FIRST DAY.

January 29, 1919.

Mr. SPENCE opened the Pleadings.

Sir JOHN SIMON: If your Lordship pleases. Gentlemen of the Jury: I appear in this action for the Plaintiff with my friend Mr. Spence, who has just opened the

It is necessary that I should tell you very briefly who the Plaintiff is, because though his name is well known over a large part of India, naturally here in London we, with our own interests, are not intimately acquainted with Indian native affairs. Mr. Tilak is a Brahmin, a native of India, belonging to one of the great communities of India, a community which in the past history of India, of course played a great part. He is, as natives of India go, now an old man. In India human beings come to maturity at an early age. Girls, as you know, are married, and indeed girls bear children at an age which in our country and climate would seem extraordinarily young, and just as youth passes to full vigour at a very early age, so old age creeps on in India, and Mr. Tilak, who is now 62 years of age, counts as a very old man from the Indian point of view. He has been for a great many years what unkind people would call an agitator, and what people more sympathetic to his point of view might call by some milder name in India, that is to say, he has taken for many years a great interest in Indian public affairs, and Indian public work, and I think you will, without difficulty, realise when you have heard a little more of this case, that whatever may be said about Mr. Tilak (and indeed he is a gentleman who has been a most terrible nuisance, to put it no higher, to the authorities), he is a person who has done a great deal of devoted and public-spirited work in the community in which he has passed his life. He was, I think, the son of a schoolmaster, he educated himself, or was educated, and acquired undoubtedly a great knowledge of many of the interesting facts about native history in India. He has thrown himself into the crusade for Indian education and he has himself been responsible very largely for founding a great college in India which is designed to train the native youth in the study of those arts and sciences which western civilisation has claimed to develop. At the the time of the Great Plague which swept a part of Bombay, he stuck by his post when many other people fled, and himself went from house to house in order that he might help the natives to fight this terrible scourge; and therefore he is undoubtedly a man who comes before you as one (apart from what you might

page it is said to be a reprint revised and enlarged from "The Times." Is there anything in it which you complain of as a libel which has not already been published in "The Times"?

Sir JOHN SIMON: I do not know how that is. I have had the matter to some extent checked, but there is no doubt there is a deal of matter in this book which has never appeared in "The Times." I know as a matter of fact that there are matters we complain of which certainly have not appeared in "The Times."

Mr. Justice DARLING: Matters complained of in this action as libellous?

Sir JOHN SIMON: Yes.

Mr. Justice DARLING: Will you indicate those?

Sir JOHN SIMON: I will if I may, but perhaps I may postpone that.

Sir EDWARD CARSON: There is one, my Lord, I understand that has not appeared in "The Times."

Sir JOHN SIMON: I am not disputing it, because I am sure Sir Valentine would be able to tell us much better than I can.

The second libel is a wholly different matter, and I have called it for convenience, No. 2, the Gymnastic Societies. There is an accusation made against Mr. Tilak at the top of the second page of the Statement of Claim, and I call that the Gymnastic Society libel.

The third, I call bluntly, the Blackmail libel. It is an accusation against Mr. Tilak, in effect, that he has been practising blackmail on natives who are not able to resist his great influence.

The fourth one is really to be found not only in the next extract, but in the next two extracts which are printed in the Statement of Claim. The extract which begins: "For three or four years the Tai Maharaj case," and the next one which begins: "The Tai Maharaj case came up once more," both deal with the same subject-matter. I group them together, and call them Libel 4, and I call them the Tai Maharaj case. It is rather a long and complicated story, but I hope to be able to state clearly and briefly what the real point involved is. That will carry one down to about the middle of page 3.

Then I come to the fifth, a very very serious libel,

which I call the Rand and Ayerst libel. Two British officials were murdered in the Diamond Jubilee year, 1897, one named Rand, and the other a Lieutenant Ayerst, and the fifth libel is dealing with that matter.

Finally, and at the bottom of page 3, there is a reference to what a man named Kanhere said. That I refer to as the sixth and last libel, and I call it the Jackson libel, because there was an Indian civilian named Jackson who was murdered in the year 1909 in a town called Nasik; that is the Jackson murder.

Now, Gentlemen, your task in this case will be to consider in reference to those six libels, whether any one of them is justified in that the Defendants establish that what they say is true. It does not necessarily follow that because one of them was true, let us say, the Cow-Protection libel, that another is true, and your duty will be, subject to the direction of my Lord, to consider each of the six libels in fairness, and to say on Libel No. 1: "Have the Defendants justified that?" If not, of course Mr. Tilak as regards that libel has established his right to complain, and his right to have your verdict in his favour. That again will arise with reference to Libels 2, 3, 4, 5 and 6.

Having thus told you that the case is to be divided up in that way, let me tell you a little more about each of these six libels in turn. First let me take what I have called the Cow-Protection Society libel. It is to be found in the book on page 43: it comes in a paper which is called "Brahmanism and Disaffection in the Deccan." The Deccan, as I daresay you know, is a very large district in India which includes Bombay and Poona and a large number of other important towns more or less on the western side of the Indian Continent. The passage is on page 43. I will begin reading where the paragraph begins, and I will indicate the point at which the passage starts which we extract for the purpose of the Statement of Claim. This is what Sir Valentine writes: "If amongst many Brahmans of Maharashtra hatred of the British is the dominant passion, amongst the Mahratta population at large whatever there is of racial and religious jealousy is mainly directed against the Mohammedan supremacy." Then began the words of which Mr. Tilak complains in

this first libel. "In 1893 some riots in Bombay of a more severe character than usual gave Tilak an opportunity of broadening the new movement by enlisting in its support the old anti-Mohammedan feeling of the people." There are a few words which follow which we did not extract in our complaint. "He not only convoked popular meetings in which his fiery eloquence denounced the Mohammedans as the sworn foes of Hinduism, but he started an organisation known as the 'Anti-Cow Killing Society'"—I call it the Cow-Protection Society, I am told that is the more accurate way of translating the Indian word. The way you protect the cow is by not killing him—"which was intended and regarded as a direct provocation to the Mohammedans, who, like ourselves, think it is no sacrilege to eat beef. In vain did liberal Hindus appeal to him to desist from these inflammatory methods." That is where the libel ends. The passage goes on: "Their appeals had no effect upon him, and merely served his purpose by undermining the little authority they still possessed. Government had forbidden Hindu processions to play music whilst passing in front of Mohammedan mosques, as this was a fertile cause of riotous affrays. Tilak not only himself protested against this 'interference with the liberties of the people,' but insisted that the Sarvajanik Sabha" (which is a popular association of natives) "should identify itself with the 'national-cause and memorialize Government for the removal of a prohibition so offensive to Hindu sentiment. The Moderates hesitated, but were over-awed by popular clamour and the threats of the Tilak Press. The Mohammedans and a few other members repudiated the memorial and resigned. Tilak, though not yet in absolute control of the Sabha, became already practically its master. No one knew better than he how to compel submission by packed meetings and organized rowdyism." Let us clear one or two matters, which might be thought by you to be a matter of complaint, out of the way. Mr. Tilak is not here occupying your time because the author of this book thinks fit to speak of his packing meetings and organising what he calls "rowdyism." I do not suppose for a moment that Mr. Tilak would accept such a description, but he has

not brought his action for that. We must do what we can to put ourselves in the position in which Mr. Tilak would be. It is not an easy thing for you or for me to do; we have to do it in order to see that this case should be conducted as we wish all cases to be conducted—with fair play as between one side and the other. His complaint of the libel is that he is here accused of having started these Cow-Protection Societies, because they were intended and regarded as a direct provocation to the Mohammedans. Mr. Tilak's contention is that there is no justification whatever for such a suggestion. No doubt some people who know nothing whatever about any civilisation but their own may think it very absurd for Hindus to bother themselves as to whether cows are killed or not, but you have in this case to approach the matter realising that there is a long, deep, and most solemn tradition among millions of our fellow-subjects that to kill this sacred animal is the most grave affront to religious sentiment and to religious teaching that is imaginable. I am not going to suggest analogies or parallels to you, but probably all of us can realise that there are things in our own most solemn beliefs and traditions as to which we should be prepared to go any lengths and to stand any amount of abuse and ridicule, which to millions of people living in the world would appear to be the merest folly. That is not the point. Mr. Tilak is told, your interest in this Hindu faith that the cow is a sacred animal is not genuine; you may profess that you hold this opinion and desire to see it supported because you are inspired by some high motives; but not at all, the real reason you are doing it is because you intend to insult and provoke directly the Mohammedan population. What is ths position in a place like Bombay? You have there Hindus, the inheritors of a great and ancient tradition and creed: you have got Mohammedans, not in fact so numerous, but a very vigorous race, who, like the Hindus, have contributed very much to the prosperity of British India since it became British. The Hindu holds this opinion about the cow. The Mohammedan, and here is a curious confusion which seems to me to lie behind that paragraph, is not a person whose religious sentiments are insulted

if you do not kill cows; it is not part of the teaching of Mohammed that people must go about killing cows, and if they do not they are not proving themselves adherents to the true faith. Not at all, the Mohammedan is like you and me, or at any rate like me, and I daresay like you unless you happen to be vegetarians, the Mohammedan regards beef as a suitable article of food. But it is not a religious rite to slay cows, therefore it is not insulting to the Mohammedan faith or provoking to the Mohammedan that that enormous mass of the Indian population who are Hindu in faith and race should remain devoted to this principle that the cow is, as they say in some of their poetry which is translated in this volume, and very oddly it reads, that the cow is a mother, that the cow is the sacred beast, upon him the faith and fortune of the country depend. The Cow-Protection Societies exist as a matter of fact in many parts of India, they exist in the Central Provinces, in places where nobody suggests they insult and provoke anybody. These Cow-protection Societies in fact, as I understand it, Mr. Tilak will tell you, have existed for years and years, there is nothing new about them, because it is part of the view of the Hindu community, and the faith of that community, that one ought to do all that one can to encourage that protection. As I follow it, it is put really, as indeed many religious truths are put in our own experience, it is justified partly, not merely because it is the religious teaching which this community would accept, but because it does in fact work out for the public advantage, just in the same way as so many of the doctrines which Christians hold, or which persons of other religions hold, are justified primarily because they are part of the teaching which the faithful will accept and follow, and partly also because they are jurtified by their results. It is an essential part of the Hindu view, as expressed in these cow-Protection Societies, that it is only by the preservation of cattle (the whole of the agriculture of India is done by cattle), realising that they are entitled to the protection of the community, which holds this view, that the agriculture of India and the prosperity of India goes on. I see articles in these papers in which that argument is pro-

duced with great elaboration as showing how the yearly supply of cattle is dwindling, and how agriculture is thereby suffering. All that I apprehend is perfectly legitimate. You may think it is better to conduct agriculture by steam ploughs, and not bother about cows, but that is as may be. All that matters for the purpose in hand very little. What Mr. Tilak says does matter. What he bitterly complains of is that the author of this book is either so ill-informed or so unwilling to take a fair view of what this agitation means that he accuses Mr. Tilak of doing all this in order that he may insult and provoke Mohammedans. You observe that the passage I have read begins by stating that there were riots in Bombay in the year 1893. There were very serious riots indeed. The Bombay riots were in August, 1893. They were followed by riots in another place called Yeola in October, 1893. How did the Bombay riots begin? The Bombay riots began by a lot of Mohammedans who were engaged in worship, or, at any rate, were supposed to be engaged in worship in one of their temples, rushing out of their temple armed with sticks and belabouring such Hindus as they met. It will not be in the least necessary for you in this case to decide exactly about those riots.

Sir EDWARD CARSON: I suppose my friend is to give evidence of this.

Sir JOHN SIMON: Certainly.

Mr. Justice DARLING: Do you mean you are going to give evidence of how the Bombay riots of 1893 began?

Sir JOHN SIMON: I am in a position to do so in fact, and it would be a natural question in the circumstances to ask, but I am not going to ask the Jury to investigate those things,

Mr. Justice DARLING: All that this says is: "In 1893 some riots in Bombay of a more severe character than usual gave Tilak an opportunity of broadening the new movement." If we do really investigate how it came that these riots of 28 years ago began, who gave the first provocation, I am afraid this case will not, as you said, be short.

Sir JOHN SIMON: If your Lordship will follow what I was going to do you will see I was not attempting to

enlarge the inquiry. The evidence of what has happened is to be found in the very large documents, immensely voluminous, which the Defendants have cited here. Nobody is more anxious than I to keep to the point of the case. What I was stating is this. Mr. Tilak took the view, and it was a view which was taken by many other people, that in point of fact the blame here did not rest in the least on the Hindu population, but you can well understand, when you have this tremendous turmoil between two communities with their different religions mixed in the same town, how some people think it is the fault of one party and some people think it is the fault of the other party, but what Mr. Tilak objects to is that it should be said that the Cow-Protection Societies were societies which had been started by him in order that he might provoke the Mohammedans. That is the statement made, and it is made immediately after the statement that there were these riots in Bombay, whereas Mr. Tilak's contention is first of all he did not start the Cow-Protection Societies, they had existed in India for many, many years, and, secondly, that any interest that he had in that subject was nothing in the world to do with provoking the Mohammedans, and, thirdly, that to say the societies which he started and provoked the Mohammedans had anything to do with the Bombay riots is simply to cast on him a blame and reflection which he does not in the least deserve. As you will suppose, when these serious riots had taken place and people on both sides had suffered considerably, the Government of the country had to inquire into the matter. It must be perfectly well known to Sir Valentine Chirol, if he has studied these matters at all, and must have been known to him when he wrote this book, that though the official in Bombay, who naturally was very gravely concerned at the fact that these riots had broken out as they did and when they did, did take the view and stated the view that Cow-Protection was to be found at the bottom of this, yet when the Bombay Government inquired into the matter the report which the Bombay Government made dispelled that illusion and Sir Valentine Chirol must have known that when, unfortunately, he wrote this passage which is such a grave

reflection, as it seems to the Plaintiff, on his own good faith and his own intention. I am not going to spend time in further dealing with this now, but there is one passage which I think I ought to refer to, and perhaps by referring to it now I may save my Lord from searching more elaborately hereafter. The Defendants here have sought to base their justification on a very large number of extracts from newspapers. In my view, and this will be a relief to your Lordship, I think that ninety-nine-hundredths of what is to be found in this book will be found to have nothing to do with this case, but I quite agree that some of them have something to do with it. The references I wish to make to the Defendants' exhibits may not be very numerous; there may be more introduced when my friend begins his own end of the argument. I should tell you, Gentlemen, that Mr. Tilak in the course of his public life has been associated with some native newspapers. I think Sir Valentine Chirol has a very incorrect idea, and I will go further and say he has a contradictory and inconsistent idea as to what the papers are which are Mr. Tilak's organs, because I find in one passage in his book he says they are one lot and in another passage in his book he says the same papers are not Mr. Tilak's. But there are two papers which you had better learn the names of; one of them, a paper which is written in the vernacular and the other a paper written in English, and these two papers for a portion of their time undoubtedly were papers of which Mr. Tilak was the proprietor and the registered publisher, and the articles in which to a very large extent, though not wholly, were articles for which he was directly responsible. The vernacular paper is a paper called the "Kesari." It is a weekly paper which comes out every Tuesday. My friend and I have both been studying the Mahratti tongue and we have reached the same point of education—I will not speak for my friend, but I know one word, that is the word Kesari the vernacular for lion.

Sir EDWARD CARSON: Just like "John Bull," my Lord.

Mr. Justice DARLING: I did not know it was established yet that John Bull was the King of Beasts.

Sir JOHN SIMON: The vernacular language in

question is Mahratti and if any of you Gentlemen are masters of that tongue you may look at the original. The other paper is called the "Mahratta" and that comes out every Sunday; that is written in English, though sometimes the English which appears in native Indian publications is not so simple and direct as purists in this country might desire. Anyone who reads the "Mahratta" will see it is written by somebody who uses English with great accuracy. Those two papers I quite admit are papers which, to a large extent, that is over a large part of his life, Mr. Tilak is answerable for. This is the first volume of what is called the Defendants' exhibits.

