he used to read the writings on these boards. He has testified that these writings were such as to incite the feelings of the Hindus against the Muslims. He has cited three

instances of such boards, namely, a board about the marriage of a Hindu girl to a Muslim in Kashmir, a board about the atrocities said to have been committed by the Muslims against the Hindus in Ahmedabad and a board which stated that the Muslims had outraged Hindu women in Ahmedabad [J.U.(J)W. 7/1(2)/2678(1), 6/2680, 13/2682].

60.11 Kazi Ahmed *alias* Rabbani Miya Mohmood Saheb, the man who had lodged a complaint about the R.T.M. board of March 9, 1970, has deposed that the day after he had lodged his complaint a board was exhibited to the effect that they would see to "this Kazi" who had informed the Police about the writings on the boards. He had not personally seen the said board because he had left Jalgaon on March 9, 1970 to attend a fair at Dhotra in Aurangabad District, but two or three days later his nephew who had been to Jalgaon told him about the said board. Kazi Ahmed, therefore, felt afraid and did not return till eight days after the Holi festival. Kazi Ahmed was one of the Muslims whose house was burnt during the disturbances [J.U.(J)W. 15/1(5)/2749(2), 3/2751, 7/2753]. It was submitted that the hearsay evidence of this witness could not be accepted as proof of the fact that a board as alleged by him was exhibited on March 10, 1970. There is, however, other evidence on the record which corroborates him. In the course of the investigation of offences committed during the disturbances D.I., Limaye (P.W. 93) recorded the police statement of one Kazi Salauddin Kamaluddin Zuberi on August 31, 1970 (Ex. P 1936). In his said police statement Kazi Salauddin has stated that he had read the said board exhibited on March 9, 1970 as also the board against Kazi Ahmed on March 10, 1970 and that on March 10, 1970 some persons came to him at noon and asked him, "Why have you got yourself involved in this affair"? Upon his inquiring from them what had happened, they asked him to go and see the board at Rath Chowk. Thereupon he went to Rath Chowk and read the board put up by the R.T.M. against Kazi Ahmed. He then went to Ramesh Daulat Patil and told him that people were asking him about the said board and that the R.T.M. should have written the words "stove repairer" after the word 'Kazi', stove repairing being the vocation followed by Kazi Ahmed. Ramesh Daulat Patil assured him that it was not important and the next day the writing on the said board was erased. This witness cannot be said to be anti-Hindu. He was the Vice-President of the Jamiet-ul-Ulema, Jalgaon, in May 1969 and on May 12, 1970 he had made an application to the D.M. stating that one Ramesh Eknath Wani, a member of the R.T.M. who was arrested on May 11, 1970 under section 151, Cr.P.C. by Inspector Sawant, had during the disturbances given shelter to some Muslims including members of Zuberi's own family, but he had been arrested at the instance of persons inimical to him. As a result of this application, Wani was released from custody under the instructions of the S.P. to whom the D.M. had forwarded Salauddin's application (S.P.O. W. 6/80/3031).

60.12 Mohamed Ismail Shaikh Ibrahim, who used to go for prayers to the Maniyar Wada Jumma Mosque and for purchasing vegetables from the daily bazar near Rath Chowk has also deposed about two boards with provocative and inflammatory writings having been regularly exhibited in Rath Chowk, one by the R.T.M. and the other by the Jan Sangh, and on which provocative and inflammatory writings against the Muslims used to be written, particularly on the board of the R.T.M., under the heading "Justice of Aurangzeb". He did not remember the actual writings on the said boards, but stated that these boards were against the Government policy of appeasing the Muslims. He has also deposed about another board exhibited by the R.T.M. on May 6, 1970, which stated that if any obstruction was caused to the Shiv Jayanti procession, it would result in serious consequences. In cross-examination he admitted that he had not gone to the City Police Station to lodge a complaint. The reason he gave for not doing so was that the R.T.M. boards were placed against an electric pole near the Rath and that the Police constables posted at Rath Chowk could themselves see the boards [J.U.(J.)W. 22/1(2)/2895(1), 5/2896]. Not everyone rushes to the police station to give information about every happening. That police constables were regularly posted at the Rath Chowk is an admitted fact. The statement Exhibit P 1012 gives the number of constables so posted from March 1, 1970 to May 7, 1970 and a private individual would take it that they must have reported at the police station about these boards.

Conclusions

60.13 The evidence discussed above and the admission made by Gajanan Tryambak Ghanekar and Ramesh Daulat Patil, both responsible office-bearers of the Jalgaon City Jan Sangh and the latter also the President of the R.T.M., clearly establish that in addition to the six boards, the writings on which have been exhibited before the Commission, other boards were also exhibited — the Jan Sangh boards at Shahane Chowk, Subhash Chowk, Rath Chowk, opposite the City Police Station and outside the Jan Sangh office in Baliram Peth, and the R.T.M. boards at Rath Chowk, and that the writings on several of these boards clearly satisfied the test laid down in paragraph 6.7 of Chapter 6 and, therefore, constituted communal writings.

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CHAPTER 61

ASSESSMENT OF THE SITUATION ON THE EVE OF THE DISTURBANCES

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- 61.4 Whether Jalgaon was a communally sensitive spot ?

CHAPTER 61

ASSESSMENT OF THE SITUATION ON THE EVE OF THE DISTURBANCES

The official assessment

61.1 According to D.M., Pardeep, there is no notified list of communally sensitive spots in the State of Maharashtra. The office of the D.I.G. (Int.), however, maintains a list of communally sensitive spots in the State of Maharashtra, the places mentioned in the said list at the relevant time being the same as those set out in the "Guide Lines for Dealing with Communal Disturbances" (Ex. G 39) and referred to therein as communal pockets. Jalgaon is not included in this list, the only places in Jalgaon District mentioned therein being Chopda, Parola and Raver. This booklet was, however, published in August 1968.

61.2 Admittedly, prior to May 8, 1970 no communal disturbances or riot had taken place in Jalgaon and neither the State Government nor the State Intelligence nor the District Police considered Jalgaon a communally sensitive spot. The Home Secretary, L. G. Rajwade, has deposed that there were hardly any reports made to the Government to suggest that any serious tensions were building up on the communal issue so as to result in a communal riot in Jalgaon [G.W. 1/1(16)/1(9)]. Dy.S.P., V. R. Patankar of the State Intelligence has also testified that prior to May 8, 1970 the office of the C.I.D. (Intelligence) did not regard Jalgaon as a communally sensitive spot (G.W. 11/5/2903). S. T. Raman, S.P., Jalgaon District, also did not regard Jalgaon as a communally sensitive spot and he denied the suggestion put to him that in the three months preceding the disturbances, the relations between the Hindus and Muslims in Jalgaon had deteriorated (P.W. 67/20/2247). The only officer who was of the opinion that Jalgaon was a communally sensitive spot prior to the disturbances which took place on May 8, 1970, was R. L. Pardeep, Collector and District Magistrate, Jalgaon District (C.W. 21/3/2860).

What is a communally sensitive spot ?

61.3 A communally sensitive spot is a place where the atmosphere is charged with communal tension. This communal tension can be the result either of the occurrence of actual communal incidents in the past or the prevalence of a situation which would make the occurrence of such incidents likely. D.M., Pardeep has stated that the Administration considers those places as being communally sensitive where certain incidents have occurred or where, from the assessment of the

situation, it would appear that such incidents are likely to happen, this being dependent mostly on the percentage of the respective Hindu and Muslim populations in a place (C.W. 21/3/2860). The communal sensitivity of a place where no serious communal incidents have occurred in the past is a matter of assessment. Communal tension which suddenly explodes into serious communal disturbances is usually built up over a period of time. Incidents trivial in themselves when taken separately, may when viewed in conjunction reveal at times a deteriorating communal atmosphere. To assess such a situation requires keen perception and acuteness of judgment on the part of the officers concerned.

Whether Jalgaon was a communally sensitive spot ?

61.4 The question which arises is whether the disturbances at Jalgaon occurred suddenly and unexpectedly by reason of some fortuitous circumstance or were the result of a steadily mounting communal tension so vitiating the communal atmosphere that it needed only an excuse or a cause, not necessarily serious, to make it burst into a conflagration. Every communal incident does not necessarily lead to communal tension or if it does, its effect on the communal atmosphere may be merely transitory, not polluting the atmosphere of prevailing communal harmony for any appreciable length of time. We have seen in the preceding two chapters the various incidents which took place in Jalgaon upto May 8, 1970. The answer to the question whether Jalgaon was a communally sensitive spot prior to May 8, 1970 depends upon the effect on the communal atmosphere of each of these incidents when it occurred considered in the light of the other incidents which had taken place previously. These incidents fall into two convenient groups, namely, those which took place prior to October 1969 and those which occurred between October 1, 1969 and May 7, 1970, for the evidence clearly shows that there was a marked change in the communal atmosphere of Jalgaon from October 1, 1969 onwards. Till then there were a few incidents which, though capable of leading to communal trouble in other circumstances, did not have any effect on the communal harmony prevailing in the city.

61.5. For years past a characteristic of Jalgaon was the friendly relations prevailing between the two communities. Members of both communities not only participated, but took an active part in each other's religious festivals. The piglet incident of 1954 which in some other place could have led to a major communal riot had no effect on the communal amity prevailing in Jalgaon. Neither the unauthorized construction of the Madina Mosque nor of any of the Hindu temples caused any stir or led to any resentment at that time and nothing would have been heard about these constructions, but for the pique felt by the witness, Purushottam Mishrilal Joshi (J.J.S.W. 2), at the objection raised by the Commissioner, Bombay Division, to granting him permission to construct a temple. The morcha in November 1966 and the hartal by the local Hindu merchants in December 1966 in

support of the fast against cow slaughter undertaken by Shree Shan-karacharya were events of no significance in the communal history of Jalgaon.

61.6 The elopement and marriage of a Muslim and a Hindu girl in September 1967 followed by their arrest and the sending of the girl to the Nasik Rescue Home and the registering of the case against the Muslim for kidnapping a minor girl was an incident full of potentialities for considerable communal mischief. This incident did give rise to rumours in the city and led to some tension. As we have seen, the girl had attained the age of majority at the time of her elopement and both of them had voluntarily eloped and got married. The prevailing communal harmony was, however, too strong and the tension created by this incident was merely a passing phase. The eve-teasing of a Hindu girl by a Muslim youth in October 1967 was another incident which could have provoked communal trouble had the atmosphere of Jalgaon been poisoned by communal tension and the fact that it did not, shows that Jalgaon was as yet free of that taint.

61.7 The complaint made to the then Union Home Minister by the then M.P. from Jalgaon, S. S. Sayed about the removal of wooden plank and platforms of some Muslim shops by the Holi revellers for throwing them into the Holi fire and his approaching the D.M., along with some Muslim leaders, to claim compensation for the loss suffered thereby does not indicate that the communal atmosphere of Jalgaon had deteriorated or that the Muslims of Jalgaon entertained any animosity towards the Hindus, for no one except a handful of Muslim leaders seemed to have been worried by this. The said complaint of S. S. Sayed and the claim for compensation appear really to have been an endeavour on the part of the newly-elected M.P. to demonstrate to his Muslim voters the zealous care he was exercising in safeguarding their interests. The disciplinary action against the two Muslim policemen for taking part in the activities of the Tablig Jamaat was not a matter of any consequence in the communal history of Jalgaon and they have only been trotted out before the Commission by the witness Vasant Kanhyalal Sharma (J.J.S.W. 6), the Secretary of the Jalgaon Janadhikar Saunrakshan Samiti, in an attempt to make something out of nothing.

61.8 Though the speeches delivered by Hamid Dalwai in August and September 1968 created resentment amongst the Muslims, they did not lead to any communal tension, for the resentment which was created in them was against Hamid Dalwai and not against the Hindus. A real bitterness in the Muslim mind was, however, created by the ousting of the only Muslim to have been elected the Municipal President, namely, Abdul Majid Ibrahim Mohammed Salar, who had a motion of no confidence tabled against him on January 28, 1969, the very day on which he was elected. This bitterness was voiced by two news reports [Exs. J.U.(J.) 1 & 2] which appeared respectively in the February 18, 1969 issue of the *Urdu Times* and the February 19, 1969 issue of the *Inquilab*. This ouster of a Muslim Municipal

President, immediately on his being elected, created a feeling of frustration in the minds of the Muslims and made them suspicious of the Hindus.

61.9 The processions taken out and the public meetings held in several places in the country to protest against the desecration of the Al-Aqsa Mosque caused resentment amongst certain sections of the Hindus and made them feel that the Muslims were not nationalists in their outlook, but harboured extra-territorial loyalties; and the situation was exploited by the Hindu communalists who seized upon it to exacerbate these feelings. In Jalgaon, however, neither the procession taken out on August 29, 1969 nor the public meeting held on that day to protest against the arson to the Al-Aqsa Mosque caused any such resentment amongst the Hindus.

61.10 The deteriorating communal situation in the country culminating in the communal disturbances which took place in Ahmedabad and the other parts of Gujarat State in September 1969 and the rumours which were circulated with respect thereto made their impact in Jalgaon as in other places and October 1, 1969 marked the beginning of a new phase in the communal history of Jalgaon. The starting-point was the board put up by the Jan Sangh at Rath Chowk charging Pakistan with having a hand in the Ahmedabad disturbances and alleging that the said disturbances were pre-planned. In the communal atmosphere created by the news of the Ahmedabad disturbances, this type of inflammatory and provocative writing immediately excited communal feelings against the Muslims, particularly in the congested areas of Old Jalgaon with Hindu and Muslim localities existing cheek by jowl. The immediate result was the pelting of stones in the evening of October 2, 1969 on the Jumma Mosque and the assaulting of some Muslims and the roaming about of gangs of Hindu boys who went about pilfering cots and other articles belonging to Muslims, assaulting Muslim children and abusing Muslims. Obviously, none of the members of these gangs came from a particularly law-abiding class, but it is only persons of this class who are mostly responsible for hooliganism and mischief. The private meetings held by the Jamaat-E-Islami leaders in October 1969, though not the public meeting held on the night of Shab-e-Miraj, exploited the communal situation created by the Ahmedabad disturbances by emphasizing the sufferings of the Muslims in those disturbances and calling upon the Muslims to unite to protect themselves. The speech made by Khan Abdul Gaffar Khan when he visited Jalgaon on January 15, 1970 was hardly calculated to bring about a *rapprochement* between the two communities. His unfortunate remark, made while referring to the communal disturbances in India, about what might befall the Hindus living outside India, caused great resentment amongst certain sections of the Hindus for its underlying implication that these Hindus were hostages in Pakistan for the good treatment of the Muslims in India. In this state of affairs the incident of the cow, which occurred on January 21, 1970, in which the cow was chased by stray dogs and

got entangled in wire fencing while trying to escape and its udders and vagina were chewed off by these dogs, was fully exploited by some local Jan Sangh leaders to create a serious communal situation. They immediately rushed to the police station and rumours began to fly around that some Muslims had injured the cow and but for the fortuitous fact that there was a Hindu eye-witness who honestly stated to the Police what had actually happened, one does not know what ugly turn the situation would have taken. The Nasik and Jalgaon Districts Conference of the Maharashtra Pradesh Jamaat-E-Islami held on February 6 and 7, 1970 widened the gulf between the two communities, increased communal tension and excited the Muslims in the audience against both the Hindus and the Government by alleging that efforts were being made after the Independence of India to destroy Muslim culture and civilization and by further alleging that during the Indo-Pak War the Indians had bombed mosques in Pakistan.

61.11 The fact that for the Lalsha Miyan Urs of 1970, instead of the usual two, four Hindus were taken on the celebrations committee and made President, Vice-President and Secretaries did not mean that the relations between the two communities had by that time been restored to the previous happy state of harmony and amity. It was only an effort made by a few well-meaning leaders of both communities to try to present a picture of communal amity to the people of Jalgaon to allay the growing suspicion, distrust and hatred between the two communities.

61.12 March 1970 was the peak period of communal tension in Jalgaon. The incidents which took place in that month—the stones thrown on the Jumma Mosque and the Muslim and Hindu houses and on the Laxminarayan Temple; the assault on Sayed Chand and other Muslims; the display at Rath Chowk of the boards containing provocative communal writings; the application dated March 9, 1970 made by Gulam Rasool Bagban [J.U.(J.)W. 3] and 26 other Muslims to the I.G.P., with copies to the Chief Minister and Mr. M. D. Chaudhari, the then Minister for Education and the Minister in charge of the District; the rumours that the Muslims were collecting soda-water bottles, stones, acid-bulbs, brick-bats and other missiles and were sending away their families; the fear felt by the Muslims which kept them awake at night discussing various rumours; the near riot which took place on the night of March 22, 1970 when three stones fell on some Hindu houses in Rath Chowk enraging the Hindus who had gathered round the Holi fire and who thereupon tried to enter Maniyar Mohalla and requiring almost three hours for the Police to bring the situation under control—all clearly manifest the worsening situation in Jalgaon. The mutual suspicion and distrust between the two communities had come to such a state that the Ijtema of the Tablig Jamaat, a religious gathering, was transformed by rumours into a conference of the Muslim League or the Majlis Tameer-E-Millat to exhort the Muslims to fight the Hindus.

61.13 The provocative speech made by the Shiv Sena Chief Bal Thackeray on April 16, 1970 followed by stone-throwing on Muslim houses near the Jumma Mosque show that the tension which had reached its peak in March 1970 had not died out, but was simmering just below the surface and could erupt at any moment. This is exemplified by the communal turn sought to be given to the complaint of assault on Abdul Rahim, son of Rasool Piran Bagwan; the intervention of Ramesh Daulat Patil, the President of R.T.M. and the Joint Secretary of the Jalgaon City Jan Sangh, to obtain the release of the assailant, Shama Kalu Joshi; and Shama's cross-complaint—all of them, the result of a quarrel over cards between some persons of doubtful character.

61.14 Municipal politics also played their role in fanning communal tension. The ouster of the only Muslim Municipal President—Abdul Mohammed Ibrahim Salar—within a week of his being elected created bitterness in the minds of the Muslims. The Muslim Councillors courted disfavour of a section of the Hindu Councillors in the Municipal Council, particularly of the Jan Sangh and the Leva Patidar Councillors, and of Pandit Ukha Kolhe, who was dominating municipal politics from behind the scene, by supporting the candidature of the expelled Jan Sangh local leader P. K. Zare (C.W. 25) and in opposing the vote of no-confidence brought against him in October 1969 and in resisting the pressure brought upon them to defect from his group to the opposition group. It is significant that the board giving a call to boycott the centenary celebrations of the Jalgaon Municipality put up by the Jan Sangh on March 14, 1970 and the boards against municipal administration put up by the R.T.M. on April 3, 1970 and May 5, 1970 were all put up at Rath Chowk, close to the localities in which the Muslim Municipal Councillors were residing.

61.15 The 'kirtan' given by Afale Buwa about four months prior to the disturbances and by Sadashiv Shirvalkar on the night of May 7, 1970 were both provocative and incited the Hindu feelings against the Muslims.

61.16 The evidence thus shows that from October 1, 1969 the communal situation in Jalgaon had started deteriorating. The communal tension reached its height in March 1970 and did not die out in April 1970, but kept simmering below the surface. No attempt was made by any local leader to bring the two communities together, but instead they gave currency to rumours, intervened in quarrels between persons of bad character and rushed up to the police station when a situation full of possibility of communal trouble, such as the injury to the cow, occurred. Thus, the local leaders contributed to increasing the tension in the City.

61.17 In the light of this evidence, to say that Jalgaon was not a communally sensitive spot prior to May 8, 1970 would be a travesty of facts. Jalgaon was a communally sensitive spot even prior to the disturbances and it was unfortunate that the District Police Officers could not assess the situation correctly, but instead chose to minimize

it and even at times to give a wrong impression about it to the higher authorities. The preventive measures adopted by the authorities and the attitude of various officials to the situation in Jalgaon are matters which will be discussed in the next chapter.

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CHAPTER 62

PREVENTIVE MEASURES AND THEIR ADEQUACY

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CHAPTER 62

PREVENTIVE MEASURES AND THEIR ADEQUACY

Prefatory observations

62.1 The evidence shows that the assessment of the situation by the Police was faulty, their handling of the situation inapt and inefficient, and that the State and the District Intelligence agencies in the District were incompetent and failed miserably to discharge their duties properly. This is obvious when we turn to each important incident and consider the action taken by the Police and see how it fell short of what was really required to be done.

General Action

62.2 The action taken by the D.M., Jalgaon, and the S.P., Jalgaon, on the instructions issued from time to time by the Government, the I.G.P. and the D.I.P. (Int.) have been set out in the statements Exhibit Nos. 26 and P 831 respectively. It is not necessary to refer to each and every action taken by the D.M. and the S.P.; it will be sufficient to refer only to the action taken on the more important of these instructions.

62.3 On receipt of the Home Department's circular letter dated July 5, 1968 (Ex. G 2) with respect to the personal responsibility of the D.Ms. and the Ss.P. to scrutinize Intelligence reports and to take prompt preventive action to forestall communal disturbances, the D.M., Jalgaon, by his letter dated July 23, 1968, requested the S.P. to caution the Intelligence agencies in the district to furnish very promptly the reports about any incident or situation which was likely to develop into a disturbance or a breach of the peace, and further asked him to transmit immediately such reports along with his assessment of the situation. On receipt of the Home Department's circular letter dated August 3, 1968 (Ex. G 3) requesting all D.Ms., Commissioners of Police, D.I.Gs., and Ss.P. to keep special watch on rumour-mongering, and to deal firmly with rumour-mongers, the D.M. by his letter dated August 20, 1968 asked all S.D.Ms., Taluka Magistrates and the S.P. to keep a watch on political activities in places of worship, and to collect advance intelligence for taking action against persons indulging in such activities and in rumour-mongering. The S.P., Jalgaon in his turn explained in a conference the contents of the said circular to the District Police Officers. On receipt of the wireless message sent by the Home Department on September 22, 1969 about the outbreak of the communal disturbances in Ahmedabad (Ex. G 17) and requesting that the local Intelligence machinery should be geared

up and round the clock vigilance should be maintained, particularly in areas with a background of communal conflicts, the D.M. sent copies of the said wireless message to all S.D.Ms., Taluka Magistrates, and the S.P. and asked them to keep close watch on the situation and keep him informed of the developments from time to time and to maintain law and order. As the Ganpati celebrations were going on, the S.P. apprised all P.S.Is. by telephonic messages to take adequate measures in that behalf. On receipt of the wireless message sent by the Home Department on September 25, 1969 (Ex. G 18) to detain those indulging in rumour-mongering about the communal disturbances in the State of Gujarat, the D.M. sent copies of the said message to all S.D.Ms. and to the S.P. and requested them to take immediate action if any such instance was noticed and to report to him the action taken. On receipt of the Home Department's letter dated November 7, 1969 (Ex. G 19) to maintain a watch on any planning or scheming which any party might be undertaking with a view to any large-scale looting or killing of the members of the minority community once a spark had been set off, and to adopt the most stringent methods to deal with any anticipated tension and to proceed against any speaker indulging in inflammatory communal speeches, the D.M. directed all S.D.Ms. and Taluka Magistrates to keep a watch for inflammatory speeches and writings of such organizations and to report them to him for necessary action and to keep a watch as directed in the Home Department's said letter.

62.4 The said two statements (Ex. Nos. 26 and P 831) and the above facts show that no fault can be found with the District authorities so far as paper work was concerned. The implementation in practice of the instructions issued by the Government, the I.G.P. and the D.I.G. (Int.) is however another story to which we will now turn.

Action on incidents prior to October 1969

62.5 We have seen that the incidents which took place in Jalgaon prior to October 1969 did not have any particular effect on the communal harmony prevailing in the city and did not lead to any lasting communal tension. It is, therefore, unnecessary to consider the adequacy of the action taken with respect to these incidents and the adequacy of the action taken by the District authorities is required to be judged only with reference to the incidents which happened between October 1, 1969 and May 7, 1970.

Action on the Jan Sangh board of October 1, 1969

62.6 We have seen that the board (Ex. P 718) exhibited by the Jan Sangh at Rath Chowk on October 1, 1969 about the Ahmedabad disturbances was not reported at the City Police Station. None of the police officers or policemen, whether belonging to the City Police Station or the Headquarters or the D.S.B. or the State Intelligence, apparently noticed this board and it was only noticed when, on learning about the stone-throwing on Jumma Mosque which took place

in the evening of October 2, 1969, S.P., Raman went to Rath Chowk at night and saw the said board. This shows how the vigilance required by the orders of the Government and the I.G.P. was being maintained. What the S.P., Jalgaon, did on seeing this board is even more surprising. He neither took charge of nor confiscated the said board, but merely had the writing on it erased (P.W. 67/34/2256). Apart from this, he took no other action whatever. He neither got a case registered under section 153A, I.P.C., against the local leaders of the Jan Sangh responsible for exhibiting the said board nor did he send for, and administer a warning to them. This inaction is all the more shocking when we remember that hardly ten days earlier by the Home Department's wireless message sent on September 22, 1969 (Ex. G 17) he had been asked to take firm action in respect of writings, speeches and rumours which might have the effect of creating tension between the two communities and less than a week earlier by the Home Department's wireless message sent on September 25, 1969 (Ex. G 18) he had been asked to detain persons found publicly talking about things which they had not seen, if such talk was prejudicial to the maintenance of the peace in the District. Raman sought to extenuate his failure to take any action with the argument that the said board put up by the Jan Sangh was an isolated one and such act on its part was not repeated. The case that this was the only board with a communal writing put up by the Jan Sangh has already been considered and rejected by the Commission in Chapter 60. In advancing this argument what the S.P. is seeking to do is to take advantage of the gross negligence of his subordinates in not reporting such boards to him and his own negligence in not giving them any instructions in that behalf. Even assuming for the sake of argument that this was the only board with a communal writing exhibited by the Jan Sangh, at that time neither the S.P. nor anyone else could have foreseen that such boards would not be exhibited in the future and it is, therefore, not open to the District authorities to seek to justify their conduct with reference to what happened subsequently. Raman's own report dated October 5, 1969 (Ex. P 833) shows that on reading this board the feelings of young Hindus of questionable character were excited against the Muslims and stone-throwing and other incidents took place which reached their peak on the night of October 3, 1969.

Action on the stone-throwing incidents of October 2 and 3, 1969

62.7 With respect to the stone-throwing and other incidents which took place on October 2 and 3, 1969 the Police arrested two Hindu boys who were found to have taken a leading part in the stone-throwing and registered cases against them under sections 112 and 117 of the Bombay Police Act, 1951. Section 112 makes it an offence for any person to use any street or public place any threatening, abusive or insulting words or behaviour with intent to provoke a breach of the peace or whereby a breach of the peace might be occasioned. Section 117 is the penal section. These persons were, however, not prosecuted

under sections 112 and 117 of the Bombay Police Act, but proceeded against under sections 109 (b) of the Cr.P.C., as being persons who had no ostensible means of subsistence or who could not give a satisfactory account of themselves. They were naturally discharged by the Sub-Divisional Magistrate (Ex. P 725). The normal procedure of registering a cognizable offence under section 336, I.P.C., if no injury was caused, and under section 337 or section 338, I.P.C., where the injury was caused, depending upon the nature of the injury, did not appear to have struck anyone, though it did strike the officers of the Jalgaon City Police Station in respect of the stone-throwing during the disturbances, as is shown by the F.I.Rs. Exhibits P 758 and P 759.

Action on the rumour-mongering about the injury to a cow

62.8 The cow incident happened on January 21, 1970. As we have seen in Chapter 59 the cow was chased by stray dogs and in seeking to escape from them got entangled in the wire fencing and had its udders and vagina chewed off by the dogs. On the cow being found lying in the courtyard of the L. N. Sarvajanik High School, rumours began flying about that a cow had been injured by some Muslims. The fact that the local Jan Sangh leaders, Jagannath Vithal Bhagwat (J.J.S.W. 7), Vasant Kanalgekar, Anant Natekar and Gajanan Ghanekar (J.J.S.W. 3), went to the City Police Station in this connection would show that they had played a part in spreading these rumours. A serious situation was, however, averted by the prompt action taken by Inspector Sawant and the truthfulness of the Hindu eye-witness who related the correct facts and Swant pacified the Jan Sangh leaders by explaining the facts to them. Since the situation was capable of taking an ugly turn, Sawant was justified in pacifying the local Jan Sangh leaders; but in the light of the various circulars and orders referred to above, there is no justification for either the S.P. or Inspector Sawant in not subsequently sending for these leaders and giving them a serious warning against this type of rumour-mongering.

Action on the R.T.M. board of March 9, 1970

62.9 It is shocking to find from the evidence that once again no police officer or policeman in the city of Jalgaon reported about the board (Ex. P 719) exhibited by the R.T.M. on March 9, 1970 and it was left to a private individual—Kazi Ahmed *alias* Rabbani Miya Mohamood Saheb [J.U.(J.)W. 15]—to lodge a complaint with respect to it at the City Police Station. Except recording on the same day the statement of Ramesh Daulat Patil, the President of the R.T.M. and the Secretary of the Jalgaon City Jan Sangh, no other action whatever was taken on this board. The Police simply accepted Ramesh Daulat Patil's statement that the writing on the said board was not written with an intention to hurt the feelings of anyone. Not even a warning was administered to Ramesh Daulat Patil. One wonders whether any one in Jalgaon had ever cared to read the various circulars and wireless messages issued by the Government, the I.G.P. and the D.I.G.(Int.).

Section 153A, I.P.C., might as well have been a dead letter so far as the District Police in Jalgaon were concerned. S.P., Raman has sought to excuse himself by stating that no action was taken against the R.T.M. for this board because at the Peace Committee meeting held on March 17, 1970 the D.M. as well as he had warned the members of the Jan Sangh who were present that if similar boards were exhibited in future, necessary legal action would be taken and that thereafter no such boards were exhibited. The statement that no such boards were exhibited after March 9, 1970 is, as the evidence shows, factually incorrect. But apart from that, it is clear from S.P., Raman's own explanation that between March 9, 1970 and March 17, 1970 nothing was done in respect of this board.

The failure to report boards

62.10 The only boards containing writings of a communal nature which have been exhibited before the Commission are two, namely, the Jan Sangh board of October 1, 1969 and the R.T.M. board of March 9, 1970 (Exs. P 718 and P 719). Even these two boards would not have come on the record and it would have been argued before the Commission that no inflammatory writings of any kind were ever put up in the city of Jalgaon but for the fortuitous circumstance in the case of the Jan Sangh board of October 1, 1969 of S.P., Raman going to Rath Chowk on the night of October 2, 1969 on learning about the stone-throwing on the Jumma Mosque and seeing this board and in the case of the R.T.M. board of March 9, 1970 of Kazi Ahmed going to the City Police Station to lodge a complaint about it. As mentioned in Chapter 60 the admissions of responsible office bearers of the local Jan Sangh clearly show that other boards of a similar nature were exhibited at Rath Chowk and other places. Just as in the case of the two boards Exhibits P 718 and P 719, the police officers and policemen in Jalgaon ignored the other boards.

Action on stone-throwing incidents and rumours in March 1970

62.11 We have seen that throughout March 1970 stones were regularly being thrown on the Jumma Mosque, on the Muslim houses and on some occasions on some Hindu houses and the Laxminarayan Temple. This stone-throwing was neither heavy nor continuous and no one was injured by it. It took place on some occasions at the time of the Maghrib, that is, the evening prayer, but mostly at the time of the Isha, that is, the fifth and the last prayer. As Shaikh Noor Mohammed Shaikh Amir has stated, stones were pelted not to injure or hit Muslims, but to rouse their feelings and D.M., Pardeep has admitted that the stone-throwing incidents built up communal tension [J.U.(J).W. 7/10/2681, 17/2684; C.W. 21/32/2876]. Behind these incidents there was obviously the hand of some group or organization which wanted to create communal tension and provoke communal trouble in Jalgaon. The measures adopted by the police authorities to meet this situation, though adequate enough to prevent an open clash

between the two communities, as on the night of March 22, 1970, were unimaginative and did not go to the root of the matter and were not directed to discovering the real culprits. Exhibit P 1012 is a statement showing the police bandobast in Rath Chowk and adjoining localities from March 1, 1970 to May 7, 1970. This shows that police pickets were posted and police patrolling introduced and both of them intensified as and when occasion demanded. The measures adopted by the Police have been summarized by Raman in his evidence as follows (P.W. 67/70/2275):—

“ On account of the stone-throwing incident which took place on March 1, 1970 Inspector Sawant posted a fixed picket of two constables at Rath Chowk and a fixed picket of one constable at Ram Peth Chavdi from March 1, 1970 onwards. These fixed pickets continued throughout March, April and in May and were there when the riots broke out. Sometimes the strength of these pickets was augmented ; as for example, at the time of Holi and Moharram festivals. At Inspector Sawant’s suggestion I also passed my order dated March 12, 1970 (Exhibit P 841) posting Sub-Inspector Bhalerao, one head constable and four constables at the Chavdi (Revenue Chowki) near Jumma Mosque to keep a watch between 5 p.m. and 2 a.m. till the Moharram and Holi festivals were over. Bhalerao might have been patrolling or keeping a watch in that area after these festivals were over as he was attached to the City Police Station, but I had not given any specific directions in that behalf. From March 10, 1970 four constables in uniform and two constables in plain clothes were detailed for continuous patrolling in Rath Chowk and Ram Peth Ward under my orders. These orders were passed at Inspector Sawant’s suggestion. One of these plain-clothes constables was posted on the terrace of a house near the Jumma Mosque and the other on the terrace of a house near Laxminarayan Temple. Most of the stone-throwing incidents which took place in March and April 1970 took place at night.”

62.12 The usual orders under section 37(I) of the Bombay Police Act were issued for Holi and Ganpati on March 8, 1970 prohibiting the carrying, collecting and preparing of arms and missiles, etc. Further, on March 10, 1970 the D.M. issued another order under section 144, Cr.P.C. (Ex. P 729) prohibiting for ten days from March 22, 1970 the lighting of public bonfires or ‘Holis’ or collecting fire-wood or other articles or things for this purpose or throwing mud, dirt, refuse or any coloured or dirty water or other substance on or against any person or property in any public place, thoroughfare, highway, street, lane or by-lane situate *inter alia* within municipal limits.

62.13 The details of the various stone-throwing incidents and the rumours which were circulating amongst the Muslims and of collecting of arms and missiles and acid-bulbs by Muslims amongst the Hindus have already been set out in Chapter 59 and it is not necessary to repeat them. The position is clear that day by day the tension was

mounting and the most dangerous type of rumours were gaining currency. The Hindus suspected the Muslims of collecting missiles. The Muslims were panic-stricken and gathered in groups to discuss the situation. Several members of both communities held private meetings to discuss the situation. At these meetings the rumours must have been magnified and all kinds of wild talk about the coming danger and the action to be taken to meet it must have taken place, creating greater tension and further inflaming communal passions. The measures adopted by the authorities to meet this situation show a total lack of proper assessment of the situation and of the measures required to deal with it.

D.M., Pardeep's attitude

62.14 D.M., Pardeep is the only officer who has deposed that Jalgaon was a communally sensitive spot even prior to the disturbances which took place on May 8, 1970 and evidence shows that he was the only officer who realized that tension had begun building up and that something serious might happen unless the mischief-makers were detected and dealt with. It, however, appears that unfortunately he and S.P., Raman (P.W. 67) did not see eye to eye and that the more Pardeep harped on the seriousness of the situation, the more Raman made light of it and ignored Pardeep's warnings.

62.15 To maintain law and order and avert an open clash during the Moharram and Holi festivals, D.M., Pardeep issued an order dated March 6, 1970 (Ex. P 728) under section 37(I) of the Bombay Police Act prohibiting the carrying, collecting and preparing of arms, missiles, etc., from March 9, 1970 to March 20, 1970 and on March 10, 1970 issued another order under section 145, Cr.P.C. (Ex. P 729) prohibiting for ten days from March 22, 1970 the lighting of public bonfires or Holis or the collecting of fire-wood or other articles or things for this purpose or the throwing of mud, dirt, refuse or any coloured or dirty water or other substance on or against any person or property in any public place, thoroughfare, highway, street, lane or by-lane situate, *inter alia*, within the municipal limits of Jalgaon. He also took rounds in the city to see that the Moharram and Holi festivals passed off peacefully and that the Police were alert (C.W. 21/32/2875). He, however, did not report to the Government about any stone-throwing incidents which took place in March 1970 nor about the board put up by the R.T.M. on March 9, 1970. On the basis of this it was urged that he also did not consider the situation to be serious and his evidence that he considered Jalgaon a communally sensitive spot even prior to May 8, 1970 was a case of hindsight. The evidence before the Commission negatives this argument. Pardeep has given his explanation for not reporting the above incidents to the Government; his explanation being that in view of the Government's reply to the Cut Motion (Ex. P 882) moved in the Maharashtra Legislative Assembly, he did not think it necessary or proper to report them (C.W. 21/31/2875). Unfortunately, his report was not called for to enable the

Government to give a reply to the said Cut Motion (C.W. 21/22/2872). He, however, reported to the Government about the stone-throwing which took place after the public meeting addressed by Bal Thackeray on April 16, 1970 (C.W. 21/30/2874). But apart from his explanation for not reporting these matters, there is on the record correspondence between him and the S.P. which can leave no doubt that from March 1970 onwards he considered the situation in Jalgaon as being potentially dangerous.

The differences of opinion between the D.M. and the S.P.

62.16 By his letter dated March 7, 1970 (Ex. P 735) D.M., Pardeep pointed out to S.P., Raman that in the year 1968 ('1968' being a typographical error for '1967' as pointed out in the D.M.'s letter dated May 6, 1970) there were reports of damage to a mosque in Jalgaon City at the hands of some 'goondas' during the Holi Festival and that similarly a couple of days earlier there were again complaints of stone-throwing on the same mosque and that it was therefore necessary to take extra care during the coming Holi festival in order to avoid repetition of any such instances and to maintain communal amity in the District. By this letter, the D.M. requested the S.P. to be alert from the very beginning and to see that law and order was maintained during the Holi festival. He pointed out to the S.P., "The minority community people are visibly worried over such instances." In his reply dated March 11, 1970 (Ex. P 736) the S.P. intimated to the D.M. that he had already issued instructions to all police officers in the District directing them to be more vigilant and to take precautionary measures during the Holi and Rangpanchami festivals. The letter then stated:—

"No incident of stone-throwing on the Mosque alleged to have been reported in Jalgaon City. But on an incident of removal of wooden cot by children which was reported on 1st March 1970, the local Police have taken prompt action. The local Policemen are of the opinion that the leaders of the minority community are unnecessarily intervening in petty quarrel of children there and giving the small issues between their children a colour due to which only some tension may arise. All the same P.I., Jalgaon City, has been personally instructed to be more vigilant and gear up the Police machinery and book the mischievous elements in good time."

The 'petty quarrel of children' referred to in the aforesaid letter was the assault on Sayed Chand [J.U.(J.)W. 13], a strong well-built young man of 22, and two other Muslims, one of them 35 years old, in which the injuries suffered by Sayed Chand were a contused lacerated wound on the head, abrasions on both knee joints, the right side of the face near the angle of the mouth and the right clavicle. This surely could not have been the work of 'children'. So far as stone-throwing was concerned, stone-throwing on the Jumma Mosque had taken place in the night of March 1, 1970 as stated in Inspector Sawant's report dated March 3, 1970 (Ex. P 740) and on March 10, 1970, the day after

the R.T.M. board was exhibited at Rath Chowk, stones had been thrown on the Jumma Mosque as stated in the report dated March 10, 1970 (Ex. P 1030) made by P.S.I., Bhalerao (S.P.O.W. 10). Both these reports were made to the S.P. himself and in spite of this it is surprising to find the S.P. writing in his said letter of March 11, 1970 that no incident of stone-throwing on the Jumma Mosque had been reported in Jalgaon.

62.17 As appears from the letter dated March 12, 1970 (Ex. P 737) from the D.M. to the S.P., there was a personal discussion between the D.M. and the S.P. on March 11, 1970, in the course of which the D.M. impressed upon the S.P. the need to bring about confidence in the minds of the Muslims and to show to the mischievous elements that the authorities were not going to take a chance and that any mischief would be met by stern action. Along with the said letter the D.M. forwarded to the S.P., a copy of the application dated March 9, 1970 (Ex. G 58) from Gulam Rasool Bagban and others and requested the S.P. to keep him informed of any developments and not hesitate to seek his co-operation at any time. The letter concluded by stating, "Action should be promptly reported". Incidentally, the Muslim leaders had themselves handed over a copy of the said application to the S.P. on March 9, 1970.

62.18 By his letter dated March 21, 1970 (Ex. P 738) the D.M. referred to his two earlier letters and stated that the complaints were still continuing and that these complaints maintained that incidents of stone-throwing had not abated and that there was an atmosphere of fear and insecurity amongst the minority community. By this letter he requested the S.P. to make more stringent arrangements to ensure the maintenance of law and order during Holi and to take all possible ways and means to infuse confidence in the Muslims. He concluded the said letter by stating that he himself would also be visiting the locality every now and then to ascertain the correct position. By his reply dated March 25, 1970 (Ex. P 739) the S.P. recorded that he had discussed in detail with the D.M. the arrangements made by him. The letter further stated:—

"When assurances have been given and elaborate police arrangements have been made and continuous police patrolling is introduced in the respective areas and the Muslims also know that vigorous police bandobast is maintained in the locality, it is surprising that they should repeatedly allege that they feel insecure. I would like to inform you that quite a number of policemen were posted in Rath Chowk area for patrolling and none of these men saw any stone being thrown or noticed any serious incident to cause any insecurity as being repeatedly alleged. Therefore, your mentioning in your D.O. letter under reference that "stone-throwing continues unabated" has surprised me and I have to state that it is not according to the facts and the actual situation being observed and put on record by the officers on the spot from time to time. I have once again, therefore, to assert that I definitely feel that the fear

in the minds of Muslims is unwarranted and these allegations are not warranted by facts.”

62.19 It is strange to find the S.P. writing in this way to the D.M. when admittedly he had received by this time the report dated March 15, 1970, the two reports dated March 20, 1970, the two reports dated March 22, 1970 and the report dated March 23, 1970 (Exs. P 742 to P 747 respectively) which showed that stone-throwing was taking place, that during the Moharram festival on each of the three days, namely, 17th, 18th and 19th March 1970, a few stones had been thrown on the Jumma Mosque, that Inspector Sawant had for this reason asked for more reinforcements and had suggested that if the incidents of stone-throwing did not stop by Holi, then the expenditure on the additional police reinforcements should be recovered from the residents of the locality under section 22 of the Bombay Police Act, that there were not only rumours amongst the Muslims, but also amongst the Hindus, that the rumours amongst the Hindus were that Muslims were collecting soda-water bottles, acid-bulbs, stones and brick-bats though it was ascertained that there was no foundation for this rumour, that on the night of March 22, 1970 there was serious trouble at Rath Chowk by reason of the Hindus gathering round the Holi fire becoming enraged at three stones thrown, each of them after an interval of half an hour, on some Hindu houses at Rath Chowk, that these Hindus wanted to go into the Muslim Mohalla, that it took the Police over two hours to bring the situation under control, and that as stated in Inspector Sawant's report dated March 23, 1970 (Ex. P 747) stone-throwing was going on daily. The said letter of the S.P. (Ex. P 739) was thus far removed from facts—facts of which the S.P. was fully aware.

62.20 The D. M. was leaving on May 7, 1970 for Mussoorie to attend a seminar arranged by the National Academy of Administration, Mussoorie, under the Ministry of Home Affairs, to which he had been deputed by the Government of Maharashtra. Before he left, by his letter dated May 6, 1970 (Ex. No. 32) the D.M. sent a reply to the S.P.'s letter of March 28, 1970. In this letter he tried to soothe the ruffled feelings of the S.P. and stated that his letters were not written to cause him annoyance or to belittle the efforts of the Police to maintain the peace, but as the Muslim complaints continued, a reminder to his earlier D.O. letters was sent to him. He concluded the letter by stating:—

“Incidentally I may mention as I have already discussed with you that incidents of stone-throwing were again reported on 16th April 1970 on the Jumma Masjid only when Shri Bal Thackre was addressing a public meeting in some other part of Jalgaon town. *As you will agree we must unearth the mischief-mongers, otherwise it may sometime lead to some major conflict. Our efforts should continue to find the hand behind it, if any.*”

The D.M. has testified that though there was no tension in the town in the early hours of May 8, 1970 when he left for Mussoorie and

though he did not sense any immediate danger, he none the less felt that the forces behind the stone-throwing should be unearthed, otherwise one day they might create serious trouble (C.W. 21/36/2877).

62.21 There was no reply from the S.P. to the D.M.'s said letter of May 6, 1970. The events that happened on May 8, 1970 made any reply unnecessary and conclusively proved that the S.P.'s assessment was wrong.

S.P., Raman's attitude

62.22 S.P., Raman's attitude towards the communal situation in Jalgaon was unfortunate. We have on the record the report dated October 5, 1969 (Ex. P 833) made by Raman himself, and Raman's order dated March 12, 1970 (Ex. P 841) and Raman's own notings on Inspector Sawant's reports dated April 17, 1970 and April 22, 1970 (Exs. P 749 and P 750), all of which show that Raman fully realized the seriousness of the situation. He, however, chose to turn a blind eye to it, and even to mislead the Government and the I.G.P. about the true state of affairs. His said report dated October 5, 1969 (Ex. P 833) on the incidents that took place on October 2 and 3, 1969 states that the feelings of young Hindus of questionable character had become excited towards the Muslims on reading the Jan Sangh board exhibited at Rath Chowk on October 1, 1969, resulting in their pelting stones on the Jumma Mosque and on the Muslim houses in the locality and in gangs of boys roaming about in the locality abusing Muslims and that as a result of this the Muslims had become extremely nervous and agitated at these happenings and that it was only when the S.P. himself personally started patrolling the locality that the crowds dispersed and the tension relaxed. His order dated March 12, 1970 (Ex. P 841) shows that the feelings of the Muslims were hurt by the contents of the board exhibited by the R.T.M. at Rath Chowk on March 9, 1970 and that it was for this reason that he directed Inspector Sawant to depute P.S.I., Bhalerao and a party of one head constable and four constables to patrol the said area from 5 p.m. till 2 a.m. continuously. His noting on Inspector Sawant's report dated April 17, 1970 (Ex. P 749), which was made in respect of the stone-throwing at the Jumma Mosque and the Muslim houses on April 16, 1970 after the meeting addressed by Bal Thackeray, was that Sawant should personally detect the mischief-mongers instead of putting up reports and that if they were not detected, his ability to control the City Police Station would be doubted. His noting on Inspector Sawant's report dated April 22, 1970 (Ex. P 750), which was in respect of some stones thrown on houses in Ram Peth in the night of April 21, 1970 was that Sawant should collect confidential information as to who was behind this mischief. In the light of his said report, order and notings, his correspondence with the D.M. referred to above makes sorry reading.

62.23 It was unfortunate that S.P., Raman should have tried to minimize the situation and pass off the incidents of stone-throwing as

mere rumours and the incidents of assault as petty quarrels between children. Realizing the seriousness of the situation, knowing that on each occasion on which a board had been exhibited at Rath Chowk it had led to incidents, he none the less took no real action with respect to these boards and that too in spite of the various circulars and wireless messages from the Government and the I.G.P. He did not even give instructions to Inspector Sawant about the boards and even though he had not received any report in respect of any board from the D.S.B. he neither pulled up the officers of the D.S.B. for their negligence nor gave them any special instructions with respect to the future.

62.24 A clue to S.P., Raman's attitude *vis-à-vis* the Jan Sangh is furnished by his report dated March 29, 1970 (Ex. G. 210) which was asked for from him in order to enable the Government to give a reply to the Cut Motion moved by Nial Ahmed Ansari, M.L.A., in the Maharashtra Legislative Assembly, and his report dated March 30, 1970 (Ex. G 59) containing his comments on the application dated March 9, 1970 (Ex. G 58) made by the Muslim leaders of Jalgaon. In both these reports Raman has referred to the board exhibited by the Jan Sangh on October 1, 1969 as a board put up by the R.T.M. and this in spite of his having stated in his said report dated October 5, 1969 (Ex. P 833) that the said board had been exhibited by the Jan Sangh. While his said report dated October 5, 1969 stated that the writing on the said board had excited the feelings of the Hindus against the Muslims, his said report dated March 30, 1970 contained the amazing statement that the writing on the said board was an "extract of some factual news connected with Muslim community published in other newspapers". If the S.P. of the District considered this type of writing to be "factual news", it is no wonder that none of his subordinates ever cared to take any cognizance of other boards containing writings of a similar nature. Neither his report dated March 29, 1970 nor his report dated March 30, 1970 mention that the Jan Sangh had at any time exhibited a board containing any provocative or inflammatory communal writing. While referring to the incidents which took place on October 1, 2 and 3, 1969 he has omitted to state that they were the results of communal feelings excited by the inflammatory writing on the said board of October 1, 1969. Further, both these reports contain an incorrect version of what had happened on March 1, 1970. According to the version set out in these two reports, some small Hindu boys attempted to remove a wooden cot for throwing it into the Holi fire and were caught by Sayed Chand who beat them up and thereupon three or four other Hindu boys rescued them and beat Sayed Chand and as a result thereof two non-cognizable complaints, namely, N.C.R. Nos. 157 and 158 of 1970 (Exs. P 732 and P 733), were filed at the police station. The impression thus conveyed by the said reports is that Sayed Chand was the first assailant and that these two complaints were cross-complaints, one by the small Hindu boys who had been beaten up

by Sayed Chand and the other by Sayed Chand against the Hindu boys who beat him. As we have seen in Chapter 59, the correct facts were very different and the said N.C.R. No. 157 of 1970 was a complaint by Sayed Chand that he had been beaten on the head with a 'zara' by some Hindus while taking some Hindu boys, who had stolen a cot, to the police station and N.C.R. No. 158 of 1970 was a complaint by Shaikh Samad Shaikh Mohammed that he had been assaulted by some Hindu boys residing in the Gadhi. Both the said reports merely gave the heading of the R.T.M. board exhibited on March 9, 1970, namely, "Unholy alliance of the Communists and the Muslim League in Bengal", and referred to the writing on the said board as being an extract of the news published in the Marathi daily of Nagpur, the "Tarun Bharat". There is no indication or even a suggestion in either of the said two reports that the writing on the said board was a communal writing or that the "unholy alliance" alleged in the said report was not an alliance for a political purpose but for slaughtering a cow on Bakri-Id. According to both the said reports, the incidents of stone-throwing on the Jumma Mosque were merely rumours without any truth in them and these false rumours were spread as a result of pranks played by small boys, none of whom had any communal intention or motive.

62.25 With such reports emanating from the S.P. of the District, it is little wonder that neither the Government nor the I.G.P. nor the D.I.G. (Int.) thought that Jalgaon was a communally sensitive spot.

Inspector Sawant's attitude

62.26 Inspector Balkrishna Raghunath Sawant who was in charge of the Jalgaon City Police Station from May 24, 1969 till May 20, 1970 struck the Commission as being a well-meaning officer of limited capabilities. In his various reports referred to in Chapter 59 he has set out the rumours circulating amongst both the Hindus and the Muslims and in his report dated March 23, 1970 (Ex. P 747) he has set out the names of both Hindu and Muslim leaders who were holding private meetings and spreading rumours. Unfortunately, he was badly served by his Sub-Inspector, P.S.I., Bhalerao, who was deputed to patrol the localities of old Jalgaon and some of the statements in Sawant's report were, therefore, necessarily based on the information conveyed to him by Bhalerao, and Sawant himself cannot be blamed for their incorrectness. The contrast between the report dated March 23, 1970 made by Sawant (Ex. P 747) and the report dated March 24, 1970 made by P.S.I., Bhalerao (Ex. P 748) with respect to the same incident, namely, the one on the night of March 22, 1970 is shocking. Sawant's report states that while the Hindus had gathered round the Holi fire at night Rath Chowk, one after another, at intervals of half an hour each, three stones from the direction of the Muslim locality of Maniyar Mohalla fell on the corrugated iron sheets of a house in the Hindu locality in Rath Chowk and that this enraged the Hindus who tried to enter the Muslim

locality of Maniyar Mohalla, but the Police prevented them from doing so and that it was only at about 3 a.m. or 3-30 a.m. that the situation at last became quiet. Bhalerao's report, on the other hand, states that a few stones were thrown on a Hindu house from the side of Maniyar Wada and as he along with Inspector Sawant went there immediately, no untoward incident took place. Bhalerao's report thus omits to mention that the Hindus had formed themselves into a mob and were about to enter the Muslim locality to attack the Muslims. This omission can only be deliberate.

P.S.I., Bhalerao's attitude

62.27 P.S.I., Shashikant Pandharinath Bhalerao has not impressed the Commission either as a witness or as a police officer. His demeanour in the witness-box was unsatisfactory, the veracity of his evidence doubtful and his impartiality in the discharge of his duties highly debatable. While discussing the role played by Inspector Sawant, we have already seen how P.S.I., Bhalerao has omitted in his reports the part played by the Hindus in creating tension. Though he was specially deputed to patrol the area of Rath Chowk and the adjoining localities, he has not reported any of the boards containing communal writings which were exhibited there. In cross-examination he admitted that once or twice he had seen inflammatory boards put up at Rath Chowk when he had gone in that area for patrolling (S.P.O.W. 10/6/3146). This could not refer to the board put up on March 9, 1970 by the R.T.M. because he was deputed to patrol that area by the S.P.'s order dated March 12, 1970 (Ex. P 841), and was not patrolling there on March 9, 1970. If he saw any such boards, as he has himself admitted he did, it was his duty to have reported them. He, however, did not report them at any time, though in the witness-box he sought to make out that he had orally given information about these boards to Inspector Sawant. When Bhalerao has made reports in writing about what he called rumours of stone-throwing spread by the Muslims, one fails to understand why, if boards containing inflammatory writings were put up in Rath Chowk (an area in which there was obviously tension, otherwise he would not have been specially posted there for patrolling), he should not have made reports about such boards also in writing. His story of having given oral information is obviously untrue. He has admitted in cross-examination that he knew the workers of the R.T.M. as he used to go on duty to Rath Chowk and that they used to take considerable interest in the stone-throwing incidents and were holding long discussions on that topic and that he had orally reported these facts at the police station to Inspector Sawant (S.P.O.W. 10/6/3145, 14/3149, 20/3154). He was asked why he had not made a report in writing setting out these facts. The answer he first gave was that when he used to go to the police station at the time of the roll-call he used to narrate orally to Inspector Sawant what had happened or what he had ascertained while patrolling. The question was repeated and the answer he next gave

was that if Inspector Sawant was absent, he used to make a report in writing to the S.P. Obviously, he had no answer for not having reported the aforesaid facts in writing and his story that he gave oral information about them cannot be believed. His failure to report provocative anti-Muslim boards stands out in sharp contrast to his reporting in writing about the Muslims. On behalf of Inspector Sawant he has made reports dated March 15, 1970 (Ex. P 742) and March 24, 1970 (Ex. P 748) as also he has made two reports himself directly to the S.P., namely, the reports dated March 10, 1970 and March 29, 1970 (Exs. P 1030 and P 1031 respectively). According to these reports, though there was actually no stone-throwing, there was unnecessary discussion about it amongst the Muslims. There could have been nothing easier then to have mentioned in at least one of these reports the fact that the workers of the R.T.M. were taking considerable interest in the stone-throwing incidents and were holding long discussions thereon. The steps taken by him to unearth the mischief-mongers and to detect those who were responsible not only for the stone-throwing but also for instigating it could hardly have been effective, as in fact they were not, by reason of his pro-R.T.M. bias. His oral evidence as well as his reports referred to above show that whenever a complaint of stone-throwing was made to him, he would ask the complainant to give him the name of the persons who had thrown the stone and on his inability to do so, he would dismiss such complaint as a mere rumour. These stones were not thrown in the presence of eye-witnesses; they were mostly thrown at night; and it was the duty of Sub-Inspector Bhalerao and the constables who were patrolling the area to keep a sharp look-out and through their informants to obtain information about who was responsible. The attitude adopted by P.S.I., Bhalerao that unless the Muslims gave him the names of those who threw the stones, he could do nothing in the matter would be tantamount to the Police saying every time somebody came to the police station to lodge a complaint of burglary or theft or murder that unless the complainant gave the name of the culprit, the Police could do nothing in the matter.

The District Special Branch, Jalgaon

62.28 The sanctioned strength of the District Special Branch in Jalgaon District was one Inspector, one Sub-Inspector, six head constables and five constables. All the personnel of the D.S.B. were residing in Jalgaon City. The Inspector, D.S.B., was R. M. Patil. The Sub-Inspector was Machhindra Martanda Walvekar (S.P.O.W. 11) while one of the head constables was Dashrath Shripat Joshi (S.P.O. W. 7). All three of them were suspended after the disturbances. The D.S.B. comes directly under the supervision and control of the S.P. Its main work is to keep a watch on various political and labour activities and on political pockets, to curb communal movements as and when they occur and to look after the confidential records pertaining to the office of the S.P. [S.P.O.W. 11/1(2)/3158(1)]. The general

duty of an Inspector and Sub-Inspector, D.S.B., is to collect intelligence and to keep the S.P. informed about it. Their work consists of both desk-work and field-work (P.W. 67/107/2291). The evidence shows that the District Special Branch of Jalgaon District lamentably failed in carrying out its duties and in collecting any intelligence about the communal situation. It did not report to the S.P. about any board with communal writing on it nor about any incident of stone-throwing nor even about Khan Abdul Gaffar Khan's visit to Jalgaon or the speech made by him (P.W. 67/34/2256, 54/2266, 111/2292). Sub Inspector Walvekar has deposed in cross-examination (S. P. O. W. 11/4-7/3161-2):—

“I came to learn about the board put up at Rath Chowk on October 1, 1969. I did not make any written report about it to the S.P. I have not reported any incident in writing to the S.P. I used to discuss matters orally with the S.P. I learnt about this board from the City Police Station as also from my constables.

“Q. : Did you come to learn about the incident of cot-lifting on March 1, 1970 ?

A. : Yes.

Q. : Is it not correct that this incident created tension in the town ?

A. : Yes, it is correct. The incident did create tension in the town.

“I did not consider that the R.T.M. was carrying on a communal movement in the town. I do not consider the Jan Sangh a communal body. According to me, there was and is no communal body in Jalgaon. According to me, the R.S.S. is not a communal body. According to me, a party which creates hatred against other religions is a communal body.

“I knew that a number of stone-throwing incidents had taken place in Rath Chowk. I did not post any constable specially to collect information in connection with the stone-throwing incidents. I had, however, asked my constables to collect information about these incidents. They reported to me that they were not able to get any information about the persons responsible for throwing stones. I personally did not go to that area to collect information. I reported these incidents orally to the S.P.”

62.29 It is not only the D.S.B. which failed in carrying out its duties. The S.P., under whose direct supervision and control the D.S.B. was, equally failed in his duties to gear up its Intelligence machinery in the District. Even though no reports of any of these incidents were made to him, the S.P., even when he became aware of these incidents, did not think it fit to give any special instructions to the D.S.B. (P.W. 67/37/2257). The explanation he gave was that there was no question of giving any special instructions to the D.S.B. to keep a watch for boards with communal writings thereon because it was a part of its duty to do so (P.W. 67/34/2266). It is difficult to imagine a more puerile explanation. If it was a part of the duty of the D.S.B. to keep

a watch for such writings, then obviously the D.S.B. had failed in carrying out its duty and it was for the S.P. to pull up its personnel for their negligence and to ensure that they carried out their duties properly.

The State Intelligence in Jalgaon District

62.30 The officer of the State Intelligence — the Special Security Branch — posted in Jalgaon District from November 1963 till September 23, 1970 was Sub-Inspector Baban Pandu Badgujar (C.W. 22). His duties consisted of collecting information about political and labour activities and communal matters in the district. In May 1966 a post of Sub-Inspector in the Special Security Branch was created for Jalgaon District and on October 22, 1969 Sub-Inspector Vinayak Krishna Kulkarni (C.W. 24) was appointed to the post. The staff of Sub-Inspector Badgujar consisted of a head constable and an office peon. A post of a head constable under the Sub-Inspector, S.S.B., had been created, but had not been filled prior to the disturbances and the Sub-Inspector, S.S.B., did not have any staff (C.W. 22/1/2914-5, 6/2917). The performance of both Sub-Inspectors Badgujar and Kulkarni was as miserable as that of the personnel of the D.S.B. and both these officers have shown themselves inefficient and irresponsible in the discharge of their duties.

62.31 Though Sub-Inspector Badgujar's work all through consisted also of collecting information about labour activities in the district and though there is only one mill in Jalgaon, namely, the Khandesh Spinning and Weaving Mills Limited, employing about 2,500 workers, Badgujar did not even know who the owners of the said mill were or who had the controlling interest in the said mill (C.W. 22/2/2915). Both these officers have failed to make any report or make any mention in any of their reports about the Jan Sangh board exhibited on October 1, 1969 (Ex. P 718) or the R.T.M. board exhibited on March 9, 1970 (Ex. P 719), leave aside other boards containing inflammatory or provocative communal writings. The explanation given by Sub-Inspector Badgujar about not reporting the said Jan Sangh board of October 1, 1969 and the said R.T.M. board of March 9, 1970 was that he did not come to know about these boards immediately (C.W. 22/7/2918, 10/2919). Badgujar also did not report any of the stone-throwing incidents, though he admitted that he had learnt about them within a day or two after they happened and had come to learn about the stone-throwing incident following Bal Thackeray's meeting of April 16, 1970 the very next day (C.W. 22/11/2919). So excellent was his Intelligence work that he did not even come to learn prior to the disturbances that any member of the Jan Sangh was a member of the R.T.M. ! He never made any detailed inquiries about this organization and did not know who its members were (C.W. 22/8/2918, 12/2920). Though under the order dated August 13, 1968 (Ex. G 234) from D.I.G.(Int.) copies of all weekly reports relating to communal matters were to be endorsed to the D.M., Badgujar did not care to endorse

copies of any special report on communal matters to him on the ground that the said order did not apply to special reports (C.W. 22/1/2914).

62.32 Sub-Inspector Kulkarni came to learn about the R.T.M board of March 9, 1970 within two or three days of its being put up. He did not know who had put it up and he did not make any report about it. When questioned about his failure to report about this board, his explanation was that this was because the true contents of the writings on the board were not available. This answer was given by him after a considerable pause (C.W. 22/3/2957-8). Badgujar, on the other hand, has deposed that it was Sub-Inspector Kulkarni who told him what the said contents were (C.W. 22/10/2919). Kulkarni has also failed to report about any of the other provocative boards. He has also not reported any of the stone-throwing incidents which took place in March 1970, the explanation given by him being that they were merely rumours. He admitted that he was expected to report rumours which would affect the communal situation. When asked his reason for characterising these incidents as rumours, his reply was that they were rumours because no one had come forward to mention the names of the persons who were throwing stones (C.W. 24/4/2958)! He has, however, reported about the stone-throwing which followed the public meeting addressed by Bal Thackeray on April 16, 1970. He did not know who the office-bearers of the Jalgaon City Jan Sangh or the Jalgaon District Jan Sangh were and though, according to the extent of his knowledge, he knew that there were two or three Shakhas of the R.S.S. in Jalgaon, he has not made any report about them (C.W. 24/5/2958). The note Exhibit No. 47 filed by D.M., Pardeep (C.W. 21) shows that none of the visits of the R.S.S., the Jan Sangh or the Jamaat-E-Islami leaders nor any of their speeches were reported to him by officers of the C.I.D.(Int.), but he had received information about them from the S.P.

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CHAPTER 63

THE MORNING OF MAY 8, 1970

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CHAPTER 63

THE MORNING OF MAY 8, 1970

Akshaya Tritiya

63.1 May 8, 1970 was Akshaya Tritiya day. This is an important local holiday in Jalgaon District and all offices, textile mills and markets in Jalgaon were closed on that day. It is customary on that day for people to gamble and drink (S.P.O.W. 10/9/3146 ; Exs. G 203 and G 204). Normally, no special police bandobast is made for Akshaya Tritiya, but as information had been received in the early hours of May 8, 1970 about the outbreak of the disturbances in Bhiwandi on May 7, 1970 extra police bandobast was made for May 8, 1970 (P.W. 67/31/2253).

The absence of senior officers from Jalgaon

63.2 In the morning of May 7, 1970, D.M., Pardeep had left Jalgaon by car for Mussoorie to attend a seminar which was being held by the National Academy of Administration and to which he was deputed by the Government of Maharashtra (C.W. 21/8/2862, 18/2869). In the night of May 7, 1970 the Resident Deputy Collector, who was also the Addl. D.M., had left for Bombay to attend an urgent meeting. The seniormost district officer after him was S. L. Kulkarni, S.D.M., Jalgaon Division (P.W. 70). Kulkarni had left Jalgaon for Bhusaval at 3 p.m. on May 7, 1970 by jeep, as directed by the D.M., in order to get water released from the reservoir by the Maharashtra Electricity Board by reason of the acute water shortage in Bhusaval (P.W. 70/3/2308-9). On May 7, 1970 at 9-30 p.m. the S.P. along with his Reader Sub-Inspector, his stenographer and a clerk had left Jalgaon for Pachora for an inspection of the 'muddemal' at the Pachora Police Station the next day. He was putting up in the guest-house of Mansingka Industries. There were three telephone lines in the said guest-house. He had, however, not left behind the telephone numbers of the guest-house as they were in the telephone directory. His subordinates knew where he was putting up [P.W. 67/1(28)/2229(13), 9/2237, 36/2256-7, 103/2289]. Asst. S.P., Charansingh Azad, S.D.P.O., Jalgaon Division (P.W. 78), had gone to Faizpur on May 5, 1970 for the annual inspection of the Faizpur Police Station. He had taken with him a staff consisting of a Reader P.S.I., one senior clerk, one junior clerk, the constable driver of his vehicle and one constable orderly. The inspection was fixed from May 5 to May 9, 1970 (P.W. 78/3/2368). Home Police Inspector M. N. Patil had taken casual leave after Shiv Jayanti and accordingly from 8 p.m. on May 7, 1970 Inspector R. M.

Patil, in charge of the District Special Branch and the Local Crime Branch, was also looking after the work of the Home Police Inspector (P.W. 67/8/2235).

63.3 One can appreciate that after March 1970 except for some incidents in the month of April 1970 there was apparent calm on the surface in Jalgaon City and Shiv Jayanti not being an important occasion in the district, no trouble was expected on that day. There could, therefore, be nothing wrong in the absence of these senior officers from Jalgaon on the morning of May 8, 1970, for even if anybody had felt that the situation was full of potential danger and could at any moment erupt into a serious disturbance, he none the less could not have pin-pointed the particular day on which it was likely to happen nor could have visualized that it would happen in the afternoon of May 8, 1970. It is, however, a matter for consideration whether almost all senior officers should leave their headquarters together and whether it would not be better if they were to so co-ordinate their tours, visits and leaves that some senior officer is always available to control the situation in case of sudden eruption of any trouble. The result of all these senior officers being away from Jalgaon was that as and when the remaining officers were caught up in the disturbances, during the most crucial hours in the history of Jalgaon City the sole persons left to deal with the situation were Grade III Head Constable Girdhar Chiman Bendale (S.P.O.W. 8) who was acting as Police Station Officer in the afternoon of May 8, 1970 and the Collector's stenographer Anant Janardan Mahabal (P.W. 88).

Senior officers present in Jalgaon on May 8, 1970

63.4 S. H. Koli, S.D.M., Chalisgaon Division (P.W. 79), was present in Jalgaon on May 8, 1970. So also was Dy.S.P., V. R. Ghorpade, S.D.P.O., Chalisgaon Division (C.W. 23), who had taken casual leave from May 9, 1970 to May 17, 1970 and was to proceed on it in the afternoon of May 8, 1970 [C.W. 23/1(2)/2927(1)]. S. L. Kulkarni, S.D.M., Jalgaon Division, who had gone to Bhusaval as stated above returned to Jalgaon at about 2-30 p.m. on May 8, 1970 (P.W. 70/2/2308). Asst. S.P., Azad, S.D.P.O., Jalgaon Division, who had gone for inspection to Faizpur from May 5, 1970 to May 9, 1970 also returned to Jalgaon at about 2-30 p.m. to write out the case diary of a murder case of the Jalgaon Taluka Police Station which he was personally investigating and of which all the papers were at his residence. He had, however, not informed his office that he was returning on May 8, 1970 as all the members of his staff were at Faizpur [P.W. 78/1(2)/2365(1), 3/2368]. Inspector R. M. Patil in charge of the D.S.B. and the L.C.B., who in the absence of the Inspector M. N. Patil was also looking after the functions of the Home Police Inspector, was also at Jalgaon on May 8, 1970 (P.W. 67/8/2265) and so was Inspector Sawant in charge of the Jalgaon City Police Station.

The first crash message

63.5 At 11-12 p.m. on May 7, 1970 a crash wireless message No. 40 (Ex. P 707) was received from D.I.G. (B.R.), addressed to the Ss. P. of Colaba, Nasik, Jalgaon and Ahmednagar Districts with copy to the D.I.G.(Int.) stating, "Shiv-jayanti procession stoned at Bhiwandi, resulting in communal riots. Alert your staff and take necessary precautions for likely repercussions".

The fate of the first crash message

63.6 The said first crash wireless message was seen by Inspector R. M. Patil who forwarded it to the D.S.B. with the following endorsement marked "Urgent":—

"Inform S.P. by phone in the morning and phone to important P. Stns."

The said message with Inspector Patil's said endorsement was received at 3 a.m. by Head Constable Bhure of D.S.B. Bhure gave this message to Constable Janardan Patil of the D.S.B. who took it to P.S.I., Walvekar's residence at about 6.45 a.m. the same day. As soon as Walvekar received the message, he asked Constable Patil to book an urgent trunk call to the communal pockets in the District and to Pachora where the S.P. was camping. He also informed him that he (that is, Walvekar) would come to the police station immediately. Accordingly, Walvekar went to the police station at about 7-15 a.m. and verified that Constable Patil had booked the necessary trunk calls and that at 7-45 a.m. the S.P. was informed about it at Pachora [S.P.O.W. 11/1(7-8)/3158(3-4), P.W. 67/8/2236].

63.7 The conduct of Inspector R. M. Patil cannot be too severely condemned. A crash wireless message is not a routine matter. It is sent out only in cases of emergency and urgency and, as Inspector Sawant has deposed, only when something of real importance has happened (S.P.O.W. 6/88/3035). It was the duty of the Police Inspector R. M. Patil who was that day acting both as Inspector, D.S.B., and Home Police Inspector, immediately to communicate this wireless message to the S.P. wherever he was. The S.P. was camping at Pachora hardly about 40 miles from Jalgaon. He was available on the telephone and R. M. Patil himself had a telephone at his residence as deposed by P.S.I., Walvekar [S.P.O.W. 11/1(7)/3158(3)]. He could have immediately put through a trunk call to the S.P. at Pachora and informed him. It may be that the situation in Jalgaon was not such as in ordinary circumstances might erupt into a disturbance, but in view of the tension prevailing for the last few months and which had reached its peak in the month of March 1970, this was news of grave import for it could have serious impact on the law and order situation in Jalgaon. Further, it was not a question of Jalgaon City only for there were other places in the District which were communally sensitive spots such as Chopda, Parola and Raver (C.W. 21/3/2860 : Ex. G 39).

The second crash message

63.8 At 2-48 a.m. on May 8, 1970 another crash wireless message bearing No. 41 (Ex. P 708), this time from the I.G.P., was received at Jalgaon. The message stated, "Depute 1 P.I. and 3 S.I.s. to report for duty to Dispol Thana at Bhiwandi immediately".

The fate of the second crash message

63.9 The said second crash message (Ex. P 708) was seen by Inspector R. M. Patil who forwarded it to the Correspondence Branch (II) in the S.P.'s office with the endorsement, "please arrange to send officers. Inform S.P." A clerk in the Correspondence Branch (II) thereupon booked a trunk call to the S.P. and it was received by the S.P. at 5-30 a.m. and the said message was communicated to him. Thereupon at 7-30 a.m. the S.P. booked a P.P. trunk call to Inspector Sawant. As Sawant was not available and had to be sent for, the S.P. could talk to him on the telephone only at about 8-30 a.m. by which time the S.P. had also learnt about the first crash message Exhibit P 707. He accordingly gave instructions to Sawant with respect to both the said crash messages Exhibits P 707 and P 708. With respect to the second crash message the S.P.'s directions were that Inspector R. M. Patil, P.S.I., R. R. Kolte of the Security Wing, P.S.I., Nemade of the Foodgrains and P.S.I., A. D. Patil of the Bhusaval Police Station should proceed to Bhiwandi (P.W. 67/8/2235).

The third crash message

63.10 Another crash wireless message bearing No. 43 (Ex. P 709) addressed to all Ss. P. and Commissioners of Police, Poona and Nagpur, was sent out by the I.G.P. and received in Jalgaon at 9-12 a.m. The message stated.—

"Communal rioting with heavy looting, arson etc. occurred at Bhiwandi, District Thana, following incident during Shiv Jayanti procession on 7th May. All Cs. P. and Ss. P. are alerted to maintain utmost vigilance and take fullest precautionary measures against possible repercussions at trouble spots. Any untoward developments should be reported promptly."

The fate of the third crash message

63.11 The said third crash message was communicated to the S.P. by Inspector R. M. Patil on the telephone at 10-15 a.m. and at that time Sawant also spoke to the S.P. At that time R. M. Patil expressed his unwillingness to proceed to Bhiwandi. The S.P., however, informed him that it was a matter of urgency and that he must proceed to Bhiwandi and that Inspector Sawant would look after his work. He also told Sawant to cancel the casual leave of Inspector M. N. Patil at Pimpalgaon Kale in Buldhana District and intimate to him that his leave was refused and that he should join duty immediately. He also instructed Sawant to stop Dy. S.P., Ghorpade from proceeding on leave and ask him to remain at the Headquarters and to remain alert

and take necessary precautions. Sawant accordingly sent a telegram conveying the S.P.'s message to Inspector M. N. Patil. He also telephoned Dy. S.P., Ghorpade's residence. At that time Ghorpade had gone to a garage for getting some repairs done to his car and the phone was taken by his wife. When Ghorpade returned home at about 12-30 p.m. or 1 p.m. his wife informed him that Sawant had rung up and intimated that because of the disturbances in Bhiwandi, the casual leave granted to him was cancelled [C.W. 23/3/2928 ; P.W. 67/1(29)/2229(13), 8/2236-7 ; S.P.O.W. 6/1(19)/2979(13) ; Ex. P 714].

The Police Force available at Jalgaon

63.12 The police strength available in Jalgaon in the morning of May 8, 1970 is shown by the statements Exhibits P 698 to P 700 filed by S.P., Raman. The Police Force available at Jalgaon City Police Station on May 8, 1970 consisted of one Inspector, namely, Inspector Sawant, two Sub-Inspectors, namely, Bhalerao and Walvekar, 11 unarmed Head Constables and 65 unarmed police constables. The sanctioned strength was 21 Head Constables and 99 police constables. Thus the men available for duty were short of the sanctioned strength by 10 Head Constables and 34 constables. The policemen were distributed on different duties (Ex. P 699). The sanctioned strength of the Jalgaon Police Headquarters was 60 Head Constables and 322 constables, while the men actually available were 61 Head Constables and 257 constables augmented by 26 Head Constables and 137 constables, being the I.G.P.'s reserves stationed at Jalgaon. Thus the total police strength available for the Headquarters on May 8, 1970 was 87 Head Constables and 394 police constables out of whom 62 Head Constables and 292 constables were engaged on guard, prisoner's escort, picketing and other duties or were on leave or sick leave, etc. Thus balance force available for an emergency was 25 Head Constables and 102 constables (Ex. P 700). There were no armed policemen attached to the City Police Station, but all policemen at the Headquarters could be issued arms (P.W. 67/32/2253).

63.13 The officers who were available in Jalgaon that morning were Inspector R. M. Patil who was deputed for duty to Bhiwandi, Inspector Sawant in charge of the City Police Station (S.P.O.W. 6), Inspector J. M. Kazi, Bhusawal Circle, who came to Jalgaon at 6-30 p.m. on May 8, 1970 on other duties and took charge of the Headquarters on learning about the disturbances, the two Police Sub-Inspectors Bhalerao (S.P.O.W. 10) and Karhadkar (S.P.O.W. 9) attached to the Jalgaon City Police Station, P. B. Kakad, P.S.I., Jalgaon Taluka, Abbas Daud Parker (P.W.77), Reader to S.D.P.O., Chalisgaon Division, N. G. Chirme, P.S.I., L.C.B., M. M. Walvekar, P.S.I., D.S.B. (S.P.O.W. 11), M. I. Kadri, P.S.I., Headquarters who was on leave on May 8, 1970 but rejoined duty immediately at the Headquarters in the evening on coming to learn of the disturbances. Home Police Inspector M. N. Patil had taken leave and Inspector R. M. Patil, L.C.B. and Sub-Inspectors R. R. Kolte, Security Wing, and L. R. Nemade, Foodgrains, were

deputed for duty to Bhiwandi, while two other P.S.Is., R. G. Patil, Reader to S.D.P.O., Jalgaon Division, and R. G. Thakur, Reader to the S.P., were out of station having accompanied their respective superiors for inspection (Ex. P 698).

Preventive measures taken by the Police

63.14 On learning about the first crash message Exhibit P 707 at about 6-45 a.m. on May 8, 1970 at his residence, Sub-Inspector Walvekar had trunk calls booked to the communal pockets in the District and to Pachora where S.P., Raman was camping. After he went to the City Police Station at about 9 a.m. or 9-30 a.m. he gave instructions to the Head Constable and four constables attached to the D.S.B. to take rounds in the city and collect information about what repercussions the news of the Bhiwandi disturbances had. These constables returned to the police station at about 12-30 p.m. or 1 p.m. and reported that the situation was calm and peaceful and that there were no repercussions [S.P.O.W. 11/1(8-9)/3158(4), 9/3163, 11/3164].