Mr. Justice DARLING: Just to get it clear, you are not putting in the whole of this book?

Sis JOHN SIMON: No, it is only for convenience.

Mr. Justice DARLING: You are putting in what you read?

Sir EDWARD CARSON: I do not know what my friend is going to read, but while the Commission went to India for the purpose of putting in exhibits this does not become evidence until we put it in; it is our evidence for the Defendants. I do not know what use my friend is going to make of it. They may be, certain of them, according to my discretion, parts of our justification, but how my friend means to make anything that Mr. Tilak said evidence on his own behalf, I do not know yet.

Sir JOHN SIMON: I do not think we shall get into this conflict. I am not going to attempt to do anything ingenious about them at all. There was evidence taken on commission in India, and amongst the things which have been produced and marked as the Defendants' evidence are the contents of this book. If I was to go through the thing in point of form, which I do not think would be worth while, I should call now on the Defendants to produce a particular document which they have cited in their defence, or as part of their defence, and they would then produce the document I am going to call attention to, and then I could see what it is which they say justifies what they have written; then I should proceed to do it as I am entitled to.

Mr. Justice DARLING: Then you would make it your

evidence ?

Sir JOHN SIMON: Yes, I am not in the least seeking to avoid that. If my friend, Sir Edward, thinks I am reading a mere sentence or two out of some particular extract and that to look at it fairly one requires to read more I am quite ready to say my friend is entitled to that.

Mr. Justice DARLING: Before you do this; you have explained who Mr. Tilak is, it is entirely news to me and it may be, for aught I know, to the Jury, you have not told us who Sir Valentine Chirol is. I do not know whether they know. I know his name and that is all I do know. It seems to me necessary, because I do not know what his experience has been whether he has been in India or what. We should understand the case a little better if we knew something about Sir Valentine Chirol as well as about Mr. Tilak.

Sir JOHN SIMON: I shall be entitled to say this though I do not know that I shall be entitled to prove it by my own evidence. Sir Valentine Chirol is a distinguished contributor to "The Times" newspaper and the author of much that has been written and published. Exactly how he came to write these articles for "The Times" I must confess I do not know. No doubt when Sir Valentine Chirol gives evidence, if he does give evidence, we shall hear more in detail how he came to write what we find here. I cannot do more than say he is a gentleman, as I daresay you know, who has for many years written contributions to papers like "The Times," and for aught I know may have written other books, but I am not aware of it. I cannot say more than that.

Mr. Justice DARLING: I did not know. You told us Mr. Tilak is a newspaper proprietor, publisher, and agitator. What I rather wanted to know is what has been Sir Valentine Chirol's connection with India—has he been in the Indian Civil Service ?

Sir JOHN SIMON: I think when the time comes he will be able to tell you that. I cannot tell you myself. It is a thing I shall be very glad to hear, but at present I am as uninformed about that as your Lordship. I should prefer that the evidence of that should be given by Sir Valentine Chirol, rather than that it should be stated

from the Bar. I cannot do more than say, as appears here, he is the author of this book, and, as appears from this book, he originally contributed articles to "The Times." Sir Valentine Chirol will understand I am not speaking in any depreciatory sense when I say that is the extent of my knowledge of him until he gives his evidence. The passage I was going to refer to is this: It is one of the documents which my friends rely on as justifying their libel and will be found at page 98 of this book. It is a copy of the "Mahratta," which is the paper which is published in English. It is in January, 1894, the Bombay riots having occurred in 1893 and public discussion was going on about them after that. It reports a resolution on the riots between the Mohammedans and Hindus in the City of Bombay that has just been issued by the Local Government. The Local Government means the Government of Bombay. Of course it is an immense area. It is issued from Headquarters and it says this: "The report furnished by the Commissioner of Police in his letter No. 5535-6 dated the 9th September, 1893, gives a full and complete account of the commencement and progress of the riots and the Governor in Council now proposes to compare, as far as comparison is possible, the causes and character of the outbreak, the methods adopted to meet it, and the attitude generally of the public towards the authorities, and the forces employed with the circumstances attending the somewhat similar events of February, 1874." That is some of the earlier riots with which we are not concerned. "The outbreak in 1893, whilst similar in two respects, was very dissimilar generally from that of 1874. On both occasions the first resort to violence must be laid at the door of the Mohammedan community, and on both occasions the scene of outbreak was the neighbourhood of the Jumma Musjid"—which was the Mohammedan temple—"the direct relation between religious excitement and resort to violence appears in both cases to be established." Then they go on to compare the two. Then they say: "On the occasion under report, on the other hand, the dispersal of the mob which made the initial attack on the Hanuman temple would appear—unless a rising in many parts of the City at a particular

hour had been previously concerted—to have had the effect of arousing the Mohammedan population of the City generally; and as will always happen on such occasions the criminal classes, of which Bombay like all other large cities, has its share, were not slow to avail themselves of the confusion. Much of the looting and probably some of the deaths were due rather to the depredations and violence of these classes than to religious excitement. It is clear from Mr. Vincent's report as well as from other sources of information that no sooner had the police or the military dispersed the crowd in one neighbourhood than they found that their presence was demanded in another. The outbreak was therefore of a far more serious and uncontrollable character than that of 1874. It differed also in another and most serious aspect upon which the Commissioner of Police touches in the course of his report, namely that the Hindu mill hands of Bombay of whom there are many thousands not only retaliated upon their Mohammedan aggressors but did so in large and apparently organised gangs; and it is difficult to avoid the conclusion that the heaviness of the Mohammedan death roll in proportion to the comparative numbers of the Hindu and Mohammedan population is largely due to this capacity for co-operation which the Bombay mill hands are beginning to display. The Government recognise how serious a factor this may become in a city which is liable to outbreaks of religious excitement, and how urgent is the necessity for strengthening the police against a new development of this kind." Then it goes on to discuss it in detail. I am quite willing to read anything that is wanted. The passage which seems to me to sum it up and to be important is at page 101, paragraph 11; this is the conclusion: "The Governor in Council"—the Governor was a gentleman known to all of us who take an interest in the game of cricket, it was Lord Harris, he was also a well-known public servant, who filled for some years this position of great responsibility as Governor of Bombay—"The Governor in Council now comes to a consideration of the causes which led up to the deplorable outbreak of August last. His Excellency in Council would have preferred to consider this question first had

he been able to trace the origin of the riots back to a clear and definite first cause; but the result of his inquiries among prominent members of both conflicting communities has been to throw considerable doubts on the possibility of ascribing the trouble to any one cause. On the one hand the leaders of the Mohammedan community asseverate with certainty that the anti-kine killing agitation which has of late undoubtedly become more active was the sole cause. Hindus, on the other hand, while admitting that the Cow-Protection movement may have been a contributory cause, say that the main factor was an intrigue set on foot by persons of authority in the State of Junagadh in Kathiawar, with the supposed object of distracting attention, by reason of a riot in Bombay, from the Prabhas Patan riots which had occurred in that State a short time previously. In support of this theory it is pointed out that emissaries from Junagadh were in Bombay stirring up their co-religionists to a practical sympathy with the rioters arrested in Junagadh, that there were distinct signs of premeditation in the fact that the mob issuing from the Jumma Musjid were armed with sticks, whereas no sticks had been observed in the possession of the worshippers during the service; and that there were present in the neighbourhood of the mosque that day a number of bad characters who do not ordinarily attend there, and would not have done so on this occasion if it had not been made worth their while." That is setting shortly the two contentions which the Governor in Council had to consider. Over the page after discussing that it says in paragraph 15: "His Excellency in Council observes that Mr. Vincent lays the blame primarily at the door of the Cow-Protection Societies in Bombay and elsewhere while he admits that the religious riots in other parts of India, especially at Prabhas Patan and the meetings held in Bombay by both communities in connection with these last were contributory causes. Mr. Vincent's opinion in a matter of this kind is of the highest value, but it is to be observed that while the Cow-Protection movement has undoubtedly been pushed of late and growing bigger, the movement itself is not a new one. Having regard to the fact that the Mohammedans on the one hand know

perfectly well that the protection of the cow is an accepted principle in many parts of India and on the other that as they are equally well aware in all stations where Englishmen reside the supply of beef is regularly arranged for though with such precautions as are necessary to avoid gratuitously wounding the feelings of Hindus, the Governor in Council hesitates to adopt the opinion that the Cow-Protection movement is the cause of these riots." He goes on to say in the next paragraph: "The Governor in Council considers that one of the main causes of the outbreak was infection spread by the riots which had broken out in other parts of India, and especially those at Prabhas Patan, and the uneasy feeling generated through them amongst Mohammedans that Mohammedanism and the followers of that faith generally were suffering at the hands of the Hindus. Any impression that they are being gradually and surely edged out of the position that they have hitherto held in the country; that the tendency of European systems of administration is to increase the influence of the Hindus at their expense, would, in a community so deeply religious as the Mohammedan, easily develop into a suspicion that their religion needed special protection; and His Excellency in Council is inclined to the belief that such an impression, however it may have been induced, has been at least a predisposing cause of the religious riots of August last."

The report finished by saying that the Government had been considering whether they should hold a formal enquiry to find out more in detail how the riots had started, and they came to the conclusion that on the whole it was not in the public interest to do so. We have nothing to do with this difficult question of long ago except for this one purpose; what we want to see is whether or not Sir Valentine Chirol when he wrote this book, which beyond all doubt is grievously defamatory of Mr. Tilak, had any justification for doing so. Is it fair when Sir Valentine Chirol must have known, because here is the official report of what the Government had arrived at, is it fair when he must have known that the Bombay Government, Lord Harris and his advisers, going into this thing thoroughly declined to accept the view

that Cow-Protection Societies were the cause of this outbreak, for him to sit down and say: "I do not know about that, we will see about Mr. Tilak, so I will write down 'In 1893 some riots in Bombay of a more severe character than usual gave Tilak an opportunity of broadening the new movement . . . he started an organisation' (he did nothing of the kind) 'known as the Anti-Cow-Killing Society which was intended and regarded as a direct provocation to the Mohammedans.'" That is the ground (I am sketching it I hope without too much consumption of time and necessarily rather broadly) on which with reference to this first libel we submit this is a defamatory statement about Mr. Tilak which cannot be justified. It is a matter which at present is wholly without explanation and will remain without explanation until Sir Valentine Chirol goes into the box and tells us how it is that he did not know of the Report of Lord Harris—wholly without explanation why he should write this book, pick out Mr. Tilak and proceed to accuse him of a thing which he never did, of starting societies which he never started at all, though he certainly sympathised with the movement, I am not saying he did not do that, and write warmly in support of it, and suggesting amongst other things lying on his conscience there was this of having brought about this dreadful outbreak involving the killing of a great many people, both Mohammedans and Hindus, in Bombay. That is the first of these matters; I am glad to have been able to put it in outline before you without referring to more of these bulky documents.

Now take the second. The second one is almost next door to what I have read. It begins at the bottom of page 42, and runs to the top of page 43. This is with reference to Mr. Tilak: "With the help of the brothers Natu, who were the recognised leaders of Hindu orthodoxy, he carried his propaganda into the schools and colleges in the teeth of the Moderate party, and, proclaiming that unless they learnt to employ force the Hindus must expect to be impotent witnesses of the gradual downfall of all their ancient institutions, he proceeded to organise gymnastic societies in which physical training and the use of more or less primitive

weapons were taught in order to develop the martial instincts of the rising generation." Gentlemen, you may learn more in the course of this case with the help of my friend and others about the brothers Natu. It is enough for me to say that the statement that Mr. Tilak did anything in this connection with the help of the brothers Natu is wholly and absolutely untrue, there is not a word of truth in it. Journalism is a very great profession, and there is much excuse to be offered for people writing articles for a great paper like "The Times" under pressure, but there is nothing to be said for a gentleman reproducing this in a book which he has revised and enlarged and published to the world. The substance of it is that the brothers Natu were two gentlemen who certainly made themselves in a high degree objectionable to the authorities because they were two gentlemen who were deported—I do not know that they were convicted, but they were were certainly deported. Anything less likely than that Mr. Tilak had done this with the brothers Natu could not very well be if Sir Valentine Chirol had known anything about the subject, because if he had he would have known that the brothers Natu were genlemen who had taken proceedings aginst Mr. Tilak, taken proceedings in what corresponds, I understand, to our Ecclesiastical Courts, because I think Mr. Tilak had committed the grave Ecclesiastical offence of having tea with a Christian. In these circumstances, the brothers Natu who, whatever may be their standard of supposed behaviour in matters political, took a very strong line in matters religious, the brothers Natu laid what apparently would be some sort of information before a Court of conscience called an Ecclesiastical Court against Mr. Tilak, and said about him, as was indeed the fact, that he had tea with a collector, or something of that kind. This is nothing more than mere confusion, which makes the author of this book write all this. The brothers Natu were recognised leaders of Indian orthodoxy, were so orthodox that they had this bitter quarrel with Mr. Tilak.

Mr. Justice DARLING: What was the result of the proceedings?

Sir JOHN SIMON: I understand that the Ecclesiastical

authorities in the circumstances acquitted Mr. Tilak, not on the ground that he did not have tea with the collector, but on the ground that no punishment ought to follow on either of them. I shall be interested to hear from Sir Valentine Chirol why it is that after that revision of his writings he writes this stuff—"he carried his propaganda into the schools and colleges in the teeth of the Moderate party, proclaiming that unless they learnt to employ force the Hindus must expect to be impotent witnesses of the gradual downfall of all their ancient institutions." What do you think he did? He started a gymnastic club. I should have thought even if we are dealing with the strange and curious communities of the Indian Empire, it needed great ingeniousness or considerable malice to assume that that gymnastic club was started for the purpose of turning the British out of India. The Hindus are not in all respects the most warlike and muscular of the races in India, and the starting of gymnastics would not appear to me to have led to such an interpretation as that this is a plot to turn the British Empire and the British Raj clean out of India, because you are going to teach the Hindus to turn round a pole or climb up a ladder. I have not at present realised exactly what it is even if it is really criminal which Mr. Tilak is supposed to have done in the matter of creating these gymnastic societies. I have searched with a great deal of care through this large book to find out, as they cite this as a justification of this libel, where Mr. Tilak has committed this awful crime, and the nearest I have got to it of an unhealthy and unpatriotic devotion to gymnastics is on page 400. I call attention to this, because it seems a monstrous thing that we should have had all this mass of printed matter thrown at our heads by the Defendants saying, here is our Defence. At page 400 there is an extract from the "Kesari," that is the vernacular paper, and I will ask leave to read it in an agreed translation. This is an extract of something that Mr. Tilak did. It is headed: "Respectful congratulations to the Young Men's Club of this place." You must follow this, because here you have murder and treason and all sorts of things imagined. I is dated 21st September, 1896. It begins: "To R. A.

(A) R.A. (A)," which a first made me think it was an American cricket club, but I gather it, means "respectful congratulations." "To the Editor of the 'Kesari' special representation is as follows: Then the President, that is the Honourable Mr. Tilak spoke briefly and to the point. The substance of it is as follows: The Honourable Mr. Tilak said on the occasion of this day a person different from himself should have been made President. I have never held a bat in my hand nor have I hit a ball, nay, much more, I have hardly ever gone on the cricket field, but I think I am however chosen as the President in keeping with an English proverb which says that those who do not take any part in the game know much more of the game than the players themselves. The honour which you have this day paid to the cricket club which has been established here is proper. This club has played cricket matches against several gymkhanas in Bombay and has achieved success in them. In some matches they might have got defeats also, but the thing to be remembered is that this club has acquired the capability of playing and playing matches with the several well-known gymnasiums. The conjecture of some people that there was a total absence of physical training among us and that we were wholly devoted to the mental development is erroneous. I have observed the state of our Poona for the last 20 to 25 years, and my experience is quite the contrary. Formerly there used to be great Talmis, i.e. gymnasia in good towns of the Maharashtra, such as Poona, Nasik, Satara &c., and in those gymnasia eminent Shastris, Vaidiks and other Brahmin gentlemen used to receive physical training. Modes of exercise such as riding, playing with a Bothati, playing a Danda and Patta, hunting &c., have been handed down from ancient times, and it was because of the existence of these modes of developing the body that the heroes of the Maharashtra performed the manly exploits. There are several modes of exercises prevailing in this part of the country. Now this much is true, that they lack a systematic method. As endeavours are being made to give a systematic form to the English games they have got attractiveness in them. We used to take jumps on the erect Malkhamb.