63.15 When S.P., Raman had a telephonic conversation with Inspector Sawant in the morning at about 10-45 a.m., the instructions given by him to Sawant were to keep a party of 30 men and two vehicles, as stand-by in the Headquarters and alert all police stations in the District, to recall Home Police Inspector M. N. Patil from leave and to stop Dy. S.P., Ghorpade from proceeding on leave and ask him to remain at the Headquarters and to remain alert and take necessary precautions [P.W. 67/1(29)/2229(13)]. Sawant sent a telegram (Ex. P 714) to M. N. Patil intimating to him that his leave was refused and calling upon him to join duty immediately. He also rang up Dy. S.P., Ghorpade's residence, but as Ghorpade had gone to the garage to have his car attended to, he left a message with his wife that he was not to proceed on leave because of the riots in Bhiwandi. Sawant also wrote a memorandum to the Reserve Sub-Inspector, Headquarters, asking for 25 men armed with lathis and further to keep 30 men armed with lathis ready along with two vans. The 25 men were asked for by him of his own initiative and out of them 11 were kept as reserve and 14 were posted at different places such as the Jumma Mosque, the Bhihpura Mosque, Islampura, Bagwan Mohalla, Rath Chowk and the Railway Station. At about 10 a.m. he sent out two plain-clothes men, namely, Head Constables Babukhan and Govind to take a round in the city and collect intelligence. They returned after taking a round and reported that there was nothing particular. He also directed P.S.Is., Bhalerao and Karhadkar to keep a check on the fixed pickets by taking a round of the localities where they were posted at intervals of every two hours. Karhadkar told him that he had to give evidence that day in the Magistrate's Court and that he would do so after his evidence was over. Sawant told Bhalerao to go for his meals in a hotel and that in the meanwhile, he (i.e. Sawant) himself would take a round. Sawant took a round on his bicycle in the Rath Chowk area before going home. He reached home at about

1-30 or 1-45 p.m. In between at about 11-40 a.m. Sawant telephoned the S.P. at Pachora and intimated to him that the situation was normal (P.W. 67/105/2289 ; S.P.O.W. 6/10/2982-3). Sub-Inspector Badgujar took a round in the city in the morning upto Rath Chowk. He did not see any particular activity, but he saw in Subhash Chowk groups of persons discussing the Bhiwandi disturbances. He, however, did not find any such groups in Rath Chowk. One would have normally expected an Intelligence Officer to proceed thereupon to the City Police Station to find out what information had been received there. Badgujar, however, proceeded straight home and it was only when he went to the police station from his residence at about 5-30 p.m. on coming to learn about the disturbances in Jalgaon that he for the first time came to learn from Sub-Inspector Walvekar about the crash messages Exhibits P 707 and P 709 (C.W. 22/5/2915-7).

63.16 Under Inspector Sawant's instructions, P.S.I., Walvekar also drafted a message (Ex. P 1033) to all Inspectors and Sub-Inspectors within the District to take necessary precautions in view of the communal disturbances in Bhiwandi and after having the message signed by the Head Clerk in the S.P.'s office on behalf of the S.P., sent out 7 special messengers by S.T. bus and rail to deliver the said message to the 26 police stations in the District. Thereafter he went home at about 2-30 p.m. P.S.I., Walvekar did not personally take a round in the city, though for the purpose of sending the said message he had at about 10-30 or 11 a.m. gone upto Shani Chowk to contact his men and while going to Inspector R. M. Patil he had gone via Subhash Chowk, on both occasions on his bicycle [S.P.O.W. 1(9)/3185(5), 2/3160-1, 9/3163].

The news about the Bhiwandi disturbances

63.17 The first news about the Bhiwandi disturbances was received in Jalgaon from the said crash messages sent by the D.I.G.(B.R.) and the I.G.P. (Exs. P 707 to P 709). The news about the Bhiwandi disturbances was also broadcast on the radio in the morning news bulletin and also appeared in the Nasik edition of the Marathi daily the 'Gaokari' (Ex. G 379). The Bombay papers, including the Bombay Marathi daily the 'Maratha' (Ex. G 359), arrived in Jalgaon in the afternoon by the Varanasi Express of which the scheduled time of arrival was 2-30 p.m. The 'Maratha' has the largest circulation in Jalgaon, the 'Times of India' coming next [P.W. 67/1(29)2229(13), 71(2276), C.W. 6/1(5)/2455(3), S.P.O.W. 10/1(10)/3140(8), S.P.O.W. 9/1(7)/3104(4)]. The fact that the Bhiwandi disturbances formed the topic of conversation in Jalgaon is clear from the evidence of Sub-Inspector Badgujar that when he took a round in the morning, he saw groups of people in Subhash Chowk discussing the Bhiwandi riots (C.W. 22/5/2915) and of S. D. Jalukar who has stated at the horror of the disturbances at Bhiwandi became a topic of discussion in the town [C.W. 6/1(5)2455(3)].

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CHAPTER 64
THE JALGAON DISTURBANCES—AN OUTLINE

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CHAPTER 64

THE JALGAON DISTURBANCES—AN OUTLINE

The reports on the Jalgaon disturbances

64.1 Several officials have made reports on the disturbances which took place in Jalgaon on May 8, 1970. S.P., Raman has made in all three reports, to the D.M., namely, the report dated May 9, 1970 (Appendix D to Ex. No. 37), the report dated May 10, 1970 (Appendix E to Ex. No. 57), and the report dated May 9/10, 1970 (Ex. P 889). S.D.M., Kulkarni has also made a report dated May 12, 1970 to the D.M. (Ex. P 890). The disturbances also galvanized Sub-Inspector Badgujar into activity and he made three reports to the D.I.G. (Int.), each of them on successive days, namely, on the 9th, 10th and 11th May 1970 (Exs. Nos. 41, 45 and 46 respectively). D.M., Pardeep made four reports on the disturbances to the Home Secretary dated respectively 13th, 16th, 18th and 22nd May 1970 (Exs. Nos. 37 to 40 respectively). Along with his report dated May 18, 1970 (Ex. No. 39) he enclosed a secret note on the disturbances, its background and the relief and rehabilitation work contemplated and being executed in Jalgaon. A copy of the said note was submitted to the Prime Minister.

64.2 In view of the fury and the suddenness of the disturbances which took place in Jalgaon and the loss of forty-three lives in the space of one afternoon, the D.I.G. (Int.) ordered Dy. S.P. (Int.) V. R. Patankar (G.W. 11) to proceed to Jalgaon and make inquiries and ascertain the causes of the disturbances. Patankar proceeded to Jalgaon and made inquiries locally on May 11, 12 and 13, 1970 and returned to Bombay on May 14, 1970 and submitted a note of his findings (Ex. G 203) to the D.I.G. (Int.). On coming to learn about the disturbances in Jalgaon the I.G.P. directed T. M. Kadambande (G.W. 13), D.I.G., (Training and Special Units, Maharashtra State), to proceed to Jalgaon and supervise the bandobast. Kadambande left the same night by car and reached Jalgaon at about 9-30 a.m. on May 9, 1970. He stayed in Jalgaon for about three days and submitted his report dated May 11, 1970 to the I.G.P. (Ex. G 205). On the morning of May 11, 1970 Trimbakrao Paturkar (G.W. 12), D.I.G., (Training and Special Units, Bombay), was directed by the I.G.P. to proceed to Jalgaon and make confidential inquiries regarding the complaints of inaction on the part of the Police while dealing with the disturbances. Paturkar left Bombay immediately and reached Jalgaon in the early hours of May 12, 1970. He made inquiries from May 12, 1970 to May 21, 1970 and submitted his report on May 23, 1970 to the I.G.P. (Ex. G 204). These three officials, who were deputed from Bombay, made inquiries from various

officials and private individuals. As these were not official inquiries conducted by them, but inquiries for the purposes of the D.I.G.(Int.) in the case of Dy. S.P., Patankar and for the I.G.P. in the case of D.I.Gs., Kadambande and Paturkar, they did not record the statements of persons from whom they obtained information.

The toll of the disturbances

64.3 The statements and reports exhibited before the Commission, particularly D.M., Pardeep's report dated November 28, 1970 (Ex. G-31) and the note on the work of rehabilitation done in Jalgaon after the disturbances (Ex. P 898) filed by M. D. Khan, Special Land Acquisition Officer and Deputy Collector, Riot Rehabilitation, Jalgaon, show that 43 persons died in the disturbances which took place at Jalgaon on May 8, 1970. Of these only one was a Hindu who died of a fractured skull. Out of the 42 Muslims who died, 2 died of stab wounds; 39 of suffocation and burns and there is a dispute about how the remaining Muslim died. Out of these 42 Muslims 6 were males, 11 women, 11 male children and 14 female children. In all 47 injured persons were treated as indoor patients and 49 as outdoor patients in the Jalgaon Civil Hospital. Out of the 47 indoor patients, 10 had bullet injuries. The persons injured in police firings were 9 Hindus and a young Muslim boy about 12 years old.

64.4 The loss of property was on no less a scale than the loss of life. The following table compiled from the official figures (Ex. P 898) will convey an idea of the loss of property resulting from the Jalgaon disturbances:—

Cause of loss	Number of Hindu-owned properties	Number of Muslim-owned properties	Total number of properties
Arson—completely burnt	3	87	90
Arson—partially burnt	1	15	16
Other damage	1	28	29
Looting	1	250	251
Total	6	380	386

64.5 The above table shows that almost all the properties burnt, damaged or looted in the Jalgaon disturbances belonged to the Muslims. Out of the three Hindu houses which were completely burnt down, one was situated in Joshi Peth and the remaining two in Bhavani Peth. The Joshi Peth house was a tin shed constructed by a Hindu on a plot of land belonging to a Muslim. This shed was flanked on its eastern and southern sides by Muslim houses, all of which were completely burnt down during the disturbances. The two Bhavani Peth houses were tenanted by Muslims. To the east of these houses was the property belonging to the Madina Mosque Trust. The Madina Mosque Trust property as also a number of other Muslim houses in that locality were completely burnt down. Another Hindu house in

Joshi Peth was partially burnt and yet another Hindu house in the same locality suffered minor damage requiring petty repairs. The partially burnt house adjoined a house belonging to a Muslim which was completely burnt down during the disturbances. The minor damage to the third Hindu house in Joshi Peth was caused by stones thrown at the door-frame and two window-frames of the house. This house was one of the houses in a row of Hindu houses, but no damage was caused to any of the other Hindu houses (P.W. 72/2-3/2335-6). It is thus clear that whatever damage was caused by arson to the Hindu houses was as a result of fire spreading from the Muslim houses which had been on fire. In his report dated May 23, 1970 to the I.G.P. (Ex. G 204) D.I.G., Paturkar has also stated, "A few Hindu houses which came to be affected by fire were damaged because they were situated in the midst of Muslim houses".

64.6 The following table prepared from the figures as assessed by the Collectorate (Ex. P 898) gives a comparative idea of the loss suffered by the two communities during the Jalgaon disturbances:—

Cause of loss	Loss of	Loss of	Total
	Hindu-owned properties	Muslim-owned properties	
	Rs.	Rs.	Rs.
Arson to buildings ..	23,200	11,89,720	12,12,920
Other damage to buildings ..	4,400	16,230	20,630
Arson to properties other than buildings ..	54,225	16,04,345	16,58,570
Looting ..	1,900	5,80,702	5,82,602
Total loss by arson ..	77,425	27,94,065	28,71,490
Total loss other than arson ..	6,300	5,96,932	6,03,232
Total loss ..	83,725	33,90,997	34,74,722

64.7 The following table gives the number of families affected by the disturbances and the reason why they were affected (Ex. P 898):—

By what affected	Number of Hindu families	Number of Muslim families	Total
By arson to their houses ..	19	185	204
By looting of their houses ..	1	250	251
Total ..	20	435	455

64.8 The following table gives the number of persons affected by the disturbances and the manner in which they were affected:—

How affected	Number of Hindus affected	Number of Muslims affected	Total
Reduced to indigent circumstances ..	....	2,393	2,393
Rendered destitute ..	51	936	987
Total ..	51	3,329	3,380

The nature of the evidence

64.9 The toll of life, particularly of women and children, which the disturbances in Jalgaon took and the large-scale arson which was committed gave rise to considerable public controversy. Complaints of inefficiency and partiality were made against the police officers and policemen engaged in dealing with the disturbances and there were allegations of actively helping and co-operating with the rioters made against a police officer, namely, Sub-Inspector Bhalerao (S.P.O.W. 10), and a head constable, namely, Head Constable Dashrath Joshi (S.P.O.W. 7). Charges and counter-charges were hurled by political parties against one another and certain incidents were sought to be exploited by some of them. In view of the public complaints, several police officers as mentioned in Chapter 53 (paragraph 53.6) were placed under suspension pending disciplinary inquiry into their conduct during the disturbances. In the circumstances, the evidence of witnesses who have deposed about the disturbances—Executive Magistrates, police officers including suspended police officers, policemen and private individuals—requires to be treated with caution and weighed very carefully; for the Executive Magistrates, the police officers and the policemen were anxious to extenuate themselves by seeking to make out that they had done their best and that in the circumstances no person could have done any better, while many of the Muslim witnesses harboured a sense of grievance and the Hindu witnesses wanted to make out that the Muslims were responsible for the disturbances or that in any event there was moral justification for the Hindus to murder the Muslims of Old Jalgaon and burn down their houses with their women and children inside them. The matter has been further complicated by the role played by the Special Investigation Squad, Jalgaon. Witnesses and political parties have also advanced their own theories of how the disturbances were caused.

64.10 In these circumstances, the course adopted by the Commission has been first to sketch the course of the disturbances and then deal separately with the disturbances in each locality with particular reference to such of the incidents in respect of which there is a serious controversy, the question whether the measures taken to deal with the disturbances were adequate, and the role played by the Special Investigation Squad, and thereafter consider the various theories about the causes of the disturbances, the hollowness of some of which would have already stood exposed by the evidence discussed while dealing with the other topics.

The course of the disturbances

64.11 The first incident of the disturbances took place at about 2-45 p.m. on May 8, 1970 near a 'pan' shop at Rath Chowk when a Muslim, Abdul Hameed Shaikh Gulab, who had gone to purchase 'pan', was assaulted by some Hindus. He ran away and hid in his house situate in Maniyar Wada, a part of Koli Peth. In a short while

a Hindu mob gathered outside his house and started stoning his house and other Muslim houses and some Muslims were assaulted and injured. The disturbances then spread to other parts of Maniyar Wada. Another mob assembled at Lendi Nalla near Jainabad and was dispersed with tear-gas shells. Arson to Muslim properties took place in Maniyar Wada and a municipal fire-engine was obstructed. A way was made for it by bursting tear-gas shells. The Muslim shops outside the Jumma Mosque were broken open and looted and the Jumma Mosque attacked. From Maniyar Mohalla the disturbances spread to Rath Chowk where also arson to Muslim properties took place and a fire-engine was obstructed. The other localities affected in the disturbances, were Bagwan Mohalla, Khatik Alli, Bhilpura and Islampura, in each of which a number of Muslim houses were burnt. In the course of the disturbances the Madina Mosque situated in Islampura was also attacked. In order to put down the disturbances the Police resorted to lathi-charges, burst tear-gas shells and opened fire.

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CHAPTER 65
THE OUTBREAK OF THE DISTURBANCES

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- 65.1 The first incident of the disturbances.
- 65.2 The importance of the first incident.
- 65.3 The evidence.

CHAPTER 65

THE OUTBREAK OF THE DISTURBANCES

The first incident of the disturbances

65.1 The first incident of the communal disturbances which took place in Jalgaon on May 8, 1970 was a quarrel at a 'pan' shop. A Muslim named Abdul Hameed Shaikh Gulab [J.U.(J.)W. 5] had gone to the 'pan' shop of one Murlidhar situate at Rath Chowk at about 2-45 p.m. on May 8, 1970 where a quarrel took place between him and some Hindus and he was assaulted. He ran away to his house in Maniyar Wada, which is a part of Koli Peth, and hid himself. The Hindus chased him. After some time a number of Hindus came there and started stoning his house and other Muslim houses and some Muslims were assaulted and injured.

The importance of the first incident

65.2 It is the case of the District Police, the Special Investigation Squad, Jalgaon, the suspended police officers and the Hindu parties that the assault on Abdul Hameed and the attack on the Muslim houses were not acts of unprovoked aggression, but were the result of moral indignation felt by the Hindus inasmuch as Abdul Hameed was one of the persons who had attempted to outrage the modesty of a Hindu woman, Bahinabai Kisanrao Kale (C.W. 8). The theory that the disturbances were provoked by an attempt to outrage the modesty of Bahinabai will be considered in a subsequent chapter. It is sufficient to mention here that Abdul Hameed and two other Muslims were prosecuted in the Court of the Judicial Magistrate, First Class, Jalgaon, under section 354 read with section 34, I.P.C., for assaulting or using criminal force on Bahinabai with intent to outrage her modesty, being Criminal Case No. 31 of 1971, and that all the three accused were acquitted by the Magistrate who disbelieved the evidence of Bahinabai and the alleged eye-witnesses to the attempt to outrage her modesty and that the evidence of Bahinabai, who was summoned and examined by the Commission, has left no doubt that she was a suborned witness and that there never was any attempt to outrage her modesty.

The evidence

65.3 The only evidence with respect to the quarrel at the 'pan' shop is that of Abdul Hameed Shaikh Gulab [J.U.(J.)W. 5/1-3/2669-70]. According to him, he went to Murlidhar's 'pan' shop at about 2-45 p.m. to purchase 'pan'. At that time four to five Hindus came there. Abdul Hameed asked Murlidhar to hurry up and give him the

'pan' as he had some work to do. One of the Hindus thereupon asked him what he had said and he replied that he was not talking to him and he once again asked Murlidhar to hurry up. Thereupon one of the Hindus slapped him, another kicked him and a third gave him blow with his fists. Abdul Hameed managed to escape and ran away and hid inside his house. From his house he heard his landlord, Shaikh Ramzan, who resides on the first floor of the house, asking the Hindus to go away. After they left he came out of the house. Meanwhile, a larger crowd came there armed with lathis, spears, etc. Seeing them he got frightened and went inside the house and remained inside for the rest of the day. He did not suffer any injuries as a result of the assault on him and the only persons to whom he related this incident on that day were his family members. Strangely enough, not a single question has been put to this witness by any of the parties to show that he had attempted to outrage the modesty of Bahinabai or of any other Hindu woman or that the quarrel at the 'pan' shop did not take place in the manner deposed to by him and his evidence on this point, therefore, remains unchallenged. Though three police statements of this witness have been recorded, the first on May 9, 1970 (Ex. P 935) by Inspector Sawant, the second on May 22, 1970 (Ex. P 936) by D.S.I., G. D. Sapre of the Special Investigation Squad, Jalgaon, and the third on May 30, 1970 (Ex. P 937) by D.I., V. L. Limaye (P.W. 93) of the Special Investigation Squad, Jalgaon, there is no contradiction or difference *inter se* between these statements or between them and his evidence before the Commission.

65.4 Sayed Amir Sayed Supadu [J.U.(J.)W. 6], the father of Sayed Chand Sayed Amir [J.U.(J.)W. 13], had gone for his afternoon prayers to the Jumma Mosque. He came out of the mosque at about 3 p.m. or 3-15 p.m. when a young boy told him that a scuffle had taken place near Abdul Hameed's house. He thereupon informed the two police constables who were at the Mulki Chavdi (Revenue Office) and one of them, A.H.C., Abdulla Khan Baldar Khan (P.W. 68), accompanied him to Abdul Hameed's house. They saw stones lying near the door of Abdul Hameed's house and a Hindu mob throwing stones on the house. They tried to persuade the Hindus to go away. The Hindus thereupon assaulted Sayed Amir, the injuries suffered by him, as shown by the medical certificate, being two contused lacerated wounds, one on his left parietal region and the other on his occipital region and a weal mark on his left shoulder. Meanwhile, his son, Sayed Chand, who resided separately from his father, rushed upto the spot on being informed that his father had been assaulted. He too was assaulted and injured, the injuries, as shown by the medical certificate, being two contused lacerated wounds over the occipital region, swelling and abrasion on the left forehead, abrasion on the chin, left knee joint and right thumb and a weal mark on the right forearm. Sayed Chand was sent to the City Police Station on foot. He reached there at about 3-30 p.m. His father was sent to the police station later in a police van along with some other Muslims who had also been injured.

All the injured Muslims were then taken to the hospital [J.U.(J.)W. 6/1-10/2573-7; J.U.(J.) W. 13/1(1-3)/2765(6-8), 3/2736-7, 8/2737, 23/2742-4].

65.5 Sayed Chand's F.I.R. (Ex. P 757) was recorded at the City Police Station on May 8, 1970 by H.C., Bendale (S.P.O.W. 8) who was on duty as Police Station Officer. Both in his F.I.R. as also in his affidavit Sayed Chand has mentioned the names of several persons who were in the said Hindu mob. His father, Sayed Amir, has also mentioned in his affidavit the names of his assailants. All the names given by them were of workers and office-bearers of the Jalgaon City Jan Sangh, the Jalgaon District Jan Sangh and the R.T.M. After Sayed Chand's F.I.R. was lodged 11 police statements of his were recorded, the first by the District Police and the remaining 10 by the officers of the Special Investigation Squad. The said 11 police statements were recorded as follows:—

- (1) the first on May 14, 1970 by S. G. Pathak, P.S.I., Chalisgaon,
- (2) the second on May 22, 1970 by D.S.I., G. D. Sapre,
- (3) the third on May 28, 1970 by D.I., V. L. Limaye,
- (4) the fourth on May 28, 1970 by D.I., V. L. Limaye,
- (5) the fifth on May 28, 1970 by D.I., V. L. Limaye,
- (6) the sixth on June 5, 1970 by D.I., V. L. Limaye,
- (7) the seventh on June 5, 1970 by D.I., V. L. Limaye,
- (8) the eighth on June 15, 1970 by D.I., V. L. Limaye,
- (9) the ninth on June 24, 1970 by D.S.I., R. G. Thakur,
- (10) the tenth on July 10, 1970 by D.I., V. L. Limaye, and
- (11) the eleventh on July 10, 1970 by D.I., V. L. Limaye.

65.6 The evidence of these two witnesses on these points has not been challenged in cross-examination and it remains unshaken and uncontradicted. It is also corroborated by the evidence of A.H.C., Abdulla Khan Baldar Khan who had accompanied Sayed Amir to Abdul Hameed's house. In view of the stoning that was going on near Abdul Hameed's house, Abdulla Khan took shelter in a nearby verandah. He then went to the shop of Rajmal Lakhchand Saraf and from there telephoned to the City Police Station at about 3-30 p.m. and gave information to the Station House Officer, H.C., Bendale and informed him that serious trouble was going on at Koli Peth and that police reinforcements should be sent there at once. He then returned to the Jumma Mosque. He has deposed that the Hindu mob which had collected outside Abdul Hameed's house consisted of 75 to 100 persons. He did not tell Bendale on the telephone the details of what had happened and Bendale appears to have wrongly taken down in the Incoming Medico-Legal Calls Register of the City Police Station that there was a scuffle taking place between Hindus and Muslims at Rath Chowk. Abdulla Khan has further deposed that he did not try to ascertain what the quarrel was about as he might have himself been injured by a stone [P.W. 68/1(1)/2294(1), 3/2295].

CHAPTER 66

THE DISTURBANCES AT MANIYAR WADA

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CHAPTER 66

THE DISTURBANCES AT MANIYAR WADA

The course of the disturbances at Maniyar Wada

66.1 The evidence about what happened at Maniyar Wada is confused, conflicting and at times contradictory—a thing not to be wondered at, since the only witnesses who have deposed about the disturbances at Maniyar Wada are Dy. S.P., Ghorpade, Inspector Sawant and Sub-Inspectors Bhalerao and Karhadkar, all four of whom were suspended after the disturbances pending an inquiry into their conduct during the disturbances. What, however, appears to have happened is that after the disturbances broke out and the house of Abdul Hameed Shaikh Gulab [J.U.(J).W. 5] and other Muslim houses were stoned and some Muslims injured, a Hindu mob collected on the road outside the Jumma Mosque and began stoning the Muslim locality of Maniyar Wada. The Muslims, apprehending that the Hindu mob might again enter Maniyar Wada, gathered in the lanes and by-lanes and started throwing stones at the Hindu mob to keep it at bay. Meanwhile the Police arrived on the scene. The first police party was that of H.C., Thakre and two constables followed by P.S.Is, Bhalerao and Karhadkar, Dy. S.P., Ghorpade and Inspector Sawant. The police officers tried to push back the Hindu mob by making some lathi-charges. The Police also lathi-charged the Muslims who had collected in the lanes and by-lanes of Maniyar Wada and arrested some Muslims, one of whom was throwing stones. Meanwhile another Hindu mob collected in Jainabad near Lendi Nala. Dy.S.P., Ghorpade went there with a part of the gas squad and two police constables and dispersed the mob by firing tear-gas shells. During his absence arson to Muslim houses commenced. The municipal fire-engine arrived on the scene, but was obstructed and the way was cleared for it by bursting tear-gas shells. Thereafter at about 5-45 p.m. Dy. S.P., Ghorpade left the spot in a police van for a medical check-up. His departure marked the beginning of a second wave of arson and rioting. Other Muslim houses in Maniyar Wada were set on fire, the Jumma Mosque stoned, the door of the Jumma Mosque damaged and the shops on both sides of the door of the mosque broken open and looted.

Sub-Inspectors Karhadkar and Bhalerao arrive on the scene

66.2 On receiving the telephone call from A.H.C., Abdulla Khan (P.W. 68), H.C., Bendale rang up the Reserve Police Sub-Inspector, Headquarters, and informed him that Hindu-Muslim riots had broken out in Old Jalgaon and asked for armed policemen and a police van.

He also deputed H.C., Thakre and two constables to proceed to Rath Chowk and sent P.C., Vasant Shamrao to inform Inspector Sawant and P.S.I., Bhalerao. He also sent P.C., Malak Chammu with a message to P.S.I., Karhadkar [S.P.O.W. 8/1(3-4)/3075(1)]. On receiving the message, Karhadkar put on his uniform, took his revolver and went to the police station. Some Muslims who were at the police station told him that trouble had taken place in Koli Peth. Karhadkar took a jeep and two constables armed with lathis and went to the house of P.S.I., Bhalerao who was in charge of that locality and picked him up. They got out of the jeep and at Balaji Mandir Road, after making inquiries from the persons on the road, they separated and went to the spot by different lanes. Meanwhile a mob had collected on the road outside the Jumma Mosque. According to Karhadkar, he saw a mob of 4,000 to 5,000 collected on the road shouting slogans and stones being thrown on the mob from Maniyar Wada and the persons in the mob retaliating by throwing stones. He has further stated that the mob started entering Maniyar Wada, but Karhadkar, with the assistance of six police constables, made a lathi-charge and pushed back the mob and did not allow it to enter the lane [S.P.O.W. 9/1(9)/3104(5-6)].

66.3 Meanwhile P.S.I., Bhalerao proceeded through Maniyar Wada towards Bhoite Gadhi. According to his version, when he reached there he found some Muslims standing on the roofs and at the windows of houses throwing stones on a large Hindu mob which had assembled near Bhoite Gadhi. Some of the persons in that mob were armed with lathis and others were throwing stones towards Maniyar Wada. The mob was trying to enter Maniyar Wada which Bhalerao prevented with the help of two or three constables [S.P.O.W. 10/1(12)/3140(9)].

Dy. S.P., Ghorpade arrives on the scene

66.4 That afternoon Dy. S.P., Ghorpade (C.W. 23) was at his residence. At about 3-45 p.m. he received a telephone call from Gulam Rasool Bagban's son informing him that there was some trouble going on and that four or five persons had been injured and that he apprehended further trouble. Ghorpade immediately contacted the Police Headquarters on the telephone in order to direct it to send an armed party to the spot. He was informed that a party of 25 armed men had already been dispatched to the police station. He then requested the Headquarters to send a vehicle to his residence and thereafter rang up the Jalgaon City Police Station to verify whether they had received any information. H.C., Bendale picked up the phone and handed over the receiver to Akbar Rahemani [J.U.(J)W. 1] who gave to Ghorpade the same information as had been given by Gulam Rasool Bagban's son. Ghorpade then asked to talk to Bendale who told him that he had already sent messages to Inspector Sawant and the two Sub-Inspectors and that a party from the Headquarters had already been sent to the place of trouble. Meanwhile the vehicle from the Headquarters came to Ghorpade's residence and he proceeded in it to Bagwan Mohalla.

because both Gulam Rasool Bagban's son and Akbar Rahemani had given him to understand that the trouble was taking place in Bagwan Mohalla. He found Bagwan Mohalla almost deserted and did not see any sign of rioting or of any police party. He proceeded ahead and came to Rath Chowk. Ghorpade was carrying only a lathi as he had not got a service revolver issued to him after coming to Jalgaon. The only person with him in the vehicle was the driver [C.W. 23/1(4)/2927(1-2), 7/2930].

The evidence of Karhadkar and Bhalerao falsified

66.5 Karhadkar's story of how he, along with six police constables, dispersed a mob of 4,000 to 5,000 Hindu rioters and pushed it back is improbable on the face of it. If the mob was as large as Karhadkar has sought to make out, it could have easily brushed aside Karhadkar and his small party, entered the Muslim locality and attacked the Muslims and their houses. His story falls to the ground in the light of the testimony of Ghorpade who has deposed (C.W. 23/7/2930):—

"When I came to Rath Chowk I saw Sub-Inspector Karhadkar and two or three police constables near the Jumma Mosque. They were just standing there. There was no crowd near the mosque at that time."

66.6 So far as Bhalerao's story of how he pushed back a large Hindu mob which was trying to enter Maniyar Wada is concerned, it equally falls to the ground in the light of Ghorpade's testimony. Ghorpade has deposed (C.W. 23/7/2930):—

"I saw Sub-Inspector Bhalerao and two or three constables trying to control a Hindu mob of about 1,000 to 1,500 strong near the Hanuman Temple opposite Maniyar Wada. They were trying to control the mob by standing on the road and pushing back those from the mob who tried to advance. They practically were mixed up in the mob. In fact, Bhalerao was not actually controlling the mob. He thought he was doing so."

Further, Bhalerao's story of the Muslims throwing stones from roofs and windows of houses on the mob assembled near Bhoite Gadhi is equally disproved by Ghorpade's testimony. Ghorpade has stated (C.W. 23/7/2930-1):—

"The real fact was that there was also a Muslim mob in the Muslim Mohalla which I could not see from the road at that time. This Muslim mob was not coming out to attack nor was it attacking the Hindus. The Hindus did not want to enter the narrow lanes in the Muslim Mohalla to attack the Muslims lest they were over-powered. They were, therefore, trying by hurling abuses, insults, making gestures of assault by brandishing their spears and swords at them and by advancing to provoke the Muslims to come out of their Mohalla."

66.7 There is also a contradiction between the evidence of Ghorpade and Bhalerao with respect to what happened thereafter. According to Ghorpade, on seeing the Hindu mob near the Hanuman Temple

armed with sticks, crow-bars, spears and swords and pelting stones at the Muslims in Maniyar Wada he rushed to the spot. He noticed a Hindu chasing a Muslim and trying to spear him. He apprehended the Hindu, but could not prevent the Muslim from being injured by the spear. He handed over the assailant as also the injured Muslim to A.H.C., Abdulla Khan (P.W. 68) and himself plunged into the mob and started caning the persons in the mob in order to disperse the mob. With the help of Bhalerao he succeeded in pushing the mob into a lane which runs southwards from the Hanuman Temple. He was, however, surrounded by some rioters who tried to snatch away his lathi, but was rescued by Bhalerao. By this time the mob had dispersed and Ghorpade then went to the shop of Rajmal Lakhichand and telephoned the Headquarters for additional help. This was at about 4-45 p.m. [C.W. 23/1(5)/2927(2-3)]. According to Bhalerao, after he had dispersed the mob at Bhoite Gadhi, some of the rioters proceeded to Vithal Mandir Road and others towards the Jumma Mosque. At that time a large Hindu mob tried to attack the Jumma Mosque. He, therefore, rushed there and lathi-charged the mob as a result of which the mob dispersed and retreated upto Maruti Peth and while they were engaged in controlling the mob, both he and Ghorpade were encircled by some of the persons from the Hindu mob who tried to take away their lathis. Bhalerao attacked the mob with his lathi and thus rescued Ghorpade and thereafter Ghorpade went to put in a telephone call [S.P.O.W. 10/1(12)/3140(10)].

66.8 The above evidence of Ghorpade and Bhalerao relates to the same mob and to the same point of time. Ghorpade, however, makes no mention of any mob trying to attack the Jumma Mosque. Bhalerao's first police statement was recorded by Inspector Sawant on May 9, 1970 (Ex. P 1026). His police statement also makes no mention of the alleged attack on the Jumma Mosque nor does it make any mention of Ghorpade and he being surrounded by rioters and he rescuing Ghorpade. He was questioned about these omissions in his police statement. He was unable to explain them save to say that he had mentioned these facts to Inspector Sawant. He, however, admitted that he was not on cross terms with Sawant (S.P.O.W. 10/17/3150).

66.9 It must be remembered while evaluating the evidence of these police officers that all of them have been suspended following the disturbances as a result of complaints made by the Muslims about their conduct during the disturbances. Their endeavour before the Commission naturally has been to seek to exculpate themselves and to magnify the efforts made by them. Ghorpade's suspension was, however, removed by an order dated September 24, 1970. He was thereafter retired prematurely and went on leave preparatory to retirement on November 19, 1970. At the time when he stepped into the witness-box he was in private service. Out of these witnesses the person whose demeanour impressed me the best was Ghorpade. Though his affidavit too was not very satisfactory, in the witness-box he gave quite forthright answers and did not prevaricate or hedge even when such

answers would be against him. When, therefore, his version conflicts with that of Bhalerao or Karhadkar, I find his version more trustworthy and credible and prefer it to that of others, unless other circumstances or more reliable evidence show that his version should also be rejected. Inspector Sawant and P.S.Is., Bhalerao and Karhadkar have in their affidavits and evidence laid undue emphasis on the Jumma Mosque, seeking to make out that their energies were concentrated in saving the said mosque from being attacked by Hindu rioters. They are thus seeking to escape the charge that by their handling of the disturbances at Maniyar Wada five Muslim houses were totally burnt down and three partially burnt and that there was attempted arson to five more houses and about twenty other houses and shops were damaged or looted.

Inspector Sawant arrives at Rath Chowk

66.10 When Sawant went to his residence for lunch the City Police Station was in charge of two Head Constables, namely, Bendale (S.P.O.W. 8) and Narayan Thakre. He did not return immediately to the police station after finishing lunch because some persons had come from Bombay to finalize the negotiations about the marriage of his niece whom he had educated and brought up. The members of the prospective bridegroom's family had come to Jalgaon for this purpose on May 7, 1970 and were leaving for Bombay by the night train on May 8, 1970 (S.P.O.W. 6/89/3035). At that time Sawant had no telephone at his residence as the telephone connection was cut off because of the failure to pay trunk call bills incurred prior to the telephone being allotted to him. It, however, takes about 10 minutes to go by a bicycle from the City Police Station to his residence (S.P.O.W. 6/9-10/2981-2). H.C., Bendale had sent a constable at about 3-45 p.m. to inform Bhalerao and Sawant about the riots. After informing Bhalerao, the constable came to Sawant's place and gave him the information. Sawant thereupon went to the Police Headquarters on his bicycle taking his service revolver along with him and waited for about ten minutes for the driver of a van. According to Sawant, he then went alone in the van to Rath Chowk asking the Jamadar to send a firing party and a gas squad party. According to him, he did this because until the time he left the Headquarters in the van, the police party which was to come with him was not ready. He reached Rath Chowk between 4-30 p.m. and 4-45 p.m. At that time he saw about four policemen with lathis near the Jumma Mosque. P.S.Is., Bhalerao and Karhadkar along with three or four policemen with lathis were near Bhoite Gadhi. Ghorpade had gone to telephone from Rajmal Lachichand's shop. Thereafter a police party and a tear-gas squad came to Rath Chowk (S.P.O.W. 6/9-10/2981-2, 25/2993, 31/2996, 87/3035, 89/3035). There is a discrepancy on this point between Sawant's evidence on the one hand and his F.I.R. (Ex. P 758) in which he has stated that he took the police party along with him and the evidence of Ghorpade who has stated that Sawant came to Rath

Chowk with a police party from the Headquarters and a tear-gas squad [C.W. 23/1(6)/2927(3)]. It is not possible that Sawant, not even knowing where exactly the trouble was, should have proceeded ahead, leaving the police party to follow later to find out where he was. It is difficult to accept that Sawant made a mistake while lodging his F.I.R. or that Ghorpade is also making a mistake. The importance of why Sawant should try to make out that he proceeded ahead of the police party will be apparent later.

The arrest of the Muslims

66.11 Meanwhile, according to Bhalerao, while Ghorpade had gone to make the telephone call, he (that is, Bhalerao) proceeded to disperse the mob collected near Maniyar Wada. He met Ghorpade at the corner of Maniyar Wada and Ghorpade informed him that Sawant had come and had asked him to patrol and maintain order near Bhoite Gadhi and the Jumma Mosque. He has further deposed that the Muslims standing on the road in Maniyar Wada were also throwing stones and he, therefore, lathi-charged and dispersed them also and that along with Ghorpade he tried to arrest two or three Muslims, but some other Muslims came and rescued them [S.P.O.W. 10/1(12)/3140(11)]. According to Ghorpade, when he returned after making the telephone call he found that the Muslims had spread out into the lanes and had formed groups and were throwing stones; they lathi-charged some of them and he arrested one Muslim who was throwing stones from behind a fire-wood depot, while two other Muslims were arrested by Bhalerao and the policemen with him; the arrested persons were sent to the police vehicle to be taken to the police station; and subsequently Bhalerao informed him that two of the Muslims had been forcibly rescued by other Muslims [C.W. 23/1(7)/2927(3)]. Thus, while according to Bhalerao all the Muslims who were arrested were rescued, according to Ghorpade what Bhalerao had informed him was that only two out of the three Muslims were rescued.

Ghorpade resorts to tear-gas

66.12 Lendi Nala is a small brook which runs north of Koli Peth. On its other side is Jainabad. While the Police were contending with the disturbances at Koli Peth, another Hindu mob collected in Jainabad and attempted to enter Maniyar Wada by crossing the brook. What happened then has been thus narrated by Ghorpade in his affidavit [C.W. 23/1(7-9)/2927(3-4)]:—

“... At this time I heard some women shouting from a house that Hindus had collected in the brook situated between Koli Peth and Jainabad. I went there and found that there was a big mob of about 2 to 3 thousand strong ready to advance towards Maniyar Mohalla across the bed of the brook which was then dry. I rushed to the police vehicle and asked the tear-gas gunners and two men to rush and get ready and come with me.

“I ordered the gunners to fire long range and short range shells

at the mob collected in Jainabad area. In all 35 shells were fired. The result was that the mob dispersed from that locality.

“While returning from the above spot I noticed a house of a Muslim in flames. The fire-engine coming towards this house was stopped by Hindus (about 150 to 200). So I threw tear-gas grenades (about 7 to 8) and dispersed the mob. The fire-fighter started doing his job without any hindrance thereafter.”

Ghorpade leaves for a medical check-up

66.13 Dy. S.P., Ghorpade, the only officer who had shown some initiative that afternoon, unfortunately suffered from a physical ailment. On July 5, 1967 while working in his office, he started dribbling from his mouth. On consulting a doctor he was informed that he had hypertension and monoparesis and should take complete rest in bed for at least three days. At that time he was S.D.P.O., City Dn., Sholapur. He applied for casual leave for three days which was refused, but the S.P., Sholapur, told him that he could stay at home and write in the weekly diary that he was doing office work and attending to welfare activities. He has produced various medical certificates (Exs. Nos. 62 to 66) as also the extract from the outward register of the office of the S.D.P.O., City Dn., Sholapur (Ex. No. 67), showing the outward despatch of his application for casual leave and extracts from his weekly diary (Ex. No. 68), showing that for these days he was doing “office work” and “welfare activities”. These medical certificates show that on the days in question he had high blood-pressure, heaviness in limbs, pain in chest, palpitations, indistinct speech, cerebral insufficiency with supranuclear facial palsy and monoparesis of the right upper limb (C.W. 23/35/3190). Ghorpade was, therefore, afraid that his bloodpressure might suddenly shoot up again.

66.14 While fighting the disturbances Ghorpade had received some injuries, but they were not serious, but while he was making the fire-engine proceed ahead a Hindu rioter threw a stone at him from close quarters which hit him with considerable force on his chest and he felt giddy. He, therefore, thought of going to the Jalgaon Civil Hospital, primarily to get his blood-pressure checked. He went to the Civil Hospital in an empty police van. The time was then about 5-45 p.m. The doctor checked his blood-pressure and informed him that it had risen very slightly and asked him to take his usual sedative tablets, namely, Anatenzol tablets, which the doctor in Jalgaon had asked him to carry about with him and to take whenever he felt his blood-pressure rising. The doctor also examined his injuries which, as the medical certificate (Ex. P 869) shows, were a swelling over the right middle finger and tenderness of the left side of the chest. He has deposed that when he left, the situation appeared to be normal and that otherwise he would not have left unless it had become impossible for him to continue. He has admitted that he had no idea about the situation in the adjoining localities and that as he was feeling giddy, it did not occur to him to send a constable to ascertain it (C.W. 23/10-1/2935-8).

66.15 Ghorpade has deposed that after dispersing the Hindu mob for the first time, he went to telephone for immediate additional help because it was by sheer chance that he had managed to disperse that mob and he apprehended that the mob would come out again because by that time the persons in the mob had come to know that he had come alone and not with a police party. He has further deposed that he had not completely dispersed the said mob from that locality, but had only made it retreat and that thereupon the rioters must have hidden themselves inside the lane or houses and that when he went towards the far end of Maniyar Wada to deal with the mob which had collected near Lendi Nala, he realized that the strategy of the rioters might be to attack the Muslim locality from both sides. He candidly admitted that though he had dispersed the mob at Lendi Nala, he did not know where it had gone and that he watched the situation for some time but did not see this mob reassemble. He has also candidly admitted that since the Hindu mob was not finally dispersed, the possibility did occur to him that the rioters might come again either to the same place or go to the neighbouring Muslim localities (C.W. 23/9-10/2934-5). On his own admissions, Ghorpade, therefore, could not have believed that the situation had been brought under control.

66.16 Ghorpade's case evokes one's sympathies. Though he had no jurisdiction in Jalgaon City, immediately on coming to learn about the disturbances from a private individual, namely, Gulam Rasool Bagban's son, he rushed up to the scene to see what he could do. He was the only officer who appears to have taken some steps, short of opening fire, to put down the disturbances. His evidence makes it clear that Inspector Sawant and P.S.Is., Bhalerao and Karhadkar were most of the time helplessly standing by. He must have realized that the other officers were not capable of any initiative and that his presence at the spot was indispensable, but at the same time the strenuous exertions which he had undergone, the injuries which he had received, even though minor, and the feeling of rising blood-pressure and giddiness must have filled him with the dread of getting a paralytic stroke and, as a result, of ruining his life forever. He was thus on the horns of a dilemma and when there appeared to be a lull in the storm, he took the chance to make sure that something serious was not going to happen to him.

The attack on the Jumma Mosque

66.17 According to Inspector Sawant, soon after Ghorpade left, at about 6 p.m. a Hindu mob of 4,000 to 5,000 attacked the Jumma Mosque, tried to set fire to it by throwing fire-balls and broke open and looted the shops on both sides of the door of the mosque. It is best to let Sawant tell his story in his own words. He has deposed (S.P.O.W. 6/13/2986-7, 14/2988-9, 53/3010-11, 57/3514-5):—

“After Ghorpade left at about 5-45 p.m. a Hindu mob again started attacking Jumma Mosque at about 6 p.m. They started

throwing stones at the mosque and Muslim shops. They also attacked the shops with lathis and fire-wood which they were carrying. They damaged the shops and the door of the mosque. Then they started throwing burning swabs on the mosque and the shops. We lathi-charged the mob and my constables, while lathi-charging, got mixed up with the mob. I, therefore, could not order fire as my men might also have got injured in the firing. We therefore, extinguished the swabs. We made repeated lathi-charges and dispersed a part of the Hindu mob. In the meantime I had sent Sub-Inspectors Karhadkar and Bhalerao, who had come there, to go behind the mob and chase the persons in the mob and see that they did not do any more harm. We succeeded in dispersing the mob. Some persons were left behind. As I was doubtful about their movements, I stayed at the Jumma Mosque

“All told I and the constables with me made 15 lathi-charges on the Hindu mobs at the Jumma Mosque. We also made a lathi-charge on the Hindu mob at Fakir Mohalla because while we were there a fire-fighter came there and the Hindu mob did not allow it to proceed and so we had to lathi-charge the Hindu mob to clear the way for the fire-fighter. I had also to lathi-charge a Hindu mob at the Jumma Mosque in order to clear the way there for a fire-fighter. I saw about four persons bleeding from their heads as a result of our lathi-charge at the Jumma Mosque. After we had made five or six lathi-charges the Hindu mob started throwing burning swabs. While we were lathi-charging the mobs at the Jumma Mosque, Constables Bhimsingh Madhavsingh and Pundlik Goba Joshi and Head Constables Pralhad Shankar Wani and Narayan Thakre, who were residing in Rath Chowk, on learning about the riots came there in mufti. They began helping me in extinguishing the fires and in making lathi-charge on the rioters. As they and the men in uniform had got mixed up with the mob, it was not possible to open fire. The four constables named above came there in mufti, but bringing their lathis with them. Out of these four, only Pundlik Goba Joshi had been relieved on transfer. The rest were on duty that day. Pundlik came there from his residence. I do not know from where the other three constables came. Because I was busy, I had not asked the other three constables why they were not in uniform. These three constables were all attached to the City Police Station. The muster-roll of the City Police Station shows that out of these three persons Head Constable Pralhad Shankar Wani and Constable Bhimsingh Madhavsingh were on duty in the Detective Branch on May 8, 1970. Head Constable Narayan Thakre was a Reserve Police Station Officer on May 8, 1970.....

“The mob which attacked the Jumma Mosque was armed with lathis, stones and fire-wood pieces and subsequently the persons in the mob threw burning swabs. By ‘swab’ I mean a small stone round which rags are tied, the stone then dipped in kerosene and lighted and thrown at the object. When I went to the Jumma

Mosque I also saw a mob assembled near the 'Gadhi'. This mob was armed with lathis and daggers. I did not see what other weapons the rioters were carrying... I cannot say whether any persons in the mobs at the Jumma Mosque or near the Gadhi were carrying swords or spears, for I could only see the weapons in the hands of those who were in the front part of the mobs. I was there when the shops near the Jumma Mosque were damaged. They were broken open by the mob by smashing the locks and the latches with fire-wood pieces which the persons in the mob were carrying. These shops are on both sides of the entrance-door of the Jumma Mosque. I was near the door of the Jumma Mosque. There were very few constables with me. They were busy attempting to disperse the mob and in protecting the mosque. It was, therefore, not possible to arrest any of the rioters who were breaking open the shops. They were, therefore, arrested subsequently. The door of the mosque was latched from inside. There were about 10 or 12 persons inside the mosque. Due to a violent push, the chain got unlatched and the door got opened, but I prevented the mob from entering and setting fire to the mosque. After breaking open the shops the rioters damaged the articles in the shops. I did not open fire on the rioters when they were breaking open or damaging the shops because my constables were near the shops pushing back the rioters. I had four men in uniform and five or six in mufti and I was at that time trying to push back the mob which had opened out the door of the mosque. I had some constables with me near the door. I did not fire at the rioters who had forced open the door of the mosque and were trying to enter the mosque because the constables with me who were pushing back these rioters had got mixed up with them. Further, we were busy extinguishing the swabs. We extinguished the swabs by stamping them out with our feet, by throwing dust from the road on the swabs and by throwing water taken from the 'hauz' on the swabs. When the door of the mosque was forced open, there was no one inside the mosque. The 10 or 12 persons who were inside the mosque earlier had managed to go away to a neighbouring house. Including the constables near the shop and with me at the door of the mosque there were all told four constables in uniform and five or six in mufti. The two armed men were standing on the opposite side of the road remaining aloof from the mob so as not to be too close to the mob in case they had to open fire....

"When Ghorpade left, there was no mob on the road, but a few persons were standing in the lane opposite the Jumma Mosque. When the persons in the mob came close, we dispersed them. We did not chase them because the mosque would have been left unprotected. I did not post the two armed men at the mouth of the lane because there were other lanes from which the rioters could have come and I did not know which lane they would take. I therefore posted them on the road near the Jumma Mosque. I posted them at the junction of Maniyar Wada Lane and the lane

opposite it with the Jumma Mosque Road, so that the constables could watch all the four sides. When the rioters came from the lane I made the armed men move away and posted them opposite Jumma Mosque on the road. I did not ask the constables to open fire as the mob was coming out of the lane because before opening fire a lathi-charge was to be resorted to. I did not know whether it was the same mob which had already indulged in arson or it was another mob. Bhalerao and Karhadkar were at that time near the Gadhi, that is, in the lane from which this mob came out."

66.18 Sawant's story stretches one's credulity. It is quite clear that Sawant has grossly exaggerated the number of the rioters. Had the mob been as large as Sawant has sought to make out, it could have easily brushed aside Sawant and the few constables with him. It is also inconceivable that he and the constables with him should have just stood there stamping out fire-balls thrown by the rioters as if it was some game between the rioters and the Police. His case that all the while he was concentrating on the Jumma Mosque is extremely doubtful because if, as he says, they were guarding the door of the mosque, then one wonders how the rioters succeeded in breaking it open and why he did nothing when they began smashing the locks and breaking the latches of the shops on both sides of the door of the mosque. If as many fire-balls and burning swabs and rags were thrown at the mosque as Sawant has sought to make out and if his paramount desire was to save the mosque as he wants us to believe, then one would have expected to find in his F.I.R. (Ex. P 758) a mention of the fact that fire-balls and burning rags were thrown at the Jumma Mosque. The F.I.R., however, is strangely silent about this fact. The only explanation Sawant could give for this omission was that the F.I.R. did not contain all the details. He was, however, forced to admit that the attack on the Jumma Mosque and the attempt to set fire to it were serious matters and it was because of this attack that he had stood near the mosque and did not chase the mob when it went to Rath Chowk (S.P.O.W. 6/51/3008). Neither Bhalerao nor Karhadkar support Sawant on the point of the attempt to set fire to the mosque. According to Bhalerao's affidavit, after Ghorpade left he was busy dispersing the mob in front of a timber-depot in Bhoite Gadhi; in the meantime a mob again gathered near the Jumma Mosque and therefore, Sawant and Karhadkar both came there and he assisted them in dispersing the mob by effecting a lathi-charge; and Sawant and Karhadkar then told him that a building had been set on fire, that building being Kazi Building in Rath Chowk [S.P.O.W. 10/1(12)/3140(11-12)]. There is thus no mention in Bhalerao's affidavit of any attempt to set fire to the Jumma Mosque. Karhadkar has stated in his affidavit that he stayed with the fire-engine to give it protection and at that time he saw Kazi Building in Rath Chowk on fire. He also makes no mention of any attack on the Jumma Mosque or any attempt to set fire to it. S.D.M., Kulkarni (P.W. 70), who arrived at Rath Chowk has deposed that when Sawant met him at Rath Chowk,

he did not tell him that a mob of 4,000 to 5,000 had attacked the Jumma Mosque or that Hindu mobs had been throwing fire-balls at the Jumma Mosque and that all that Sawant had told him was that with the force available to him he had managed to contain the earlier disturbances and that, except for the arson on Kazi Building at Rath Chowk, there was a lull in the situation (P.W. 70/10/2313).

66.19 The fact remains that the door of Jumma Mosque was damaged and the shops on both sides of it were broken open and looted. The question is what were Inspector Sawant and his party doing at that time. The conclusion seems inescapable that they just stood helplessly by, trying to push back some rioters who happened to get too close to them. Even the mob does not appear to have been so very large because Kulkarni, who went past the Jumma Mosque in a jeep on his way to Rath Chowk, has deposed that his jeep could pass by quite easily even though the roads were very narrow, which it could not have done had the mob been large (P.W. 70/11/2313).

Were the Muslims in Maniyar Wada aggressive ?

66.20 From the evidence it is clear that the Muslims had come out into the lanes and by-lanes of Maniyar Wada and that some of them were throwing stones at the Hindu mob collected on the road which runs past Jumma Mosque. Inspector Sawant has deposed [S.P.O.W. 6/1(20)/2979(15)]:—

“I had reached the Jumma Mosque at about 1945 hrs. or 1700 hrs. and Shri Ghorpade had asked me to wait near the mosque and prevent the Hindu mob from entering the Maniyar Mohalla. Accordingly, I waited near the mosque and prevented the Hindu mob from entering the Maniyar (Muslim) Mohalla. Shri Ghorpade had used tear-gas and made lathi-charge to disperse the furious mob in that Mohalla and in Jainabad from where there was lot of stone-throwing.”

66.21 Ghorpade has, however, not deposed to using tear-gas on the Muslims in Maniyar Wada nor has he described the Muslims collected in Maniyar Wada as a furious mob. On the contrary, he has deposed that as the police party passed through Maniyar Wada to go towards Jainabad in order to deal with the Hindu mob which had assembled in Lendi Nala no one obstructed it (C.W. 23/26/2947). Ghorpade was the officer on the spot, while Sawant was waiting near the Jumma Mosque at the mouth of the lane which leads to Maniyar Wada. Ghorpade, as mentioned earlier, is a more reliable witness. It is also clear from Ghorpade's evidence that at no time did the Muslims attempt to come out of Maniyar Wada to attack nor did they at any time attack the Hindus (C.W. 23/7/2930). Had the Muslims been aggressive, they would have certainly obstructed the police party or stoned it. The object, therefore, of the Muslims in throwing stones at the Hindu mob appears to have been to keep that mob at bay and to prevent it from entering the Muslim locality. It was also so held by Mr. L. R. Satarkar, Judicial Magistrate, First Class, Jalgaon, in his

judgment dated September 28, 1971 (Ex. P 1037) in Criminal Case No. 33 of 1971 while acquitting nine Muslims who were prosecuted for rioting at Maniyar Wada, on the basis of the F.I.R. (Ex. P 758) lodged by Inspector Sawant in which Sawant, with a complete disregard for the correct facts, has stated :—

“The Muslim mob would not be controlled by lathi-charge as they escaped through small lanes and again pelted stones and the Hindu rioters also came off and on with stones, lathis, ‘jambias’ (daggers) for attacking Muslims. I returned them with a lathi-charge. In all 5 times I charged them with lathis upto 6 p.m. and then S.D.P.O. used gas shells at Muslims and Hindu rioters and due to this the mob scattered.”

The police strategy

66.22 In order to ensure that the disturbances did not take a serious turn and to put them down, the police-officers on the spot hit upon a novel strategy. To recollect, the situation was that the Muslims had come out into the lanes and by-lanes and were keeping the Hindu mob at bay by their presence and some times by throwing stones at them and, as Ghorpade has deposed, the Hindu rioters were afraid to enter the narrow lanes in the Muslim locality and, therefore, they were trying to provoke the Muslims to come out of their locality. Ghorpade, Sawant and Bhalerao, therefore, forced the Muslims to go inside their houses. This they did before the other Hindu mob assembled at Jainabad near Lendi Nala (C.W. 23/9/2933 ; J.J.S.W. 5/3/2427).

66.23 Ghorpade has sought to explain his tactics of dealing with the disturbances and his reason for making the Muslims go inside their houses. He has deposed (C.W. 23/8/2932-3):—

“... My intention in driving the Muslims inside their houses was that the Muslims should not get provoked by the Hindu mobs and come out of their Mohalla and a pitched battle to ensue as a result thereof. Another possibility which I apprehended was that if the Muslims remained in the lanes and pelted stones on the Hindus, the Hindu mobs would again come out and surge forward and try to attack the Muslims. The police force which was there at that time was inadequate.

Q.: Did you not visualise that if you drove the Muslims inside their houses, you would be opening out the way for the Hindu mobs to attack and set fire to their houses, especially as the police force on the scene was inadequate ?

A.: I did not think it fit to leave the task of defending themselves to the Muslims. I felt that this should be done by us, lest the Hindu mobs might be more provoked and the situation aggravated by reason of the Muslims defending themselves.”

66.24 The result of the strategy adopted by the police officers to make the Muslims, who had collected in the lanes and by-lanes in order to protect themselves and their properties, go inside their houses

was to leave the way open for the Hindu rioters to enter Maniyar Wada and set fire to the Muslim properties, and this is precisely what the Hindu rioters did the moment Ghorpade went towards Jainabad to deal with the Hindu mob assembled near Lendi Nala.

How and why arson started at Maniyar Wada ?

66.25 The first act of arson at Maniyar Wada was to a Muslim house. Ghorpade and Bhalerao saw this house on fire when they returned from Lendi Nala after dispersing the Hindu mob which had collected near the brook [C.W. 23/1(9)/2927(4), S.P.O.W. 10/1(12)/3140(11)]. Neither of them could know how the arson was committed, but Karhadkar has given his own version of what had happened [S.P.O.W. 9/1(9)/3104(7)]. According to Karhadkar, on hearing the burst of tear-gas shells, a Hindu mob, which had collected in front of the Jumma Mosque and in Rath Chowk, shouted that the Muslims had exploded a bomb and ran towards Bhoite Gadhi and that at that time stone-throwing was going on from Maniyar Wada and while running towards Bhoite Gadhi the Hindus also started throwing stones at Maniyar Wada. He then states:—

“On seeing smoke and thick flames coming up in the sky and realizing that a house was on fire, we informed to the Police Inspector Shri Sawant who was near us about that. He told us that we should not leave the mouth of the lane and that he would take steps. Within a short time, there was a siren given by the Municipal Council about there being a fire and within a short time thereafter the fire-engine arrived.”

66.26 It is obvious that if the Hindu mob which had collected at Rath Chowk and outside the Jumma Mosque had run away towards Bhoite Gadhi, merely throwing stones at Maniyar Wada on thinking that the Muslims had burst a bomb, there could have been no arson to any house in Maniyar Wada. Arson could only have been committed if the Hindu mob had entered Maniyar Mohalla. It is also not possible that the Hindu mob could have entered the lane and set fire to the house without there being an open clash between the two mobs, if the Muslims were out on the road and indulging in stone-throwing as Karhadkar wants us to believe. Karhadkar is, therefore, obviously not telling the truth.

66.27 Ghorpade has deposed that when they asked the Muslims collected in Maniyar Wada to get inside their houses the Police had already dispersed the Hindu mobs (C.W. 23/9/2933). This also does not appear to be true because the moment Ghorpade went towards Lendi Nala the Hindu mob entered Maniyar Wada and set fire to a Muslim house.

66.28 It is obvious that the Hindu rioters were really not dispersed, but were merely pushed back a little and on seeing Ghorpade with a police party go towards Lendi Nala and the lanes and by-lanes of Maniyar Wada cleared of the Muslims, they took the opportunity to enter Maniyar Wada and commenced arson unchecked by Sawant,

Karhadkar and the policemen who were near the Jumma Mosque. Assuming Ghorpade honestly believed that the strategy adopted by him was best in the circumstances, one trusts that he realized the futility of this strategy when he returned from Lendi Nala and saw the Muslim house on fire.

The extent of arson at Maniyar Wada

66.29 The evidence of the suspended police officers would show that only four houses in Maniyar Wada had been set on fire, namely, the house which Ghorpade saw on fire when he returned after dispersing the mob at Lendi Nala and the three other houses which were set on fire when, according to Sawant, he was at Fakir Mohalla. The panch-namas Exhibits P 777, P 783, P 790, P 791, P 796, P 800 to P 802 and P 806 and the Note on the Work of Riot-Rehabilitation in Jalgaon City filed by M. D. Khan, Deputy Collector, Riot Rehabilitation, Jalgaon (Ex. P 898), show that five Muslim houses were reduced to ashes, three Muslim houses were partially burnt, three Muslim houses suffered other damage, the household articles and furniture of five other Muslim houses were set on fire and burnt and fifteen other Muslim houses, hotels and shops damaged or looted. There is no indication to be found in the evidence of any of these suspended police officers as to when the acts of arson to these other properties were committed or where the suspended police officers were and what they were doing when this happened. In fact, Sawant's affidavit does not even mention that any Muslim house in Maniyar Wada was set on fire, not even the house which Ghorpade saw on fire when he returned from Lendi Nala. This is nothing to be wondered at, since Sawant was posted near the Jumma Mosque specifically to prevent any Hindu rioters from entering the Muslim locality of Maniyar Wada and obviously had failed to do so. One cannot help feeling that the whole truth about what happened in Maniyar Wada has not been told by these police officers.

Why Ghorpade did not ask for reinforcements ?

66.30 Ghorpade has stated that when he sent the Muslim, who was wounded by a spear, to the police station along with A.H.C., Abdulla Khan, he felt that the police bandobast was very inadequate and reinforcements were necessary. He, however, did not send any message with Abdulla Khan asking for reinforcements. He gave two reasons for not doing so. The first was that he felt that the Headquarters would not send reinforcements on Abdulla Khan's message and that he personally or some other officer would have to ask for reinforcements. The second was that at the City Police Station there was no police officer present, but only Head Constable Bendale. Ghorpade had to admit that had Abdulla Khan given the message, the Headquarters would not have refused to act on it knowing that it emanated from Ghorpade. He, however, sought to get round this position by stating that even though the Headquarters would not have refused to act on

his message, unnecessary questions would have been asked to Abdulla Khan which would have resulted in loss of time or perhaps Abdulla Khan would have come back with a message that Ghorpade should ring up the Headquarters or send a written order (C.W. 23/26/2947). This portion of Ghorpade's evidence leaves one bewildered. Surely it would have been much better had reinforcements arrived, even though somewhat late, rather than not arrive at all. It is not possible to fathom this kind of logic. Perhaps the real reason was that no one was able to keep his wits about him and this simple thing did not strike Ghorpade.

Why Sawant did not ask for reinforcements ?

66.31 From the police party and the gas squad which were waiting in the police van parked at Rath Chowk, Ghorpade took with him only the three tear-gas gunners and two policemen, leaving the rest behind. Thus, there were, in addition to the remaining personnel of the gas squad, two constables with rifles and seven constables armed with lathis in the van. Inspector Sawant has deposed that he did not know that these men were waiting in the van as they had not reported to him and that he saw them for the first time when he went to Rath Chowk later in the evening to deal with the disturbances there (S.P.O. W. 6/53/3011). Sawant's explanation cannot be believed. According to Sawant's evidence, he had left for Rath Chowk asking for a police party and a gas squad to follow him. Even assuming what he has stated in his evidence to be true, he did know that the gas squad and the police party had arrived since Ghorpade took a part of the gas squad and two constables with him at Lendi Nala. Sawant could not have believed that the tear-gas gunners and the two constables were all which were sent in the police party. So far as the two armed constables were concerned, Sawant has deposed that they were standing on the opposite side of the road, remaining away from the mob so as not to be too close to it in case they had to open fire. In direct contradiction, Ghorpade has deposed that he did not see any armed constable at any time on the road (S.P.O.W. 6/53/3011 ; C.W. 23/10/2936-7). Sawant not sending for these constables is the real reason why he has said in the witness-box that the police party did not accompany him and that he went alone in the van to Rath Chowk, though he had stated in his F.I.R. that he went to Rath Chowk along with a police party.

66.32 Sawant's explanation why he did not ask for further reinforcements was that before he left for Rath Chowk he had told the Headquarters to send all available men to Rath Chowk immediately and when Ghorpade came to Rath Chowk with two armed policemen and three gas squad men, he thought that all available men at the Headquarters had been sent. He, however, admitted that the strength available at the Headquarters was 125 men (S.P.W.O. 6/56/3014). Surely Sawant could not have imagined, on seeing two armed policemen and three gas squad men, that all the available strength at the

Headquarters had been sent to him. The real reason appears to be that the situation every minute was taking such a serious turn, with one mob collecting near the Jumma Mosque, another at Lendi Nala, arson taking place at Maniyar Wada and the obstruction to the fire-engine, that the situation was totally beyond Sawant and he just drifted along helplessly with it, dazed and bewildered.

The adequacy of the measures to deal with the disturbances at Maniyar Wada

66.33 Apart from Dy. S.P., Ghorpade, none of the other police officers who were at Koli Peth showed any initiative or took any effective steps to control the disturbances at Maniyar Wada. They merely contended themselves with now and then pushing back some Hindu rioters by making a few lathi-charges and by lathi-charging the Muslims who had collected in the lanes and by-lanes of Maniyar Wada for the purpose of preventing the Hindu mob from entering the locality and making these Muslims go inside their houses, but most of the time they just stood there as helpless spectators. In the circumstances of the case where the police force present on the spot was admittedly inadequate, a more unfortunate strategy than that of making the Muslims go inside their houses could hardly have been adopted, for it left the way open to the Hindu rioters to enter Maniyar Wada and commence arson. The presence of none of the police officers, except Dy. S.P., Ghorpade, had any effect upon the Hindu rioters and it speaks to the credit of Dy. S.P., Ghorpade that the first act of arson took place at Maniyar Wada while he was not on the spot, but had gone to Lendi Nala to deal with the other Hindu mob which had assembled there and that it was only after he had left Koli Peth at about 5-45 p.m. for a medical check-up that the other acts of arson took place at Maniyar Wada and the shops near the Jumma Mosque were broken open and looted. No attempt seems to have been made by Inspector Sawant or P.S.Is., Bhalerao and Karhadkar or any police constable to prevent the Hindu rioters from entering Maniyar Wada nor was any attempt made by Dy. S.P., Ghorpade or Inspector Sawant to send for the remaining members of the police party left sitting in the police van parked at Rath Chowk or to send for further reinforcements. The lathi-charges made by the police parties appear to have been ineffective and futile and did not in any manner deter the Hindu rioters. Even when the Hindu rioters obstructed the municipal fire-engine, Inspector Sawant rested content with making some lathi-charges. It was only Ghorpade who cleared the way for the fire-engine by bursting tear-gas shells. Had tear-gas shells not been fired, the fire-engine would not have been able to proceed, and it was the bursting of tear-gas shells and not the lathi-charges which cleared the way for it.

66.34 In spite of the acts of arson and the obstruction to the fire-engine, the Police did not open fire at any time on the Hindu rioters and the two constables armed with rifles remained all the while

unavailed of and as mere spectators of what was happening. The question whether, in these circumstances, the Police should have opened fire will be discussed in the subsequent chapter.

66.35 The only result of the tactics adopted by the Police to put down the disturbances was to give an impression to the Hindu rioters that the Police were not serious and were not bent on checking the riots and thus to embolden them to spread out into the other localities and indulge there in unrestrained arson and attacks on the Muslims and their properties.

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CHAPTER 67
THE DISTURBANCES AT JOSHI PETH

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CHAPTER 67

THE DISTURBANCES AT JOSHI PETH

The mob moves on the Rath Chowk

67.1 According to Inspector Sawant, the mob which was attacking the Jumma Mosque and which he dispersed, went towards Rath Chowk and, according to P.S.I., Bhalerao, the mob which Ghorpade dispersed near Lendi Nala also went towards Rath Chowk (S.P.O.W. 6/13/2987; S.P.O.W. 10/18/3151). A part of this mob also went towards Bhilpura [S.P.O.W. 9/1(9) 3104(8)]. Thus, the so-called attempts at dispersing the mobs merely made the mobs go on a rampage from locality to locality indulging with impunity in arson and looting.

The extent of arson at Joshi Peth

67.2 In Joshi Peth 45 Muslim houses were completely burnt, 9 Muslim houses partially burnt, 13 Muslim houses suffered other damage including looting. There was also a Hindu house which was completely burnt, another Hindu house which was partially burnt and yet another Hindu house which suffered other damage. As mentioned in Chapter 64 (paragraph 64.5), the damage caused by arson to the Hindu houses was as a result of the fires spreading from the Muslim houses which had been set on fire by the Hindu rioters. The arson at Joshi Peth rendered homeless 104 Muslim families and 12 Hindu families, while 112 other Muslim families and a Hindu family were affected by the looting of their houses.

Kulkarni arrives on the scene

67.3 S.D.M., Kulkarni, who had returned to Jalgaon from Bhusaval at about 2-30 p.m., learnt about the disturbances from Municipal Councillor Kalyani. In the meantime the Movement Officer from the Supply Branch, Pandharinath Waman Mali (P.W. 89), came to him with a jeep and told him about the disturbances. The time then was about 5-15 p.m. Kulkarni immediately left with Mali in the jeep and reached Rath Chowk at about 6 p.m.

The police firing at Fakir Mohalla

67.4 When S.D.M., Kulkarni reached Rath Chowk he found Inspector Sawant standing there, looking exhausted, with P.S.I., Karhadkar and about 10 or 15 policemen with him and a house at the corner of Rath Chowk and Fakir Mohalla, namely, Kazi Building, on fire. He also saw a fire-engine, with its crew standing at some

distance away from it on account of the heavy stone-throwing on the fire-engine. Kulkarni told Sawant that the situation was worsening and that it was necessary to open fire. He also decided to promulgate orders under section 144 Cr.P.C. and a curfew order and he sent the jeep for bringing a loud-speaker for announcing the orders. He then took two or three unarmed police constables and an armed police constable from Sawant and went to Fakir Mohalla. He found heavy stone-throwing going on [P.W. 70/1(2)/2307(1-2)]. According to Sawant, the Hindu mob had entered Fakir Mohalla and the Muslims in the lane were on the defensive, seeking to keep back the Hindu mob by throwing stones at it. Karhadkar and Bhalerao also support him on this point [S.P.O.W. 6/13/2987; S.P.O.W. 9/1(9)/3104(8); S.P.O.W. 10/1(12)/3140(12)]. Kulkarni has, however, denied that there was any Muslim mob in the lanes or by-lanes of Fakir Mohalla or that the Muslims were indulging in stone-throwing. He has pointed out that the stone-throwing could not be by the Muslims because the stone-throwing was to prevent fire-fighting operations to Kazi Building, a building owned and tenanted by Muslims. He has further categorically deposed that there was no stone-throwing indulged in by the Hindus and the Muslims against each other [P.W. 70/1(2)/2307(1), 24/2320-1]. As between these three police-officers on the one hand and Kulkarni on the other, I prefer the evidence of Kulkarni, for had there been Muslims collected in Fakir Mohalla as sought to be made out by these police-officers, it would have led to some clash at least between the two mobs when the Hindu mob entered Fakir Mohalla and started committing arson. There was, however, no such clash.

67-5 As the situation became serious, Kulkarni ordered fire to be opened in the air. According to Kulkarni, 10 rounds were fired after giving a warning to the mob. Kulkarni has deposed that he subsequently learnt that there were in all 12 rounds which were fired (P.W. 70/4/2310). This discrepancy in the number of rounds is not material for the purposes of this Inquiry. Nobody has contended before the Commission, as nobody can possibly contend, that the said firing was not justified. In fact, what was wrong with this firing was not that it was excessive or not justified, but that it was firing in the air and not effective firing on the mob. As Kulkarni has deposed, his object was to frighten the rioters and make them run away and thus clear the road for the fire-fighting operations. Unfortunately, Kulkarni did not know what had transpired previously. He did not know that the mob had gone from place to place and had already indulged in arson at Maniyar Wada. In cross-examination he was shown Rules 59 and 60 of the Bombay Police Manual, 1959, Vol. III, according to which in no circumstances firing in the air should be resorted to as experience has proved that it led ultimately to greater loss of life. Kulkarni's explanation was that the Executive Magistrates were not required to study the Police Manual but only the Bombay Police Act and that he was not aware of the provisions of the Police Manual or of the

I.G.P.'s memorandum (Ex. G 70) which reproduced the substance of the said Rules 59 and 60 of the Police Manual. He further stated that there was no provision in the booklet, "Guide Lines for dealing with communal disturbances" (Ex. G 39), that under no circumstances firing in the air should be resorted to and that on the contrary he had read in the newspapers about fire being opened in the air to frighten away crowds (P.W. 70/15/2315-6, 24/2320). The booklet "Guide Lines" (Ex. G 39) was circulated to all D.Ms. and by the D.Ms. to all S.D.Ms. and Taluka Magistrates. Thus Kulkarni could not have been ignorant of the fact that under the "Guide Lines" it was provided that when fire was to be opened it should be directed towards the most threatening part of the mob, the aim being kept low so that the persons were hit in the nether parts. Opening fire in the air in a densely populated locality such as Rath Chowk can hardly be said to be wise as the bullets would be likely to hit someone inside a house or standing on the balcony. Kulkarni being ignorant of the actual situation prevailing in Old Jalgaon, might have, however, thought that this was a localized incident and the mob might be frightened away by opening fire in the air. On subsequent occasions Kulkarni had ordered fire to be opened on the mobs and it appears that it was his ignorance of the actual situation which led him to take the decision to open fire in the air at Fakir Mohalla. It was none the less unfortunate that effective firing upon the mob was not ordered by Kulkarni for this mob, whose experience at Maniyar Wada was that the Police did not mean business and were by and large standing by helplessly, probably became more convinced of this fact when they found even the S.D.M. not opening fire at them but over their heads.

67.6 Another point which requires to be mentioned is that the police officers and constables who were on the scene have greatly exaggerated the number of the rioters in the Hindu mob. They are, however, falsified by the evidence of Kulkarni. Kulkarni had passed by the Jumma Mosque on his way to Rath Chowk. He had gone in a jeep and though the roads were very narrow, his jeep had passed quite easily through them which, as he pointed out, it could not have done had the mobs been large. Kulkarni has further deposed that there was a mob of about 100 to 200 persons at Rath Chowk (P.W. 70/4/2310, 10/2313). In his report dated May 12, 1970 (Ex. P 890) made to the D.M., Kulkarni has stated that he saw at various places batches of ten to fifteen persons, mainly young boys and adults below 30, carrying different types of weapons and that almost all of them were throwing stones. Emphasis has been placed upon some minor discrepancies between Kulkarni's evidence and his said report. Kulkarni has, however, candidly admitted that some mistakes have crept into his said report because immediately after the disturbances, he was extremely busy with rehabilitation work, including finding food and shelter for the victims of the disturbances, and making arrangements for a number of V.I.Ps. who came to Jalgaon within two or three days of the disturbances and that for these reasons he

was busy round the clock, and when the D.M. on his return to Jalgaon asked him to let him have a report and also forwarded to him the S.P.'s report dated May 9/10, 1970 (Ex. P 889) for making his remarks thereon, he dictated his said report (Ex. P 890) to his stenographer very late in the night. In any event, these discrepancies are not very material for the purposes of this Inquiry.

67.7 Even though firing in the air caused the mob to retreat, Kulkarni felt that something serious would happen unless immediate preventive steps were taken. He found that the police force in the area of Rath Chowk was not adequate nor had he been briefed about the situation in other parts of the city. Sawant also did not know anything about what was happening in the other localities. Accordingly, Kulkarni decided to go to the City Police Station in order to ascertain the position and mobilise and coordinate all available men, particularly as he knew that neither the D. M. nor the S.P. were in Jalgaon. Before leaving Rath Chowk, he instructed Sawant to arrange for the proclamation of the curfew order. He then rushed to the police station on foot, taking Mali with him, reaching there at about 6-30 p.m. He left behind him his 'Sheristedar', B. K. Patil, to help Sawant [P.W. 70/1(2)/2307(2)].

The rioting at Bagwan Mohalla

67.8 The scene of the disturbances then changed from Rath Chowk to Bagwan Mohalla and Khatik Alli and almost every Muslim house in these two localities was set on fire. There is no direct evidence on behalf of the District Police Officers and Executive Magistrates about the course of the disturbances at Bagwan Mohalla and Khatik Alli, but several Muslim witnesses have given evidence in respect of these acts of rioting and arson. It is, however, not necessary to refer to their evidence in detail, except in so far as their evidence relate to certain matters of controversy between the parties.

67.9 The real dispute between the parties is about the role played in these disturbances by Sub-Inspector Bhalerao and Head Constable Dashrath Joshi, it being the case of the Muslim parties that these two actively helped the Hindu rioters in committing arson and murder. Dashrath Joshi has admitted his presence at Khatik Alli, while Bhalerao has denied that he was present either at Bagwan Mohalla or Khatik Alli when rioting and arson took place there. We will first see whether Bhalerao was present in Bagwan Mohalla when rioting and arson took place in that locality. According to Bhalerao's affidavit, after the Police opened fire at Rath Chowk he proceeded towards Bhavsar's flour mill, situate at the corner of a lane running east from Kazi Building, where he found some houses on fire; P.S.I., Karhadkar was trying to extinguish the fire to one of the houses and Karhadkar and Bhalerao both lathi-charged the mob and reached the corner of Azad Chowk in front of Gulam Rasool Bagban's house; they saw this house and ten to twelve other houses on fire; Bhalerao then came to Saraf Lane by crossing Bohri Lane and from the shop of Raj-

mal Lakhichand put in telephone calls for getting a fire-engine and additional help ; he then went back towards the Jumma Mosque and found Inspector Sawant engaged in dispersing the mob and, therefore, he went to help him ; he saw a man holding an air-gun and rushed towards him to apprehend him, but a soda-water bottle hit his peak-cap and he also received injuries on his leg and cheek ; on account of the bottle hitting his peak-cap he fainted and collapsed ; he was carried to the Mulki Chavdi (Revenue office) and was then removed to the Civil Hospital where he was an indoor patient uptil May 30, 1970 [S.P.O.W. 10/1(12)/3140(12-13)]. In cross-examination he stated that the mob which he lathi-charged in Azad Chowk ran into adjoining lanes, most of which were Muslim lanes, one of such lanes leading to Khatik Alli where houses were thereafter set on fire. He has further stated that he dispersed the mob in Bagwan Mohalla but made no arrests because the important thing was to disperse the mob and not to effect arrests. He admitted that he did not follow the mob to see that it did not go to other localities and cause damage there. The reason he gave for not doing so was that all the houses in Azad Chowk had been set on fire and it was necessary to await the arrival of a fire-engine and, therefore, he went to make a telephone call. He deposed that he did not think it necessary to open fire because a lathi-charge served the purpose. He further deposed that after pushing the mob back into Bohri Lane he went to Azad Chowk as arson had taken place there and that he was at a distance of about fifty to sixty feet from the mob (S.P.O.W. 10/18/3151-2).

67.10 The above testimony of Bhalerao, if true, would show that he arrived at Azad Chowk after arson had been committed there at Bagwan Mohalla and that he left Azad Chowk and went to Rajmal's shop for making telephone calls without going to Bagwan Mohalla or Khatik Alli. The other evidence on the record, however, shows that this part of his evidence is not true. Shrikrishna Jalukar has deposed that he saw Bhalerao and Karhadkar lathicharging a compact mob of 500 to 600 persons in Bagwan Mohalla (C.W. 6/11/2459). A.H.C., Gayasuddin Riyasuddin, though in his evidence before the Commission he has tried to make out that after fire was opened two constables went with S.D.M., Kulkarni and Bhalerao to Bagwan Mohalla, had stated in his police statement recorded by Inspector Sawant on May 9, 1970 that two constables along with Sub-Inspector Bhalerao went to deal with the mob which had collected on the other side, while Kulkarni along with two other constables including Gayasuddin went to Bagwan Mohalla (P.W. 69/8/2303). Kulkarni has, however, not deposed about going inside Bagwan Mohalla. It is not possible to accept the evidence of Gayasuddin in preference to that of Kulkarni. It is also pertinent to note that both in his evidence and in his report Kulkarni has mentioned the names of only two officers as being present, namely, Inspector Sawant and Sub-Inspector Karhadkar, and has not mentioned the name of Sub-Inspector Bhalerao. Bhalerao also in his first police statement (Ex. P 1026) recorded by Inspector Sawant on May 9, 1970 has stated

that Inspector Sawant sent him along with Karhadkar to Bagwan Mohalla where they found 4,000 to 5,000 Hindus and Muslims collected outside the house of Gulam Rasool Bagban and Tamij Piran Bagwan ; that these Hindus and Muslims were throwing stones and were armed with iron bars, daggers and axes ; that the Hindus and the Muslims were trying to attack each other ; that he and Karhadkar tried their best to disperse them ; that the houses of Gulam Rasool Bagban and Tamij Piran Bagwan had already been set on fire along with ten or twelve other houses ; that after dispersing this mob he went through a lane to Rath Chowk where also a huge mob had collected and one or two houses had been set on fire and that Kulkarni ordered the Police to open fire in the air. According to his first police statement, therefore, he had gone to Bagwan Mohalla and returned from there prior to Kulkarni arriving on the scene and ordering fire to be opened. His second police statement (Ex. P 1027) was recorded on June 26, 1970 by D.I., Limaye (P.W. 93). By this time very serious allegations of actively taking part in the riots, of murdering a Muslim named Taj Mohammed, of threatening the widow Hajrabi [J.U.(J) W. 16] with his revolver and of leading a mob of rioters had already been made against him and he had been suspended. Realizing that the sequence of events narrated in his first police statement establishing his presence along with that of the rioters when arson and murder were committed at Bagwan Mohalla, at the end of his second police statement he has stated that the sequence of events set out in his first police statement was not correct and that he had gone to Bagwan Mohalla after firing in Rath Chowk had taken place. Bhalerao's affidavit was affirmed even later, namely, on August 14, 1970, and it naturally makes out that he had gone to Bagwan Mohalla. It is difficult to accept what Bhalerao has stated in his affidavit in the light of his express statements made in his first police statement. What he has stated in his first police statement is also substantially the same as what has been stated by Sub-Inspector Karhadkar in his F.I.R. lodged on May 8, 1970 (Ex. P 759). In this F.I.R. Karhadkar has clearly stated that on Inspector Sawant's orders he along with P.S.I., Bhalerao and a police party went to Bagwan Mohalla and found a large mob of about 4,000 to 5,000 Hindus and Muslims, armed with iron bars, daggers and axes, outside the houses of Gulam Rasool Bagban and Tamij Piran Bagwan, which along with ten or twelve other houses had already been set on fire, that the rioters were pelting stones to prevent the residents of the houses from coming out and were also pelting stones at a fire-engine to prevent it from carrying out fire-fighting operations, and that Sawant came there with a police party to their help and that they made several lathi-charges in which Sawant was injured by a stone thrown at his face. He has further stated that while these lathi-charges were taking place, Kulkarni was present and ordered fire to be opened in the air. In his affidavit Karhadkar has changed the story and supported what Bhalerao has stated in his affidavit. Karhadkar, however, stands contradicted by his own F.I.R.

67.11 Sawant's version is different from those of both Bhalerao and Karhadkar. Sawant has stated in his affidavit that as he was chasing the mob which was dispersing by reason of the fire opened in the air, at Fakir Mohalla he was hit by a large stone thrown by a Muslim and was badly injured on his right cheek; that he arrested two Muslims and gave them to Bhalerao, but these Muslims were rescued by other Muslims; that in the meantime while he was at Fakir Mohalla some Hindus who were standing near the Jumma Mosque went behind the mosque and set fire to three Muslim houses there; that, therefore, he, Bhalerao and Karhadkar returned to the Jumma Mosque and got the fires extinguished by pouring water on them with buckets taken from the residents of the Mohalla; that it was at that time that Bhalerao was hit with a soda-water bottle by a Muslim; and that it was at about 7-30 p.m. or 8 p.m. when Bhalerao was sent to the Civil Hospital for treatment [S.P.O.W. 6/1(20)/2979(17)]. Though Sawant has described himself as having been badly injured, the medical certificate (Ex. P 872) shows that the only injury suffered by him was a minor abrasion on his left cheek. It is to be noted that Sawant does not talk of Bhalerao fainting or falling down and Bhalerao's medical case papers (Ex. P 868) show that he complained of feeling giddy and that the injuries suffered by him were a haematoma on the frontal bone and an abrasion on the left cheek. Neither his complaint of giddiness nor his injuries were so serious as to cause anybody to be an indoor patient in a hospital for twenty-two days. It will also be noted that according to Sawant's affidavit there was no mob near the Jumma Mosque but some people, taking advantage of his absence, had gone behind the Jumma Mosque to set fire to three Muslim houses, while according to Bhalerao and Karhadkar when they came to the Jumma Mosque they saw Sawant engaged in making a lathi-charge on the mob. Sawant also does not talk of any man with an air-gun. Further, Sawant talks of extinguishing the fires to the houses with the help of the residents of the Mohalla. If there was no mob and if the residents of the Mohalla, who were all Muslims, were helping the Police to extinguish the fires to the Muslim houses, one wonders why any Muslim should throw a soda-water bottle at a police-officer trying to help the Muslims.

67.12 Another feature worth noting is that there is no mention at all either in Karhadkar's F.I.R. (Ex. P 759) or in Bhalerao's first police statement (Ex. P 1026) of any telephone call made by Bhalerao, but the telephone calls are mentioned for the first time in Bhalerao's second police statement (Ex. P 1027). According to Bhalerao, the telephone calls made by him from Rajmal's shop were to the Municipal Fire Brigade and the Police Headquarters. The Incoming Telephone Calls Register of the Police Headquarters, however, does not contain any entry to show that any telephone call had been received from Bhalerao on May 8, 1970. A.H.C., Tajrao Bhikanrao Patil (P.W. 90) was the telephone orderly at the Police Headquarters and had taken all incoming calls from the noon of May 8, 1970 until the morning of

May 9, 1970. He has deposed that if there was a telephone call asking for a police party, it would have been entered in the Incoming Telephone Calls Register and that on May 8, 1970 he had entered all such calls in the said register and that no such call as alleged was received from Bhalerao. He has further deposed that Bhalerao had rung up at about 6-30 p.m. or 7 p.m. inquiring whether Reserve Sub-Inspector Kadri was at the Headquarters. There is, however, no entry in the said register to show that any such call was received at the Headquarters. The explanation Patil gave for not entering the said call was that it was an unimportant call and that such calls were received every day and are not entered in the register. Patil, however, could not remember any other call of a like nature which he had received, whether on that day or on any other day and which he had not entered, except another disputed telephone call alleged to have been made in the afternoon of May 8, 1970 by Head Constable Bendale (P.W. 90/3/3116, 6/3118). Patil has tried to explain why he remembered the said call alleged to have been made by Bhalerao. According to him, on May 9, 1970 Bhalerao had sent for him at the hospital and inquired from him whether he had noted the call which he (that is, Bhalerao) had made asking for a police party and Patil had replied that Bhalerao had not made any such call but had only made a call inquiring whether Reserve Sub-Inspector Kadri was at the Headquarters. It is strange that the only calls not entered in the said register which Patil should remember were these two particular calls, about both of which there is a dispute.

67.13 For the above reasons I reject Bhalerao's story that he had gone to Rajmal's shop to make a telephone call or that he made any telephone call. There can be no doubt that this story has been subsequently invented by him to set up an alibi for himself in view of the complaints made against him by the Muslims. I find from the evidence that Bhalerao was present when rioting and arson took place at Bagwan Mohalla.

The murder of Taj Mohamed

67.14 One of the Muslims who was killed in the rioting at Bagwan Mohalla was Taj Mohamed Raj Mohamed. It is the case of the Muslim parties that he was shot dead in cold blood by Sub-Inspector Bhalerao. It is the case of the District Police-Officers that he died as a result of respiratory failure due to suffocation.

67.15 In support of their case the Muslim parties have examined Shaikh Bismillah Shaikh Hassan Bagwan [J.U.(J.) W. 24/1-10/2960-7]. In his examination-in-chief Shaikh Bismillah deposed that as he had only three daughters, he treated Taj Mohammed, who was his brother's son, as his own son. They all resided together in Bagwan Mohalla. On the day of the disturbances Shaikh Bismillah was at home. A mob came to their house, shouting, "Beat the Muslims, burn their houses, finish them off". Some of these rioters were carrying kerosene tins, some were carrying lighted torches and some, tyre tubes. The mob began setting fire to the houses of the Muslims including the house of

Shaikh Bismillah. At that time Taj Mohamed and the other family members of Shaikh Bismillah who were on the upper floor came down and began extinguishing the fire. The other family members left the house. After some time Taj Mohamed inquired from Shaikh Bismillah where they had gone. Shaikh Bismillah replied that he did not know and requested Taj Mohamed not to go in search of them. Taj Mohamed, however, left by the rear door. Shaikh Bismillah followed him upto Azad Chowk. He found that a large mob had already collected at Azad Chowk. Sub-Inspector Bhalerao was in front of the mob and was asking it to advance and not to fall back. Someone from the mob hit Taj Mohamed with an iron bar and another person hit him with a spear. Taj Mohamed fell down on the road, got up and started running but Sub-Inspector Bhalerao shot him down with his revolver. On seeing Shaikh Bismillah the rioters shouted. "Let him come". Out of fear Shaikh Bismillah ran away through another lane into the lane at the rear of his house where a crowd of Muslims, some Hindus and some women and children had collected. Thereafter he went to the City Police Station looking for his children whom he could not find. At about 10 p.m. Sahebji Dagdu Bagwan told him that Taj Mohamed was lying outside the Arabi Maddressa. Shaikh Bismillah told him that he already knew about it and that he had seen him killed before his own eyes. He then went and sat under a tree. After about an hour or an hour and a half Abdul Majid Badliwalla (the deponent of affidavit No. 33) saw him. Shaikh Bismillah told him that Taj Mohammed's body was still lying where it had fallen and nobody was paying any attention to it. Abdul Majid informed Gulam Rasool Bagban about it and they offered to take Shaikh Bismillah to the spot in a vehicle. Shaikh Bismillah along with Abdul Majid and Gulam Rasool Bagban went in a police jeep and found Taj Mohamed's body lying in front of the Arabi Maddressa. Taj Mohamed was wearing a sky-blue shirt and white pyjamas. The upper portion of the right sleeve of his shirt was blood-stained. There was a hole on his right mastoid region and in his right cheek, and blood was flowing from these two wounds. There was also a lot of blood lying on the ground. As it was not possible to take away the body in the police jeep, the jeep was sent back to the police station and a police van was sent for. When the police van came the body was taken to the Civil Hospital.

67.16 Shaikh Bismillah's evidence, if true, would show that Sub-Inspector Bhalerao not only himself took part in the disturbances, but incited and led the Hindu rioters and shot down and murdered a Muslim who was seeking to escape from the rioting mob. To questions by the Commission, however, Shaikh Bismillah admitted that when Taj Mohamed was hit with an iron bar and a spear as also when he was shot down, he was at a distance of sixty to eighty feet from Taj Mohamed and that Bhalerao was at a distance of five to seven feet from Taj Mohamed when he fired at him. He further admitted that he had cataracts in both his eyes. He could not see the time in the clock on the wall of the Court-room and when asked whether he recognized

Sub-Inspector R. G. Thakur, with the Commission's permission he went close to Sub-Inspector Thakur and stared at him fixedly for some time from a distance of about two feet to find out whether he was, in fact, Sub-Inspector Thakur. When the Commission asked him whether he could see Sub-Inspector Bhalerao in the Court-room, he answered in the affirmative and turned and pointed out Sub-Inspector Karhadkar who was also dressed in a white shirt just as Bhalerao had dressed on that day and who was sitting next to the chair in which, five minutes prior to this question being asked, Bhalerao had been sitting but had, at the suggestion of the Commission, changed his seat. On his pointing out Karhadkar, Karhadkar was asked to stand up and Shaikh Bismillah was asked whether he was, in fact, Sub-Inspector Bhalerao. Shaikh Bismillah replied that he could not see unless he went close to him. Thereupon Sub-Inspector Karhadkar was asked to stand next to Shaikh Bismillah and it was only thereafter that Shaikh Bismillah could say that he was not Bhalerao. Shaikh Bismillah then requested that he should be allowed to go round the room and look from close quarters at the faces of everybody. He then went round the room peering into the faces of everyone and finally pointed out Sub-Inspector Bhalerao, very probably because Bhalerao, who had a prominent moustache, suddenly covered it up with his hand as Shaikh Bismillah came near him. These facts clearly demonstrate that at the time when the witness came to give evidence his vision was limited to a distance of about two feet and that before he stepped into the witness-box he had been coached about the dress Bhalerao was wearing and the place where he was sitting. He, however, sought to make out that he got cataracts in both his eyes after the disturbances on account of the grief and sorrow he had felt, but ultimately admitted that he was suffering from cataracts even prior to the disturbances. It is evident that no reliance can be placed upon the testimony of an eye-witness who is unable to see properly. There is thus no reliable or satisfactory evidence before the Commission that Taj Mohamed was murdered by Sub-Inspector Bhalerao.

67.17 The matter would have rested there, but for the attempts made by various officers to see that Sub-Inspector Bhalerao was not prosecuted in respect of this offence and that no trace remained on the record of any fact which could lend support to the allegation that Bhalerao had murdered Taj Mohamed.

67.18 In support of their case that Taj Mohamed had died as a result of suffocation, the District Police Officers have relied upon the post-mortem report of Taj Mohamed (Ex. P 870). The post-mortem on Taj Mohamed's body was conducted on May 9, 1970 at 11-30 a.m. by Dr. Gopal Tukaram Patil, Medical Officer of the Jalgaon Civil Hospital (P.W. 87/1-7/2814-9). The post-mortem report shows that Taj Mohamed was wearing a blue shirt, white pyjamas and a 'banian', that his clothes were dry and were neither wet nor stained with blood or soiled with any vomit or faecal matter. Though the said report states that the cuticle all over the body was intact, at the same

time it states that there was first-degree burns on the back and gluteal region and second-degree burns on the back. It also states that both his eyes were closed and blood-stained and sticky fluid was oozing from his mouth. The post-mortem report does not show any external injury on the body. There is considerable doubt about the genuineness of this post-mortem report. Dr. Patil admitted that the remark "Cuticle intact all over body" would mean that the body was not decomposed and that there were no burns on the body. "He made this admission, however, after almost five minutes and after the question was repeated several times. He was not able to reconcile the remarks "Cuticle intact all over body" with the said first-degree and second-degree burns noted in column 17 of the post-mortem report. There are several discrepancies and variations between the original post-mortem report and its office copy (Ex. P 974). In the said office copy in column 17 headed "External Examination" there are several remarks both in English and in Hindi, all of which Dr. Patil admitted had been scored out by him by putting a vertical line through them. He stated in the witness-box that he was unable to read these remarks because they were in an abbreviated form even though these remarks had been made by him. In spite of Dr. Patil's feigned inability to read these remarks, it is easy to make out what these scored-out remarks in English were. They read, "Blood in nose and burn on chest and hand". By the side of these scored-out remarks were written in English the words, "Male, Age 30 Yr. Momedan" and in Marathi, "blue shirt, white pyjamas, banian". The doctor admitted that these words in English and Marathi were in his own hand-writing. He also admitted that they were in a different ink from the ink in which the scored-out remarks were written. He could assign no reason for scoring out these remarks or for subsequently writing the said other remarks against them. While column 17 of the original post-mortem report (Ex. P 870) contained the remark, "Redish colour back gluteal region", column 17 of the said office copy contained the remarks, "Redis (sic) colour back glutal (sic) region and thigh". The words "and thigh" are not to be found in the said original post-mortem report, an omission which the doctor could not explain. While in the relevant sub-columns of column 21 of the said office copy 'peritoneum' as also the 'cavity' of the abdomen are both shown as normal, there is no remark against these sub-columns in the original post-mortem report but only a horizontal line is put against them. Dr. Patil's explanation was that this was because these two features were found to be normal, but he could not explain why, when in the original post-mortem report against the sub-column headed "organs of generation" in column 21 he had made the remark "N.A.D.", that is, "Nothing abnormal detected", in the same sub-column in the said office copy he had made the remark 'normal'. While the original report mentioned the probable cause of death as "respiratory failure due to suffocation", in the said office copy it was shown as 'asphyxia due to suffocation". While the original report showed both eyes as 'closed', the said office copy at

first showed both eyes as " half open ", but the words " half open " were struck out and over them the word 'closed' was written. The doctor admitted that he had made these alterations. Column 4 of the said post-mortem report showed the date and time of the receipt of the body as 11 a.m. on May 9, 1970. Dr. Patil deposed that these said particulars were taken from the time endorsed on the inquest report when the body was brought to the hospital. The inquest report in the case of Taj Mohamed (Ex. P 972), however, does not contain any such particulars and the doctor was unable to explain from where he got these particulars. The doctor also admitted that in column 17 though the fact of burns was mentioned, their position, measured dimensions and directions were not mentioned as required by that column because there were burns over the entire back. The inquest report shows that there were burns on the buttocks, on the back right upto the ankles and the skin had peeled off from the back. It also appears from the said office copy of the post-mortem report and the endorsement thereon that a copy of the post-mortem report was sent to the Civil Surgeon only on May 25, 1970.

67.19 In the light of the above discussions, I have no hesitation in coming to the conclusion that both these documents are not genuine, that the said office copy of the post-mortem report of Taj Mohamed has been deliberately tampered with and that the said office copy has been subsequently got up.

67.20 The evidence on the record also clearly disproves what is stated in Taj Mohamed's said post-mortem report.

67.21 We will first turn to the evidence with respect to the dead body of Taj Mohamed. Danniell Puthmai Jayaraj, Supervisor, Fire Brigade Ordnance Factory, Varangaon (P.W. 86), was working in May 1970 as a Civil Motor Driver in the Fire Brigade Section of the Varangaon Ordnance Factory. He is the holder of a First Class Diploma in Fire-Fighting from the Defence Institute of Fire Research, New Delhi. On May 8, 1970 on an emergency call being received from Jalgaon, the Varangaon Ordnance Factory fire-tender was sent to Jalgaon on fire-fighting operations. Danniell accompanied it. They first went to the City Police Station and reported to S.P., Raman at about 10-45 p.m. They then followed Raman in his jeep and stopped at a place where the buildings were on fire and started fire-fighting operations. The crew of the fire-tender, consisting of 15 men, was divided into two parties, one headed by Saroopsing, In-charge, Fire Brigade Section of the Varangaon Ordnance Factory, and the other by Danniell. After they had almost finished fighting the fire to the first building, Danniell heard a noise like that of a building collapsing and a sound like that of tin sheets falling. Along with two of his firemen Danniell entered the building from which he thought these noises were coming. The doors and windows of that building were painted green. The said building was the Arabi Maddressa. One flap of the door was shut and the other was half open. The Arabi Maddressa had an outer room and an inner room. In the outer room they found a carpet and bundles of

papers completely burnt. The fire had died out and there was no smoke. One flap of the rear door of that room was closed and the other was half open. They went inside the rear room and saw a dead body lying in the room. There were no lights in that building, but at some distance from the building a street light was burning. There was, however, sufficient brightness from the glow of the fires to the adjoining buildings and the street light for Danniell to see inside the rooms. The hands and legs of the body appeared to be very stiff. There were some iron bars and bricks lying in the room. There was no roof in this inner room, it being open to the sky. He came out of the building and asked the two firemen to call Saroopsingh who had a flashlight with him. Along with Saroopsingh and some members of the public, who had meanwhile come up, they went back to the room. Saroopsingh flashed the light on the body and told the two firemen to fetch a stretcher and get a police constable. Danniell helped to lift up the body and put it on the stretcher by taking it by the shoulders. He then noticed that the neck was falling on the right shoulder as if it was stuck to that shoulder. After he had put the dead body on the stretcher he found blood on his hand and shirt. Saroopsingh was flashing his torch-light on the dead body to assist them in putting it on the stretcher. With the help of that light Danniell further saw that the right side of the face, the upper part of the body and the right shoulder and arm were covered with blood. They carried the stretcher, with the body on it, out on the road in front of the building. A little later they saw a policeman in uniform at some distance and shouted out to him. By that time members of the public had also collected on the road. A photographer also came up and took a photograph of the dead body. When Danniell and the other members of the fire-fighting crew saw the constable coming up, they picked up the body, put it in the fire-tender and continued with their fire-fighting operations. The body was then removed. Danniell identified two photographs of Taj Mohamed (Exs. P 934 and P 971). These photographs show his face all smeared with blood and the right sleeve of the shirt completely torn and the right arm covered with blood. Two police statements of Danniell were recorded, the first on July 2, 1970 and the second on July 23, 1970, both by D.I., Bendre (P.W. 86/1-5/2805-12).

67.22 In order to depose to the condition of the dead body of Taj Mohamed, in addition to Danniell two private individuals, who were present at the time of removal of Taj Mohamed's body, were examined on behalf of the District Police Officers. These witnesses are Mohamed Zahoor Abdul Rehman Bagwan (P.W. 82/1/2784-6) and Shaikh Sahebji Dagdu Bagwan (P.W. 83/1/2788-9). Their evidence also shows that the body and the clothes of Taj Mohamed were covered with blood and that what Danniell has referred to as bundles of papers which he found lying burnt in the outer room of the Arabi Maddressa were, in fact, copies of the Koran which used to be kept in a wall cupboard and which were taken out, piled on the floor and set on fire. The evidence of these witnesses has not been challenged by any of the parties.

Their evidence establishes that Taj Mohamed had suffered external injuries from which he had bled and that his clothes, face, right arm and shoulder were covered with blood and thus gives the lie to the said so-called post-mortem report and its office copy (Exs. P 870 and P 974).

67.23 The oral evidence of Danniell, Mohamed Zahoor and Shaikh Sahibji Dagdu Bagwan is completely corroborated by the Chemical Analyser's report. On July 21, 1970 D.I., Bendre forwarded the shirt, 'banian' and pyjamas of Taj Mohamed and the pieces of skin sticking to the said 'banian' to the Chemical Analyser. According to the Chemical Analyser's report, the 'banian' had blood stains on it and the shirt and the pyjamas were extensively stained with blood, the blood was human and the skin pieces sticking to the 'banian' were also human (P.W. 95/7/3203-4).

67.24 Before we turn to the other attempts on the part of the District Police to make out that the clothes of Taj Mohamed were not blood-stained, it will be convenient to dispose of another matter of controversy between the parties, namely, the controversy about what transpired at the time when Taj Mohamed's body was removed to the Civil Hospital. According to Gulam Rasool Bagban, who along with Abdul Majid Badliwalla and Bismillah Khan had come there in a police jeep, he asked Inspector Sawant to make an inquest panchnama of the body before removing it, but Sawant refused to do so [J.U.(J.)W. 3/1(8)/2623(4)]. Inspector Sawant has denied that he was present on the scene. It is really not necessary for the purposes of this Inquiry to decide this point since nothing turns on it because though several dead bodies were removed that night, no inquest panchnama was made on the spot in respect of any of them and, therefore, the omission to make an inquest panchnama in respect of Taj Mohamed's body cannot be said to be deliberate. Further, it is not Inspector Sawant who has been accused by the Muslim parties of having murdered Taj Mohamed but Bhalerao, nor is it the case of the Muslim parties that Sawant was present when Taj Mohamed was murdered. The idea, therefore, of covering up for Bhalerao, assuming Bhalerao had murdered Taj Mohamed by shooting him down, could not have occurred to Sawant at that juncture. Further, none of the three independent witnesses, who have been examined by Mr. Rane on behalf of the District Police Officers, have deposed to Sawant's presence when the body of Taj Mohamed was removed. Shaikh Bismillah's evidence on this point, as on other points, is most unsatisfactory. He deposed at first that Gulam Rasool Bagban and Abdul Majid Badliwalla asked a constable, who was standing nearby, to make an inquest panchnama, and the constable replied that the body should be taken to the hospital. Immediately thereafter he changed his story to say that he was so grief-stricken at seeing Taj Mohamed's body that he did not remember whether it was a constable or an Inspector who was asked to make the inquest panchnama (J.U.(J.)W. 24/3/2963). This was an all too obvious attempt by him

to make his evidence consistent with what Gulam Rasool Bagban had deposed about asking Sawant to make a panchnama and Sawant refusing to do so.

67.25 The attempts, other than the said post-mortem report, to make out that the clothes of Taj Mohamed were not blood-stained were the panchnama of the clothes of Taj Mohamed made by H.C., Itbarkhan F. Tavdi, P.S.O., Jalgaon City Police Station (Ex. P 1045), and the inquest report on the body of Taj Mohamed (Ex. P 972) made by P.S.I., Karhadkar. The clothes worn by Taj Mohamed that day were a blue full-sleeved shirt, a white 'banian' and white pyjamas. It is not recorded in the panchnama that any of these clothes had any stains on them or that any of them were torn. This panchnama when compared with the two photographs of Taj Mohamed (Exs. P 934 and P 971) clearly appears to be false, for the photographs show that the clothes were stained and the shirt was torn. The packet containing these clothes was kept in the 'muddemal' box. The box was opened on June 30, 1970 and the clothes were found to be stained with blood. In view of this, D.I., Bendre made another panchnama of the clothes of Taj Mohamed (Ex. P 1046). The said panchnama shows that his shirt and banian were torn and both of them had dried blood stains on them and that the pyjamas were stained with dried faecal matter. Bendre thereupon recorded the statement of H.C., Itbarkhan on the same day (Ex. P 1047). Itbarkhan's astonishing explanation was that at the time when he made the said panchnama the stains and tears on the clothes were there but as he had made several panchnamas on that day the stains and tears remained to be mentioned in the said panchnama through oversight. On the same day Bendre also recorded the statement of P.S.I., Karhadkar (Ex. P 1048) who had made the inquest report on the body of Taj Mohamed (Ex. P 972). This inquest report, though it showed that there were burns on the back, buttocks and right upto the ankles and that the skin had peeled off and a sticky reddish liquid was oozing out of the mouth and the nose, did not show that the clothes were torn or stained with blood. In his said police statement Karhadkar stated that he was overworked on the day when he had made the said inquest report, having made about twenty-eight inquest panchnamas, and had almost no sleep and that he could not say whether the clothes on the person of Taj Mohamed were the very clothes which were in the 'muddemal' box. Bendre then made inquiries with various persons. P.C., Gulabkhan Namdarkhan who had taken down the panchnama at the dictation of H.C., Itbarkhan stated that there were blood stains and faecal matter and tears and cuts on the clothes, but that fact had remained to be mentioned in the inquest report through oversight. The two panchas to the inquest report also stated the same thing, though they could not give any explanation why these facts were not mentioned in the said inquest report. Abdul Majid Badliwalla and Gulam Rasool Bagban in their police statements also mentioned the blood-stains on the clothes of Taj Mohamed. Bendre recorded on July 29, 1970 the

statement of Mohamed Zahoor (P.W. 82) which also showed that the face and mouth of Taj Mohamed were covered with blood and his clothes were torn. The substance of all these statements has been set out in Bendre's report dated October 25, 1970 made to Dy.S.P., Mahajan (Ex. P 1049). Thus, the photographs of Taj Mohamed, the statements of various witnesses, the clothes worn by Taj Mohamed, all showed that Taj Mohamed had suffered external injuries from which he had bled and that the post-mortem report which did not show any such injury but gave the probable cause of his death as respiratory failure due to suffocation was false.

67.26 According to the District Police Officers, Asst. S.P., Azad took charge in the Civil Hospital of a service revolver and twelve cartridges from P.S.I., Bhalerao and gave them to Inspector Sawant. According to Azad, at about 10-30 p.m. on May 8, 1970 he asked S.P., Raman's permission and went to the Civil Hospital to inquire after the constables who were injured. When he went there, the doctor informed him that a Sub-Inspector was also in the Hospital, that Sub-Inspector being Bhalerao. The doctor further requested him that as the Sub-Inspector was not well. Azad should take away with him the Sub-Inspector's revolver and ammunition. Azad talked with Bhalerao and found that Bhalerao was feeling giddy. Azad took away from Bhalerao his revolver and ammunition and returned to the police station. He gave the revolver along with the cartridges to Inspector Sawant to deposit them in the City Police Station (P.W. 78/22/2377-8).

67.27 The practice at the Jalgaon City Police Station was for police officers such as Inspectors and Sub-Inspectors to keep the service revolvers issued to them in safe custody at the police station and when these revolvers were required for any bandobast to have them issued to them. When revolvers were deposited as also when they were issued entries to that effect were made in a register called the Register of Signatures for Issue of Revolvers. The register (Ex. P 944) for the period March 14, 1970 to January 15, 1972 shows that on May 6, 1970 Sub-Inspector Bhalerao took from the safe custody of the City Police Station a service revolver bearing No. 15 and twelve cartridges and that these were deposited in safe custody with the police station by Inspector Sawant on May 8, 1970. The entries in respect of the said revolver and cartridges issued to Bhalerao and the deposit by Inspector Sawant were made by H.C., Pundlik Chindu Markande who has deposed that they were deposited with him by Sawant at about 11-15 p.m. or 11-30 p.m. on May 8, 1970. The said revolver and cartridges continued to remain deposited till May 27, 1970 when the Special Investigation Squad, Jalgaon, took charge of them under a panchnama (P.W. 81/1-2/2710-1).

67.28 Had Asst. S.P., Azad actually collected Bhalerao's revolver and cartridges as alleged by him and had found that no cartridge was missing, Azad would have mentioned the said facts in his affidavit, because long before Azad came to file his affidavit very serious allegations, including that of having murdered Taj Mohamed, had been

made against Bhalerao and Bhalerao had been suspended, facts of which Azad was well aware since he was the S.D.P.O., Jalgaon Division.

67.29 The report of the ballistic expert on the condition of the said revolver makes interesting reading. On July 21, 1970 D.I., Bendré forwarded the said revolver to the Director, Forensic Science Laboratory, State of Maharashtra, Bombay. The report dated October 21, 1970 of the Assistant Chemical Analyser to Government (Ballistics), Forensic Science Laboratory, Bombay, is as follows (P.W. 95/7/3201-2) :—

“Exhibit 1 is a .455 six chambered revolver in working order. Nitrite — the residue of fired ammunition — was detected in barrel washings of exhibit 1 showing that it (exhibit 1) was used for firing prior to its receipt in this laboratory. The time of firing, however, cannot be determined by laboratory tests.”

67.30 The history of Shaikh Bismillah's police statement makes equally interesting reading. On May 18, 1970 Shaikh Bismillah along with Abdul Majid Badliwalla went to the City Police Station and gave his police statement to P.S.I., R. G. Thakur. The said police statement was in substance the same as what Shaikh Bismillah has deposed in his examination-in-chief before the Commission. He has also stated in the said police statement that Bhalerao fired his revolver at Taj Mohamed as he was running away. He has also implicated in it some Hindus as having been in the rioting mob which had set fire to his house and had chased Taj Mohamed and has also implicated two other Hindus as having caused injuries to Taj Mohamed. Strangely enough, at 6 p.m. that evening Shaikh Bismillah tendered a written application (Ex. P 897) to the Inspector, Jalgaon City Police Station, stating that he had given his said police statement out of misunderstanding and as he was out of his senses and, therefore, the said statement should be cancelled. In the said application he further stated that he did not personally see the incident which took place on May 8, 1970 as he was afraid and, therefore, was sitting inside the house after closing the door from inside and that for the said reason he did not see who had set fire to his house nor did he know who had assaulted Taj Mohamed and that he did not suspect anyone. The said application does not make any sense. It is impossible to imagine that without anything having happened in between; Shaikh Bismillah, who had gone that afternoon and given his police statement implicating P.S.I., Bhalerao and some Hindus, should within a few hours personally hand over an application completely retracting it. Shaikh Bismillah's explanation in the witness-box was that he had gone with Abdul Majid Badliwalla to give his said police statement and that while returning they separated and he began walking towards the relief camp and that on the way two or three Hindus surrounded him and told him that they had come to know about the police statement he had given and threatened him that unless he went back and cancelled the said statement, no one from his family would be left alive. He has further deposed that he asked them to give him some time to think over the matter and on their agreeing thereto, he went to a hotel for a cup of tea, while they stood

across the road watching him and that thereafter he went back to the police station and cancelled his said police statement. He did not recollect whether he had given the said cancellation in writing or merely put his signature to it. He has further deposed that he did not take the said writing with him, but it was written out at the police station. The language of the said application sounds very much like the language of various police statements and it bears all the hallmark of having been dictated to him by some police officer or policeman. His said police statement and application were forwarded to Dy.S.P., Mahajan in charge of the Special Investigation Squad, Jalgaon, and though on the face of it the whole thing appears to be so strange, nothing further seems to have happened in connection therewith. Surely this was a very peculiar way of dealing with the matter. Ordinary commonsense should have told anyone that there must have been much more behind the said application than met the eye and that it was not a routine matter for an eye-witness to give a written retraction of his police statement within a couple of hours of his giving the statement. Still, not the slightest attempt appears to have been made to verify whether the said application was voluntarily given or whether Shaikh Bismillah was coerced into giving it. On June 29, 1970 another police statement of Shaikh Bismillah was recorded by D.I., Bendre, the contents of which appear to be substantially the same as those of his first police statement [P.W. 95/1(7)/3194/1(7)/3194(9)].

67.31 It is difficult to understand why Sub-Inspector Bhalerao should have manoeuvred to get himself sequestered in the Civil Hospital for so long. A suggestion has been made that he did so because he knew that accusations were going to be made against him by the Muslims. A suggestion has also been made that being in the hospital he manoeuvred to get a false panchnama of Taj Mohamed's clothes made as also a convenient post-mortem report. It has not been possible to ascertain the truth of these matters but from the attempts made to tamper with the evidence, these allegations cannot be too lightly dismissed, particularly in view of the fact that from the nature of the injuries suffered by Bhalerao, Bhalerao's confinement in the Civil Hospital from May 8, 1970 to May 30, 1970 seems inexplicable. In his affidavit he had stated that when he was trying to apprehend a man holding an air-gun, he received injuries on his leg and cheek and was hit by a soda-water bottle on his peak-cap which made him faint and collapse and that he was thereupon carried to the Mulki Chavdi (Revenue Office) and after some time was removed to the Civil Hospital where he was kept as an indoor patient upto May 30, 1970 (S.P.O.W. 10/1(12)/3140(13)]. In his examination-in-chief he improved upon his story and stated that not only had he received an injury to his head by reason of the soda-water bottle hitting his peak-cap as also injuries to his left chin and the middle finger of his right hand but had also received beatings which had left no external marks. He further deposed that he was semi-conscious for one or two days and regained consciousness the next evening and could speak though he could not get up and

that there was no abrasion on his forehead but merely a swelling (S.P.O.W. 10/13/3147). The medical case papers of Bhalerao (Ex. P 868) show that he was suffering from giddiness, had a haematoma on the frontal bone and abrasion on the left chin $1'' \times \frac{1}{2}''$ and that he had given the history of his injuries as "assault with a bottle". Dr. Tukaram Damodar Kude (C.W. 28) has deposed that the entries in the Medico Legal Case Register are made from the case papers two or three days after the case papers are made out. Entry No. 662 in the the Medico Legal Case Register of the Jalgaon Civil Hospital (Ex. No. 59) relates to Bhalerao. The said entry was written out by Dr. Kude by copying out the particulars, recorded in the O.P.D. (Outdoor Patients Department) case papers. In the said entry No. 662 in the column meant for describing the injuries, if any, suffered by a patient, it is mentioned. "H.O. giddiness and assault with bottle" and below it is written "O/E Abdomen soft, pulse normal 90/F." and below it there is yet another remark written by Dr. Kude, namely, "Abrasion over the right middle finger $\frac{1}{2}'' \times \frac{1}{2}''$ nail injured." Dr. Kude has admitted that the said remark was in a different ink from that in which the other portions of the said entry were written. He has also admitted that there is no other entry in the said Register which was written in the same ink as the ink with which this remark has been written. He further admitted that he did not see any visible mark of injury on Bhalerao's forehead when he examined him and that haematoma makes its appearance within about half an hour of the injury. He also deposed that he did not know who admitted Bhalerao in the police ward in the Civil Hospital (C.W. 28/8/3131). The pertinent point is that while the medical case papers show haematoma on frontal bone, no such injury is mentioned in the said entry No. 662. The medical evidence is clear on the point that had Bhalerao suffered an injury to his head as alleged by him, haematoma would have made its appearance by the time he went to the hospital. The subsequent attempt to introduce in the Medico Legal Case Register injuries to his right middle finger and nail, none of which have been mentioned in the medical case papers, is extremely suspicious. Equally suspicious is the fact that the abrasion on his left chin mentioned in the medical case papers is not mentioned in the M.L.C. register. The evidence about the time when Bhalerao was admitted in the Hospital is equally suspicious. The medical case papers mention the time of admission as 4-45 p.m. on May 9, 1970 while the said entry No. 662 in the Medico Legal Case Register shows it as 8 p.m. on May 8, 1970. In the said entry, however the figure "8-00" is written over the figure "4.45". All the entries preceding the said entry No. 662 are of May 8, 1970, and the subsequent entries from entry No. 663 to entry No. 701 are also all of May 8, 1970. Not the slightest reliance can be placed upon this register. It is not possible to accept the two sets of injuries, one mentioned in the medical case papers (Ex. No. 686) and the other in the said entry No. 662 of the Medico Legal Case Register (Ex. No. 59). The said entry No. 662 has obviously been tampered with. A deliberate

attempt has been made to change the time of Bhalerao's admission in the hospital as an indoor patient. It is difficult to imagine how he got himself admitted in the hospital and it has not been possible to find out with whose connivance he managed to do so. Even if he had suffered the injuries mentioned either in the medical case papers or in the Medico Legal Case Register, none of these injuries were such as would require any man, leave aside a police officer at a time when there was such a grave and serious law and order problem in the city, to be in the hospital for twenty-two days. How he managed it has not come on the record.

67.32 The first police statement of Bismillah charging Bhalerao with murdering Taj Mohamed, the strange subsequent retraction of it within a few hours, his second police statement recorded by D.I., Bendre, Taj Mohamed's photographs, the obviously false post-mortem report, the obviously false panchnama of Taj Mohamed's clothes, the statements of various witnesses, the Chemical Analyser's report of Taj Mohamed's clothes, the Ballistic Expert's report, all go to show that here was a very serious matter for investigation. One would have, therefore, expected the Special Investigation Squad, Jalgaon, to have carried out a proper and thorough investigation, irrespective of the fact that some doctors in the Civil Hospital or a Police Sub-Inspector might be involved. What has happened, however, in actuality is something that reflects little credit on the officers concerned with this investigation. The investigation into these matters as also other matters against Bhalerao, however, pertain to the role played by the Special Investigation Squad, Jalgaon, and will be dealt with in a subsequent Chapter.

The rioting at Khatik Alli — the marriage party

67.33 Abdul Gafoor Shaikh Ukardu [J.U.(J).W. 18/1-16/2820-28] has given a vivid description of the rioting at Khatik Alli. On May 5, 1970 his son's marriage had taken place at Bhadgaon and the next day the marriage party returned to Jalgaon. A wedding feast was to be held at his house in the evening of May 8, 1970 and relatives from outside Jalgaon had come to his house for this purpose. From noon onwards the family members were busy preparing meals. At about 4 p.m. or 4-30 p.m. a female guest of his came to the house and said that trouble had taken place in the vicinity of Bhoite Gadhi and that Muslim houses had been set on fire. At about 5 p.m. or 5-30 p.m. a large mob of 1,000 to 1,200 Hindus came from the side of Rath Chowk and gathered near his house. He saw Leva Patidars from Bhoite Gadhi and members of the Bhavsar community prominent amongst them. Whilst this mob was assembling he along with ten or twelve guests and cooks stood outside the house and watched. Most of the persons in this mob were young men and many of them were carrying spears, sticks and axes. They had brought with them kerosene tins in two or three handcarts. Thereafter the rioters started encircling the house of Abdul Gafoor and the other neighbouring houses and began pelting stones at them. Getting frightened Abdul Gafoor and the others

ran inside their houses. At that time dinner was being cooked in a 'pandal' erected outside Abdul Gafoor's house, at a distance of five feet from it. The 'pandal' was about ten to twelve feet high and the covering was of tarpulin covered with white cloth. There was a goat shed next to the 'pandal'. The rioters snatched burning fire-wood on which the meal was being cooked, sprinkled kerosene on the curtains of the pandal and set them on fire. They also picked up the cushions and a wooden cot lying outside the house, stacked them against the house and set them on fire. When the inmates of the house tried to come out stones were thrown at them to force them to go back. Abdul Gafoor, his mother, wife, two sons, two other small children and one of the guests, however, managed to escape and they sought shelter in the house of his uncle which was situate in a side lane. After leaving the others at his uncle's house he returned to his own house to save the others, including the women and children, who were trapped inside the house. On reaching his house he pushed open the door with his hands. The door had become so hot that his palms got burnt. He found the house full of smoke. He shouted out to those who were inside, but because of the thick smoke he could not see anybody nor could he hear any voice and so he went back into the side lane. The stone-throwing was continuing unabated. When he first went to his uncle's house, the only house in Khatik Alli which had been set on fire was his own house, but when he returned to his house he found that all the Muslim houses in his lane had been set on fire including the house of his paternal aunt Hajrabi [J.U.(J.)W. 16]. He has deposed that he did not at any time see any police officer or policeman in the vicinity. He tried again and again to return to his house and finally managed to do so along with his son Ilias and his brother Aziz at about 9-30 p.m. or 10 p.m. He found all who had been left behind in the house dead. He brought out from the house four bodies which were still breathing and took them to the Civil Hospital, but while doctor was examining them they died. He did not return to his house thereafter. The Police brought the other dead bodies from his house to the hospital.

67.34 Abdul Gafoor has deposed that while he had gone to the house with his son and brother to take out the dead bodies Inspector Sawant passed by in a police jeep and that he stopped, took out his revolver and fired a shot at his house. Abdul Gafoor told him that the houses in the said lane had been set on fire by the rioters and as the rioters had left, they were bringing out the dead bodies of their family members and if Sawant started shooting, he would kill them. Thereupon Sawant got back into his jeep and drove off. Inspector Sawant, though he admitted that he helped to take out the dead and the injured from Abdul Gafoor's house, denied that he had taken out his revolver or fired a shot from it at the house.

67.35 On May 8, 1970 Sawant was carrying his service revolver. He also possessed his own personal revolver. The Ammunition Register shows that no shot was fired from Sawant's revolver. Sawant also produced before the Commission the arms licence issued to him on

which the purchases of cartridges by him were endorsed as also 42-cartridges which were all the cartridges which he had purchased for his personal revolver as shown by the endorsement on his licence. He had brought these cartridges with him when he gave evidence (S.P.O.W. 6/15/2989, 25/2993, 27/2995). This allegation of Abdul Gafoor, therefore, cannot be true. There was no reason for Sawant to have fired a shot at a burning house. After all, the one thing for which Sawant has been conspicuous during the disturbances was his inability to take out his revolver and fire a shot at any time, however serious the situation was. If the implication of this allegation made by Abdul Gafoor is that Sawant fired at the Muslims who were trying to rescue other Muslims from the burning houses, it does not make any sense, because on Abdul Gafoor's own evidence, on being told that the persons near the house were Muslims who were trying to rescue their family members who were trapped inside the houses, Sawant got back into his jeep and went away, which he would not have done had his intention been to prevent the Muslims from taking out dead bodies or rescuing injured Muslims. Perhaps Abdul Gafoor was too overwrought by grief and shock and has imagined the entire incident. He had lost in this act of arson his newly married son, his daughter-in-law, his two daughters, his three sisters-in-law, his two sisters, his two nieces, his eight nephews, one grand daughter and other relatives. There is, however, a dispute about the number of persons who died in the arson to Abdul Gafoor's house. According to the case of the District Police Officers and the Special Investigation Squad, Jalgaon, the number of persons who died was twenty-five. According to Abdul Gafoor, it was twenty-four, the reason being that, according to him, Salim, the son of his wife's sister Salimabi who was married to one Fakir Mohamed Hasan, a young boy of about 12 years old, was at first thought to be dead but subsequently it was found that he had not died in this act of arson but was in the Civil Hospital having received a bullet wound in the gluteal region. The case of Salim Fakira will be dealt with later in this chapter.

67.36 An attempt was made before the Commission both by the District Police Officers and the Hindu parties to play down the horror of this incident with a view to make out that Hindu rioters were not capable of such cruelty as to cause people to be burnt and suffocated to death. This was an attitude which was very surprising. The persons who had indulged in these crimes must be considered the worst type of criminals, irrespective of their community. This was a howling, unruly mob bent on destruction and murder and which had lost all sense of decency. To try to extenuate the crimes committed by these rioters, and that too by police officers, is shocking. The attempt to extenuate consisted of seeking to make out that getting frightened of the mob outside, the inmates of the house latched the door from inside and did not come out and thus got suffocated to death by the thick smoke. The case of the Hindu parties with respect to the arson

to Abdul Gafoor's house is that the members of the marriage party, scared by the disturbances, locked themselves inside the house; at that time the firewood stacked near the stoves accidentally caught fire, setting fire to the house and filling the locality with dense suffocating smoke; Hindus and Muslims who had gathered outside shouted to the people inside the house to come out but on account of suffocation they were unable to do so and thus died; and that those outside on the road, though eager to save them, were also unable to do so as the door was latched from inside. In the light of the evidence before the Commission one can only marvel at the nerve of those who have gone to the length of setting up such a case. The regrettable part of it all is that some police officers and the officers of the Special Investigation Squad, Jalgaon, should have also become parties to this case. S.P., Raman has sought to support this case in his affidavit. According to him, when he went to Khatik Alli, he found the houses in Khatik Alli and Joshi Peth in flames. The Home Guard Commandant, the Prohibition and Excise Superintendent and one Shaha, who were with him entered Abdul Gafoor's house by forcing open the door which was latched from inside and took out the women and children from it. He has further said that they found a number of women and children crouched under tables and chairs and by the side of almirahs; some of them were dead; but there was no indication of any injuries or burns on their bodies. He has further stated, "It was evident that death was due to asphyxia due to smoke of the marriage pandal along the side of the house which had been burnt down". [P.W. 67/1(38)/2229(21)]. In his cross-examination he has deposed that the door was latched by a chain. It was put to him that he did not bring out the dead bodies nor rescued any person from the house and that when they had gone there the dead bodies had already been brought out and kept on the road (P.W. 67/40/2259). The then Home Guard Commandant, Prabhakar Keshav Sonalkar, a leading advocate of Jalgaon, was also examined as a witness. He was the District Commandant, Jalgaon District, ever since that organisation was set up in 1947. He retired in March 1971. He has deposed about helping in the rescue operations in Bagwan Mohalla along with his Second-In-Command Balwant D. Patil (P.W. 92), S.P., Raman S.D.M., Kulkarni and the Excise Superintendent Kohok. He, however, makes no mention of any door being latched from inside nor of having to force open the door [P.W. 91/1(5)/3134(3), 5/3135]. His Second-In-Command, B. D. Patil, has given further details of the rescue operations to Abdul Gafoor's house. He has stated that while they were in Khatik Alli someone informed him that the houses to the north were on fire and some persons were trapped inside and that the persons who had given this information brought down from the upper floor of the house a girl from the marriage party aged ten or twelve years who was unconscious and whom they kept in the jeep. They then searched to see if there were any other bodies [P.W. 92/1(4-5)/3138(2)]. He also does not

mention that any door was latched from inside or that it had to be forced open. The testimony of these two witnesses totally negatives the story set up by Raman. The evidence, including the F.I.R. filed by P.S.I., Karhadkar (Ex. P 759), shows that the Hindu rioters were throwing stones at the Muslim houses which had been set on fire. The purpose for which this was done could only have been to prevent those who were inside the houses from coming out and thus let them either roast or suffocate to death. Inspector Sawant while talking about the rescue operations to Abdul Gafoor's house has also stated that they kicked open the half-burnt door of Abdul Gafoor's house and brought out the people trapped inside and has not mentioned that the door was latched from inside (S.P.O.W. 6/15/2989).

67.37 In the light of the evidence discussed above, I disbelieve S.P., Raman when he states that the door of Abdul Gafoor's house was latched from inside. I hold that those who were in Abdul Gafoor's house were either burnt or suffocated to death, not because they had latched the door from inside and they preferred to die in this fashion out of fear, but because they were unable to escape from the house by reason of the hail of stones thrown by the Hindu rioters with the object of preventing them from coming out.

The case of Salim Fakira

67.38 A young boy with a bullet wound was admitted in the Jalgaon Civil Hospital on May 8, 1970. According to the Muslim parties, the said boy was Salim, the twelve-year old son of Shaikh Fakira Shaikh Subhan [J.U.(J)W. 23], Abdul Gafoor Shaikh Ukhardu's wife's sister's husband, and he was wounded when Inspector Sawant fired a shot from his revolver at Abdul Gafoor's house when Abdul Gafoor, his son and his brother were trying to rescue the inmates of the house. According to the District Police Officers, Sawant did not fire at Abdul Gafoor's house and the said boy was not a Muslim boy but a Telugu boy named Malchin Narayan and the Muslim boy Salim Fakira was one of the persons who died of asphyxia in the arson to Abdul Gafoor's house. The Commission has already considered and rejected the case that Sawant fired a shot with his revolver at Abdul Gafoor's house. The question of the boy's identity, however, remains to be considered. In view of the stand taken by the District Police Officers, the Commission was compelled to call in evidence several witnesses including the doctors who were working at the relevant time in the Jalgaon Civil Hospital. All that this effort revealed was once again a sorry tale of perjured evidence and documents which were tampered with. Ultimately, wisdom dawned and a fresh inquiry was got made through J. N. Mehra, the successor in office to S.P., Raman as S.P., Jalgaon, and as a result thereof a special report dated April 15, 1972 was made by G. A. Ghatpande, S.D.P.O., Jalgaon Division, admitting that the boy in question was in fact Salim Fakira. In view of this report it is not necessary to go into any great details of this

incident save and except briefly to indicate the unworthy attempt made to falsify the identity of the boy.

67.39 Entry No. 675 in the Out Patient Department Register of the Jalgaon Civil Hospital (Ex. No. 58) stated that an unknown male child aged 10 years was admitted in the hospital at 9-10 p.m. on May 8, 1970. As admitted by Dr. Bhaskar Damodar Lele, who was at the relevant time the Resident Medical Officer of the Jalgaon Civil Hospital, the word 'unknown' and the words "male child" in the said entry were in different handwritings, the word 'unknown' having been written with a fountain pen while the words "male child" with a ball pen. Dr. Lele was unable to inform the Commission in whose respective handwritings these words were. Further, in the column for age there was some overwriting to make the age of the patient appear as 10 years. It is, therefore, obvious that the words "male child" were written and the figure '10' in the age column overwritten subsequently to make out that the said entry related to an unknown male child and not to just an unknown person. Entry No. 697 in the said register also mentioned an unknown male child. Neither the age of the said child nor the time of his admission in the hospital are mentioned in the said entry and in the column for age, only the word 'about' was written and then scratched out. In the said entry the column for showing the time of entry was kept blank, but the time mentioned in the earlier entry, namely, entry No. 696, was 10 p.m. and in the entry preceding it, namely, entry No. 695, it was 11-10 p.m. The entry subsequent to entry No. 697, namely entry No. 698, mentioned the time as 11-30 p.m. The witnesses were not able to inform the Commission in whose handwriting the said entry No. 697 was. In the Medico Legal Register of the Jalgaon Civil Hospital (Ex. No. 59) entry No. 75, which mentioned the time of admission as 10 p.m., referred to an unknown male child. His age was given as 10 years and the medical history of his injury as a gun-shot wound over the left gluteal region $\frac{1}{2}$ " \times $\frac{1}{4}$ " deep and it was further stated that the bullet was visible on taking an X-ray photograph. Entry No. 697 of the Medico Legal Register referred to an unknown male admitted on May 8, 1970. No time of admission was mentioned in that entry, this being the only entry of May 8, 1970 in the Medico Legal Register in which the time of admission was not mentioned. In the injury column the word 'male' was written and then scored out. Thereafter a remark "traced as M.L.C. 675" was written to show that this entry related to the patient mentioned in entry No. 675. Both these entries were admitted to be in the handwriting of Dr. Tukaram D. Kude (C.W. 28). Dr. Kude unsuccessfully tried to explain how he happened to make these entries. He stated that this might have happened because when the patient was first brought to the hospital, papers might have been prepared in the Out Patient Department and when he was transferred to the ward, papers might have been again prepared in the ward. He had, however, to admit that this was the only instance in the whole register

where two entries were made with reference to the same patient. He also had to admit that in the case of this patient, there was in existence only one set of papers and not two sets of papers, namely, the one prepared in the Out Patient Department and other in the ward. He admitted that the injuries were first noted in the Outdoor Patients paper and then written out in the Medico Legal Case Register. Realising that if such were the case and if entry No. 697 related to the same patient as entry No. 675 the same injuries would be shown in both entries, he said that he discovered that these two entries related to the same patient when he started writing the Medico Legal Case Register. We are left wondering why when he discovered this mistake, he did not cross out the entry since obviously the subsequent entries had still to be written. He was unable to give any explanation why, when there was only one set of case papers bearing No. 675, he should have happened to make entry No. 697 in respect of the case papers which bore at the head case paper No. 675 (C.W. 28/3/3126-7, 8/3131).

67.40 Dr. Lele has deposed that on May 8, 1970 a boy about 10 years old, with a bullet injury in his thigh, was admitted in the Female Ward of the Jalgaon Civil Hospital. The boy was unable to speak as a result of shock. On May 9, 1970, that is, the day after the boy was admitted, Dr. Lele took a round of the Female Ward and talked to the boy who answered in Telugu. Dr. Lele knew Telugu. At that time Dr. Mrs. Rathi and some nurses were with him. He told them that the boy was speaking in Telugu. The boy told Dr. Lele that his name was Malchin and that he stayed in Jalgaon by the side of a road. Dr. Lele translated in Hindi to Dr. Mrs. Rathi and others what the boy had told him and Dr. Mrs. Rathi then made the corrections there and then in the case papers (C.W. 26/10/3095). Dr. Lele further deposed, when questioned by Mr. Pradhan, Counsel for the Maharashtra Pradesh Jan Sangh and the Jalgaon Janadhikar Saunrakshan Samiti, that when the Ministers and other dignitaries visited the hospital they exchanged a couple of words with every patient but, though they visited the Female Ward, they did not talk with any of the patients in the Female Ward including the said boy. Thereafter the following leading questions were put to the doctor by Mr. Pradhan and the following answers given by him (C.W. 26/25/3100):—

“Q.: Did the Governor of Maharashtra visit the hospital ?

A.: Yes.

Q.: Did he visit the Female Ward ?

A.: Yes.

Q.: Did he talk with this boy ?

A.: Yes.

Q.: What was the conversation which took place between the Governor of Maharashtra and this boy ?

A.: As far as I remember, the Governor asked the boy his name and later on asked where he was staying. He also asked him later where the boy would like to go.

The boy gave his name to the Governor as Malchin. He did not give any proper answer to the question where he stayed. To the question where he would like to go he replied that he would like to stay in the hospital.

Q. : In which language the Governor conversed with the boy ?

A. : At first the Governor spoke in Hindi. The boy did not answer but just kept on nodding his head. Then the Governor who comes from Hyderabad and is familiar with the boy's language namely, Telugu, tried Telugu and the boy started replying in Telugu."

Dr. Lele also deposed that the boy did not speak in any language other than Telugu. Dr. Lele was completely falsified by Dr. Mrs. Rathi. She was the Lady Medical Officer at the Jalgaon Civil Hospital. According to her, for some days the boy was unable to speak and thereafter he began to mutter some words which no one could understand. Thinking that these words were in some language other than Marathi, Hindi, Urdu or English, they sent for people who knew Tamil, Telugu, Maliyalam, etc., but none of them was able to make out what the boy was saying. The boy was in a state of shock and the Ministers and the other V.I.Ps. who visited the Hospital tried to talk with the boy but to no avail. Similarly, all doctors including the Civil Surgeon tried to talk with him but could not make out what he was saying. The Governor of Maharashtra when he visited the Hospital also tried to talk with the boy. The boy looked blank and the Governor appeared to be puzzled as if he did not understand what the boy was muttering. The Governor never informed them that the boy was able to converse, nor did Dr. Lele inform her at any time that he had been able to make out the language in which the boy was speaking. She deposed that in fact Dr. Lele had on some occasions tried to talk with the boy in her presence in Marathi as also in some language which she could not make out, but he was unable to understand what the boy said or to elicit any intelligible reply from the boy. She further deposed that Dr. Lele did not at any time tell her that the boy was speaking Telugu or that his name was Malchin or Malchin Narayan or that he stayed in Jalgaon by the side of a road (C.W. 27/2/3120-1). Dr. Lele's demeanour was shifty and evasive and his evidence cannot be accepted. It is also strange how, if according to Dr. Lele the only name which the boy gave was Malchin, the register would show the name "Malchin Narayan". On the other hand, Dr. Mrs. Rathi has given evidence in a straightforward manner and I have no hesitation in accepting her evidence.

67.41 The question which then arises is how and when this name "Malchin Narayan" came to be written. Dr. Mrs. Rathi has deposed that in the case of this boy no Out Patients' Department's paper was prepared but only the indoor case paper (Ex. No. 60) was prepared because the boy's condition was serious and he was therefore straight taken to the ward. In the indoor case paper the words "Unknown M.

Ch." in the column for name, the words "M. Ch. about 10 yrs." in the column for age, the words "Gun Shot wound" in the column for provisional diagnosis and the words "Wound packed" in the column headed "Clinical notes" are in the handwriting of Dr. Mrs. Rathi as also the entries under the heading "Treatment and diet". Above the words "Unknown M. Ch." is written in ink the words "Malchin Narayan". Dr. Mrs. Rathi has deposed that neither the said name nor the address or the occupation of the patient mentioned in the indoor case paper, namely, "Malchin Narayan", "Kachinada", "Majuri", were in her handwriting. Further, in the indoor case paper the date of discharge was first shown as '26/5/70' and then scored out and on one side thereof the date '13/7/70' written. The indoor case paper contained an entry under date May 14, 1970 in Dr. Mrs. Rathi's handwriting showing that the bullet had been removed under general anaesthesia. She has deposed that she and Dr. Kelkar performed the operation and that she did not remember what she did with the bullet after she removed it (C.W. 27/5-6/3122-3). The Medico Legal Certificate in respect of the boy issued by Dr. Kude showed the boy's name and age as "Malchin Narayan aged about 10 yrs."; the place from where he hailed has, however, been kept blank. In the said certificate the boy was shown as having been an indoor patient from May 8, 1970 to July 13, 1970 for a gun shot wound on the left gluteal region. Surprisingly enough, the certificate is dated May 26, 1970. No light is thrown on the fact how a certificate bearing the date May 26, 1970 could state that the patient in question was treated as an indoor patient until July 13, 1970. The date '13/7/70' in the body of the certificate is, however, written after scoring out the date written earlier, namely, '26/5/70'. Dr. Kude could give no explanation why he had changed this date. On July 2, 1970 Dr. Kude was transferred to Amalner Dispensary. He could not remember whether he had been to Jalgaon on July 13, 1970, but stated that he had been called several times to Jalgaon by the Civil Surgeon, Dr. Chapalgaonkar, for making corrections in the Medico Legal Certificates issued by him in cases of patients injured during the disturbances. This was an amazing answer and renders suspect most, if not all, Medico Legal Certificates issued by this hospital in the case of those who had been injured in the disturbances. Dr. Kude further deposed that on May 26, 1970 when he issued the said certificate Dr. Lele told him that the patient's name was Malchin Narayan (C.W. 28/4-5/3127-8). How false this answer was can be seen from the facts which will now be related.

67.42 There was a female patient in the same ward by the name of Chandrabhaga or Chandrakala Pardeshi. She came from Nagardavla Village, the same village as the boy did and as did also Dr. Mrs. Rathi. Chandrabhaga told Dr. Mrs. Rathi that the boy was from her village and was the son of a Muslim butcher whose name she gave to the doctor. Dr. Mrs. Rathi passed on this information to

the Civil Surgeon to enable him to convey it to the boy's parents which he accordingly did. Chandrabhaga also gave this information to the boy's parents. Dr. Mrs. Rathi also informed all her colleagues, including Dr. Lele and Dr. Kude, about what Chandrabhaga had told her. Upon thus learning about the whereabouts of his son, Shaikh Fakira [J.U.(J.)W. 23] came to the hospital and claimed the boy as his son. Dr. Mrs. Rathi was present when he came to the Female Ward and saw the boy. At first because of the boy's condition Shaikh Fakira could not immediately recognize him but later did so. He, however, told Dr. Mrs. Rathi that he could not take away the boy with him because the boy's condition was such that he did not even realize when he was defecating or urinating. Dr. Mrs. Rathi told him that they were treating the boy and would continue to do so (C.W. 27/3-4/3121-2). Dr. Lele wrote a note on June 10, 1970 (Ex. P 985) to Dy. S.P., Mahajan, the officer in charge of the Special Investigation Squad, Jalgaon, directing Shaikh Fakira to him for investigation and confirmation of the claim made by him. In the said note Dr. Lele stated that Shaikh Fakira claimed to be the father of the male child 10 years old who was admitted in the Female Ward and who had sustained a bullet injury over his waist. One wonders how Dr. Lele could have possibly sent Shaikh Fakira to Dy. S.P., Mahajan with such a note if on the very next day after the boy was admitted in the hospital he had come to know that the boy only spoke in Telugu and that his name was Malchin and if by May 26, 1970 he had also come to know that the boy's full name was Malchin Narayan. When faced with this position Dr. Lele stated that he did not mention the boy's name or the fact that he was talking in Telugu to Mahajan because he knew that Mahajan was aware that the boy's name was Malchin Narayan (C.W. 26/14/3096); an answer which can hardly be believed, for on the reverse of the said note Mahajan has made an endorsement (Ex. P 986) to D.I., Bendre to verify thoroughly and report. Bendre forwarded the said note to P.S.I., Nemade. Nemade made a report on June 16, 1970 (Ex. P 987) that he had gone to the Civil Hospital and had made inquiries and learnt that the child did not speak at all and that for the said reason it was not possible to find out to which caste he belonged or whose son he was and that on making inquiries from the R.M.O., namely, Dr. Lele, it was learnt that on June 10, 1970 Shaikh Fakira had come to the hospital and had claimed the child as his son. One wonders what prevented Dr. Lele when P.S.I., Nemade made inquiries from him from informing Nemade that the boy spoke in Telugu and that his name was Malchin Narayan. In the 10th July 1970 issue of the daily 'Gaokari' (Ex. P 990) an advertisement was got published with the boy's photograph stating that the boy was found by the Police on May 8, 1970 and that he was unable to give any information regarding his guardians as he was unable to speak and requesting his relatives to contact the Police Inspector through the

City Police Station and take away the boy. One wonders why in spite of this advertisement Dr. Lele or Dr. Kude did not think it fit to inform the Police that the boy's name was Malchin Narayan as was perported to be shown in the hospital records or that the boy was speaking in Telugu and was not dumb as alleged. On July 11, 1970 Mahajan wrote a note (Ex. P 991) to D.I., Sankpal to shift the boy to some orphanage or remand home as the hospital authorities were going to discharge him on July 13, 1970. The boy was, therefore, shifted on July 13, 1970 to the Remand Home, Jalgaon. As appears from the report dated July 31, 1970 (Ex. P 993), made by S. G. Valvi, the Superintendent of the Remand Home, Jalgaon, the case was put up before the Juvenile Court and under the orders of the Juvenile Court the boy was taken to the home of Shaikh Fakira and shown to his family and neighbours, all of whom stated that the boy was the son of Shaikh Fakira. In the said report it was stated, "Due to weak health and injury the boy is unable to talk. He smiles only." The Superintendent stated in the said report that the applicant Shaikh Fakira was the real father of the boy and there was therefore no objection to handing over the boy to him. Accordingly, the Presiding Officer of the Juvenile Court passed an order on August 1, 1970 (Ex. P 994) directing the boy to be released. In the fresh inquiries which were got made by the present S.P., Mehra, Dr. Kude has given a statement on April 16, 1972 (Ex. P 906) that while preparing the Medico Legal Certificate he saw the case papers which showed the name as "Malchin Narayan" and it was for the said reason that he wrote the name in the said certificate, an explanation totally at variance with his deposition before the Commission that he had mentioned the name Malchin Narayan in the certificate because Dr. Lele had asked him to do so.

67.43 There are two other peculiar features about this incident which require to be mentioned. On May 9, 1970 Inspector Sawant recorded the police statements of four Home Guards who had opened fire at Subhash Chowk. According to the statements of all these four Home Guards, as a result of this firing a boy about ten or twelve years old was injured and was found lying in Tijori Lane near Subhash Chowk and was sent to the Civil Hospital. These statements further mentioned that the said Home Guards did not know whether any other person was injured in this firing. The Home Guards made copies of their police statements and in the evening they brought back written statements signed by them which were substantially the same as their earlier police statements. It is significant that in none of these statements is the community of the mob mentioned. It had actually transpired that four Hindus were injured in that police firing. They were all taken to the Civil Hospital in a police van. In the case of the boy found in Tijori Lane the statement of the Home Guard who took him and of the driver of the jeep in which he was brought to the hospital have also been recorded (Exs. P 988 and P 989 respec-

tively). Inspector Sawant admitted that this boy was the only person injured in the police firing in whose case the statements of the driver of the jeep in which he was taken to the hospital and the Home Guard who accompanied him have been recorded. In this connection it may also be mentioned that a Hindu boy, Narayan Puna, was also injured in police firing. Entry No. 707 in the Medico Legal Case Register (Ex. No. 59) refers to this Hindu boy. In this entry the date of admission is changed from "8/5/1970" to "9/5/1970" by overwriting the figure '9' over the figure '8'. The Medico Legal Certificate (Ex. No. 61) issued to Narayan Puna is dated May 23, 1970, namely, the same date which is to be found on the certificate in the case of Salim Fakira and in it too his date of admission is changed by an overwriting from May 8, 1970 to May 9, 1970. The other surprising feature is the whereabouts of the bullet extracted from the boy Salim Fakira. The indoor case paper shows that the bullet was removed on May 14, 1970. Twelve days after the operation, that is, on May 26, 1970, a panchnama of taking charge of the said bullet by the Police (Ex. P 983) was made by P.S.I., Nemade and it states that Dr. Kude produced a sealed envelope stating that, it contained a piece of bullet extracted from the wound of "Mohan Narayan" injured in the disturbances. One wonders how the name Mohan Narayan happened to be mentioned in the said panchnama instead of the name Malchin Narayan. The description of the article taken charge of is given in the said panchnama as "one white square shaped small envelope sealed at four places with the writing thereon in English 'Mohan Narayan M.L.C. 675, date 8-5-70 C.H.G., Jalgaon, Bullet one piece. The envelope is sealed'." The panchnama further mentions that there was the signature of the Medical Officer on the envelope. Dr. Kude has, however, deposed that the peon of the R.M.O., Dr. Lele, came to him and told him that a bullet extracted from the boy was lying in the R.M.O.'s office and was to be sent to the Police along with the medical certificate. Dr. Kude thereupon went to the R.M.O.'s office and in his presence the R.M.O.'s peon took out a bullet from a cupboard, put it in an envelope, sealed the envelope and handed it over to the Police when they came to collect it (C.W. 28/7/3130). Dr. Mrs. Rathi, who had operated upon the boy and extracted the bullet, has stated that she did not remember what she had done with the bullet (C.W. 27/5/3123). A further surprising thing is that on the Medico Legal Certificate (Ex. P 982) it is written in Marathi by Inspector Sankpal (P.W. 94), "The doctor stated that the bullet continues to be inside the body". This endorsement is dated July 13, 1970 and is signed by Sankpal. Dr. Kude, however, denied that he had mentioned any such thing to Inspector Sankpal. This piece of bullet was produced before me. In the light of the unsatisfactory evidence referred to above, it was useless sending the said piece of bullet to the ballistic expert to find out whether it was part of a revolver bullet or a musket bullet for there is no

guarantee that this piece was the one extracted from Salim Fakira's body. Every attempt seems to have been made by some of the hospital doctors to so confuse the matter as to make it impossible to ascertain the truth. Why and at whose instance this was done remains a mystery, but the circumstances indicate that it was done to protect Inspector Sawant lest the fact that a Muslim boy, who was in the marriage party and was putting up at Abdul Gafoor Shaikh Ukhardu's house, had a bullet wound would lend support to the allegation made by Abdul Gafoor that Sawant had fired a shot from his revolver at his house, an allegation made by Abdul Gafoor in his affidavit affirmed on June 27, 1970 before the Clerk of the Court of the Civil Judge (Senior Division), Jalgaon, and filed before the Commission on July 4, 1970. The only redeeming feature of this whole sorry story is the report dated April 15, 1972 (Ex. P 979) by S.D.P.O., Ghatpande, on the inquiries made by him under the directions of S.P., Mehra, setting out all the facts and annexing all the relevant papers and admitting that the boy was Salim Fakira. This boy was brought before the Commission and answered the questions put to him by the Commission, but did not seem to remember how he had come by his injury. The Commission, therefore, did not think it necessary to examine him as a witness. It may, however, be mentioned that the boy was not speaking in Telugu, for had he done so the Commission would not have followed one word of what he said.

The arson to Hajrabi's house

67.44 In the course of the rioting at Khatik Alli the house of Hajrabi, widow of Abdul Samad [J.U.(J)W. 16], then about 32 years old, was set on fire by the Hindu rioters and burnt down. Her mother, her two young sons and two young daughters all perished in the fire. This was one of the most tragic incidents of the disturbances. It also became the most publicized and was seized upon by certain sections of the Press to make journalistic and political sensation out of it. There is only her testimony on the record as to what exactly happened. In the course of her testimony she has made very serious allegations against Sub-Inspector Bhalerao and Head Constable Dashrath Joshi (S.P.O.W. 7). It will be convenient to sketch first the broad outlines of the incident as deposed to by her and then set out the allegations she has made against Sub-Inspector Bhalerao and Head Constable Dashrath Joshi.

67.45 Hajrabi's evidence [J.U.(J)W. 16/1-42/2758-77] shows that her husband died leaving behind him his widow Hajrabi and four children, namely, two sons and two daughters. After her husband's death Hajrabi eked out a living for her family by working as a part-time maidservant. While she had gone to work in the afternoon of May 8, 1970 at the house of one Sitaram Dada, she heard the noise of rioting taking place at the Jumma Mosque. She returned to her house, bolted the door from inside and remained in the house.

Within a short time a large Hindu mob came to Khatik Alli and gathered outside her house. She has given the time as 5 p.m., but has admitted that she is illiterate and does not know how to tell the time. The rioters were carrying spears, sticks and axes. They began pelting stones at her house. They then stacked wooden cots and mattresses against the door and walls of her house, sprinkled kerosene on them and set them on fire. She rushed out of her house, begging and pleading with them. Her aged mother who was staying with her and her children, however, could not manage to come out of the house by reason of the hail of stones which was directed at it. She went from person to person in the mob begging and pleading with them to save her children. No one paid any heed to her. She tried to rush back to her house. She even tried to dig a hole in the rear wall of her house to enter the house from that side to bring out her children. She was, however, prevented from doing so. Finally, she was taken to the house of one Suresh Joshi where other Muslim women also had been given shelter. She was kept there till about 11 p.m. when the Police took away these women, including Hajrabi, to the City Police Station. She has deposed that during the entire period while they were in the room in Suresh Joshi's house no one tried to enter that room or in any way molested or assaulted or attempted to molest or assault any of them. She has further deposed that Suresh Joshi had bolted the door from outside and that she was shouting out to him to open that door and let her go out to save her children [J.U.(J.)W. 16/26/2768]. In her affidavit as also before the Police she has named several persons as being amongst the rioters. Whether any of them was actually present or actually participated in the commission of these crimes is not a matter with this Commission is concerned.

67.46 So far as Sub-Inspector Bhalerao is concerned, her allegations are that he was standing amongst the mob of rioters and that on spotting him she fell down at his feet and begged him to save her mother and children who were inside the burning house. He, however, put his revolver against her chest asking her to keep quiet or he would shoot her. She continued pleading with him. At last he dragged her and handed her over to the rioters and she heard him inciting them to set fire to the other houses. Prior to the disturbances, she had seen Bhalerao going about on his scooter, but she did not know his name and heard it from the persons in the mob who were telling one another not to be afraid but to set fire to the houses as Bhalerao was with them.

67.47 So far as Head Constable Dashrath Joshi is concerned, her allegations are that she managed to escape from the rioters to whom Bhalerao had handed her over and decided to save her children by breaking down the rear wall; and that she, therefore took an iron bar which one of the rioters had thrown down and started breaking the rear wall and made a hole in it, but at that time Head Constable

Dashrath Joshi, who resided in the same Mohalla and who was present, took away the iron bar from her, threw it away and handed her over to the rioters who took her to Suresh Joshi's house. The panchnama dated May 25, 1970 made by D.I., Bendre (Ex. P 811) does show a hole in the rear wall of her house.

67.48 It would appear that after she was taken to the police station, she was wailing and crying all through the night, asking different persons about her children and begging them to save them. She had herself received some injuries from the stone-throwing. The next morning she was treated in the Civil Hospital and taken to the relief camp which was set up in the Nutan Maratha High School. She was there for about three or four days after which she requested Mrs. Latifa Kazi (C.W. 33), a prominent social worker from Nasirabad, to take her away. Mrs. Kazi at first refused but she went on pleading with her and seeing her tragic condition, Mrs. Kazi finally acceded to her request. Till the date she gave evidence she had been residing with Mrs. Kazi who had been trying to rehabilitate her and to teach her to read and write. Mrs. Kazi has deposed that most of the time Hajrabi was still weeping and crying and was unable to do any work (C.W. 33/30/3456). According to Mrs. Kazi, she first saw Hajrabi in the relief camp on May 10, 1970 when Mr. Y. B. Chavan, the then Union Home Minister, visited Jalgaon. At that time the Communist leader, S. N. Bhalerao (C.W. 20), was with her. On seeing Mr. Chavan Hajrabi came up to him and pleaded with him to give her back her children.

67.49 On May 17, 1970 the Prime Minister visited Jalgaon and interviewed a number of women at the Inspection Bungalow No. 2, which is in the western outskirts of Jalgaon near the bungalow of the Collector. Mrs. Latifa Kazi and Mrs. Subhadra Joshi, another social and political worker, took Hajrabi and about nine other Muslim women whose near relations had been killed in the disturbances to see the Prime Minister. At that time the Governor of Maharashtra, the Chief Minister, Mr. M. D. Chaudhari, the then Minister for Education, the D.M., the S.P. and a number of other officials were present. All the Muslim ladies were weeping and crying and some of them were making allegations against some police officers. The D.M. remembered that Hajrabi had made allegations against Head Constable Dashrath Joshi. He did not, however, remember whether she had made any allegations against Sub-Inspector Bhalerao (C.W./21/10/2863-4). Hajrabi had not till then lodged any complaint with the Police. On May 18, 1970, that is, the day after her interview with the Prime Minister, she went to the City Police Station and gave her police statement (Ex. P 957). What she has stated about Bhalerao in the said police statement is that he was standing in the mob, that the persons in the mob were saying that they had his support and, therefore, they should not be afraid, and that she learnt his name from them. About Dashrath Joshi she has stated that when she was trying to make a hole in the rear wall, he took away the iron rod from her hand and asked her whether she also wanted to die and that the other persons who were present at that

time came up and caught her and asked her whether she also wanted to die in the fire and that all of them, including Dashrath Joshi, dragged her away forcibly. From the fact that the first complaint she made to the Police was by her said police statement given by herself going to the City Police Station the day after her interview with the Prime Minister, covert suggestions were made throughout the Inquiry that her complaint was engineered and inspired by the Prime Minister — an allegation which leaves one completely amazed and wondering to what improbable lengths allegations can go. Apart from the fact that not the slightest attempt was made to prove the said allegation or to put it to Hajrabi in cross-examination, even in the course of the arguments not the slightest attempt was made to throw any light on the most bewildering part of this suggestion as to why the Prime Minister should at all be interested in getting up false allegations against a Sub-Inspector and a Head Constable in the Maharashtra State Police Force about whose existence even she would not be aware until she heard their names from the Muslim women who had come to see her. This suggestion hardly even deserves to be mentioned except to show to what lengths some of the parties have gone in this Inquiry in making reckless allegations of all types in almost all matters.

67.50 Mrs. Latifa Kazi has deposed that Mrs. Subhadra Joshi was much distressed at the tragedy of some of the Muslim women whose near ones had been killed in the disturbances. She has further deposed that Hajrabi asked Mrs. Joshi whether she would not take up the matter and Mrs. Joshi told her that she would speak against these atrocities from the Mothers' Platform and asked Mrs. Kazi and Hajrabi whether they would come to Delhi for this purpose. Hajrabi said that she would do so as no other mother should find herself in the same situation. In about June 1970 Mrs. Joshi sent Mrs. Kazi a telegram to bring Hajrabi to Delhi. Mrs. Kazi and Hajrabi thereupon went to Delhi and stayed with Mrs. Joshi. A large number of persons came to see Hajrabi in Delhi but, according to Mrs. Kazi, she was so grief-stricken that she was unable to talk to them (C.W. 33/12/3454-5). Soon thereafter articles with sensational headlines appeared in some newspapers and weeklies.