Now the same Malkhamb is placed in a horizontal position and a new method of taking jumps over it has come to be in vogue. The remark which has just been made by one of the gentlemen that there was a neglect of the physical training among us is quite meaningless. On looking at the constitution of several old gentlemen who have to-day graced this occasion, it would seem that they are to-day enjoying the fruit of the physical exercises they took in their early days. The trainings which are received in early years of one's life do not fail to produce their beneficial effects in after life. In order to obtain activity, enthusiasm, strength, courage and such other qualities, there is no other course to that of physical games. Such a training we used to receive formerly. But it reached its lowest ebbing point only during the middle period. The Honourable Mr. Ranade had brought a proposition before the Syndicate of the University to the effect that physical training should form a part of the education in schools. Formerly the religious education no doubt included the practice of Namaskar. That is a sort of exercise in which one balances himself on his hands and toes and moves his body backwards and forwards."

Mr. Justice DARLING: Do you propose to read all this speech? He glorifies, as far as you have got, gymnastics as part of their education. It might have been published at Eton or Harrow.

Sir JOHN SIMON: That is exactly what I should have thought, but the extraordinary thing is if you turn to the Defence which has been filed in this case as the result of the labours of those advising the Defendants, you will find that when I say you have libelled me, because you have written in your book that, helped by some people who had to be deported, I have been organising gymnastic societies in order to turn the British out of India, I say where do you see that? They reply: the Defendants will rely on the following publications by the Plaintiff in his newspaper, the "Kesari." I have been through every one of those, and I cannot find any one that has any justification whatever. This is one they actually rely on.

Mr. Justice DARLING: It does say that he helped in

the popularising of these gymnasia, but it may be that it is not for that only that they included this particular thing in that.

Sir EDWARD CARSON: If my friend says that is the only thing he can find I think I will be able to enlighten him when I come to it.

Sir JOHN SIMON: That will be very good.

Sir EDWARD CARSON. This is not a frivolous matter at all.

Sir JOHN SIMON: I do not think we ought to have had delivered reams of particulars which has involved everybody in reading books and books of this stuff. It shows plainly what a burden has been thrown upon the Plaintiff which he has to discharge by reading all this stuff. I do assure you that on this part of the case, as neither my friend nor I up to the present have been able to do it, I am most grateful to Sir Edward when he says he is going to sift out of these things something which will establish the truth of this libel. It goes on to refer to Ranjitsinhji and Lord Harris, it is the sort of speech which many people, not themselves skilled in the game when they have been wanted, whether in their constituency or out of their constituency, make with such good humour or mild joking as they can command when a number of people are celebrating some athletic success. I will leave it there for the time being. I do most confidently submit to you that when you have heard the evidence in this case you will find this libel is one for which there is no justification at all, and it ought never to have been persisted in and justified by this ridiculous citation of endless articles of that sort in these journals. Let me give you one of a rather different sort, because I do not want to shut my eves to anything that is likely to be material here. You will find that in these papers, the "Kesari" and the "Mahratta," of Mr. Tilak's, there does from time to time appear what undoubtedly is one of the matters here relied upon, the advocacy of some festivals which Mr. Tilak encouraged and promoted, which are called by the strange name of the Ganpati Festival. As I understand a Ganpati Festival is a festival in which you honour a deity or pay respect to a deity, who is known as Ganesh, one of the innumerable

objects of reverence in the Hindu religion. I should say he is probably one of the most popular of Hindu deities. You will judge Mr. Tilak's motives when you have heard the case. It is quite beyond dispute that Mr. Tilak took a deep interest, whatever be the reasou, as a matter of fact, in the revival and the maintenance of these traditional sentiments of Hinduism, and he devoted a great deal of his time and a great deal of ink and paper to urging people to observe these rites and to maintain these festivals as prominent and dignified parts of the Indian ceremonial. There is another thing which arises in the same connection which is also relied on. In Hindu history there is a name very famous to them, though I confess I have not previously heard of it, the name Shivaji. Shivaji is a historical character; he existed about the time when Cromwell was cutting off the head of Charles I. Shivaji is a great name in the history of the Hindu, and because long ago it was Shivaji who established the Hindu supremacy in an area which previously had been controlled and owned by another race and another religion, and the historical fact (it is more than a tradition) is that the Mohammedan leader whose name I think was Afzalkhan, was brought to some meeting place, to some ambush, according to some people, and was slain by the Hindu leader Shivaji. It appears that there has been much discussion on the subject as to whether or not that was, in the circumstances, a moral act on the part of Shivaji, just as young gentlemen who had nothing better to do, at our universities at one time used to discuss whether the execution of Charles I was justified. There has been a very great deal of learning devoted to this subject. It is by no means limited to Hindus who are agitators and persons who make a great disturbance in contemporary political life; not at all. It is a thing which a great many Englishmen have taken a great interest in; I rather think Lord Reay, who was once Governor of Bombay, took an interest in it. Naturally reading through these books quite a number of English people took an interest in the same thing. Again, Mr. Tilak, you may think in some ways he went too far, undoubtedly took the keenest interest in this, and used to take a very prominent part

in the functions which took place, and the celebrations which from time to time were held to remember this hero Shivaji. I should tell you that in the view of a Tribunal in India before which Mr. Tilak was brought he did go too far, because the view of the Jury in India was that he was guilty of sedition in some of the things which he said, and which were reported in the papers, and some things which were written in the papers, not necessarily by him, in the year 1897. I am not going to ask you to try over again questions of that sort; you will hear before the case is over, the view which is taken by the Defence about it. The point is this. You, the Jury, will act in this case with those facts before you, but what Mr. Tilak says is when you accuse me of having started Gymnastic Societies in order that I might thereby prepare the Hindu population to throw out the existing British Government, you really are accusing me of a course of conduct which is utterly without any foundation; what I have done in these matters of these Gymnastic Societies is perfectly innocent and simple. My interest in the Ganpati Festival, my advocacy of the Shivaji may or may not expose me to the charge that I have been using or employing language which is seditious, which produced disaffection, but to charge me with having organised societies with an object of this sort is to charge me with something which is quite untrue. I ought to tell you one thing further. Shivaji, this 17th century hero, still has a tomb existing which is one of the things you can visit in India. As a matter of fact, as showing the view the Government of India took, so far from regarding the Societies which were started to support this movement for remembering Shivaji as being Societies that were against the public interest, the Government of India itself subscribed a very substantial sum of money. They subscribed 5,000 rupees, when their attention was called to the fact that Mr. Tilak and his friends were engaged in reviving the memory of this hero of Hinduism, for the purpose of putting the tomb of Shivaji in a proper state of repair, and promoting the very memorial which Mr. Tilak was concerned with. That is enough on the second of these libels. I have now to pass to more serious matters.

Now the third libel is what I call the Blackmail libel, which is to be found at page 53 of the book. I think it would be convenient, and Sir Edward probably agrees, if I begin to read here. The passage which is set out in the Statement of Claim is in the lower half of page 53 of the book, but the Jury will follow me more easily if I begin to read at the middle of page 52 of the book. Sir Valentine Chirol says: "Tilak's own prestige, however with the 'advanced' party never stood higher, either in the Deccan or outside of it. In the Deccan he not only maintained all his old activities, but had extended their field. Besides the 'Kal'"—that is the name of another paper and is not Mr. Tilak's paper at all, and Sir Valentine Chirol when he wrote page 52 knew that it was not because he says: "Besides the 'Kal,' edited by another Chitpawan Brahman, and the 'Rashtramat' at Poona"—that is not Mr. Tilak's paper either—"which went to even greater lengths than Tilak's own 'Kesari'"—it is quite plain the "Kesari" is treated there as Mr. Tilak's own paper, as, indeed, for many purposes it is, but the others are not treated as his own paper—"lesser papers obeying his inspiration had been established in many of the smaller centres. A movement had been set on foot for the creation of 'national' schools, entirely independent of State support, and therefore of State supervision, in which disaffection could, without let or hindrance, be made part and parcel of the curriculum. Such were the schools closed down last year in the Central Provinces and this year at Telegaon. The great development of the cotton industry during the last ten years, especially in Bombay itself—which has led to vast agglomerations of labour under conditions unfamiliar in India—had given Tilak an opportunity of establishing contact with a class of the population hitherto outside the purview of Indian politics. There are nearly 100 cotton spinning and weaving mills, employing over 100,000 operatives, congregated mostly in the northern suburbs of the city. Huddled together in huge tenements this compact population affords by its density, as well as by its ignorance, a peculiarly accessible field to the trained agitator. Tilak's emissaries, mostly Brahmans of the Deccan, brought, moreover, to their nefarious work the added

prestige of a caste which seldom condescends to rub shoulders with those whose mere contact may involve 'pollution.' In this, as in many other cases, politics were closely mixed up with philanthropy, for the conditions of labour in India are by no means wholly satisfactory, and it would be unfair to deny to many of Tilak's followers a genuine desire to mitigate the evils and hardships to which their humbler fellow creatures were exposed." That sounds very fair and generous. I cannot help thinking that if Sir Valentine Chirol was going to recognise the fact that this movement is at any rate in part honestly inspired by a desire to improve the lot of miserable Hindus it is a very unfortunate thing that he should carefully write sentences in which he excludes Mr. Tilak from any portion of that praise. What he says: "It would be unfair to deny to many of Tilak's followers"—some of his followers, he says, may be people who are not honestly trying to do good to these Hindus: "Prominent amongst such evils was the growth of drunkenness." Then he goes on and makes a perfectly fair statemeut about Tilak's action there: "And it would have been all to his honour that Tilak hastened to take up the cause of temperance, had he not perverted it, as he perverted everything else, to the promotion of race hatred." Can you realise, Gentemen, the part which Mr. Tilak took in endeavouring to stamp out drunkenness, and the risks which he ran, because if you do I do not think you will think that is an adequate way of dealing with his public work: "His primary motives may have been excellent, but he subordinated all things to his ruling anti-British passion, whilst the fervour of his philanthropic professions won for him the sympathy and co-operation of many law-abiding citizens who would otherwise have turned a deaf ear to his political doctrines." Now it is the next passage which has been quoted. This, Gentlemen, is the third thing of which we complain, and it is what I call the Blackmail libel. "He must have had a considerable command of funds for the purposes of his propaganda, and though he doubtless had not a few willing and generous supporters, many subscribed from fear of the lash, which he knew how to apply through the Press to the tepid and

the recalcitrant, just as his Gymnastic Societies sometimes resolved themselves into juvenile bands of dacoities to swell the coffers of 'Swaraj.'" Of course, Gentlemen, he is an author who takes a strong view, and I dare say many of you will think a not unreasonable view, that agitators in India have gone much too far and therefore if he ought to shut his eyes and say no mortal thing to the public about Mr. Tilak then there is nothing more to be said in this case. But there is not a single syllable of justification for this. I have searched through the book and the Particulars, and I am wholly unable to find a single fact which will in the least support what I have just read. It contains two statements which are gravely injurious to Mr. Tilak. Just see what they are. I will take the last one first. You probably know what a dacoit is. A dacoit is nothing more than a band of robbers, and there it is stated that his "gymnastic societies sometimes resolved themselves into juvenile bands of dacoities to swell the coffers of 'Swaraj.'" As a matter of fact I shall be glad for somebody to show me in these Particulars when this happened, and where it happened, and who did it, and what ground there is for saying it. You might just as well say of an agitator on one side or the other that he was collecting funds by stopping good citizens on the highway and searching their pockets in order to add to his resources. There is not the slightest attempt made in the paragraph which he relies upon to produce any evidence in support of it. The other passage here which we submit is quite unjustified is the statement made that he is the man who has been collecting subscriptions from people "from fear of the lash which he knew how to apply through the Press to the tepid and the recalcitrant." All one can say is that we have searched through these books and books to find examples of the administration of the lash "which he knew how to apply through the Press to the tepid and the recalcitrant, just as his gymnastic societies sometimes resolved themselves into juvenile bands of dacoities to swell the coffers of 'Swaraj.'" Gentlemen, if I was able now to put before you at this stage of the case a document which supported that accusation I am not so bad an advocate that I do not know that it would be much better to put it

before you now than to wait for Sir Edward Carson to put it when he cross-examines. The reason I am not going to take that course is that there is not one. In those circumstances that libel I submit to you is a libel which cannot be justified and it is not made out. We ask, as we are entitled to ask, that the Plaintiff who comes to these Courts and says that he has been libelled, and is met with the defence that what is said about him is true, should supply us with the details that are relied upon. You may search through these Pleadings and you will not find a single thing which is an answer to that, and you will therefore, I trust, look at the thing as you must, as a libel of a very injurious character, not allowing other circumstances which may be found to exist in this case, which is serious enough in all conscience—you will not allow those to overlay the plain duty which will lie on you if the facts are what I am instructed they are, to give Mr. Tilak a just verdict at your hands.

Now, Gentlemen, I come to the fourth libel, and the fourth libel is, I am sorry to say, the most troublesome of the lot to follow and understand. It is also, in some respects, the worst example of the recklessness with which this book has been written. I cannot believe, Gentlemen, at this moment that Sir Valentine Chirol, in his account of what is called the Tai Maharaj case, has so wholly misstated the facts. This man is not a scribbler who does not understand the difference between one thing and another. He is a gentleman who contributes to the greatest newspaper, and is author of this book, and I daresay other books. I gather from reading the book that he has been out in India and has been received there, and I have no doubt, rightly received there, with great confidence and respect, and when he writes about this Tai Maharaj case he has either never taken the trouble to understand what happened or else he has allowed himself to be so biased by very serious facts, which may be raised against Mr. Tilak, no doubt, but he is blind to the real thing which happened. Gentlemen, if you will follow me I will try to state with the greatest clearness that I can, what happened in this Tai Maharaj case because the

thing is complicated and unless one begins by stating it very clearly, it will be very difficult for anybody to follow what the point is.

Sir EDWARD CARSON: Will you first read the libel?

Sir JOHN SIMON: I rather question whether that would lead to clearness.

Sir EDWARD CARSON: Very well.