67.51 The first of these articles was published in the 19th June 1970 issue of the Urdu daily, the 'Khilafat', (Ex. P 970). It bore the heading "Why those from the Police who set fire to the house have not been arrested". This news report purported to be a statement issued in Delhi by Hajrabi. According to it, a mob of rioters under police protection locked her up in a house and threw bombs into her house and set it on fire, her four children being all burnt alive in it. The news report also mentioned her begging the Sub-Inspector of Police who resided in the neighbourhood to protect them and the Sub-Inspector pointing a revolver at her and saying, "Lock her up" and thereupon she being locked up in another house.

67.52 The second article was published in the 20th June 1970 issue of the English weekly 'Blitz' (Ex. P 966) headed, "A mother's

cry for justice". It carried Hajrabi's photograph with the name below it and under it the English translation of the famous words of Emile Zola in his open letter to President Félix Faure of France in his defence of Captain Alfred Dreyfus, "I accuse". The article was stated to be by the Delhi Bureau of the 'Blitz'. According to this article, Hajrabi's neighbours, who were all supporters of the Shiv Sena, and a gang of young men surrounded her house, threw bombs inside it and set the house on fire. She held her children together and made a vain bid to escape from the house by breaking down the rear wall. She saw a Police Sub-Inspector and turned to him for help, but he asked her at gunpoint to shut up. Still clinging to her children she went crying for help to a police constable who was her neighbour, but he dragged her out of the house and threw her before the howling mob. She was dragged, abused, beaten and then locked up in a nearby house. The children were all burnt alive. The article then stated, "And when everything was over, instead of the murderers, she was taken to the police station". In an earlier issue of the Blitz, namely, the one published on May 23, 1970 (Ex. P 965) there appeared a report of the Prime Minister's visit to Jalgaon and Bhiwandi under the headings, "In riots-ravaged towns of Jalgaon and Bhiwandi What the P.M. saw". The article was written by one Vinayak Bhawe. We are not concerned with the rest of the article, but only with what related therein to Hajrabi which appeared under the sub-heading, "A mother's agony." According to this report, the Prime Minister saw the place where Hajrabi's four children were thrown into a burning house while Hajrabi was being firmly held by the rioters and watched her own children burn to death. The report then went on to describe that as the last child aged about four was picked up for being thrown into the fire, she cried out that at least one child be kept and promised to get herself converted, but in spite of her pleas, the rioters flung the child into the flames shouting joyously.

67.53 The 22nd June 1970 issue of the Marathi daily, the 'Maratha' also carried a news report from New Delhi under the heading, "Inhuman tale of communalism," (Ex. P 967). This article purported to be in her own words and according to it, the mob under the protection of a Sub-Inspector came to her house, stacked cots and mattresses against the walls of the house and set fire to it. At last she took courage and came out and begged the Sub-Inspector to help her, but he took out his revolver, threatened her and asked her to shut up and she heard people saying that they had the support of the Sub-Inspector. Getting frightened she went back into her house and tried to come out through the rear wall by digging a hole in it. On seeing this the rioters threw a bomb inside the house and the house caught fire. She then came out of the house along with her children, but the mob forcibly separated her children from her, confined her in another house and pushed her children into the burning house.

67.54 In the 22nd June 1970 issue of the Jalgaon Shiv Sena daily published in Jalgaon, the 'Batmidar', there appeared a news item

purporting to be from "A Citizen" and headed "Communists alone are behind the Jalgaon riots" (Ex. P 968). This news item referred to certain statements submitted by Muslim leaders to the Prime Minister and alleged that they were prepared by the Communists and falsely implicated certain persons. This news item also alleged that only the houses of Bagwans, Maniyars and other Muslims who had voted for the Congress were burnt down and that by this method the Communists had avenged their defeat in the elections. The Communist worker, S. N. Bhalerao (C.W. 20), published a reply to this news item in which he charged the Shiv Sena with being responsible for the disturbances. A rejoinder by 'the said citizen' to S. N. Bhalerao's said reply was published on the front page of the 27th June 1970 issue of the 'Batmidar', with the heading in banner headlines stretching right across the page, "Whose hand is behind Hajra Begum's statement? Must certainly be of the red monkeys. A citizen's reply to the said monkey" (Ex. P 969). This rejoinder contained an attack on S. N. Bhalerao and charged him and the other Communist leaders, Mrs. Latifa Kazi and Mrs. Subhadra Joshi, with concocting false statements and getting up a false case. It referred to an earlier statement published by the Socialist and Communist Parties by which the Jan Sangh was charged with having caused the disturbances. It alleged that thousands of soda-water bottles had been collected and stored in a mosque and that at the time of the disturbances the entire road was strewn with glass pieces and posed the question about the persons who had collected these bottles and thrown them on the mob, implying that the Muslims had been storing weapons in preparation for the disturbances and had made use of them. The said rejoinder further stated that its author was going to make an attempt to submit a factual statement before this Commission of Inquiry. If any such attempt was, however, made before the Commission, it remains known only to the author of the said rejoinder.

67.55 Hajrabi had also given evidence before the Sessions Court, Jalgaon in Sessions Case No. 53 of 1971 (Ex. P 964). Neither before the Commission nor in her evidence in the Sessions Court do we find all these lurid details of bombs being thrown into her house, of the rioters forcibly separating her from her children or of the rioters picking up her children and throwing them one after the other into the fire. One wonders whose imagination had run riot in making up these details. It certainly was not that of Hajrabi because even the affidavit which she had filed before the Commission, which was prepared by the advocate, Mr. Kazi, a cousin of Mrs. Latifa Kazi, does not contain any of these sensational details. Mrs. Kazi has told us that while in Delhi Hajrabi was too grief-stricken to talk to anyone. Mrs. Kazi has further deposed that she and Mrs. Joshi knew Hajrabi's whole story and that she did not know who had given the materials for these news item. She further deposed that though Hajrabi was staying with her she had never mentioned any of these things to her and that she had never told her that the rioters had picked up any of

her children and thrown them in the fire or that the rioters had thrown any bomb into her house. She, however, said that she had told her and Mrs. Joshi that she had fallen at the feet of Sub-Inspector Bhalerao and begged him to save her children and that he had kicked her aside and that when she again fell at his feet and clasped them, he had put a gun at her chest and asked her to shut up and not to raise any hue and cry. She had further deposed that Hajrabi had told them that though she pleaded with Head Constable Dashrath Joshi and Inspector Sawant they refused to help her and that Dashrath Joshi prevented her from making a hole in the rear wall of her house. Hajrabi made an application dated June 12, 1970 (Ex. No. 33) to Mr. Y. B. Chavan, the then Union Home Minister. Mrs. Kazi admitted that at Hajrabi's insistence she had drafted the said application for her. What is set out in the said application is in substance the same as the outline of her story set out earlier, except that according to the said application she also entreated Inspector Sawant, but he also turned a deaf ear to her entreaties, but it does not contain any of the lurid details to be found in the various articles referred to above. The imagination which supplied these details also could not be that of Mrs. Kazi because had it been so these details would have been found in Hajrabi's said application and also in Hajrabi's affidavit and Mrs. Kazi would not have deposed that Hajrabi did not tell them to her.

67.56 The next question is whether Hajrabi's allegations against the suspended police officers should be accepted. So far as Inspector Sawant is concerned, his name features only in her said application to Mr. Y. B. Chavan (Ex. No. 33) in which she has alleged that he along with Sub-Inspector Bhalerao and Head Constable Dashrath Joshi turned a deaf ear to her entreaties. Neither in her affidavit filed before the Commission nor in her evidence before the Commission has she said one word about Inspector Sawant and this allegation against him may, therefore, straight away be dismissed.

67.57 So far as Sub-Inspector Bhalerao is concerned, his case stands on a different footing. Bhalerao, like the other police officers engaged in dealing with the disturbances, has in his affidavit and evidence sought to make out that he was not at Bagwan Mohalla or Khatik Alli when rioting and arson took place there. The question of his presence in Bagwan Mohalla has already been considered earlier in this chapter and it has been held that he was present when rioting and arson took place in Bagwan Mohalla. Khatik Alli is a small lane to the east of Bagwan Mohalla. It is an extension, if not a part, of Bagwan Mohalla. The rioting and arson took place almost simultaneously at Bagwan Mohalla and at Khatik Alli and there is no doubt that for a part of the time when rioting and arson were taking place at Khatik Alli, Bhalerao was present. It is, however, not possible to accept Hajrabi's allegations against him only on her uncorroborated testimony. Even when she stepped into the witness-box she was so overwrought with grief at the loss of her children

that on some preliminary question being asked, she started wailing and lamenting about her children and burst into tears and the hearing had to be adjourned till after the lunch recess to give her time to compose herself. She has unfortunately been made a pawn by the publicity given to her tragedy in the papers. We have already seen the exaggerated reports which were published about her and it is difficult to arrive at any conclusion as to how much of what she has stated is the truth and how much is the result of what was either planted in her mind by interested parties or was the result of the complaints and grievances against police officers which she heard from other Muslim women who had also lost their near ones in the disturbances, for complaints and grievances when often repeated usually tend to get more and more exaggerated with each telling, until the final version often bears no relation to the truth of the matter. The value of Hajrabi's evidence is further reduced by the method adopted by the Special Investigation Squad, Jalgaon, in her case, as in the case of most Muslim witnesses, to render her evidence worthless in a Court of law. No less than seven police statements of Hajrabi have been recorded as follows :—

- (1) the first on May 18, 1970 by D.S.I., R. G. Thakur (Ex. P 957),
- (2) the second on May 24, 1970 by D.I., Bendre (Ex. P 958),
- (3) the third on June 26, 1970 by D.I., Bendre (Ex. P 959),
- (4) the fourth on July 4, 1970 by D.I., Bendre (Ex. P 960),
- (5) the fifth on July 31, 1970 by D.I., Bendre (Ex. P 961),
- (6) the sixth on August 28, 1970 by D.I., Bendre (Ex. P 962), and
- (7) the seventh on September 7, 1970 by D.I., Bendre (Ex. P 963).

Inspector Bendre (P.W. 95) who has recorded all the above police statements except the first has filed an affidavit before the Commission. This affidavit was affirmed and filed on June 17, 1972 after the question repeatedly came up before the Commission about the number of police statements recorded in the case of almost every Muslim witness by the officers of the Special Investigation Squad, Jalgaon. Bendre, therefore, in his affidavit has sought to justify himself. Out of seven police statements of Hajrabi the third (Ex. P 959) related to the identification of a dead body. The fifth, sixth and the seventh police statements (Exs. P 961, P 962 and P 963) related to the identification of some accused persons. The manner in which, however, Hajrabi's second police statement dated May 24, 1970 (Ex. P 958) and her fourth police statement dated July 4, 1970 (Ex. P 960) have been recorded make it certain that no accused would ever be convicted on her testimony in a Court of law. Bendre's explanation was that he recorded her second police statement on May 24, 1970 to verify her previous police statement, namely, her first statement recorded on May 18, 1970 and that after the aforesaid reports in the 'Blitz' (Exs. P 965 and P 966) were published he was directed by Dy. S.P., Mahajan (P.W. 96) to record her further statement and accordingly on July 4, 1970 he recorded her fourth police statement [P.W. 95/1(3)/3194(3-7)]. He has sought to explain in his

evidence what he meant by verifying earlier police statements. He has deposed (P.W. 95/2/3195):—

“We verified earlier police statements by asking questions on points contained in those statements which required clarification. This verification is not like a cross-examination. The verification of previous statements given by witnesses has resulted in discrepancies and contradictions between the earlier statements and subsequent statements of these witnesses. It did not strike me that in the prosecutions of various accused persons the defence would be able to take advantage of these discrepancies and contradictions.”

A reading of Hajrabi's first, second and fourth police statements (Exs. P 957, P 958 and P 960) completely negatives this explanation. The method adopted in her second police statement was to pick up each sentence of her first police statement and to record whether it was correct or not and when expressed to be not correct, to record what the correct position was or rather was supposed to be. The same method was again adopted in her fourth police statement with reference to her second police statement. No police officer, leave aside a police officer in the C.I.D. as Bendre who was attached to C.I.D. (Crime), Aurangabad, was, could be heard to say that he did not know or realize that in criminal trials the defence takes advantage of the discrepancies and contradictions between two police statements of the same witness or makes a point of the fact that more than one police statement of a witness has been recorded. The one purpose for which the defence uses a police statement is for contradicting a witness in the witness-box. To record police statements of the same witness one after the other with the sole object of setting out which parts of the earlier police statement are incorrect is almost like making a gift of an acquittal on a platter to the accused.

67.58 In the course of her evidence before the Commission Hajrabi gave a description of Sub-Inspector Bhalerao. She said that he had long moustaches and was fair-complexioned and that she would be able to identify him if shown to her. A strange thing was that just as it was announced by Mr. Chauhan, Advocate for the Jamiet-ul-Ulema-e-Hind, Jalgaon District, that he was next calling Hajrabi as a witness and just before she stepped into the witness-box Sub-Inspector Bhalerao, who was present all throughout the evidence of the other witnesses, left the room and did not return until after Hajrabi's evidence was over. Another strange thing was that in the trial of Sessions Case No. 53 of 1971 a considerable part of the cross-examination by the accused persons related to Hajrabi's allegations against Sub-Inspector Bhalerao, the case of the accused being that Bhalerao was present but out of humanitarian motive he was preventing her from rushing into the burning house to save her children. Whatever that may be, in view of the various contradictions to be found in Hajrabi's police statements, in view of the hysterical and overwrought manner in which she gave her evidence and in view of the fact that in her very first police statement (Ex. P 957) it is recorded

that Bhalerao was standing quietly doing nothing at all and there is no mention in it about his taking out a revolver and pointing it at her, it is not possible to accept her evidence that he took out a revolver, pointed it at her and asked her to shut up.

67.59 So far as Head Constable Deshrath Joshi is concerned, he has admitted his presence in Khatik Alli. His case will be considered in detail later. Here we are concerned with only that part of his evidence which directly relates to Hajrabi. He was residing in the lane to the rear of Hajrabi's house. He was to appear for a departmental examination in June 1970 and for this purpose was on earned leave for two months from April 1, 1970. For the first month he had gone to Nasik to join some classes and returned to Jalgaon in the beginning of May 1970 and as his residence was not suitable, he was studying in a block, owned by a friend of his, in Vasudeo Joshi Co-operative Housing Society in Sindhi Colony near Mehrun Tank. According to him, on May 8, 1970 when at about 6-30 p.m. he came out for answering a call of nature he saw clouds of smoke from the side of Joshi Peth. He went on his bicycle to his uncle's house, left it there and went to his own house where he found his family safe, but he found the houses of Bagwans and Khatiks on fire and the fires spreading. He has deposed that a number of Hindus were present on the road. So far as Hajrabi is concerned, he has stated in his affidavit [S.P.O.W. 7/1(4)/3059(2-3)]:—

“When I was busy in taking out the persons from Yunus Bismillas house one lady (whose name I later on learnt was Hajrabi) came and told me that her house was on fire and I should ascertain whether her children were in the house. As the surrounding houses were also on fire I was unable to reach her house. I had also seen that the roof of her house had collapsed. I therefore told Hajrabi that it was impossible to go in her house. The persons who were nearby had also told her in the same manner.”

67.60 On July 3, 1970 he gave a signed statement to the Police on being asked by S.P., Raman to do so because of the allegations which had been made against him. On July 11, 1970 D.I., Bendre recorded his police statement. In both these statements he has stated that Hajrabi came to him and asked him to bring out and rescue her children from her burning house in Khatik Alli. Visualizing the prospect of being faced with these statements in the witness-box he admitted that the statement in his affidavit that Hajrabi told him that he should ascertain whether her children were in the house was not correct, the only explanation he could vouchsafe for such a mistake being that it was committed through oversight. It is not possible to accept this explanation. The only ground for disciplinary inquiry against him and for which he was suspended was his failure to rescue Hajrabi's children and it is not possible that this Head Constable could have made such a mistake or committed such an oversight. Without going here into the further details of his evidence, it will suffice to say that he has proved himself to be thoroughly unreliable and unsatisfactory

both as a witness and in his conduct as a police officer. None the less, for the same reasons as mentioned in the case of Sub-Inspector Bhale-
rao, it is not possible to accept Hajrabi's allegations against him without there being other reliable corroborative evidence in support thereof.

67.61 One very significant fact, however, emerges from Head Constable Dashrath Joshi's evidence. If from outside his friend's house near Mehrun Tank he could see smoke and flames rising from Joshi Peth, it is strange that none of the police officers who claim that they were in or near Rath Chowk should have seen these flames and smoke. The worst affected areas in these disturbances were Bagwan Mohalla and Khatik Alli where almost every Muslim house was burnt down and the greatest number of casualties took place. It is impossible to believe these police officers when they say that they were not aware of the arson in Bagwan Mohalla and Khatik Alli or that they did not go there. The very first police statements given by Bhalerao and Karhadkar (Exs. P 1026 and P 759 respectively) clearly show that they were present in Bagwan Mohalla when the rioting and arson took place there. The reason why they are now denying their presence is that to admit it would be to lay themselves open to a charge of total inefficiency, and in the case of Sub-Inspector Bhalerao would establish his presence at the time and place where the incidents in which allegations are made against him took place.

67.62 Apart from the attempts made in the course of the investigation to discredit her testimony as an eye-witness in a Court of law, an unworthy attempt was made before the Commission to make out that Hajrabi was not present when her house was set on fire by the rioters. It was said that at the police station she kept on going up to people and asking them to find out her children. S.D.M., Kulkarni has deposed that at about 11 p.m. on May 8, 1970 at the City Police Station one Shaikh, who was working in the Supply Branch of the Collector's Office in Jalgaon, brought to him an old woman whose name he subsequently learnt was Hajrabi, that she told him that her children were missing and that she did not find them in the crowd which had collected at and near the police station and entreated him that she would like to go to her residence to see whether they were there, that he gave her a jeep with some policemen to go to her residence, and that the party returned after half an hour and she told him that she was unable to find her children in the dark. He has further deposed that she did not tell him where she had last seen her children and that she was very upset and distracted with worry about them. According to him, he told the D.M. about his meeting with her and that he came to know Hajrabi's name because she was quite prominent in the relief camp and everyone was consoling her and she had made a complaint to all the V.I.Ps. who came to Jalgaon. He said that apart from the D.M. he had not mentioned this incident to anyone else (P.W. 70/29/2322-3, 31/2324). No such incident, however, features in Kulkarni's report dated May 12, 1970 (Ex. P 870)

which he made to the D.M. nor in his affidavit. The D.M. has denied that Kulkarni had mentioned any such thing to him (C.W. 21/9/2863). Assuming such an incident did happen, Kulkarni is obviously making a mistake about the identity of the woman in question. Hajrabi, when she gave her evidence before the Commission, gave her age as 34. On the day of the disturbances she was, therefore, about 32 years old. She did not appear old and could not be described as an old woman and the woman who approached Kulkarni must have been different. Further, it is an undisputed fact that all the houses in Khatik Alli were burnt down and Hajrabi could have hardly gone to her residence in a jeep and said on her return that she could not find her children in the dark. She would have come back lamenting that all the houses in the lane had been burnt down and that most probably her children had perished in the fire.

The measures to deal with the disturbances at Joshi Peth

67.63 There is little that can be said about the adequacy of the measures taken by the Police to deal with the disturbances at Joshi Peth. In fact it is difficult to make out what these measures consisted of. Apart from the fire opened by the Police at Fakir Mohalla under the orders of S.D.M., Kulkarni, almost nothing was done to check the rioting at Joshi Peth. House after house was set on fire and looted, yet there is hardly any mention in the affidavit or evidence of police officers on the scene to show when and how this was done, for each of them has tried to disclaim his presence at the spot at the crucial time. Though they have denied they were present at Bagwan Mohalla or Khatik Alli when rioting and arson was taking place there, the evidence establishes that both P.S.I., Bhalerao and P.S.I., Karhadkar were in fact present in these two localities. They obviously took no steps to control the Hindu mobs. Even assuming that none of the police officers were present, one wonders how they could have failed to notice the fire to fifty-four Muslim houses and to the two Hindu houses which caught fire from the Muslim houses. If Head Constable Dashrath Joshi could see from Mehrun Tank smoke and flames coming out from Joshi Peth, it is inconceivable that Inspector Sawant and Sub-Inspectors Bhalerao and Karhadkar did not see them from Rath Chowk or Maniyar Wada, hardly a furlong away. The conclusion is inescapable that they just ignored the flames and smoke rising out of Bagwan Mohalla and Khatik Alli. They were all from the Jalgaon City Police Station and all of them knew from what had happened at Maniyar Wada, Rath Chowk and Fakir Mohalla that the houses which were on fire were Muslim houses. Whether they were, therefore, present or not present at the spot, in either event they were guilty of gross negligence and inefficiency and have shown callous and heartless disregard for the lives and safety of the Muslims and their properties.

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CHAPTER 68

THE DISTURBANCES AT BHILPURA AND ISLAMPURA

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CHAPTER 68

THE DISTURBANCES AT BHILPURA AND ISLAMPURA

The locale

68.1 Proceeding eastward along the Mahatma Gandhi Road from the City Police Station first comes Shahane Chowk, then Ghanekar Chowk, Bhilpura Chowk and Shani Chowk. There is a police chowki at Shani Chowk. At Shani Chowk the Mahatma Gandhi Road ends and the Jalgaon-Asodha Road begins. Between the City Police Station and Shani Chowk to the north of Mahatma Gandhi Road are Baliram Peth and Shani Peth. The Muslim locality of Shani Peth is known as Katya File. There is also another small Muslim locality at the eastern end of Shani Peth in which the Bhilpura Mosque is situate. The said mosque abuts on Mahatma Gandhi Road. To the south of Mahatma Gandhi Road between the aforesaid two points, namely, the City Police Station and Shani Chowk, are Polan Peth, Bhavani Peth and Balaji Peth. The two main buildings facing the Mahatma Gandhi Road in the eastern half of Polan Peth are the dharamshala and a municipal primary school. The road separating Polan Peth from Bhavani Peth is known as Kasturba Road and the main buildings in Bhavani Peth, facing the Mahatma Gandhi Road, are the Municipal Girls School, the Urdu Girls School and some Muslim houses and shops, including that of Yunus Agarbattiwalla. The Muslim locality of Bhavani Peth is known as Islampura. At the end of a block of houses in the lane to the rear of the Municipal Girls School is situate the Madina Mosque. The Muslim locality of Balaji Peth is known as Bhilpura and the Lalsha Miyan Dargah is situate on the Mahatma Gandhi Road at the eastern end of Bhilpura diagonally opposite the Bhilpura Mosque.

The extent of the damage at Balaji Peth

68.2 In the course of the rioting at Balaji Peth, 27 Muslim houses in Bhilpura were completely burnt, two tongas owned by Muslims set on fire, one Muslim house partially burnt and 9 other Muslim houses damaged or looted. As a result of the arson at Bhilpura, 57 Muslim families and 2 Hindu families were rendered homeless and 57 other Muslim families suffered as a result of the looting of their houses (Exs. P 898, P 813, P 815 to P 817, P 819, P 824 and P 825).

The extent of the damage at Bhavani Peth

68.3 In the course of the rioting at Bhavani Peth nine Muslim houses in Islampura and a Muslim house in the adjoining locality of

Polan Peth were completely burnt, two other Muslim houses in Islampur were partially burnt and four Muslim houses in Islampur were damaged or looted. Two Hindu houses in Bhavani Peth were also completely burnt. These houses were tenanted by Muslims and to the east of them was a property belonging to the Madina Mosque Trust which was completely burnt along with other adjoining Muslim houses which were also completely burnt. As mentioned in Chapter 64 (paragraph 64.5), the damage by arson to these houses was a result of fires spreading from the Muslim houses which had been set on fire by the Hindu rioters. As a result of the arson at Islampur, ten Muslim families and seven Hindu families were rendered homeless and as a result of the arson to the said Muslim house in Polan Peth, one Muslim family was rendered homeless. Three other Muslim families suffered as a result of the looting of their houses (Exs. P 898, P 812, P 814, P 818, P 820, P 821 and P 828).

The case of the Muslim parties

68.4 The Muslim case is set out in the affidavits of Akbar Rehmani [J.U.(J.)W. 1/1(13-21)/2391(4-5)], Abdul Nabi Shaikh Amir [J.U.(J.)W. 4/1(9)/2661(3-4)] and Dawarkhan Jeelanikhan [J.U.(J.)W. 17/1(1-3)/2778(1-2)]. According to the Muslim parties, at about 5 p.m. or 5-30 p.m. a violent Hindu mob came from the side of Balaji Peth and began attacking the Muslim houses in Bhilpura. The rioters brought out the furniture and clothes from these houses and made a bonfire of them on the road. They then surrounded Islampur and started setting fire to the Muslim houses facing Mahatma Gandhi Road. In the meanwhile another large mob of Hindu rioters came from Subhash Chowk, which is the junction of Kasturba Road, Subhash Road and Saraf Lane. This mob also began setting fire to the Muslim houses. The said mob then entered the lane leading to the Madina Mosque and set fire to the Muslim houses adjacent to the said mosque. It also broke the lattice-work of the said mosque, threw a burning torch inside the mosque and burning pieces of tyre on the terrace of the mosque. The entire 'mohalla' was surrounded by violent Hindu mobs and hundreds of other Hindus lined Mahatma Gandhi Road and the road leading to Subhash Chowk passively watching, but none of them attempted to prevent what was going on. The Police did not appear on the scene for about an hour and a half. After a considerable time two constables appeared on the scene with tear-gas shells, but instead of firing them on the Hindu mob they fired them at the Muslims, who had herded together in the centre of the 'mohalla', in order to drive them inside their houses. After some time Asst. S.P., Azad came there with some policemen and asked the Muslims to go inside their houses. The Muslims complained to him that they were herding together for safety and that the Police had fired tear-gas shells at them instead of at the rioters to disperse the mob. Azad tried to disperse the mob with the help of some policemen but could not succeed in doing so. Azad then left saying that he would take necessary steps in the matter. At

about 8-15 p.m. S.P., Raman came in a police van with some police constables and succeeded in dispersing the rioters.

Asst. S.P., Azad learns about the disturbances

68.5 When the disturbances broke out in Jalgaon one of the first officers whom one would have expected to be informed by the Police Headquarters or the City Police Station was Asst. S.P., Charansingh Azad (P.W. 78), S.D.P.O., Jalgaon Division. As we have seen in Chapter 63 (paragraph 63.4), he had left Jalgaon on May 5, 1970 for Faizpur with his entire staff for the annual inspection of the Faizpur Police Station and had returned to Jalgaon at about 2-30 p.m. on May 8, 1970 to write up the case diary of a criminal case which he was personally investigating and of which all the case papers were at his residence. He had not informed anyone that he had returned to Jalgaon, but that fact is immaterial because no attempt whatever was made to contact him at Faizpur in order to inform him about the disturbances. He has deposed that he did not know about the disturbances at Bhiwandi and had not seen any newspapers that day. At about 5-20 p.m. when he was getting dressed to go back to Faizpur, he received a telephone message from the Municipal President, P. K. Zare, that riots were taking place in the city. Immediately Azad tried to ring up the City Police Station, but found the line engaged. So he rang up the Police Headquarters and told the telephone orderly to rush a police party in a vehicle to him. Without waiting for the police party, he went along with Supernumerary Asst. S.P., Prem Kumar Joshi, who was staying with him, to the City Police Station in his own car. On arriving at the police station he inquired from the Station House Officer, H.C., Bendale, whether the S.P., who was at Pachora, had been informed. Bendale told him that he had not informed the S.P. He questioned Bendale why he had not done so, but Bendale gave no answer. It was only thereafter that a trunk call was put through to the S.P. at Pachora informing him about the disturbances. Meanwhile a police vehicle with a party of 24 policemen from the Headquarters, armed only with lathis, arrived at the City Police Station. The distance between the City Police Station and Bhilpura Chowk is about two and a half furlongs. Azad left his car behind and went in the police van to Bhilpura Chowk (P.W. 78/1(1-2)/2365(2-3), 5/2370 ; Ex. P 695).

The situation at Bhilpura — the Police evidence

68.6 The police case is deposed to by Asst. S.P., Azad and Dy. S.P., Ghorpade. According to Azad, when he reached Bhilpura Chowk he found mobs on both sides of Mahatma Gandhi Road. He has deposed that there were two mobs, a Hindu mob and a Muslim mob, and they were armed with iron bars sticks and stones and were bent upon having a pitched battle. After giving a warning, Azad started separating the mobs by resorting to a lathi-charge, but finding that the mobs were too large and a tear-gas squad and an armed party were essen-

tial, he sent a police vehicle to the Headquarters to fetch an armed party of whatever strength was available. After about half an hour Dy.S.P., Ghorpade came there. Ghorpade was alone. After getting himself medically checked at the hospital, Ghorpade had gone to the City Police Station and had found a column of smoke rising from the locality of Bhilpura and people coming from that side told him that riots had broken out at Bhilpura and that Azad was alone there. Ghorpade saw his reader P.S.I., Parkar in the verandah of the office of the S.D.P.O., Jalgaon, and asked him to dress up, take his revolver and join up for riot duty. He then proceeded to Bhilpura on foot. According to him also, hostile mobs were spread out on both sides of the road in groups and were throwing stones at each other. The Hindu mob was collected on the northern side of Mahatma Gandhi Road and the Muslim mob on the southern side of the road. He and Azad then divided the available strength into two parties and Ghorpade with seven or eight policemen lathicharged the Hindu mob and the stone-throwing Muslims on the side of Shani Peth side and, according to him, within about fifteen minutes he cleared the said area of the rioters. Meanwhile P.S.I., Chirme of the L.C.B. came there. Chirme joined Ghorpade's party while Parkar joined Azad's party. Azad also made several lathi-charges. At that time S. H. Koli, S.D.M., Chalisgaon Division, arrived on the scene. A tear-gas squad also arrived and tear-gas shells were freely used both against the Hindu mob on the northern side of Mahatma Gandhi Road and the Muslim mob on the southern side of the road [P.W. 78/1(4-6)/2365(2-3) : C.W. 23/1(12-5)/2927(4-5)].

Mahabal takes over

68.7 Anand Janardan Mahabal (P.W. 88) was the stenographer to the Collector and D.M., Jalgaon. In May 1970 he had been suffering from jaundice and was on leave from April 24, 1970. He learnt at about 5 p.m. about the disturbances and thereupon went straight to the City Police Station and tried to contact the S.D.M., Jalgaon, but was informed that he had already gone to the affected spot. He only saw one or two constables and H.C., Bendale at the police station, but did not see any police officer. Finding that there was no one in overall charge of the law and order situation, Mahabal took the initiative himself and started contacting various authorities on the telephone, namely, the R.P.D. at Bhusaval, the Ordnance Factory at Bhusaval, the Ordnance Factory at Varangaon, the Military Station Headquarters at Deolali, the S.R.P. Group at Dhulia and the Bhusaval Police Station. He managed to get in touch with the army authorities at Bhusaval and Deolali but his telephone call to the S.R.P. Group at Dhulia did not materialise. Mahabal also sent a phonogram to the D.M. at his Delhi address as the D.M. was to halt at Delhi before proceeding to Mussorie. Meanwhile Deputy Chitnis Vispute, and P.S.I., Walvekar came to the police station followed after some time by A. J. Koli, S.D.M., Chalisgaon. Mahabal then left with Koli

and Walvekar for Bhilpura in a police vehicle. The time was then about 6-15 p.m. [P.W. 88/1(4)/2836(1), 5/2838].

68.8 Mahabal has deposed that he rang up various army authorities because as the stenographer and P.A. to the Collector and D.M. he had gone through various schemes, such as the riot scheme and the rallying post scheme, and as on May 7, 1970 riots had taken place at Bhiwandi and the very next day at Jalgaon and as there were twenty-eight vulnerable places in Jalgaon District and as the D.M. was not there, he thought that there should be some officer of an equally high corresponding rank on the spot and that so far as he knew, there was a riot scheme for Jalgaon. D.M., Pardeep has, however, deposed that there was no riot scheme in force for Jalgaon (C.W. 21/4/2860). Mahabal also admitted that Jalgaon City and Pachora were not amongst the twenty-eight vulnerable places in Jalgaon District (P.W. 88/9/2839-40).

68.9 Though Mahabal's telephone calls to the military authorities at Bhusaval and Deolali materialized, the military authorities did not act upon them. While one admires Mahabal's initiative, one can only deplore his impetuosity in calling out the army even without going round the city and knowing what the situation was like or ascertaining whether the Police would be able to control it or not.

The controversy about Azad's revolver

68.10 S.D.M., Koli and Anant Janardan Mahabal, the stenographer to Collector, D.M., Jalgaon, have alleged that when Mahabal came to Bhilpura Chowk at about 6-15 p.m. and saw Azad, he inquired of him about his service revolver and Azad replied that it was at his residence and he thereupon told Azad that he should bring it as the situation was serious and thereupon Azad, P.S.I., Walvekar and Mahabal returned in the vehicle in which Mahabal had gone to Bhilpura and Mahabal and Walvekar dropped off at the police station while Azad went to his residence [P.W. 88/1(4)/2836(1)]. Azad, of course, has denied this. Relying upon Mahabal's evidence the Muslim parties have contended that it corroborates what Akbar Rahemani has stated in his affidavit that Azad left the place stating that he would take necessary steps in the matter. The implication of what Koli, Mahabal and Akbar Rahemani have alleged is that Azad left the place of the disturbances while they were at their height and did not return at all or that he returned to the scene of the riots after a considerable time. This question is of some importance as it involves a reflection upon Azad's conduct as an officer.

68.11 We will first turn to Mahabal's evidence (P.W. 88/1-25/2836-46). Mahabal has not made a very satisfactory witness. In cross-examination he has deposed that when Koli, P.S.I., Walvekar and he went to Bhilpura Chowk they saw Azad, Ghorpade and some constables armed with lathis standing there. They parked their vehicle outside the Bhilpura Mosque and found heavy stone-throwing and arson taking place on Mahatma Gandhi Road on the Lalsha Miyan

Dargah side at the mouths of the lanes which lead to Bhilpura. According to him, because of this heavy stone-throwing and arson the first thing that struck him when he saw Azad was that Azad did not have his service revolver with him. He has also deposed that P.S.I., Walvekar who was with them in the vehicle was not carrying a revolver and that he did not know whether Ghorpade was carrying a revolver or not as Ghorpade was at a distance of about 100 paces from him. Since Mahabal was so conscious of the need to open fire as to tell Asst. S.P., Azad that he should go and fetch his revolver, he would certainly have told P.S.I., Walvekar to do the same. His explanation was that he thought that Walvekar belonged to the C.I.D. and therefore was not supposed to carry a revolver. It is true that Walvekar was in the D.S.B., but Mahabal could certainly have asked him to get a revolver issued and he could have as well ascertained whether Ghorpade had his revolver with him. Mahabal's explanation, therefore, does not carry much conviction. Though in his cross-examination he has stated that they parked their vehicle near the Bhilpura Mosque and that arson was taking place exactly opposite it, there is no mention of any arson in his affidavit, though his affidavit refers to the heavy stone-throwing. His explanation for this omission was that he had drafted his affidavit himself and had not shown it to any of his superior officers and no one had guided him and therefore, he did not have a clear idea of what was required to be mentioned in the affidavit. This explanation does not carry any conviction. Nobody could think stone-throwing of greater importance than arson to so many houses. There are several other points on which Mahabal was confused. For example, at first he deposed about making a telephone call to the army authorities at Deolali and that call materialising before Koli came to the City Police Station. He thereafter stated that he had made two telephone calls to Deolali because the first time the line was not clear and that the second call by him was at about 7-30 p.m. He then again changed his answer to say that he had made in all three telephone calls to Deolali; the first at about 5-30 p.m. but it was to the wrong officer, the second at about 7 p.m. when the line was not clear and the third at about 7-30 p.m. when he was able to converse. Mahabal has stated in his affidavit that after he returned to the police station from Bhilpura, S.D.M., Kulkarni came there. In the witness-box he, however, stated that Kulkarni came to the police-station at about 8 p.m. and that this was the first and the only time he saw Kulkarni that evening. According to Kulkarni, after opening fire at Rath Chowk, he decided to return to the City Police Station to ascertain the position and mobilize all available help and therefore rushed back to the police station on foot along with Mali and reached the police station at about 6-30 p.m. After taking calls and re-booking other calls, he left the police station with S.P., Raman. He had further deposed that he did not go back to the City Police Station till 9 p.m. There is a controversy as to Raman's time of arrival at the City Police Station which will

be dealt with later, but so far as Kulkarni himself is concerned I accept his evidence that he went to the police station at about 6-30 p.m. Kulkarni, therefore, could not have gone to the police station for the first time at 8 p.m. nor on his evidence was he at the Police Station at about 8 p.m. There are also other contradictions in Mahabal's evidence. It is not necessary to set out all of them. The most important point, however, is that when questioned by the Commission he admitted that he was at Bhilpura for only ten minutes and that he did not know where Azad went after he and Walvekar got down at the police station and the statement in his evidence that Azad had gone to his residence was a deduction on his part.

68.12 S.D.M., Koli has supported Mahabal and has stated that after Azad left with Mahabal in the police vehicle to fetch his revolver he was not seen again till 7 p.m. [P.W. 79/1(2)/2383(1)]. In answer to the Commission he has, however, stated that the next time he saw Azad was at about 7-30 p.m. and that he did not inquire from him whether he had brought his revolver with him and that he did not care to look at Azad to see whether he had his revolver with him (P.W. 70/6/2388). If the incident as alleged by Mahabal and Koli had in fact taken place and if Azad had in fact gone back to fetch his revolver and had returned after over an hour, it is surprising that when Koli saw him next, he should not inquire of him about his revolver, particularly as in the meantime the situation had taken so serious a turn. It may also be mentioned that while Mahabal talks of arson taking place opposite the Bhilpura Mosque when he reached there, according to Koli he did not see any house on fire till about 7 p.m. (P.W. 79/6/2385-6). There is also contradiction *inter se* between Koli and Mahabal about the time of their arrival at Bhilpura Chowk. According to Mahabal it was at 6-15 p.m. that he reached Bhilpura Chowk and that after remaining there for hardly ten minutes he returned to the police station at about 6-25 p.m. Though Koli's affidavit gives the time when he and Mahabal reached Bhilpura at about 6-15 p.m., when questioned by the Commission he stated that it was between 6-30 p.m. and 7 p.m. (P.W. 79/6/2385). Koli has cut a sorry figure in the witness-box and in the light of the other evidence on the record and the circumstances of the case I do not find it possible to accept his evidence.

68.13 In support of the allegation that Azad left the scene of the riots, in addition to the evidence of Mahabal and Koli, the Muslim parties have also relied upon the report dated May 9, 1970 made by S.P., Raman (Ex. P 889). According to the said report, Raman reached Jalgaon at about 7 p.m. and saw the S.D.P.O., Jalgaon, and the Home Guard Commandant near the police station. From this it was urged that Azad was at the police station when Raman reached there. I am unable to accept this argument. No witness has stated that Azad was at the police station during this period and the other reliable evidence on the record leaves no doubt that the designation 'S.D.P.O., Jalgaon'

mentioned in the said report is a mistake for S.D.M., Jalgaon, namely, S.D.M., Kulkarni.

68.14 Support for the allegation that Azad left his place of duty was also sought by the Muslim parties from the F.I.R. (Ex. P 760) filed by P.S.I., Parkar in which there is no mention of Azad. Parkar's F.I.R. and evidence will be dealt with later but suffice it to say here that no reliance can be placed either upon Parkar's evidence or on his F.I.R. His F.I.R. makes not the slightest mention of Azad being present at any time at or near Bhilpura, when even according to Koli, Mahabal and the Muslim witnesses, Azad was there both prior to 6-25 p.m. and later either after 7 p.m. or 7-30 p.m.

68.15 Another argument advanced before me by the Muslim parties was that both Mahabal and Koli were called in evidence by Mr. Rane, Counsel for the Executive Magistrates and District Police Officers, and he could not, therefore, repudiate their evidence. This was not a fair argument to advance. A number of witnesses were called by Mr. Rane, even though they went against the police case, because the Commission desired that these witnesses should be called and in order to avoid the issue of a summons to them by the Commission. It may also be mentioned in fairness to Mr. Rane that he took the view that appearing on behalf of the Executive Magistrates and the District Police Officers he should call in evidence all witnesses, whether they would support a positive case set up by the Police or not, except in a few instances where the evidence of such witnesses on material and important points would have been so contradictory that the Commission felt that it was much better if they were summoned and examined by the Commission.

68.16 Azad has deposed that his posting in Jalgaon was his first regular posting, before that he being a supernumerary Asst. S.P. at Kolhapur and that till May 8, 1970 he had not got any revolver issued to him from the armoury and that he did not possess any private revolver. A revolver is not issued automatically to an officer but he has to get it issued from the armoury. Azad has deposed that half an hour after he came to Bhilpura and just before Ghorpade arrived on the scene, he sent a police vehicle to the Headquarters to fetch an armed police party and that he instructed the driver of the said vehicle to get for him a revolver from the Headquarters and that the armed party arrived between 7 p.m. and 7-15 p.m. along with a revolver for him. He has denied seeing Mahabal at Bhilpura Chowk or having had any conversation with him (P.W. 78/4/2369, 9/2374).

68.17 To corroborate Azad's evidence, First Grade Head Constable Ramchandra Marathe was called in evidence. He was working as a store-keeper at the Police Headquarters on May 8, 1970. According to him, on May 8, 1970 a .38-bore service revolver bearing No. 21 along with twelve cartridges was issued to Azad and handed over to Constable Shaikh Quadir Shaikh Kasam, a police driver, who had come to the armoury and had informed Marathe that Azad was at the place where rioting was taking place and had asked for a revolver.

and cartridges, and that the said revolver was returned on June 23, 1970 when a permanent issue of Revolver No. 23 was made to Azad. The entry in respect of the issue of the said revolver and ammunition on May 8, 1970 to Azad was made in the Arms and Ammunition Issue Register (Ex. P 939) by one of the constables working under Marathe, the entry in respect thereof being entry No. 45. The said entry, however, does not bear the signature of Shaikh Quadir in token of having received the said revolver and ammunition. The explanation given by Marathe was that in the hurry Shaikh Quadir's signature was not taken in the said entry. Marathe has further deposed that there was a long line of constables waiting for arms and ammunition to be issued to them. The absence of the signature of Constable Shaikh Quadir acknowledging the receipt of the said revolver and ammunition for Azad is *prima facie* suspicious, but it must be borne in mind that Azad had in fact sent for an armed police party and that before leaving for the scene of the riots the members of that party would collect their arms and ammunition. It must also be remembered that even according to Mahabal and Koli, Azad had gone back to his residence to fetch his revolver. The evidence is, however, clear that till then Azad had no revolver and if he had to have a revolver issued to him, the revolver would have to be issued from the armoury. I therefore, do not attach much importance to any defect to be found in the said Arms and Ammunition Issue Register. Assuming Koli and Mahabal are right and Azad did go back for his revolver and returned around 7-30 p.m. as Koli has deposed, it means that he took over an hour to have a revolver issued to him. It is, however, difficult to imagine that an officer of the rank of Azad should take as long as an hour to collect a revolver from the armoury. It is equally difficult to imagine why Azad should personally go to fetch a revolver and not have it fetched by one of his subordinates. Apart from the probabilities of the case there is evidence on the record which clearly goes to show that Azad did not leave Bhilpura in the midst of the riots. A.H.C., Jafarali Mardanali has deposed that at about 7-15 p.m. he alone with three armed police constables went to Bhilpura Chowk with their 410 muskets and reported their arrival to Azad [P.W. 74/1(1)/2340(1)]. Azad's presence at Bhilpura is also deposed to by S.P., Raman, Dy.S.P., Ghorpade and P.S.I., Parkar. Some of the Muslim affidavits and witnesses also refer to Azad's presence at Bhilpura. These witnesses are Akbar Rahemani [J.U.(J)W. 1] and Abdul Nabi Shaikh Amir [J.U. (J)W. 4]. The deponents of these affidavits are Nyazali Ashrafali (affidavit No. 29) and Maheboobshah Vazirshah (affidavit No. 31). These witnesses and deponents criticize Azad's action at Bhilpura but in doing so they establish the fact that Azad was present at Bhilpura. None of them, except Akbar Rahemani, talks about Azad going away and even Akbar Rahemani has merely stated that Azad said that he would go and bring reinforcements and not that he left.

68.18 The question is why Koli and Mahabal should make this allegation against Azad. So far as Koli is concerned, an altercation.

took place later in the evening between Azad and Ghorpade on the one hand and Koli on the other about Koli giving an order to open fire, a topic which will be considered subsequently. No reason, however, has emerged why Mahabal should make this allegation against Azad. Mahabal had an attack of jaundice and was still on medical leave but out of a sense of duty had rushed up to the police station, put through a number of telephone calls and at least made some attempts to obtain help and reinforcements, though in doing so he might have perhaps done much more than what the exigencies of the case required. None the less his sense of duty must be appreciated. Mahabal, however, must have been greatly agitated and over-excited to have rung up the army authorities and has in this state perhaps made a mistake about the whole affair. Perhaps there was some motive or reason which has not come out on the record. Whatever be the reason, the other evidence and the probabilities of the case support Azad's version and not Mahabal's.

68.19 For the reasons set out above, I accept Azad's evidence and disbelieve the case that Azad left Bhilpura to fetch a revolver.

The attack on the Madina Mosque

68.20 The Madina Mosque incident is yet another incident which does not reflect much credit on the Police. The District Police Officers have led the evidence of two witnesses, namely, Asst. S.P., Charansingh Azad and P.S.I., A. D. Parkar to depose to what happened, while the Muslims have led the evidence of Amanullakhan Maheubkhan [J.U. (J.)W. 21], a Municipal Councillor from Chopda. According to Azad, after the Hindu and Muslim mobs on both sides of the Mahatma Gandhi Road were tear-gassed, he found a Hindu mob collected behind the Madina Mosque. The said mob was making repeated attempts to rush the mosque from the main road and the side lanes. Some Muslims were also throwing stones from the terrace of the mosque at the Hindus. Thereupon Ghorpade along with Koli went towards the mosque from the eastern side while Azad started lathi-charging the Hindu mob from the northern and the western sides and chased the mob and drove it away from the mosque. Then he along with supernumerary Asst. S.P., Joshi and Parkar went to the mosque. Parkar and constable Prabhakar Bagul (P.W. 31) of Jalgaon City Police Station went to the terrace of the said mosque and arrested two Muslims who had been throwing stones. The other Muslims, who were on the terrace, ran away. The two Muslims, whose names are alleged to be Sayed Mohamed Sayed Ahmed and Abdul Sattar Abdul Nabi, were sent to the police station [P.W. 78/1(6-7)/2365(3-4)]. These two Muslims were charge-sheeted in pursuance of an F.I.R. (Ex. P 760) lodged by Parkar on May 8, 1970 at 11-45 p.m. They were prosecuted for having committed offences under sections 147, 323, 332 and 435 read with section 149, I.P.C. before the Judicial Magistrate, First Class, Jalgaon, in Criminal Case No. 2 of 1971 and were convicted by the Judicial Magistrate, which conviction was

upheld by the Sessions Court. They both, however, went in revision to the Bombay High Court, the revision applications preferred by them, being Criminal Revision Applications Nos. 1093 and 1094 of 1971, and were acquitted on June 13, 1972 by Mr. Justice Deshpande (Ex. G 399). Azad has deposed that when they went to the Madina Mosque, the persons in the Hindu mob on which stones were being thrown from the terrace of the mosque, said that they were being provoked by the stone-throwing and that the Police should put a stop to the stone-throwing; that thereafter the Police first lathi-charged the Hindu mob and after the Hindu mob had dispersed, Parker and Bagul went upto the terrace and arrested the two Muslims. He has further deposed that once the Hindu mob was dispersed, the stone-throwing from the terrace of the mosque stopped. According to him, when Parker and Bagul went upto the terrace of the mosque, he waited near the cross-roads to the north-east of the Madina Mosque from where he could see the door of the mosque, and that nobody was stationed at the door of the mosque and that he saw some persons running out of the mosque.

68.21 The story deposed to by Parker is quite different from the version given by Azad. According to Parkar's affidavit, about ten to twelve persons were throwing stones at the Hindu mob from the upper floor of the Madina Mosque which made the mob furious and it wanted to force its way into the mosque. The persons in the mob were asking the Police that those who were throwing stones should be brought down. The Police apprehended danger if the people in the mosque were not asked to clear away. Therefore, Azad, Supernumerary Asst. S.P., Joshi, constable Bagul and Parkar went to the terrace of the mosque. On seeing them all except two persons ran away and these two Muslims were arrested. The Police asked the Pesh-Imam of the mosque to lock the door of the mosque and they then came back and started controlling the mob. At that time Parkar saw the building of Yunus Maratha Agarbattiwala and a timber-depot situate at Bhilpura on the Jalgaon-Asoda Road area on fire. He saw Ghorpade and Koli on the road. He also heard cries of "Save our lives" coming from the direction of the Bhilpura Mosque. Azad and four or five constables and Parkar thereupon went there in a police vehicle and saw thirty to thirty-five women and children in a frightened condition crying for help.

68.22 Thus, while according to Azad only Parkar and Bagul went up to the terrace to arrest the Muslims, according to Parkar he, Bagul, Asst. S.P., Joshi as also Azad went upto the terrace. While according to Azad the Police first dispersed the Hindu mob and thereafter arrested the two Muslims, according to Parkar the mob was there when they arrested the two Muslims and it was clamouring for the Muslims to be cleared out of the mosque and it was only after the two Muslims were arrested that the Police started controlling the Hindu mob collected outside the Madina Mosque. Parkar has further deposed that Madina Mosque is surrounded by Muslim houses, its terrace is

about thirty to forty feet high and stones thrown from the terrace of the Madina Mosque cannot possibly fall on any Hindu house or in any Hindu locality. Local inspection taken by the Commission accompanied by Counsel and the parties showed this was so. If there were stones thrown from the Madina Mosque, they could, therefore, only have been thrown to keep at bay the Hindu mob which was seeking to attack the mosque. As deposed to by Parkar, the mob was a violent one consisting of 500 to 1,000 persons armed with stones, sticks and iron bars and its object was to set fire to the mosque. Parkar has further admitted that the object of the persons throwing stones from the terrace was to repel the Hindu mob in order to protect their lives and the mosque. He has further admitted that his object in going up to the terrace and arresting the two Muslims from there was to save their lives and also to save the mosque from being set on fire and he claimed credit for having done so. He admitted that no one from the violent Hindu mob was arrested and that the only persons who were arrested in this incident were the two Muslims from the terrace. He has sought to extenuate this by deposing that no one from the mob was arrested because the mob had by that time become huge and the police force was very small (P.W. 77/9/2353-4). He further deposed that after arresting the two Muslims, he told the mob that the said mosque had been cleared of all persons and that he had locked the said mosque and, therefore, they should not attack it and thereupon the mob dispersed peacefully from that area (P.W. 77/21/2362).

68.23 Apart from the contradictions between the evidence of Azad and Parkar, there are also several contradictions between the evidence of Parkar and the contents of his F.I.R. (Ex. P 760). While before the Commission he has deposed that he saw that the house of Yunus Maratha Agarbattiwala on the main road had been set on fire after he had come down from the terrace, in his F.I.R. he has stated that the said house was set on fire prior to his going up to the terrace. There is not a word in his F.I.R. about Azad being present at any time during the course of the disturbances. While before the Commission he has deposed that he, Bagul and Azad and Supernumerary Asst. S.P., Joshi, all went up on the terrace and arrested the Muslims, according to his F.I.R. only he and Bagul went upto the terrace and that he took out his revolver and that on seeing this, the persons collected on the terrace ran away.

68.24 The case of the District Police Officers that the other Muslims ran away and only two out of them could be arrested does not also carry any conviction. Admittedly, there was only one door to the mosque. As seen at the time of the local inspection, access to the terrace is only by a narrow spiral staircase by which only one person at a time can climb up or get down. It was, therefore, not possible for fifteen to twenty persons to escape in the manner in which they are alleged to have done so. There is also something highly suspicious about the time of arrest of these two Muslims as given in the Arrest Register of the City Police Station. In the said register they are shown

as having been arrested on May 9, 1970 at 12-30 p.m. (P.W. 77/6/2350). Inspector Sawant made futile attempts to explain away this inconsistency. He at first stated that as the P.S.O. did not know for what offences these two persons were arrested, he could not make the entry about their arrest in the Arrest Register until the officers returned to the police station and the F.I.R. was lodged. Since Parkar's F.I.R. was lodged at 11-45 p.m. on May 8, 1970, Sawant was compelled to admit that this explanation was not correct. He then said that the Police forgot to make the entries of arrest until the time of production of the accused persons before the Judicial Magistrate. He later admitted that this explanation was also incorrect and the real explanation was that they did not know for what offences these persons were arrested and the entries in the Arrest Register were made after the evidence in respect of the offence with which they were charged was obtained (S.P.O.W. 6/11/2985, 94/3089)—an explanation which amounts to saying that a false case was concocted against these two accused.

68.25 Amanullakhan Mahebubkhan had been for a number of years active in the municipal politics of Chopda and for about ten years prior to the disturbances had been a municipal councillor of the Chopda Municipal Council. On the day of the disturbances he had gone to Jalgaon to meet his income-tax consultant and thereafter went to the Madina Mosque for saying his prayers. As the congregational prayers were by that time over, he said prayers on his own along with five or seven other persons. According to him, at that time a tear-gas shell fell inside the mosque and burst, filling the mosque with tear-gas. Amanullakhan and the others thereupon began splashing water on their eyes. Meanwhile a police sub-inspector entered the mosque. The sub-inspector pulled out the witness and handed him over to two constables, who were outside, and they in their turn handed him over to the rioters who attacked him from all sides with sticks and took away Rs. 500 from his pocket. There was a police van standing there and another constable took Amanullakhan to the City Police Station in the van. The medical certificate issued to him shows that he had a contused lacerated wound over the left side of his forehead $1" \times \frac{1}{2}" \times \frac{1}{2}"$, and two contused lacerated wounds over the occipital region, both $1\frac{1}{2}" \times \frac{1}{2}"$, scalp deep. The said medical certificate does not give the history of the injuries as "assault with sticks" but gives it as "assault with stone at 6-30 p.m.". Two police statements of Amanullakhan have been recorded, one by Inspector Sawant on May 10, 1970 (Ex. P 977) and the other by D.S.I., Patil on July 5, 1970 (Ex. P 978). There is no mention in his first police statement of his having been robbed of Rs. 500, while in his second police statement he has stated that he fell down as a result of the beating he received and that at that time Rs. 500 in currency notes which were in the pocket of his shirt fell down on the road as his shirt and the shirt-pocket had both torn in the beating. He was sent back to Chopda in a jeep belonging to the District Congress Committee, Jalgaon. He was accompanied by Madhavrao Gotu Patil, the President of the District

Congress Committee, Jalgaon (the deponent of affidavits Nos. 248 and 545). Chopda is at a distance of about forty miles from Jalgaon and though the drive lasted for an hour and a half, Amanullakhan did not have any talk with Madhavrao either about the disturbances or about how he came by his injuries or about his having been robbed of Rs. 500, but all that he and Madhavrao discussed were things concerning Amanullah's village [J.U.(J.)W. 21/1-8/2886-92]. Neither the demeanour of Amanullakhan nor his evidence inspires any confidence and no reliance can be placed upon what he has deposed.

68.26 It will be useful at this stage to quote the following passage from the judgment of Deshpande, J., in the criminal revision application filed by the two Muslim accused (Ex. G 399):—

“It is not in dispute that the persons collected inside the mosque and standing on the top thereof did not exceed 20. It is also not in dispute that a mob of 500 to 1,000 persons had collected in the lane leading towards this mosque and the members of the said mob were armed with stones, sticks and iron bars. It is also not in dispute that the members of this mob were actually pelting stones at the mosque though the stones were not reaching the mosque and 15 to 20 persons collected at the top of the mosque were pelting stones from the top and these persons were in a position to effectively attack the members of the Hindu mob in the lane because of the location of the Masjid and the height from which they were indulging in such attacks. Mr. Omar says that the persons standing at the top of the mosque were entitled to have a right of self-defence both to defend their own person and also to defend the property namely the mosque. To my mind this contention to this extent is incapable of admitting any controversy. It shall have to be held that at any rate till the police party arrived at the scene the persons collected inside the mosque and standing on the top of the mosque were entitled to prevent the members of the mob collected in the lane leading to the mosque from attacking the mosque and also assaulting the inmates thereof..... It is thus clear that stone-throwing was indulged in by both the sides long before the police force arrived at the scene and the strength of the persons collected inside the mosque was comparatively far smaller than the strength of the mob that had collected in the lane the members of which were armed with sticks, iron bars and stones, collection of 15 to 20 persons inside the mosque or throwing of stones and brick pieces or even pieces of soda-water bottles from the top of the mosque cannot be said unlawful to the extent to which the same was aimed at defending their own person and property of the mosque.”

68.27 Though it is difficult to arrive at any definite conclusion as to what actually happened at the Madina Mosque, there is no difficulty in arriving at the conclusion that Asst. S.P., Azad, P.S.I., Parkar and Amanullakhan Maheebkhan have not told the truth. On the evidence of Azad and Parkar, however, what appears to have happened at the Madina Mosque is that a Hindu mob entered Islampura and after

setting fire to two Muslim houses began attacking the mosque. Some Muslims who were inside the mosque thereupon went to the terrace of the mosque and kept at bay the Hindu mob by throwing stones at it, when Azad, Parkar and the other police personnel arrived on the scene. The mob clamoured for this opposition to be put down and for the Muslims to be removed. Giving in to the clamour of the mob, two Muslims were arrested from the mosque and others cleared out of the mosque. Satisfied at this action, the mob then started setting fire to other Muslim houses, unchecked and unobstructed. The evidence clearly shows that prior to the attack on the Madina Mosque arson to Muslim houses had already commenced. It staggers one to learn that all that the Police could do to stop it was to give in to the clamour of the Hindu rioters and arrest two out of those who were seeking to defend their persons and their property which the Police were obviously unable to do.

The controversy about opening fire

68.28 We will now turn to the controversy between S.D.M., Koli on the one hand and Asst. S.P., Azad, Dy. S.P., Ghorpade and P.S.I., Parkar on the other about the issue of an order by Koli to the Poilce to open fire. According to Azad, after he returned to Mahatma Gandhi Road after arresting the two Muslims from the terrace of Madina Mosque he saw Muslim houses on fire and a Hindu mob trying to rush towards the Muslim locality on the southern side of the road. In view of the aggressive attitude of the mob he felt that the situation could only be brought under control by resorting to opening fire. Ghorpade and he therefore requested Koli to give the order to open fire. Koli suggested that fire should be opened only in the air to frighten the mob. Ghorpade and Azad did not agree. After some discussion Koli told them that they might open fire on the mob, but he would give an order to that effect in writing on the following days as his clerk was not with him. Thereupon Azad asked Parkar to write out the order. Accordingly Parkar wrote out the order and gave it to Koli to sign. Koli took it and read it but hesitated to make up his mind. Thereupon, according to Azad, he himself made up his mind to open fire and gave the final warning to the mob and after doing so while he was briefing the armed constables about effective firing he saw a jeep come from the City Police Station and go towards the Jumma Mosque and after some time Ghorpade came and told him that the S.P. was in the said jeep and had opened fire. From that time onwards there was a lull on the road. Koli thereupon stated that he wanted to see the S.P. immediately. He handed back the order written out by Parkar, without signing it. In his affidavit Azad has stated that this order had been preserved by him. This document has been put in evidence and is Exhibit P 899. In his examination-in-chief Azad has given the reasons why he asked Parkar to write out the order. He has stated that this was because Koli himself mentioned about a written order and because he wanted the Police to open fire in the air instead

of on the mob which was contrary to the regulations and, therefore, he wanted an order in writing in case a dispute arose thereafter with respect to such firing [P.W. 78/1(10)/2366(5-6), 6/2370]. Dy. S.P., Ghorpade has corroborated Azad. He has stated that while Koli was perusing the order a jeep came from the direction of the City Police Station and went past them and he heard S.P., Raman shout from the jeep "Ghorpade, Aao" ("Ghorpade, come on") as the S.P. had recognized him in the light of the headlamps of the jeep. He ran after the jeep but could not reach it as it was in full speed. After some time he heard gun shots and came back and told Azad and Koli that the S.P. had opened fire. Koli said that he would like to contact the S.P. and handed back the unsigned order to Azad and drove away in the police van with P.S.I., Parkar.

68.29 Ghorpade has also given details of the conversation which took place earlier between Azad and himself on the one hand and Koli and himself on the other. He has deposed that he pointed out that merely firing more tear-gas shells would not be effective as a westerly breeze had sprung up and the tear-gas would have drifted in a direction away from the mob and it was, therefore, necessary to open fire. Thereupon Koli asked him where S.D.M., Kulkarni was. Ghorpade stated that he did not know where Kulkarni was but the opening of fire was necessary, and requested Koli to give the necessary order, but Koli said that he had no jurisdiction to do so. Ghorpade replied that for the purpose of giving the order to open fire it was not necessary that the Magistrate who gives the order should have jurisdiction. Meanwhile shrieks of women and children were heard coming from a house which had been set on fire. Azad rushed there and brought them out and sent them in a police vehicle to the police station. Pointing this out to Koli, Ghorpade said that it was absolutely necessary to issue the order as otherwise there would be terrible loss of property, whereupon Koli said that he would issue a verbal order and would confirm it in writing the next day. Ghorpade told Azad that they should act on this verbal order and let Koli confirm it the next morning, but Azad told him that recently Asst. S.P., Puri had been suspended in a similar situation at Fulgaon and he did not want to run the same risk. Puri was Asst. S.P., Fulgaon in Wardha District, and in some agitation which took place there on May 1, 1970 had opened fire. According to Puri, the S.D.M. who was present there had given him the orders to do so, while the S.D.M. denied it. Both of them were suspended. This matter was reported in the news-papers. While this altercation was going on, a large fire-wood depot opposite the Bhillpura Mosque was also set on fire and the fire started spreading to other houses. Ghorpade again repeated his request to Koli. Koli replied that he would give an order in writing but it should be to open fire in the air. Ghorpade told Koli that even if he gave such an order, they would not carry it out and, therefore, either he should give an order in writing to open effective fire or say that he did not want to give any order. Koli thereupon agreed to give an order in writing, but

raised the difficulty of absence of a clerk to write it out. Thereupon at Azad's dictation Parkar wrote out an order and gave it to Koli for his signature, Koli went under the street light and read the order over and over again and stood there pondering over it. Meanwhile Raman's jeep came there [C.W. 23/1(16)/2927(6) ; 12/2939-40]. Parkar's evidence also corroborates what Azad and Ghorpade have deposed [P.W. 77/1(3)/2348(3)].

68.30 The said order Exhibit P 899 bears the date " 8th May 1970 " at the top but at the foot thereof the date is " 8th May 1971 ". It reads " I, being on duty as SDM, Jalgaon, order to open fire to bring the situation under control ". All these three police officers have referred to this incident in their affidavits, but Koli's affidavit, though he makes allegations about Azad going back to fetch his revolver and being away for almost an hour, makes no mention of this incident. Koli was, however, questioned by the Commission on this point and his answers make sorry reading. He denied that the police officers had at any time requested him for an order to open fire. He stated that when he first went to Bhilpura he stayed there for about half an hour to three-fourths of an hour and then went back to the police station. He then again returned to Bhilpura and was there for about fifteen to twenty minutes and then again went to the police station and was thereafter busy with the work of helping those who had come to the City Police Station to seek shelter and that the first time that he was at Shani Chowk (the eastern end of Bhilpura) tear-gas shells were fired towards the northern side of the road only, causing some of the rioters to recede. He has further stated that during the entire period that he was there on the first occasion, he did not see any house burning, but it was on the second occasion when he returned to this area that he saw some houses on fire. While he was at Bhilpura on the first occasion he heard someone in a police van announcing on a loud-speaker the promulgation of the curfew order. He, therefore, went back to the police station to see Kulkarni and to find out if he had issued this order so that any action which he might take should not clash with Kulkarni's order. He has further stated that as S.D.M., Chalisgaon, he was not competent to issue a curfew order for Jalgaon City and he was not Kulkarni's superior and that his jurisdiction was separate from Kulkarni's jurisdiction. According to him, the only action of his which would have conflicted with the curfew order issued by Kulkarni was an order to open fire. It is difficult to understand why Koli should want to go back to the police station to ask Kulkarni whether he had issued a curfew order and how and in what manner any order to open fire which he might give would conflict with the curfew order issued by Kulkarni. Koli himself was unable to explain this, but ultimately he attempted to make out that what was announced on the loud-speaker was that the Magistrate had issued both a curfew order and an order to open fire and that, therefore, all should go back to their houses. He then added that he went back to the police station to find out from Kulkarni

whether he had issued an order to open fire on the people along with a curfew order, so that if such orders were issued he would permit the Police to fire on the people and if such orders were not issued he would not his permission. He thereafter immediately changed his answer to say that even if Kulkarni had not issued these orders, he would have ordered fire to be opened, if necessary, and that such orders would have been either oral or in writing. He then added that he went back to the police station to ask Kulkarni whether he should direct the Police to open fire on the mob itself or not. He then sought to make out that in any event there was no such armed police force there whom he could have asked to open fire.

68.31 These contradictory answers are very eloquent. It is amazing that Koli should go back to the police station to ask Kulkarni whether he should direct the Police to open fire on the mob or to find out whether Kulkarni had issued orders to open fire. These questions could only arise had the police officers been requesting him to give them the order to open fire. His answers to the questions put to him by the Commission were given after considerable hesitation and prevarication. According to him, between his return to Bhilpura and the time he heard the first shot he was cogitating on how serious the situation was so as to make up his mind whether to order the Police to open fire or not. Why he should do so, when according to him he had no jurisdiction to give the order to open fire, is incomprehensible unless the police officers had been pressing him to issue such an order. He denied that Inspector Sawant had at any time seen him after the disturbances to record his statement. The Commission's attention was thereafter drawn to the fact that Sawant had in fact made a written request to Koli by his letter dated May 17, 1970 to give a statement in writing and that this letter was received by Koli's office on May 20, 1970. Koli was thereupon recalled and he admitted that he had received the said letter, but stated that he did not reply to it because Sawant was subsequently suspended and the work of investigation was taken over by the Special Investigation Squad and his statement thereafter recorded by D.I., Sankpal on August 14, 1970 (P.W. 79/6-7/2385-8, 9/2389, 12/2702).

68.32 The fact that the order bears the date May 8, 1971 at the foot thereof and that in the body of the order Koli is described as S.D.M., Jalgaon, and not S.D.M., Chalisgaon, might suggest that this document was subsequently got up. The circumstances of the case, however, do not leave scope for any such suggestion. These police officers, particularly Ghorpade who was S.D.P.O., Chalisgaon, would know that Koli was S.D.M., Chalisgaon, and not S.D.M., Jalgaon. The date "8th May 1971" at the bottom of the order has also no significance. The order could not conceivably be a subsequent fabrication made in 1971 before the time for giving evidence before the Commission arrived because the existence of this order is mentioned in Azad's affidavit dated October 2, 1970 and Azad's version of what transpired is set out in his diary for the week ending May 9, 1970

(Ex. P 905), copies of which were submitted by him, as prescribed, not only to the S.P., but also to the D.M., the D.I.G. (Crime) and the D.I.G. (B.R.) (P.W. 78/6/2370-1). Parkar's explanation is that these mistakes occurred in the said order because it was written in a great hurry (P.W. 77/2/2349). This, in my opinion, is the true explanation.

68.33 For the reasons set out above, I disbelieve Koli's evidence and accept the evidence of Azad and Ghorpade.

The handling of the situation at Bhilpura and Islampura

68.34 The measures taken by the Police to deal with the rioting at Bhilpura and Islampura leave one bewildered. The affidavits of the police officers convey the impression that there were two rioting mobs — a Hindu mob on the northern side of Mahatma Gandhi Road and a Muslim mob on the southern side of Mahatma Gandhi Road — and that by effective lathi-charges and firing tear-gas shells the Police dispersed the mob and brought the situation under control. There is not a word in these affidavits of how or when the arson to various properties in Bhilpura and Islampura took place or what the police officers were doing at that time. One also is left wondering how twenty-eight Muslim houses in Bhilpura and eleven Muslim houses in Islampura were set on fire when both the rioting mobs had been dispersed. If this was really so, one wonders how the Hindu mob managed to penetrate right into the heart of Bhilpura and Islampura, both on the southern side of Mahatma Gandhi Road, and set fire to building after building unchecked and unobstructed either by the Police or the Muslims. The Muslim case is that the Police tear-gassed only the Muslims who had come out to seek police protection and thus cleared the way for the Hindu mob to enter the Muslim localities. Between these two rival versions, the truth has emerged slowly and piece by piece in cross-examination and reveals the same unfortunate handling of the situation as at Maniyar Wada.

68.35 According to Asst. S.P., Azad, the Hindu and Muslim mobs both consisted of thousands of persons and had spread out on the roads and in the by-lanes and were separated only as a result of the free use of tear-gas. Admittedly, however, no clash between the two mobs took place at any time. Azad has also admitted in cross-examination that when tear-gassed the Muslims retreated into their own localities of Bhilpura and Islampura. He also admitted that no damage whatever was caused by the Muslims to any Hindu property and that it was the Hindu mob which was attempting to rush into the Muslim localities on the southern side while the Muslim mob was not advancing. This fact was also admitted by the R.S.S. worker, Soma Jayaram Koli (J.J.S.W. 1/12/2409). Azad also admitted that he asked the Muslims to collect at one place so that he could protect them. He further admitted that the Muslims were in the by-lanes which lead from Mahatma Gandhi Road to Bhilpura and Islampura and that acting according to what he told them, they started assembling only in one place, namely, in Islampura, and that the Police fired tear-gas shells

before the Muslims went and collected in Islampura. (P.W. 78/9/2373, 12/2375). Though Parkar also speaks of a Muslim mob in Bhihpura, strangely enough in his F.I.R. (Ex. P 760) he has not mentioned any such mob nor has he mentioned that any Muslim mob was pelting stones. The only explanation he could give for this omission was that these facts slipped his mind while dictating his F.I.R. (P.W. 77/8/2352), an explanation which can hardly be believed.

68.36 Reading between the lines, it is clear that the Police concentrated their energies solely upon clearing the roads of the Muslims and herding them in one place. Their only concrete achievement in these two localities was the arrest of the two Muslims who were keeping at bay a Hindu mob attempting to set fire to the Madina Mosque. All this might not have been done out of communal discrimination or anti-Muslim bias, and the police officers appear to have acted more on the theory that Muslims assembled together are more violent than Hindus when assembled together—a theory which at least the disturbances with which this Commission had to inquire into does not bear out and which in Bhiwandi and Jalgaon led to disastrous consequences for the Muslims.

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CHAPTER 69
THE LAST STAGE OF THE DISTURBANCES

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CHAPTER 69

THE LAST STAGE OF THE DISTURBANCES

The Home Guard Commandant arrives on the scene

69.1 Between 5-30 p.m. and 6 p.m. Prabhakar Keshav Sonalkar, the District Commandant, Home Guards, Jalgaon, and a leading advocate of Jalgaon, learnt from one of his staff assistants that communal disturbances had broken out in the city. Taking his said staff assistant with him, he went to his residence, put on his uniform, took his private revolver, telephoned for a jeep to the Home Guards office and when the jeep arrived, went in it to the City Police Station, reaching there at about 7 p.m. He had also meanwhile received a telephone call from his second-in-command, Balwant Dagajirao Patil, the Principal of the Junior College of Education, Jalgaon, who on Sonalkar's retirement became the District Commandant as from May 1, 1970. Sonalkar asked Patil to come to the police station. He also telephoned the Home Guards office and asked all Home Guards to be called to the Home Guards office in uniform. At the police station he found S.D.M., Kulkarni and the D.M.'s stenographer, Mahabal, present. At their request he asked the Home Guards office to send the Home Guards to the City Police Station. Thereupon about twenty-one Home Guards with lathis reported at the police station. Kulkarni and Mahabal both requested Sonalkar to direct the Home Guards to bring fire-arms. At first Sonalkar raised a difficulty that the Home Guards could not come on duty with fire-arms according to Administrative Circular No. 10, dated March 3, 1959 issued by the Commandant-General (Ex. P 1025), but Kulkarni pressed that the police force was inadequate, the city was burning and the disturbances were not coming under control and further stated that he would give an order in writing later. On Kulkarni's entreaties and as the situation was grave, Sonalkar asked the Home Guards to get fire-arms from the police armoury at the Police Headquarters where arms and ammunition meant for the Home Guards were kept. Accordingly, fire-arms were collected from the armoury and 20 Home Guards were issued 410 muskets and 200 rounds. Meanwhile S.P., Raman arrived at the City Police Station (P.W. 91/1-3/3133-5).

The S.P. returns to Jalgaon

69.2 Head Constable Bendale booked a trunk-call to Pachora at 5-45 p.m. and informed S.P., Raman about the outbreak of the communal disturbances at Jalgaon. The S.P. gave him instructions to call for additional reinforcements from other police stations in the

district and also informed him that he was starting immediately for Jalgaon [S.P.O.W. 8/1(6)/3075(2)]. Though there is no dispute about the time at which Raman was informed about the disturbances, there is a dispute about the time when he reached Jalgaon. According to Raman, he left Pachora immediately on receiving Bendale's telephone call and reached Jalgaon by about 7 p.m. and as soon as he arrived at the City Police Station, he discussed the situation with S.D.M., Kulkarni who was there at the police station. Kulkarni told him that it was necessary to resort to firing in order to disperse the mobs and that he had already issued the curfew order. Raman also saw outside the police station a police van, with a loud-speaker, getting ready to promulgate the curfew order. Raman thereafter immediately left in the Home Guards jeep with Sonalkar, Patil, Kulkarni, Prohibition and Excise Superintendent Kohak and one Shaha and went round the affected localities and then returned to the police station to get additional help and fire-fighters. He has deposed that he did not check the exact time when he reached the police station and it could have been about five minutes before or after 7 p.m. Thereafter he again set out with armed constables and went to Bhilpura (P.W. 67/1(38-9)/2229(19-22), 32/2255). The report dated May 9/10, 1970 made by Raman (Ex. P 889) does not, however, state that he went twice to the police station. The report of D.I.G., Trimbakrao dated May 23, 1970 (Ex. G 204) states that Raman reached Jalgaon at about 7-30 p.m. In order to pin-point the time of Raman's arrival at the City Police Station considerable arguments have been advanced before me based upon the movements of various witnesses, but the exact time at which any such movement took place or any incident occurred is from the very nature of things not capable of precise ascertainment nor can in all cases the time mentioned by a witness be accepted implicitly, because in the circumstances then prevailing it could not have been possible for anybody to keep on looking at the watch or the clock to see what the exact time was. The time mentioned in the evidence by different witnesses must, therefore, be taken to be an approximate time only. It is, therefore, not necessary to go into the details of the movements of various persons or refer in detail to the evidence as to the time when the witnesses allege they saw Raman in different localities, and from this work out when Raman must have reached Jalgaon. There is, however, sufficiently reliable direct evidence on the record which shows the time when Raman arrived at the City Police Station. S. N. Bhalerao has stated in his affidavit that Raman arrived at the police station at about 8 p.m. In cross-examination, however, he stated that Raman came to the police station at about 7-30 p.m. or 7-45 p.m. [C.W. 20/1(38)/2719(9), 15/2725]. B. D. Patil, the second-in-command of the Jalgaon District Home Guards, has stated in his affidavit that Raman arrived at the police station at about 7 or 7-15 p.m. [P.W. 92/1(3)/3138(2)], but the Home Guards Commandant, Prabhakar K. Sonalkar, who is a senior and leading advocate of Jalgaon, has deposed that Raman arrived at the police station between 7-45 p.m.

and 8 p.m. Sonalkar has stated that he himself went to the police station at about 7 p.m. He has given a detailed account of what happened while he was there and has further said that S.P., Raman came there after about three-quarters of an hour of his reaching the police station, that is, at about 7-45 p.m. [P.W. 91/1(2-4)/3134(1-2)]. Sonalkar is a witness whose evidence and demeanour have impressed me and considering all the circumstances and the evidence on the record, I find that Raman arrived at the City Police Station at about 7-45 p.m.

The last stage

69.3 From the City Police Station, Raman, Kulkarni and Sonalkar left in the Home Guards jeep to take a round of the city. Patil was driving while Kohak, the Prohibition and Excise Superintendent, and a man named Shaha were sitting in the rear. On the way they saw large mobs collected at Bhilpura. Raman shouted out at the mobs to disperse and ultimately fired one round at the mob from Sonalkar's revolver which he borrowed for this purpose. Thereafter they went to Islampura, Jumma Mosque, Joshi Peth, Khatik Alli and Bagwan Mohalla and rescued several Muslim women and children and sent them in the jeep to the Civil Hospital. All told nineteen persons were thus sent to the hospital. Thereafter Raman and Kulkarni went back to the police station to get additional help both for dealing with the disturbances and for rescue operations. After some time Patil went to another spot in a vehicle while Sonalkar went to Subhash Chowk. He found Hindus collected on the Dana Bazar road and inciting one another to break open the shops. Sonalkar gave a warning to them by flourishing his revolver. Meanwhile a Home Guards jeep came there. Sonalkar instructed the Home Guards to stop the mobs from looting the shops and stated that he himself would go to the police station to secure reinforcements. At the police station he found Kulkarni and told him that mobs had collected in the Bazar Peth area and were talking about looting shops. Kulkarni and Kohak thereupon accompanied Sonalkar and they all went to Subhash Chowk. When they arrived at Subhash Chowk, Kulkarni asked the Hindu mob at the Dana Bazar (the Grain Market) to disperse. They also saw the rioters breaking open the footwear shop of one Gulamali. As the warnings of Kulkarni went unheeded, Kulkarni ordered the Home Guards to open fire and they fired in the air. On hearing the shots the rioters ran away, but collected in Tijori Lane. Kulkarni again gave an order to open fire and this time the Home Guards as also some policemen fired in the air. The mob, however, did not disperse. Kulkarni, therefore, gave an explicit order to open effective fire. Upon effective fire being opened, the rioters fled. This happened at about 9 p.m. Thereafter Sonalkar returned to the police station and attended to the work of helping the riot-affected persons and then again went out to patrol the riot-affected areas, returning to his residence at about midnight (P.W. 91/4-7/3135-7).

69.4 After returning to the police station S.P., Raman requested Municipal President P. K. Zare to send fire-engines to Bagwan Mohalla and to open all the valves to allow full flow of water to Joshi Peth and other affected areas. He also issued orders to deploy armed policemen for the transport of the police force expected to arrive from the Headquarters and other police stations in the district. Telephone calls were made to these police stations and it was ascertained that fire-engines from Erandol, Pachora, Bhusawal and Varangaon had already left for Jalgaon. Attending to all this took Raman about fifteen minutes. He then again set out accompanied by A.H.C., Ramdas Soma and came to Bhilpura near the house of Yunus which was in flames. He saw Asst. S.P., Azad there. An aggressive Hindu mob had collected there, jeering and throwing stones. After giving a warning to the rioters Raman fired one round aiming low. The mob started dispersing towards Shani Peth, but as it was still aggressive and was trying to reassemble in spite of warnings, Raman advanced towards the Shani Peth Water Tank. The mob tried to come back at him. He therefore fired another round and also ordered two rounds to be fired by A.P.C., Usmanbeg who had by that time arrived and joined them. As a result of this firing the mob retreated towards Lidhurwada. This mob, though retreating, was aggressive, throwing stones and jeering and whistling at the police party. At Lidhurwada it continued throwing stones at the police party. Raman thereupon ordered A.H.C., Ramdas Soma to fire another round. They then went to Jainabad Bridge where the mob had reassembled. The mob again started throwing stones at the police party. Again Raman ordered another round to be fired by A.H.C., Ramdas Soma. The mob finally dispersed towards Jainabad, dropping the looted property which it was carrying. Raman posted armed police constables who were with him to keep a watch near the looted property and hand it over to the S.R.P. men when they arrived. As he felt that the situation had by then come under control, he returned to the police station to look after the rescue operations, the treatment of the injured and the providing of protection and shelter to those who had been rendered homeless. Police vehicles started moving freely making a number of trips to the affected areas giving medical aid, food and water. Those who had suffered in the disturbances were kept at the police station and afterwards at the Police Headquarters till the next day [P.W. 67/1(38-40)/2229(21-23)].

69.5 While Raman was busy dispersing the mob at Lidhurwada and Shani Peth an armed police party and the Home Guards summoned by S.D.M., Kulkarni arrived at the police station. Kurkarni went with this party towards Bhilpura. A Hindu mob had assembled near the Municipal Girls School. This mob proved to be uncontrollable. Kulkarni therefore ordered fire to be opened and three rounds were thereupon fired in the air. The rioters thereupon dispersed. Kulkarni then moved on to Bhilpura where he found another violent mob near Yunus Building. He also saw fire-balls being thrown towards Islampura

from the compound of the Municipal Primary School. As the compound-wall was about eight feet high without any opening, Kulkarni ordered the police constables to climb up on the wall and open fire inside. The constables did so and fired six rounds. Thereupon the throwing of fire-balls ceased. Another Hindu mob had started breaking open shops, and was indulging in arson and looting. Kulkarni again ordered fire to be opened. He then went towards Subhash Chowk near the side of Rajkamal Talkies and Dana Bazar. There also a mob was indulging in looting and arson and accordingly Kulkarni ordered fire to be opened. Finding that the situation had come under control as a result of the firing, Kulkarni returned to the police station. The disturbances completely died out at about 9-30 p.m. or 10 p.m. The S.R.P. men arrived at about 9-30 p.m. and were deployed in the affected areas for the enforcement of prohibitory orders [P.W. 70/1(7-10)/2307(4-6), 13/2315].

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CHAPTER 70
POLICE FIRING

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CHAPTER 70

POLICE FIRING

The firing incidents

70.1 In order to put down the disturbances fire was opened on ten occasions by the Police and the Home Guards. The first police firing took place at about 6-30 p.m. at Rath Chowk under the orders of S.D.M., Kulkarni. The other police firings took place between about 8 p.m. and 9 p.m. Nine Hindus and a Muslim boy aged 12 years were injured in the police firings. No one, however, lost his life. As in almost everything else about the Jalgaon disturbances, there is a confusion about the exact number of rounds fired. S.P., Raman has filed a statement (Exhibit P 696) showing the number of rounds fired on each occasion. The said statement does not tally with what can be spelt out from the evidence. The evidence on this point of some of the witnesses, for instance, S.D.M., Kulkarni, is unsatisfactory as it does not mention the exact number of rounds fired but merely gives an approximate number. Fortunately, as will be apparent later, the number of rounds fired is not material in this Inquiry. After reconciling the evidence and the said statement (Ex. P 697) and resolving as far as possible the confusion in the evidence, it appears that in all 53 rounds were fired, 52 with 410 muskets and one with a revolver. The revolver round was fired by S.P., Raman with the revolver of the District Home Guard Commandant, Prabhakar Sonalkar. Out of the 52 musket rounds 34 were fired in the air and 18 on the mobs. The Home Guards fired in all 13 musket rounds, the remaining 39 rounds being fired by the District Police.

70.2 The following table sets out the places where each of the firing incidents took place, the number of rounds fired on each of the occasions and whether the firing was in the air or on the mob:—

List of firing incidents

Place where fire opened	Number of rounds fired	
	In the air	On the mob
(1) Rath Chowk, Joshi Peth	12	..
(2) Bhilpura .. .. .	..	1
(3) Office of Yunus .. .. .	..	1
(4) Shani Peth Water Tank .. .. .	..	3
(5) Jainabad Bridge .. .. .	..	1
(6) Lidhurwada	4	4
(7) Municipal Girls School	3	..
(8) Municipal Primary School	5	2
(9) Subhash Chowk	2	3
(10) Subhash Chowk (by the Home Guards)	8	4
Total ..	34	10

Whether the police firings were justified

70.3. There is no dispute, as from the circumstances there could not have been, that each of the police firings listed above was justified, for the situation was such that it amply justified the Police and the Home Guards in opening fire. What was contended in respect of the police firings at Jalgaon was not that any of the firings was not justified, but that the Police did not open fire promptly, but opened it too late and that too in the air and not on the mob and that had fire been opened on the mob at the first moment the situation required and justified it, so much loss of life and property would not have taken place. S.D.M., Kulkarni and various police-officers have given their explanation in respect of these allegations. It will be convenient to discuss these contentions officerwise since different considerations arise in the case of each officer.

S.D.M., Kulkarni

70.4 S.D.M., Kulkarni ordered fire to be opened at Rath Chowk, Lidhurwada, the Municipal Girls School, the Municipal Primary School and at Subhash Chowk. At Rath Chowk all the rounds were fired in the air; at the Municipal Primary School the constables climbed up on the compound wall and fired inside as fire-balls were being thrown from inside the compound; at all other places where Kulkarni ordered fire to be opened, some rounds were fired in the air and some on the mobs. According to Kulkarni, however, it was only at Rath Chowk that he ordered fire to be opened in the air. He has further deposed that from the nature of things, the fire opened from the top of the compound wall of the Municipal Primary School inside the compound could only be blind fire as it was dark and, therefore, not possible to see where the persons throwing the fire-balls were. He has further deposed that at all other places he ordered effective firing but when he found some constables firing in the air instead of on the mobs he gave an explicit order that fire should be opened on the mobs. He has given an explanation for ordering fire to be opened in the air at Rath Chowk which has already been considered in Chapter 67 (paragraph 67.5). As mentioned in the said paragraph, it was an unfortunate decision on his part. I, however, accept his evidence that at other places (apart from the special and peculiar case of the fire opened at the Municipal Primary School) he ordered effective firing, for in all these firing incidents some rounds have in fact been fired on the mobs. The correct position with respect to those incidents, therefore, seems to be that when the constables did not fire on the mobs but in the air, they did so not because Kulkarni had ordered them to fire in the air but out of a hesitation to fire on the mobs. In view of the fact that subsequently Kulkarni did order effective firing his one error of judgment in ordering fire to be opened in the air ought not to be held much against him.

S.D.M., Koli and Asst. S.P., Azad

70.5 As in Chapter 68 (paragraphs 68.28 to 68.34), there was a controversy at Bhilpura between S.D.M., Koli on the one hand and

Dy.S.P., Ghorpade and Asst.S.P., Azad on the other about opening fire. Koli wanted the Police to open fire in the air while the police officers wanted to open fire on the mob and when ultimately Koli agreed to give the order to open effective fire he did so verbally while the police officers insisted that he should do it in writing in order to prevent a situation similar to that in Fulgaon from arising. There is, however, nothing in law which requires that such an order should be in writing. From the attitude adopted by Koli one cannot, however, blame the police officers for insisting that the order should be in writing lest subsequently Koli turn round and say that he had not given such an order. Azad was the S.D.P.O., Jalgaon, and by reason of section 551 Cr.P.C. and section 97 of the Bombay Police Act, 1951, he was entitled to exercise the powers of an officer subordinate to him, namely, Inspector Sawant, the officer-in-charge of the Jalgaon City Police Station, and order fire to be opened to put down the disturbances. The position was, however, complicated by the presence of S.D.M., Koli, because normally when a Magistrate is present, a police officer would seek his order to open fire. From the evidence discussed in Chapter 68 there can be no doubt that the situation was such as would have justified the Police in opening fire. In fact, police firing should have been resorted to much earlier for the mob had become dangerously violent and had already committed arson on an extensive scale and had set fire to several Muslim buildings. We have already discussed in Chapter 66 Koli's explanations for his hesitation to give the order to open fire and it is not necessary to repeat that discussion here.

70.6 The question is, however, one of law and cannot be decided merely on what S.D.M., Koli has deposed. Mr. Rane, on behalf of the Executive Magistrates and the District Police Officers, relied upon the fact that while in the case of a police officer sections 127 and 128 Cr.P.C. use the words "officer-in-charge of a police station", in the case of a Magistrate they use simpliciter the words "any Magistrate" and that clause (a-1) of section 132A Cr.P.C. defines a Magistrate for the purposes of Chapter IX of the Code of Criminal Procedure, 1898, in which sections 127 and 128 occur, as "any executive Magistrate", and submitted that, therefore, any Executive Magistrate, whether he had jurisdiction or not in the area concerned, would have the power to order an unlawful assembly to disperse and to use force, including the opening of fire, for its dispersal. In support of this submission Mr. Rane relied upon the fact that Koli went to Bhilpura in his capacity as an Executive Magistrate and not as an ordinary citizen. He also relied upon sections 64, 65, 107(2), 108, 109 and 110, Cr.P.C. which refer to the local limits of a Magistrate's jurisdiction. On the strength of these sections Mr. Rane submitted that as words similar to the restrictive words used in those sections are not to be found in sections 127 and 128 Cr.P.C., it would follow that any Executive Magistrate, whether he had jurisdiction within the area in question or not, could exercise powers under these two sections. It is not possible to accept this submission. Under section 13, Cr.P.C. a Sub-Divisional Magistrate is placed in

charge of a sub-division and a Taluka Magistrate in charge of a Taluka or Mahal. A Sub-Divisional Magistrate, therefore, has jurisdiction in the particular sub-division in charge of which he is placed and a Taluka Magistrate of the particular Taluka or Mahal in charge of which he is placed. These Magistrates, therefore, do not exercise any jurisdiction outside the areas under their charge. Whenever the Criminal Procedure Code, 1898, confers power upon a Magistrate with respect to any area outside his jurisdiction, it expressly states so. Section 167(1) provides for forwarding to the nearest Judicial Magistrate an arrested accused in whose case the police investigation cannot be completed within twenty-four hours. Section 167(2) provides that such Magistrate "whether he has or has not jurisdiction to try the case" may order the detention of the accused in such custody as he thinks fit and when he considers further detention unnecessary, "if he has no jurisdiction to try the case or commit it for trial", to order the accused to be forwarded to a Magistrate having such jurisdiction. The position under section 167, therefore, is that an accused may be remanded into custody by any Judicial Magistrate whether he has jurisdiction to try the case or not. The object of this provision is, however, clear. It may be that the Magistrate having jurisdiction is at a greater distance than another Magistrate and, therefore, to obviate hardship to the accused and his being in custody without a judicial order for a longer time than authorized by law the section provides that he is to be forwarded to the nearest Judicial Magistrate. In my opinion, the words "any Magistrate" in sections 127 and 128 do not mean any Magistrate whether he has jurisdiction or not in the area in which the unlawful assembly has collected. The word "any" has no reference to the jurisdiction of the Magistrate but to his rank. It means any Executive Magistrate irrespective of whether he is a Taluka Magistrate or a Sub-Divisional Magistrate or the District or Additional District Magistrate. From the very fact that these officers are posted to different areas which are placed under their charge it must mean that they can exercise their powers only in such areas and not outside them. If the section were to be otherwise construed, startling results would follow. In the very case we are considering, supposing Kulkarni who was S.D.M., Jalgaon, and Koli who was S.D.M., Chalisgaon, were both present and had Kulkarni thought that firing should not be resorted to and Koli had taken the contrary view, could Koli have ordered the Police open fire? Now, supposing a serious riot is taking place within the jurisdiction of the S.D.M. of Sub-Division A, supposing he is not present but instead the S.D.Ms. of Sub-Divisions B and C are present and each of them takes a contrary view as to the necessity of opening fire, whose view is to prevail? The fact that Koli voluntarily went to the scene of the disturbances to give whatever assistance or advice he could, cannot confer upon him a greater power or wider jurisdiction than he possessed under the law. He could not have, therefore, exercised the powers under sections 127 and 128. It is significant that even in the order drafted by Parkar for Koli to sign (Ex. P 899) the officer who had to sign it is described

in the body of the order as "S.D.M., Jalgaon" and not as "S.D.M., Chalisgaon". Azad was the S.D.P.O., Jalgaon, and he could not be unaware that Kulkarni, and not Koli, was the S.D.M., Jalgaon. P.S.I., Parkar was the Reader to the S.D.P.O., Chalisgaon, and he equally could not be unaware that Koli was the S.D.M., Chalisgaon, and not S.D.M., Jalgaon.

70.7 For the reasons mentioned above, I hold that S.D.M., Koli had no jurisdiction to give an order to the Police in Jalgaon City to open fire on the mob and that the officer who had the jurisdiction to do so was Asst. S.P., Azad; he being the S.D.P.O., Jalgaon, present on the scene. It was unfortunate that by reason of the Fulgaon incident and the presence of S.D.M., Koli, Azad hesitated to exercise his power to open fire, a hesitation which resulted in considerable loss and destruction of property.

70.8 Asst. S.P., Azad has deposed that since Koli did not sign the said order Exhibit P 899, he made up his mind to open fire even without an order being given by Koli but was prevented from doing so as he saw a jeep pass by and after some time Ghorpade came to him and informed him that the S.P. was in the said jeep and had opened fire. It is not possible to accept this part of Azad's evidence. If he had in fact made up his mind to open fire without an order in that behalf being given by Koli the sight of a passing jeep could not, have stopped him. The S.P. fired only one round at that spot, a fact of which Azad was ignorant until Ghorpade came and informed him about it later. There was nothing to prevent Azad from ordering fire to be opened in the meanwhile. This part of his evidence appears to be merely an afterthought on his part with a view to make out that just as he was about to open fire he was forestalled by some fortuitous circumstances.

S.P., Raman

70.9 It must be said to the credit of S.P., Raman that he was the only officer who did not hesitate to open fire immediately as soon as he felt that the situation demanded it. Had S.P., Raman been present in Jalgaon when the disturbances broke out or had the other police officers shown the same firmness and determination as he did, the disturbances would not have taken such a heavy toll.

Dy. S.P., Ghorpade

70.10 The conduct of Dy.S.P., Ghorpade with respect to the giving of an order to open fire requires to be considered only in respect of the rioting at Maniyar Wada inasmuch as though Ghorpade was present at Bhilpura, Asst. S.P., Azad, who was the S.D.P.O., Jalgaon, was present with him and was the officer entitled under section 551, Cr. P.C., and section 97 of the Bombay Police Act to exercise all the powers conferred upon the officer-in-charge of the Jalgaon City Police Station. That the mob which had collected outside Bhoite Gadhi and

on the road outside the Jumma Mosque was a dangerous and violent mob which had the object of rushing into the Muslim locality and of setting fire to Muslim properties and attacking the Muslims cannot be disputed. Whatever might have been the situation in the beginning, once arson had commenced and the fire-engine was obstructed the necessity for opening fire became imperative. The senior-most officer present on the scene was Dy. S.P., Ghorpade. He has in the witness-box offered an explanation why he did not give the order to open fire. He has deposed (C.W. 23/10/2935-2936):—

“Since the Hindu mobs were not finally dispersed, the possibility did occur to me that they might come again either to the same place or to neighbouring Muslim Mohallas. I did not order any Sub-Inspector to open fire or take a revolver from one of them and open fire because when I first went to the scene the police officers and constables were so mixed up with the crowd that there was a danger of hitting one of them. I did not order fire to be opened on the mob which had collected in Zainabad area or which was obstructing the fire-engine because as S.D.P.O., Chalisgaon, I had no jurisdiction in Jalgaon City and could not exercise the powers of an officer-in-charge of a police station under sections 127 and 128, Cr. P.C. I could have opened fire only in the exercise of the right of private defence conferred by the Indian Penal Code. Further, It is generally required that fire should be opened as a last resort and before that other means of dispersing a mob, such as lathi-charge and tear gas, should be availed of. While the mob was obstructing the fire-engine I did not suggest to Inspector Sawant, who was the officer-in-charge of the Jalgaon City Police Station, that he should resort to the use of fire-arms because the mob was between him and myself. So I could not talk to him and I first took the opportunity of dispersing the mob by tear-gassing it.”

70.11 It cannot be denied that as S.D.P.O., Chalisgaon, Chorpade had no jurisdiction in Jalgaon Sub-Division. The question, however, is whether by reason of the combined effect of the provisions of the Criminal Procedure Code, 1898, and the Bombay Police Act, 1951, he could have exercised the powers under section 128 to disperse the mob rioting in Maniyar Wada by the use of force including the use of fire-arms. The police officer expressly empowered under section 128 to do so was the officer-in-charge of a police station, which in the present case was Inspector Sawant, and in case he was not present, by reason of the definition of “officer-in-charge of a police station” in clause (p) of section 4, the officer next in rank, namely, Sub-Inspectors Karhadkar and Bhalerao who were there at the spot. Section 551, Cr. P.C., has also no application to Ghorpade because though it confers upon a police officer superior in rank to an officer-in-charge of a police station the right to exercise the same powers as the officer-in-charge of a police station, such exercise of power is limited only to the local area to which the superior officer is appointed. Since Jalgaon City Police

Station came in the local area within the jurisdiction of the S.D.P.O., Jalgaon, and Ghorpade was not appointed to that area, he had no right to exercise the powers of the officer-in-charge of the Jalgaon City Police Station. By reason of the fact that section 97 of the Bombay Police Act does not contain any qualification as regards the local area to which a superior police officer is appointed, it may appear at first sight that there is a difference between section 97 of the Bombay Police Act, and section 551, Cr. P.C., but a perusal of the whole of section 97 would, however, show that the position is not different. Section 97 provides for "a police officer of rank *superior* to that of a constable" performing any duty assigned by law or by a lawful order to "any officer *subordinate* to him". The material words in the said section 97 are 'superior' and 'subordinate'. The section deliberately does not use the word 'inferior', but uses the word 'subordinate'. Every subordinate would be inferior in rank to an officer holding a superior rank, but every officer holding an inferior rank would not be subordinate to an officer holding a superior rank. Inspector Sawant held a rank inferior to that of Dy. S.P., Ghorpade but he was not subordinate to Dy. S.P., Ghorpade. Section 97 of the Bombay Police Act had also, therefore, no application to the case.

70.12 Under section 149 of the Criminal Procedure Code, however, a duty is imposed upon every police officer to interpose, for the purpose of preventing, and to prevent, to the best of his ability, the commission of a cognizable offence. There can be no doubt that cognizable offences of arson and rioting had already been committed at Maniyar Wada and more such offences were going to be committed. Under clause (b) of section 64 of the Bombay Police Act it is the duty of every police officer to prevent the commission of cognizable offences as also to prevent the commission of non-cognizable offences committed within his view. Under clause (e) of the said section 64 he is also under a duty to aid another police officer when called on by him or in case of need in the discharge of his duty in such ways as would be lawful and reasonable on the part of the officer aided. Similarly under clauses (f) and (g) of section 66 it is the duty of every police officer to use his best endeavours to prevent any loss or damage by fire and to avert any danger to the public. Undoubtedly Ghorpade was not called upon by any police officer to aid him. He had gone to the scene of the disturbances on his own on learning about them. He had, therefore, gone there "in case of need" within the meaning of clause (e) of section 64 of the Bombay Police Act. Having discharged this duty it was his further duty to prevent the commission of cognizable offences to prevent loss and damage by fire and to avert danger to the public. There were other police officers on the scene and it was also his duty under clause (e) of section 64 having gone to the spot of trouble "in case of need" to aid such police officers in the discharge of their duty "in such ways as would be lawful and reasonable on the part of the officer aided". Amongst such officers was Inspector Sawant,

the officer-in-charge of the Jalgaon City Police Station. Short of ordering the opening of fire Ghorpade aided Inspector Sawant in every other way. He ordered lathi-charges and the bursting of tear-gas shells. It would have been lawful for Inspector Sawant to have dispersed the mob by opening fire and therefore, under clause (e) of section 64 of the Bombay Police Act Ghorpade could have also done the same. Ghorpade, however, did not order fire to be opened. On a true construction of the above statutory provisions, the correct view seems to be that if Ghorpade could order a lathi-charge and the bursting of tear-gas shells, he could have equally opened fire or given the order to open fire. Even if the above view is not correct, in the prevailing circumstances Ghorpade would have been justified in the exercise of the right of private defence of the body and property in opening fire or directing other police officers to open fire. In fairness to Ghorpade, however, it must be said that the matter is not wholly free from doubt and though he might have taken all other measures, his hesitation in opening fire which might lead to loss of life and involve him in an inquiry, where a serious question as to his right to open fire or order fire to be opened on the mob might have been raised, cannot be said to be either fanciful or unjustified or the result of any timidity on his part. I, therefore, do not find it possible to blame Dy. S.P., Ghorpade for not opening fire or for not ordering fire to be opened at Maniyar Wada.

Inspector Sawant

70.13 Inspector Sawant was at Maniyar Wada in the thick of the riots. According to his evidence, the Hindu mob was attacking the Jumma Mosque. It had entered the Muslim locality and had set fire to a house in the lane just round the corner of the Jumma Mosque. Repeated attempts were made to set fire to the Jumma Mosque by throwing burning swabs on it. The shops next to the gate of the mosque were broken open and looted and the door of the mosque damaged. If ever any situation justified the opening of fire, it was the situation prevailing at Maniyar Wada. Sawant speaks about dispersing the mobs by repeated lathi-charges but also deposes that after they had made five or six lathi-charges the Hindu mobs started throwing burning swabs on the mosque. Thereafter the only attempt made to control the mob, according to Sawant, was for a handful of constables, namely, four in uniform and five or six in mufti to push back the rioters. He also admitted that the mob which he had dispersed went towards Rath Chowk. It is obvious that after doing damage at Maniyar Wada the mob went to Rath Chowk and its adjoining localities on a further rampage. The only excuse which Inspector Sawant could give was that while lathi-charging the mob, the constables got mixed up with the mob and, therefore, he could not order fire to be opened (S.P.O.W. 6/13-4/2986-8). This excuse can hardly be countenanced. If Sawant's evidence were true, the mob ran into thousands while his

constables hardly numbered ten. He has also deposed that after making five lathi-charges the question of opening fire occurred to him, but he did not give the order because it was not possible to call back his men or to warn the bystanders (S.P.O.W. 6/49/3006). Since the mob had already conducted itself in such a manner as to show that it was not going to disperse but was bent on committing further offences the question of ordering it to disperse did not arise, as section 128, Cr. P.C., confers power in such a case to disperse the mob by force. If without commanding it to disperse he could order lathi-charges and bursting of tear gas shells, he could as well have opened fire. He was the officer-in-charge of the police station. Ghorpade might have been his superior in rank, but he had no jurisdiction in Jalgaon City. It was the primary duty of Inspector Sawant, therefore, to have opened fire. He failed to do so; and the true reason for his not doing so is not the one given by him in his evidence but an inherent timorousness in his nature. Had effective fire been opened at Maniyar Wada promptly, the disturbances would not have taken so serious a turn and would not have spread and caused so much loss of life and destruction of property.

70.14 Sawant has deposed that at Rath Chowk he was about to open fire on the mob, but in the meantime S.D.M., Kulkarni came there and gave orders to open fire in the air (S.P.O.W. 6/54/3012). From Sawant's conduct earlier in the evening, it is impossible to believe what he says. This is obviously an attempt on his part to make out that just when he was about to open fire he was forestalled by Kulkarni coming on the scene.

Sub-Inspectors Bhalerao and Karhadkar

70.15 Sub-Inspectors Bhalerao and Karhadkar on their own showing chased the Hindu mobs upto Bhoite Gadhi, and what is more important, they were in Bagwan Mohalla and Fakir Mohalla when rioting was taking place there and, as mentioned in Chapter 67 (paragraphs 67.9 to 67.13), they lathi-charged the mob. The point whether Bhalerao was at Bagwan Mohalla and Fakir Mohalla when the rioting was going on has already been discussed. The evidence clearly shows that he was there. Inspector Sawant, the officer-in-charge of the police station, was not present at Bagwan Mohalla or Fakir Mohalla and whatever view of the matter one takes, whether, under section 128 read with clause (p) of section 4 of the Criminal Procedure Code, 1898, or under the group of sections dealing with the exercise of the right of private defence under the Indian Penal Code, both Bhalerao and Karhadkar would have been justified in opening fire and entitled to do so. As police officers it was their duty to have opened fire at Bagwan Mohalla and Fakir Mohalla and they have both grossly failed in the discharge of that duty.

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CHAPTER 71

OBSTRUCTIONS TO FIRE-ENGINE

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CHAPTER 71

OBSTRUCTIONS TO FIRE-ENGINES

Prefatory observations

71.1 It is the case of the District Police Officers and the Muslim parties that the fire-engines of the Jalgaon Municipal Council were obstructed by Waman Pandit Khadke, who became the Municipal President on June 2, 1970 after P. K. resigned. Waman Pandit Khadke was prosecuted on the charge of obstructing a municipal fire-engine. He was first arrested on May 9, 1970 by Inspector Sawant under section 151 Cr.P.C. and was released on bail by the Magistrate. On June 17, 1970 he was arrested by the Special Investigation Squad, Jalgaon, for the substantive offences of rioting and wrongful restraint of a municipal fire-engine (P.W. 67/92/2282). In some of the Hindu affidavits, however, it was alleged that the fire-engines were obstructed by the Muslims and not by the Hindus. The case of the Jalgaon Municipal Council, represented before the Commission by Mr. D. D. Chaudhary, Advocate, was that there was no obstruction to any fire-engine at any time during the disturbances. In view of these conflicting cases the Commission summoned in evidence P. K. Zare, who was the Municipal President at the relevant time and who on May 8, 1970 had filed a complaint about an obstruction to the fire-engines, and also some of the firemen, fire-engine drivers and the head fireman of the Jalgaon Fire Brigade who went on fire-fighting operations in the afternoon of May 8, 1970, the telephone clerk in the municipal office and the Engineer, Jalgaon Municipal Council, in whose administrative control the municipal fire brigade and the water works in Jalgaon were. Their evidence disclosed another sorry tale of witnesses suborned, registers tampered with and documents suppressed.

The Jalgaon fire brigade

71.2 In May 1970 the Jalgaon Municipal Council had three fire-engines bearing registration Nos. MHS 2170, MHS 2484 and MHS 2485. It had also two old fire-engines, bearing registration Nos. BYP 4424 and BYP 4876, which were used for watering the roads, for supplying water to the city in times of water scarcity and for watering the trees planted by the Municipal Council. One of these two fire-engines was out of order for about two months prior to May 8, 1970 and the other got out of order on May 7, 1970. The fire-fighting crew for each fire-engine consisted per shift of a driver, two firemen and a cleaner. The fire-fighting personnel worked in two shifts of twelve hours each from 8 a.m. to 8 p.m. and from 8 p.m. to 8 a.m. In addition, there were two

head firemen who, by turn, were in charge of each shift. There were no water hydrants in Jalgaon City and the source of water supply for the fire-engines was a well in Zilla Peth. There was also an alternative arrangement for filling the water tanks of the fire-engines, namely, two wells in Shivaji Udyan (Garden) near Mehrun Tank. The well in Zilla Peth was fitted with an electric pump and the wells in Shivaji Udyan with an oil engine and pump. It used to take about ten minutes to fill the water-tank with the electric pump and about five minutes with the oil engine and pump. The Fire Station was situate in the premises of the Municipal Council. All telephone calls, including fire calls, used to be entered in the Telephone Register maintained in the municipal office. There was a telephone clerk on twenty-four-hour duty. The fire-engines were garaged in the compound of the municipal office. An electric siren was installed at the municipal office and when a fire call was receive, if any fire-engine had gone out of the fire station, the siren was sounded to recall it to the municipal office (C.W. 9/2-4/2552-4).

Zare sends out fire-engines

71.3 Municipal President P. K. Zare (C.W. 25) came to know at about 2-45 p.m. that some trouble had taken place at the entrance of Maniyar Wada on seeing some injured Muslims pass by his house on their way to the City Police-Station. On that day there was a Standing Committee meeting at 5 p.m. at the municipal office. On account of the trouble in the city the meeting was, however, adjourned. At about 5-15 p.m. the telephone clerk informed Zare that there was a fire in Ram Peth area. Zare asked him to send out a fire-engine. The Message was given to him in his chamber in the presence of four councillors, namely, Sukhdeo Ganpat Yadav, Tamij Piran Bagwan, Abdul Majid Mohamed Ibrahim and Gulam Rasool Bagban [J.U.(J) W: 3], and Acting Chief Officer Narayanrao Barathe. Zare also rang up the office of the Asst. S.P., Charansingh Azad (P.W. 78) but did not find him there. He then rang up the City Police Station but only a constable came on the phone and he did not find any responsible officer present at the police station. He then rang up the D.M. and found that he had gone out of Jalgaon. He thereupon sent his peon to the City Police-Station to tell whoever was there to make proper bandobast. He then went at 5-45 p.m. to the place of trouble, namely, Rath Chowk. According to Zare, he did not find any trouble there. He saw about fifteen to twenty persons only at the mouth of the lane which goes by Ram Mandir and only two or three constables with lathis present there. According to Zare, he did not see any fire at all in Ram Peth nor did he see the fire-engine which he had sent out, namely, fire-engine No. MHS 2484. He then returned to the municipal office (C.W. 25/2/3038-9).

71.4 On his way to the municipal office at about 6-10 p.m. Zare saw smoke coming out from Joshi Peth and crowds collected at Bhilpura. According to him, the time then was about 6-10 p.m. After returning to the municipal office he sent the remaining two fire-engines to the place

of fire. He also rang up the City Police Station and informed it about the fires in Joshi Peth and about the crowds which had collected at Bhilpura. (C.W. 25/2/3038-9).

Zare's complaint about obstruction to the fire-engine

71.5 After about five or ten minutes Zare saw smoke coming out of Bhilpura. At that time the third fire-engine was about to set out for Joshi Peth. Zare got into it and asked it to go to Bhilpura. He saw at the Madina Mosque stone-throwing going on from both sides. Stones were being thrown from the mosque on the Hindus collected in the lanes round about the mosque and the Hindus were throwing stones at the Muslims. Within about ten minutes a municipal car came for Zare with an urgent message that his presence was immediately required at the municipal office. He, therefore, returned to the municipal office and found that Gulam Rasool Bagban had sent for him. Gulam Rasool Bagban told him that arson was spreading and that he should ring up other places for fire-fighters. Accordingly, Zare made urgent telephone calls to the Municipal Council of Bhusaval; Yaval; Varangaon; Erandol, Chopda, Pachora and Amalner as also to the Varangaon Ordnance Factory. While he was making these telephone calls, the fire-engine, which had first gone out, returned and its two firemen, Rama Dhobi (C.W. 16) and Mohammed Nasir Shaikh Ibrahim (C.W. 18), came upto Zare and told him that stones had been thrown at the fire-engine No. MHS 2484. Zare sent Mohammed Nasir to fetch the Acting Chief Officer and on the Acting Chief Officer arriving, he told him that the fire-engine had been stoned and that he should prepare a letter to the City Police-Station asking for protection for the fire-engines. Accordingly the necessary letter was drafted and Zare signed it and sent it with a municipal peon to the City Police Station. The said letter (Ex. P 923) stated that fire had broken out at Maniyar Wada and that the municipal fire-fighters sent for extinguishing the fire had been obstructed by a mob near the Rath Chowk and requested for necessary police force at that spot without any delay so that there should be no obstruction to the fire-fighting operations. At that time four Municipal Councillors, namely, Sukhdeo Ganpat Yadav, Tamij Piran Bagwan, Gulam Rasool Bagban and Abdul Majid Mohamed Ibrahim, were in his chamber. Zare told Mohammed Nasir to take the fire-engine to Bhilpura. After Mohammed Nasir left the chamber, Sukhdeo and Abdul Majid told Zare that Mohammed Nasir had mentioned to them the name of Waman Pandit Khandke as being the person who had caused the obstruction to the fire-engine. At about 7-10 p.m. the fire-engine which had gone to Joshi Peth returned and its crew told Zare that they had come back because the fire-engine was stoned and obstructed by the mob. Zare there-upon went to the police station and told a police officer who was present to give him two constables as protection for the fire-engine. By that time it was about 7-30 p.m. Zare was given two constables from the Gas Squad and a Sub-Inspector to accompany the fire-engine.

in a police van. They went to Bhulpura and tried for about fifteen minutes to extinguish the fires. They had, however, to return along with the fire-engine because of heavy stone-throwing both on the fire-engine and the police van. The Police fired tear gas shells, but the wind being adverse the gas was blown on them instead of on the mob. The mob on the road was a Hindu mob of about 400 to 450 persons. The Sub-Inspector did not open fire with his revolver, but Zare did not know whether he was carrying his revolver or not. Zare thereupon returned to the City Police Station in the police van and the fire-engine followed (C.W. 25/2/3040-42).

The documents suppressed and tampered with

71.6 The evidence of the municipal employees clearly shows that a deliberate and studious effort has been made to tamper with all documentary evidence which could show that the fire-engines were obstructed or stoned. Obviously, this was done under the influence of some powerful municipal councillors or persons wielding influence in municipal politics, the reason apparently being that Waman Pandit Khadke, who became the Municipal President after Zare resigned, was prosecuted for obstructing a fire-engine. For this reason we find that the telephone register has been tampered with and entries interpolated therein and the fire reports in respect of the fire-fighting operations carried out during the disturbances were not got made or, if made, deliberately suppressed.

The telephone register

71.7 On May 8, 1970 the telephone clerk on duty at the municipal office from 4 p.m. till midnight was Bansi Kalu Pawar (C.W. 15), a municipal peon who was officiating as a telephone clerk in leave vacancy. The telephone register of the Jalgaon Municipal Council is Exhibit P 924. Each page of the said register is divided into five columns, respectively headed 'Date', 'Time', 'Telephone number', 'Particulars of the telephone call' and 'The signature of the telephone clerk'. From the entries under the date May 8, 1970 it appears that prior to the telephone calls about the fire started by arson during the disturbances, there were two other fire calls, the first at 11 a.m. about a fire in the Wada of Pandit Godbole and the second at 1.15 p.m. about a fire to a 'zopadpatti' in Zainabad. There is only one entry in the said register in respect of the fires started by arson during the disturbances. The time shown in the said entry is 5.05 p.m. The said entry reads as follows:—

“Received phone from Narayan Lotu Khadke near old town, there is fire near the threshing floor of Shri Pandit Ukha. Again phone came that arson has taken place near the Jumma Mosque. Accordingly after asking President and Chief Officer sent Head Fireman with fire-fighters to the place of fire and blew siren twice.”

The particulars given in the third column show that this telephone call was from telephone No. 382 which in May 1970 was the telephone number of the Vividh Karyakari Seva Sahakari Society at Vithal

Mandir Road, Vishal Path (C.W. 9/23/2361). This entry has been tampered with, because the word 'Narayan' is written over some other word, while the word 'Lata' is inserted in very small letters in the top space between the words 'Narayan' and 'Khandke' and between the first two lines the word 'Narayan' is again written out below the original overwritten word 'Narayan'. After some cigarette by way of exhortation Pawar finally admitted that the said over-writing and interpolations were done by him on the following day. He, however, denied that he had been asked by anyone to do this (C.W. 15/2/2602). The evidence clearly shows that there never was any fire near the threshing-floor of Pandit Usha Kotha. Perhaps the said call was deliberately made to call out the fire-engine to a wrong place or to make out falsely that the first act of arson was to a Hindu property. In the said entry a note has been made in the first three columns. The said note reads as follows :-

"Telephone on 8th May 1970 regarding fire received at 6 from Bhagwandas Mandare that fire near Chakki (flour mill) in Joshi Path, send fire-fighter. Also House No. 19 is set on fire was the phone from Chakkar office. Also at 6-45 Ramkishan Totaram Sonawant phoned that arson had taken place at Joshi Path, Chichpura and Bagwan Galli, send fire-fighters. Accordingly informed women men and phoned through trunk call to outside Municipalities."

Pawar has deposed that he made the said note from memory when he came on duty at 4 p.m. on May 9, 1970, his explanation being that after the first telephone call at 5-05 p.m. so many telephone calls were received that his mind could not function and he could not make any notes of these calls. A false explanation is harder to imagine, for this very witness has stated in the telephone register various other telephone calls received in the evening of May 8, 1970 at 5-10 p.m., 5-30 p.m., 5-40 p.m., 6 p.m. and 6-10 p.m., though not one of them related to any fire or arson. His statement that he made the said note when he came on duty at 4 p.m. on May 9, 1970 is equally false for as admitted by him all the entries between 4-00 p.m. and 4-30 p.m. on May 9, 1970 were made by the telephone clerk who was on regular shift. Further, this note is made in a different ink than the ink in which all the entries of May 9, 1970 have been made. Pawar's explanation was that this note was made with a fountain-pen while the said entries were made with a penholder, because the ink in the ink-stand was finished. This again is false, because if this were true, some entries prior or subsequent to the alleged time when the said note was made would also have been made with a fountain-pen, but instead they have all been made with the same penholder and ink (C.W. 23/1-2/2603-3). No value whatever, therefore, attaches to the said telephone register.

The fire reports

71.5. Like all other fire brigades the Jalgaon City Municipal Fire Brigade also maintained a Fire Report Book. The procedure followed

by the Jalgaon City Municipal Fire Brigade for submitting fire reports was that the driver of the fire-engine entered in a register called the Daily Diesel Oil Consumption Register details of each fire-fighting trip. From these details the head fireman of that particular shift wrote out a fire report in duplicate in the Fire Report Book. The original was submitted to the Engineer, Jalgaon Municipal Council, while the carbon copy remained in the Fire Report Book. The Engineer then submitted the report through the Chief Officer to the Standing Committee. The Engineer used to inspect the Daily Diesel Oil Consumption Register and initial it in token of such inspection (C.W. 9/18-20/2559, 22/2560, 25/2561).

71.9 Ramlal Sharma (C.W. 9), the Engineer of the Jalgaon Municipal Council, when first asked about the fire reports in respect of the fire-fighting operations carried out during the disturbances, replied that he did not remember when these fire reports were submitted and added that normally fire reports were submitted within a day or two of the fire-fighting operations. He was asked to produce the Fire Report Book containing the duplicates of the fire reports for May 8, 1970 which he produced the next day. This book showed that there were only two fire reports submitted for that day, the first in respect of the fire to Godbole's Wada at 11 a.m. and the second with respect to the fire to the 'zopadpatti' at Jainabad at about 1-15 p.m. and that there was no report whatever with respect to any of the fire-fighting operations carried out during the disturbances. The next report after the said report relating to the Jainabad fire was with respect to a fire on May 9, 1970.

71.10 Certain fire reports were submitted to the Standing Committee of the Jalgaon Municipal Council on June 20, 1970 and the Standing Committee passed a resolution directing them to be filed. These reports were the reports of the said two fires on May 8, 1970 and the said fire on May 9, 1970. Between May 8, 1970 and June 20, 1970 there were meetings of the Standing Committee on May 11, 1970, May 13, 1970, June 1, 1970 and June 3, 1970. Sharma could offer no explanation why the said three fire reports were not placed before the Standing Committee at any of these four meetings (C.W. 9/29/2582). Sharma, however, volunteered an explanation as to why the fire reports relating to the fire-fighting operations during the disturbances were not made. He stated that he had asked Head Fireman Hiranman Mali (C.W. 12) for an explanation the evening of the day on which he was asked by the Commission to produce the Fire Report Book and that Hiranman Mali had explained to him that a fire report had to contain the name of the owner, the casualties which had taken place and the cause of the fire and that in the case of the fires during the disturbances the actual cause of the fires, the number of casualties and the names of the owners of the buildings were not known and that a day or two after the disturbances he had gone to the police station to get these details but the Police told him that they were busy making panchnamas and these details could not be furnished to him until the

panchnamas were made. He was immediately faced with the other reports made on May 8, 1970, namely, those in respect of the fire at Godbole's Wada and at Jainabad, both of which mentioned the cause of the fire as "not known". Sharma further stated that till the evening of the day on which he was asked by the Commission to produce the Fire Report Book he had not made any inquiry why there were no reports in respect of the fire fighting operations carried out during the disturbances and that no one else had made any inquiry from him about this fact (C.W. 9/26/2563). In this connection a significant fact is that in the Daily Diesel Oil Consumption Register of fire-engine No. MHS 2485 the last line in the entry for May 8, 1970 was so scored out that it was not possible to read what had been written.

71.11 Hiranman Mali, the head fireman who was on day shift on May 8, 1970, repeated the same explanation which Sharma had stated Hiranman had given to him. The first explanation which Hiranman gave was that he did not know the numbers of the houses and that he had gone to the City Police Station to get them and the police station did not at any time furnish him with this information. On being shown the carbon copies of the said two fire reports for May 8, 1970 he admitted that there were a number of reports in the Fire Report Book which did not mention the house numbers and that the aforesaid explanation given by him was incorrect. He then changed his story to say that he was waiting for a report from the City Police Station and as they did not send the report, he had forgotten all about it. He admitted that the fires during the disturbances were the only fires in respect of which there were no fire reports (C.W. 12/2-3/2583-5).

71.12 It is obvious that neither Sharma nor Hiranman Mali was telling the truth. It is also obvious that the fire reports were deliberately not got made and the last line in the entry of May 8, 1970 in the Daily Diesel Oil Consumption Register of fire-engine No. MHS 2485 deliberately scored out in order to suppress the fact that the fire-engines were stoned and obstructed.

The suborned witnesses

71.13 While at Jalgaon the Commission examined seven employees of the Jalgaon Municipal Council, namely, Ramlal Sharma, the Engineer of the Jalgaon Municipal Council (C.W. 29), the telephone clerk Bansj Pawar (C.W. 15) and three drivers, one cleaner and a head fireman of the Jalgaon Municipal Fire Brigade. The evidence of these witnesses left no doubt that not one of them has spoken the truth and that they had not committed perjury voluntarily but were pressurized or coerced into doing so. Since the first complaint of the obstruction to a fire-engine was by the two firemen, Rama Tukaram Dkobi (C.W. 16) and Mohammed Nasir Shaikh Ibrahim (C.W. 18), who had gone to Maniyar Wada on fire-engine No. MHS 2484, the Commission felt that it would be desirable if these two and the cleaner, Dinkar Raghunath Ranavade (C.W. 17), who remained to be examined,

should be examined not at Jalgaon but at Bombay so that they might give evidence free from direct pressure. Unfortunately, the pressure upon these three witnesses was too great for distance to make any difference.

71.14 The main attempt made through the coerced perjury on the part of the employees of the Municipal Fire Brigade who were called in evidence was to make out that Rama Tukaram Dhobi (C.W. 16) and Mohammed Nasir Shaikh Ibrahim (C.W. 18) did not make any complaint to Municipal President P. K. Zare about the obstruction to or the stone-throwing on the fire-engines and that Rama Dhobi had not left on fire-engine No. MHS 2484 on which Mohammed Nasir was. We will first deal with the evidence of Mohammed Nasir and Rama Tukaram Dhobi. On May 30, 1970 Mohammed Nasir's police statement (Ex. P 930) was recorded by D.S.I., Y. L. Mokashi of the Special Investigation Squad, Jalgaon. In the said police statement he has stated that he went on fire-engine No. MHS 2484, to which he was permanently attached, to fight the fire at Maniyar Wada ; that when they came to Rath Chowk a Hindu mob started throwing stones on the fire-engine and Waman Pandit Khadke climbed up on the fire-engine from the rear ; that after about five or ten minutes the driver took the fire-engine ahead ; that two or three houses were on fire at Maniyar Wada ; that they stopped the fire-engine on the road, but Waman Pandit Khadke and Bhaskar Bhoite did not allow him to fix the hose and snatched it away from his hand ; that other people on the road were throwing stones at them ; and that on the advice of the other members of the crew he left the place and came running to the municipal office and reported the matter to Zare and the other Municipal Councillors who were present there. In his affidavit (Ex. No. 6) Mohammed Nasir has stated substantially what has been recorded by D.S.I., Mokashi in his said police statement (Ex. P 930). On September 8, 1970 Mohammed Nasir made an application to the D.M., Jalgaon (Ex. P 928), with a copy to the S.P., Jalgaon. Both the original and the copy have been signed by him. The said application stated that attempts were being made continuously to bring pressure upon him and threats were being given to him and temptations offered to him that he should give false evidence. It further states that Pandit Ukha Kolhe and Tukaram Shripat Choudhari had called him to the shop of Tukaram Choudhari and had asked him why he had given evidence against Waman Pandit Khadke and that this was not a good thing for him. In the said application he complained that his one month's leave was deliberately not sanctioned to him and that his salary was not being paid to him. Thereafter on September 22, 1970 another police statement of Mohammed Nasir (Ex. P 929) was recorded by D.S.I., R. G. Thakur of the Special Investigation Squad, Jalgaon. In this police statement he repeated what he had stated in his said application. Even though, as mentioned earlier, Mohammed Nasir's evidence was recorded at Bombay and not at Jalgaon, in the witness-box he looked terrified and coerced. He started by saying that he

was 23 years old and had joined the municipal service about ten years ago. This appearing to be obviously incorrect he was asked whether he had joined the municipal service when he was about 13 years old and his reply was, "I have no idea what is written in my affidavit". He was asked whether he had filled an affidavit before the Commission and his reply was, "I do not know what is in that affidavit". When the question was repeated he answered, "I have no knowledge of any such affidavit". The affidavit was shown to him and he admitted his signature on it and said that some big persons had come to his house and taken his signature on it. Though his affidavit was sworn before the Clerk of the Civil Court, Jalgaon, he said that he had not gone to any Court building to sign it. When his police statements were read out to him he admitted that they were true. The next day when he appeared in the witness-box the first thing he did was to volunteer the following statement:—

"I want to mention to the Court the true facts. There are two leaders in the town, namely, Indal Lal Kalyani, M.L.A., and Zare.

They took me to Congress Bhavan in Jalgaon and asked me to sign the application to the Collector."

On being questioned by the Commission he stated that he did not mention these facts on the previous day because he did not recollect them and that after that hearing was over he went and stayed in Sardar Hotel with two persons from his department, namely, Dattu Kapse and Mulchand Channu Bawiskar, both of them drivers in the Jalgaon Fire Brigade, who were present when his evidence was being recorded, because he had a headache and that these two looked after him and took proper care of him. It is strange that these two employees, who had not been summoned, should have also come to Bombay and remained present when the evidence of this witness was being recorded. The reason is not very difficult to understand. Mohammed Nasir's evidence on the second day makes pitiable reading. In one breath he kept on repeating that his police statements were true and in another he said that he had not met Zare in the evening of May 8, 1970. He further said that he had run away because he was afraid for his life because the persons in the mob were throwing stones and were carrying sticks, that there were all kinds of people all over there, Hindus as well as Muslims, that he could not identify anyone and that he straight ran to his house. Ultimately he gave up all attempts and said that he did not remember what the correct position was (C.W. 18/1-10/2616-22). There can be no doubt that Mohammed Nasir was committing perjury while giving evidence. There can be equally no doubt that he was forced and pressurized into committing perjury.

71.15 An attempt was made to show that though Rama Tukaram Dhobi (C.W. 16) was a fireman attached to fire-engine No. MHS 2484, when the first fire call of the disturbances was received he had gone to the latrine and, therefore, could not go on that fire-engine but went later to the scene on another fire-engine, namely, fire-engine No. MHS

2485, and then joined his own fire-engine at Maniyar Wada. This attempt was made with a view to eliminate the possibility of Rama Dhobi being an eye-witness to the obstruction to the fire-engine No. MHS 2484 at Maniyar Wada and the clearing of a way for it by a lathi-charge and the firing of tear-gas shells by the Police and his going along with Mohammed Nasir to complain to Zare about the stone-throwing. The length to which the parties interested in setting up this false case have gone can be judged from the evidence of Rama Dhobi and the other witnesses on this point. Rama Dhobi had been tutored so much that the only predominant thought in his mind was that at the relevant time he had gone to the latrine, so that when Rama Dhobi stepped into the witness-box and one of the first questions asked to him was on how many occasions he had gone on fire-fighting operations on May 8, 1970, his answer was, "The first occasion was at 1 p.m. The next occasion was at about 2 p.m. Thereafter I went to the latrine". Realizing from the burst of laughter which greeted this answer how foolish this answer sounded, after some hesitation and prevarication he said that on the first two occasions he was on fire-engine No. MHS 4484 and went to the latrine at about 5 p.m. for about fifteen minutes. He was immediately asked, "What did you do after coming out of the latrine"? His answer was, "This relates to the third fire". The question was repeated and his answer was, "When I came out of the latrine my fire-fighter No. MHS 4484 had left". He was so frightened at the lies he had been asked to tell that throughout his evidence he could not even give the correct registration number of the fire-engine No. MHS 2484, but kept on calling it fire-engine No. MHS 4484. He had brought with him a slip of paper on which were written the registration numbers of fire-engine No. MHS 2484 and the fire-engine on which he alleged he had gone to Maniyar Wada. He deposed that the said slip had been given to him by Head Fireman Hiranman Mali (C.W. 12) the evening before he left Jalgaon to come to Bombay to give evidence before the Commission. He said that he could not remember the names of any of the members of the crew of the fire-engine No. MHS 2484 or the fire-engine No. MHS 2485, but that he remembered only the names of the persons who were not on either of these two fire-engines and that there was only one such person who was not on either fire-engine, namely, Mohammed Nasir. He deposed that Mohammed Nasir was throughout with him except only at Maniyar Wada. Parrot-line he said that no one had obstructed their fire-engine nor had any stones been thrown at it nor did he hear any burst of tear-gas shells nor notice any any such shells being fired. He admitted seeing crowds running here and there. When directly asked what conversation had taken place between Hiranman Mali and himself just before he left for Bombay, he denied all remembrance of it. He denied his police statement recorded by D.S.I., Y. L. Mokashi of the Special Investigation Squad, Jalgaon, on June 4, 1970 in which he had stated that Nasir was in fire-engine No. MHS 2484 when it

left for extinguishing the fire at Maniyar Wada. Trying to stick to his falsehood, he could not make up his mind whether the municipal siren sounded while he was in the latrine or after he had come out of the latrine (C.W. 16/1-12/2604-9). He was a completely untruthful witness and was totally discredited in the witness-box and it is not worthwhile discussing his evidence further.

71.16 Ramdas Kisan Patil (C.W. 10) alleged that he was driving fire-engine No. MHS 2484 in the afternoon of May 8, 1970. According to him, he was not a driver attached to any particular fire-engine. The only occasion in respect of which he remembered the number of the fire-engine which he had driven was the one with respect to the first fire call of the disturbances, namely, fire-engine No. MHS 2484. He did not remember for any occasion the names of any of the members of the crew of the fire-engine on which he was. It had, however, been so drilled into his head that Rama Dhobi did not leave on his fire-engine that when he was asked who were with him on the fire-engine when he went to extinguish the fire at Maniyar Wada, he replied, "Rama Dhobi was not with us as he had gone to the lavatory. The persons who were with me were Rama, I mean Nasir, Rama, I mean Shamrao, Raghunath Sonavane". He alleged that Head Fireman Hiranman Mali had come initially on his fire-engine but could not explain why though he had mentioned the names of the other members of his crew in his police statement recorded on June 4, 1970 by D.S.I., Mokashi he had not mentioned therein the name of Hiranman Mali. Like others he too alleged that there was no obstruction to the fire-engine and disclaimed all knowledge of the arrest or prosecution of Waman Pandit Khadke (C.W. 10/1-14/2569-78). His evidence is as worthless as that of the other witnesses.

71.17. Shamrao Pawji Patil (C.W. 11), a cleaner, alleged that he had gone on fire-engine No. MHS 2484 to Maniyar Wada. Getting somewhat mixed up between who was supposed to be on fire-engine No. MHS 2484 and who was not supposed to be on it, he deposed that Rama Dhobi was on this fire-engine, while Mohammed Nasir and Hiranman Mali were not. He further deposed that he did not see any stone-throwing anywhere and that nobody tried to obstruct the fire-engine. In his police statement recorded on May 14, 1970 by Inspector Sawant he had, however, stated that at Maniyar Wada there was a large crowd and that the persons in the crowd were throwing stones. He alleged that he had not made this statement. I, however, disbelieve him. He admitted that he belonged to the same caste as Waman Pandit Khadke, namely, Leva Patidar, but denied all knowledge about Waman Pandit Khadke's prosecution (C.W. 11/1-8/2579-81).

71.18 Hiranman Mali (C.W. 12), the head fireman, deposed that he had gone on fire-engine No. MHS 2484 when it went to extinguish the fire at Maniyar Wada. Though he deposed before the Commission that Rama Dhobi was not there on this fire-engine when it set out, he had stated in his police statement recorded by Inspector Sawant

that he was present. He admitted that Mohammed Nasir was on this fire-engine. He further stated that he had opened the valve and when he returned to the fire-engine, he did not see Mohammed Nasir there and was informed that he had gone to the municipal office. Strangely enough, according to him, he did not at any time make any inquiry why Mohammed Nasir had left even though he alleged that Mohammed Nasir had left without his permission. He denied that there were any crowds or persons on the road or any obstruction to the fire-engines and said that it did not occur to him at any stage that these were fires started in the course of the disturbances and that he did not know that there were riots in Jalgaon. Finally, he admitted that the Police fired tear-gas shells for dispersing the mobs. It was put to him that it was because Mohammed Nasir was obstructed that he had returned to the municipal office to make a complaint and it was for this reason that he, that is, Hiranman Mali had not made a report against Mohammed Nasir for leaving his post of duty. His first answer was, "He left without my permission". The question was repeated and his next answer was, "I subsequently learnt that he had gone to the municipal office. When I asked Shaikh Nasir he told me that he had gone to the municipal office to fetch the other fire-fighter". The question was again repeated and his answer was, "I have no idea about the complaint made by Shaikh Nasir". The question was repeated yet again and his answer was "This was not the reason why I did not report Shaikh Nasir". He was asked when he had made the inquiry referred to above from Mohammed Nasir and he replied, "I did not meet him that night". The question was repeated and he replied that he had asked Mohammed Nasir the next morning when he met him. When he talked of extinguishing fires in Bagwan Mohalla he was asked to whom the houses in Bagwan Mohalla belonged and he replied that he did not know and that they belonged to Bagwans. When asked whether Bagwans were Hindus or Muslims, after considerable hesitation and circumlocution he replied that they were Muslims. When he tried to disclaim all knowledge of obstruction and stone-throwing, he was shown his statement to the contrary in his police statement recorded by Inspector Sawant and could not explain of this fact appeared in his police statement. (C.W. 12/5-8/2586-91).

71.19 Pádmakar Baburao Vadhnere (C.W. 13) was the driver of fire-engine No. MHS 2170. While he had gone to fill the water trough for cattle at Nashirabad Naka he heard the municipal siren and returned to the municipal office and on being informed that there was a fire at Maniyar Wada he went there with the fire-engine. He deposed that he saw people running here and there on the road and the Police were pushing them to the sides to clear a passage for the fire-engine. He denied that there was any obstruction or any stone-throwing and he mentioned the names of three persons who were with him on the said fire-engine, namely, Hafizkhan Gulsherkhan, cleaner, Murlidhar Sapkale, fireman, and Chavdas Babu, fireman. Mr. Choudhari for

the Jalgaon Municipal Council then put to him this leading question: "When you left the Municipal Office to go to Maniyar Wada, apart from the three persons named by you earlier did anyone else accompany you"? and his answer was, "Rama Tukaram, who was left behind, came along with me on the fire-fighter" (C.W. 13/2-3/2592-3).

71.20 Baliram Budha Sapkale (C.W. 14) was the driver of fire-engine No. MHS 2485. According to him, while returning to the municipal office after sprinkling water on the roads, he crossed fire-engine No. MHS 2484 and he followed it. He saw crowds collected in the lanes and by-lanes of Koli Peth but alleged that they did not trouble them in any way nor threw any stones. He also deposed that the Police were pushing back the crowd with lathis and fired tear-gas shells as a result of which his eyes started watering, but he said that he was so engrossed in his work that he did not know what had happened for the Police to fire these shells. The entries in the Diesel Oil Consumption Register of fire-engine No. MHS 2485 were written partly by him and partly by the driver who came on the night shift. As mentioned earlier, the last line in that entry has been scored out in such a fashion that the writing scored out cannot be read. He admitted having done this scoring out himself and purported to give the explanation that he scored out that line because there might have been some stain there. He too like the other municipal employees stands discredited as a perjured witness.

71.21 The last of this set of perjured witnesses was Dinkar Raghunath Ranavade (C.W. 17), cleaner, who was on fire-engine No. MHS 2485. Though in his statement to the police recorded by Inspector Sawant on May 14, 1970 he had stated that the fire-engine No. MHS 2485 was stoned at Rath Chowk, Joshi Peth and Bhilpura, before the Commission he denied this fact. He was asked whether the houses on fire at Maniyar Wada belonged to the Hindus or the Muslims and he answered that they belonged to both Hindus and Muslims. When this question was repeated, he ultimately answered that they belonged only to the Muslims. His evidence too cannot be believed.

Conclusion

71.22 The evidence of the police officers, which we have already considered earlier, leaves no doubt that there were repeated obstructions to the fire-engines and that stones were thrown at the fire-engines to prevent them from carrying out fire-fighting operations. Since every property set on fire was a Muslim property, it would be absurd to think that this obstruction was on the part of the Muslims. It could only have been on the part of the Hindu rioters as the police witnesses have deposed. Each of these municipal employees has committed perjury. It is unfortunate that those in positions of power and authority on whose goodwill the future livelihood of these witnesses depended should have, to suit their ulterior purpose, stooped so low as to force these poor employees to commit perjury.

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CHAPTER 72

ADEQUACY OF MEASURES TO DEAL WITH THE DISTURBANCES

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CHAPTER 72

ADEQUACY OF MEASURES TO DEAL WITH THE DISTURBANCES

Prefatory observations

72.1 A more inapt, ineffective and inefficient way of dealing with any disturbances than the manner in which the disturbances at Jalgaon were dealt with until S.P., Raman arrived on the scene can hardly be imagined. The measures taken till then to control the disturbances are a classic example of what not to do during any disturbances and ought really to form a chapter under this heading in any manual on riot control. Police officers want us to believe that they had made up their minds to open fire, but just then someone else came up and forestalled them. Thus, according to Inspector Sawant, he wanted to open fire at Rath Chowk, but S.D.M., Kulkarni in the meantime came on the scene and ordered fire to be opened; Asst. S.P., Azad wanted to open fire at Bhilpura, but he saw a jeep going towards the Jumma Mosque with the S.P. in it and the S.P. opened fire. Every police officer is invariably elsewhere when arson is taking place, not arson to just one or two houses but to all the houses in lane after lane. This sounds very much like a game of hide and seek in which the rioters are seeking the Muslims and their properties and the Police are hiding and not seeking anything but to be conveniently away from the scene of rioting and arson.

72.2 The adequacy of the measures taken to deal with the disturbances in different localities has already been dealt with, in Chapter 66 (paragraphs 66.33 to 66.35) in the case of the disturbances at Maniyar Wada, in Chapter 67 (paragraph 67.63) in the case of the disturbances at Joshi Peth, and in Chapter 68 (paragraphs 68.34 to 68.36) in the case of the disturbances at Bhilpura and Islampura. It is not necessary to deal with these matters again in this Chapter. What will, therefore, be discussed in this chapter are certain other aspects of the measures taken to deal with the disturbances.

S.P., Raman's stay at Pachora

72.3 Even assuming that Jalgaon was not considered by the Police to be a communally sensitive spot, it is clear from the evidence that after September 1969 there had been considerable communal tension in Jalgaon, even though it might have apparently subsided from the last week of March 1970. The incident which took place after Bal Thackeray's visit on April 16, 1970, however, clearly showed that there was every possibility of tension reviving. Though as held in Chapter 59

(paragraph 59.127) no fault can be found with S.P., Raman for having left Jalgaon for Pachora in the night of May 7, 1970, the question is whether he should have continued to stay on at Pachora until he was informed about the outbreak of the disturbances. Three crash wireless messages had been received at intervals on May 8, 1970, one from the D.I.G. (B.R.) (Ex. P 707) and two from the I.G.P. (Exs. P 708 and 709). The news about the Bhiwandi disturbances had already come on the radio and had appeared in the morning papers including the local morning paper 'Gaokari'. Even if Jalgaon was not a communally sensitive spot, there were other communally sensitive spots in the district. The S.P. knew or must have known that the D.M. had left to attend a conference at Mussoorie, that the Asst. D.M. had left for Bombay the previous day, that the S.D.M., Jalgaon, had gone to Bhusaval, that the S.D.P.O., Jalgaon, was at Faizpur on an inspection tour, that Home Police Inspector M. N. Patil as also Reserve Police Inspector Kadri in charge of the Headquarters had gone on leave and that the S.D.P.O., Chalisgaon, was also proceeding on leave. The S.P. himself had ordered Inspector R. M. Patil in charge of the D.S.B., who was holding charge as Home Police Inspector in place of M. N. Patil, to proceed to Bhiwandi along with two other sub-inspectors from Jalgaon.

72.4 S.P., Raman has sought to explain why he did not return to Jalgaon until he was informed about the disturbances. He has deposed (P.W. 67/18/2246-7) :

"I did not return to Jalgaon immediately because it is not incumbent for an S.P. to return immediately to the headquarters on receiving an alert notice. I was at Pachora where the communication facilities were available to the same extent as in Jalgaon. I had telephonic talks with my officers in Jalgaon and obtained their assessment of the situation and no untoward incident was reported which could give rise to an apprehension that the situation was not normal. Pachora is at a distance of about 40 miles from Jalgaon and one could motor down from Pachora to Jalgaon in about an hour's time." This is an amazing explanation. Raman had gone to Pachora for a routine 'muddemal' inspection. There were almost no senior police officers or Executive Magistrates present at the District Headquarters. There was no one of any competence or experience who could have co-ordinated the measures necessary to control the disturbances. There was nobody who could have taken effective steps to meet the situation had trouble broken out in other sensitive areas in the district instead of in Jalgaon. The futility of the reliance he placed upon the one telephone message he made to Jalgaon and the communication facilities at Pachora is demonstrated by the events which in fact took place. He was not informed till 5-45 p.m. about the outbreak of the disturbances at Jalgaon, by which time the situation had got out of hand and arson had already started. Even if he left Pachora immediately, according to himself it would take at least an hour to reach Jalgaon, during which period he would be cut off from all

communications while travelling in his car, as he in fact was cut off. As his report dated May 9, 1970 (Ex. P 889) shows he had no idea what was happening at Jalgaon until he arrived there and saw that arson had taken place in almost every Muslim locality and almost all Muslim 'mohallas' were in flames. There was no wireless receiving station at Pachora. Any message received in the district headquarters, therefore, would have to be communicated to the S.P. at Pachora by telephone. By the I.G.P.'s crash wireless message Exhibit P 709 all S.Ps. in the State were "alerted to maintain utmost vigilance and take fullest precautionary measures against possible repercussions at trouble spots". S.P., Raman could hardly have done this from Pachora. It is significant that after the three crash wireless messages were communicated to him, no one rang him up and it was he who had to ring up Jalgaon at 11-40 a.m. to inquire about the situation. As admitted by him, apart from the three telephone calls in the morning giving him information about the crash wireless messages and the one in the evening giving him information about the outbreak of the disturbances, there was no other telephone call from Jalgaon for him and the only calls put in by him to Jalgaon were at 8-41 a.m. to give instructions in connection with the crash wireless messages and the other at 11-40 a.m. to Inspector Sawant to ascertain about the situation (P.W. 67/105/2289-90). It was only after Raman's arrival at Jalgaon that really effective measures were taken to control the disturbances and the disturbances were put down. He promptly opened fire and began co-ordinating measures both for putting down the disturbances and for relief and fire-fighting operations. Had S.P., Raman been in Jalgaon when the disturbances broke out, the disturbances would not have taken such a serious turn and so much loss of life and property would not have occurred.

72.5 In my opinion, it was a serious error of judgment on the part of S.P., Raman to have continued to stay on at Pachora engaging himself in a routine 'muddemal' inspection after being informed about the said three crash wireless messages, particularly the third crash wireless message Exhibit P 709.

The failure to inform senior officers about the disturbances

72.6 The evidence shows that there was complete indifference and inefficiency prevailing at the Jalgaon Police Headquarters and the Jalgaon City Police Station. The elementary things which one would have expected to be done were not done. Neither the S.D.P.O., Jalgaon, nor the S.D.P.O., Chalisgaon, nor the S.D.M., Jalgaon, nor the S.D.M., Chalisgaon, nor the Home Guards Commandant were informed about any of the crash wireless messages or even about the outbreak of the disturbances. In fact, all of them learnt about the disturbances from other sources. No attempt was made to contact the S.D.P.O., Jalgaon, at Faizpur or the S.D.M., Jalgaon, who had returned to Jalgaon by 2-30 p.m. nor was any attempt made to contact either the S.D.M., Jalgaon, or the S.D.P.O., Chalisgaon, both of whom were

in Jalgaon itself. No attempt was made to inform the D.M. in the morning about any of the crash wireless messages. It was only in the evening of May 9, 1970 when he reached Balabhgarh, a suburb of Delhi, and stopped there to get a puncture repaired that D.M., Pardeep read in the evening papers about the disturbances at Jalgaon. He immediately proceeded to his family place in Delhi and was informed that a telegram to this effect sent by his stenographer Mahabal had already arrived there. He immediately tried to secure a seat on the plane and with some difficulty managed to get a seat on the morning plane and flew down to Bombay and from there proceeded by Nagpur Express to Jalgaon, reaching Jalgaon in the evening of May 10, 1970 (C.W. 21/8/2862-63). Had he been informed about these crash wireless messages on the morning of May 8, 1970 most probably he would have been in Jalgaon at least a day earlier.

The manning of the City Police Station

72.7 In spite of the crash wireless messages, not a single police officer remained at the City Police Station after 1-30 p.m. and the police station was left in charge of a head constable, namely, Girdhar Chiman Bendale, a Grade III Head Constable, who continued to be in charge of the police station all throughout the afternoon and the evening of May 8, 1970 during the most crucial hours in the history of Jalgaon. Bendale was wholly unable to cope with the situation and, except sending information to Inspector Sawant and Sub-Inspectors Bhalerao and Karhadkar, he did not even communicate the news of the outbreak of disturbances to any of the superior officers. It was wholly beyond his capacity to co-ordinate effectively the reports which were streaming into the police station and to dispatch adequate police reinforcements where necessary. No more could have been expected from a police head constable. What was required to be done was for a police officer of the rank of sub-inspector at least to have remained at the police station and for the other police officers to have remained in touch with him.

Lack of co-ordination

72.8 Though on receipt of the news of the outbreak of the disturbances Dy. S.P., Ghorpade, Inspector Sawant and P.S.Is., Bhalerao and Karhadkar rushed to the spot of trouble without any delay, none of them on reaching Maniyar Wada thought of going back to the police station for taking stock of the situation or for trying to understand the overall position or to co-ordinate the measures for putting down the disturbances. They merely concentrated on the actual riots which were taking place in the particular localities in which they were. Their mode of dealing with the disturbances was such that the mob, when pushed back from one area, went to another area, bent on its course of arson and murder, the Police either standing by helplessly or following it from locality to locality after havoc had already been done. Out of the four police officers who were there, namely, Dy. S.P., Ghorpade, Inspector Sawant and Sub-Inspectors Bhalerao and

Karhadkar, at least one of them should have, by mutual arrangement, left the spot and gone to the police station to gather information about the situation in the other parts of the city and for obtaining proper reinforcements and for co-ordinating action. Even Dy. S.P., Ghorpade, who left at about 5-45 p.m., did not leave Maniyar Wada for that reason, but for the purpose of getting his blood-pressure checked at the Civil Hospital. The only officer who thought of going back to the police station with the express purpose of taking stock of the situation and for promulgating the curfew order was S.D.M., Kulkarni. There was no officer present at Jalgaon who had the capacity to take overall charge of the situation and to guide the co-ordinate the police measures in different parts of the city. The only officer who could have done so and who did so was S.P., Raman who for almost the first two and half hours of the disturbances was at Pachora busy with a routine 'muddemal' inspection and thereafter for nearly an hour and a half by himself in his car on his way to Jalgaon.

Constables in mufti

72.9 Inspector Sawant's evidence shows that while the Police were lathi-charging the Hindu mobs at the Jumma Mosque Head Constables Pralhad Shankar Wani and Narayan Thakre and Constables Bhimsing Madhavsing and Pundalik Goba Joshi, all of whom were residing at Rath Chowk, came to the Jumma Mosque in mufti on learning about the disturbances, bringing their lathis with them and took part in lathi-charging the mobs and got mixed up with the mobs which they were lathi-charging. Out of these four policemen, Constable Pundalik Goba Joshi had been relieved on transfer. The other three were attached to the City Police Station and were on duty that day. The muster-roll of the City Police Station showed that on May 8, 1970 Head Constables Pralhad Shankar Wani and Bhimsing Madhavsing were on duty in the Detective Branch, while Head Constable Narayan Thakre was a Reserve Police Station Officer and along with two constables was deputed by H.C., Bendale to Rath Chowk for riot duty on his receiving the first telephone call about the rioting at Maniyar Wada. Sawant has deposed that as he was busy he did not ask them why they were not in uniform. There was also another constable in mufti, Constable Sudhakar Yeshwant Mehrunkar, who took part in dealing with the disturbances at Wada. On May 8, 1970 he was assigned patrolling duty at Rath Chowk from 9 a.m. till noon and again from 5 p.m. till midnight. Both he and H.C., Narayan Thakre were required to be in uniform [S.P.O.W. 9/1(9)/3104(6), 14/2988-9, 25/3113]. Whatever excuse there might be for the two Head Constables who were that day on duty in the Detective Branch, there does not appear to be any excuse for Head Constable Narayan Thakre or for Constable Sudhakar Yeshwant Mehrunkar to be in mufti when coming on riot duty. From the further evidence of Inspector Sawant it appears that there were in all five or six constables in mufti with him who

were assisting him in lathi-charging the mob. This is an amazing way of attending to riot duty, for a constable to attend riot duty in mufti means to lose his identity in the mob of rioters. Sawant, of course, would not have any time on that day, but there was nothing to prevent him from making an inquiry into this subsequently. He, however, did not make any such inquiry. This fact shows to what extent slackness had permeated the Jalgaon City Police Station.

Curfew order

72.10 S.D.M., Kulkarni reached Rath Chowk at about 5-40 p.m. Seeing the situation on his way to Rath Chowk as also at Rath Chowk he decided to issue a curfew order under section 144, Cr. P.C., with immediate effect. For this purpose he arranged to get a loud speaker for announcing the order. Written orders in this respect were, however, received later at about 7-30 p.m. His clerk went back, got the order typed, returned to the police station and obtained Kulkarni's signature on it and then issued copies. The order was, however, orally promulgated much earlier.

The failure to collect intelligence

72.11 In view of the crash wireless message received from the D.I.G. (B.R.) and the I.G.P., the normal and ordinary thing one would have expected the D.S.B. and the State Intelligence officers in Jalgaon to do was to collect intelligence in order to ascertain the reaction in Jalgaon to the news of the Bhiwandi disturbances. The evidence shows that no attempt, except the most perfunctory, was made to collect such intelligence.

72.12 We will first consider the case of the D.S.B. In his statement dated June 18, 1970 (Ex. P 879) recorded by S.P., Raman, P.S.I., Walvekar has set out in detail his movements on May 8, 1970. To summarize the said statement, when the I.G.P.'s crash wireless message (Ex. P 707) was brought to him in the morning at 6-45 a.m. by P.C., Janardan Dagdu Patil, he told Patil to telephone to all police stations in the towns which were communal pockets as also to the Jalgaon City Police Station and the Pachora Police Station intimating about the said crash message. He then went to the City Police Station and booked trunk calls to police stations in all communal pockets except Erandol Police Station. These calls came through by 9 a.m. He then went personally to the Home Police Inspector R. M. Patil and informed him of the telephone calls he had made. He then again returned to the City Police Station and waited for the Home Police Inspector. He asked Head Constable Dhure and Constables Janardan Patil and Sakharam of the D.S.B. to move about in the city and collect intelligence about the situation. These policemen returned at noon and informed him that there was nothing in particular and that business was going on as usual. While he was at the Jalgaon City Police Station, another crash wireless message Exhibit P 709 was received from the I.G.P. Thereupon he asked these constables to issue circulars to all

police stations in writing. Inspector Sawant instructed him that these written communications should be sent to all police stations by special messengers that very day. At 2-30 p.m. he came to the City Police Station and telephoned to the D.S.B. office and to the office of the S.P. inquiring whether these messages had been issued and then went to his residence. Thereafter at about 5-15 p.m. or 5-30 p.m. Constables Arun Joshi and Tukaram Chaudhari of the D.S.B. came to his house and informed him that circulars to all concerned police stations had been dispatched with special constables. They also told him that stone-throwing was going on in Old Jalgaon. He asked Constable Tukaram Chaudhari to inform P.S.I., Badgujar and himself went to the City Police Station. Badgujar also came there. Walvekar then informed some of the police stations in the district on the phone about the outbreak of the disturbances at Jalgaon and asked for reinforcements to be sent to Jalgaon.

72.13 Assuming that all that Walvekar has stated about his movements is correct, on his own showing he personally did not move about in the city nor personally make any effort to collect information, but merely relied upon his head constable and constables to take a round in the city and report to him about the situation. The information which Walvekar alleges he got from his D.S.B. constables about the situation in the city is at variance with what Sub-Inspector Badgujar of the State Intelligence saw. According to P.S.I., Budgujar, in the morning of May 8, 1970 he moved about in the city upto Rath Chowk and though he did not see any particular activity in the city, he saw groups of persons in Subhash Chowk discussing the Bhiwandi disturbances. He then went to his residence which was also his office and was there till his office peon came to his house after 5-30 p.m. and informed him about the disturbances. Thereupon he went to the City Police Station (C.W. 22/5/2915-6). Even if the situation in Jalgaon in the morning was not such as to create much anxiety, commonsense should have told the Intelligence officers that with the filtering in of further news and rumours and the arrival in the afternoon of the morning papers from Bombay and other towns the situation could easily change. We would have, therefore, expected Walvekar to have instructed his men to go round the city in the afternoon. He admitted that he neither gave any such instructions nor himself took any round in the city (S.P.O.W. 11/9/3163).

72.14 We have already seen how Walvekar had failed to give any report to the S.P. even about the incidents which took place prior to May 8, 1970. It is one of the duties of the District Police to collect and supply information to the S.P. on all political and communal matters and on all activities affecting or likely to affect law and order or security. For this purpose a special staff of plain-clothes men is provided for each district designated as the District Special Branch. In order that the work of collecting intelligence may be carried out efficiently and the best results may be achieved there should be perfect

co-operation and understanding between the District Special Branch and the State Special Branch. Chapter I of the Manual of Instructions for organization of District Special Branch, C.I.D., Bombay State, also provides for this. What one would have expected Sub-Inspector Badgujar to do on going round the city was to have gone to the D.S.B. office and the City Police Station to ascertain what intelligence had been collected by them. No such thing was done by him, nor on his side did Sub-Inspector Walvekar try to contact any of the officers of the State Intelligence Branch to find out what information they had collected. Sub-Inspector Badgujar also did not take any round in the city in the afternoon. The report about the Bhiwandi disturbances which had appeared in the local morning newspaper the 'Gaokari' was a perfunctory report. Any Intelligence Officer would understand that such a perfunctory report would be a source of wild rumours which would be further fed when more detailed reports arrived in the afternoon by the morning newspapers from Bombay and other towns. There can be no doubt that the officers of the District Special Branch and the State Intelligence Branch in Jalgaon did not realize the importance of the crash wireless messages and the likely repercussions which the news of the Bhiwandi disturbances and the rumours which must necessarily follow in their wake would have on the communal situation in Jalgaon, but instead took the whole thing very much as a matter of routine.

72.15 I have already dealt with the manner in which Sub-Inspector Badgujar failed to report on the communal incidents which took place in Jalgaon prior to May 8, 1970. The special report dated May 9, 1970 which he made to the D.I.G. (Int.) on the disturbances (Ex. No. 40) furnishes a clue to his mentality. It contains statements which the evidence led before the Commission shows to be false. According to him, some Hindus and Muslims were gambling with cards near Ram Peth in the afternoon of May 8, 1970 when, being aggrieved during the play, some Muslims started throwing burning torches on the houses of the Hindus which provoked the Hindus to retaliate. He has reported about a house of a Sindhi in Joshi Peth being set on fire. He has further stated about crowds of Hindus and Muslims stoning each other and the fire-engines being obstructed both by the Hindus and the Muslims. The evidence clearly discloses that the disturbances did not commence in the manner alleged by Badgujar, nor did any Muslim throw a burning torch at any Hindu house, nor did the Muslims obstruct any fire-engine and, as Dy.S.P., Mahajan has admitted, no house of any Sindhi was set on fire (P.W. 96/9/3208). Inquiries made and further information received showed that Badgujar's report Exhibit No. 41 contained incorrect statements. The D.I.G. (Int.) by his order dated June 8, 1970, in which it was stated that the report submitted by Badgujar was found to be inaccurate in material particulars, reprimanded him for his negligence and warned him to be more careful (C.W. 11/18/2909-10).