Sir JOHN SIMON: Now, this is what happened in the Tai Maharaj case. It was a litigation in India about an adoption and about a will and all sorts of things. I think I can tell it shortly in detail. You probably know, Gentlemen, that in India, among the Hindus, one of the most important principles of their social life is that a man should not die without an heir—without a son. It is one of the most important principles of Hindu law and tradition, and the consequence is, as also was in ancient Rome, that the law of adoption—the law which provides how you are to acquire a male descendant by adoption when you have not one which has sprung from your own marriage is this, that the law of adoption takes a very high place in the law of the Hindus, and the reason of it is this, that they belive that the soul of the dead man—that is the husband—is to be exposed everlastingly in hell unless there is somebody in the position of a son who is able to carry out certain religious rites which are deemed to be the protection of his ancestors. Therefore the adoption of a son is a very, very important thing in the life of a Hindu. Mr. Tilak was the trustee for a friend of his who died without a son, and in those circumstances one of the duties of the trustees was to see that his widow adopted a son. The widow in this case is the Taimaharaj—that is the woman's name. She was a widow 16 years of age. She already had a daughter. At the time her husband died she was pregnant, and she might have been going to have a son. The will provided that if there was no natural son there was to be an adoption which the trustees were to be responsible for. When the baby came to be born it only lived for a very short time, and Mr. Tilak, one of the trustees, had therefore placed upon him the duty, not merely the legal

duty or the duty of friendship, but the duty arising from the religious beliefs of the country to protect the soul of his friend by saying that his young wife adopted a child. You need not be bothered with all the elaboration, but as a matter of fact it is alleged that a child was adopted and a child which had got a name which we probably all know, as it is one of the few Indian names we do know—it is the name of Jagganath. Jagganath is a name of boys in India, in fact it means a gift. Jagganath was adopted. The adoption is a very elaborate process in Hindu law just as it was an elaborate process in ancient Rome. A portion of the ceremony exists in this, that the decision to adopt having been taken, and the omens having been consulted, and his soothsayers having made their contribution to the nativities that are part of the operation of adoption, the child is placed physically upon the lap of the widow—she, so to say, takes the child to her arms and adopts it. That happened in the month of June, 1901, Mr. Tilak being present. The widow thereby acquired a son who amongst other things would inherit him. The widow seems to have been like other widows had been before, not always very fixed in her liking for him, and later on in the year, in the month of August, the widow was minded to adopt somebody else instead, and she went through the ceremony of adoption with another boy whose name was Bala. My friend, Mr. Spence, who has followed the romantic details more closely than I have, says that as a matter of fact Bala, the second adopted son, was older than his mother, so that the process of taking the child upon her lap would have been a rather painful operation. You see in those circumstances you have all the materials for a first-class Indian litigation, and if you have ever seen anything of an Indian litigation you will know that it is one of the most elaborate and long-winded things that you could possibly have—it goes on for years and years. Mr. Tilak was in the position that he had got to protect the infant. He himself had carried through the adoption. There was no money in this, and it has absolutely nothing to do with his making anything out of it. He conceived that

his duty clearly was to establish the fact that the adoption, the religious ceremony, and all sorts of religious rights which had already taken place with this boy Jagganath were carried through. Therefore civil proceedings were started, which I will summarise as shortly as I can in this way. What happened was that he started proceedings in the civil courts in effect for a declaration that the Jagganath adoption was good. Of course, if that was so this subsequent proceeding with Bala was not good. Those proceedings were started, and he succeeded—the Court decided that it was right. Thereupon, as I believe is not uncommon in ancient litigation, the other son took the course which we should regard as rather extravagant: he started a prosecution against Mr. Tilak for perjury because he had sworn what was suggested was untrue.

Sir ELLIS HUME-WILLIAMS: That was in reference to probate proceedings.

Sir JOHN SIMON: I am obliged to my friend. My friend says apparently that it was because there had been a proceeding on her part to get the probate cancelled. It was another step in the same general dispute. Anyhow they started prosecuting Tilak for perjury, and the perjury that it was alleged he had committed was that he had sworn that this child Jagganath had been put upon the lap of the lady. They started criminal proceedings, saying that he was a perjurer in the civil proceedings. Now I will keep to the civil proceedings. Mr. Tilak having won in the civil proceedings, the case was taken to appeal in India, and on appeal the decision which Mr. Tilak obtained was reversed. The Judge on appeal decided that Jagganath was not well adopted, and not only so, but he used extremely strong language about Mr. Tilak, and rather attacked him, and said that he was proceeding improperly in this sense, that he had put more pressure upon this young lady than he ought to have put, but nobody attacked Mr. Tilak by saying that he was doing something dishonourable, or some thing which showed that he was a dishonest or dishonourable person—not at all. At no stage of this case did anybody ever say this about him.

My point is that that is exactly what Sir Valentine Chirol said about him, but nobody else has said that. Going on, civil proceedings were brought on appeal to the Privy Council here, that is the final appeal here in London, and the Privy Council examined into the matter, and they fully exonerated Mr. Tilak and said there was not a single word to be said against his action. They criticised most severely what the Judge in India had said against him, and as far as the Privy Council is concerned no declaration could be more complete in his favour.

Mr. Justice DARLING: Did the Privy Council allow his appeal?

Sir JOHN SIMON: Yes, my Lord, they not only allowed it but said that the decision of the Court of Appeal in India and the observations which the Judge had made were wholly unjustified.

Sir EDWARD CARSON: I think my friend would have stated if he had remembered it, that that appeal to the Privy Council was long after this book was published.

Sir JOHN SIMON: Yes, I was going to state that when I came to it. The first thing is to get clear what happened: First of all, Mr. Tilak won, and secondly, on appeal in India one of the Indian Judges decided that Mr. Tilak was said to have used pressure, and, thirdly, when it came to the Privy Council on appeal they said that there was not the slightest ground for saying anything of the sort and they said that Mr. Tilak had acted perfectly properly. Then as regards the prosecution for perjury, what happened was this. He was prosecuted because he had said that this child was put upon the lap of its mother, and that it was shown in the end it was not. First of all he was convicted of perjury—it is extraordinary how it should have been so—for having sworn this which has ultimately turned out to be perfectly true. He appealed against the conviction and the conviction was affirmed, but was affirmed with this difference, that only one of the two charges was persisted in, and the sentence was reduced from one of eighteen months' imprisonment to one of six months' imprisonment. It was hard upon this man that he should be imprisoned for perjury when the truth was that he was

perfectly innocent. Thereupon he again appealed from the conviction to the Final Court in India and the conviction was finally quashed, it being decided that there was no ground whatever for convicting Mr. Tilak of having said what was true. They said that there was no ground for convicting him of perjury, and consequently the whole of that sentence was set aside. Therefore there were three steps in the civil proceedings as there were three steps in the criminal proceedings. Both civil and criminal proceedings ended in Mr. Tilak's favour although the people who prosecuted him for perjury may have succeeded at first. The people who said that he was wrong about the adoption succeeded in the Intermediate Court. My Lord will tell you that there is all the difference in the world between an issue which is raised in a prosecution for perjury charging a man with crime and a question raised in civil proceedings like an adoption suit which does not depend upon a question of crime but upon ascertaining with accuracy both what the facts and the law are in fact.

Mr. Justice DARLING: If I follow you accurately there were civil proceedings and criminal proceedings, and at one time Mr. Tilak had Judgment against him in the civil proceedings and in the criminal proceedings, but the end of it was that the final Judgments were in his favour.

Sir JOHN SIMON: Yes, my Lord. Your Lordship uses the expression "at one time." That is quite right as long as it is not understood as one and the same time.

Mr. Justice DARLING: There was a period when he had lost in the civil proceedings and had lost in the criminal Proceedings.

Sir JOHN SIMON: No, my Lord. It is true, if you take the history of either half of this litigation there is a stage when he was not succeeding, but there was never a stage when the two overlapped. To put the thing in order of time, the Order was this: The criminal proceedings were all over and had reached their final end in his complete acquittal on the charge of perjury before the Court of Appeal in India reversed the original decision in his favour in the civil proceedings.

Mr. Justice DARLING: Mr. Justice Chandavarker

was the Hindu Judge of Appeal.

Sir JOHN SIMON: Yes, my Lord. Now, Gentlemen, the whole point is this, I agree entirely that this was kept up for an immense time. Sir Valentine Chirol has written in his book an account of these proceedings. It may be excusable in a gentleman who is not a lawyer and has not studied the law closely, writing in heat, for a paper like "The Times"; but instead of correcting the gross error he has made, which is doubly injurious to Mr. Tilak, Sir Valentine Chirol is persisting in it to this minute, and I can only suppose that up to this moment he does not understand how he has studied a thing which is not true.

Mr. Justice DARLING: But, Sir John, there is, as it seems to me, some misapprehension about this. I have looked at this book, and I see that it was published in 1910. His information must be only what he had got in 1910 as to this prolonged litigation. This action is brought in 1915, and the Defence was put in in 1916. I suppose we shall get the dates of the various proceedings to see what was the position of these two different lawsits, civil and criminal, in 1910 when the book was published. In 1915 this action was brought, and in 1916 this Defence was put in.

Sir JOHN SIMON: Yes, my Lord. I think it might be convenient to do it now. I quite agree that whatever complaints it may be my duty to make in the course of appealing here for the Plaintiff, of course I am not complaining because Sir Valentine Chirol is not endowed with the gift of prophecy, still less would I complain that he could not prophesy what the Privy Council would do. I am not saying that when Sir Valentine Chirol wrote in 1910 he would be expected to know in advance what the ultimate upshot of the civil proceedings would be. My point is a different point, and it is this, that in 1910 when this book was written, Mr. Tilak had been acquitted altogether, and finally, of the charge of perjury, and it was all over and done with when it was decided that the conviction should be quashed. Not only was it so in 1910, but the date at which the Criminal Court in India had said that Mr. Tilak had

not committed perjury was March, 1904, when the conviction was quashed. There was plenty of time to know that. Six years after that in, I think, September, 1910, the year in which this book was written, the adoption suit was dragging its length along—and it had gone as far as the final Court of India at that time. Mr. Tilak had won originally ; then, on appeal in September, 1910, the second adopted son won. That of course, you understand, is not for a moment saying that Mr. Tilak is guilty of perjury. As a matter of fact, that was not in question, although Sir Valentine Chirol seems to think that it was. The question which was decided by Mr. Justice Chandavarker in September, 1910, was merely this—that Mr. Tilak had put pressure on this widow to adopt Jagganath. There is nothing contrary to the honour and good faith of Mr. Tilak in saying that he had put pressure on the widow to adopt him. It is the duty of a trustee to put pressure on, and there is nothing dishonest about it. It is a thing that you and I have to do as trustees. In September, 1910, the decision, which was ultimately reversed by the Privy Council, was that Mr. Tilak had put pressure on this lady to adopt Jagganath, and the Judge in India said that prevents that adoption from being a good adoption, and therefore I decide against it. Sir Valentine Chirol thought that the decision of Mr. Justice Chandavarker was a decision which reflected on Mr. Tilak, and that he had been committed. I do not know whether he thought he was going to get money out of this, but he seems to have thought that this decision was a thing which reflected on Mr. Tilak when he was doing his duty as trustee. There was no such decision of any kind, and, therefore, he writes this book, which, by the way, is supposed to be a book about Indian unrest. Therefore, why he should drag in this thing about the way Mr. Tilak had acted as trustee I cannot understand. In the body of the book he records the fact that Mr. Tilak was not convicted finally of perjury, and then in a note at the end of the book he adds the cheering information. "No, Mr. Tilak was not finally convicted of perjury," but all the delight about that is very short lived, because Mr. Justice Chandavarker

came along and decided against Mr. Tilak, and, therefore, the author of this book says : "The effect of this judgment is extremely damaging to Tilak's private reputation as a man of honour or even of common honesty." I cannot understand why a gentleman of Sir Valentine Chirol's position, however strong his feeling may be on other matters, should cause him to continue persisting in the statement about a man's private conduct in a private matter which I have demonstrated to you is quite uncalled for if my facts are right. If Sir Valentine Chirol were himself a trustee, and if a young lady for whom we were trustee, acting under our strong advice took a particular course of action, and if some Chancery Court afterwards said that we had put more pressure upon the lady than we ought to have done, and therefore the transaction did not stand, that is no reflection upon us in the matter of our common honesty, and it does not show that we are dishonest people, but it probably shows that we have been too zealous in trying to do our duty as trustee. But that is a very different thing to accusing a man of being a common cheat, and Mr. Tilak, I submit to you, has got very clear and grave grounds for complaint. He has in this book which is supposed to be about the politics of India, and which is supposed to discuss the causes of Indian unrest, dragged into it a wholly perverted account about his private actions as trustee which have nothing in the world to do with Indian unrest. It is brought in either ignorantly or maliciously, and is an utterly untrue statement as to what happened, and the people who wrote this book on Indian unrest, whatever else they wrote about Mr. Tilak, say that in his private life as a trustee he is a person who gravely compromised himself as a person of honour. I will read the passage. If you have followed the short account I have given you you will see it is really as unfounded a statement as can be well conceivable. It begins at page 49. I can, without inconvenience, start from the middle of the page. This is a passage in the body of the book: "For three or four years the Tai Maharaj case, in which, as executor of one of his friends, Shri Baba Maharaj, a Sirdar of Poona, Tilak was attacked by the widow, and indicted on charges of

forgery, perjury and corruption,"—he was not indicted on those charges—" absorbed a great deal of his time, but, after long and wearisome proceedings, the earlier stages of the case ended in a judgment in his favour, which was greeted as another triumph for him and not unnaturally "—then he adds—" though, as recent developments have shown, quite prematurely "—then he puts a little note to show there is a note at the end of the book which I am going to turn to: " won him much sympathy, even amongst those who were politically opposed to him. " The note, you will observe, refers to page 340. Then what Sir Valentine Chirol says about it is this. You will see that unfortunately he has got hold of the wrong end of the stick. What he says is: " No. 5. Tilak in the Civil Courts." You see the author knows the difference between the Civil Courts and the Criminal Courts, and he knows apparently that when a man is acquitted of the charge of perjury, a subsequent decision in a Civil Court does not necessarily prove that he is a perjurer. This is what he writes: " The Tai Maharaj case came up once more in September on the appellate side of the Bombay High Court on appeal against the decision of the Lower Courts. It was contended on behalf of Tai Maharaj, the widow, that her adoption of one Jagganath was invalid owing to the undue influence brought to bear upon her at the time by Tilak and one of his friends and political associates Mr. G. S. Khaparde, who were executors under the will of her husband, Shri Baba Maharaj. Mr. Justice Chandavarker, in the course of his judgment, reversing the decisions of the Lower Courts, said that on the one hand they had a young inexperienced widow, with a right of ownership but ignorant of that right, and led to believe that she was legally subject to the control of the executors of her husband's will as regarded the management of the estate which she had by law inherited from her son, prevented from going to Kolhapur even to attend a marriage in a family of relations and anxious to adopt a boy from Kolhapur as far as possible. On the other hand, they had two men of influence learned in the law (meaning the Plaintiff and the said Khaparde) taking her to an out-of-the-way place ostensibly"—you see " ostensibly"—

"for the selection of a boy, and then, as it were, hustling her there by representing that everything was within their discretion, and thereby forcing her to adopt their nominee. In these circumstances they came to the conclusion that the adoption was not valid, because it was brought about by means of undue influnce exercised over Tai Maharaj by both Tilak and Khaparde." Then "Mr. Justice Chandavarker is a Hindu Judge of the highest reputation, and the effect of this Judgment is extremely damaging to Tilak's private reputation as a man of honour, or even common honesty." I venture to submit to you, Gentlemen, that if that statement I make to you is unfounded, there is no justification whatever for this statement. You may call Mr. Tilak, if you please, a most pestilential agitator, and you may say that he has been convicted of sedition twice and has served a service of imprisonment for it, and you would be telling the truth with regard to the conviction but you are not entitled to write a book on this political subject and announce that it is in respect of his connection as trustee that he is shown to be a man without honour and even without common honesty. There is not the slightest shadow of reason for making any such statement. It is not to be found in Mr. Justice Chandavarker's Judgment and it is not the meaning and effect of his Judgment. This gentleman seems to have read it all and put it in, and he winds up with this sentence which I submit to you is quite without justification and entitles Mr. Tilak, under this head, to your verdict in respect of it.

Now, Gentlemen, I have gone through four out of the six libels, and I have tried to do so, and I hope I have succeeded, without a very long consumption of time. It is very desirable that we should keep this case within reasonable limits, and in that respect the way we do things in this country is better than the way cases in India drag on for years.

Now, Gentlemen, I come to the Rand and Ayerst libels, which are very serious libels indeed, and they both have this common feature. They are the fifth and sixth libels, and they both accuse Mr. Tilak of being, I do not say legally, but being in effect responsible for murder. The first of the two murders, which I call

Libel No. 5, is the murder of Mr. Rand and Lieutenant Ayerst in Poona on, I think, the 22nd June, 1897. I often wonder in these Courts how it is that witnesses can remember what happened on a given date so long ago, and I daresay juries wonder too, but probably we shall all remember June 22nd, 1897, because it was Jubilee Night in the year of the Diamond Jubilee. On Jubilee Night at Poona—I am not going to tell you what I was doing, and I am not going to ask you what you were doing—there was a dreadful murder committed in Poona of a Mr. Rand and Lieutenant Ayerst, who were in public service in that town. Whatever may be said on other parts of the case, I think by this time Sir Valentine Chirol must realise that he is a very reckless writer, because he certainly has spoken one thing about the Rand and Ayerst murder which has no foundation whatever in fact. He has stated that a man who was ultimately convicted of that crime said that he was inspired or prompted by Mr. Tilak's newspaper.

Sir EDWARD CARSON: Forgive me, where is that?