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CHAPTER 73
THE SUSPENDED POLICE OFFICERS

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CHAPTER -73

THE SUSPENDED POLICE OFFICERS

Dy. S.P., Ghorpade

73.1 Dy. S.P., Ghorpade was the S.D.P.O., Chalisgaon Division. He was placed under suspension after the disturbances pending a departmental inquiry into his conduct during the disturbances of May 8, 1970. He was prematurely retired with effect from November 19, 1971.

73.2 Ghorpade's conduct in relation to the disturbances is to be judged with reference to the rioting at Maniyar Wada, Bhillpura and Islampura. There are three things which are against him: the first is failure to open fire at any of these three places, the second is the strategy adopted by him to make the Muslims, who had collected in the lanes and the by-lanes in self-defence, to go inside their houses, and the third is leaving the scene of the disturbances in order to get his blood-pressure checked. All these topics have already been dealt with in Chapters 66, 68 and 70. As mentioned earlier, his case evokes more sympathy than condemnation. At Maniyar Wada he was the only police officer who managed to control the rioting mobs, and it speaks to his credit that it was only when he left the scene that arson commenced though, as held in Chapter 70, his contention that he was not entitled to open fire is incorrect. One can understand his hesitation to open fire and face an inquiry in which his power to open fire or to order fire to be opened could be called in question. He did leave the scene of the riots at Maniyar Wada, but his explanation that at that time the situation seemed to have come under control cannot be dismissed as untrue because the evidence of Municipal President P. K. Zare supports him. Zare has deposed that when he went to Rath Chowk at about 5-45 p.m. he only saw about fifteen to twenty Hindus gathered there (C.W. 25/2/3039). What, therefore, emboldened the rioters to come out again was the absence of Ghorpade. It was not as if Ghorpade had intended to leave the scene of the disturbances for good. He had gone to have his blood-pressure checked and once that was done he straight went back to the City Police Station and from there to deal with the rioting at Bhillpura.

Inspector Sawant

73.3 By S.P., Raman's order dated May 25, 1970 (Ex. P 856) Inspector Balkrishna Raghunath Sawant, Inspector-in-charge, the Jalgaon City Police Station, (S.P.O.W. 6), was placed under suspension with effect from the date of the receipt by him of the said order,

pending a departmental inquiry into his conduct "about his dealing with the communal situation at Jalgaon" on May 8, 1970. The said order was received by Sawant on May 26, 1970. There is not much that can be said about Inspector Sawant's handling of the situation or the measures taken by him to deal with the disturbances. The adequacy of the measures taken by him has been discussed in Chapters 65, 70 and 72. These measures show a complete inability on his part to control the situation.

Inspector R. M. Patil

73.4 By the I.G.P.'s order dated July 2, 1970 (Ex. P 857) Inspector R. M. Patil, Inspector-in-charge of the D.S.B. and L.C.B., who, during the absence of Inspector M. N. Patil on leave, was also looking after the functions of the Home Police Inspector on May 8, 1970, was placed under suspension with effect from the date of the receipt by him of the said order, pending a departmental inquiry into his conduct for his failure to obey the orders of the S.P., Jalgaon, to proceed to Bhiwandi by the Varanasi Express for emergency duty and for remaining at Jalgaon concealing his presence during the evening of May 8, 1970 when rioting and arson had started in the city on a large scale. The said order was received by Patil on July 7, 1970. By the I.G.P.'s order dated May 3, 1973 (Ex. G 396) he was given the benefit of the doubt and relieved from suspension and his period of suspension was treated as such. By another order passed by the I.G.P. on May 3, 1973 he was treated as having retired from service as he had reached the age of fifty-eight on August 28, 1972 while under suspension (Ex. G 396). The conduct of Inspector Patil does not come within the scope of this Inquiry and, therefore, does not require to be discussed.

Sub-Inspector Kolte

73.5 By S.P., Raman's order dated July 6, 1970 (Ex. P 859) P.S.I., R. R. Kolte of the Jalgaon Taluka Police Station was placed under suspension from the date of the receipt by him of the said order, pending a departmental inquiry into his conduct on the same charges as those made against Inspector R. M. Patil. The said order was received by Kolte on July 7, 1970. In the departmental inquiry he too was given the benefit of the doubt and relieved from suspension by the I.G.P.'s order dated May 3, 1973 (Ex. G 396). The conduct of Sub-Inspector Kolte does not come within the scope of this Inquiry and, therefore, does not require to be discussed.

Sub-Inspector Nemade

73.6 By S.P., Raman's order dated July 6, 1970 (Ex. P 862) P.S.I., L. R. Nemade of Foodgrains Branch, Jalgaon, was placed under suspension from the date of the receipt by him of the said order, pending a departmental inquiry into his conduct on the same charges as those made against Inspector R. M. Patil and Sub-Inspector Kolte.

The said order was received by Nemade on July 7, 1970. In the departmental inquiry he too was given the benefit of the doubt and relieved from suspension by the I.G.P.'s order dated May 3, 1973 (Ex. G 396). The conduct of Sub-Inspector Nemade does not come within the scope of this Inquiry and, therefore, does not require to be discussed.

Sub-Inspector Bhalerao

73.7 Sub-Inspector Shashikant Pandharinath Bhalerao (S.P.O.W. 10) was attached to the Jalgaon City Police Station as a Sub-Inspector from January 6, 1970 until his suspension on May 26, 1970. By S.P., Raman's order dated May 25, 1970 (Ex. P 860) he was placed under suspension from the date of the receipt by him of the said order, pending a departmental inquiry into his conduct "about his dealing with the communal situation at Jalgaon" on May 8, 1970. The said order was received by Bhalerao on May 26, 1970.

73.8 Sub-Inspector Bhalerao has become the most controversial figure of all the police officers who were present on the scene during the disturbances. The largest number of allegations have been made against him. These allegations have been referred to in Chapters 65 and 66. As we have already seen in the case of the murder of Taj Mohamed and as we will further see when we come to the chapter on the investigation of riot cases, a studied effort has been made to see that all evidence against him should be nullified and that he should not be prosecuted. His conduct throughout has been open to suspicion. When the incidents of stone-throwing on the Jumma Mosque started in March 1970 he was assigned to patrol the area. The reports which he has made in connection therewith have already been referred to. They leave much to be desired and, as we have seen, in some cases presented a totally wrong picture. Since the matters relating to him have already been discussed under various heads, it is not necessary to deal with them all over again.

Sub-Inspector Karhadkar

73.9 Sub-Inspector Kamlakar Bhaskar Karhadkar (S.P.O.W. 9) was attached to the Jalgaon City Police Station as a Sub-Inspector from November 12, 1969 until his suspension on May 26, 1970. From January 1970 onwards he was assigned the charge of Shivaji Peth and Shani Peth. By S.P. Raman's order dated May 25, 1970 (Ex. P 861) he was placed under suspension with effect from the date of the receipt by him of the said order, pending a departmental inquiry into his conduct "about his dealing with the communal situation at Jalgaon" on May 8, 1970. The said order was received by Karhadkar on May 26, 1970.

73.10 Unlike in the case of Sub-Inspector Bhalerao, there are no personal allegations made against Karhadkar by the Muslims. His conduct in dealing with the disturbances, therefore, requires to be judged with reference to the efficiency and competence he brought to

bear on dealing with the disturbances and it cannot be said that he has been conspicuous in that respect. On being informed about the disturbances by the constable sent by H.C., Bendale to his residence for this purpose, he went to the City Police Station and from there proceeded in a police jeep, accompanied by two constables with lathis, to the residence of Sub-Inspector Bhalerao and took Bhalerao with him to Maniyar Wada and was there when rioting and arson took place in that locality and the fire-engine was obstructed. He was also in Bagwan Mohalla when rioting and arson took place there and has deposed that ten to twelve Muslim houses were already ablaze by the time he went there and has further deposed that he and Bhalerao dispersed the mob of Hindus and Muslims who were in the adjoining lanes by making a lathi-charge. He was forced to admit that the Hindus were rioting and the Muslim houses were on fire (S.P.O.W. 9/17/3110). He has also deposed that Bhalerao was with him right from the beginning until 7 p.m. or 7-30 p.m.

73.11 One fact which emerges clearly from the evidence is that Karhadkar like the other police officers proved wholly ineffective to control the disturbances. He had taken his service revolver with him but did not make any use of it. He was at the entrance of the Maniyar Wada Lane when the house inside it was set on fire. He was in Bagwan Mohalla when the riots were going on and claims to have dispersed the mob. It is strange that neither in his affidavit nor in his evidence has he mentioned that he witnessed any act of arson. It is inconceivable that this officer and the other police officers who were present on the scene did not witness any act of arson. It is clear that they did witness arson being actually committed and yet they took no steps to prevent it. Karhadkar alleged that he suffered injuries during the disturbances. As shown by the medical certificate (Ex. P 873) the only injury suffered by him was an abrasion on the middle finger of his right hand. Karhadkar has stated in the witness-box that the sequence of events given in his F.I.R. (Ex. P 759) was not correct (S.P.O.W. 9/19/3111). It is significant that in his subsequent police statement recorded by D.I., Limaye on June 15, 1970 (Ex. P 1023) he has not mentioned any such fact. This shows that his aforesaid answer was given merely with a view to corroborate Sub-Inspector Bhalerao. These matters have been discussed in Chapter 66 and 67 and it is not necessary to repeat them.

73.12 Sub-Inspector Karhadkar's affidavit shows that he has a communal mind though he has sought to patch up matters in the witness-box. He has stated in his affidavit [S.P.O.W. 9/1(6)/3104(3)] :—

“While all the people were taking rest in the noon, the trouble arose as some Muslims teased one Hindu lady. However, in that behalf complaint was not lodged immediately at the police station. On account of teasing of a Hindu lady when some Hindu persons from Rath Chowk had gone to get an explanation in a conciliatory manner, the Muslims threw stones and as a result of that the disturbances started all of a sudden.”

The reference in the above quoted passage is to the Bahinabai incident. When Karhadkar stepped into the witness-box he volunteered that he wanted the above sentences to be deleted from his affidavit and stated that though he had written them in his affidavit he did not remember why he had done so. In cross-examination he stated that from Bahinabai's complaint he took it that as the Muslims had teased a Hindu lady, the disturbances *must* have started for this reason and that is why he wrote these sentences in his affidavit [S.P.O.W. 9/1(6)/3104(3), 4/3105, 22/3113]. He has also sought to make out in his affidavit that the arson at Maniyar Wada was provoked by the Muslims, for according to his affidavit, a mob of four to five thousand Hindus had collected near the Jumma Mosque and while he was asking them to go away, stone-throwing commenced from Maniyar Wada on the Hindus and thereupon the Hindus retaliated and entered Maniyar Wada [S.P.O.W. 9/1(9)/3104(6)]. The evidence about the disturbances at Maniyar Wada, which has already been dealt with in Chapter 65, however, reveals a totally different picture.

73.13 There are other features about Karhadkar's conduct subsequent to the disturbances which do not reflect much credit upon him. He has made the inquest panchnama of the body of Taj Mohamed Raj Mohamed which we have seen was untrue in that it did not show any blood stains either on Taj Mohamed's clothes or on his body. On May 9, 1970 he recorded the police statement of nine Hindus who were injured in the police firings. He, however, did not put any one of these persons under arrest because, according to him, he had not received instructions in that behalf from Inspector Sawant, his only instructions being to record their police statements (S.P.O.W. 9/8/3107, 21/3112). Surely police officers do not proceed upon the assumption that when the Police open fire on a mob of rioters it is the innocent persons and not the rioters who are injured in such firing. They normally proceed upon the assumption that such persons were rioting and put them under arrest pending investigation.

Sub-Inspector Walvekar

73.14 Sub-Inspector Machhindra Martanda Walvekar (S.P.O.W. 11) was posted as Sub-Inspector, District Special Branch, Jalgaon, from July 3, 1967 till June 8, 1970. On June 8, 1970 he was transferred by S.P., Raman to Erandol as P.S.I., Erandol Police Station. On June 18, 1970 S.P., Raman recorded Walvekar's statement (Ex. P 879) in respect of his movements on May 8, 1970. Thereafter Raman made a report dated June 26, 1970 (Ex. P 865) to the I.G.P. in which he stated that as a sub-inspector in the D.S.B. it was Walvekar's duty to have checked up the situation at Jalgaon on May 8, 1970 in view of the instructions contained in the crash wireless messages by moving about personally in the city and to have kept the S.P. informed about the developments in the city and that although an incident of a communal nature at Jalgaon was reported at the Jalgaon City Police Station at 4 p.m. on May 8, 1970, Walvekar came to know about it for the first time at

5-45 p.m. from a telephone message received from the Station House Officer of the City Police Station. In the said report Raman further stated, "This officer had obviously not cared to move in the town personally or to check up the situation personally in spite of messages from the I.G.P. and the instructions of the S.P. Because of the utter slackness and casual attitude of this Officer, I was in the dark about the happenings and developments in Jalgaon City on 8th May 1970 till the situation actually went out of control and developed into a major riot." In the said report Raman requested that the conduct of Walvekar deserved to be dealt with very severely by placing him under suspension with immediate effect. Accordingly, by his order dated July 8, 1970 (Ex. P 858) the I.G.P. placed Walvekar under suspension with effect from the date of the receipt by him of the said order, pending a departmental inquiry into his conduct for "his failure to personally move in Jalgaon City, collect advance intelligence about communal situation and outbreak of riots, arson, etc., at Jalgaon on 8th May 1970 and to take due preventive measures to avoid riots at Jalgaon despite the I.G.P.'s wireless message dated 8th May 1970 wherein alert signal was given to maintain utmost vigilance to take fullest precautionary measures against possible repercussions at troublesome spots in the District as a result of the communal riots which broke out at Bhiwandi in Thana District on 7th May 1970". The said order was received by Walvekar on July 9, 1970.

73.15 The substance of Walvekar's said statement recorded by Raman on June 18, 1970 (Ex. P 879) has already been summarized in Chapter 72 and need not be repeated here.

73.16 On January 6, 1971 J. N. Mehra, the successor-in-office to S.P., Raman, recorded Raman's statement (Ex. P 866) in which Raman stated that his only complaint against Walvekar was that he did not personally care to inform him "by the quickest possible means about the brewing of any trouble in Jalgaon". Thereafter Mehra made a report dated January 21, 1970 to the D.I.G. (B.R.) (Ex. P 867) in which he stated that there was not sufficient evidence to establish Walvekar's negligence and remissness of conduct and that though he had failed to inform the S.P., personally, the said lapse on his part was not so serious as to justify the holding of a regular departmental inquiry against him. By the said report he requested the D.I.G. (B.R.) that the matter should be dropped and Walvekar should be reinstated in service and that he should be reprimanded for his lapse.

73.17 Though it appears that the complaint made by S.P., Raman against Walvekar was motivated by a desire to cover up Raman's own default in staying on at Pachora and not leaving immediately for Jalgaon on learning about the said crash wireless messages particularly the third crash message (Ex. P 709), the Commission is really not concerned with the said complaint. It is concerned with judging the conduct of Walvekar in relation to all the facts that have come on the record and it cannot be said that the only remissness on the part of Walvekar was in failing to inform the S.P. at Pachora. Walvekar has

been guilty of other acts of negligence as disclosed by the evidence. He was negligent in not personally moving about in the city and collecting intelligence about the impact of the news of the Bhiwandi disturbances on the communal situation in Jalgaon, in not instructing his men to take during the day periodic rounds in the city or at least one round in the afternoon to ascertain afresh the situation, in not keeping in touch with the State Intelligence officers to find out what information they had collected, and in remaining at his residence from about 2-30 p.m. until he learnt about the disturbances at 5-30 p.m. without bothering about the situation in Jalgaon or making any efforts to collect intelligence with respect thereto. It may, however, be said that his suspension for over four years is more than sufficient punishment for his aforesaid acts of negligence.

Head Constable Dashrath Joshi

73.18 Head Constable Dashrath Shripat Joshi, buckle No. 171 (S.P.O.W. 7), was attached as Head Constable to the District Special Branch, Jalgaon, from 1953 until his suspension on May 27, 1970. By S.P., Raman's order dated May 26, 1970 (Ex. P 863) Head Constable Dashrath Joshi was placed under suspension from the date of the receipt by him of the said order, pending a departmental inquiry into his conduct "about his inaction to save the children of a Muslim lady from her house, on fire, during the communal riot that took place at Jalgaon" on May 8, 1970; that Muslim lady being Hajrabi [J.U.(J.)W. 16]. The said order was received by Dashrath Joshi on May 27, 1970.

73.19 In order to meet the allegations made against him by Hajrabi, Dashrath Joshi has not only given evidence himself (S.P.O.W. 7/1-39/3059-74) but has also called in evidence Shantaram, Bhana Mali (S.P.O.W. 2). Dashrath Joshi was residing in Joshi Peth since his birth at a distance of about two hundred to two hundred and fifty paces from Hajrabi's house. As he was to appear in June 1970 for a departmental examination which would qualify him to be appointed as Sub-Inspector, he had taken two months' earned leave from April 1, 1970. In the first month of his leave he went to Nasik to attend some classes and on May 1, 1970 he returned to Jalgaon. In his affidavit he has stated that he had secured a one-room tenement in the Vasudeo Co-operative Housing Society Ltd. near Mehrun Tank and used to leave his house in Joshi Peth early in the morning and go to his said room for his studies. In cross-examination, however, it emerged that this tenement was taken by him in the name of his wife and was not complete in May 1970 and that therefore he used to go and study in the tenement of a friend in the said housing society. According to him, on May 8, 1970 he so went to his friend's said room immediately after taking his meals and without waiting for the morning 'puja' on the Akshaya Tertiya day. Thus, according to him, while rioting started at Bagwan Mohalla and Khatik Alli, he was near Mehrun Tank. According to his affidavit, some time at about 6-30 p.m. he came out

for answering a call of nature and saw clouds of smoke rising from Joshi Peth and thus for the first time came to learn about the disturbances. In cross-examination he was forced to admit that the room he was studying in was on the ground floor and had three windows and because it was summer he had kept all the three windows open. He, however, sought to get round this position by saying that he was so engrossed in his studies that he did not notice from any of these windows any smoke or fire in Joshi Peth until he came out of the said room for answering a call of nature. He has further stated in his affidavit that thereafter he immediately went on his bicycle to his house and found that his family members were safe and that there was no trouble taking place in the lane in which his house was situated, but when he came out of the house he found that the houses of the Bagwans in Bagwan Mohalla and of the Khatiks, which were to the east of these houses were on fire, the distance between his house and the houses on fire being, according to him, about one hundred to two hundred paces. It is strange how this Head Constable who was in the Police Force since 1946 should not have seen any rioters or any sign of rioting on the way to his house, but after ascertaining that his family members were safe inside his house he suddenly found the houses in the said two localities on fire. He has further stated in his affidavit [S.P.O.W. 7/1(2-6)/3059(2-3)] :—

“The people whose houses were on fire were shouting for help and the Hindu residents in that locality were also frightened. I came to know at that time that some rioters had set the houses on fire and they had gone away. As the surrounding houses in the area where I was standing were on fire and the fire was spreading it was dangerous for me to go by that way. As I was on leave, my uniform was returned to my office. As I was not in uniform, I did not go towards Bagwan Mohalla.

“I came to my uncle's house and sent all his family to my house in Bhoiwada. I thereafter started telling Hindus and Muslims not to run and not to get frightened. It was about 7 p.m. I was standing near my uncle's house which is behind the houses of Gafoor Ukhardu, Hajrabi, Fatmabi, Yunus Bismillah. In between the house of Fatimabi and the house of Yunus Bismillah there is a lane of 3 feet width. The inmates from the house of Yunus Bismillah were shouting for help from the window which is in the said lane. On hearing their cries I along with my uncle and cousin brother rushed to the house of Yunus Bismillah and from that house all the inmates were brought out and given shelter in my uncle's house.

“When I was busy in taking out the persons from Yunus Bismillah's house one lady (whose name I later on learnt was Hajrabi) came and told me that her house was on fire and I should ascertain whether her children were in the house. As the surrounding houses were also on fire, I was unable to reach her house. I had also seen that the roof of her house had collapsed. I therefore told Hajrabi that it was impossible to go in her house. The persons who were

nearby had also told her in the same manner. Along with me other persons Sitaramdada Dashrath Sonawane, Budha Gaba Patil, Ramkisan Totaram Sonawane, Prabhakar Kalu Joshi, etc. were helping me.

“As the houses of Taj Ali Fakir and the adjoining houses of Bagwans in Bagwan Mohalla were also on fire, I went to that area. In that area my brother-in-law's house is there. In order to prevent the fire I tried to extinguish the fire of Taj Ali Fakir's house, but I could not succeed in my attempt.

“On account of the fire to the various houses I could not do anything else except protecting the persons who were rescued. The persons who were rescued in my uncle's house were so frightened that they requested me not to leave the house. They were apprehending that the rioters would come back and those people might again be in trouble and therefore those persons requested me to be there. I remained there the whole night. At about 11 p.m. Police Constable Uttam Kalu Patil came with a bus in Joshi Peth. By that bus all the Muslims in my uncle's house were sent to the police station.”

73.20 The allegations made by Dashrath Joshi in respect of Hajrabi have already been dealt with in Chapter 67 (paragraph 67.60). So far as the allegation in his affidavit that he rescued several persons from the burning houses is concerned, in cross-examination it has transpired that the only persons who were rescued were some women and children from the houses of Yunus Bismillah and Ibrahim Habib, both of whom were his friends. Even though he has sought to make out in his affidavit that for almost three hours he was at his uncle's house giving protection to the Muslim women and children who had been given shelter there, he has deposed that he did not see or hear any fire-engine. He admitted in cross-examination that it had occurred to him that he should go where there were police officers or policemen but added that he did not do so because the situation at that time was confused and very serious, people were frightened and running helter-skelter and he too was frightened. He further added, “I thought it was my first duty to save 22 persons from Yunus Bismillah's house and *I was on earned leave*”. He deposed that at about 8 p.m. or 8-30 p.m. he went from Ramdas Joshi's house to the house of his uncle Prabhakar Kalu Joshi. He was immediately faced with what he had stated in his police statement recorded by D.I., Bendre that after staying for about an hour or hour and a half near Ramdas Joshi's house he had again gone to his uncle's house. He then admitted that what he had mentioned in his police statement was correct and that what he had deposed before the Commission was not true. He then ventured an explanation that he went to Prabhakar's house because the fires from the houses of one Taj Ali and others were spreading. He was forced to admit that Taj Ali's house could not be seen either from Ramdas Joshi's house or from the lane in which his house was situate. He then changed his explanation to say that he left Ramdas Joshi's house for Prabhakar's house because the house of one Sahebji

Bagwan was on fire. He further admitted that while he was outside Ramdas's house he saw S.P., Raman at about 8 p.m. or 8-30 p.m. and that he did not go and report to S.P., Raman or ask him whether he could be of any assistance or service. The reason he gave for not doing so was that the persons whom he had given shelter in Ramdas's house asked him not to leave them unprotected. This reason was immediately demonstrated to be false by it being put to him that he had left them unprotected for about an hour or hour and a half when he had gone to Prabhakar's house. He, therefore, changed his explanation and said that he went to Prabhakar's house because he had told his uncle and cousins that he would go to Prabhakar's house and return. He had to admit that he did not help the Police in the rescue operations that were going on. The reason he gave for not doing so was that he was on leave. He has further admitted that he did not ring up the City Police Station or the Municipal Office for fire-engines even though serious fires were raging everywhere and the reason he gave for not doing so was that he could not find any telephone from which he could ring up. He was immediately asked from which places he had tried to telephone either the Police or the Fire-Brigade. He answered that he did not know whether there was any telephone in the locality. It was pointed out to him that he had been residing in Joshi Peth since his birth and asked whether he still maintained that he did not know where the telephones in the locality were. He then admitted that he did not go to make any telephone call. According to Dashrath Joshi, no rioting was going on during the entire period he was in the locality but there was a frightened crowd of Hindus and Muslims whom he was trying to reassure.

73.21 The witness whom he called to support him, namely, Shantaram Bhana Mali (S.P.O.W. 2/1-20/2497-2508), has, however, told a totally different story. Shantaram was formerly an octroi clerk in the Jalgaon Municipality but was dismissed for showing goods loaded on a truck as goods in transit through the Municipal limits while a part of the said goods was meant for consumption within such limits, the charge against him being that he took a bribe for doing so. He took the matter to the Labour Court, but meanwhile his wife successfully contested the Municipal elections in 1962 and thereupon he withdrew his application. Both he and his wife stood for the 1968 Municipal elections and lost, he having lost to the Congress candidate. According to his affidavit, at about 7 p.m. he went to the locality between Bagwan Mohalla and Khatik Alli to see whether his relations who were residing there were safe and that at that time he saw a crowd of frightened Hindus and Muslims in front of the house of Ramdas Joshi and some Hindus whose names he has mentioned and Head Constable Dashrath Joshi standing there giving courage to them and giving them shelter. He has further stated in his affidavit that at that time a Muslim woman who was residing in that locality came there and asked them to save her children, but as the house to which she was pointing had caught fire on three sides and the roof had

collapsed and as they did not hear any cries or screams coming from the house, they were sure that the children could not be in the house. This part of his affidavit obviously related to Hajrabai and was an attempt to corroborate what Dashrath Joshi had stated in his affidavit. In cross-examination he stated that when he went to Khatik Ali and saw the houses on fire he did not see any police officer or police constable there. When faced with the statement in his affidavit that Dashrath Joshi was present there giving courage and shelter to people, he changed his answer and said that there was no police officer or police constable except Dashrath Joshi. It may be mentioned that he and Dashrath Joshi had been friends for nearly twenty-two years. He was asked whether the Hindus who were standing outside Ramdas Joshi's house were merely standing there as spectators. His answer was:—

“I, Dashrath Joshi Havaldar and Buddha Gabba Patil were trying to rescue people. At the request of Dashrath Joshi the family of Rafiq Bagwan was given shelter in Ramdas Laxman Joshi's house. Ramkrishna Totaram Sonavane was also helping us in rescuing people.”

The question was repeated and the answer he then gave was:—

“The persons in front of Ramdas Laxman Joshi's house were trying to save people. *Arson and looting were going on.* We were rescuing women and children and giving them shelter. At that time there was no one who was indulging in arson and looting. Some persons tried to break open the doors of some houses and rescue the inmates. Some of them succeeded in breaking open some doors and rescuing some persons.”

It will be noticed that realizing that truth had slipped out, he immediately tried to change his answer that arson and looting were going on and said that while they were rescuing the women and children no one was indulging in arson or looting. He admitted that none of the rescuers who went inside the burning houses received any burn injuries. He also admitted that he did not know whether there were any persons trapped inside the burning houses. So far as Hajrabai is concerned, he deposed that they did not make any attempt to save her children because they did not know whether in fact the children were inside the house, the lane was very narrow and the roof had collapsed. He was asked from where the Hindus in front of Ramdas's house had come. His answer was that the rescue work was going on and he and some other Hindus were rescuing people from the burning houses. The question was repeated and after some hesitation he gave the answer that they were there when he reached the place. He deposed that a number of persons were coming up to them asking them to save their family members. He, however, could venture no sensible explanation why in his affidavit he should have mentioned only the specific case of Hajrabai except to say that it was because she had made several requests in that behalf. He deposed that when he read in the newspapers allegations against Dashrath Joshi and that he had been

suspended it pained him and, therefore, he filed his affidavit. There are a number of other contradictions in his evidence, but it is not worthwhile taking up time to set them out.

73.22 S.P.. Raman has deposed that the first time that he heard any allegations against Dashrath Joshi was when Hajrabi made them to the Prime Minister at the time of her visit to Jalgaon on May 17, 1970. Thereafter an application dated May 20, 1970 (Ex. No. 44) was submitted to the D.M. by four Muslims, including Musa Bismillah Bagwan and Yunus Bismillah, stating that although Dashrath Joshi was on leave, he had helped them and had given them shelter in the house of his relative and that even though serious fires were raging all round their houses he had performed his duty without caring for his life. By the said application a request was made to the D.M. to see that "such a responsible person" should get a reward. Thereafter an application dated June 6, 1970 (Ex. No. 34) was submitted to the D.M. signed by twenty-one Muslims, including Musa Bismillah Bagwan and two other signatories to the said application dated May 20, 1970, stating that while the houses were being set on fire Dashrath Joshi and Sub-Inspector Bhalerao and other policemen were present and that the said acts of arson and rioting were committed in their presence and at their instigation. In the said application it was further alleged that with the object of saving Dashrath Joshi from the consequences of his acts Dashrath Joshi's men were taking the signatures of some persons including the signatories to the said application by force and duress and by giving threats. Amongst these twenty-one persons were three women including Hajrabi. It was further stated in the said application that the signatories were afraid to go into the city because people used to give them angry looks and abuses. A copy of the said application was sent to the Home Department. The Home Department referred the said application to the D.M. By his report dated July 7, 1970 (Ex. No. 35) the D.M. stated that he had brought the complaint against Dashrath Joshi to the notice of the S.P., but had not received any communication from him. The D.M. also referred in his said report to another incident of this kind which had happened. In that incident a deputation had called upon D.M. on July 7, 1970, consisting of Mr. Kalyani, Advocate, Mrs. Latifa Kazi, Tamij Piran Bagwan, N. A. Shaikh and K. M. Patil, an M.L.A. from Amalner. They had brought with them one Mohamed Rafi Issa Bagwan and he bitterly complained to the D.M. about the harassment meted out to him and the circumstances under which he had been forced to give a statement under duress, and handed over to the D.M. a written application in that behalf.

73.23 In cross-examination Dashrath Joshi was forced to admit that he knew Musa Bismillah Bagwan. He, however, said that on May 19, 1970 Musa met him and told him that since Hajrabi had made false allegations against him about which he had read in the newspapers, he would make an application to Dashrath Joshi's superior officers. Reading between the lines it is not very difficult to understand

how the said application dated May 20, 1970 (Ex. No. 44) came to be made. We know that Dashrath Joshi did not in any way endanger his life and the statement in the said application dated May 20, 1970 (Ex. No. 44) to the effect that he did so not only makes amusing reading, but clearly shows that it was got made by Dashrath Joshi.

73.24 The demeanour of both Dashrath Joshi and Shantaram Bhanamali was shifty and evasive, their affidavits contained a number of false statements and their evidence a number of contradictions. On the evidence I am satisfied that Head Constable Dashrath Joshi was present when rioting and arson were taking place at Khatik Alli. Whether he actually prevented Hajrabi from digging a hole in the rear wall of her house cannot be ascertained with certainty though the panchnama dated May 25, 1970 (Ex. P 811) does show a hole in the rear wall of Hajrabi's house. Whatever may be the position about this aspect of the case, there can be no doubt that Dashrath Joshi did not make the slightest attempt to rescue Hajrabi's children, his explanation for not doing so being contradictory, confusing and unconvincing. His boast that he helped to rescue people and saved them from the burning houses has on cross-examination proved to be hollow and it has boiled down to saving only some women from the houses of his two friends. Though he was in this riot-affected locality for over three hours, on his own admission, he did not make the slightest attempt to contact either on the telephone or personally the City Police Station or the Police Headquarters or the Municipal, Fire Brigade and even when he saw the S.P., he did not come forward to volunteer his services. His conduct stands out in sharp contrast to that of the D.M.'s stenographer, Anant Mahabal, who even though on medical leave and having just recovered from jaundice none the less on learning about the disturbance rushed to the police station and did his utmost to obtain help and reinforcements. In extenuation it was submitted that Dashrath Joshi was on leave and, therefore, he was not under any obligation to perform the duties of a police constable and in support of this argument, reliance was placed upon section 28 of the Bombay Police Act, 1951, which provides that every police officer not on leave or under suspension shall for all purposes of that Act be deemed to be always on duty. The question here is not whether Dashrath Joshi was on leave or not. The question is of his sense of duty and responsibility. According to his evidence, there was no other police officer or policeman present throughout the entire period of almost three hours that he was present in a locality where the most serious incidents of the disturbances in Jalgaon took place and all throughout that whole period he did nothing except his alleged rescue of some people from the houses of his two friends. His statement that when he entered his house there was no sign of any rioting nor were any houses on fire and that it was only when he came out of his house after seeing that his family members were safe that he saw the houses in Bagwan Mohalla and Khatik Alli on fire would clearly show that he was present when rioting and arson were taking place. But even if we

assume that these offences had taken place in the brief interval while he was in his house, as he wants us to believe, he could easily see that most serious offences of arson and looting had taken place. Section 44 (1), Cr. P.C., *inter alia*, provides that every person aware of the commission or of the intention of any other person to commit certain classes of offences is, in the absence of reasonable excuse (the burden of proving which is upon him), required to give information to the nearest Magistrate or police officer of such commission or intention. The list of offences set out in section 44 includes sections 143 (being member of an unlawful assembly), 144 (joining an unlawful assembly armed with deadly weapons), 145 (joining or continuing in an unlawful assembly), 146 (rioting), 148 (rioting armed with deadly weapons), 302 (murder), 304 (culpable homicide), 436 (mischief by fire, that is, arson) and 436 (mischief by fire with intent to destroy house, etc.). Omission to give such information is an offence under the Indian Penal Code punishable under sections 118 (concealing design to commit an offence punishable with death or imprisonment for life), 176 (omission to give notice or information to public servant by persons legally bound to give it) and 202 (intentional omission to give information of offence by person bound to inform). Section 144, Cr. P.C. applies to all persons and if it applies to private citizens, it can hardly be argued that it does not apply to a head constable on leave. On his own admission Dashrath Joshi has committed a breach of the provisions of section 44 and has committed an offence punishable either under section 118 or section 178 or section 202 of the Indian Penal Code. He has shown complete irresponsibility and total lack of any sense of duty or responsibility. It is strange that this Head Constable should aspire to be a Sub-Inspector. One could hardly imagine a Sub-Inspector more ill-fitted for that post.

Head Constable Bendale

73.25 Head Constable Girdhar Chiman Bendale, buckle No. 380 (S.P.O.W. 8), a Grade III Unarmed Head Constable, was posted as Head Constable at the City Police Station, Jalgaon, from September 1, 1969 until his suspension on July 11, 1970. By S.P., Raman's order dated July 11, 1970 (Ex. P 864) Head Constable Bendale was placed under suspension from the date of the receipt by him of the said order, pending a departmental inquiry into his conduct "about tampering with and altering and adding to the entries made by him in the telephone register kept at the Jalgaon City Police Station in connection with the riot that took place at Jalgaon on 8th May 1970". The said order was received by Bendale on July 11, 1970.

73.26 Bendale was the Police Station Officer on May 8, 1970 - from midnight till 8 a.m. and again from 1-15 p.m. till midnight. As such Police Station Officer he received and put through telephone calls. In the Register of Outgoing Trunk Calls kept at the Jalgaon City Police Station there is an entry showing that at 5-45 p.m. on May 8, 1970 the Police Station Officer at Pachora was asked by the

Police Station Officer, Jalgaon City Police Station, to inform the S.P. about the disturbances which had taken place at Jalgaon. According to Bendale's affidavit, at about 3-30 p.m. he had received a telephone call from A.H.C., Abdulla Khan Balder Khan about the rioting at Rath Chowk. After deputing Reserve P.S.O. Head Constable Narayan Gopal Thakre and two constables for bandobast in the Rath Chowk area he sent constables to convey this information to Inspector Sawant and Sub-Inspectors Bhalerao and Karhadkar. At 3-35 p.m. he telephoned the Reserve P.S.I. at the Police Headquarters and informed him about the disturbances. Thereafter he telephoned various superior officers and the D.M.'s bungalow and made entries with respect thereto in "the Emergency Telephone Register". In cross-examination he has deposed that it was at 3-45 p.m. on May 8, 1970 when he rang up the S.P.'s residence that he for the first time came to learn that S.P., Raman had gone to Pachora and that thereafter he rang up the S.P. at Pachora at 5-45 p.m.

73.27 What Bendale has referred to in his affidavit as the Emergency Telephone Register in which he has made the entries relating to these calls is really the Incoming Medico Legal Calls Register (Ex. P 706). In this register the first relevant entry is entry No. 178 which is made at 3-30 p.m. without giving the date thereof, the entry No. 177 being dated May 6, 1970. Entry No. 178 refers to the said telephone call from A.H.C., Abdulla Khan Balder Khan. In the next entry, namely, entry No. 179, the figure '9' in the number of the entry is written over the figure '8' and it is thus apparent that the said entry was originally numbered 178 and the number subsequently altered to 179. The said entry No. 178 is dated May 7, 1970 and below it is written the time "16-45". In the next entry, namely, entry No. 180 which is dated May 11, 1970, the number of the entry is by an over-writing altered from '179' to '180'. The following telephone calls are mentioned in the said entry No. 179 in the column headed "Phones received from" :—

" P.S.I., Jalgaon H.Q. ...	...	15-35
D.S.P.'s Bungalow ...	...	17-45
S.D.P.O.'s Bungalow ...	...	15-45
S.D.P.O., C.D. ...	...	15-45
Collector's Bungalow ...	...	15-45 "

The remarks column of the said entry No. 179 contains the following remarks:—

" A scuffle between Hindus and Muslims took place in the afternoon today in old Jalgaon and 4 to 5 Muslims were beaten. Informed all individuals separately by phone."

According to Bendale, the officers mentioned in the column showing from whom the telephone calls were received were really the officers to whom he made the telephone calls. At first Bendale stated that he had made these entries in the Medico Legal Calls Register because not only the important emergency calls received at the City Police Station but also the local outward calls made from the City Police

Station were entered in this register. He, however, was compelled to admit that except for this one single entry he, who had been working as a P.S.O. for two or three months prior to May 1970, had not made a single entry in respect of a local outward call in the Incoming Medico Legal Calls Register. He then changed his answer and said that he made these entries in the Medico Legal Call Register because he thought them to be important. At the start of the said entry No. 179 the words "Dr. Nirale" had been written and were scored out. Bendale denied having scored out the words "Dr. Nirale" but could offer no explanation why the said entry begins immediately after the last letter of the deleted words. In this connection, it is pertinent to note that the next entry No. 180 relates to a telephone call from Dr. Nirale from the Civil Hospital about the death of a riot victim. There are also some erasures and overwriting below the date of the said entry No. 179 which it is difficult to decipher. Bendale stated that in the said entry he had originally written below the date the time of his telephone call to Dy. S.P., Ghorpade as 4 p.m. but that at 11 p.m. in the night Raman and Ghorpade came to the police station and wanted to know whether he had made the entries regarding the telephone calls to them and when he showed them the said entry, they said that the time of 4 p.m. which he had mentioned was not correct and that Ghorpade had received the telephone call at 3-45 p.m. and accordingly he made the necessary changes in the entry. When he was, however, questioned why he should have written below the date only the time of the telephone call to Ghorpade and not of the telephone calls to the other officers, he changed his answer and said that the time written by him did not represent the time at which he telephoned to Ghorpade but it represented the time at which he made the said entry. Ultimately on the next day when he stepped into the witness-box he made a statement admitting that he had made the entry relating to these five telephone calls two days later. In view of his admission it is not necessary to go into further details. Even after admitting that the said entry was made two days later by him he maintained that the contents of this entry were true. In the witness-box Bendale prevaricated on every point and is shown to have lied on each of them. I, therefore, refuse to believe him when he states that the contents of the said entries were true. In fact the other evidence on the record, which I accept, shows that they are not. He had not put in any telephone call to the S.P. earlier than 5-45 p.m. Asst. S.P., Azad stated that when he went to the police station on learning about the disturbances he inquired from Bendale whether he had informed the S.P. and he was told by Bendale that he had not telephoned to the S.P. and that when he questioned Bendale as to why he had not done so, Bendale kept quiet [P.W. 78/1(3)/2366(2)]. Azad made a report to the S.P. dated June 1, 1970 (Ex. P 908) in which he complained about these entries and stated that he had taken charge of these registers and requested for departmental action against and suspension of Bendale. Bendale was asked to submit his explanation by the

S.P.'s letter dated June 4, 1970 (Ex. P 909). Bendale's statement (Ex. P 910) is substantially the same as his affidavit. Both have been shown to be false by his cross-examination and his own admissions in the witness-box. If Bendale had in fact rung up the S.P.'s bungalow at 3-45 p.m. and was informed that the S.P. had gone to Pachora, the first thing he would have done would have been to put in a trunk-call to Pachora and he would not have waited till 5-45 p.m. to do so. He sought to explain this away by saying that immediately thereafter six Muslims and two Hindus, all of whom were injured, came to the police station and he was attending to the matter of sending them to the hospital. He admitted that at first only two injured Muslims had come to the police station at about 3-30 p.m. or 3-45 p.m. and that the other Muslims had come thereafter and that the two injured Hindus had come at 5 p.m. He admitted that it would take just one minute to book a trunk-call but volunteered the explanation that he did not book any trunk-call to Pachora because the Muslims were pouring into the police station asking for protection and he had got confused. He was again forced to admit that this was all the more reason why he should have immediately rung up the S.P. at Pachora. Further, though according to the said entry No. 179 he rang up the P.S.I. at the Jalgaon Police Headquarters at 3-35 p.m. in the Inward Telephone Calls Register of the Police Headquarters (Ex. P 1024) the time of receipt of the telephone call from him is shown as 4-30 p.m. It must also be mentioned that the Inward Telephone Calls Register of the Police Headquarters itself suffers from defects. A.H.C., Tejrao Bhikanrao Patil (P.W. 90), who in May 1970 was the telephone orderly at the Jalgaon Police Headquarters, admitted that the Incoming and Outgoing Trunk Calls Register bore the stamp of the S.P.'s office and the signature of the Home Inspector with an endorsement showing the number of pages in the register and that such stamp, signature and endorsement also appeared on some incoming and local calls registers, but they did not appear on the said Inward Telephone Calls Register (Ex. P 1024), but that the said register instead bore on each page the stamp of the Reserve Sub-Inspector, Headquarters, without any signature or endorsement and that the paging of the said register had not been done by him but had been done subsequently (P.W. 90/4/3116-7). It has been the unfortunate experience of this Commission that almost every register produced before it has suffered from some defect or the other, each of them capable of raising a suspicion about the genuineness of the document in question. However, for the reason mentioned above, from the defects in the Incoming Telephone Calls Register of the Jalgaon Police Headquarters it does not follow that Bendale is speaking the truth.

73.28 Bendale could not have also rung up Azad at his bungalow. Had he in fact rung up Azad at his bungalow, he would have been able to contact Azad, for Azad had by then returned to Jalgaon and had Azad not returned by that time to Jalgaon his orderly at the bungalow would have informed Bendale that Azad was at Faizpur and Bendale

would have immediately put in a trunk call to Faizpur. His evidence about the two injured Hindus coming to the police station at 5 p.m. is also most unconvincing. According to him, one was injured on the head and the other on the hand or some other part of his body and the clothes of both were blood-stained. There is, however, no entry in the station diary about these persons. He did not ask them where and how they had received their injuries, the reason vouchsafed by him being that at that time there were a number of Muslims at the police station who were saying that the Hindus were assaulting them and were asking the Police to give them protection (S.P.O.W. 8/1-11/3075-85).

73.29 The evidence clearly establishes that Head Constable Bendale did not ring up the P.S.I., Jalgaon Police Headquarters, at the time alleged in the said entry No. 179, namely, at 3-35 p.m., but rang him up at 4-30 p.m., that he did not make any of the other telephone calls mentioned in the said entry No. 179, that he had not made any entry relating to any of the telephone calls received on May 8, 1970, and that when he came to write the said entry in the said register subsequently, he started by making the entry about the telephone call received on May 11, 1970 from Dr. Nirale, but realizing the opportunity which was open to him to make out that he had made telephone calls to various officers in the afternoon of May 8, 1970, he struck out the words 'Dr. Nirale' which he had written and wrote out the telephone calls which are mentioned in the said entry No. 179 and then made the entry with respect to Dr. Nirale.

* * *

CHAPTER 74

THE AFTERMATH OF THE DISTURBANCES

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CHAPTER 74

THE AFTERMATH OF THE DISTURBANCES

The Jalgaon Janadhikar Saurakshan Samiti

74.1 Soon after the disturbances a committee was formed styled as "The Jalgaon Janadhikar Saurakshan Samiti". Dr. Avinash Acharya, the Shahar Sanghchalak of the Jalgaon District R.S.S., was its President, while N. N. Bhusari (J.J.S.W. 4), a local Jan Sangh leader and the President of the Jalgaon City Jan Sangh in 1965 and 1966, was its Vice-President. This Samiti was formed with the specific object of giving legal aid to the Hindus who were accused in the riot cases. Vasant Kanhyalal Sharma (J.J.S.W. 6), an active worker of the R.S.S. and the Jan Sangh, Sharad Nehete who belonged to the Shiv Sena and was a reporter of the Shiv Sena daily 'Batmidar' and Kashinath Vyas were the Joint Secretaries. Ramdas Ramchandra of the Jan Sangh was one of the members of the said Samiti (J.J.S.W. 4/2/2419 ; J.J.S.W. 6/4/2432).

The accused in the riot cases

74.2 Most of the persons who were accused in the riot cases including the four main accused, namely, Ramesh Daulat Patil, Motiram Kisan Bhavsar, Raja Bapu Shinde and Vasant Trimbak Bhoite, belonged to the Jan Sangh. When Gajanan Tryambak Ghanekar, the Treasurer of the Jalgaon City Jan Sangh, was in the witness-box, he was asked whether it was not true that the majority of the accused in the riot cases belonged to the Jan Sangh. He denied this. He was then specifically asked whether certain accused persons were members of the Jan Sangh. He disclaimed knowledge about many of them, but stated that the Jan Sangh maintained a list of its members and that he would produce the said list before the Commission (J.J.S.W. 3/8/2416-7). The said list was, however, never produced at any time before the Commission. The presumption under Illustration (g) to section 114 of the Indian Evidence Act, 1872, ought, therefore, to apply to the case and it must be held that the said list, if produced, would have shown that most of the accused in the riot cases did, in fact, belong to the Jan Sangh. This is also obvious from the fact that the local Jan Sangh leaders formed the Jalgaon Janadhikar Saurakshan Samiti and led several public agitations to obtain the release on bail of the Hindus accused in the riot cases.

The memorandum by the Hindus

74.3 On May 26, 1970 a memorandum (Ex. No. 8) signed by twenty-one prominent Hindus of Jalgaon, including Dr. Avinash

Acharya, the Shahar Sanghchalak of the Jalgaon District R.S.S. and Vasant Kanhyalal Sharma (J.J.S.W. 6), was presented to the D.M. by a delegation of Hindus. The said memorandum began by requesting the D.M. to look with utmost care into the matters mentioned in the said memorandum and to take proper steps immediately and to give assurance to the citizens of Jalgaon. It further stated that if the Government did not pay attention in time to the feelings of fear and helplessness being experienced by the Hindus, it would lead to serious consequences in the future and it was very likely that the situation might take an improper turn. It was alleged in the said memorandum that the Hindus who had suffered in the disturbances were being neglected, that the Hindus who were made accused in the riot cases were not properly treated and that although incriminating articles were found in the course of the searches of the Muslim houses, those Muslims were allowed to remain free. A request was also made in the said memorandum that the public would be satisfied if some respectable persons arrested as accused were released on bail.

74.4 A discussion on the said memorandum took place between the D.M. and the members of the delegation in the course of which the D.M. pointed out that the allegations made in the said memorandum were not correct. A note made by the D.M. of the said discussion is Exhibit No. 9. In the next day's issue of the 'Batmidar' a news report (Ex. No. 10) was published under the caption "Memorandum by the citizens of Jalgaon to the Collector" in which was reproduced the whole of the said memorandum. A news report (Ex. No. 11) about the said memorandum was also published in the other local daily, the 'Gaokari'. The report in the 'Gaokari', however, concluded by stating that the D.M. had given an assurance that he would consider the matter sympathetically and take proper steps. The D.M. felt that the publication of the said memorandum in the newspapers without mentioning the actual discussion which had taken place with him and the facts pointed out by him to the delegation was calculated to mislead the people and to create hostility in the minds of the Hindus towards the Government and the Muslims which, in the then prevailing tense situation, would lead to tension in the city. The D.M. also felt that the publication of the said memorandum, which opened with a threat to the administration and spoke of the possibilities of a serious communal situation in case the administration did not follow the course suggested by it, was likely to lead to a law and order problem. The D.M. thereupon by his letter dated May 30, 1970 (Ex. No. 12) addressed to each of the persons, who had come in the delegation to submit the said memorandum, pointed out to them that in view of the one-sided publicity given to the said memorandum, without at the same time setting out the clarification given by the D.M., the Government doubted the *bona fides* of the said memorandum and that he had therefore taken a serious note of the threat given in the said memorandum and that if thereafter the peace in Jalgaon City or Jalgaon District was disturbed, he would hold them responsible.

Thereupon sixteen of the signatories to the said memorandum sent a reply on June 10, 1970 (Ex. No. 13) stating that they had no intention to give any threats to the administration and one of them, Dr. G. D. Bendale, wrote a separate letter of explanation dated June 5, 1970 to the same effect to the D.M. (Ex. No. 14).

74.5 Out of the signatories to the memorandum, four persons have filed affidavits before the Commission, namely, (1) Anant Pandit Atravalkar (Affidavit No. 51), (2) Dr. Avinash Ramchandra Acharya (Affidavit No. 183), (3) Bhikamchand Mulchand Jain (Affidavit No. 184), and (4) Vasant Kanhyalal Sharma (Affidavit No. 188), but only one of them, namely, Vasant Kanhyalal Sharma (J.J.S.W. 6) has chosen to step into the witness-box and be cross-examined.

The Jalgaon bandh

74.6 A 'morcha' was intended to be taken out to the Collectorate on August 10, 1970, by the female relatives of the Hindus accused in the riot cases for calling upon the D.M. to expedite the filing of charge-sheets against the accused. This morcha was inspired by the local Jan Sangh workers and was organized by the Jalgaon Janadhikar Saunrakshan Samiti. Fearing that the morcha might cause a breach of the peace, the D.M. by his order dated August 9, 1970 (Ex. No. 19) under section 37(3) of the Bombay Police Act prohibited it. Thereupon a deputation consisting of a few women led by V. K. Sharma, J. V. Bhagwat, Shankar Kashinath Mistri, all belonging to the Jan Sangh, and Kashinath Rampratap Vyas also of the Jan Sangh and the Joint Secretary of the Jalgaon Janadhikar Saunrakshan Samiti called upon the D.M. on August 10, 1970 and their grievances were discussed. In view of the banning of the said morcha, Kashinath Vyas gave a call for a Jalgaon 'bandh' on August 25, 1970. Leaflets (Ex. No. 16) were issued by him in the capacity of the President of the Dangangrasta Nagrik Seva Samiti, Jalgaon (the Committee for the Relief of Riot-affected Citizens, Jalgaon), making an appeal to the people to observe the 'bandh'. Vyas at first deposed that the said committee was constituted for the sole purpose of calling the Jalgaon 'bandh' and the next day after the 'bandh' he dissolved it. Ultimately he admitted that the said committee consisted of just one person, namely, himself. In reply to the said leaflets issued by Vyas the Peace Committee issued an appeal to the public (Ex. No. 17) not to participate in the 'bandh', pointing out that the statements made in the said leaflets were false and were of such a nature as to provoke communal feelings and to create misunderstanding and unrest amongst the public and was a political stunt. Another leaflet (Ex. No. 18) was also issued under the caption, "This 'Bandh' is a political stunt: Appeal to the public." by the local leaders of the P.S.P., the P.W.P., the C.P.M., the S.S.P., the Republican Party and by the District Sarvodaya Mandal and the Jalgaon Journalists' Mandal. On the day of the Jalgaon 'bandh' Vyas put up placards setting out six demands, one of them being either to file the charge-sheets or to release the accused persons on bail. He also

exhibited a placard reading, "Don't blame the Hindus by making them accused". The female relatives of the accused also went on a day's hunger-strike in front of the Shastri Tower on August 24, 1970. This hunger-strike was obviously inspired by the local Jan Sangh and the Jalgaon Janadhikar Saunrakshan Samiti and took place in order to give publicity to the call for Jalgaon 'bandh' for the next day. In view of the hunger-strike and the call for the Jalgaon 'bandh', the D.M. issued another order under sections 37 (1) and (3) of the Bombay Police Act (Ex. No. 20) prohibiting the carrying of arms and any assembly of more than five persons for one week commencing from 7 p.m. on August 24, 1970. In connection with this hunger-strike and Jalgaon 'bandh' Kashinath Vyas (J.J.S.W. 10), Vasant Sharma (J.J.S.W. 5), Jagannath Bhagwat (J.J.S.W. 7), Sharad Anand Kulkarni and Chhabildas Daulat Bhavsar, all of the Jan Sangh, were arrested under section 151, Cr. P.C., as a precautionary measure. Proceedings under Chapter VIII of the Cr. P.C. were adopted against them, but they were discharged by the Taluka Magistrate on October 17, 1970 (Ex. No. 15, J.J.S.W. 4/2/2419-20, J.J.S.W. 10/8/2467).

74.7 The Jalgaon 'bandh' and the hunger-strike by the female relatives of the accused persons amounted in substance to an attempt to coerce the Courts by a public agitation to release on bail the Hindus who had been made accused in the riot cases.

The one-day indefinite hunger-strike by Subhash Shinde

74.8 Subhash Shinde went on an indefinite hunger-strike from December 1, 1971 because the Hindu accused were not being released on bail. He, however, ended his hunger-strike within about a day on the ground that National Emergency had been declared by reason of the attack by Pakistan on India (J.J.S.W. 11/16/2480).

74.9 Like the Jalgaon 'bandh' and the hunger-strike by the female relatives of the accused persons, the hunger-strike by Subhash Shinde also amounted to an attempt to coerce the Courts to release on bail the Hindus who had been made accused in the riot cases.

The allegations against Mr. M. D. Chaudhari

74.10 In some of the Hindu affidavits it has been alleged that the then Minister for Education, Mr. M. D. Chaudhari, who was in charge of Jalgaon District and who had come to Jalgaon the day after the disturbances and had stayed there for about a month, attempted to bring pressure on the Hindus and as a result thereof Hindu witnesses did not come forward to help in bringing out the truth. The only witness who has deposed about this before the Commission, however, was Tarachand Nathu Chaudhary [J.J.S.W. 9/1(3)/2451(1), 8-10/2453-4]. In cross-examination Tarachand admitted that no pressure had been brought upon him by anyone either not to go to the Police to give his statement or to make his affidavit. When questioned by the Commission he stated that he was unable to give the name of a single Hindu on whom pressure was brought or attempted to be brought by

Mr. Chaudhari and that his only reason for saying that pressure had been brought by Mr. Chaudhari on the Hindu witnesses was that during the period of one month that Mr. Chaudhari was camping at Jalgaon some persons from Bhavani Peth and Balaji Peth had told him (that is, Tarachand) that pressure was being brought upon the Hindus by Mr. Chaudhari not to give evidence before the Commission. He admitted that he was aware of this fact before he filed this affidavit. Obviously the said information received by him did not deter him from filing his affidavit or mentioning in it that Mr. Chaudhari had brought pressure on the Hindu witnesses. He sought to explain this away by stating that there was no question of his being afraid of the Minister because a notification issued by the Commission had appeared in the papers inviting affidavits. When further questioned he stated that the Minister had brought pressure immediately after the disturbances and he had not heard that any pressure had been brought afterwards. He admitted that he had not heard that anyone had been deterred or prevented from filing an affidavit or giving evidence before the Commission or that anyone had been pressurized or threatened into not filing his affidavit or not giving evidence. Mr. Murudkar, on behalf of the Government of Maharashtra, put it to him that his allegation against Mr. Chaudhari was false and he replied that he did not know whether what he had heard about Mr. Chaudhari was true or false. In order to substantiate this allegation Mr. Pradhan, on behalf of the Maharashtra Pradesh Jan Sangh and the Jalgaon Janadhikar Saun-rakshan Samiti, put to S.D.M., Kulkarni that he had discussed with Mr. Chaudhari the topic of the persons arrested for offences committed during the disturbances and had handed over to him a list containing the names of the arrested persons and that Mr. Chaudhari had asked him questions about the arrested persons. Kulkarni denied these suggestions. He stated that he had not received any list of arrested persons from the Police nor had he asked them to supply him with such a list nor had handed over such a list to Mr. Chaudhari (P.W. 70/26/2321).

74.11 The reason for making this allegation is not far to seek. Most of the accused persons were local Jan Sangh workers, that is, they belonged to a political party in opposition to the party in power, namely, the Congress. By these allegations it was, therefore, sought to be suggested that the prosecutions against the Hindus accused for offences committed during the disturbances were politically inspired. There is not the slightest basis to be found in the evidence in support of this allegation and I find no substance in it.

The alleged announcements about police statements

74.12 In three police statements recorded upto May 15, 1970 allegations were made against Inspector Sawant, namely (1) the police statement of Abdul Rahim Abdul Razak recorded on May 14, 1970 by Inspector Sawant (Ex. P 998) in which it was alleged that at about 5 p.m. on May 8, 1970 in the presence of Inspector Sawant and Sub-

Inspector Bhalerao about forty to fifty rioters looted the Taj Hotel situate near the Jumma Mosque owned by Abdul Rahim, (2) the police statement of Sayyad Sahabali Sayyad Masoomali recorded on May 14, 1970 by Sub-Inspector R. G. Thakur (Ex. P 999) in which it was alleged that at about 5 p.m. on May 8, 1970 a huge mob of Hindus came near the Revenue Office, many of them being workers of the R.T.M., and started throwing stones and soda-water bottles and tried to enter the Muslim lanes and that while the Police were stopping the rioters, Sub-Inspector Bhalerao pointed a revolver at the Muslims and threateningly told them to go inside their houses and close the doors, and that Inspector Sawant was standing by at that time but did not do anything to prevent the rioters from attacking, looting and setting fire to the Muslim houses and assaulting the Muslims, and (3) the police statement of Abdul Hamid Abdul Kadar recorded on May 15, 1970 by Sub-Inspector S. G. Pathak (Ex. P 1000) in which it was alleged that Sawant was present when the rioting was going on at Maniyar Wada but did not take any steps to put it down.

74.13 So far as Abdul Rahim's said police statement (Ex. P 998) is concerned, Sawant has denied that its contents were true and in support of this Sawant has referred to his F.I.R. in which he has stated that a mob of 2,000 to 3,000 Hindus came to the Taj Hotel at 6 p.m. and damaged the said hotel and five or six Muslim shops and that at that time no Muslim was present. He has deposed that while recording Abdul Rahim's police statement he told Abdul Rahim that he should mention in his police statement only those incidents which he had personally seen and that what he was saying was contrary to Sawant's F.I.R., but Abdul Rahim replied that Sawant should take down what he was stating and that he would not change his statement without consulting his leaders and accordingly Sawant took down what Abdul Rahim had to say. According to Sawant, the facts in Abdul Rahim's police statement which were contrary to Sawant's F.I.R. were that Abdul Rahim did not mention the name of Ramesh Daulat Patil and five others who, according to Sawant, were amongst the rioters and whose names were mentioned in his F.I.R., that he did not mention that burning swabs were thrown on the Jumma Mosque. that Abdul Rahim had mentioned that the mob consisted of about forty to fifty Hindus only and not two thousand to three thousand Hindus as stated in Sawant's F.I.R., and that Abdul Rahim did not mention that in addition to his hotel, five or six Muslim shops were also broken open. Sawant admitted that in his own F.I.R. he had not mentioned that burning swabs were thrown on the Jumma Mosque but said that he had mentioned this fact when D.I., Limaye recorded his subsequent statement on June 11, 1970. According to Sawant, from the day after he recorded Abdul Rahim's police statement announcements began to be made on the loud speakers in the relief camps at the Leva Boarding and the Nutan Maratha High School to the effect that no Muslim should give his police statement without first consulting the Muslim leaders. According to Sawant, he himself heard these

announcements while passing by on his bicycle and was also informed about these announcements by his constables (S.P.O.W. 6/35/2999-3000, 67/3024). In cross-examination it has transpired that he did not make any report to the S.P. or to anyone else about these alleged announcements. He has also admitted that he did not even mention the fact of the announcements orally to the S.P. or to anyone else (S.P.O.W. 6/63/3018).

74.14 In the light of the controversy which raged round the Jalgaon disturbances and the allegations about the conduct of the police officers while dealing with the disturbances, it is not possible to believe that if announcements as alleged by Inspector Sawant had in fact been made he would not have reported the matter to the S.P. in order to protect himself. Though it is possible that the Muslim leaders or some of them might have asked some Muslim witnesses not to give their police statements without first consulting them, it stretches one's credibility too far to believe that such advice and directions were given on a loud speaker so that they could be heard by persons passing on the road. I, therefore, disbelieve Inspector Sawant when he states that such announcements were made openly in the relief camps.

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CHAPTER 75
RELIEF AND REHABILITATION

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CHAPTER 75

RELIEF AND REHABILITATION

Measures to restore confidence

75.1 In order to restore confidence amongst the people several Ministers visited Jalgaon City and Jalgaon District. The then Minister for Education, Mr. M. D. Chaudhari, camped at Jalgaon from May 9, 1970 for about a month. On May 9, 1970 the then Union Home Minister, Mr. Y. B. Chavan, and the Chief Minister of Maharashtra visited Jalgaon. They were accompanied by other Ministers, namely, the Health Minister Dr. Rafiq Zakaria, the then Minister of State for Home and Labour Mr. Kalyanrao Patil, the then Deputy Minister for Public Health, Prohibition, Tourism and Legislative Affairs Mrs. Pratibha Patil and Mr. Vasanttrao Dada Patil. The Union Home Minister and the Chief Minister visited the affected areas and the relief camps and heard the grievances of the riot-affected persons.

75.2 The communal disturbances had, however, poisoned the atmosphere. As pointed out by the D.M. in his report dated May 13, 1970 (Ex. No. 37), even so-called responsible people who called on the Education Minister, Mr. M. D. Chaudhari, sometimes spoke to the effect that such disturbances would thenceforward be a recurring feature. In the said report the D.M. further stated that some people found a soft corner or a willing listener among some officers to whom they said that the presence of the Muslims in India was an unnatural thing and that the only solution was either their expulsion or extermination. He further pointed out in the said report that though there was some compassion and good feelings in the lower sections of the society, it was utterly lacking amongst the educated and the more affluent and politically-minded class. A Town Peace Committee as also mohalla-wise peace committees were formed to bring about harmony between the two communities.

75.3 On May 11, 1970 a secret meeting (a copy of the proceedings of which is Appendix 'I' to Ex. No. 37) was held by the D.M. to review the law and order situation in Jalgaon. The D.M. also issued instructions with respect to specific matters as mentioned in the said proceedings. Amongst the officers present at the said meeting were D.I.G., Kadambande, Lieut.-Col. Nair of the Artillery from Deolali, the Addl. D.M., the S.D.M., Jalgaon, the Commandant, Home Guards, and the S.P. At this meeting the D.M. issued several instructions. They included the arrest of all suspected persons, an examination of the question whether the disturbances were incited or organized by any political party and whether municipal politics had any bearing thereon,

the taking of searches of the houses of all persons suspected to have resorted to arson, looting and other unlawful activities during the disturbances, the sending of adequate police force to all known communal and vulnerable pockets in the district, the separating of the Hindu and Muslim prisoners in the jail in separate barracks, and the intensification of patrolling in certain areas.

75.4 On May 13, 1970 the then Revenue Minister, Mr. D. S. Desai, visited Jalgaon. That night Mrs. Pratibha Patil, the then Deputy Minister for Public Health, who was camping at Jalgaon left Jalgaon. On May 17, 1970 the Prime Minister accompanied by Mr. Fakhruddin Ali Ahmed, the Governor of Maharashtra, the Chief Minister of Maharashtra and prominent leaders of various political parties visited Jalgaon. Several political leaders, M.Ps. and M.L.Cs. all visited Jalgaon during this period, their names being set out in D.M., Pardeep's report dated May 18, 1970 (Ex. No. 39).

Relief and rehabilitation measures

75.5 The principles upon which the Government decided to give relief to those who had suffered in the disturbances and to provide loans for rehabilitating them have already been set out in Chapter 51 (paragraphs 51.3 and 51.4). A note on the work of relief and rehabilitation carried out in Jalgaon city upto December 15, 1971 was filed before the Commission by M. V. Khan, Special Land Acquisition Officer and Deputy Collector, Riot Rehabilitation, Jalgaon (P.W. 72) and is Exhibit P 898. There is no complaint before the Commission that the work of relief and rehabilitation in Jalgaon was not done expeditiously or efficiently or that there was any discrimination in giving relief and in rehabilitating those who had suffered in the disturbances.

75.6 Immediately after the disturbances two relief camps with feeding centres were opened on the night of May 8, 1970 itself, one in the Leva Boarding and the other in the Nutan Maratha High School. The injured persons were removed to the Jalgaon Civil Hospital and given medical treatment. Three of them were sent to the J. J. Hospital, Bombay, one of them for undergoing plastic surgery and the two others for being operated upon. The expenditure for taking these patients to Bombay and of their hospital charges in Bombay was incurred from the Riot Relief Fund. Medical aid was also provided at the relief camps and medical teams daily visited the relief camps. On May 9, 1970 when the Chief Minister visited Jalgaon along with the then Union Home Minister Mr. Y. B. Chavan, he issued instructions about the relief measures to be undertaken and announced a donation of Rs. 25,000 from the Chief Minister's Relief Fund. Mr. M. D. Chaudhari, the then Minister for Education, called a meeting of citizens of Jalgaon and formed various committees and sub-committees for carrying out relief measures and requested all members of the committees to collect funds for supplementing governmental aid. After his arrival in Jalgaon on May 10, 1970 D.M., Pardeep spearheaded the work of relief and rehabilitation.

75.7 In order to safeguard the law and order situation and to decide the strategy for ensuring the maintenance of law and order and for bringing back the life of the community to normalcy the D.M., the Officer Commanding, Military, the S.P., and the District Commandant, Home Guards, held daily meetings.

75.8 The work of repair and reconstruction was entrusted to the Buildings and Communications Department and the Zilla Parishad with a Deputy Collector to co-ordinate it. The Jalgaon City Municipal Council was made responsible for the removal of debris and the debris was removed by the officers of the Engineering Departments of the Executive Engineer of the Buildings and Communications Department, the Executive Engineer of the Zilla Parishad and the Municipal Engineer with two Deputy Engineers and a team of overseers and carpenters and their men. A separate unit was formed and was made responsible for providing food, shelter, water and for ensuring medical and sanitary arrangements at the relief camps and was also entrusted with the work of distributing aid received from all sources to the inmates of these camps. The Deputy Collector, Riot Rehabilitation, was placed in overall charge of this work with a team under him consisting of 3 Tahsildars, 12 Acting Tahsildars, 14 Awal Karkuns and 10 clerks. Two Deputy Collectors were detailed to assist the Deputy Collector, Riot Rehabilitation, in making bulk purchases.

75.9 A separate section was opened to process and decide applications for loans for reconstructing houses. The very next day after the disturbances subordinate revenue officers such as Circle Inspectors, Awal Karkuns and Naib Tahsildars went about making panchnamas of the damage to properties and preparing estimates of damage. Estimates of damage were also prepared by the office of the Executive Engineer, Buildings and Communications Department, and the Executive Engineer, Zilla Parishad, and while granting loans the estimates made by the offices of the said Executive Engineers were relied upon and not the estimates contained in the panchnamas made by the Revenue Officers (P.W. 72/6/2337).

75.10 A common kitchen was run for 15 days at Government expense and 19,294 persons (19,282 Muslims and 12 Hindus) were fed free in the relief camps on all these days. On and from June 1, 1970 only one relief camp out of the two was continued and the free common kitchen was continued for as many days as those who had suffered in the disturbances did not start their avocations or return to their houses or were not in a position to feed themselves. This relief camp was finally closed down on August 15, 1970. The inmates were provided with two meals as also morning tea from this kitchen. During the period May 23, 1970 to August 15, 1970, 42,707 persons were fed from the common kitchen at an expense of Rs. 42,033.71 incurred from the Riot Relief Fund collected in the district. Those who had fled from their houses were gradually persuaded to return to their homes. Immediate repairs of all the 30 houses requiring minor repairs were

carried out and 15 houses consisting of 29 tenements for the Muslims rendered homeless were completed within about a month at a cost of Rs. 72,877-83 and immediate loans and subsidies for occupational rehabilitation were made available. As a result of this, the number of inmates, which on the opening of the relief camps was 3,380 came down to 425 on July 7, 1970. This relief camp was finally closed down on August 15, 1970.

75.11 Two relief centres for distribution of doles and foodgrains were opened in the heart of the affected area with effect from May 10, 1970 for those who had returned to the city but continued to be in indigent circumstances. These centres were run upto July 6, 1970. The Chief Minister and the then Minister for Education, Mr. M. D. Chaudhari, took a decision to spend up to Rs. 500 per family for clothes, beddings, utensils and food and cash relief and accordingly, these articles were provided to all sufferers. Since most of the sufferers had nothing with them except the dress they were wearing, cloth was purchased in bulk from the local market and also from Bombay and more than fifty tailors were engaged for stitching clothes for them and a day before the Id festival the first dress was made available to the inmates and a second dress a few days thereafter. In all 3,222 persons were provided with 6,444 dresses at a cost of Rs. 56,590. Beddings consisting of bed-sheets and carpets purchased from the local market were provided to the sufferers. Thus in all 2,154 bed-sheets and 2,185 carpets were distributed to 3,275 persons at a cost of Rs. 21,126. In order that they could have meals the inmates were provided immediately with 'thalis' and glasses, and for final rehabilitation each family was given a set of brass and aluminium utensils costing about Rs. 75-25 P. per set. In all 443 Muslim families and 12 Hindu families were the recipients of this kind of relief, the amount spent under this head being Rs. 1,01,502-24 P. for the Muslim families and Rs. 2,202-75 P. for the Hindu families, aggregating to Rs. 1,03,705.

75.12 In addition to the aid provided by the Government, foodgrains, clothes, utensils and other articles were donated by the Prime Minister, the Chairman, Central Relief Committee, Bombay, the Bhiwandi Relief Committee, the All India Sunni Jamiet-ul-Ulema, Bombay, the Jamiet-ul-Ulema, Bombay, the Timber Merchants' Association, Bombay, the citizens of Malegaon, one Vishnu Hari Patil of Savda, Taluka Raver, the Director of Public Health, Maharashtra State, Bombay, the Citizens' Central Council, New Delhi, and other bodies and individuals. The Prime Minister contributed a sum of Rs. 50,000 from her funds for aid to the sufferers and various other organisations contributed cash donations. A donation of Rs. 51,000 promised by the Jalgaon City Municipal Council was, however, never paid in spite of repeated demands. Widows and others who had lost the earning members of their families were given special gratuitous cash relief varying from Rs. 800 to 1,000 in addition to the other reliefs given to other sufferers. These ladies were offered facilities to train themselves in tailoring and were given a hand-sewing machine to each

from the 30 machines donated by the Citizens' Central Council, New Delhi. Four college students were given cash amounts for purchase of books.

75.13 For the first time the Government of Maharashtra brought into force a new scheme of occupational rehabilitation of those persons who had lost their means of livelihood during the disturbances. The said scheme provided that petty businessmen, small artisans, etc., should be given subsidy to the extent of Rs. 500 and in the case of bigger establishments, which were very few, loans should be granted to the extent of Rs. 5,000. In all 405 applications were received. Out of them 158 applications were rejected; 74 on the ground that the applicants had not suffered any loss, 46 on the ground that the applicants had not suffered any loss of business or cash, 24 on the ground that the loss suffered by the applicants was negligible, and 14 on the ground that the applicants were following other avocations or were in service. As a result of the said scheme tailoring shops started working, tongas began plying on the roads and hawkers resumed their vocation and the city which had for several weeks worn a deserted appearance again resumed its normal life and activity.

75.14 In all 6 Muslim applicants out of 9 were given assistance by way of loans aggregating to Rs. 19,000 by the Zilla Parishad authorities in order to help them to restart banana cultivation.

75.15 Each house-owner whose property was damaged in the disturbances was given an option whether he would like his house repaired or reconstructed by the Government or on his own through a loan and subsidy granted by the Government. The houses of those who opted for construction by the Government were completed by June 16, 1970. There were 15 such houses consisting of 29 tenements which were so constructed for the Muslims. For this purpose masons and carpenters from neighbouring talukas and districts and mason trainees from the Government Polytechnic College were sent for. Artisans were also sent for from the Government Polytechnic Institutes of Aurangabad, Vardha, Sholapur, Ahmednagar, Akola, Amravati and Nagpur. Out of these 15 houses, 4 were constructed by the Zilla Parishad and 11 by the Buildings and Communications Department. The total cost of these houses came to Rs. 1,26,000. Forty-six houses which were partially damaged required petty repairs and they were got repaired expeditiously and the owners of 90 completely damaged houses who had opted for reconstruction on their own were advanced loans and granted subsidies. In all 135 damaged houses were thus finally reconstructed. For this purpose loans to the extent of Rs. 3,68,250 and subsidies to the extent of Rs. 41,779 aggregating to Rs. 4,10,029 were granted. In addition cash relief to the extent of Rs. 71,500 was granted from the Riot Relief Fund to 92 sufferers. For those tenants of houses which were damaged and for whom it was not possible to obtain accommodation in the reconstructed houses, a plot of Government land admeasuring 1 acre and 30 gunthas was made available and 50 tenements with sanitary blocks were constructed thereon by the

Maharashtra Housing Board at a cost of Rs. 1,26,000 and allotted to 42 Muslims and 5 Hindus on reasonable rents.

75.16 The total amount spent on relief and rehabilitation aggregated to Rs. 11,32,290-68.

75.17 The following table gives community-wise the details of the amounts given by way of loans and subsidies:—

Type of assistance	Muslims	Cost of assistance to the Muslims	Hindus	Cost of assistance to the Hindus
		Rs.		Rs.
Housing loans	74	3,58,350	3	9,900
Housing subsidy	91	40,079	..	1,700
Occupational loan	104	1,97,900	4	9,600
Occupational subsidy	228	49,900	10	52,500
Cash relief	803	7,040	8	1,070

The municipal resolution to give donations

75.18 After the disturbances, on May 13, 1970 the Jalgaon Municipal Council resolved to donate a sum of Rs. 75,000 as help to the riot-affected persons in Jalgaon City and a sum of Rs. 25,000 as help to the riot-affected persons in Bhiwandi. Considerable publicity was given to this resolution in the local newspapers. On May 25, 1970 another resolution was passed modifying the earlier resolution whereby the said amount of Rs. 75,000 to the riot-affected persons in the Jalgaon City was reduced to Rs. 51,000. As this grant required the approval of the Government under clause (b) of the first proviso to section 97 of the Maharashtra Municipalities Act, D.M., Pardeep moved the Director of Municipal Administration and obtained his approval to the Jalgaon Municipal Council making these payments. No part of either of these amounts was, however, at any time paid in spite of the letters dated October 15, 1970, October 26, 1970, December 22, 1970, February 16, 1971, April 5, 1971, May 3, 1971, June 16, 1971, October 7, 1971 and March 23, 1972 from the Collector's office, nor were any of these letters either replied to or even acknowledged.

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CHAPTER 76

THE INVESTIGATION OF RIOT CASES

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CHAPTER 76

THE INVESTIGATION OF RIOT CASES

Prefatory observations

76.1 As in the case of Bhiwandi, in the case of Jalgaon also the manner of investigating riot cases, of apprehending those against whom allegations of having committed serious offences were made and of collecting evidence against them leave much to be desired. The evidence shows that the investigation in several matters was grossly one-sided, unfair and communally biased. A number of such instances have come on the record, but it is not possible within the compass of this Report to deal with all of them. It will be therefore, sufficient to refer briefly to the more important ones only.

Investigation prior to the Squad taking over

76.2 Prior to the Special Investigation Squad, Jalgaon, taking over the investigation of riot cases they were investigated by Inspector Sawant. By his order dated May 15, 1970 (Ex. P 1001), S.P., Raman directed Sawant to dissociate himself from the investigation of riot cases and allow such investigation to be carried on by officers appointed by him in view of the different work of a general nature to be performed by Sawant. A copy of the said order was endorsed to Dy. S.P., Ghorpade directing him to remain at the Headquarters and supervise the investigation of these cases very closely until they were taken over by the officers of the Special Investigation Squad. On the same day, Raman passed another order (Ex. P 1002) directing Ghorpade to take over the investigation of these cases. Ghorpade, however, did not take charge of investigation from Sawant, but Sawant stopped recording the statements of witnesses from that day (S.P.O.W. 6/36/3000).

76.3 The investigation carried out by Inspector Sawant can hardly be described as effective. He did not visit the Jalgaon Civil Hospital to record the statements of the injured persons. The explanation which he volunteered for this omission was that until the Special Investigation Squad took over, the S.P. was in charge of investigation and had on May 9, 1970 divided the work of investigation and had asked Ghorpade to record the statements of the persons in the hospital, P.S.I., Pathak to make panchnamas and record statements, P.S.Is. Parkar, Thakur, Walvekar and one or two other sub-inspectors also to record statements, and Sawant to record the statements of those who came to the police station. Sawant admitted that there was no written order of the S.P. in this behalf. He also admitted that he had gone to the Police Headquarters to record the statements

of the Muslims who had taken shelter there and to the Jalgaon Civil Hospital to see P.S.I., Bhalerao and some constables who were injured in the course of the disturbances to inquire after them and to record their statements. His explanation, therefore, does not appear to be true.

76.4 A strange thing is that no one who had suffered a bullet injury in the police firings was arrested during this period. In all, ten persons including the boy Salim Fakira were injured in the police firings. Apart from Salim Fakira, all the rest were Hindus. The Police would naturally presume that a person injured in a police firing was in the rioting mob on which the Police had opened fire. The natural thing, therefore, which one would have expected the Police to have done was to have arrested these persons, and it is strange that this was not done in the case of those injured in the Jalgaon firings (S.P.O.W. 6/64-65/3019-20).