Sir JOHN SIMON: I thought I remembered a passage which said that. You will correct me if I am wrong.

Sir EDWARD CARSON: I will apologise if I am not right.

Sir JOHN SIMON: I only want to read it right. If you will turn to page 48 I think you will find that I am in this respect if I am not in others quite right. The expression is: "The murderer of Rand and Ayrest declared that it was the doctrine expounded in Tilak's newspapers that had driven him to the deed."

Sir EDWARD CARSON: That is not complained of in this action.

Mr. Justice DARLING: Where are you reading from?

Sir JOHN SIMON: Page 48 of the book, "Indian Unrest."

Mr. Justice DARLING: The libel complained of is on page 48, but that is not it.

Sir JOHN SIMON: I am merely making the observation. I do not want to raise a controversy needlessly. You will find, Gentlemen, when you come to the last of these six libels, which is altogether in another part of

the case, where years afterwards a gentleman named Mr. Jackson was shot, that there is among the many confessions made by one or other of the accused a statement referring to not indeed the "Kesari" or the "Mahratta" exclusively but referring to a number of papers of which the "Kesari" was one. I will try and deal with these in their order. What I am saying is that whatever else the Defendant may feel about the book he will realise that the author of it is occasionally guilty of adding inaccuracy which I must be permitted to call serious, because in reference to this murder that I am talking about, namely, the murder of Rand and Lieutenant Ayrest in the year 1897, on the evening of June 22nd, at Poona, this writer asserts and is wholly inaccurate, that the person who was convicted of that crime declared that it was the doctrine expounded in Mr. Tilak's newspaper which had driven him to the deed,

Sir EDWARD CARSON: I do not want to interrupt, but I do not agree that it was inaccurate.

Sir JOHN SIMON: I assume it to be so because although there is a great deal in the Defence which is citing about the Rand and Ayerst murder this particular thing I do not think is.

Sir EDWARD CARSON: It is not complained of.

Sir JOHN SIMON: I hope I shall not be going out of the proper conduct of the case if I refer you to my learned friend's own Defence. Will your Lordship turn to the first lot of Particulars, and you will there find a passage originally in black ink which subsequently was amended in red ink. The passage in black ink stated: "The murderer of Mr. Rand and Lieutenant Ayerst declared, as the murderer of Mr. Jackson declared, that it was the doctrines expounded in the Plaintiff's and other similar newspapers that had driven him to commit the murder," and I further observe that at a later stage, in red ink, the Defendants have struck that out because I suppose at a later stage they had discovered that that was not a thing they could say, and they have therefore substituted this: "The murderer of Mr. Rand and Lieutenant Ayerst declared that he had committed the murder for the benefit of the people, as the murderer of Mr. Jackson declared that he thought that by killing

Englishmen his people would get justice." Murderers, under the law which obtains in India, are habitually asked a large number of questions leading to a confession, and as far as I can see everybody who commits crime in India makes, not one confession, but two or three which contradict each other. Murderers may say all sorts of things, and it would not in the least prove what they said was true. I am merely making the observation, which is a perfectly accurate one, which I do not in the least withdraw, that in the passage in this book Sir Valentine Chirol had said that the murderer of Mr. Rand and Lieutenant Ayerst declared that he was actuated by the doctrines expounded in Mr. Tilak's organ, and that is a statement in the book which, so far as we know, is completely unfounded, in fact and so far as we can surmise, it was known to the Defendant to be unfounded in fact now, because having first set it up as true, be subsequently struck it out in red ink.

Mr. Justice DARLING: This is what you are commenting upon—this is what is said in the book at page 48: "But like the murderer of Mr. Jackson at Nasik last winter, the murderer of Rand and Ayerst—the same young Brahman who had recited the 'Sholk,' which I have quoted above, at the great Shivaji celebration—declared that it was the doctrines expounded in Tilak's newspapers that had driven him to the deed. The murderer who had merely given effect to the teachings of Tilak was sentenced to death, but Tilak himself, who was prosecuted for a seditious article published a few days before the murder, received only a short term of imprisonment, and was released before the completion of his term under certain pledges of good behaviour which he broke as soon as it suited him to break them." Then you come to the paragraph above the one you have just been reading; it is only the second paragraph: "The Plaintiff, rather than Kanhere, was the real author of the murder which resulted from the doctrines promulgated by the Plaintiff. It was merely the story of the Poona murders of 1897 over again." There are the papers referred to, and one of them is "Kesari."

Sir JOHN SIMON: Would your Lordship forgive me if I interrupt you. I want to point out that I have

thought it convenient to deal with the Rand and Ayerst case of 1897 separately from the Jackson case, which is in 1909. The Kanhere has to do with Jackson and has nothing to do with the Rand and Ayerst case.

Mr. Justice DARLING: Kanhere was the Jackson murderer?

Sir JOHN SIMON: Yes, my Lord.

Mr. Justice DARLING: And this that you read did not refer to the Kanhere; it was the murder of Mr. Rand and Lieutenant Ayerst?

Sir JOHN SIMON: Yes, my Lord. It is a little difficult to follow, because they put a number of matters together here, not quite in order.

Mr. Justice DARLING: I do not understand this as I have got it. As I have got it, first of all, it is printed in black ink, and runs in this way: "The murderer of Mr. Rand and Lieutenant Ayerst declared as the murderer of Mr. Jackson declared that it was the doctrines expounded in the Plaintiff's and other similar newspapers, that had driven him to commit the murder." Then that is amended, and it runs in this way: "The murderer of Mr. Rand and Lieutenant Ayerst declared that he had committed the murder for the benefit of the people, as he thought that by killing Englishmen his people would get justice." Is that right?

Sir JOHN SIMON: That appears to be what they say now. I understand what they mean now is this: that the murderer of Jackson in 1909, amongst his many statements, stated as he did, that he thought by killing him his people would get justice.

Mr. Justice DARLING: The man who killed Rand and Ayerst said the same thing.

Sir JOHN SIMON: He says words which are, substantially, the same thing. All I am going to say is this, my Lord. I am going to deal with the Rand and Ayerst case presently. The book contains, and the Pleadings originally stated, that the man who murdered Rand and Ayerst declared that he was actuated by the doctrines of Tilak, and so on, and he never, so far as I know, declared anything of the sort. What he may have said we shall very likely hear in the course of the case. This is a very serious matter, and a great deal may be

very fairly said in commenting on what Mr. Tilak did and wrote, but nobody ought to begin by stating things which have no foundation in fact, even though Mr. Tilak has explained them. I want to deal with the Rand and Ayerst case with some little precision. It is very necessary to see what it is that Mr. Tilak did and said in his newspaper about it. He was, as you have heard from the extract which my Lord has just been reading, as a matter of fact, convicted for sedition—a crime which you find in the Code shortly after the Rand and Ayerst murders. He was not charged with it, and indeed the Judge and the prosecuting Counsel made it very clear that they did not seek to associate him in any way with the Rand and Ayerst murders, but they did take the view—and Mr. Tilak comes before you quite frankly—that the things which Mr. Tilak had been writing in his newspaper, or which his newspapers contained, were things which tended to promote sedition. Sedition, in India, is defined by a rather elaborate phrase as being, amongst other things, "disaffection," and the learned Judge who tried the case gave, what I venture to think, is a very curious ruling. He said that "disaffection" was the same thing as "absence of affection." That is saying, I shonld have thought, that "disease" is the absence of ease. He said "disaffection" simply means that you have an absence of affection; he thought that you were guilty of sedition, defined as being disaffection to the Government, if you did not love the Government. I may say this, perhaps in the temporary absence of my learned friend, that there are many persons remaining in public life who have been in an almost perpetual condition of sedition—because, in particular, Irishmen, it is generally well known, do take up a position that is against the Government; and in saying that, I am far from saying that you may not from time to time find in the history of the United Kingdom instances of sedition. I daresay that may not be the view of all of you, but it certainly was not a proper thing to say that disaffection was the same thing as absence of affection.

Mr. Justice DARLING: There cannot be disaffection, if affection is present.

Sir JOHN SIMON: No, my Lord.

Mr. Justice DARLING: When you get the absence of affection, it may be a very short step to what is probably called disaffection.

Sir JOHN SIMON: Yes, my Lord, but the Judge did direct the Jury elaborately. I remember some note of the discussion which reached this country.

Sir EDWARD CARSON: We have the Judgment.

Sir JOHN SIMON: Yes. I am very far indeed from making light of the matter which came before the Court. What I am pointing out to you Gentlemen, and what it will be your duty carefully to remembr, is that the charge that was made was a charge of sedition, by publishing that that charge was based on certain articles which I must call attention to, that both the Prosecution and the Judge carefully disclaimed any idea that they were connecting Mr. Tilak with the Rand and Ayerst murders. Of course the facts may have been that this murder showed the importance of suppressing seditious writings, and Mr. Tilak was convicted, and sentenced, I think, to 18 months' imprisonment. Now what is it that has been said in the libel? I do not think I have read it yet, and I had better read it, and then I will call attention in the book to three or four of the passages which are most relevant, and which I understand are relied upon, because they are cited in the passage. What is said under the fifth heading in the libel is this. If your Lordship will look at page 48 of the book: "What Tilak could do by secret agitation and by a rabid campaign in the Press to raise popular resentment to a white heat he did. The 'Kesari' published incitements to violence which were put into the month of Shivaji himself."

Sir EDWARD CARSON: He leaves that out of the libel.

Sir JOHN SIMON: I agree, those words are left out: "The inevitable consequences ensued." I do not make this a matter of complaint, but perhaps if there is a new edition, I might point out that it would be correct if it said June 22nd: "On June 22nd, 1897 on their way back from an official reception in celebration of Queen Victoria's Diamond Jubilee, Mr. Rand, an Indian civi-

lian"—that is an Englishman serving in the English Civil Service—" who was President of the Poona Plague Committee, and Lieutenant Ayerst, of the Commissariat Department, were shot down by Damodhar Chapekur, a young Chitpavan Brahman, on the Ganeshkind road." Then comes this sentence. You must consider what it means: "No direct connection has been established between that crime and Tilak. But, like the murderer of Mr. Jackson at Nasik last winter, the murderer of Rand and Ayerst—the same young Brahman who had recited the 'Shlok,'which I have quoted above, at Great Shivaji celebration—declared that it was the doctrines expounded in Tilak's newspapers that had driven him to the deed. The murderer who had merely given effect to the teachings of Tilak was sentenced to death, but Tilak himself, who was prosecuted for a seditious article published a few days before the murder, received only a short term of imprisonment"—the only accusation made against him was that he was the writer of a seditious article, not that he had anything to do with the murder—"and was released before the completion of his term under certain pledges of good behaviour which he broke as soon as it suited him to break them." I do not understand what the last sentence means. I do not know what it is that this author is referring to when he speaks of Mr. Tilak having broken his pledges.

Sir EDWARD CARSON: I do not like interrupting my friend, but my friend has not pointed out that the last half of what he has read was not complained of as a libel.

Sir JOHN SIMON: Let me make it quite plain.

Mr. Justice DARLING: I caught from the interjection of Sir Edward Carson that there are some words in the paragraph which you have read as part of the libel which are not complained of in the Statement of Claim.

Sir JOHN SIMON: It is the sentence: "The 'Kesari' published incitements to violence which were put into the month of Shivaji himself."

Mr. Justice DARLING: Yes, those words which come in in the middle of what the Plaintiff complains of as a libel are omitted from the complaints in the

Statement of Claim.

Sir JOHN SIMON: Yes, my Lord, that is quite right. I know how difficult it is for the Jury to follow it, and I thought it might be convenient at some time if we put in a copy of the book.

Sir EDWARD CARSON: We can give them a copy of the book if they like.

(His Lordship explained the passage in the book to the Jury.)

Sir JOHN SIMON: My Lord, I am always quite willing, because the Gentlemen of the Jury have a rather hard task I am afraid, that they should have any help they can, but it is, I submit, in a high degree undesirable and, if I may say so, improper, that in trying what is complained of that the Jury should be invited and in substance encouraged to read the book.

Mr. Justice DARLING: What I have done is this: As you were speaking I marked in the book from the Statement of Claim the bit in the Statement of Claim which is complained of as a libel with two blue marks just as we all use them. I marked with blue pencil before and after it, and then there is a piece in the middle which is omitted from the Statement of Claim which I marked with a little bracket in lead pencil, and I told the Jury that that part that is in lead pencil brackets is not complained of in the libel and that the part that is marked in blue is complained of.

Sir JOHN SIMON: I do not in the least desire to differ from what your Lordship is doing, and I am not criticising it, but what I mean is this, that I want the Jury to be told at some convenient time that the Plaintiff is entitled to complain of statements made about him which are untrue and libellous in the book, and although Sir Edward would cross-examine to what he thinks right, his right to complain of them and get a verdict in respect of them is not destroyed by the fact that there are a great many other things in that book that he does not complain of.

Mr. Justice DARLING: Of course, I shall make that perfectly plain to the Jury.

Sir JOHN SIMON: I do not think it would be right, doing what I can, properly, for me to encourage the idea

that they must set to work to read the book. What I am saying is: "You have written a book—a large part of the book is your book, which is a matter of comment on a serious state of affairs, but that is no reason why you should use your book as a medium for publishing defamatory and untrue statements about me." That is my point. While it is quite right for the Jury to observe there is a sentence not included in the Pleading, it is material to note that the passage I have just been reading, beginning: "What Tilak could do by secret agitation," and so on, is one of the matters complained of. There are two or three things, as I understand, which in fact will be found to be quite without any foundation at all. As far as Mr. Tilak can remember he does not know why it is stated: "The same young Brahman who had recited the 'Shlok' which I have quoted above at the great Shivaji celebration." "Shlok," apparently, is a song. Mr. Tilak does not know why that is said. He does not know anything about those circumstances. At the same time there is an observation made at the bottom that Mr. Tilak "received only a short term of imprisonment and was released before the completion of his term under certain pledges of good behaviour which he broke as soon as it suited him to break them." All he says is that there is not the slightest truth in that. Those things do not matter so much because they are not things we are complaining of; we are complaining of a far more serious thing. We are complaining that the statement is there made quite plainly that there was this terrible murder commited on the 22nd June, 1897, of these two public servants, and Mr. Tilak is a gentleman of whom it is quite fair to say that no direct connection has been established between that crime and him, and that means, I apprehend, two things: first, that a direct connection there well may be but it is not established, meaning that whether there is a direct connection or not, at any rate, that there is an indirect connection, and though he may not in a criminal sense be properly convicted of murder, he none the less is, according to the assertion of this writer, a gentleman who is properly to be regarded as the cause, in all good sense, of that. Now, Gentlemen, that is a very serious thing. If you

are satisfied that that is true, then, of course, on this particular libel you would find a verdict for the Defendants, but it would not affect the other things, although it would affect this one. First of all, before you could possibly say that that was true, you would have to remember that the whole burden of proving that that is true falls upon the Defendants here, and it does not lie upon Mr. Tilak to satisfy you of it, or to disprove it, but it lies upon the Defendants here, not only to prove it but to establish it. Then the second is this. I can well understand that any body of my countrymen, living as we do here in comparative order and quiet, may feel greatly disturbed to realise that in Poona and in Bombay, and in this great area of India, there was a seething spirit of criticism which went to the point of being seditious, and that Mr. Tilak is a gentleman who has been convicted of writing seditious articles in this paper. Every one of us feels naturally that that is a very serious fact, and you are bound truthfully to approach Mr. Tilak's case with that knowledge and to that extent his case is prejudiced. But Gentlemen, British justice does not allow you, from the fact that a man has been found guilty of a lesser thing, to say: "We will make a short cut of this, and we will find a verdict which finds him guilty of a far greater thing." Different people have different views as to how far sedition is a very serious crime. Some people, in some circumstances at all events, have said as a matter of fact what they, as far as they are concerned, have considered as not being blameworthy, or righteous and honourable, but, that is quite a different thing from saying of a man who takes up that attitude: "I do not agree with you in your views about sedition, and as I do not agree with you I am going to give a verdict against you, although you are not a contributor."

Now, Gentlemen, I want to call attention to some copies of the paper which were published at the time when this terrible crime was committed, and you will see how it comes about that Mr. Tilak was charged with sedition, and I trust you will also see that the material which is relied upon in defence here by no means justifies this terrible libel. In the year 1897, the Jubilee year,

the bubonic plague was prevalent in Poona, and Mr. Rand was the Chairman of the Plague Committee, or Commission, in Poona; 120 miles away in the great City of Bombay, the capital of the Presidency, this bubonic plague was also raging. Mr. Rand had nothing to do with Bombay but he had to look after Poona. In both places the authorities were taking steps to try and suppress the plague. Two things especially were needed: one was that you should teach the native population the things that were being employed to stop the plague. The segregation of the sick and the dead bodies should be taken out of the house and the house whitewashed, and that kind of thing, and teach them that this was the thing to stop it. You can understand that with this enormous population how easy it would be for them to take the view that this was a dispensation of Providence, and you will find in these very documents which the Defence have produced that Mr. Tilak in his papers was arguing with these natives and explaining to them what was the real basis of sanitary science in this matter, and was pointing out to them that although it was an interference with their customs this was the way in which to try and stamp out this frightful plague. He urged that the trains should be stopped so that people should not go backwards and forwards to Poona, and the second thing that was to be done to stop the plague was this, that there ought to be some machinery by which they could go into their houses and really see what the condition of the houses was and take the preliminary steps. That is a very dificult and delicate thing to do in India, because, amongst other things, as you know, the ladies of Indian households live behind the veil to such an extent that when Indian appeals are argued here at our Privy Council there is often a dispute which perhaps goes on for a long time as to whether the hand that comes through the veil and signs a document is really the hand of the lady or whether it is somebody else who has been substituted. The care with which according to tradition of the Indian household the women are kept behind this veil is one of the great facts of Hindu life. If you are to fight the bubonic plague and have to get into their houses to see that they are not keeping the

means of infection, and keeping dead bodies there possibly, you have a very delicate task, and you may very easily set yourself upon a task which will lead to much difficulty. The great contrast between what was being done in Bombay and being done in Poona was this, that in Poona Mr. Rand was insisting upon making these searches in the houses of the natives with British soldiers. I should be the very last to say, and we should all of us absolutely refuse to say, that the British soldier is not to be trusted fairly to behave with honour and respect to a woman, though I suppose there are bad sheep in every community and bad characters, and you will understand how that was calculated to outrage Hindu feelings and to outrage their social institutions, if not actually to bring down one of the traditions of the modesty of their own women. In Bombay they were fighting this very same plague at the very same time as the authorities were in Poona, and somebody in Poona realising the state of things, took the attitude of avoiding sending British soldiers into the houses, and employed other means in order to diminish as far as they could the plague. You will find this article is a very hot article, and you will find these two things going on. He is saying to the populace: "You must submit to have this plague fought; you cannot sit down and allow yourselves to be destroyed by this scourge; sanitary science is affected and you must submit to this," and at the same time he was saying it is an intolerable thing that our homes should be unnecessarily invaded by white troops, but only 120 miles away in Bombay they are fighting it in this way. You will see these articles are more flowery and emphatic than you find in Sir Valentine Chirol's contributions to "The Times." Those are the two things he is saying. Now, Gentlemen, with that general explanation I am going to call attention, with as little comment as possible, to three or four of the most serious articles. I am not going to pick out the articles which will occupy time and lead to no result. Would your Lordship kindly take the green book, at page 229. There is an immense amount of matter here. I am trying to read to you, Gentlemen, as well as I can the matters which I think

you will have to consider. Of course there are many more documents which possibly my friend may have to refer to. I have spoken to my friend, and I do not think we can do it jointly. He agrees that as long as I am in opening keeping to reading necessary extracts that will be the best way. What I want you to notice is this, that I am going back a long way. I am going back to the year 1894, which you see is three years before the murder. I just want to show the sort of thing. It begins at page 225 with an extract from the "Mahratta" of that date. The article gives you an idea of the sort of style. It is discussing the prosecutions for riot at Wai, and the attitude that the Hindus ought to adopt. The last paragraph is on page 228: "In conclusion we have to offer one advice to our countrymen, 'Sufferance is the badge of our tribe.' We have undergone sufferings in the past. If the present Government cannot succeed in eradicating the poison that is being daily instilled into the system and methods of government, further suffering, and even death, may be our future lot. The terrors of the prison are outside its walls. Those who are incarcerated by way of revenge or vindictiveness can never lose their character for truth, honesty and respectability in the estimation of the community in which they move. They should never lose courage under the stroke of a temporary misfortune, nor should they desist from standing by and doing their duty to their community and to their country. They should never resort to violence and illegal methods and thus get into the clutches of their opponents. All constitutional methods are open to them which if honestly followed will guarantee them from persecution; and even if after this peaceful conduct they are overwhelmed with tyranny, they should remember the philosophic truth of the following lines"—then there is a quotation which I have not identified with our own literature—it is a kind of stoical document which is to the effect that as long as you act honestly you will not meet with misfortune.

Sir EDWARD CARSON: I do not know whether my friend wishes to contrast the two sides of this matter? If so, would he read that article, of which he sees that

sentence at the end of the page 226, which is the same article, from the words: "Apart from the consideration of the guilt." If so he would see the kind of thing that is complained of.

Sir JOHN SIMON: Certainly, Gentlemen, in this matter, as you see, although my learned friend and I are on opposite sides in the first place, you will not find us quarrelling in the second. We are very willing that we should, as far as we can, get both sides before you as long as it is done in an ordinary way. I had not previously noticed the earlier paragraph on page 226: "Apart from the consideration of the guilt or otherwise of the 13 unhappy Brahmin gentlemen sent to jail at Wai, the question is how long the Government of Lord Harris will continue apathetic and indifferent to the sufferings, fears, anxiety, unrest and confusion that prevail in the Bombay Presidency. The feeling of animosity between the two principal sections of the population like subtle poison has gradually spread and poisoned not only large and hitherto peaceful cities, but even small villages and towns. This subtle poison wherever it has penetrated has been producing disastrous results. Villages, towns and cities appear almost to be in a state of civil war. Bloodshed, arson, broken heads and limbs, dislocation of all social and commercial relations and curses heaped on those who are supposed to foment racial animosities for their selfish interests have been too frequent to foster anything like confidence in the truth, justice and mercy of the Government of the Queen. A crusade has been preached against one section of the populations by high officials who ought to be above petty intrigues and prejudices, nursed by evil Councillors, whether they be private men, officials or journalists. Under these circumstances how long will the Government of Lord Harris delay laying down a definite and just policy for the guidance of the subordinate executive. Every man has a heart and conscience, and when his judgment is not warped by prejudice he can discover for himself a just and righteous policy, whenever his position of responsibility as well as necessity demands. Lord Harris has undoubtedly both; but as to his good judgment people are every day becoming suspicious on grounds which

His Lordship himself has furnished." I have no doubt it is written in a strong and highly coloured way. In different parts of the world and in different pages of history you will find a community which, rightly or wrongly, says it is, in the circumstances, unfairly treated by the administration. I will take it, as I am invited to do by Sir Edward Carson, as an illustration of what they complain of. I can quote a better one than that, but that is the sort of thing which the Defence rely on here as a justification for going beyond the fact, namely, that Mr. Tilak has been convicted of sedition, and punished for it, once or twice, and saying, in effect, in this book: "That is not good enough for me: I will call you a murderer." Gentlemen, I gave you that to show that you find in the same article in which that quotation I last read some of the principles taken up: "Now we must use constitutional means; do not break the law; we are a suffering tribe, that suffering we must put up with, and even although we act honestly and according to our lights, none the less things will come all right in the end."

Now, Gentlemen, I can pass on, because I should like to save time.

(Adjourned for a short time,)

Sir JOHN SIMON: Gentlemen, you will remember I had just read an extract, indeed two extracts, from the "Kesari" of 1894 in order to show you the kind of thing that was then being written. I am going to try and keep order of date, and of course I am only putting before you a very small portion of all material, but I have done my best to select so as best to bring to your minds the issue you have to try, and I hope you will find that I am not making a selection which is designedly too favourable to myself, because I am going to read some matters that no doubt will be relied on by the Defence as well. I would like to take next in the Green Book at page 271 a part of a very long document published in the "Mahratta"; the document begins at page 264 headed: "The Sarvajanik Sabha and the Government." The Sarvajanik Sabha really means the popular association, or something of that sort; it is an association of a general kind containing, I suppose, Hindu members and interest-

ing itself in a number of affairs; here it is making some representations to the Government in the form of a formal document. The document is a very long one and is really discussing what ought to be done in view of the Bombay riots which occured in 1893; here in 1894 you get this very long document, dealing with the subject and then there is a Summing-up of it at page 271 which I propose to read: "To sum up, the Committee has pointed out that the principal common features of the disturbances are first that they are confined only to the lower classes of the two communities"—that is to say Mohammedans and Hindus and people who get into these riots are the lower class people—"secondly they all owe their origin to religious prejudices and religious prejudices only; that in this Presidency the misunderstanding has been chiefly due to the attempt made by the District Authorities"—those are subordinate officials—"to subject religious music to the same restrictions as secular music used on occasions of pomp and show: And that the conflict is perhaps a necessary incident of the transition through which the country is passing, old customary restraints gradually giving place to new standards of social equality." This reference here to the music is this. It is a thing again which I am afraid is not unfamiliar to those whose business it is to study contemporary India. Mohammedans do not like it if music which is associated with the Hindu religious festivals and rites is played by processions that are passing their mosques, their temples. Hindus, on the other hand, maintain as I follow, up to a point at any rate, that really this is a perfectly reasonable exercise of their traditional rites, and that a procession with music, or some of them at any rate, is of the essence of the religious ceremony which they are taking part in and it is a constant difficulty in the administration of India to determine how the claim of these two rival religions, both represented in the same place, are to be reconciled. What this body here is saying is that really the Bombay riots, to put aside any local cause, will be found to be riots in which the lower classes of the two communities, Mohammedan and Hindu, engaged. Part of that is due to the fact that there is this difficulty of reconciling Hindu rites to play the music with Mohammedan objection to the

music in the streets outside their temples and they are saying what one ought to do is to keep clear the difference between secular music which ought to be stopped outside a mosque, and sacred music which is a necessary and essential part of the religious rites which the Hindus are engaged in celebrating. Then they say: "The conflict is perhaps a necessary incident of the transition through which the country is passing, old customary restraints gradually giving place to new standards."—Then "The remedies suggested by the Committee"—which is a Committee Mr. Tilak is treated and rightly treated as being responsible for—"are : The enlistment of the active co-operation of the leaders of the two communities in removing misunderstandings and adjusting differences before disturbances have actually broken out; the appointment of Conciliation Boards of the two communities in places where disturbances have occurred or are apprehended; a less exclusive reliance on police reports"—the lower officials would be very much in the hands of the police reports—"based chiefly on information supplied by low-paid and not over-scrupulous officers; a return on the part of the district officers to the old traditions of keeping with the people other than purely official relations; the ascertainment of custom by entrusting the work to a Judicial Officer in places where the misunderstanding has assumed an aggravated form, and a laying down of the general principles by Government for the guidance of district officers, insisting that the distinction between religious and secular music should be adequately borne in mind in framing rules, that religious music, that is, the voluntary music of devotees, should be treated apart from the loud and hired music used on secular occasions, and should, in no case, be stopped altogether." That shows you the kind of thing which was being said in this paper the "Mahratta," one of the two papers with which Mr. Tilak is specially associated on this vexed question after the Bombay riots. To that there was a Government answer, which is at page 287. We are not in the least concerned in deciding who is right and who is wrong, but newspapers are, of course, entitled to discuss these things. On the 17th February, 1895, this is printed in the "Mahratta," in which the Government did

not speak in too friendly a way of the letter. They say " the letter seems to imply a claim not merely to that consideration on its own merits which the Government in Council is as ready now as ever to accord to any communication received from the Sabha, but also to the weight due to an expression of the views of a body representing the Mohammedan and Parsi as well as the Hindu community." They go on and rather challenge that and say the Sabha, which is so predominantly concerned in making this representation is not expressing the view which the other people would subscribe to. That is the class of controversy which is going on, and I should say it is quite clear Mr. Tilak and his newspapers are well entitled to take a part—it may be a very active part and a vehement part—in discussing topics of that sort.

Mr. Justice DARLING : You have not read much of that. Had you not better go on a little ?

Sir JOHN SIMON : I am much obliged to your Lordship. " The Government are of course aware that one section of the the latter community which is most active, and which there is unfortunately least reason to credit with any genuine and disinterested desire to allay animosities and minimise the difficulty of dealing with them is represented, in the counsels of the Sabha, and having regard to the obvious necessity for caution in examining any proposals really emanating from that source on the one hand, and on the other to the value to be attached to any genuine and adequate consensus of enlightened and well-disposed native opinion in regard to such subjects as those under discussion, it would have been hardly fair to dispose of their representation, without at least giving them an opportunity of removing any possible doubts as to the point of view from which it should be regarded." The substance of the Government criticism is to say : Your document is not a document which represents the views of all classes and sects. It is from a source predominantly Hindu, your Sabha is representing a section of the Hindu view. The Government goes on to say, a thing the Government is at liberty to say, but it is not likely to allay feeling : the people who are the authors do not want peace or quiet, and they are

really agitators. I am not going to spend time discussing whether that is right, but if that is the kind of attitude which is being taken by the authorities, you will not be surprised to find in Mr. Tilak's papers a very strong tone of criticism of the authorities contending that the authorities themselves are the people failing to take a broad and fair view of the situation, and urging that a serious change needs to be made.

Sir EDWARD CARSON: I think No. 3 ought to be read.

Sir JOHN SIMON: This is in the same answer which, like nearly all Indian documents, is very long: "Without following the Sabha into their review of the causes which have led up to the existing tension, Government, I am to state, are willing to note the assurance of the Sabha's belief that the actual disturbances which have taken place have originated in religious prejudices rousing one class against another, and that they have, for the most part, been confined to the lower and ignorant classes of the two communities. At the same time, the Sabha should understand that Government have been informed, not by 'low-paid and not overscrupulous officers,' but by Hindu gentlemen of high position, and not less capable of forming a fair judgment of the causes that have led to the disturbances than are the members of the Sabha, that there is no religious antipathy amongst the lower classes such as would of itself incite to outbreak; and that the normal but quiescent difference of opinion as to the merits of the respective religions has been fanned into flames here and there by the incitement of better educated, better born, and better situated but worse disposed persons. His Excellency in Council does not, with these conflicting views before him, hazard an opinion as to the class within which the originators of these disturbances are to be found; but assuming for the moment that the view of the Sabha is the more worthy of credence, I am to observe that the Sabha in repudiating the responsibility of the educated classes, has made no attempt to show that the breach once formed, the sort of writing with which a certain section of the Native press has teemed could have had, or have been intended to have, any other effect than to

widen the breach, or that the gentlemen who have been so busy in various places, preaching resistance and retaliation and coercion by boycotting and otherwise, publishing religious pamphlets and songs; using organised pressure to prevent Hindus especially of the lower classes, from taking their customary or professional part in Mohammedan celebration; getting up, at a time of much religious excitement, ostentatious Hindu Processions, accompained by every demonstration likely to irritate the rival community, which they could induce the district authorities to permit; calling meetings and counter-meetings; taking part in rejoicings over the results of trials supposed to be favourable to their own community and expressing public condemnation of proceedings having a contrary issue; promoting addresses to gentlemen convicted of disobedience to lawful authority as being martyrs in the cause of religion, and so on, could have been ignorant of the necessary effect of such proceedings in embittering the quarrel, provoking counter-demonstrations and encouraging and exasperating the bigotry and fanaticism which the Sabha so properly deprecate. I am to explain that these remarks are made in no spirit of recrimination or accusation. The gentlemen in question, to whichever side they may belong—and if the Hindu agitator has been more in evidence, it is not that the Mohammedan minority have been backward in carrying on the war in their own way—are of course entitled to their own opinions and to act according to their own judgment and conscience, at their own risk." Then they say they think that the Sabha may have somewhat exaggerated the strength and depth of the hatred. Then they say: "It appears to Government that officers who are responsible for the peace of their district are entitled to use their own judgment as to the value of the advice which may be tendered to them in times of the threatened disturbance when, as the Sabha point out, the men who make themselves most prominent are not those most worthy of confidence; and that these officers are as little likely as the Sabha could desire to reject any help they can obtain from 'Hindus whom the Mohammedans respect and Mohammedans who enjoy the confidence of Hindus.' That there are in every district

many such Hindus and Mohammedans, every district officer knows, and the Sabha will have deserved the gratitude of the community if the attention they have drawn to the subject should serve to encourage such gentlemen in particular, and the well-disposed majority in general, to use the influence which belongs to them in support of law and order, instead of yielding to their not unnatural inclination to remain passive." You will notice, Gentlemen, this; it is the Government view which is published in this Maharatta newspaper, Tilak's paper, and no attempt is made to avoid publication or to throw a false colour upon it by giving extracts.