76.5 Another strange fact is that apart from the statements of the driver of the Home Guards jeep in which Salim Fakira was taken to the hospital and the Home Guard who brought him to the hospital, the statement of none of the other drivers of the police vans or of any police constable who took the persons injured in the police firings to the hospital was recorded.

The F.I.Rs.

76.6 There were three main areas in which the disturbances took place on May 8, 1970, namely, (1) Maniyar Wada, (2) Joshi Peth and (3) Bhilpura and Islampura. When the police officers met together at the City Police Station at night on May 8, 1970 they decided to distribute the F.I.Rs. area-wise among three police officers. Accordingly, Inspector Sawant filed the F.I.R. in respect of the disturbances at Maniyar Wada, Sub-Inspector Karhadkar in respect of the disturbances at Joshi Peth and Sub-Inspector Parkar in respect of the disturbances at Bhilpura and Islampura. Sawant's F.I.R. (Ex. P 758) was recorded at 11 p.m., Karhadkar's F.I.R. (Ex. P 759) at 11-30 p.m., and Parkar's F.I.R. (Ex. P 760) at 11-45 p.m. on May 8, 1970.

The Arrest Register

76.7 There is considerable suspicion attaching to the entries in the Arrest Register about the arrest of some of the accused. The time of their arrests as shown in the said register is quite different from what is alleged in the relevant F.I.R. or in other evidence. At first Inspector Sawant stated that the Station House Officer did not make the entries relating to their arrests because it was only when the officers making the arrest came to the police station and lodged their F.I.Rs. that the entries could be made. Thereafter Sawant was forced to admit that the entries were not made by the Station House Officer when the F.I.Rs. were lodged and that the original explanation given by him was not correct. The second explanation which he then gave was that the Police forgot to make the entries until the time of production of the accused in Court. Subsequently he retracted this explanation also and gave yet another explanation, namely, that the Police did not know in what

offences the arrested persons were concerned and, therefore, they had to get some evidence in respect of them and for the said reason the entries were made in the Arrest Register after obtaining such evidence (S.P.O.W. 6/11/2985, 95/3089).

76.8 Head Constable Bendale was the Station House Officer on May 8, 1970 from 2 p.m. till midnight. It was, therefore, his duty to make the necessary entries in the Arrest Register. Not making entries at the proper time in registers and subsequently fabricating them seems, however, to have been a congenital defect in Bendale's character. We have seen in Chapter 73 (paragraphs 73-24 to 73.28) how he did not enter in the Telephone Register the telephone calls actually made by him, but subsequently wrote out in it a false entry. His evidence in respect of the entries in the Arrest Register does not reveal any different position. According to him, on May 8, 1970 about twenty to twenty-five persons, including two or three Muslims, were arrested for having committed substantive offences during the disturbances. Except two Muslims who were brought to the police station at about 4-30 p.m. or 5 p.m., all the other arrested persons were brought to the police station after 8 p.m. on May 8, 1970. The said two Muslims were brought by an armed constable who informed Bendale that Dy. S.P., Ghorpade had sent the said two Muslims and that Bendale should make them sit at the police station. Accordingly, Bendale made them sit next to him and asked them what had happened and they informed him that they had been arrested and sent to the police station. Dy. S.P., Ghorpade came to the police station at about 5-45 p.m. that evening, but as he was busy Bendale did not ask him what to do with the two Muslims. Ghorpade again returned to the police station at about 9-30 p.m. and again Bendale did not ask him what to do with the two Muslims because Ghorpade was busy discussing with the S.P. When Inspector Sawant came to the police station at 10 p.m. Bendale asked him what he was to do with the two Muslims and Sawant replied that he was considering whether to arrest them or not. Bendale then recorded the F.I.Rs. of Inspector Sawant and Sub-Inspectors Karhadkar and Parkar. In cross-examination Bendale was shown Sawant's F.I.R. (Ex. P 758) in which Sawant has stated that only one Muslim had been arrested by the Police at Maniyar Wada for throwing stones, and Bendale changed his story and said that only one Muslim had been arrested by Ghorpade and sent to the police station and further said that he did not ask Sawant while recording his F.I.R. who this Muslim was or what to do with him. He was faced with the fact that Parkar's F.I.R. (Ex. P 760) mentioned the names of two Muslims alleged to have been arrested from the terrace of the Madina Mosque for throwing stones and was asked how these names came to be mentioned in the said F.I.R. He replied that it was because when these two Muslims were brought to the police station he had asked their names and then given them to Parkar. He was immediately asked whether he had not asked the other Muslim what his name was and he replied that he had asked him for his name but did not give this name to Sawant

while recording Sawant's F.I.R. because Sawant had given him a written complaint which he had copied out. He admitted that Parkar had also given him a written complaint which he had copied out and added that it was Parkar himself who had written out these names. He stated that he did not tell Parkar that these two persons were sitting with him, did not make any note of the time when the arrested Muslims were brought to the police station, and did not note down the names of the police constables who brought them to the police station. At first he stated that the Muslim arrested by Ghorpade was brought by constable Namdeo, then changed it to say that he was brought by A.H.C., Jagannath Fakira. He again changed his story to say that on the night of May 8, 1970 all the arrested persons were made to sit on the rear verandah and on May 9, 1970 at noon he handed over charge of them to Inspector Sawant (S.P.O.W. 8/12-13/3085-7).

76.9 It is very difficult to understand from this rigmarole of Bendale how and when any of these three Muslims were arrested, nor does Bendale's evidence dispel in any degree the suspicion attaching to the entries in the Arrest Register. If at all, it makes the suspicion all the greater.

76.10 Yet another inexplicable thing is that the names of the two Muslims alleged to have been arrested by Parkar are mentioned only in his F.I.R. but in none of the police statements recorded on May 9, 1970, while the name of the Muslim alleged to have been arrested by Ghorpade, namely, Abdul Gani Shaikh Musa, does not appear either in the F.I.R. in respect of the disturbances at Maniyar Wada or in any of the police statements recorded on May 9, 1970, and though he is alleged to have been arrested by Ghorpade at 4-45 p.m. at Maniyar Wada he is also shown as having been concerned in the disturbances at Bhilpura about a couple of hours later. The only explanation which Inspector Sawant could give for this inconsistent and contradictory position was, "Because Parkar's F.I.R. mentioned that 15 to 20 persons who were in Madina Mosque ran away and he could arrest only 2 Muslims, I showed Abdul Gani, the Muslim arrested by Ghorpade, as having been concerned in the riot in the Bhilpura area". (S.P.O.W. 6/97/3090-1).

The default in making panchnamas

76.11 The slackness and inefficiency in carrying out investigation by the local police can be judged from the delay in making panchnamas of the places where the disturbances took place. According to the evidence of the police officers who were at Maniyar Wada, the rioters had come from Bhoite Gadhi. A number of persons from the Bhoite Gadhi were arrested on the night of May 8, 1970 and on the next night. The normal thing one would have expected the Police to do was to take a search of their houses and of the said locality. The only search which was, however, made was after the Special Investigation Squad took over the investigation. The panchnama dated May 21, 1970 (Ex. P 826) shows that in Bhoite Gadhi a sword and a sickle were found in a heap of rubbish near the northern wall of

of a Hindu house and another sword was found by the side of the northern wall of another Hindu house. Though on May 9 and 10, 1970, panchnamas of some burnt houses in Maniyar Wada were made, no panchnamas were made of the scenes of offences in Bagwan Mohalla and Khatik Alli until May 12, 1970. The panchnama dated May 12, 1970 (Ex. P 809) of four burnt houses in Bagwan Mohalla shows that two pick-axes used in an attempt to break open a safe were taken charge of by the Police. Had panchnamas of the scenes of offences been made promptly, probably many more weapons used by the rioters would have been taken charge of by the Police and might perhaps have thrown some light on the degree of planning behind the disturbances.

The Special Investigation Squad, Jalgaon

76.12 We have already seen in Part III of this Report in Chapter 49 how and why Special, Investigation Squads were set up for the investigation of the riot cases in Thana and Jalgaon Districts. By the Government Resolution, dated May 23, 1970 (parts of Ex. G 37 collectively) giving sanction to the creation of a Special Squad in the Crime Branch (C.I.D.) for the investigation of offences committed during the communal disturbances in Thana and Jalgaon Districts three posts of Inspectors, nine of Sub-Inspectors, three of Head Constable Writers, six of Police Constable Writers and one of clerk-typist were sanctioned for the Special Investigation Squad, Jalgaon. The Special Investigation Squad, Jalgaon, was to have its headquarters at Jalgaon.

76.13 Ratnakar Shamrao Mahajan, Dy. S.P., C.I.D. (Crime), Aurangabad (P.W. 96), was put in charge of the Special Investigation Squad, Jalgaon.

76.14 The following table gives the names of the officers who worked in the Special Investigation Squad, Jalgaon, and the dates when they took up the investigation and the dates when they reported for duty in the Squad and the dates of their relief from this work :—

Serial No.	Name of officer	Date of reporting on duty	Date of relief
1	R. S. Mahajan, Dy. S. P.	17-5-1970	14-12-1970
2	T. S. Bendre, D. I.	18-5-1970	4-2-1972
3	P. M. Chekatkar, D. I.	24-5-1970	22-6-1970
4	V. L. Limaye, D. I.	27-5-1970	10-3-1971
5	D. G. Sankpal, D. I.	22-6-1970	9-10-1970
6	D. H. Bakshi, D. I.	4-2-1972	Up to date
7	Y. N. Mokashi, D. S. I.	17-5-1970	12-6-1970
8	G. D. Sapne, D. S. I.	21-5-1970	7-6-1970
9	G. L. Bundele, D. S. I.	23-5-1970	11-6-1970
10	T. G. Patil, D. S. I.	1-6-1970	Upto date
11	R. G. Thakur, D. S. I.	1-6-1970	Up to date
12	S. K. Shukla, D. S. I.	4-6-1970	5-11-1970
13	J. S. Jadhav, D. S. I.	4-6-1970	15-10-1970
14	V. K. Vavre, D. S. I.	20-7-1970	14-10-1970
15	N. K. Gosavi, D. S. I.	3-7-1970	29-10-1970

76.15 The immediate superior of Dy. S.P., Mahajan was S.P. (Crime) and the next immediate superior was D.I.G. (Crime). From March

7, 1970 till July 12, 1970 Dr. H. G. Abhyankar, S. P. (Research), was holding charge also as S.P. (Crime). On July 12, 1970 C. P. Kurle took over charge as S. P. (Crime). In June 1971 Kurle retired and S. K. Varma became S. P. (Crime). From April 14, 1969 until his transfer as D.I.G., Aurangabad Division, on August 21, 1972 the D.I.G. (Crime) was Bhalchandra Keshavrao Govardhan (G.W. 15).

The Special Public Prosecutors

76.16 By his report dated August 5, 1970 made to the Government D. M., Pardeep expressed an opinion that any Special Public Prosecutor appointed to conduct the Jalgaon riot cases should be from outside the city as no local advocate would be able to infuse confidence in the persons who had suffered in the disturbances. Because of these observations Mr. J. S. Akarte, who was from outside Jalgaon District, was appointed Special Public Prosecutor to conduct the Jalgaon riot cases. In view of the number of riot cases, after about eight months it was thought desirable to appoint an Additional Special Public Prosecutor. D.M., Pardeep suggested to the Government the names of four senior advocates and Mr. B. D. Bhirud whom he considered the best among the junior advocates in Jalgaon as he was the Assistant Government Pleader, Jalgaon. Mr. Bhirud was thereafter appointed an Additional Special Public Prosecutor. Mr. Bhirud was a relative of Ramesh Daulat Patil, one of the principal accused in the riot cases and an active leader of the local Jan Sangh and the R.T.M. Pardeep has deposed that had he known this fact he would not have recommended Mr. Bhirud's name. The fact whether Mr. Bhirud himself intimated to the Government his relationship with one of the principal accused does not appear on the record. Pardeep learnt about his relationship with Ramesh Daulat Patil after Mr. Bhirud was appointed and he brought this fact to the notice of the Government. The Government thereupon gave instructions that Mr. Bhirud should not be entrusted with the prosecution of cases in which Ramesh Daulat Patil was an accused or in which any other relation of his was an accused and that an equal number of cases must be given to Mr. Akarte and to Mr. Bhirud. The D.M., Pradeep has, however, deposed that had he to give cases mohalla-wise, there would have been hardly any case which he could have entrusted to Mr. Bhirud as all the cases in every 'mohalla' were interlinked (C.W. 21/39/2878-9, 45/2881-2).

76.17 There is no warrant for saying that Mr. Bhirud did not conduct the prosecution of any case with which he was entrusted in a manner in which he should have done or that he was in any way remiss in the discharge of his duties as an Additional Special Public Prosecutor or allowed his relationship with Ramesh Daulat Patil to colour his conduct of any of the riot cases entrusted to him.

76.18 The appointment of Mr. Bhirud, however, gave rise to apprehensions amongst the Muslims and they made representations against his appointment.

76.19 Cases arising out of communal disturbances cannot be treated as ordinary riot cases. The paramount thing for the administration in these matters is not only to be fair and impartial between the two communities, but to appear to be so and the situation becomes all the more delicate where members of only one community have suffered in a disturbance as in the case of the Jalgaon disturbances. It is clear that the Muslim apprehension was that the prosecution of the Hindu accused would suffer by reason of the appointment of a relative of one of the principal accused as Additional Public Prosecutor. A feeling such as this left to grow in a community which has suffered is bound to give rise to bitterness and would make fertile ground for communal and anti-Government propaganda.

The work done by the Special Investigation Squad, Jalgaon

76.20 The Special Investigation Squad, Jalgaon, investigated eleven cases. Out of these, three cases were registered in pursuance of the F.I.Rs. lodged by the police officers in respect of the rioting at Maniyar Wada, Joshi Peth and Bhilpura and Islampura. The remaining eight cases were all registered on private complaints, two by the Hindus and six by the Muslims. The Hindu complainants were Atmaram Keshav Nhavi who complained of being assaulted at Joshi Peth by some unknown persons whose community he could not make out (Ex. P 763) and Bahinabai Kisanrao Kale (C.W. 8) who charged four Muslims with having outraged her modesty and whose F.I.R. (Ex. P 767) was registered as C.R. No. 115/70.

76.21 Two cases were registered in respect of the rioting at Maniyar Wada, namely, C.R. No. 80/70 in pursuance of the F.I.R. (Ex. P 757) filed by Sayed Chand Sayed Amir [J.U.(J.)W. 13] and C.R. No. 81/70 in pursuance of the F.I.R. (Ex. P 758) filed by Inspector Sawant. One case was registered in respect of the rioting at Joshi Peth, namely, C.R. No. 82/70, in pursuance of the F.I.R. (Ex. P 759) filed by P.S.I., Karhadkar, and one case was registered in respect of the rioting at Bhilpura and Islampura, namely, C.R. No. 83/70, in pursuance of the F.I.R. (Ex. P 760) filed by P.S.I. Parkar. C.R. Nos. 80 and 81 of 1970 in respect of the disturbances at Maniyar Wada were investigated by D.I., Vasant Laxman Limaye (P.W. 93). C.R. No. 82/70 in respect of the disturbances at Joshi Peth was investigated from May 17, 1970 to May 19, 1970 by D.S.I., Y. N. Mokashi of C.I.D., Crime Unit, Aurangabad, who had accompanied Dy. S.P., Mahajan to Jalgaon on May 17, 1970, and thereafter by D.I., Trimbak Sadashiv Bendre (P.W. 95). C.R. No. 83/70 in respect of the disturbances at Bhilpura and Islampura was investigated from May 17, 1970 to May 24, 1970 by D.S.I., Y. N. Mokashi and from May 24, 1970 to June 22, 1970 by D.I., P.M. Chekatkar and on Chekatkar being relieved from duty in the Special Investigation Squad on June 22, 1970, by D.I., Dundappa Gurappa Sankpal (P.W. 94) from June 22, 1970 onwards.

76.22 Though originally only a single charge-sheet in respect of the several offences in each of the four C.R. Numbers, namely C.R. Nos.

80, 81, 82 and 83 of 1970, was filed, subsequently these cases were allowed to be split up and seven charge-sheets were filed in C.R. No. 80/70, three in C.R. No. 81/70, twenty-six in C.R. No. 82/70 and nine in C.R. No. 83/70. So far as the five remaining private complaints by Muslims were concerned, four were classified as 'A' Summary, that is, as being true but undetected, and in one, namely, C.R. No. 85/70 (Ex. P 762), which related to the arson to Gulamali's footwear shop at Kasturba Road in Islampura, one Hindu was prosecuted but acquitted by the Judicial Magistrate, First Class, Jalgaon. So far as the Hindu complaints were concerned, the complaint of Atmaram Keshav Nhavi was classified as 'A' Summary, while three Muslims were prosecuted in C.R. No. 155/70 registered in pursuance of the F.I.R. (Ex. P 767) filed by Bahinabai. All the three Muslims were acquitted by the Judicial Magistrate, First Class, Jalgaon.

76.23 The nature of the work done by the Special Investigation Squad, Jalgaon, was three-fold — destructive, preservative and creative. The destructive aspect of the work done by the Special Investigation Squad was to render worthless, as far as possible, the evidence against the Hindu accused in many important cases. The preservative aspect of the work done by it was to ensure that no credible evidence came or remained on the record which might establish any allegation made against any of the police-officers in connection with their conduct during the disturbances. The creative aspect of the work done by it was to invent a cause for the disturbances which would provide the Hindu rioters with a "moral justification" for rioting and, irrespective of what the true position was, to show that the Muslims were the aggressors and that the Hindus thereupon retaliated".

76.24 Dy. S.P., Mahajan has deposed that when he was in Jalgaon he used to hold a conference every evening with his investigating officers who reported to him verbally the progress of the cases they were investigating and that this was followed by a discussion and that he would give instructions on the spot to them and when the investigating officers placed any difficulties before him he would try to solve them. He has further deposed that whenever the S.P. (Crime) or the D.I.G. (Crime) visited Jalgaon, they would discuss with him about the progress of the investigation in the riot cases [P.W. 96/1(1)/3205(1), 1A(1)/3205(5), 1A(6)/3205(6), 4/3207]. These evening conferences and discussions are of considerable importance because they fasten each of the officers of the Special Investigation Squad who participated in them and the D.I.G. (Crime) and the S.P. (Crime) with knowledge of what was done in the investigation of the riot cases, or at least with most of what was done in the investigation of these cases, and these officers must therefore share the responsibility for what was done.

The case diaries

76.25 Just as in the case of the Special Investigation Squad, Bhiwandi, so also in the case of the Special Investigation Squad, Jal-

gaon, copies of case diaries were not submitted. In the case of Jalgaon also, the office of the D.I.G. (Crime) woke up to this state of affairs only when the question of D.I., A. G. Lankar's case diary came up before the Commission. Thereupon by the letter dated October 16, 1971 the D.I.G. (Crime) called upon Dy. S.P., Mahajan to submit copies of all case diaries to the office of the D.I.G. (Crime). This requisition was not complied with and copies of the letters dated November 8, 1971 and November 24, 1971 (Exs. P 1254 and P 1364) from the D.I.G. (Crime) to the Dy. S.P., Special Investigation Squad, Bhiwandi, asking for copies of case diaries to be submitted were thereupon endorsed to Dy. S.P., Mahajan for similar action, that is, for seeing that copies of all the case diaries were submitted to the office of the D.I.G. (Crime). The fact that copies of case diaries were not submitted even by the end of November 1971 shows that the officers of the Special Investigating Squad, Jalgaon, were not regularly writing up case diaries.

The manner of investigating Muslim complaints

76.26 In her application dated June 12, 1970 (Ex. No. 33) to the then Union Home Minister Hajrabi had stated that she had recognized four persons in the rioting Hindu mob, namely, Murlidhar Wani, Suresh Wani, Narayan Sampat and one Adhar. The said application was referred to the D.M. for his report. His report dated July 7, 1970 (Ex. No. 35) to the Home Secretary is eloquent as to the manner in which complaints by the Muslims were investigated by the Special Investigation Squad. The relevant portions of the said report are:—

“As regards the names of the persons mentioned in the copy of the application submitted to the then Home Minister, Shri Y. B. Chavan, by Smt. Hajra Begum, who lost four children and her mother in the riots. I called the Inspector Bendre of the C.I.D., to find out the stage where the things stand today because Shri Mahajan, Deputy Superintendent of Police (C.I.D.), who is in charge of the investigations, is out of Jalgaon. He gave me to understand that neither any Murlidhar Wani nor any Suresh Wani nor Narayan Sampat have been arrested by the Police so far, whereas the fourth man, Shri Adhar Ananda Bhavsar, has since been arrested. He explained that the first three persons could not be arrested by now because the lady is not very clear about their names. In place of Murlidhar Wani, they have already arrested one Murlidhar Kolhe and informed that there is no person of the name of Murlidhar Wani, similarly, in the case of Suresh Wani, he told that the lady is sometimes mentioning Suresh Wani and sometimes mentioning Suresh Joshi and hence they have arrested none. As regards Narayan Sampat, he informed me that there is no man with this name. There are two brothers with the names Narayan Tukaram Patil and Sampat Tukaram Patil and both have been arrested.

“It is obvious from the above para. that there is some confusion about the persons in the police quarters. Quite possibly, it may be

because of the statements of the lady. However, it is the duty of the Police to make cogent investigation rather than to try to establish facts about which they themselves are not very clear. I understand this is not the only case. Even in many other cases, the investigation of the Police and consequently the cases in the Court are very likely to suffer because the statements of witnesses are recorded by more than one authority and the statements recorded are learnt to be contradictory or confusing. If this happens, surely the case of the State is bound to fall and the Government should take immediate notice of the same and instruct the authorities concerned with investigation not to allow their cases to suffer because of confusions and lacunas.

“As regards Suresh Wani, it could easily be found by taking the lady in the town because she claims to have been kept in his house and whether that man is Suresh Wani or Suresh Joshi could have been found. Similar is the case about Murlidhar Wani. I have given oral instructions in this regard to Shri Bendre and I am also writing separately to Shri Mahajan in this connection.”

Police statements

76.27 It is the common experience of anybody in any degree familiar with criminal matters that whenever the police statement of a witness is recorded much after the alleged offence has taken place or when a second police statement of the same witness is recorded subsequently which improves upon or adds to or seeks to fill in the lacunas in his original police statement, the Courts treat the matter with considerable suspicion and the usual charge levelled by the defence, which often finds favour with the Courts, is that such a witness has been suborned to give evidence. The persons whom one would expect to be most familiar with this position would be police officers concerned with the investigation of crimes. Yet the officers of the Special Investigation Squad, Jalgaon, have systematically indulged in the practice of recording statement after statement of the same witness. To give only three examples, three police statements of Abdul Hamid Shaikh Gulab [J.U.(J.)W. 5] were recorded as mentioned in Chapter 65 (paragraph 65.3), thirteen police statements of Sayed Chand Sayed Amir [J.U.(J.)W. 13] subsequent to the F.I.R. lodged by him were recorded as mentioned in Chapter 65 (paragraph 65.5) and seven police statements of Hajrabi [J.U.(J.)W. 16] were recorded as mentioned in Chapter 67 (paragraph 67.57).

76.28 Though some of the subsequent police statements of the Muslim witnesses related to the identification of the accused persons or of some dead bodies or of property recovered in the course of the investigation, in almost every case one or more subsequent police statements were in the nature of a detailed cross-examination of the witness on his original police statement meticulously recording which part of the earlier statement was correct and which was incorrect and in what respect it was incorrect or how the sequence of events mentioned in the earlier police statement was incorrect, etc., thus totally destroying

both the earlier and the subsequent police statements and giving a most powerful weapon in the hands of the defence for destroying the credibility of the witness when he stepped into the witness-box and by and large making certain the acquittal of many an accused person. The more important a Muslim witness was from the prosecution point of view the greater the number of his subsequent police statements which have been recorded. The astonishing fact about this recording of subsequent police statements is that this practice was followed only in the case of the Muslim witnesses who had deposed against the Hindus. Inspector Bendre's evidence on this point is eloquent. He has deposed (P.W. 95/2/3195, 5/3198):—

“We verified earlier police statements by asking questions on points contained in those statements which required clarification. This verification is not like a cross-examination. The verification of previous statements given by witnesses has resulted in discrepancies and contradictions between the earlier statements and subsequent statements of these witnesses. It did not strike me that in the prosecutions of various accused persons the defence would be able to take advantage of these discrepancies and contradictions.

“The aim of my investigation was not prosecution. It was to be impartial between both parties, namely, Hindus and Muslims. I have recorded about 750 statements out of which 150 were of Hindus and the rest were of Muslims. I have not recorded supplementary statements of any Hindu witnesses for the purpose of verifying their earlier statements because I did not see any necessity of verifying the statements given by them.”

76.29 It was astonishing to hear a Detective Inspector state on oath in the witness-box that it did not strike him that in the prosecutions of various accused persons the defence would be able to take advantage of the discrepancies and contradictions which such subsequent police statements have brought on the record.

76.30 This method followed by the Special Investigation Squad appears to have created considerable dissatisfaction amongst the Muslims and even D.M., Pardeep was moved to protest against it. In his report dated July 7, 1970 (Ex. No. 35) made on Hajrabi's application dated June 12, 1970 to the then Union Home Minister, Mr. Y. B. Chavan, the D.M. has expressly pointed out that the police investigation and consequently the cases in Court were likely to suffer because the statements of witnesses were recorded by more than one authority and it was learnt that such statements were contradictory or confusing and that if this happened, the case of the State was bound to fail and he requested the Government to instruct the authorities concerned with the investigation not to allow the cases to suffer by reason of this. The protest and complaint of the D.M. appear to have gone unheeded but such protests do not leave any scope for justification to the officers concerned.

76.31 A large number of police statements have been brought on the record. It is not necessary to analyse each and every one of these

police statements. Suffice it to say that a cursory comparison of a so-called verification statement of a witness with his original statement clearly shows that the so-called verification was really a searching cross-examination — normally the function of the defence advocate, and in many cases it destroyed any efficiency and value attaching to the evidence of the witness. It is clear that the only purpose of this so-called verification was to bring on the record discrepancies and contradictions and to furnish materials to the defence for cross-examination and thus ensure the acquittal of the accused or give an excuse to the investigating officer to close the case by filing an 'A' Summary.

76.32 Only one instance need be given of how the police statements were managed to be destroyed by this method of so-called verification. Inspector Bendre has deposed that when he took over the investigation of C. R. No. 82/70 (the case in respect of the rioting at Joshi Peth) he found in the case papers three or four police statements implicating Ramesh Eknath Wani, but when he recorded the supplementary police statements of these witnesses in order to verify what they had stated in their police statements, they changed their story and while in their police statements they had stated that Ramesh Eknath Wani was present in the mob, in their supplementary police statements they stated that they had not seen him in the mob but someone had told them that he was in the mob (P.W. 95/4/3197-8). Assuming that the supplementary police statements were correctly recorded, no quarrel could perhaps have been found with this zeal to ascertain the truth had it been exercised impartially in respect of both Hindu and Muslim witnesses; but, as admitted by Inspector Bendre, not a single police statement of a Hindu witness was at any time 'verified' because, to use Bendre's own words, he "did not see any necessity of verifying" the police statements given by the Hindu witnesses (P.W. 95/5/3198). Thus, no supplementary police statements of the Hindus who claimed to be eye-witnesses in Bahinabai's case or against the Muslims charged with rioting at Maniyar Wada or with throwing stones from the terrace of the Madina Mosque were at any time recorded.

76.33 It is doubtful whether some of these supplementary police statements were correctly recorded. Several witnesses have denied that they had stated to the investigating officer what has been recorded in their police statements. They have also denied that their police statements were read over to them. These complaints have been made not only by the Muslim witnesses but also by witnesses whom one may describe as independent and from whom one would not normally expect such allegations. These witnesses were the police approved photographer Sitaram Ramdas Sali (P.W. 84)—a Hindu, the D.M.'s stenographer, Anant Mahabal, and S.D.M., Koli. Sitaram Sali had taken the photographs of the dead body of Taj Mohamed. His police statement was recorded by D.I., Bendre and bears the date July 13, 1970 as the date on which it was recorded. Sali has, however, deposed that his police statement was recorded only in 1972 about two or three

months prior to the date of his giving evidence before the Commission, namely, March 30, 1972. He has further deposed that he had not gone to Joshi Peth nor had taken any photographs of burning houses there and denied the statements in that behalf to be found in his police statement. He has further stated that no one had asked him to take the photographs of Taj Mohamed's body but that he took them of his own accord and that he did not know nor had anyone told him from where the body had been brought or how it happened to be lying on the road on a stretcher and denied that he had stated while his police statement was being recorded that while he was taking photographs, after about fifteen or twenty minutes someone from the crowd there, said that a dead body taken out from a building was kept on the road and a photograph should be taken and that he, therefore, at once went there and took the photograph. He has further deposed that he did not look at the dead body closely and did not see whether there were any injuries or wounds on it, but he just took photographs of it and went away without observing the condition of the body and its clothes. He denied that he had stated while his police statement was being recorded that at the time when he saw the dead body it appeared as if it was burnt and that there were no blood stains on the clothes or the body nor any injuries on the face or the body (P.W. 84/6-7/2798-2800). All the above answers were given by him in reply to the questions put to him by the Commission. There is no reason not to accept the evidence of this witness nor has any reason been suggested why his evidence should not be accepted.

76.34 The police statement of the Collector's stenographer Mahabal is stated to be recorded on August 16, 1970 by D.I., Sankpai. Mahabal has also denied that he stated to the police officer recording his police statement a portion of what is to be found in it (P.W. 88/19/2843-4). Similarly, S.D.M., Koli stated that his police statement was not read over to him though he admitted that he did not ask that it should be read over to him, and that the first occasion on which he had looked at his police statement was the day he came to give evidence before the Commission (P.W. 79/3/2384).

The investigation into Taj Mohamed's murder

76.35 As pointed out in Chapter 67 (paragraphs 67.14 to 67.32), the circumstances relating to the murder of Taj Mohamed Raj Mohamed, the attempts made to show that his body and clothes were not blood-stained, the post-mortem report which on the face of it was incorrect and the police statements of various witnesses all showed that this was a very serious case for investigation. Amongst other police statements the police statements of Danniell Puthmai Jayaraj (P.W. 86) of the Varangaon Ordnance Factory Fire Brigade, Mohamed Zahoor Abdul Rehman Bagwan (P.W. 82) and Shaikh Sahebji Dagdu Bagwan (P.W. 83) showed that the face and mouth of Taj Mohamed were covered with blood and that his clothes were stained with blood. Mohamed Zahoor's police statement was recorded by D.I., Bendre on

July 29, 1970. D.I., Bendre was asked whether after recording this statement he investigated how Taj Mohamed came by his death. Bendre's reply was (P.W. 95/6/3199):—

“The matter was delicate, I therefore made a report to the D.I.G. (C.I.D.) (Crime) asking whether I should exhume the body. Till the time I proceeded on leave preparatory to retirement I did not receive any order or direction from him in this connection. I proceeded on leave preparatory to retirement on February 4, 1972. I had discussed this matter with Dy. S.P., Mahajan at one of our daily conferences and he also advised me to submit a report to the D.I.G. (C.I.D.) (Crime).”

76.36 One fails to understand why the matter should be considered as ‘delicate’ merely because a sub-inspector, Sub-Inspector Bhalerao, was involved. As is shown by Bendre's report dated October 25, 1970 (Ex. P 1049), there were other witnesses including the panchas Ganpat Garbad Marathe and Shaikh Abdul Shaikh Mahibub who had stated that Taj Mohamed's clothes were stained with blood at the time of the original taking charge of the clothes of Taj Mohamed. In August 1970 the D.I.G. (Crime), B. K. Goverdhan, had come to Jalgaon and in the course of discussions he had expressed his opinion that Bhalerao should not be prosecuted (P.W. 95/3/3197). It was, therefore, but natural that thereafter when on October 21, 1970 Bendre received the report of the ballistic expert which showed that the service revolver issued to Bhalerao had been fired and was in working order, Bendre should not carry out any investigation to find out when it was last fired prior to the disturbances (P.W. 95/3/3197, 8/3204).

76.37 By his said report dated October 25, 1970 (Ex. P 1049) Bendre requested the D.I.G. (Crime) to give him directions for exhuming the dead body of Taj Mohamed. In the said report after setting out the substance of all the police statements recorded by him, he stated that the police statement of Mullaji Ibrahimkhan Abdul Rahimankhan, who had performed the burial rites of Taj Mohamed, showed that five pits had been dug in the burial-ground at Mehrun Road and that in the longest of these pits the dead body of Taj Mohamed and the dead bodies of eleven other males and females had been buried separately. Dy. S.P., Mahajan put his own remarks on the said report. He stated that there was sufficient suspicion regarding the cause of Taj Mohamed's death and requested for orders whether the body of Taj Mohamed should be exhumed as all the bodies buried in that grave would have to be exhumed to find out if any of them had a bullet injury in the bones of the face.

76.38 The notings (Ex. P 1477) on the said report after it was received in the office of the D.I.G. (Crime) make interesting reading and show that the only endeavour on the part of that office was to squash any attempt at investigation. The first noting was made on November 17, 1970 by R. P. Akut. He opined that it appeared necessary to get the body of Taj Mohamed exhumed and further investigation carried out in order to arrive at a definite conclusion.

The next noting was made on the same day by S.P., Dr. H. G. Abhyankar. Dr. Abhyankar, it will be remembered, was the officer who was specially sent to Bhiwandi from Poona by the D.I.G. (Crime) to establish the alibis of Bhaskar Mali and some other Hindus against whom serious allegations were made in connection with the Bhiwandi disturbances. Dr. Abhyankar opined that there were too many loose ends which had not been cleared up in Bendre's said report and that exhuming the dead body of Taj Mohamed from a grave which held eleven other dead bodies was not going to provide any satisfactory answer. He also raised the question whether the clothes had not been substituted. He concluded by stating, "I have a feeling that exhumation will bring more headache and it may be better to verify and check the available evidence and take a decision on the merits of the same". One is amazed at reading these remarks. The best evidence that could have been afforded would have been the exhumation of the dead body or even a skeleton showing a bullet injury on its bones. If the bullet had been embedded in the body, even assuming the flesh had rotted away and only the skeleton was left, the bullet would have been found in the pit. The D.I.G. (Crime) next day directed Dy. S.P., Mahajan and D.I., Bendre to be called to Poona for a personal discussion. This discussion took place on November 25, 1970 and Mahajan and Bendre were asked "to make further detailed probe and to have legal opinion very early". Nothing was done thereafter for ten months. The question which arises is why a legal opinion was not taken. The evidence makes the reason clear. All the Jalgaon riot cases were at that time being handled by the Special Public Prosecutor Mr. J. M. Akarte who was of the opinion that Bhalerao should be made a co-accused in C.R. No. 82/70 which was in respect of the disturbances at Joshi Peth; an opinion which, though Mr. Akarte stated was shared by the D.M., Bendre did not accept (P.W. 95/3/3197). Thus, obtaining Mr. Akarte's opinion on the question of exhumation of the dead body of Taj Mohamed or on the merits of the case would not have served the purpose of the Special Investigation Squad, but would have merely resulted in Mr. Akarte opining that the body should be exhumed and that there was a case for prosecuting Bhalerao.

76.39 Suddenly in the middle of August 1971 there was a spurt of activity. By his letter dated August 16, 1971 the D.I.G. (Crime) asked Bendre to take legal opinion and then report to Poona with all relevant case papers and not to delay the disposal of the case any longer (P.W. 95/7/3202). Thereafter the matter was personally discussed by S. K. Verma, S.P. (Crime) with Bendre at Jalgaon on September 23, 1971 and he was asked to submit a report by September 23, 1971. Thereupon Bendre sent another report dated September 25, 1971 to D.I.G. (Crime) (Ex. P 1050). In this report, after pointing out that the evidence of Bismilla Hasan, Sahebji Dagadu, Amir Vajir, Haji Gulam Rasul Haji Hasan, Saroopsing Amarsing, Daniel Puthmai Jayraj of the Varangaon Ordnance Factory Fire Brigade, the two panchas, Shaikh Abdul Shaikh Mohamed and Ganpat Marathe, the Station House

Officer, H.C., Itbarkhan Foujkan, and P.C., Gulabkhan Namdarkhan and the reports of the Chemical Analyser and the Ballistic Expert would have to be weighed in the light of the evidence of P.S.I., Karhadkar, the two panchas to the original inquest report and Dr. Patil who had performed the post-mortem examination, Bendre requested for instructions in the matter of further investigation. The note (Ex. P 1477) made on this report on October 15, 1971 by M.C. Garud. Dy. S.P. (Crime), S.C., stated:—

“In view of the contradictory evidence now on record it would be necessary to allow exhumation which would facilitate to clear off the doubts as to whether deceased Taj Mohamed died of respiratory failure as opined by the Medical Officer or died of injuries as alleged.”

Bendre had, however, not obtained any legal opinion before submitting the said report. Accordingly, another noting was made on the said report by Dy. S.P. (Crime), S.C., to obtain legal opinion about the merits of the case and the question of exhumation. A wireless message as also a letter were sent to Bendre on November 12, 1971 to obtain a legal opinion. How the legal opinion was obtained is crystal clear from the noting of S.P., Varma made on November 30, 1971 (Ex. P 1477). After stating that the decision with respect to exhumation remained to be taken if the investigation was to be pursued further, Varma stated:—

“To begin with, P.S.I., Bhalerao (now under suspension) had become a hot-bed of controversy. because of the alleged role played by him in Jalgaon Riots. There were suggestions that he had abetted the arson and murder committed by Hindus. Special Public Prosecutor Shri Akarte, was very keen to secure prosecution of this officer as co-accused in some of the riot cases. This was opposed by the then D.I.G., C.I.D. (kindly see flagged report sent to I.G.P.); His prosecution was equally opposed by S.P., Jalgaon, who had also sent a report to I.G.P., a copy of which he endorsed to us. There have been no orders from the Government or I.G.P. and I would presume that there is intention to prosecute Sub-Inspector Bhalerao as an accomplice in the communal riot cases. The one person who is very keen to have him prosecuted is Special Public Prosecutor Shri Akarte. He relied on the say of witnesses as per enclosed hand-written gist of say of Muslim witnesses, which he had shown me during my present visit to Jalgaon, with a request that this may not be shown to others.”

The said noting then referred to the fact that Bendre was directed in November 1970 to seek legal opinion which he had not obtained in spite of reminders. It then proceeds:—

“It is possible that due to Shri Akarte’s desire to have Bhalerao prosecuted, Inspector Bendre might have been avoiding to take Shri Akarte’s legal opinion. I, therefore, discussed the case with the newly appointed Asstt. Public Prosecutor Shri Bhirud. Shri Bhirud informally conveyed to me the view that exhumation will not be

helpful. However, Shri Bhirud had only seen the case diaries and not the original papers which are in the personal custody of Inspector Bendre, who is sick and on leave. I have, therefore, asked Shri Bhirud to send me a formal opinion, as soon as Shri Bendre rejoins and the case papers become available."

It was opined in the said noting that the decision regarding exhumation should not be delayed any further and that the file might be taken with him by the D.I.G. (Crime) when he visited Jalgaon to enable a decision to be taken on the spot. The said noting concluded by stating, "This matter is likely to come up before Madon Commission also.", an apprehension which turned out to be justified. The matter was then discussed between Varma and D.I.G., Goverdhan on December 8, 1971. Dy. S.P., Garud's noting made on January 5, 1972 shows that the D.I.G. (Crime) had directed the immediate obtaining of the legal opinion of Mr. Bhirud. Along with his letter dated January 13, 1972 Mr. Bhirud submitted his opinion dated January 10, 1972 (Ex. P 1051). It is thus clear that the legal opinion of Mr. Akarte was not taken as it was believed that it would have been against Bhalerao and that when Mr. Bhirud was appointed Assistant Special Public Prosecutor the matter was informally discussed with him and after ascertaining that his opinion would not be unfavourable to Bhalerao, his opinion was taken. It is unnecessary to discuss in any detail the opinion of Mr. Bhirud except to mention that certain facts stated by him are not borne out by the evidence, namely, that the building in which Taj Mohamed's body was found was full of smoke and that the exact place where Taj Mohamed was buried was not definite, for the evidence shows that the body was lying in an inner room which was open to the sky and that Mullaji Ibrahimkhan who had performed the burial-service had clearly mentioned in his police statement where the body was buried, nor do either of the two aforesaid reports of Inspector Bendre (Exs. P 1049 and P 1050) mention that it was not possible to ascertain the place where Taj Mohamed's body was buried. The case was thereafter discussed between D.I.G. (Crime) and Varma, S.P. (Crime), and a decision was taken to close the case as 'A' final, that is, as being 'true but undetected', and by the letter dated March 11, 1972 from the D.I.G. (Crime) (Ex. P 1052). Bendre was asked to close the case in accordance with the said decision.

76.40 It is thus clear that the investigation carried out in respect of the murder of Taj Mohamed and particularly the manner in which he met with his death was so conducted as to conceal rather than unfold the truth lest the facts which emerged in some manner implicate Sub-Inspector Bhalerao. With this view a legal opinion was taken only after it was first ascertained that it would be favourable to Bhalerao and the case was ordered to be closed as 'A' summary. In his said opinion Mr. Bhirud had clearly stated that Taj Mohamed had met with a homicidal death. Even assuming it was honestly believed that Bhalerao was not implicated in any manner in committing the murder of Taj Mohamed, the record shows that no attempt was made

to find out who had caused Taj Mohamed's death nor how P.S.I., Karhadkar had happened to make a false inquest report.

The failure to prosecute Sub-Inspector Bhalerao

76.41 Apart from the allegation that he murdered Taj Mohamed there were other allegations made against Bhalerao both with respect to his conduct prior to the disturbances and during the course of the disturbances.

76.42 So far as his conduct prior to the disturbances is concerned, the allegations were that he did not take any proper steps to find out who was behind the mischief of stone-throwing on the Jumma Mosque and the creating of tension in Rath Chowk and the localities adjoining it and that he was very friendly with Ichharam Havaldar, whose hotel was opposite the Jumma Mosque and who was one of the leaders of the R.T.M., and with Ramesh Daulat Patil, an active leader of the local Jan Sangh and the R.T.M. and whose shop was situate opposite the Jumma Mosque. The allegations that he did not take any steps with regard to the stone-throwing and was friendly with Ichharam Havaldar and Ramesh Daulat Patil are to be found in the evidence of Syed Amir Syed Supadu [J.U.(J.)W. 6/6/2675]. Shaikh Noor Mohammed Shaikh Amir [J.U.(J.)W. 7/1(5)/2678(3), 16/2683]. Sayed Chand Sayed Amir [J.U.(J.)W. 13/1(7)/2835(4), 20/2741] and Kazi Ahmed *alias* Rabbani Miya [J.U.(J.)W. 15/1(9)/2749(3), 10/2755]. Bhalerao has himself admitted that he knew the workers of the R.T.M. as he used to go on duty to Rath Chowk (S.P.O.W. 10/14/ 3149). We have already seen in Chapter 62 (paragraph 62.27) that his attitude towards the R.T.M. was partial and that he, therefore, did not report the inflammatory communal boards put up at Rath Chowk while he had gone there for patrolling. The reports made by Bhalerao and the incorrect versions contained therein with respect to some of the incidents which took place, particularly the incident which took place at Rath Chowk during the Holi festival in the early hours of May 22, 1970, have already been dealt with in Chapters 59 and 62. Bhalerao has admitted that he made no inquiry from Ichharam Havaldar about the stone-throwing on the Jumma Mosque. The reason which he gave for not doing so was that as Ichharam was from the same place from where the stones were being thrown on the Jumma Mosque, he would not have spoken the truth (S.P.O.W. 10/5/3144-5, 14/3149). His said admission makes a strange contrast with his reports which attempt to make out that hardly any stones were thrown on the Jumma Mosque and that the Muslims were spreading false rumours that stones were being thrown on the said mosque.

76.43 Ichharam Natu Havaldar was a former armed police constable who was dismissed from the Police Force with effect from July 5, 1953 for dishonest and disgraceful conduct unbecoming a policeman in that he was caught by the P.S.I., Jalgaon Taluka, on March 11, 1952 at about 9-15 p.m. on Shirsoli Road while transporting illicit liquor with three others (S.P.O.W. 6/66/3024). He belonged to the

R.T.M. Being a former policeman he was hardly likely to miss an opportunity of trying to ingratiate himself with the Police Sub-Inspector whose duty it was to patrol the locality in which his hotel and residence were. There must have been occasions when Bhalerao must have sat opposite the Jumma Mosque. If he sat on the road opposite the Jumma Mosque, he would be almost outside Ichharam's hotel and thus become friendly with Ichharam. As against this it was submitted on behalf of Bhalerao that no such allegations were made by the Muslims prior to the disturbances. It is true that these allegations have not been made by any Muslims prior to the disturbances, but in all probability, though they might have felt a certain amount of resentment at the apparent friendliness of Bhalerao with Ichharam, this fact must have struck them forcefully only after the disturbances took place. Another argument advanced on behalf of Sub-Inspector Bhalerao was that in the very first police statement made by him, namely, his police statement recorded on May 9, 1970 (Ex. P 1026) he had implicated Ramesh Daulat Patil, Vasant Trimbak Bhoite and Ramesh Trimbak Bhoite and had further stated that Ichharam Havaladar was also there while the rioting was going on and was instigating the rioters. It was submitted that had he been really friendly with Ichharam he would not have mentioned his name. This argument overlooks the fact that Bhalerao had almost no choice in the matter for the names of these persons had already been mentioned as accused persons in the F.I.R. (Ex. P 758) filed the previous evening by Inspector Sawant and it was Sawant himself who had recorded Bhalerao's first police statement. It is very pertinent to bear in mind that except for dismissing the Muslim complaints of stone-throwing as rumour-mongering Bhalerao did nothing at all and made no inquiry whatever to ascertain the truth of the matter or to unearth the hand behind this mischief. These, however, are all matters for a disciplinary inquiry and not one in respect of which Bhalerao could have been prosecuted in a Court of Law. But these were facts which any honest investigating officer would have taken into account in considering the allegations against Bhalerao with respect to his conduct during the disturbances.

76.44 So far as Bhalerao's conduct during the disturbances is concerned, in the affidavits and evidence of as many as ten witnesses, namely, Gulam Rasool Bagban [J.U.(J.)W. 3], Shaikh Noor Mohammed Shaikh Amir [J.U.(J.)W. 7], Haji Abdulla Shaikh Bhuru [J.U.(J.)W. 8], Haji Mohammed Yasin Raj Mohammed [J.U.(J.)W. 9], Sayed Chand Sayed Amir [J.U.(J.)W. 13], Abdul Rahim Gulam Rasul [J.U.(J.)W. 14], Mohammed Yusuf Shaikh Husain Bagban [J.U.(J.)W. 20], Mohammed Ismail Shaikh Ibrahim [J.U.(J.)W. 22], Kazi Ahmed *alias* Rabbani Miya Mohmood Saheb [J.U.(J.)W. 15], Hajrabi widow of Abdul Samad [J.U.(J.)W. 16] and in the evidence of Shaikh Sahebji Dagdu Bagwan (P.W. 83), allegations have been made against Bhalerao. As many as twenty police statements implicated Sub-Inspector Bhalerao, the first of these police statements being that of Abdul Satar, Shaikh Vazir recorded on May 11, 1970 by P.S.I., Parkar (P.W. 95/3/3195).

In his written arguments Mr. Rane, on behalf of the Executive Magistrates and the District Police Officers, has set out a list of police statements in which Bhalerao was implicated and has also summarized the gravamen of the allegations made against him. Shortly put, the allegations in the said police statements against Bhalerao consisted of inciting the Hindu mobs to commit acts of rioting, arson and murder, of loading them into Bagwan Mohalla, of shooting down Taj Mohamed, and of threatening the Muslims, including Hajrabi, with his revolver. That the method adopted by the police officers to put down the disturbances was to force the Muslims, who had collected on the roads in their localities in self-defence, to go back into their own houses is clear on the evidence. Even the Hindu witness Pannalal Nathu Koli called by the Jalgaon Janadhikar Saunrakshan Samiti has admitted that in Maniyar Wada he saw Inspector Sawant and Sub-Inspector Bhalerao pushing the Muslims back with their hands and asking them to go back into their houses (J.J.S.W. 5/3/2427). According to the evidence of Karhadkar, Karhadkar's F.I.R. (Ex. P 759) and Bhalerao's own police statement, Bhalerao was in Bagwan Mohalla when the rioters were there and had lathi-charged them. Karhadkar has deposed that the mob in the lanes adjoining the burning houses of Gulam-Rasool Bagban and others was dispersed by himself, Bhalerao and two or three constables by making a lathi-charge and that this mob consisted of both Hindus and Muslims. He has further deposed, "The Hindus were rioting and the Muslim houses were on fire" (S.P.O.W. 9/17/3110). If the Hindus were rioting and the Muslim houses were on fire, common sense tells us that the Muslims must have come out on the roads either to save themselves or in self-defence to protect themselves from further loss of life and property. It passes understanding why these Muslims should have been dispersed by a lathi-charge. The evidence of these police officers that they dispersed the Hindu mob is worth nothing because had any Hindu mob been dispersed as alleged, systematically one Muslim house after another in locality after locality would not have been set on fire and burnt down. No attempt was made by any of these police officers, all of whom were carrying revolvers, to open fire on any Hindu mob. In the witness-box Bhalerao denied having gone to Bagwan Mohalla while the riot was going on. His denial of this fact is false as pointed out in Chapter 67 (paragraphs 67.0 to 67.13).

76.45 An important fact is that Sub-Inspector Bhalerao and to some extent Head Constable Dashrath Joshi are the only police officers against whom allegations of participating in the disturbances have been made by the Muslims. Similar allegations have not been made against Dy. S.P., Ghorpade or Asst. S.P., Azad or Inspector Sawant or Sub-Inspectors Karhadkar or Walvekar. In order to explain away this fact Bhalerao has sought to make out that the Muslims bore an animus against him for three reasons and have, therefore, falsely deposed against him. The first reason given by him was that while patrolling in Rath Chowk whenever he used to see the Muslims stand-

ing or sleeping on the cots outside their houses or in the chowk, he would make them go inside their houses by scolding and threatening them. The second reason was that on April 18, 1970 there was an altercation between him and Gulam Rasool Bagban. The facts of this incident as alleged by him were that on that day the Chief Minister had come to Jalgaon in connection with the Parliamentary by-election from Buldhana constituency. After receiving the Chief Minister at the railway station along with the S.P. and Inspector Sawant, Bhalerao went to the police station. The S.P. came there and asked him whether arrangements for a private car for the use of the Chief Minister had been made. Thereupon Bhalerao went to the Congress Bhavan to make inquiries about the car and learnt that arrangements had been made for two private cars for the use of the Chief Minister. From the Congress Bhavan Bhalerao rang up the S.P. and gave him this information. At that time Gulam Rasool Bagban was present and took the receiver from Bhalerao's hand and began complaining to the S.P. about the stone-throwing on the Jumma Mosque after Bal Thackeray's meeting. Bhalerao then went back to the police station. The S.P., however, became annoyed with Bhalerao and asked him why, while he (Bhalerao) was talking with the S.P., the conversation was interrupted by another person and said that by reason of this interruption he had become confused and could not make out whether the arrangements for a car for the Chief Minister had been made or not. The S.P. further told him that if Gulam Rasool Bagban wanted to make any complaints, he could have come to the S.P.'s office. Thereafter the S.P. left and Bhalerao went towards the Collectorate as the S.S.P. was taking out a Morcha. Near Shastri Tower he met Gulam Rasool Bagban Salunke, the Secretary of the Jalgaon City Congress Committee, and two or three others whose names he did not know. He told Gulam Rasool Bagban about the conversation which he had with the S.P. and gave Gulam Rasool Bagban a warning that he should not next time interrupt his telephonic conversation. Gulam Rasool Bagban thereupon told Bhalerao that he (that is, Bhalerao) ought to remember to whom he was talking and that he was an M.L.A. Bhalerao retorted that he did not care whether he was an M.L.A. or not and that it was his duty to warn him and he had accordingly warned him. Gulam Rasool Bagban thereupon stated that he had seen many sub-inspectors and Bhalerao retorted that he had seen many M.L.As. Gulam Rasool Bagban thereupon threatened Bhalerao that he would teach him a lesson and on this note they parted. Bhalerao has deposed that this exchange of words attracted a number of persons. According to Bhalerao, as Gulam Rasool Bagban was a prominent Muslim leader, at his instance false allegations were made by the Muslims in their affidavits and evidence against Bhalerao. The third reason given by Bhalerao was that he was given the duty of supervising traffic constables and for this purpose every morning and evening he used to check each traffic point. About a month prior to the disturbances a traffic constable near the Jalgaon Civil Hospital reported to Bhalerao that trucks used to be

parked near Rajkamal Talkies causing obstruction to the traffic. Bhalerao found two trucks parked in front of the 'pedhi' of Haji Mohammed Yasin Raj Mohammed [J.U.(J.)W. 9]. Bhalerao personally gave a warning to the drivers of the trucks, then went inside the 'pedhi' and asked Haji Mohammed Yasin why he had got the trucks parked in front of his 'pedhi' causing obstruction to the traffic. Haji Mohammed Yasin replied that there was no other place for parking the trucks and if he could not park the trucks in front of the 'pedhi', he could not carry on his business. Bhalerao told him to park the trucks in the side lane where there was enough space. Haji Mohammed Yasin promised to park the trucks in the side lane from the next day. Bhalerao, however, insisted that the trucks should be removed into the side lane that very day, otherwise he would prosecute Haji Mohammed Yasin. Thereupon an exchange of words took place between Haji Mohammed Yasin and Bhalerao, but Bhalerao succeeded in having the trucks moved into the side lane. According to Bhalerao, it was for this reason that Haji Mohammed Yasin had made false allegations against him (S.P.O.W. 10/4/3141-4).

76.46 There is no doubt that the aforesaid so-called reasons given by Bhalerao are an obvious afterthought. None of them find a place on Bhalerao's affidavit which was affirmed on August 14, 1970. Further, four police statements of Bhalerao have been recorded, the first by Inspector Sawant on May 9, 1970, the second and the third on June 26, 1970 by D.I., Limaye and the fourth on July 11, 1970 by D.I., Bendre (Exs. P 1026 to P 1029). None of the said so-called reasons are to be found in these police statements except that his fourth statement, which dealt with his not firing any shot from his revolver, referred to the animus alleged to be borne by Gulam Rasool Bagban against him. No question was asked to S.P., Raman when he was in the witness-box about the alleged incident of the telephone call. This incident was put to Gulam Rasool Bagban in cross-examination and he has denied that it ever took place [J.U.(J.)W. 3/36/2640-1]. Even assuming that any such incident did take place between Gulam Rasool Bagban and Bhalerao, it is too much to imagine that by reason of this Gulam Rasool Bagban should have suborned witnesses to depose falsely against Bhalerao charging him with such serious crimes as murder, arson and rioting. Bhalerao has deposed that he used to make not only the Muslims but also the Hindus who were outside their houses go inside their houses (S.P.O.W. 10/23/3155). If merely making the Muslims go inside their houses were to make them bear a grudge against Bhalerao, the same should also apply to the Hindus who were made to go inside their houses. Not only have none of the Hindus made any allegations against Bhalerao but on the contrary in several Hindu affidavits Bhalerao's conduct in dealing with the disturbances has been greatly praised.

76.47 For the reasons stated above, I hold that the aforesaid alleged reasons given by Bhalerao are not true and are a clear afterthought.

76.48 . By reason, however, of the methods adopted by the Special Investigation Squad and the directions given to it by B. K. Govardhan, D.I.G. (Crime), it has become an impossible task for the Commission to ascertain the exact truth about Bhalerao's role in the disturbances. Inspector Bendre has made a feeble attempt to explain why Bhalerao was not prosecuted. He has deposed that Bhalerao was not prosecuted because the allegations against him were not convincing, but were exaggerated and unreliable and that there was no corroboration to what was stated by each of the twenty persons who had made allegations in their police statements against Bhalerao. Inspector Bendre obviously had some strange notions of what corroboration meant! Another equally feeble reason which he gave was that Bhalerao's name did not appear as an accused person in the F.I.R. in C.R. No. 82/70 filed by P.S.I., Karhadkar. He was compelled to admit that this F.I.R. mentioned the names of only three accused persons, while actually fifty were prosecuted in that case. He was further forced to admit that the Special Public Prosecutor, Mr. Akarte, was of the opinion that Bhalerao should be prosecuted and made a co-accused in the said case, but he did not agree with Mr. Akarte and, therefore, made a report dated July 22, 1971 (Ex. P 1044) to D.I.G. (Crime), opining that Bhalerao should not be prosecuted, with which opinion the D.I.G. (Crime) and the Police Prosecutor attached to the C.I.D., Crime Branch, Mr. Chandanapurkar, the then Legal Adviser to the D.I.G. (Crime), concurred. A look at the said report is enough to convince anyone that though it deals with some of the allegations made against Bhalerao, its real object was to intimate to the D.I.G. (Crime) that Mr. Akarte was proposing to move in the matter of inclusion of Bhalerao's name as an accused in C.R. No. 82/70 and also in other cases and that Mr. Akarte had stated that he had consulted the D.M. who had verbally agreed with his proposal and that Mr. Akarte was proceeding to Bombay on July 22, 1971 to explain these facts to the Chief Minister and obtain his orders for including Bhalerao's name as a co-accused. The said report further shows that on coming to learn these facts Bendre immediately put in a trunk-call to D.I.G., Govardhan and told him about the move made by Mr. Akarte and that he was thereupon asked to submit the said report. The said report further mentions that Mr. Akarte left for Bombay on the night of July 22, 1971.

76.49 There appears to have been a consistent attempt made by the various police officers concerned to see that in no circumstances should Bhalerao be prosecuted. Inspector Bendre has deposed that when D.I.G., Govardhan had come to Jalgaon in August 1970 he had expressed an opinion that Bhalerao should not be prosecuted (P.W. 95/3/3195-7). We have seen what happened in relation to the investigation into Taj Mohamed's murder. With respect to the other allegations against Bhalerao also, it appears that an equally strenuous attempt was made to discredit those witnesses who had alleged that they had actually seen the incidents happen by the peculiar process adopted by the Special Investigation Squad,

Jalgaon, of "verifying" police statements of witnesses again and again by a searching cross-examination to bring on the record as many contradictions and discrepancies as possible to destroy any value which these persons might have as eye-witnesses in any prosecution.

76.50 It was submitted that the investigating officer has a discretion whether to prosecute or not to prosecute and that was not open to any party to challenge this discretion. The question before the Commission, however, is a different one. It is whether this discretion was exercised *mala fide* and with a view to subvert the course of justice. In this connection it is pertinent to note that many of these very witnesses, whose allegations against Bhalerao in their police statements were considered to be exaggerated, unconvincing and unreliable so far as Bhalerao was concerned, were cited and examined as witnesses for the prosecution in the cases against the Hindus accused of having committed offences during the disturbances. If the allegations made by these witnesses in their police statements were considered as sufficiently disclosing a *prima facie* case against these Hindus, they should equally have been taken to disclose a *prima facie* case against Bhalerao. The allegations against Bhalerao were considered serious enough by the Police Department to suspend him pending a disciplinary inquiry into his conduct in connection with the communal disturbances by the order dated May 25, 1970 (Ex. P 860). The very same set of allegations should, therefore, have been considered sufficient to take Bhalerao into custody pending at least further investigation. An investigating officer has not got a blanket discretion as was submitted. In order to ensure that the discretion vested in an investigating officer is not abused column 2 of the form of charge-sheet prescribed by the Government of Maharashtra provides for showing the names and addresses of accused persons not sent up for trial and requires the fact whether they have been arrested or not arrested to be mentioned. The object of this requirement is that if the Court thinks it necessary to make further inquiry about any such person, it could do so or direct such inquiry to be made and if it comes to the conclusion that the investigating officer has not exercised his discretion properly, it can issue process itself. In column 2 of the charge-sheet in Jalgaon City C.R. No. 83 of 1970 (Ex. P 773) filed by Inspector Sankpal (P.W. 94) names of fifteen accused persons who had not been sent up for trial were mentioned in column 2 with a note that there was no reliable evidence against them and for the said reason they were not arrested. Bhalerao's name was, however, not mentioned in column 2 of the charge-sheet in C.R. No. 82/70 (Ex. P. 771) as one of the accused persons who was not prosecuted and was not arrested. Such a partial and discriminatory attitude towards a police officer charged with having committed serious offences during the course of a communal disturbances is bound to shake the confidence of the public in the Police Force and as a result thereof in the impartiality and fairness of the administration.

The failure to prosecute Head Constable Dashrath Joshi

76.51 Inspector Bendre has deposed that Hajrabi had implicated Head Constable Dashrath Joshi in her first police statement recorded on May 18, 1970 (Ex. P 957) her second police statement recorded on May 24, 1970 (Ex. P 958) and her fourth police statement recorded on July 4, 1970 (Ex. P 960). The gist of the allegations made by her in the said police statements was that when she tried to make a hole with an iron rod in the rear wall of her house in order to rescue her children, Dashrath Joshi prevented her from doing so and handed her over to the rioting mob. Dashrath Joshi too was not prosecuted and his name was not mentioned in column 2 of the charge-sheet in C.R. No. 82/70 as being one of the accused who was not prosecuted and was not arrested. In Dashrath Joshi's case also Bendre has given three reasons for not prosecuting him. The first reason was that Dashrath Joshi might have handed over Hajrabi to the mob for her own protection, the second reason was that in an earlier part of her fourth police statement (Ex. P 960) Hajrabi had stated that Sub-Inspector Bhalerao had handed her over to the mob and she had not said anything to show how she was extricated from the mob to be handed over for the second time to the mob by Dashrath Joshi ; and the third was that his name did not appear in the F.I.R. of C.R. No. 82/70. None of these reasons sound or are convincing. One wonders whether anyone else apart from Inspector Bendre would have imagined that when a Hindu rioting mob was setting fire to Muslim houses and burning alive people trapped inside, the handing over of a Muslim woman to the rioters in the mob was for her protection. So far as the second reason is concerned, there was nothing which would have prevented Bendre from getting it clarified from her how she had escaped from the mob to which, according to her, she had been handed over by Bhalerao. He, however, did not ask her any such questions to seek this clarification. This, of course, was not the type of "verification" he was after. His explanation for not doing so was that she was not in a mood to reply to his questions, but said what she wanted to of her own accord. This answer is not true because her fourth police statement (Ex. P 960) shows that she had been asked a number of questions with reference to her earlier police statements and what were supposed to be the incorrect parts thereof have been meticulously recorded in the said fourth police statement. The third reason given by him is the most astonishing because the F.I.R. in C.R. No. 82/70, filed by Sub-Inspector Karhadkar, named only three persons, while fifty persons, that is, forty-seven persons more than those mentioned in the said F.I.R., were prosecuted in that case. The real reason for not prosecuting Dashrath Joshi, as admitted by Bendre, was that D.I.G., Govardhan was of the opinion that he should not be prosecuted (P.W. 95/3/3195-7). The allegations against Dashrath Joshi were linked with those against Bhalerao and it is clear that the decision not to prosecute Dashrath Joshi or to take him into custody was a part of the overall decision not to prosecute Bhalerao or take him into custody.

The creative work of the Squad

76.52 The creative work of the Squad was to provide the Hindu rioters with a justification for their acts of murder and arson. This the Squad did by inventing three stories, namely, (1) the story of the outrage on the modesty of Bahinabai Kisanrao Kale, (2) the story that the rioting at Maniyar Wada was started by the Muslims, and (3) the story that the rioting at Bhilpura and Islampura was also started by the Muslims.

76.53 Very often before one can build one must destroy. The evidence led before the Commission has conclusively established that the first incident of the disturbances was the quarrel between Abdul Hameed Shaikh Gulab [J.U.(J.)W. 5] and some Hindus at the 'pan' shop of Murlidhar situate at Rath Chowk in the course of which Abdul Hameed was assaulted and ran away to his house in Maniyar Wada and hid himself and the Hindus chased him and after some time a number of other Hindus came there and started stoning his house and the other Muslim houses and the disturbances commenced in all their fury. In order to give even a semblance of credence to the three stories put forward by the Squad it was necessary for the Squad first to destroy the incident of the said quarrel at the 'pan' shop, for the said incident hardly showed the Muslims in a bad light and could not have in any conceivable circumstance provided any "moral justification" to the Hindu rioters nor any satisfaction to the communal-minded section of the Hindus that the innocent Muslim men, women and children, who were roasted or suffocated to death in their burning houses, had met with their just deserts because some Muslims, with whom they had no concern, outraged the modesty of a Hindu woman or that some other Muslims, of whose existence they were unaware, threw the first stone at Maniyar Wada, Bhilpura and Islampura. We will, therefore first see how the incident of the said quarrel at the 'pan' shop and the attack on the house of Abdul Hameed and the other Muslim houses was attempted to be made out as false and then deal with the manner in which the three false stories set out in the preceding paragraph were invented. Out of these three stories the story of the outrage on the modesty of Bahinabai is, however, too important not to deserve a separate chapter all to itself.

The Squad and the quarrel at the 'pan' shop

76.54 Detective Inspector Limaye (P.W. 93), who was investigating the riot cases arising out of the disturbances at Maniyar Wada, dismissed the incident of the quarrel at the 'pan' shop and the assault on Abdul Hameed Shaikh Gulab [J.U.(J.)W. 5] and his house and the other Muslim houses as being untrue and instead made Abdul Hameed an accused in the prosecution for outraging the modesty of Bahinabai. Three police statements of Abdul Hameed have been recorded; the first on May 9, 1970 by Inspector Sawant (Ex. P 935), the second on May 22, 1970 by D.S.I., Sapre (Ex. P 936) and the third on May 30, 1970 by D. I., Limaye (Ex. P 937). There were no material contra-

dictions between the first and the second police-statements of Abdul Hameed. His third police statement dealt merely with the movements of the other members of his family at the relevant time. In cross-examination Inspector Limaye gave five reasons for coming to the conclusion that the said incident was not true. The first reason given by him was that the statement of the 'panpattiwalla' (the owner of the 'pan' shop) was that there was only one assailant who had come from a Sindhi Hotel and had slapped Abdul Hameed, while the Sindhi hotel-keeper did not corroborate the 'panpattiwalla'. None of the police statements of Abdul Hameed show that any of his assailants had come from a Sindhi Hotel. The second reason given by Limaye was that the Sindhi hotel-keeper had stated that he had closed his hotel at 12-30 p.m. on account of Akshaya Tritiya which, according to Limaye, appeared to be a reasonable explanation. Hotels, however, do not close on holidays ; on the contrary, they make a thriving business on these days. But apart from that, since it was not Abdul Hameed's case that any of the assailants had come from the said hotel, the question of the said hotel remaining open or close did not arise. The third reason given by Limaye was that the time of the incident given by Abdul Hameed did not tally with the time given by Murlidhar Panwalla. This is the first time, at least in the investigation of the Jalgaon Riot cases, that one finds an investigating officer being unduly perturbed by a difference in the timings given by different witnesses. The fourth reason given by Limaye was that Abdul Hameed was unable to identify any of his assailants at an identification parade held on July 10, 1970 and had given this fact in writing (Ex. P 1035). The identification of the assailants is a wholly different matter from the truth of an incident and the fact that a man is unable to recognize who had assaulted him does not mean that he was not assaulted or that he was assaulted because along with some others he outraged the modesty of a woman. The last reason given by Limaye was that no one who was on the road at that time corroborated Abdul Hameed. In cross-examination Limaye further stated that he could not get the story of Abdul Hameed corroborated by any Muslim. When further pressed whether he had made any inquiries in this connection from the Muslim inhabitants of the locality, he stated that the 'pan' shop as also the hotel were both situate in a Hindu locality in which there were no Muslim residents (P.W. 93/5/3168). This answer was not true because Rath Chowk is a mixed locality. The truth of the matter is that Limaye was not interested in finding out any Muslim eye-witness to the said incident but rather in dismissing the said incident as being untrue.

The attempt to show the Muslims as the aggressors at Maniyar Wada

76.55 The evidence of Jagannath Vithal Bhagwat (J.J.S.W. 7), a member of the Jan Sangh and in 1970 the Secretary of the Jalgaon City Jan Sangh and in 1972 its Joint Secretary, shows that L. B. Mankar, the Jan Sangh M.L.A. from Bhandara, visited Jalgaon on May 12, 1970

and met Jagannath Bhagwat at the residence of A. P. Atravalkar (the deponent of affidavit No. 51), the former District Secretary of the Jalgaon District Jan Sangh. Mankar asked Bhagwat for the details of the Jalgaon disturbances and Bhagwat gave him the information. There were four or five other workers of the Jan Sangh present at the said meeting. Mankar gave Bhagwat an application (Ex. P 852) to be handed over at the City Police Station (J.J.S.W. 7/6/2441). The said application was undated and signed by fifty-three Hindus and was addressed to the Sub-Inspector of Police, Jalgaon City. The said application stated as follows:—

“ We the undersigned inform as under:—

By raising riotous outcry, by collecting lathis, sticks and other weapons and by forming a big mob the following persons from Maniyar Wada in Old City have created an atmosphere of fear in this locality. They have thrown soda-water bottles and rags soaked in kerosene on some houses. We therefore request you to curb the activities of these persons.”

It then set out the names of twelve Muslims and bore at the foot an endorsement by Mankar stating, “ Forwarded to the S.P., Jalgaon, for early necessary action please. L. B. Mankar, M.L.A. 10/5/70”. “ Necessary action ” was thereupon taken on the said application by Inspector Limaye. Limaye came to the conclusion that the said application referred to the incidents at Maniyar Wada which took place on May 8, 1970. He gave three reasons for reaching this conclusion, namely, (1) the said application used words which would show that there was rioting, (2) it bore the endorsement of an M.L.A. which was dated May 10, 1970, and (3) Inspector Sawant had filed an F.I.R. (Ex. P 758) which showed that both Hindus and Muslims had thrown stones on one another at Maniyar Wada. The fact that the said application did not mention any stones as having been thrown but mentioned that soda-water bottles and rags soaked in kerosene were thrown on houses was apparently not considered very material by Inspector Limaye.

76.56 The investigation which Limaye carried out and on which he felt satisfied and prosecuted nine out of the twelve Muslims mentioned in the said application for having committed offences during the course of the disturbances stands out in sharp contrast to the attitude, adopted by the officers of the Special Investigation Squad, Jalgaon, to the allegations made by the Muslims against the Hindus. Limaye has deposed that he tried to find out who had prepared the said application but could not find out the author thereof. He recorded the police statements of persons from whom he made these inquiries as also the police statement of every signatory whom he could contact and of the persons who had presented the application at the City Police Station and of L. B. Mankar. He admitted that while recording their statements he had asked the signatories who had obtained their signatures on the said application and the general reply he got was that the said application was circulated for collecting signatures. None

of these persons gave him the name of the person who had obtained their signatures. They further stated that their signatures were obtained between May 9, 1970 and May 10, 1970. He has further deposed that the investigation carried out by him showed that the said stone-throwing incident took place in front of house No. 82 in Maniyar Wada which belonged to Ibrahim Abdul Nabi and his brother Issa Abdul Nabi, both of them butchers, and that the said house along with a marriage 'pandal' erected outside it was set on fire, this being the first act of arson which took place in the course of the disturbances. He has further deposed that the said stone-throwing incident took place between 4 p.m. and 4-30 p.m. and that the said act of arson to the house of the Nabis took place a little later. About seven witnesses gave the time of the said incident of stone-throwing as between 4 p.m. and 4-30 p.m., while about seven witnesses gave it as between 5 p.m. and 5-30 p.m. This discrepancy in the timings, since the timings were given by Hindu witnesses, did not seem material to Inspector Limaye unlike in the case of a discrepancy in the timings mentioned by Muslim witnesses. These nine Muslims were charged with having committed offences punishable under sections 143, 147 and 323 read with section 149, I.P.C., the allegations against them being that on May 8, 1970 between 4 p.m. and 4-30 p.m. the accused persons along with 100 to 200 other Muslims formed an unlawful assembly in front of house No. 82 in Koli Peth (the house of the Nabis) with the common object of destroying or damaging the houses of the Hindus in that locality and of causing hurt to the Hindu residents of that locality and that in pursuance of the said common object the Muslims in that mob hurled stones and brick-bats on Hindu houses and voluntarily caused hurt to three Hindus. All the accused were acquitted by Mr. L. R. Satarkar, Judicial Magistrate, First Class, Jalgaon, by his judgment and order dated September 28, 1971 (Ex. P 1037) in Criminal Case No. 33 of 1971 holding that the accused did not have any common object of damaging or attacking any Hindu houses or Hindus, but their common object was to defend their own lives and property against the impending attack of an armed Hindu mob and that they had justifiably exercised their right of private defence. Certain passages from the said judgment require to be reproduced. They are as follows:—

“This is in short the evidence of these eye-witnesses. The first broad characteristic peculiarity of the evidence as summarized in preceding paras is that these witnesses have no word to say about the presence of the Hindu mob in the Bhoite Galli at any time during their presence on the spot. All the witnesses have unanimously stated that at the time of their presence at or near about the spot, they saw the entire Bhoite Lane practically empty and devoid of any normal traffic except some 4 to 5 men and some women waiting for water flow from the public water tap. The question therefore is how this evidence can be reconciled with the evidence of P.W. 13 Shri S. P. Bhalerao, P.S.I. who has clearly deposed that

the Hindu mob numbering about 4,000 to 5,000 has assembled in the Bhoite Lane and the men from the mob were armed with lethal weapons and were advancing towards the Maniyar Mohalla. Shri Bhalerao arrived on this spot at 4-10 p.m. He conducted lathi-charge on this mob. It is impossible to say that any of these witnesses could witness the Muslim mob before witnessing the Hindu mob which was being Lathi-charged by the Police. At 4-10 p.m. actually the Hindus from the Bhoite Galli committed a riot on large scale. All these witnesses depose that the Muslim mob was at the same spot viz. in front of the marriage pandal and that the accused persons whom these witnesses spotted out in a single glance were all in the front line of this mob and that they all threw stones and soda-water bottles. One fails to understand the purpose of this Muslim mob standing on the same spot from 3-30 p.m. to 5-30 p.m. and throwing stones or bottles in the direction of the Gadhi without advancing forward. The accused, especially Sk. Ibrahim and his father Nazi Gulam, were identified in this mob by most of the witnesses and all these witnesses have deposed that every man identified by them was in front line of the mob. All this evidence is in my opinion extremely unnatural. ...

“All these witnesses must be termed as partisan witnesses. They are highly interested in the men who are facing trials for serious offences like murder and arson committed during the course of the riot. The witnesses are residents of the area near Bhoite Lane. ...

“The basis of the evidence of these witnesses is to be found in the application at Exh. 47. This is the contemporary document sought to be used as a corroboration to the story which is given by these witnesses. However, this document is itself shrouded in mystery and suspicion. The name of the scribe is not disclosed. The person who carried it to the witnesses remains an unknown and unidentified person till the trial was closed. This clearly proves that the persons who brought this application into existence had no moral courage to come forward and depose about the application. This itself throws a flood of light on the origin of this application and it would not, at all, be an exaggeration to say that this application originated from the persons of guilty conscience. This document which is the F.I.R. of this case speaks for itself. The allegations in this application are extremely vague and general. It is stated that the undernamed men from Maniyar Wada formed an unlawful assembly and collected sticks and other weapons and created an atmosphere of terror. Soda-water bottles were thrown and on some houses cloth pieces soaked in kerosene oil were thrown. Hence the activities of these persons should be put an end to. Underneath these contents there are 15 names including the names of the accused persons. There is no name of scribe. There is no date on this application. There are about 52 signatures on this application. The witnesses who are examined in this case have deposed that they signed this application.

“Significantly there is no mention of throwing of stones on houses in Exh. 47, while every witness comes with a version of stone-throwing indulged in by the Muslim mob. While no witness deposes that kerosene soaked cloth pieces were thrown on houses, this application has a reference to this act on the part of the Muslim mob. Then there is one name of Sk. Chand at serial No. 13 and it has been established by the evidence of police witnesses that this particular man was in the police station in an injured state at the time when the alleged incident took place. The tendency to implicate innocent persons by naming them in this application is therefore clearly evident and as such one cannot help oneself in coming to the conclusion that the entire application is a fabricated one.

“The very basis of the evidence of the private witnesses is full of suspicion and concoction. It is futile to make any attempt to disengage truth from falsehood and to sift grain from the chaff. The entire evidence of all these witnesses must be rejected as completely distorted.”

76.57 The motive of Inspector Limaye in selecting the time of this alleged stone-throwing incident as between 4 p.m. and 4-30 p.m., while so many witnesses had given it as between 5 p.m. and 5-30 p.m. is not far to seek. It was to make out that the arson by the Hindus at Maniyar wada was the result of provocation given by the Muslims and that the Muslims were the first aggressors.

The attempt to show the Muslims as aggressors in Bhillpura and Islampura

76.58 A similar attempt was made by the Special Investigation Squad to show that the Muslims were the first to riot at Bhillpura and Islampura. A Hindu, Ashok Gajanan Chaudhari, was admitted in the Jalgaon Civil Hospital on May 8, 1970 at 5-30 p.m. He had a contused lacerated wound on his occipital region, 2" \times $\frac{1}{2}$ ", scalp deep; weal mark on his left hand, 3" \times 1"; and another weal mark of the same dimensions on his right hand. His police statement was recorded by Inspector Sankpal on June 25, 1970. According to his police statement, between 3-30 p.m. and 4 p.m. he had come from Subhash Chowk and had gone upto the Urdu School when he was assaulted with sticks by ten or twelve Muslims at the mouth of the lane. He was made a prosecution witness against the two Muslims who were prosecuted for throwing stones from the terrace of the Madina Mosque and his name was mentioned in the list of witnesses in the charge-sheet (Ex. P 774) filed on September 7, 1970 by Inspector Sankpal. The charge-sheet mentioned that these two accused persons along with fifteen to twenty other Muslims committed communal riots by forming an unlawful assembly between 4 p.m. and 8 p.m. on May 8, 1970 and with the common object of killing the Hindus collected together near the Madina Mosque and in furtherance of the said common object took lathis and stones and were throwing stones on the Hindus, as a result

of which the witness Ashok Gajanan Chaudhari was hit with lathis on his head and both hands in Subhash Chowk.