Sir EDWARD CARSON: You must not say that.

Sir JOHN SIMON: I think I am right. This is in fact the answer of the Government, and no one is attempting to take little extracts, but they publish the whole thing and having published the whole thing the papers go on and criticise the view which the Government takes. That gives you a glimpse of the kind of thing which in the years 1894 and 1895 was appearing in these papers.

Now I want to come to the year 1897, this is the year of the Rand murder and also the year in which Mr. Tilak was prosecuted for sedition. We will still keep if you please as far as we may to a proper chronology in the year 1897. The bubonic plague broke out in Poona in January, 1897: I take that as roughly right. If I may hand up to your Lordship what I will call the pink book I would like to take from that book first an extract from the "Kesari" which is at page 132, they are some examples from the "Kesari" paper at the relevant time which the Plaintiff has added so that you may have a view not confined to the documents the Defendant relies on but a view which will include some of the articles to which he wishes to call attention. Here in Mr. Tilak's paper of the 2nd February, 1897, in the "Kesari," which is the native paper, is an article, of which I will read only a very little, addressed to the natives of Poona, written, as I have told you, in the vernacular tongue. What the paper is doing is to explain to these ignorant people what this bubonic plague is and how it has got to be dealt with. At page 133 you will see that he is giving an account of previous records of the epidemic and about

how long it is likely to last, and about the severity of the type. Then he goes on: "Now after giving some information about the few researches into this epidemic, we shall turn to the duties of every individual, family, municipality and the Government in preventing it. Before giving this information we must first state certain facts common to all epidemic diseases. In every epidemic the following facts are found: (1) It spreads contagiously. (2) It has its breeding place and a permanent residence in some part of the world and that it enters the other parts of the world at certain periods. (3) A patient is not necessary for the spread of the contagion of this epidemic from one place to another but it can spread through any articles (such as bedding, clothes, utensils, food, grain, vegetables, &c.) having had contact with the patient. (4) Its original cause is a kind of living (germ) poison. (5) This poison enters the body through respiration, food and drink and skin. (6) It being a living germ it developes (multiplies) after entering the body. (7) It does not happen every day that symptoms of disease appear as soon as the poison enters the body, for some days it incubates, and after it has developed to a certain extent it then appears as a disease. The period during which it is latent is called the incubation period. (8) Whenever an epidemic appears in any place it goes on increasing there for some time." No one who looks at the article can deny, whatever else may be said: Here is this citizen Tilak, agitator if you will, sedition monger, he is here in this newspaper quite honestly and usefully directing the readers of his paper to observe that this is a thing which really can be recognised, ought to be tackled and must be suppressed. He goes on at page 135: "Now let us briefly consider in order the causes, symptoms and the remedies of this disease. Every disease has two kinds of causes, direct and indirect." Then he goes on to discribe the causes. Then he discusses what is to be done and he explains how the disease comes to kill the patient. Before that he says: "Looking to social conditions the disease becomes virulent among those people who, on account of their poverty, do not get sufficient and substantial food, who do not get clean and sufficient

clothing to cover with, and whose houses are dingy, uncomfortable, small and dirty." And he goes on and gives a lot of information as to the sort of thing that ought to be avoided. Then there are other articles. It would appear from that time, February, 1897. Mr. Tilak is distinguished by this—that he who was a substantial and no doubt a prominent citizen so far from turning tail as so many people did both of his own community and others, stuck it out in Poona; he formed committees, opened a hospital, visited houses of these poor people, and I think you will come to the conclusion that he was quite honestly and in a very public-spirited way running risks and incurring liability for the purpose of helping to stop this disease. Then what happened is this, and this is what leads unfortunately to these articles which have been regarded as seditious. The first time that I can find any reference to Mr. Rand is in the green book at page 421. Perhaps I might be allowed, first of all, to take 417, which is on the 1st January. I see there is an editorial note. Mr. Tilak is not the editor in the sense that he probably wrote this note, still it is in the paper. He says here: "The bubonic plague in Poona. Poona has to suffer the inconveniences as well as the benefits of being the second best city in the Presidency. Being on the high road to most of the parts of the Deccan, and at a most convenient distance from Bombay, there has been a large influx of people into it from Bombay. It is also resorted to by the plague-stricken people as soon as the attack is made. The result is that the plague germs are imported into Poona, and they threaten to spread rapidly in the City. If they are not stamped out by drastic measures they would prove fatal to our City." The point of that is that Mr. Rand was murdered, the person who had been the head of the plague committee, and what I am pointing out to you is the line which is taken in Mr. Tilak's papers about the suppression of the plague: "We are glad that the municipality has been roused to the gravity of the situation, and has taken the precaution of posting medical men on the railway station to detect cases of plague and to prevent them from entering the City. A couple of additional health officers have been appointed to work after the sanitary well-being of

the City. A special officer has been appointed, with a staff under him to supervise the drains and privies. Plague-stricken houses are cleansed and whitewashed by municipal officers. Sulphur and dammar are being freely burnt in the localities likely to be affected. Of course, if the plague once takes possession of the town, even the municipality would be powerless to cope with it. And for that reason too much can never be done by way of prevention. We, therefore, trust the municipal authorities will spare no pains to check the evil before it is too late." Passing on to page 421, I find the first reference to Mr. Rand is in the "Mahratta," the English paper of the 14th February in article headed "The Bubonic Plague in Poona." It describes the municipal returns of the deaths which show there were 41 local cases and 35 deaths up to a particular date: "The returns do not give a single imported case, and it is, therefore, clear that the plague has made a permanent home in the city. The stubbornness of the malady, however, has met with a strength of desire on the part of the executive to stamp it out. In addition to the appointment of a special medical officer a special assistant collector is deputed to act as Plague Magistrate"—this would be Mr. Rand—"Mr. Rand is already known to the public on account of the Wai prosecutions. And the appointment of such an officer is perhaps a significant indication of the determination of Government to show no mercy and no hesitation in enforcing the preventive and remedial measures. The new Act of the Imperial Legislature and the regulations formed by the Bombay Government will strengthen the hands of Mr. Rand, if he at all wants anything to strengthen them. The Cantonment Magistrate has already set about in right earnest, and two house owners have been convicted and sentenced to hard labour for neglecting to whitewash their houses. The municipality has succeeded partially in getting house owners to whitewash the walls of houses. But the whitewashing seems much like a mockery. It is doubtful if the houses themselves are in any way cleansed. And they will not be properly cleansed unless the health officer goes on his round and makes a house-to-house inspection. The Commissioner has sanctioned certain special rules under

Section 73 of the Municipal Act, which authorise the municipal executive to enforce cleanliness and segregation. It is, of course, permissible for any caste to set up a special hospital for invalids." You know the caste system; I suppose it would be necessary among the people to have regard to that so that you might have people of a particular caste put in a particular hospital: "But no such hospital has yet been erected. There appears to be no chance of escape from the Segregation Rules. The only remedy now available therefore for people is to establish hospitals of their own, under the direction of such medical officers as will inspire confidence." Though I quite agree some articles that we are coming to in a moment are far more critical and it may be said of a far more violent character, I am bound to point out, that you may do justice here, that the attitude which is being taken in these papers at the time when this plague is attacking this great city is an attitude which certainly calls for no sort of reprehension, and so far from starting some violent agitation which might lead to serious consequences, Mr. Rand who is apparently a severe man is welcomed as a person who is going to do good work, who will tackle the problem thoroughly and so forth.

Sir EDWARD CARSON: Mr. Rand is welcomed, but it says: "Mr. Rand is already known to the public on account of the Wai prosecutions."

Sir JOHN SIMON: Certainly.

Mr. Justice DARLING: We are coming to the point presently, I suppose. This is only to show that Mr. Tilak began at all events writing about this thing in a restrained manner.

Sir JOHN SIMON: That is so, my Lord. As your Lordship says, we are coming to the point, and the only way to come to it is to come to it in due order, but not, of course, to delay unnecessarily on the early part. Now if your Lordship will turn to page 431 you will find we have got a month later—it is 28th February 1897. There is an article there in the "Mahratta" which is "Bombay Rules under the Plague Act," and they begin by saying they have published these rules "framed by the Bombay Government under Act III of 1897 for the

V2 W

purpose of preventing the spread of bubonic plague in the several parts of the presidency of Bombay. The rules are, of course, very stringent, and unless they are executed in a spirit of moderation, as recommended in Rule 15, they are, we must state, likely to prove an engine of oppression in the hands of the executive authorities." Then it goes on to discuss why the rules are open to some criticism. "We frankly admit the necessity of strict measures for the prevention of the spread of the bubonic plague; but it should not be lost sight of at the same time that the eradication of the plague is not a matter so completely within human power as to justify all the rigour and stringency that the over-zeal of executive officers might suggest. For instance, take the case of Poona. The plague was brought here from Bombay and it has now spread nearly over the whole of the city. Under these circumstances it is more than doubtful if segregation can do anything beyond checking to a small extent the progress of the epidemic in the town." When the town is infected whether you do good by taking people out is questionable: "Hundreds of persons are daily allowed to come into the town from Bombay by the G. I. P. R. trains and though precautions are taken to detain persons actually suffering from the plague, yet there is very good reason to suppose that the rest who are allowed to travel do bring the plague poison with them in the town." Then at the bottom of the page: "There should be a quarantine imposed at all places in the country approachable by rail, or a cordon should be drawn round the infected parts and the persons therein should be strictly prevented from moving outside. Both these remedies, however, are useful only in the beginning when the plague is confined to a small locality, but that time is now past, and we have to depend upon such other measures against the spread of the plague as may be possible under the circumstances. These may be said to be (1) preventing affected persons from entering into the town or village, (2) segregating the sick, (2) segregating the healthy, (4) destroying huts or erections in which a case of plague has occurred, (5) disinfecting or vacating insanitary buildings, (6) destroying articles that cannot be properly cleansed or disinfected, (7) prohibiting the

burial of the dead bodies in plague cases within the municipal limits, and (8) carrying on house-to-house visitation for the purposes of ascertaining the sanitary conditions of the houses." Gentlemen, it is nothing to the point, you need not trouble yourselves, certainly I shall not trouble myself, as to whether the criticisms are well founded or ill founded. The point is anybody can see these newspapers had approached this subject in a way which is not open to much criticism. They were exercising a right to criticise which I suppose everybody has within limits and it may very well be that we in fact at this time at any rate do good service in making the native population understand that these precautions had to be applied and that they had to be applied with severity. Then comes the difficulty, Mr. Rand apparently was determined to use in Poona British soldiers whereas in Bombay a different course was followed. Now we find at page 434 on the 14th March another article—of course every single copy of the paper was about it—headed "Plague operations in Poona." They give some statistics and they say: "85 deaths per day amongst sixty thousands is a terrible rate of mortality, and no one can blame Government for taking stringent measures to check the spread of plague in the city. His Excellency was kind enough to pay another visit to the town, and in his interview with the leading gentlemen of the city, he explained to them the nature of operations which Government intended to carry out in as conciliatory a way as possible, for the suppression of the plague, and urged them to co-operate with Government by undertaking to explain to the people the views and plans of Government." That is exactly what Mr. Tilak had been doing. "The substance of His Excellency's remarks will be found elsewhere. They are more or less based on the same lines on which the sympathetic letter addressed by His Excellency to the President of the Bombay Corporation is written." Then comes this passage; "His Excellency did not say that the house-to-house visitation would be carried on by British soldiers, nor are British soldiers employed for the same purpose in Bombay"—and they were not—"Someone in Poona seems to have entertained this brilliant idea of employing the British soldiers in the

plague campaign. We do not mean to say that the British soldier will behave rudely in this matter. We have as yet no reason whatsoever to complain against them; but the ignorant people in the town associate severity with the employment of British soldiers, and as one misconception breeds another, the result is a thorough panic, causing the town to be deserted as above described. We for ourselves do not much care whether British or native soldiers are employed to carry on the search, but as stated above, everyone is not intelligent enough to understand these things, and if the convenience of the majority of the people is to be taken into account we think it would have been far better if native soldiers had been employed to carry on the search. It is said, in some quarters, that the British soldiers are more reliable, but we cannot accept that view. It is true that some natives hide their sick and others do not care to send the sick to plague hospitals; but it is absurd to infer from this that all the leading native gentlemen who have volunteered themselves to co-operate with the plague-searching parties will not discharge their duties honestly. If Government have no confidence in these men it would be much better if they are asked to spare themselves the trouble of going with the search parties. Co-operation means mutual trust and confidence and if Government wants the co-operation of the leading natives it ought to trust them to the fullest extent. When a respectable native goes into a room or a house and searches every nook and corner thereof, it is nonsense, nay, an insult to the gentleman himself, to say that his report cannot be relied upon and that it requires to be checked by an ordinary British soldier." And the article, to summarise it, goes on to say that though some of the plans may be very good, and they wish to back them up in every way, they do point out this is not a wise way to do it, and it has not been done in Bombay. That is the general tone of that article. "Their houses are locked and there is no one here to whom the keys are entrusted. In such cases, we think, new locks should be used after search and proper precautions taken for the protection for the property by sealing the key hole." If you open somebody else's house, and they do not take proper

precautions, one can easily see how pilfering may arise. "This much is absolutely necessary if wanton destruction of property is to be avoided; and we are glad to learn that steps are being taken to relock the shops. As regards compartments occupied by females, instructions already given seem to be sufficient at present. Ladies are asked to withdraw before the party enters the house, and if there is any one sick amongst them, she is to be examined by a lady doctor." There again it seems to me the article is taking a not altogether unreasonable view. You will find, my Lord, that Mr. Rand is referred to in a good deal stiffer terms in the next article on the 28th March, which is at page 438, where they have passed on another month. In this article on the 28th March, headed "Plague operations in Poona," after saying the plague does not show any signs of decrease, and so on, they go on at page 439, about a quarter of the way down: "We therefore earnestly request Government and the Plague Committee to change the nature of their operations by giving more weight to the views of the leading gentlemen and enlisting their active sympathy and co-operation in the work that is now carried on for stamping out the plague. As the matter stands the whole arrangement is cumbrous, expensive, and unnecessarily annoying to the public. A fortnight's experience shows that the good resulting from the arrangement is quite disproportionate to the trouble and expense it entails and the annoyance it causes to the public. The search parties go out equipped in such a manner that one might think that they are going on an expedition to capture a native prince." Then they go on to describe other things which they think are bad management. Lower down they use this expression: "The municipality is completely set aside and neither the president nor the chairman is allowed any voice in the deliberations of the Plague Committee. The result is that we are being despotically ruled by a plague triumvirate who, however good their intentions may be, sadly lack that knowledge of our social manners and customs which would enable them to make their methods and work acceptable, or at any rate least objectionable to the people." They give some further examples of that: "For instance, the sol-