76.59 We have seen in Chapter 68 what actually happened at Bhilpura and Islampura. The evidence of the police officers has clearly established that there was no clash between the Hindus and the Muslims in either of these localities. In fact, the evidence shows that the Muslims in Bhilpura and Islampura were not aggressive. There is no mention in the evidence of the police witnesses of any Muslims attacking the Hindus with lathis. Lathis were used by the Police in making lathi-charges. Inspector Sankpal, however, admitted that it did not occur to him that Ashok Chaudhari could have been a rioter who had been injured in a police lathi-charge. He deposed that Ashok Chaudhari was asked to go to the City Police Station and from the police station he was sent to the hospital, but admitted that he did not try to find out which constable had taken him to the hospital. He further admitted that there was no police statement of any person corroborating what Ashok Chaudhari had stated in his police statement (P.W. 94/6/3183-4). Since this was a case of prosecution of two Muslims, obviously the question of corroboration of the police statement of a Hindu witness against them or the 'verification' of this police statement did not seem in any way important or desirable to Inspector Sankpal.

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CHAPTER 77 .

THE BAHINABAI STORY

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CHAPTER 77

THE BAHINABAI STORY

The different versions of the story

77.1 It is the case of the Hindu parties, the Special Investigation Squad, Jalgaon, and most of the suspended police officers that the real cause of the disturbances which took place at Jalgaon on May 8, 1970 was an outrage to the modesty of a Hindu woman, Bahinabai Kisanrao Kale, by five or six Muslims including Abdul Hameed Shaikh Gulab [J.U.(J.)W. 5], the protagonist in the 'pan' shop incident and whose house was attacked by the Hindus. According to them, the disturbances started because the Hindus were provoked at this outrage on Bahinabai's modesty. In the affidavits filed before the Commission different versions have been given of this incident. According to one version, this outrage on Bahinabai's modesty enraged the Hindus who retaliated on the Muslims. According to another version, upon learning about the outrage to Bahinabai's modesty, her relatives, went to demand an explanation from the Muslims who had committed this outrage, but the other Muslims of that locality attacked them and this led to the disturbances. In the charge-sheet in the Jalgaon City C.R. No. 80/70 filed by Inspector V. L. Limaye (Ex. P 768) in respect of the disturbances at Maniyar Wada and in the charge-sheet in Jalgaon City C.R. No. 82/70 filed by Inspector T. S. Bendre (Exs. P 771 and P 772) in respect of the disturbances at Joshi Peth, in all of which all the accused were Hindus, it was alleged that on May 8, 1970 at about 2-30 p.m. or 2-45 p.m. Bahinabai's modesty was outraged and for the said reason the accused persons with the common intention to assault the Muslims with lethal weapons and to set fire to their houses and damage their properties formed an unlawful assembly and assaulted and injured the Muslims and committed arson, house-breaking and other offences. Thus, according to the Special Investigation Squad, Jalgaon, the Hindu accused in the said cases were provoked into committing offences with which they were charged by reason of the outrage on the modesty of Bahinabai.

The fate of the story in Court

77.2 In the light of these allegations the normal thing one would expect was that the Police or one of the Hindu parties would lead before the Commission the evidence of Bahinabai. Strangely enough, none of them wanted to do this in spite of the Commission repeatedly urging them to do so. Ultimately the Commission itself summoned Bahinabai during its sittings at Jalgaon and examined her (C.W. 8/1-

36/2526-51, 37/2567-8). The reason why neither the Police nor any of the Hindu parties were willing to lead the evidence of Bahinabai before the Commission was that three Muslims, Abdul Hameed Shaikh Gulab [J.U.(J.)W. 5], Abdul Sattar Shaikh Dadu and Sayed Hasan Sayed Hussein, were prosecuted under section 354 read with section 34 I.P.C. on a charge of having assaulted or used criminal force on Bahinabai with intent to outrage her modesty and were acquitted by Mr. L. R. Satarkar, Judicial Magistrate, First Class, Jalgaon, by his judgment dated July 28, 1971 in Criminal Case No. 35 of 1971 (Ex. P 851). In the said case, the Court held that Bahinabai had no regard for truth and was a person who would not hesitate to implicate any person at the instance of others and that her evidence was very improbable in the light of the surrounding circumstances. In the trial before the Magistrate four eye-witnesses were examined. They were Shantaram Chaudhari, Narayan Shimpi, Mainabai and Sumanbai. With reference to the evidence of Shantaram Chaudhari and Narayan Shimpi, the Court held that they were partisan witnesses belonging to a particular group in the said locality, namely, the R.T.M., and were close friends and that Shantaram had a hostile animus towards the Muslims and their evidence was full of discrepancies on material particulars and untrustworthy and unreliable. So far as the two female eye-witnesses, Mainabai and Sumanbai, were concerned, the Court held that though both of them alleged that they had witnessed the incident from the same spot, there were considerable differences between their respective versions, and they too were partial witnesses and their evidence did not inspire any confidence and as the men belonging to their caste had been arrested in connection with the riot cases and charged with serious offences, they very likely were giving evidence in the Court at the instance of these accused persons and their evidence was unreliable and could not be acted upon. The Court also commented upon the fact that the police statements of these two witnesses were recorded as late as July 18, 1970 and that there was a possibility that they were both got-up witnesses. The Court further held that the various circumstances brought on the record strongly supported the defence suggestion that Bahinabai had lodged her complaint at the instance of some prominent Hindus with a view to invent an immediate cause for the outbreak of the disturbances.

Bahinabai's demeanour

77.3 Leaving aside the mesh of lies in which she was caught, Bahinabai's demeanour showed that she had no regard whatever for truth. When she stepped into the witness-box she kept on simpering and making eyes until she was warned to remember where she was and to behave herself. After answering some preliminary questions she requested the Commission that her evidence should be recorded *in camera*. In the Magistrate's Court also she had made a similar request which was granted by the Magistrate as neither the Public Prosecutor nor the advocate for the accused objected thereto. The

Commission had perused her deposition in the criminal case and did not find anything in it which would require or justify the recording of her evidence *in camera*. Even in the story of the alleged outrage there was nothing indecent or embarrassing for her to relate in Court. In order, however, not to leave any scope for grievance to any of the parties appearing before the Commission who might desire to rely on her evidence the Commission acceded to her request and directed her further evidence to be recorded *in camera*.

77.4 Her evidence before the Commission revealed the picture of a suborned witness, got up to tell a false and concocted story. It is not possible to set out each and every discrepancy and contradiction in her evidence or each and every point on which she has told a falsehood on oath. It will be sufficient to set out the facts as revealed in her evidence and point out the material parts of her story on which she prevaricated and lied.

The disputes with the landlord

77.5 Bahinabai was first married to one Hari Totaram. She divorced him in 1957 by a writing prepared by an advocate. No notice of the said fact was published in any newspaper. She then married Kisanrao Kale. She produced the said writing before the Commission. Her divorce seems to be of dubious validity. In the report made by him on her complaint dated June 7, 1969, H.C., B. S. Thorat has stated that she was the kept mistress of Kisanrao Kale. The Commission, however, is not concerned with this aspect of the case. Bahinabai had passed Marathi Seventh Standard and the Vernacular Final Examination as also the First Year Primary Teachers' Training Course and had been giving private tuitions. She had a son named Prakash who at the time of the disturbances was about 15 years old. She was residing along with Kisanrao in Maruti Peth in a rented room in House No. 143 belonging to one Vithal Bhone Narkhede. Vithal Narkhede belongs to the Leva Patidar community and was at the relevant time a Councillor of the Jalgaon Municipal Council. He was formerly an unarmed head constable in the Police Force and was dismissed with effect from May 11, 1953 for gross misconduct, namely, accepting illegal gratification of Rs. 10 for showing favour to an accused in a criminal case (S.P.O.W. 6/40/3001, 66/3024). Kisanrao died on February 15, 1969 and Bahinabai continued to reside in the same room. There had been prior litigation between Kisanrao and Narkhede with respect to the said room. Her husband's advocate throughout was N. N. Bhusari (J.J.S.W. 4), the Vice-President of the Jalgaon Janadhikar Saunrakshan Samiti and an active member of the Jan Sangh from the very inception of that party, who was in 1965 and 1966 the President of the Jalgaon City Jan Sangh.

77.6 After Kisanrao's death there were disputes between the landlord, Vithal Narkhede, and Bahinabai. Thereupon Bahinabai went to the Jalgaon City Police Station alone and handed over a written complaint dated March 9, 1969 (Ex. P 919) signed by her complaining that

on the preceding day Vithal Narkhede's nephew had at Narkhede's instance removed the tin sheets fixed to the 'kud' wall (a wall made of bamboos and mud) of her room and further complaining that Vithal Narkhede used to go about boasting that as he was a Municipal Councillor and had been formerly in the police force, no one could do any harm to him. The inquiries into the said complaint were made by a Sub-Inspector attached to the City Police Station and the results thereof were set out by him in his report dated March 23, 1969. The said report stated that the main reason for making the said complaint was that a notice to vacate had been given to Bahinabai. The said report also shows that Narkhede and his nephew were both called and warned by the Police in Bahinabai's presence.

77.7 A notice dated March 12, 1969 (Ex. No. 4) was given to Bahinabai by Vithal Narkhede through his advocate calling upon her to vacate on the ground that she was not Kisanrao's lawful heir and was not entitled to reside in the said room. She gave a reply dated April 2, 1969 (Ex. No. 5) to this notice through her advocate N. N. Bhusari. About four days later, she went in person and filed another complaint dated April 6, 1969 (Ex. P 920) at the City Police Station complaining that that day as also on the preceding day, Narkhede and his said nephew had removed the corrugated iron sheets on the roof of the adjoining room and as a result thereof her 'kud' wall (made of bamboos and mud) was in danger of collapsing. About two months later, she filed another written complaint dated June 7, 1969 (Ex. P 921) at the City Police Station complaining that Narkhede had allowed water to flow into her room as she was refusing to vacate. Inspector Sawant endorsed the said complaint to H.C., Thorat for making inquiries into it. Thorat made a report on the said complaint. It was in the said report that Thorat stated that she was the kept mistress of Kisanrao. The said report further stated that the room in which she was residing had not been repaired, as a result of which rain water had come into her room. The said report further shows that Thorat gave a warning to Narkhede not to harass Bahinabai. On July 1, 1969 Narkhede along with his nephew filed a suit in the Court of the Civil Judge, Junior Division, Jalgaon, being Regular Suit No. 279 of 1969, claiming possession of the said room. In the plaint it was alleged that Bahinabai was a trespasser in that she had been merely residing with Kisanrao and was not one of his heirs. Summons was ordered to issue to her on July 2, 1969. Bahinabai engaged Bhusari as her Advocate and filed her written statement through him on September 23, 1969. Copies of the relevant papers in the said suit are Exhibit No. 3 (collectively).

The obstruction to the use of the latrine

77.8 In the meantime Bahinabai filed yet another written complaint (Ex. P 922) at the Jalgaon City Police Station. The said complaint was dated September 14, 1969 and was filed against Vithal Narkhede and his two nephews charging the nephews at the instance of Narkhede with demolishing the 'kud' wall of her room at 10 a.m.

on that day by breaking the bamboos thereof and further charging Narkhede with preventing her from going to the common latrine of the house and threatening her that unless she vacated he would throw her belongings out on the street as all the policemen were his friends. This is an important complaint, for on it is based the case of the necessity for Bahinabai to go on May 8, 1970 to the public latrine instead of to the common latrine in her own house and of her being molested on the way by Abdul Hameed and the other Muslims. The said public latrine is situate on the bank of Lendi Nala at a distance of about four hundred feet from Bhoite Gadhi (Ex. P 695) and it would be, therefore, considerably further away from Bahinabai's house. As the map (Exhibit P 1057) shows, Bahinabai's house was situate in the lane opposite the Jumma Mosque which goes past the Ram Mandir. She has, therefore, to cross the Jumma Mosque, the Revenue Office (Mulki Chavdi) and the whole of Maniyar Wada in order to go to the public latrine. The impression is thus sought to be created of a poor widow, supporting herself and her young son 15 years old by giving tuitions, being harassed by the landlord to vacate her room and even prevented from using the common latrine of the house so that every time she was compelled day after day for months to go to the public latrine at some distance from her house, on one of which occasions, namely, the day of the disturbances, five or six Muslims pounced on her and outraged her modesty.

The truth about the obstruction to the use of the latrine

77.9 Bahinabai's evidence leaves no doubt that her story that she was prevented from using the common latrine of her house was false. Her case is that from the day the landlord prevented her from using the common latrine of the house, she started going to the public latrine. She has alleged that whenever she went to the common latrine of the house the landlord used to threaten her that if she ever did so, he would lock her up and beat her and that he thus threatened her on seven or eight occasions. She has further alleged that it was only a few days prior to her giving evidence before the Commission, namely, prior to February 14, 1972, that she again started using the common latrine of the house.

77.10 Her cross-examination conclusively proved the falsity of this story. Admittedly she had on slight pretexts gone several times to the City Police Station to file written complaints against her landlord. She deposed that she had drafted these complaints herself and had not consulted any advocate. She categorically stated that no one advised her to give these complaints to the police station but that she did so of her own accord. In fact, even prior to her disputes with the landlord she had been to the police station to lodge complaints. Some years ago she had filed a complaint against two persons, Damu and Govardhan, for entering her house, assaulting her son and abusing her. Her evidence before the Commission that she had not consulted any advocate and had drafted her complaints herself, however, appears to

be false, for before the Magistrate she had stated that all these complaints were drafted by her advocate Bhusari. According to her evidence before the Commission, after she filed her said complaint dated September 14, 1969 (Ex. P 922) H.C., Thorat visited her house to find out whether the landlord was harassing her, but from her evidence before the Magistrate (Ex. P 927) it appears that there was not just one visit by Thorat, but that Thorat was asked to keep a watch on her house and to ensure that she did not suffer any harassment from the landlord and that he, therefore, kept a watch on her house for a period of one month. We have seen the various complaints made by her to the Police. The allegations made therein against Narkhede are hardly serious. Yet she appears to have become so friendly with the personnel of the City Police Station, that H.C., Thorat was detailed to guard her for a period of almost one month. Her said complaint dated September 14, 1969 (Ex. P 922) was filed after the summons in the eviction suit filed by her landlord was served upon her and about a week prior to the filing of her written statement. It is inconceivable that had the landlord continued to threaten her, she would not have consulted her advocate Bhusari, as she had done earlier, and Bhusari would not have taken steps to secure to her the use of the latrine in her house. Finally, she admitted before the Commission that after she gave her said complaint dated September 14, 1969 (Ex. P 922) and after H.C., Thorat had visited her, there was no trouble between the landlord and herself and he stopped harassing her. She further categorically admitted that he had objected only once to her using the latrine, namely, on September 14, 1969. This clearly shows that if she was at all obstructed in using the latrine, it was only once and that on her making an immediate complaint to the Police, the obstruction was not at any time repeated and there was thereafter nothing to prevent her from using the latrine in her house, for if the obstruction made were to be at any time repeated, H.C., Thorat was there to see that it was removed and to ensure that she was left unmolested or in the alternative she would have immediately rushed to the City Police Station and filed another complaint.

77.11 The evidence thus establishes that she was under no necessity to go to the public latrine and there is no doubt that her story that she did not go to the common latrine in her house but had to use the public latrine is a false one concocted for the purpose of the prosecution of Abdul Hameed and the two other Muslims on a charge of outraging her modesty.

The outrage to Bahinabai's modesty—the story as told by her

77.12 In the witness-box Bahinabai was asked to relate what had happened on May 8, 1970. She deposed (C.W. 8/8/2532):—

“May 8, 1970 was the Akshyay Trutiya Day. It was a Friday. On that day, after finishing the ceremony of ‘Akhaji’ (offering oblations to the departed fore-fathers) and after finishing my meals, at about 2-30 p.m. I went to the public latrine. At that time five

or six Muslims were sitting on the steps at the corner of the Jumma Mosque near the door. They laughed and whispered among themselves. I did not pay any heed but straight went to the latrine. While I was returning from the latrine Hamid Chalniwalla got up and shouted "Pakdo Isko" ("Catch her"). Upon that the others got up and surrounded me. They grabbed me and I shouted. Seven or eight persons came running from the hotel of Ichharam Natu Bawiskar. They were still grabbing me. I gave a push to one of them and escaped to my place. I closed the door. I was terribly afraid. I lay down. Thereafter nothing happened."

77.13 The above question was asked to her after she had already been examined at some length. The manner in which she gave the said answer was, however, so singular and so different from that in which she had answered the questions put to her earlier that the Commission thought it best to make the following note on her demeanour:—

"The entire answer to this question has been given by the witness fluently, without any pause, break or hesitation, and in a manner quite different from that in which she gave answers to the other questions."

The subsequent conduct of Bahinabai

77.14 We have already seen Bahinabai's story as deposed to by her in the witness-box. The first thing which we would expect a woman, so experienced in lodging complaints with the Police and who was on friendly terms with the personnel of the City Police Station, to do after the said alleged incident would be to lodge a complaint at the police station. We can understand her not lodging a complaint on May 8, 1970 because of the disturbances which took place or even for a couple of days thereafter, but we are astonished to find that her complaint (Ex. P 767) was lodged as late as June 28, 1970. Let us turn to her explanation for not filing her said complaint earlier. According to her she got a shock because there was no one to help her and, therefore, until May 11, 1970 she could do nothing. Thereafter she went to her father's place at Shendurni Village by an S.T. bus. Her father was an agricultural labourer and used to return home in the evening after finishing his work. She reached Shendurni at about 11 a.m. but finding her father's house locked as he was out on work, she did not care to wait for him but returned to Jalgaon by another S.T. bus and then went by rail to her sister-in-law's place at Shirpur, a taluka town, and stayed there for about ten or twelve days and then returned to Jalgaon. On returning to Jalgaon she resumed going to her tuitions as also to the public latrine. She was not harassed by anyone while going to the public latrine. She did not consult her advocate Bhusari about what had happened on May 8, 1970 nor did she mention about it to anyone else. The only explanation which she could give for not filing her complaint after returning from Shirpur until June 28, 1970 was that she was afraid to do so because the atmosphere was tense and the Hindus were being arrested

for their participation in the disturbances and that she was alone and there was no one to look after her. She was unable to explain what connection the arrest of the Hindu accused in the riot cases had to do with what had happened to her on May 8, 1970.

77.15 How false her story of suffering a shock and being unnerved is can be seen from the fact that the very next day after the disturbances, that is, on May 9, 1970, she had gone to the City Police Station in the night to make inquiries about her son Prakash who had not returned home and had come to learn that he had been arrested for committing a breach of the curfew order and, therefore, had made inquiries and was informed that she should make a bail application and had thereupon gone to the Court the next day, got a bail application typed out by a petition-writer, asked the owner of the shop in which Prakash was working to stand surety, got him to stand surety and had got her son released on bail. Her son was convicted on May 11, 1970 and sentenced to pay a fine of Rs. 10 which she paid, she having again gone to the Court on that day. She admitted that it was only thereafter that she left Jalgaon for Shendurni and that her son had accompanied her. A woman who can go to the City Police Station at night to look for her son, make inquiries and ascertain what is required to be done for getting him released, go to the Court the next day, get a bail application drafted and typed out, obtain his release on bail by finding out a surety, and attend the Court the day thereafter to pay the fine is hardly a person who would be afraid to lodge a complaint about her molestation, if any, such incident ever took place. Though according to her, her said complaint was given by her at the City Police Station, Inspector Limaye has deposed that she came alone in the afternoon of June 28, 1970 to the Revenue Office, which he was using as his office, and orally gave her complaint to him and that he reduced it to writing and sent it to the City Police Station for registering the case (P.W. 93/11/3176). The same day Inspector Limaye made a panchnama of the scene of offence. He then contacted Shantaram Chaudhari, one of the alleged eye-witnesses, who, Limaye alleged, gave him the names of the other eye-witnesses. These eye-witnesses were contacted the next day, that is, on June 29, 1970, and, according to Limaye, they gave the names of the accused persons to him. On June 29, 1970 the supplementary police statement of Bahinabai was recorded by Limaye (Ex. P 925). On July 18, 1970 another police statement of hers was recorded by D.S.I., V. K. Wavare (Ex. P 926) and in this police statement she gave the names of three out of the five or six Muslims who she alleged had molested her. These names were those of Abdul Hameed Shaikh Gulab Chalaniwala [J.U.(J)W. 5], Abdul Sattar Shaikh Dadu and Syed Hasan Syed Husen Manyar. According to Bahinabai, within fifteen or twenty minutes of her giving their names to the Police, the three accused were arrested and brought to the City Police Station and she identified them. She, however, admitted that no identification parade was held. She stated that she learnt the names of the three accused by making inquiries from

passers-by when she saw the three accused walking along the road. She, however, did not know any of the persons from whom she made these inquiries and said that they were complete strangers to her. According to her, she learnt the names of the three accused by asking these strangers and then she immediately went and gave the names to the Police. She admitted that she had also seen the three accused on prior occasions but had not inquired from anyone what their names were. Neither her said complaint (Ex. P 767) nor any of her police statements mentions the names of any Hindu eye-witnesses who are alleged to have come running to her help on hearing her shouts, though she has deposed that she knew them. She has alleged that the struggle between her and the five Muslims continued for about fifteen to twenty minutes and that all of them had caught hold of her and there was a lot of grabbing, pushing and pawing, though she admitted that there was no bruise, injury, abrasion, swelling or any mark of any kind on her person as a result of this. She further stated that she did not notice whether a number of persons were coming out of the Jumma Mosque at that time.

77.16 A significant fact is that about a fortnight after her said complaint was lodged, on July 16, 1970 the landlord Narkhede filed a 'purshis' stating that he did not want to prosecute his suit against her and the suit was thereupon dismissed for want of prosecution and she was allowed to continue in possession of her room.

The falsity of Bahinabai's story

77.17 The falsity of Bahinabai's story is palpable on the face of it. The incident is alleged to have taken place at about 2-30 p.m. near the junction of Rath Lane in which the Jumma Mosque is situate and the lane which lies between the Jumma Mosque and the Revenue Office (Mulki Chavdi). Just across the road on one side is the Ram Mandir and diagonally opposite to it is the hotel of Ichharam Havaldar and other shops and houses. The incident is thus alleged to have taken place at a spot which would be in full sight of everyone in the Revenue Office, sitting in Ichharam Havaldar's hotel, coming out of the Jumma Mosque, on the road outside the Jumma Mosque or in Maniyar Wada and the two police constables posted on fixed-point duty near the Jumma Mosque. This was a thickly congested locality and, as the evidence before the Commission and in the Magistrate's Court shows, there was always some traffic on the road. It is inconceivable that no one (apart from the got-up eye-witnesses) saw this incident or heard Bahinabai's hue and cry even though this incident is alleged to have lasted fifteen to twenty minutes. The time and the place at which this incident is alleged to have taken place are such as to render improbable the happening of the said alleged incident. Yet more suspicious is the late filing of the complaint by Bahinabai.

77.18 If the said incident had in fact taken place as alleged by her and if it was witnessed by the so-called eye-witnesses, one would have expected the story to have been all over the town in no time. A number

of special reports on the disturbances were made by different officers — the S.P., the D.M., Sub-Inspector Badgujar, D.I.G., Kadambande, D.I.G., Trimbakrao and Dy. S.P., Patankar, each of them mentioning several causes for the disturbances; yet in not a single one of these reports is there any mention of any such incident or of any such incident being or rumoured to be the cause or one of the causes of the disturbances. No report about outraging the modesty of a Hindu woman appeared in any of the local papers, though once Bahinabai's complaint was filed it received considerable publicity in the local papers.

77.19 The falsity of Bahinabai's story was so obvious from her evidence that at the argument stage not a single party advanced any argument to support it or even relied upon it as a cause of the disturbances.

Who invented the Bahinabai story ?

77.20 The question is, who invented the Bahinabai story ? The truth is apparent from the evidence of D.I., Limaye. In his affidavit Limaye has set out the various probable causes of the disturbances which were rumoured in the city or were published in the Press, one of them being "outraging the modesty of a Hindu woman and consequent spread of that information". Limaye's evidence shows that in the 20th May 1970 issue of the pro-Jan Sangh weekly the 'Tarun Bharat' an article was published under the heading "Were the terrible riots at Jalgaon really communal" ? (Ex. P 1038). The said article *inter alia* stated:—

"The news spread in the town like wild fire that at about midnight some persons molested a young Hindu girl in Rath Chowk itself. This aroused passions and in a short time mobs of youths of both the communities fully prepared collected in Rath Chowk and stood in front of each other. There was a fight with lathis and sticks, but the Police arrived in time...."

Another article headed "The immature political leaders of Jalgaon took advantage of the tense atmosphere" appeared in the 20th May 1970 issue of the Marathi daily the 'Maratha' (Ex. P 1039). The said article in the 'Maratha' *inter alia* stated as follows:—

"It is learnt as follows: 'Goondas' belonging to one community passed vulgar remarks referring to women. As that was not tolerated, there started an altercation amongst the men. People started saying that it must be resisted. But gentlemen on both sides took the lead and cooled down the tense atmosphere prevailing there."

Out of the said two articles, it was only the article in the "Tarun Bharat" which referred to the molestation of a Hindu girl.

77.21 Limaye has deposed that copies of the said issues of the 'Tarun Bharat' and the 'Maratha' were in the case papers of Jalgaon City C.R. Nos. 80 and 81 of 1970 and that when he took charge of these cases on May 27, 1970, he read them for the first time and that these two articles mentioned other causes for the disturbances.

The other causes mentioned in the said articles obviously did not appeal to Inspector Limaye for he has deposed that he instructed his subordinates, P.S.I., Thakur, P.S.I., Sapre and Head Constable Pargaonkar, to go around and trace the woman concerned in the incident alleged in the said article in the 'Tarun Bharat' and the witnesses to this incident. They were unable to trace either the woman or any of the witnesses until suddenly Bahinabai turned up alone on June 28, 1970 at the Revenue Office (Mulki Chavdi) and lodged an oral complaint with him. He has further deposed that the said complaint was reduced to writing by him and sent by him to the City Police Station for registering the case, after which it was returned to him for investigation and the very next day, that is, on June 29, 1970, he made a panchnama of the scene of the offence and recorded the supplementary police statement of Bahinabai and the police statements of the two alleged eye-witnesses, Shantaram Chaudhari and Narayan Shimpi, and on June 30, 1970 the police statements of three other witnesses, namely, Sona, Arvind and Raghunath, and on July 16, 1970 he handed over the case papers to P.S.I., Wavare for further investigation and for filing a charge-sheet. It is extremely strange how, when for a period of one full month from May 27, 1970 to June 28, 1970 the officers of the Special Investigation Squad were unable to trace any eye-witness, they suddenly managed to find five eye-witnesses on June 29 and 30, 1970 even though Bahinabai had not given the name of a single eye-witness [P.W. 93/1(12)/3166(8), 11/3174-5]. Limaye has further deposed that he did not contact the editor of either of the said two papers to find out the source of their information. In fact, some members of the editorial staff of the said two papers were called in evidence by the Magistrate, but they deposed that they had received this information in writing from their correspondents but refused to disclose the names of these correspondents.

77.22 Limaye has deposed (P.W. 93/11/3175):—

“Until Bahinabai came and lodged her complaint on June 28, 1970 and thereafter till the statements of the alleged eye-witnesses were recorded, not a single person was traced who mentioned any word about this incident of outraging of modesty nor was any such incident at all referred to in any statement given to the Police. There was no talk about it in Jalgaon nor any rumour about this incident of outraging modesty until the publication of the articles in the 'Tarun Bharat' and the 'Maratha'.”

Yet Limaye not only was not struck with the infirmities in Bahinabai's complaint but managed to get up five eye-witnesses in support thereof within two days. Not only that, but in the charge-sheet filed by him he categorically stated that the Hindus were provoked to riot by reason of the outrage on the modesty of Bahinabai by some Muslims and to dismiss the complaint of Abdul Hameed as being false. He was forced to admit in the witness-box that he had not been able to get any evidence to show that the disturbances were provoked in any manner by this alleged outrage on Bahinabai's modesty.

77.23 The explanation given by Inspectors Limaye and Bendre why this alleged incident was mentioned in the charge-sheets against the Hindu accused as being the cause of the disturbances shows in all its true colours the mentality of the officers of the Special Investigation Squad, Jalgaon, and reveals the manner in which they set about their work. Limaye has deposed (P.W. 93/11/3173-4):—

“It is true that in the charge-sheet against the 43 Hindu accused in C.R. No. 80/70 I have mentioned that the Hindus had formed an unlawful assembly on account of an incident of outraging the modesty of Bahinabai, widow of Kisanrao Kale, (C.W. 8), and that this led to the outbreak of the riots. I had not been able to get any evidence to show this. I, however, mentioned this cause in the charge-sheet because, as appearing from the statements of various witnesses, four or five Hindus came to the house of Abdul Hameed Gulab who, on seeing them, hid in the house. They asked his mother where he was. The mother sent her little daughter to fetch the landlord who was working in the adjoining area, namely, Halbar area. About the same time someone went to the Jumma Mosque and informed Syed Amir Syed Supdu, the father of Syed Chand, that something had happened in this locality. He came there with Head Constable Abdulla Khan Baldar Khan (P.W. 68). They tried to find out what it was and to pacify the Hindus. The landlord had also come on the scene and tried to pacify the Hindus. Thereafter another crowd of 20 to 25 Hindus came on the scene and the riots broke out. The witnesses in Bahinabai's case had named Abdul Hameed as one of the persons who had outraged her modesty.”

Detective Inspector Bendre has deposed (P.W. 95/4/3198):—

“At the daily conference held by the Investigating Officers with Dy. S.P., Mahajan the various causes of the riots were discussed and it was decided that outraging the modesty of Bahinabai by some Muslims might be a cause of the Jalgaon riots.”

77.24 We have seen in various speeches referred to in Part III of this Report that it is a theory of the Hindu communal parties and of certain communal-minded Hindu leaders that the Muslims are responsible for all communal disturbances which have taken place in India. This position was also canvassed in the concise statements filed by the Hindu parties before the Commission as also in the submissions made by the Hindu parties across the Bar through their Counsel. The officers of the Special Investigation Squad, Jalgaon, obviously subscribed to this theory.

77.25 The said article in the ‘Maratha’ (Ex. P 1039) did not make any mention of any outrage on the modesty of a Hindu woman but referred only to some vulgar remarks passed against Hindu women in general. It was only the article in the said pro-Jan Sangh daily, the ‘Tarun Bharat’, which mentioned the outrage on the modesty of a young Hindu girl. Most of the Hindus who were arrested in the Jalgaon riot cases belonged to the R.T.M. and the local Jan Sangh and several of them were active members of these two bodies.

77.26 From the evidence led before the Commission and from the circumstances of the case the conclusion is inescapable that after hunting around for one month for a woman who was prepared to lodge a false complaint of an outrage to her modesty by some Muslims, the officers of the Special Investigation Squad were at last able to secure such a woman in the person of Bahinabai. They might have done it on their own or with the help of some persons belonging to the R.T.M. or the local Jan Sangh as suggested by the Magistrate in his judgment in the case against Abdul Hameed and the other Muslims for outraging the modesty of Bahinabai. Bahinabai was friendly with the personnel of the Jalgaon City Police Station. Her landlord was a former police havaldar and was a Municipal Councillor. She knew Ichharam Havaldar, again a former policeman and an active member of the R.T.M. and an accused in the riot cases. It is significant that without there being any rhyme or reason her landlord should suddenly withdraw and get dismissed for want of prosecution his suit for possession of Bahinabai's room within a fortnight of the lodging of her complaint. Once again the conclusion is inescapable that Bahinabai was induced to file her said complaint by a promise to have the said suit withdrawn and to allow her to continue in possession of the said room.

77.27 The sudden turning up of Bahinabai at the Revenue Office where Inspector Limaye was sitting and not at the City Police Station to lodge her complaint, the sudden discovery of the eye-witnesses within a day or two of her complaint, the manner in which the three Muslim accused in Bahinabai's case were arrested, the twist given to her complaint to make out that this alleged incident was the real cause of the disturbances — all make the sorriest episode in the history of the investigation of the Jalgaon riot cases.

77.28 It is clear from Dy. S.P., Mahajan's evidence that the officers of the Special Investigation Squad, Jalgaon, were holding conferences almost every evening. Each one of them, therefore, must share the responsibility for what has been done. The evidence led before the Commission has conclusively established that there was an outrage and that several persons had come together with the common intention of committing this outrage. But the outrage which was committed was not on Bahinabai or her modesty, but on truth and the sanctity of the oath. The persons who came together with this wrongful common intention were not Abdul Hameed Shaikh Gulab, Abdul Sattar Shaikh Dawood and Syed Hassan Syed Haslam, but the officers of the Special Investigation Squad, Bahinabai and, as suggested by the Magistrate in his said judgment, some prominent workers of the local Jan Sangh and the R.T.M. Together they invented the story, procured the complainant, obtained the eye-witnesses, fabricated this case and, to crown it all, made the Muslim who was the first person to be assaulted in the disturbances an accused in that case.

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CHAPTER 78

THE THEORIES ON THE CAUSES OF THE JALGAON DISTURBANCES

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CHAPTER 78

THE THEORIES ON THE CAUSES OF THE JALGAON DISTURBANCES

The different theories

78.1 Several theories on how the disturbances were caused have been propounded in the reports made by various officers and in the affidavits and evidence of different witnesses. These theories were :

- (1) A quarrel between gamblers while playing cards with stakes.
- (2) A pre-planned attack by the Muslims, who had collected weapons and missiles for this purpose, on the Hindus.
- (3) A pre-planned attack by the Hindus on the Muslims engineered by the Jan Sangh, the R.S.S., the Shiv Sena and the R.T.M.
- (4) The influx of men from Bhiwandi, Thana and Kalyan by rail and road into Jalgaon for starting the disturbances.
- (5) Municipal politics.
- (6) To facilitate the implementation of the Town Planning Scheme and thereby to reduce the Muslim voting strength in the municipal elections.
- (7) The instigation of the Tablig Jamaat and the Government of Pakistan.
- (8) The instigation of the Communists.
- (9) An outrage on the modesty of a Hindu woman, Bahinabai Kisanrao Kale, by some Muslims.
- (10) A quarrel at the 'pan' shop at Rath Chowk between some Hindus and a Muslim.
- (11) The receipt of the news of the Bhiwandi disturbances.

78.2 We will now consider these different theories and see what was the basis for advancing them and whether any of the causes alleged was really the cause of the disturbances.

The quarrel between gamblers

78.3 Different versions of this theory are to be found in the special reports on the disturbances and in affidavits. Two of these versions are given by Inspector Limaye, one being a dispute between boys who had taken part in gambling with cards on the Akshayya Tritiya day and the other being the rivalry between two groups of gamblers [P.W. 93/1(6)/3166(7)]. In S.P., Raman's report dated May 9/10, 1970 (Ex. P 889) it is stated that the details of the complaint lodged revealed that the cause of the disturbances was due to a quarrel between two sets of persons who were playing cards as it was Akshayya

Tritiya day. This is an amazing statement because as deposed by Dy. S.P., Mahajan no complaint was at any time filed as alleged by the S.P. (P.W. 96/7/32083. In Dy. S.P. Patankar's report (Ex. G 203) also it is stated that it would appear that the disturbances were sparked off by a minor incident concerning gambling. In his evidence he stated that the information given to him by the local officers was that gambling took place on Akshayya Tritiya day and that one Abdul Hameed was beaten. Patankar thereupon made inquiries from the people in Maniyar Wada and though they did not admit that they took part in gambling or that they had gambled, they admitted that gambling had taken place and also that Abdul Hameed was beaten. Patankar thereupon put two and two together and arrived at the conclusion set out in his report (G.W. 11/19/2910). The version of the gambling incident given in the report dated May 9, 1970 of Sub-Inspector Badgujar (Ex. No. 41) was that some Hindus and Muslims were gambling near Ram Peth and being aggrieved during play some Muslims threw burning torches on the houses of the Hindus and thereafter the Hindus retaliated by throwing burning torches at the Jumma Mosque. In D.I.G., Trimbakrao Paturkar's report dated May 23, 1970 (Ex. G 204) it is stated that the residents of Jalgaon usually drink liquor and gamble with cards on the Akshayya Tritiya day and in the afternoon of May 8, 1970 some boys were allegedly gambling in Khatikpura Maniyar Lane when one of the boys was said to have been assaulted by a Muslim named Hameed. The Hindu boy thereupon went to some of his colleagues in Bhoite Gadhi and a group of twenty to twenty-five persons, the majority of them being youngsters who were armed with lethal weapons, immediately came in search of Hameed and belaboured him. This part of Paturkar's report appears to have been based upon the said reports of S.P., Raman and D.I., Badgujar. In the affidavit of Vasant Kanhaiyalal Sharma, a Joint Secretary of the Jalgaon Janadhikar Saunrakshan Samiti and a member of the R.S.S. and the Jan Sangh, it is stated that a dispute took place between the Hindu and the Muslim gamblers in Maniyar Wada in the course of which the Hindu players received a beating from the Muslim players and ultimately this dispute took the turn of a dispute between the Hindus and the Muslims [J.J.S.W. 6/1(3)/2431(1)].

78.4 The theory of a quarrel while gambling with cards appears to have been based on the fact that gambling is common in Jalgaon on Akshayya Tritiya day and Abdul Hameed was beaten near the 'pan' shop. There is no evidence at all before the Commission that any quarrel over gambling as alleged ever took place. Inspector Limaye has also deposed that no Muslims owned any 'matka' betting shop in or around the localities of Rath Chowk and Jumma Mosque, that all such shops were owned by the Hindus, that there was no complaint or rumour about any non-payments of winnings over cards nor any record, rumour or information about rivalry between gamblers from these localities, that there were no card-gaming houses in these

localities, and that D.S.I., Sapre had also made inquiries in this matter and that the result of his inquiries was the same [P.W. 93/1(9)/3166(8)]. This theory was, therefore, based purely on suppositions, very probably with a view to make out that the disturbances were spontaneous.

Pre-planning and collection of weapons and missiles by the Muslims

78.5 According to a number of Hindu witnesses, there were secret meeting by the Muslims prior to the disturbances and the disturbances were pre-planned by the Muslims who had collected and stored weapons and missiles for this purpose, and the Muslims first attacked and set fire to Hindu houses and the Hindus thereupon retaliated in self-defence. Allegations to this effect are to be found amongst other affidavits in the affidavits of Gajanan Tryambak Ghanekar, the Treasurer of the Jalgaon City Jan Sangh [J.J.S.W. 3/1(3)/2414(2)], N. N. Bhusari, the Vice-President of the Jalgaon Janadhikar Saunrakshan Samiti and a member of the Jan Sangh and in 1965 and 1966 the President of the Jalgaon City Jan Sangh [J.J.S.W. 4/1(4, 6, 10)/2418(1-3)], Kanhaiyalal Sharma, a member of the R.S.S. and the Joint Secretary of the Jalgaon Janadhikar Saunrakshan Samiti (J.J.S.W. 6/1(6)/2431(4-5)), Kashinath Rampratap Vyas, another Joint Secretary of the Jalgaon Janadhikar Saunrakshan Samiti [J.J.S.W. 10/1(5)/2464(3)], Madhusudan Govind Khadilkar, the Secretary of the Jalgaon City Branch of the R.S.S. [J.J.S.W. 8/1(2)/2444(3)] and Chhabildas Bhavsar, the President of the Jalgaon City Jan Sangh (deponent of affidavit No. 63). It is unnecessary to refer to the cross-examination of such of them as have chosen to give evidence. If there was any truth in this allegation the only sufferers in the disturbances would not have been the Muslims and systematically one after another Muslim houses would not have been set on fire and Muslim localities attacked. Realizing the untenability of these allegations Bhusari in his cross-examination stated that no riots had taken place in Jalgaon on May 8, 1970, but whatever damage was caused was the work of 'goondas'. He further said that only the Muslims had suffered in the riots and since the Hindus had not suffered, these disturbances could not be called Hindu-Muslims riots (J.J.S.W. 4/8/2423). If there was any truth in the allegation that the Muslims had prior to the disturbances collected and stored weapons and missiles, one wonders what prevented them from using these weapons and missiles at the time of the disturbances.

78.6 As an example of the recklessness with which such allegations have been made one need refer only to the evidence of Subhash Shinde. In his affidavit he had stated [J.J.S.W. 11/1(9)/2473(5-6)]:—

“On the day following the disturbances, heaps of stones, bricks and (pieces of) glasses, etc. were found on the roads in the vicinity of the mosque situate in the locality where the disturbances had occurred. From this it becomes clear that these were the very stones, bricks and pieces of bottles which were thrown on the Hindus by the Muslims from the mosque. It seems to be more probable that

the houses which were burnt and ruined in the disturbances were burnt because of the stock of highly explosive materials or inflammatory things such as kerosene and petrol stored therein." In cross-examination he admitted that he had not gone anywhere near any of the affected areas on May 8, 1970 and, therefore, did not know who had started the rioting and who the rioters were (J.J.S.W. 11/24/2483). He then sought to explain the above-quoted allegations made in his affidavit. He stated that when on the next day after the disturbances he saw stones, brick-bats and glass pieces lying on the roads in the vicinity of the Jumma Mosque, he came to the conclusion that they must have been thrown on the Hindus by the Muslims from the said mosque. It, of course, did not occur to him that these missiles could have been thrown on the said mosque by the Hindu rioters. He also admitted that the houses referred to in the said passage of his affidavit which were set on fire and burnt were Muslim houses and not Hindu houses. He, however, deposed that he had heard that fire-balls and burning rags were thrown by the Hindu rioting mobs on the Muslims houses, but when he saw on May 9, 1970 that the houses in Bagwan Mohalla were reduced to ashes and that their walls had collapsed, he thought that so much damage could not have been caused by fire-balls and burning rags and, therefore, the Muslims must have stored explosives and highly inflammable materials in their houses. It is difficult to follow the logic of such persons but not difficult to understand their communal mentality.

78.7 In support of the allegations that Muslims had stored weapons and missiles reliance was placed upon the seizure of certain articles from some Muslim houses. These were the articles seized from the houses of Haji Abdulla Bhuru [J.U.(J.)W. 8] and Abdul Ma'jid Salar, a Municipal Councillor, from the Arabi Maddressa and near the Hyderi Talim in Katya File. The panchnama of seizure (Ex. P 854) shows that the articles seized from the house of Haji Abdulla Bhuru consisted of half-broken bricks and tiles, some bamboo sticks, an old rusted iron sword blade, two iron bars, an iron pestle, the oil cloth cover of a gun kept under the pillow on a cot, and two iron strips and a German make air-gun manufactured by Diama Company which were lying on the lower roof of the house. Haji Abdulla Bhuru has given an explanation in respect of the seized articles. He has deposed that at that time he was constructing a house next to his own house from which the said articles were seized, that the bamboo sticks were used for making a sieve for filtering sand in the construction of the house, that one of the bamboo sticks was a goad for prodding field bullocks belonging to a relative of his who was an agriculturist, that what was described in the panchnama as a sword blade was merely an old and rusty iron strip, that the iron pestle was used in their citrus fruit orchards for scaring away birds, and that out of the seized articles which were lying on the outside lower roof of the house, the two iron strips were meant for window frames while the air-gun was meant to scare away birds. He has further deposed that when

the Police searched his house he was not at home as on May 8, 1970, he along with his entire family had taken shelter in the relief camp [J.U.(J)W. 8/3/2687; 12/2692]. There was almost no cross-examination of this witness on the aforesaid explanation given by him nor was any attempt made to link these articles with the disturbances. So far as Abdul Majid Salar is concerned, the S.P. himself admitted that these articles were not seized from inside his house but were lying in his compound which was open and accessible to the public. The articles taken charge of from the Arabi Madressa as shown by the panchnama (Ex. P 808) were 11 torches taken charge of from a small finished in the rear compound of the Madressa. Admittedly the Arabi Madressa was attacked by the Hindu rioters; papers and books, including copies of the Koran, were heaped on the floor and set on fire and the cupboard itself was slightly burnt and the vessels and utensils belonging to the Madressa were taken away. The damage to the Madressa is clearly shown by the panchnama made by the Revenue officers (Ex. P 931). The articles seized from the Arabi Madressa could only have been those carried by the Hindu rioters and thrown away, very probably after being used. The article seized near the Hyderi Talim was a barrel of kerosene oil lying on the road near the Ashok Talkies in Polan Peth (Ex. P 828; P.W. 67/63/2271-2). There were no disturbances in the locality of Katya File nor was any Hindu house set on fire by the Muslims during the disturbances. The Muslim allegation is that a kerosene barrel was planted by the Hindu rioters near the Hyderi Talim. The answer to this must, however, remain in the realm of conjecture since there is no direct evidence on the point. One thing, however, is clear that the find of these articles does not prove that the Muslims had stored weapons and missiles with a view to start the disturbances.

Pre-planning by the Hindus

78.8 The allegation that the disturbances at Jalgaon were pre-planned and engineered by the Jan Sangh, the R.S.S., the Shiv Sena and the R.T.M. has been made in some of the Muslim affidavits. Though as shown in Chapters 55, 58, 59 and 60, some of these parties have been responsible for creating communal tension in Jalgaon, there is no evidence that any of them had pre-planned the disturbances or had collected weapons or missiles in advance for this purpose.

78.9 In order to show such pre-planning reliance was placed upon the evidence of Haji Gulam Rasul Noormohammed Bagwan. He was a resident of Bagwan Mohalla, but was at Bhusaval on May 8, 1970. A cousin of his, Rafiuddin Bismillah, came to Bhusaval by Amalner Passenger at about 6.15 p.m. and informed him about the disturbances. He immediately went to Jalgaon in his truck. When he reached the first corner of Vithal Peth, which is outside the limits of Jalgaon, he saw that a culvert had been broken, a road-block made of its stones and bricks and a mob of 300 to 400 persons, armed with

lathis, stones, etc., standing there. He reversed the truck but the rioters stoned it and he received an injury on his head [J.U.(J.)W. 19/1-4/2847(1-2)]. He was not cross-examined by any of the parties and there is no reason why his evidence should not be accepted. His evidence, however, does not show that there was any pre-planning for the disturbances prior to May 8, 1970, for a road-block set up outside Jalgaon several hours after the outbreak of the disturbances does not indicate that the disturbances were planned prior to May 8, 1970.

Influx of men from Bhiwandi, Thana and Kalyan

78.10 One of the remoured causes of the disturbances as set out in the affidavit of Inspector Limaye was the arrival at Jalgaon of about hundred to hundred and twenty Muslims by rail and road from Bhiwandi, Thana and Kalyan on May 8, 1970, the suggestion being that these Muslims came to Jalgaon with a view to start the disturbances. Inspector Limaye has deposed that inquiries were made from transport operators, the staff at the octroi naka of the Jalgaon city, the staff of the state Traffic Branch of the Police, and the railway staff at Jalgaon, Kalyan and Thana, and that the records about the sale of tickets, etc., were checked, and this rumour was found to be false [P.W. 93/1(6), (11)/3166(7-8)]. There is also no evidence before the Commission in support of this theory.

Municipal politics

78.11 S.P., Raman, some of the other police-officers, the Communist leader S. N. Bhalerao (C.W. 20), and P. K. Zare (C.W. 25), the Municipal President at the time of the disturbances, have alleged that municipal politics was a cause of the disturbances. Inspector Limaye has stated in his affidavit that the police statements of some Municipal Councillors, including Zare, showed that the defection from one group to another in the Municipal Council had given rise to communal tension [P.W. 93/1(10)/3166(8)]. At a secret meeting held by the D.M. at which the Artillery Commandant, Deolali, D.I.G., Kadambande, the Home Guards Commandant, the Addl. D.M., and the S.D.M., Jalgaon, were present, the S.P. was requested by the D.M. to ascertain whether the municipal politics had any bearing on the disturbances and whether any former or then municipal councillors had played an actual role in the disturbances (Appendix I to Ex. No. 37). The role played by municipal politics in the communal situation in Jalgaon has already been discussed in Chapter 56 and need not, therefore, be repeated here.

The reduction of the Muslim voting strength

78.12 In the course of his evidence P. K. Zare, who was the Municipal President at the time of the disturbances, sought to make out a connection between the Town Planning Scheme for Jalgaon city and the disturbances. His suggestion was that the disturbances took place and so many Muslim houses were set on fire and burnt down

in order to facilitate the implementation of the said Town Planning Scheme and thereby to reduce the voting strength of the Muslims in the municipal elections. Parts of Bhilpura and Islampura are in Ward No. 12 of which the Municipal Councillor in May 1970 was Shaikh Bashir Shaikh Vazir elected on the Congress ticket. One part of Bagwan Mohalla is in Ward No. 8 of which the Councillor was Tamij Piran Bagwan also elected on the Congress ticket, while another part is in Ward No. 9 of which the Councillor was Ramkisan Totaram Sonavane also elected on the Congress ticket. On the implementation of the said Town Planning Scheme, parts of Bhilpura, which contained Muslim localities, would have to be vacated as the site was reserved for a public garden. The said Town Planning Scheme also provides for pulling down the houses of some Bagwans in Bagwan Mohalla and the construction of a municipal school on the site thereof. This, according to Zare, would lead to reduction in the strength of Muslim votes. According to Zare, on the site reserved for the public garden in Bagwan Mohalla thirty Muslim houses were set on fire and on the site meant for the municipal school two Muslim houses were set on fire (C.W. 25/13/3045-6). In the absence of any complete statistics about the number of Hindu and Muslim voters in these areas, it is not possible to accept Zare's suggestion. His other suggestion that Muslim houses were burnt in order to provide space for the construction of a public garden in Bhilpura and of a municipal school in Bagwan Mohalla does not appeal to commonsense for even those rioters, who might have been inspired or instigated by Municipal Councillors, assuming any of the Councillors had done so, would not be interested in the implementation of the Town Planning Scheme. These suggestions also lose whatever little force they have when we find from Zare's own admissions that new buildings have been constructed in place of those burnt down during the disturbances and in Bagwan Mohalla in place of the Urdu School which was burnt down, the Municipal Council has constructed another Urdu School at a cost of Rs. 60,000 to Rs. 70,000 and that if the Town Planning Scheme were to be implemented, the reduction of Muslim votes in Bhilpura would be about one hundred and fifty and in Bagwan Mohalla about twenty to twenty-five (C.W. 25/34-35/3053).

The instigation of Pakistan and the Tablig Jamaat

78.13 According to some Hindu affidavits, particularly the affidavit of Soma Jayaram Koli (J.J.S.W. 1), a member of the R.S.S., persons belonging to the Tablig Jamaat and the Government of Pakistan were behind the disturbances. In cross-examination he admitted that what he had stated in his affidavit was not on personal knowledge but was on information received by him from his colleague in the Octroi Department, Abdul Gani Shaikh Bandu [J.J.S.W. 1/1(2)/2404(5), 14/2409]. The evidence of Soma Jayaram Koli has already been considered in Chapter 59 (paragraph 59.34 to 59.36) and we have seen what an unsatisfactory and untruthful witness he was.

78.14 There is no evidence that there was any hand of Paikstan or of the Tablig Jamaat behind these disturbances. It is strange how allegations of this type have been made without the least basis for them. Had there been any truth in these allegations, there would have been at least some loss of Hindu life and property during the disturbances.

The instigation of the Communists

78.15 In a news item appearing in the 22nd June 1970 issue of the Marathi Shiv Sena daily the 'Batmidar' published in Jalgaon (Ex. P 968) and in the article in the 27th June 1970 issue of that newspaper (Ex. P 969) it was alleged that the Communists were behind the disturbances which took place in Jalgaon. There is not a tittle of evidence to support this allegation and these articles were published as a counterblast to the charge of the Communist Party that the Jan Sangh and the Shiv Sena were behind the Jalgaon disturbances, particularly in the joint appeal issued by the S.S.P., the P.S.P., the Shetkari Kamkari Party and the Communist Party (Ex. P 945) which was published in newspapers.

The outrage on Bahinabai's modesty

78.16 The theory that the Hindus were provoked to attack the Muslims on learning about the outrage on the modesty of Bahinabai Kisanrao Kale by some Muslims was the one fastened upon by the Hindu parties, the Special Investigation Squad and most of the suspended police officers as being the real cause of the Jalgaon disturbances. This theory has already been considered and its falsify demonstrated in Chapter 77. In spite of so much reliance placed upon it by the above parties, at the arugment stage not one of them could advance a single argument in support of it nor did any of them rely upon it as being the cause or one of the causes of the disturbances.

The quarrel at the 'pan' shop

78.17 The quarrel between a Muslim, Abdul Hameed Shaikh Gulab [J.U.(J).W. 5] and some Hindus near a 'pan' shop in Rath Chowk was the very first incident of the disturbances and has been dealt with in Chapter 65. As the evidence shows, this incident was, however, not the real cause of the disturbances.

The news of the Bhiwandi disturbances

78.18 According to the D.M., the cause of the Jalgaon disturbances was the receipt in Jalgaon of the news in the night of May 7, 1970 and in the morning of May 8, 1970 of the disturbances at Bhiwandi which, by reason of the tension which had already been built up and the communal poison which had been spread and the potentiality of trouble in the Rath Chowk area, sparked off the disturbances (C.W. 21/37/2878).

The causes of the Jalgaon disturbances

78.19 In order to avoid repetition, what the real causes of the Jalgaon disturbances were will be considered in the next chapter while answering the Terms of Reference to the Commission.

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CHAPTER 79
FINDINGS — THE JALGAON INQUIRY

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CHAPTER 79

FINDINGS — THE JALGAON INQUIRY

Prefatory observations

79.1 A large number of questions have fallen to be decided in the course of the Inquiry into the Jalgaon disturbances. The Commission's findings on these matters have been set out in the relevant chapters. It is, however, necessary to set out in a separate chapter the findings of the Commission on the Terms of Reference in respect of the Jalgaon disturbances in the order in which they are contained in the notification appointing the Commission.

The causes of the Jalgaon disturbances

79.2 Under the first part of clause (a) of the Terms of Reference the Commission is required to inquire into and report on the causes of the communal disturbances which occurred within the limits of the Jalgaon Municipal Council on May 8, 1970. Like all communal disturbances the causes of the communal disturbances which occurred at Jalgaon were two-fold, a basic or underlying cause and an immediate or proximate cause.

79.3 The basic or underlying cause of the Jalgaon disturbances was the same as the basic or underlying cause of all communal disturbances, namely, communal tension. The causes of the communal tension in Jalgaon were :—

- (1) the communal activities of the organizations mentioned in paragraph 79.15 below,
- (2) municipal politics,
- (3) the display of boards containing inflammatory writings in different localities by the Jalgaon City Branch of the Jan Sangh and at Rath Chowk in Old Jalgaon by the Shree Ram Tarun Mandal, and
- (4) the throwing of stones on the Jumma Mosque situate in Maniyar Wada usually at the time of the night prayers.

79.4 The immediate or proximate cause of the Jalgaon disturbances was two-fold, namely :—

- (1) the impact on the Hindus of Jalgaon of the news of the Bhiwandi disturbances and of the wild and exaggerated rumours which circulated about the said disturbances, inflaming the communal passions of the Hindus against the Muslims, and
- (2) a quarrel which took place at a 'pan' shop at Rath Chowk between a Muslim and some Hindus at about 2-45 p.m. on May 8, 1970.

79.5 Several theories on how the disturbances were caused were propounded in the reports made by various officers and in the affidavits and evidence of different witnesses. Many of these theories were imaginary, some based purely on rumours and some concocted by the Special Investigation Squad, Jalgaon.

The course of the Jalgaon disturbances

79.6 Under the second part of clause (a) of the Terms of Reference the Commission has to inquire into and report on the course of the communal disturbances which occurred within the limits of the Jalgaon Municipal Council on May 8, 1970.

79.7 The first incident of the communal disturbances which took place at Jalgaon on May 8, 1970 was a quarrel at a 'pan' shop. A Muslim named Abdul Hameed Shaikh Gulab [J.U.(J.)W.S.] had gone to the 'pan' shop of one Murlidhar situate at Rath Chowk at about 2-45 p.m. on May 8, 1970 where a quarrel took place between him and some Hindus and he was assaulted. He ran away to his house in Maniyar Wada, which is a part of Koli Peth, and hid himself. The Hindus chased him. After some time a number of Hindus came there and started stoning his house and the houses of other Muslims and some Muslims were assaulted and injured. The disturbances then spread to other parts of Maniyar Wada. Another mob assembled at Lendi Nalla near Jainabad and was dispersed with tear-gas shells. Arson to Muslim properties took place in Maniyar Wada and a municipal fire-engine was obstructed by the Hindu rioters. A way was made for it by bursting tear-gas shells. The Muslim shops outside the Jumma Mosque were broken open and looted and the Jumma Mosque attacked. From Maniyar Wada the disturbances spread to Rath Chowk where also arson to Muslim properties took place and a fire-engine was obstructed by the Hindu rioters. The other localities affected in the disturbances were Bagwan Mohalla, Khatik Ali, Bhilpura and Islampura, in each of which a number of Muslim houses were burnt. In the course of the disturbances the Madina Mosque situate in Islampura was also attacked. There were obstructions to the fire-engines in other localities also. All the obstructions to the fire-engines were caused by the Hindu rioters. The disturbances were completely put down at about 9-30 p.m. or 10 p.m. that very night and no further incidents took place thereafter.

79.8 In all 43 persons died in the Jalgaon disturbances. Of these, only one was a Hindu who died of a fractured skull. Out of the 42 Muslims who died, 6 were males, 11 women, 11 male children and 14 female children. In all, 47 injured persons were treated as indoor patients and 49 as outdoor patients at the Jalgaon Civil Hospital. Out of the 47 indoor patients, 10 had bullet injuries received in the course of the police firings. The persons injured in the police firings were 9 Hindus and a young Muslim boy about 12 years old. Arson was committed to 112 Muslim properties, out of which 87 were completely gutted. In addition, 28 other Muslim properties suffered

other damage and 250 Muslim properties were looted. Six Hindu properties were affected in the disturbances, out of which three were completely gutted, one partially burnt, one suffered some other damage and one was looted. The damage that was caused by arson to the Hindu houses was the result of fires spreading from the Muslim houses which had been set on fire.

79.9 The total loss suffered by the Muslims was Rs. 33,90,997, while that suffered by the Hindus was Rs. 83,725.

The adequacy of preventive measures

79.10 Under the first part of clause (b) of the Terms of Reference the Commission has to inquire into and report on the adequacy of the administrative measures taken to prevent the communal disturbances which occurred within the limits of the Jalgaon Municipal Council on May 8, 1970.

79.11 The measures taken by the authorities to prevent the said disturbances were inadequate for the following reasons:—

- (1) There was a failure on the part of the police officers and policemen of the Jalgaon Town Police Station, the Jalgaon Police Headquarters, the D.S.B., Jalgaon and the State Intelligence in Jalgaon to report boards containing communal writings exhibited by the Jalgaon City Branch of the Jan Sangh and the Shree Ram Tarun Mandal.
- (2) There was failure on the part of the authorities to take any action against the persons responsible for displaying such boards.
- (3) The measures taken to deal with the incidents of stone-throwing on the Jumma Mosque in Maniyar Wada, though adequate to prevent an open clash between the two communities, showed a complete lack of proper assessment of the situation and of the measures required to deal with it.
- (4) The measures taken to deal with the situation brought about by the said incidents of stone-throwing were unimaginative and did not go to the root of the matter and were not directed to discover the real culprits.
- (5) No attempt was made to obtain any information about the organization, group or persons wanting to foment communal tension and provoke communal trouble in Jalgaon by organizing or instigating these incidents of stone-throwing.
- (6) The crash wireless message received from the D.I.G. (B.R.) about the Bhiwandi disturbances which was received in Jalgaon at 11-12 p.m. on May 7, 1970 was treated as a routine message.
- (7) There were no real efforts made either by the Jalgaon City Police Station, the D.S.B., Jalgaon, or the State Intelligence in Jalgaon to collect intelligence about the reaction in Jalgaon to the news about the Bhiwandi disturbances.

79.12 The reasons for the inadequacy of the aforesaid preventive measures was the pro-Jan Sangh and the pro-R.T.M. bias of S.P., S. T.

Raman and P.S.I., S. P. Bhalerao and the inefficiency of Inspector B. R. Sawant, the Inspector in charge of the Jalgaon City Police Station, of the police officers and policemen of the Jalgaon City Police Station and of the D.S.B., Jalgaon, including P.S.I., M. M. Walvekar and the incompetence and inefficiency of the two officers of the State Intelligence in Jalgaon, namely, P.S.Is., B. P. Badgujar and V. K. Kulkarni, combined with the anti-Muslim bias of P.S.I., B. P. Badgujar.

The adequacy of measures to deal with the Jalgaon disturbances

79.13 Under the second part of clause (b) of the Terms of Reference the Commission has to inquire into and report on the adequacy of the administrative measures taken to deal with the communal disturbances which occurred within the limits of the Jalgaon Municipal Council on May 8, 1970.

79.14 The measures taken to deal with the said disturbances were inadequate for the following reasons :—

- (1) S.P., S. T. Raman continued to stay at Pachora in spite of being intimated in the morning of May 8, 1970 about the crash wireless messages received from the D.I.G. (B.R.) and the I.G.P., until he was informed at 5-45 p.m. about the outbreak of the disturbances at Jalgaon and reached Jalgaon at about 7-45 p.m., with the result that during the most crucial hours of the disturbances he was either at Pachora or in his car on the way to Jalgaon, cut off from all communication.
- (2) Apart from Dy.S.P., V. R. Ghorpade, none of the other police officers who were at Koli Peth, namely, Inspector B. R. Sawant and P.S.Is., S. P. Bhalerao and K. B. Karhadkar, showed any initiative or took any effective steps to control the disturbances at Maniyar Wada. The measures taken by them consisted of pushing back some Hindu rioters by making a few lathi-charges and of lathi-charging the Muslims who had collected in the lanes and by-lanes of their locality for the purpose of preventing the Hindu mob from entering the said locality, making these Muslims go inside their houses and arresting a Muslim who was throwing stones in self-defence at the Hindu mob. The only result of these measures was to leave the way free for the Hindu rioters to enter the Muslim locality and set fire to the Muslim houses.
- (3) No attempts were made to check the rioting and arson at Joshi Peth, though fifty-four Muslim houses were set on fire there and the flames could be seen even from a distance of two miles.
- (4) At Bhilpura and Islampura the Police concentrated their energies solely upon clearing the roads of the Muslims who had collected there in self-defence, herding them in one place, and arresting two Muslims who were keeping at bay a Hindu

mob attempting to set fire to the Madina Mosque. Once again the only result was to leave the way free for the Hindu rioters to enter the Muslim localities and set fire to the Muslim houses.

- (5) Throughout the worst hours of the disturbances no fire was opened, except once at Rath Chowk by S.D.M., S. L. Kulkarni and that too in the air and not effectively on the mob. Effective fire was opened only after S.P., Raman returned to Jalgaon by which time the greater part of the disturbances had already taken place.
- (6) There was no attempt made to take a stock of the overall position or to co-ordinate measures for putting down the disturbances. The only officer who could have done so and did so was S.P., S. T. Raman, who for almost the first two and a half hours of the disturbances was at Pachora, busy with a routine 'muddemal' inspection, and thereafter for nearly an hour and a half by himself in his car on the way to Jalgaon.
- (7) Some constables including H.C., Narayan Thakre, who on May 8, 1970 was the Reserve Police Station Officer, and P.C., Sudhakar Yeshwant Mehrunkar, who was assigned patrolling duty at Rath Chowk, though required to be in uniform, were in mufti when they came on riot duty.

The responsibility for fomenting communal tension in Jalgaon

79.15 Under the first part of clause (c) of the Terms of Reference the Commission has to inquire into and report on whether there is any organization or group within the limits of the Jalgaon Municipal Council or outside those limits which has fomented communal tension. The organizations which have fomented communal tension in Jalgaon are:—

- (1) the Jalgaon City Branch of the Jan Sangh, and
- (2) the Shree Ram Tarun Mandal which was completely controlled and managed by the Jalgaon City Branch of the Jan Sangh and the Jalgaon District Branch of the Jan Sangh.

79.16 There is no evidence that any organization or group outside Jalgaon has fomented communal tension in Jalgaon.

The responsibility for provoking the Jalgaon disturbances

79.17 Under the second part of clause (c) of the Terms of Reference the Commission has to inquire into and report on whether there is any organization or group within the limits of the Jalgaon Municipal Council or outside those limits which has directly or indirectly provoked the communal disturbances which took place at Jalgaon on May 8, 1970. There is no evidence before the Commission that any organization or group, whether within the said limits or outside the said limits, has directly or indirectly provoked the said communal disturbances.

Whether the police firings were justified

79.18 Under clause (d) of the Terms of Reference the Commission has to inquire into and report on whether the firings by the Police within the limits of the Jalgaon Municipal Council were justified or not. In Jalgaon fire was opened on 10 occasions by the Police and the Home Guards. In all fifty-three rounds were fired, fifty-two with 410 muskets and one with a revolver. Out of the fifty-two musket rounds, thirty-four were fired in the air and eighteen on the mobs. The Home Guards fired in all thirteen musket rounds, the remaining thirty-nine rounds being fired by the District Police.

79.19 Each of the police firings which took place at Jalgaon was justified. What was wrong with the police firings in Jalgaon was that fire was not opened promptly, but opened, too late and that too in the air and not on the mobs. Had effective fire been opened on the rioting mobs at the first moment when the situation required and justified it, so much loss of life and property would not have taken place in Jalgaon. Until S.P., Raman came on the scene, none of the officers opened fire except S. L. Kulkarni, S.D.M., Jalgaon, who ordered fire to be opened at Rath Chowk at about 6-30 p.m. but in the air.

Germane matters

79.20 Under clause (e) of the Terms of Reference the Commission has to inquire into and report on such other matters as may be germane to the other Terms of Reference. The germane matters which have been inquired into by the Commission are:—

- (1) the responsibility of the suspended police officers,
- (2) the investigation of riot cases,
- (3) the work of relief and rehabilitation, and
- (4) the recommendations to be made to the Government for preventing and dealing with similar disturbances in the future.

Suspended police officers

79.21 Ten police officers were suspended during the disturbances, out of whom the cases of three, namely, R. M. Patil, Inspector in charge of the D.S.B. and the L.C.B., Jalgaon, who during the absence on leave of Home Police Inspector M. N. Patil was also looking after the functions of the Home Police Inspector on May 8, 1970, P.S.I., R. R. Kolte of the Jalgaon Taluka Police Station and P.S.I., L. R. Nemade of the Foodgrain Branch, Jalgaon, all three on the charge of failure to obey the orders of the S.P., Jalgaon, to proceed to Bhiwandi by the Varanasi Express for emergency duty and instead remaining at Jalgaon, concealing their presence when the disturbances took place, do not fall within the scope of the Inquiry into the Jalgaon disturbances and have not been considered by the Commission. The other seven officers were Dy. S.P., V. R. Ghorpade, Inspector B. R. Sawant, P.S.Is., S. P. Bhalerao, K. B. Karhadkar and M. M. Walvekar and Head Constables Dashrath Joshi and Girdhar Chiman Bendale.

79.22 So far as Dy. S.P., Ghorpade is concerned, his suspension was subsequently removed and he was prematurely retired on November 19, 1970. He was the only officer who showed some initiative and competence in dealing with the disturbances, particularly at Maniyar Wada, though the strategy adopted by him to make the Muslims, who had collected in the lanes and by-lanes, go inside their houses, was, in the circumstances of the case, an ill-advised and ill-judged one, for it left the way open for the Hindu rioters to enter the Muslim localities and set fire to the Muslim properties. He failed to open fire or order fire to be opened on the ground that he, being the S.D.P.O., Chalisgaon, had no authority to open fire or to order fire to be opened in Jalgaon. In the circumstances of the case, the said reason given by him is not correct. The matter, however, is not free from doubt and one cannot blame him for not opening fire or for not giving an order to open fire, whereby he would have run the risk of facing an inquiry in which a serious question as to his right to open fire or order fire to be opened might have been raised. He left the place of the disturbances at Rath Chowk at about 5-45 p.m. to get his blood-pressure checked. He had suffered earlier from an attack of monoparesis and therefore with the exertion he had undergone he felt his blood-pressure rising. He did not leave when the disturbances were at their height or were taking a more serious turn but when there appeared to be a lull in the storm. Immediately after having his blood-pressure checked, he went to the City Police Station and finding that disturbances had taken place at Bhlipura and arson was being committed there he went straight there to deal with the disturbances. In these circumstances, not much blame attaches to Dy. S.P., Ghorpade.

79.23 So far as Inspector Sawant is concerned, he was suspended pending a departmental inquiry into his conduct "about his dealing with the communal situation at Jalgaon" on May 8, 1970. He was inefficient in dealing with the disturbances and his handling of the situation was inapt and incompetent.

79.24 So far as P.S.I., Bhalerao is concerned, he was suspended pending a departmental inquiry into his conduct on the same charge as Inspector Sawant. There were serious allegations made against him by some Muslims of murdering a Muslim, of participating in the disturbances and of actively co-operating with the Hindu rioters. By reason of the Special Investigation Squad, Jalgaon, and its superiors rendering worthless all evidence against him, the truth about this matter cannot today be ascertained. Assuming all the said allegations against him to be false, his conduct in dealing with the disturbances was incompetent and inefficient.

79.25 So far as P.S.I., Karhadkar is concerned, he was suspended pending a departmental inquiry into his conduct on the same charge as Inspector Sawant. He has also proved to be incompetent and inefficient in dealing with the disturbances.

79.26 So far as P.S.I., Walvekar is concerned, he was suspended pending a departmental inquiry into his conduct for "his failure to

personally move in Jalgaon City, collect advance intelligence about communal situation and outbreak of riots, arson, etc., at Jalgaon on 8th May 1970 and to take due preventive measures to avoid riots at Jalgaon despite the I.G.P.'s wireless message dated 8th May 1970 wherein alert signal was given to maintain utmost vigilance to take fullest precautionary measures against possible repercussions at troublesome spots in the District as a result of the communal riots which broke out at Bhiwandi in Thana District on 7th May 1970". His suspension was the result of a complaint made by S.P., Raman against him. The said complaint of S.P., Raman appears to have been motivated by a desire to cover up Raman's own default in staying on at Pachora and not immediately leaving for Jalgaon on learning about the said crash wireless messages. Whatever may be the reason for the said complaint, Walvekar was, in fact, negligent in not personally moving about in the city and collecting intelligence about the impact of the news of the Bhiwandi disturbances on the communal situation in Jalgaon, in not instructing his men to take during the day periodic rounds in the city or at least one round in the afternoon to ascertain afresh the situation, in not keeping in touch with the State Intelligence officers to find out what information they had collected, and in remaining at his residence from about 2-30 p.m. until he learnt about the disturbances at 5-30 p.m. without bothering about the situation in Jalgaon or making any efforts to collect intelligence with respect thereto. It may, however, be said that his suspension for all these years is more than sufficient punishment for his aforesaid acts of negligence.

79.27 So far as Head Constable Dashrath Joshi is concerned, he was attached as head constable to the D.S.B., Jalgaon. He was suspended pending a departmental inquiry into his conduct "about his inaction to save the children of a Muslim lady from her house, on fire, during the communal riot that took place at Jalgaon" on May 8, 1970. The allegation against him was that he prevented Hajrabi, widow of Abdul Samad [J.U.(J.)W. 16], from digging a hole in the rear wall of her house which had been set on fire in order to rescue her children. On May 8, 1970 Dashrath Joshi was on two months' leave which he had taken in order to enable him to appear in June 1970 for a departmental examination which would qualify him to be appointed as a Sub-inspector. For a period of almost two hours he was present in Khatik Ali when rioting and arson was taking place in Khatik Ali and in the adjoining locality of Bagwan Mohalla. Whether he prevented Hajrabi from digging a hole in the rear wall of her house cannot be ascertained with certainty by reason of the Special Investigation Squad, Jalgaon, rendering worthless all evidence against him. He has, however, admitted that he was in these riot-affected localities for over two hours. Apart from saving some women from the house of his two Muslim friends, he has not made the slightest attempt to rescue anyone else or to contact either on the telephone or personally the City Police Station or the Police Headquarters or the Municipal Fire

Brigade. He saw the S.P. pass by but did not come forward and volunteer his services. Being at that time on leave, by virtue of the provisions of section 28 of the Bombay Police Act, 1951, he was, however, not under any obligation to perform the duties of a police constable and it, therefore, cannot be said that he was guilty of any dereliction of duty. The question, however, is of his sense of duty and responsibility. There was hardly any police officer or policeman present throughout the entire period of over two hours when he was in the said locality where the most serious incidents of the Jalgaon disturbances took place. He failed to give any information in respect of the said offences and thereby committed a breach of the provisions of section 44, Cr. P.C. and thus committed an offence punishable either under section 118 or 176 or section 202 of the Indian Penal Code. He has shown a complete lack of any sense of responsibility and has proved himself totally unfit to be promoted as a sub-inspector.

79.28 So far as Head Constable Bendale is concerned, he was suspended pending a departmental inquiry into his conduct "about tampering with and altering and adding to the entries made by him in the telephone register kept at the Jalgaon City Police Station in connection with the riot that took place at Jalgaon on 8th May 1970". The evidence has established that he tampered with the telephone register and subsequently wrote out entries therein in order to make out that he had rung up the Jalgaon Police Headquarters about an hour earlier than when he had actually done and that he had made telephone calls to other officers to give them intimation about the disturbances when he had in fact not made those calls.

The investigation of riot cases

79.29 As in the case of Bhiwandi, in the case of Jalgaon also, the manner of investigating riot cases, of apprehending those against whom allegations of having committed serious offences were made and of collecting evidence against them leaves much to be desired. The investigation in several matters was grossly one-sided, unfair and communally biased. Until about May 17, 1970 the investigation of riot cases in Jalgaon was carried out by the local police. Thereafter it was carried out by the Special Investigation Squad, Jalgaon. The investigation carried out by the local police was characterized by negligence and inefficiency. Though according to the police officers, at Maniyar Wada the Hindu rioters had come from Bhoite Gadhi and though a number of persons from Bhoite Gadhi were arrested on the night of May 8, 1970 and on the next night, no search was made by the local police of the houses of these accused persons or of the said locality. Police statements which ought to have been recorded were not recorded and the persons, who had suffered bullet injuries in the police firings and were indoor patients in the Civil Hospital, were not put under arrest.

79.30 The nature of the work done by the Special Investigation Squad, Jalgaon, was three-fold — destructive, preservative and creative.

The destructive aspect of the work done by the Special Investigation Squad was to render worthless, so far as possible, the evidence against the Hindu accused in many important cases. The preservative aspect of the work done by it was to ensure that no credible evidence came or remained on the record which might establish any allegation made against any of the police officers in connection with their conduct during the disturbances. The creative aspect of the work done by it was to invent a cause for the disturbances which would provide the Hindu rioters with a "moral justification" for rioting; and, irrespective of what the true position was, to show that the Muslims were the aggressors and that the Hindus thereupon retaliated.

79.31 Systematically, police statement after police statement of the same witnesses on the same points were recorded by the officers of the Special Investigation Squad, Jalgaon, with the object of bringing contradictions and discrepancies on the record and the more important a witness was from the prosecution point of view, the greater the number of his subsequent police statements which were recorded. This practice was, however, followed only in the case of the Muslim witnesses in order to destroy their evidence, and no subsequent police statement of a Hindu witness was at any time recorded. The investigation carried out by the Special Investigation Squad, Jalgaon, in respect of the murder of Taj Mohamed Raj Mohamed, and particularly the manner in which he met with his death, was so conducted as to conceal rather than unfold the truth, lest the facts which emerged in some manner implicate Sub-Inspector S. P. Bhalerao against whom Muslim witnesses had made allegations of murdering Taj Mohamed. Though serious allegations of having participated and taken part in the disturbances were made against P.S.I., Bhalerao and Head Constable Dashrath Joshi, neither of them was put under arrest or prosecuted and the investigation into these allegations was conducted in such a manner as to render worthless all evidence against them, so that by reason of the manner in which the Special Investigation Squad, Jalgaon, has acted in this matter, it has not been possible for the Commission to ascertain the truth with respect to these allegations.

79.32 In order to provide the Hindu rioters with a "moral justification" for their acts of murder, arson and looting the officers of the Special Investigation Squad, Jalgaon, invented the following three false stories and filed false cases against the Muslims on the basis thereof:—

- (1) the story that some Muslims outraged the modesty of a Hindu woman, Bahinabai Kisanrao Kale which provoked the Hindus into attacking the Muslims which led to the disturbances, making the Muslim assaulted at the 'pan' shop at Rath Chowk, who was the first person to be injured in the disturbances, one of the accused in the prosecution for an outrage upon the modesty of the said woman.
- (2) the story that the rioting at Maniyar Wada was started by the Muslims, and

(3) the story that the rioting at Bhihpura and Islampura was also started by the Muslims.

79.33 All the accused in each of the said three cases were acquitted.

79.34 As in the case of Bhiwandi, in the case of Jalgaon also, some of the police statements recorded by the officers of the Special Investigation Squad, Jalgaon, did not correctly record what the witness had stated but instead what the officers wanted to say. Copies of case diaries of the cases investigated by the officers of the Special Investigation Squad, Jalgaon, were not submitted as required by Rule 225 of Volume III of the Bombay Police Manual, 1959, and Rule 15 (d) of the Manual of Instructions, Maharashtra State Crime and Railways Branch (C.I.D.), and there is little doubt that they were not submitted because the officers were not regularly writing them.

The work of relief and rehabilitation

79.35 The Government and the District authorities took immediate steps to alleviate the sufferings of the victims of the disturbances. The measures taken by them for granting relief to those who had suffered in the disturbances and for rehabilitating them were immediate, efficacious, adequate and generous.

Recommendations

79.36 A number of matters which have come to light in the course of the Inquiry into the disturbances give rise to reflection. In respect of these matters a solution has to be found so that they may not recur in the future. Certain suggestions in that behalf have been made by the Commission. They will, however, be dealt with separately in Part VII of the Report.

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