diers know little beyond the simple rule that they have to destroy property in an infected house"—British soldiers cannot be expected to know these things. "There were some cases where they burnt not only the building of the patient, but all glass, china, furniture, metal pots and even stone vessels and account books in the room of the patient. This was reported to Mr. Rand, and he was pleased to publish an order directing that nothing but the bedding of the patient was to be destroyed except when otherwise ordered by the medical officer." I submit that was not altogether an unreasonable tone to take. The next one which I must turn to the pink book for is on the 4th April, and this is going very near to the point which one has to consider under this head. It is important to notice that the native gentlemen in Poona are taking the view right or wrong that really the Authorities did not quite understand the difficulties of the case. The native gentlemen went on a deputation to Mr. Rand, and the importance of it here is that Mr. Tilak is one of the gentlemen who go. At the bottom of page 230 is an extract from the "Mahratta": "At 4-30 p. m. on Friday last a deputation consisting of Rao Saheb V. N. Pathak, Dr. Garde, Mr. B. V. Vaidya, Rao Bahadur B. P. Joshi and Mr. B. G. Tilak waited by appointment on Mr. Rand the Chairman of Plague Committee to represent to him the grievances of the people and suggest ways to remove them. Their suggestions were briefly embodied in the following letter which they handed over to Mr. Rand. They wrote a letter in which they say: We send you the following suggestions: "Several of us have gone with the house-to-house searching parties and have also other opportunities of knowing how and where the present operations work harshly on the people. If these hardships are removed we feel sure that the operations of the Committee would be carried on more smoothly and successfully than at present." Then they say: "The object of the present arrangement is threefold: (1) To find out persons suffering from plague and send them to a hospital: (2) To segregate the persons who may have come in close contact with him; and (3) to thoroughly disinfect the room or house where a case has occurred, and to destroy things that cannot be disinfected." The

deputation said: "The house-to-house search is undertaken for the first purpose. The work is done by British soldiers who search every day one of the blocks into which the city is divided. Native gentlemen are requested to accompany them, but as these gentlemen have neither power to check excesses nor any recognised status in the searching parties many of them feel that their presence is not of much practical use." "There have been again complaints regarding the disappearance of cash or other property in the house opened in the owner's absence and small boxes have been broken open in some cases. Cases have also occurred where soldiers have gone into Hindu temples or places of worship in spite of the remonstrances of the Hindu gentlemen accompanying the party. It also happens sometimes that persons not suffering from plague are unnecessarily taken to the plague hospital"—I should think if you were not suffering from the plague such a thing would be calculated to annoy you a little. Then they say: "We think that all these irregularities and annoyances may be put a stop to by"—and then the native gentlemen make some suggestions and they say: "(*a*) Forming Volunteer's Committees for each lane or block and authorising them to report any excesses committed during the search of blocks assigned to them; (b) Publishing the rules according to which house-to-house search is carried on; (c) Providing that in cases where the owners are absent from Poona the house may properly be locked up and sealed by the Committee, so as to render its second search unnecessary; (d) Ordering all the Hindu public places of worship in a block will only be searched by Hindu gentlemen accompanying the search parties and Mohammedan places by Mohammedans"—that is to say, respect people's religious feelings. "(e) Directing that where the owner of a house is ready to take the search party over the whole house several parties should not simultaneously enter the same house to the confusion of the owner"—apparently one party enters the front door and another party enters the back door and the owner is disturbed and confused. They go on to make a very large number of suggestions on the next page, which I will not trouble you with; then at page 233: "These suggestions are made in a spirit of

co-operation. You may have noticed that there is no opposition to house-to-house search from the people. They only wish that it should be carried on as His Excellency was pleased to observe, with the least annoyance to them or interference with their customs; and we believe that if the above suggestions are adopted the object can be attained not only without impairing the efficacy of the present operations but actually increasing it by securing the willing co-operation and support of the people." Then the newspaper says: "Mr. Rand discussed the suggestions seriatim with the members of the deputation and promised that the Committee would do everything in their power to meet the wishes of the people. The practicability of starting a kitchen in the segregation camp was discussed." "Before leaving the deputation thanked Mr. Rand for the courtesy and readiness with which he received their suggestions." Surely nothing so far as that goes could be more admirable. Immediately afterwards—two days afterwards, as a matter of fact—the same Sarvajanik Sabha, the popular association, was deprived of its right to make any further representations to Government at all. I am not saying that there may be two views as to the wisdom of that, but you may see for yourselves how that is calculated to raise the tone and the heat of criticism from the side of those who shared Mr. Tilak's views, and the result is that you find in one of these papers of Mr. Tilak's—I think at page 45—an observation which I must just refer to.

Sir EDWARD CARSON: Would not it be well to read the resolution?

Sir JOHN SIMON: The resolution is at page 438 of the green book: "The Collector of Dharwar reported that there were published in various places in that district notices bearing the name of Anantrao Joshi Eksambekar, who declared himself an agent of the Poona Sarvajanik Sabha. These notices contain a definite statement that orders have been issued to all the Commissioners in the Bombay Presidency to grant remissions of land revenue in places where the outturn of crops is six annas, and to postpone its realisation till next year where the crop is 12 annas. That statement is false

and could not be believed by any intelligent person acquainted with Bombay Revenue System to have reasonable foundation. It was calculated to incite uneducated landholders to withhold payment of revenue due by them to the State and it is reported to have resulted in combinations against such payment even in parts of the district in which there is no distress. The Chairman and Honorary Secretaries of the Poona Sarvajanik Sabha were asked whether Anantrao Joshi Eksambekar is agent of the Sabha and whether it admits responsibility for statements made by him in its name and accepts liability for the statements made in these notices. After the lapse of five weeks they have replied that Anantrao Eksambeker was deputed by the Committee of the Sabha to collect information, and that the Committee as at present advised see nothing in either of the notices sent to them, that materially transgresses the general instructions given by them to the said Mr. Eksambeker. A statement which must be known to be false is not repudiated, and there is offered an explanation of the fact of its being made which is manifestly inadequate, while the latter furnishes no indication of any desire to discountenance action which tends to cause unnecessary trouble to the administration, to induce landowners to bring on themselves coercive processes and to be injurious to the public interests. The Poona Sarvajanik Sabha as at present constituted must, therefore, cease to be recognised as a body which has any claim to address Government on questions of public policy." We are saying one of our agents has made statements to the people which we do not find justified. We have asked you what you have to say about it. Your answer is not satisfactory, so we strike you out of your position. Neither you nor I, Gentlemen, can possibly in this case try the merits of this dispute. I can well understand that the Government may have a great deal to say for themselves from this point of view; if I follow it rightly. It is hotly contended on the other hand that as a matter of fact this was announcing to the poor people a concession which the Government had made. Many poor people did not know their rights, their rights being that in certain circumstances they were not to be expected to pay revenue to the Government

because for the time being their position had been rendered so desperate by prevailing conditions. I cannot go into it, because it is one of the many side issues, but as a matter of fact this Association ceased to have contact with the Government and the result undoubtedly was unfortunate. I was just going to say commenting on that at page 452 you get an article which is headed "Mogul Rule is far better." One has to try and get the thing in order and lose as little time as one can. "The Mogul rule is far better" of course is a rhetorical way of saying the Government is treating us very unfairly. We in those old days lived under the rule of the Moguls, and although we did not like that, really it comes to this, one would sooner live under the rule of the Moguls than under the rule we have.

Mr. Justice DARLING: Who introduced the Mogul rule into India?

Sir JOHN SIMON: I heard someone saying it is a Gentleman named the Emperor Babar.

Mr. Justice DARLING: It was a very severe rule.

Sir JOHN SIMON: There is no doubt about that.

Sir EDWARD CARSON: It is always referred to as the rule of tyranny and oppression.

Mr. Justice DARLING: It lasted a long time. When we come to this: "The Mogul Rule is far better," I ask the question, because I think the Jury ought to know with what the parallel is being made.

Sir JOHN SIMON: It is a letter written to the paper, Gentlemen; I am not saying within limits a newspaper cannot have some responsibility for the letters it prints, but it is right to note it is a letter. If only in the interests of saving time, I am going to content myself with reading two instances; I have picked them out because they are the most significant: "The real state of things is that His Excellency the Governor Sahib authoritatively gives utterance to one sort of views and the subordinate officials execute them in quite another way, but this great difference between the law and the execution of the law in this English Raj is not of to-day's or yesterday's date."

Sir EDWARD CARSON: Would my friend read the sentence before?

Sir JOHN SIMON: Yes, certainly I will. I think I had better begin here. "My Sastang Namaskar"—whatever that may mean—"I think it is prostrating oneself at his feet."

Mr. Justice DARLING: When you wind up by saying: "Your obedient Servant" it comes to the same thing.

Sir JOHN SIMON: Very much, my Lord. "When at the very beginning the people are dying like ants by plague, they are getting dejected being absorbed in the thought as to what may happen to them in future, on whom, and what calamity might next befall them and (thanking themselves) that the day that has passed they could call their own. At such a time the Government which has undertaken the task of taking care of us in every way—nay—it has by putting forward this excuse (i. e. of taking every care) taken away from us the whole of whatever we had by justice or in justice and has completely pauperised us, the said merciful British Government should now come forward to free us from our troubles. The utterances of His Excellency the Governor Sahib and the Government resolutions passed in connection with this (matter) are sweet simply to hear and read, but are they of any substantial use to the subjects? The real state of things is that His Excellency the Governor Sahib authoritatively gives utterance to one sort of views and the subordinate officials execute them in quite another way, but this great difference between the law and the execution of the law in this English Raj is not of today's or yesterday's date." Unless somebody has good ground for it, I ask to be excused for reading the pages which follow because I shall do, I think what is quite fair to the Defence, if I read the last sentence of this which is about 10 lines from the top of page 454, where he says this. He is getting a little rhetorical here: "If the Government officials cannot imagine to themselves as to how it is not possible for us easily to go to the Government plague hospitals—the hospitals where there is no convenience of any sort, nay, when they are erected on dreary patches of ground—where you cannot even get a drop of water to moisten your eyes within a mile's distance where the Government does

not even so much care as to keep a tank filled with water in the vicinity thereof at the hands of a Bhisti"—the sting is in the tail.

Sir EDWARD CARSON: I do not agree with you. It begins in the middle.

Sir JOHN SIMON: I do not think so. "What can we say if not this (viz.) that they become intoxicated with the intoxication of wealth or power and that we subjects have to reap the fruits of that intoxication? (i. e. surpassing) the Mogul Rule, whose fault would be in that?" Then it is signed "Anant." Now, Gentlemen, that no doubt is a very hot letter in which the writer is saying: "Really, the way in which we are being treated is perfectly outrageous," and he makes this comparison which you have here. Now, Gentlemen, I want to carry the thing on in order from that. On page 455, which is the next page of the book, in the notes you see this sentence: "In Bombay, correspondence between the Plague Committee and the people is carried on through solicitors. In short, whereas the Bombay Plague Committee have faith in native gentlemen the Poona Committee has to get the whole work done through soldiers. It is here that the shoe pinches. The soldiers (as you would expect them) are in most cases strong but clumsy fellows. They are of real use at the time of the war. For the purpose of the house inspection work they are quite unfit people." Then it goes on to discuss that.

Sir EDWARD CARSON: I think you ought to finish that sentence.

Sir JOHN SIMON: I am anxious to get on.

Mr. Justice DARLING: He says. "The soldiers (as you would expect them) are in most cases strong but clumsy fellows. They are of real use at the time of war. For the purpose of house inspection work they are quite unfit people."

Sir JOHN SIMON: I have read that, my Lord, but my friend wants me to read some more.

Sir EDWARD CARSON: I do not mind as long as the Jury and your Lordship understand that the rest of the passage puts an entirely different complexion on it.

Sir JOHN SIMON: My friend knows that within

reason I will follow any suggestion that he makes that will help the case along. I am trying to give it fairly and I am trying to do it from the Plaintiff's point of view. I am trying to give what I believe to be fair extracts in order that the Jury may see the sort of grumble that is going on. I will read this sentence, and you, Gentlemen, will see whether it assists: "For the purpose of the house inspection work, they are quite unfit people. What to speak more; they do not even hesitate to commit a theft on entering a house. Picking up whatever comes into one's hands, giving unnecessary trouble to the inmates of the house and sending away to hospitals patients—whatever may be their disease, immediately burning away all the clothing and apparel of the patients —these acts are not parts of the real inspection work. We fail to understand why, properly speaking, are soldiers required for the inspection work. It appears to have escaped the notice of His Excellency the Governor Sahib that besides (what is stated above) the amount of expenditure will be considerably swelled on account of these white soldiers. On account of the white soldiers the daily expenditure of one thousand rupees is incurred and again, even after all this expenditure, they are able at the most to find out ten to fifteen patients a day. The same work could be better carried out by Indians at one-fourth of the (present) cost. Only the thing is that you should place your confidence in the black people but it is quite obvious that the Poona Plague Committee is lacking in that very quality. If people had been really unwilling to take their patients to the hospitals such a large number of patients would not have, of their own accord, gone to the Hindu Plague Hospital by paying fees. From this, one thing which is worth noting is that if the arrangements at the Government Plague Hospital and the Segregation Camps had been all right, the people would not have hesitated to go to the hospital." If you think that that puts a different complexion upon it, be it so. I really think that the extracts I have offered are a fair view of what our case is.

Mr. Justice DARLING: It concludes in this way at the top of page 456: "We do not know how long the Poona people will have to pass their days under these circum-

stances. If the plague subsides earlier it would be better: otherwise our town will suffer more by the harassment of soldiers than by the plague itself; and if the whole of the cost thereof be fastened on the municipality also would be reduced to a very bad condition for ten or twelve years." That seems to sum it up.

Sir JOHN SIMON: Yes, my Lord, I think so. Then, my Lord, may I take a similar course with regard to page 457 and presume that the last sentence sums it up. There are two or three complaints as to the way the soldiers behaved and then it ends up: "We appeal to Government with confidence because we are fully aware of His Excellency's sympathy for poor people who it is that are now being greatly harassed by the present arrangements." It is quite obvious the line he is taking. Then the next thing is on page 463. These representations do not have any effect, and on page 463 there is a passage which I should like to read from the paper of the 20th April, 1897. The article begins on page 461. First of all I will take page 462. About 8 lines down that page, he says: "The reason for all this mismanagement and oppression is in our opinion only this, that the President of the Plague Committee here is not so liberal minded as that of the Plague Committee at Bombay." Then he contrasts the way that they are doing it in those two big towns. Then on the opposite page there is reference to Mr. Rand, and that is important: "Mr. Rand goes out on his rounds in the morning. But certainly very few instances could be found of his having made inquiries on the spot regarding the oppression practised on the people and of his having granted relief to them. And if he cannot do this work, then it will be well if His Excellency the Governor, at least transfers him and appoints some more popular officer in his place. At such time it is no use merely issuing good orders; but it is also the duty of Government to see whether they are properly carried out or not. And we are obliged to say that Lord Sandhurst has not done this up to now." Then: "We have already stated on a former occasion how to put a stop to the complaints of the people, and to do at a lesser cost without any cause for complaints, the very work, which the Committee is doing. However, we

once more repeat here the same suggestions and request the Government to make arrangements accordingly soon." Then the next suggestion is: "The work of inspection of houses should not be entrusted to soldiers, but a party of soldiers or mounted native gaurds should be stationed at each corner, and the work of house inspection should be got done at the hands of native gentlemen or officers." Then on the next page 464 there is an article which is called: "Appeal to Lord Sandhurst," which contains strong allusions to Mr. Rand and makes this observation at the bottom of the page. "The appointment of Mr. Rand as the chairman of the Poona Plague Committee is an unfortunate choice. He thinks that he has to stamp out the plague and if that object is achieved by any means he cares little how much he offends the susceptibilities of the people or what hardships and miseries are inflicted upon the people by his indiscriminate operations. His supreme contempt for the suggestions made to him in a spirit of co-operation, his laconic and curt replies to any queries put to him, his indifferent and very often sullen bearing, and, above all, extreme distrust in the work of native agency and native gentlemen, have all made him more than a tyrant at a time when people are suffering from the double scourge of plague and famine. Mr. Rand never believes that his soldiers can do a wrong. He has more confidence in the roughest of them than in a native gentleman of means and position. He gives his instructions to the soldiers, but is unwilling to curb their overzeal by making an example of any of them where he is found to be deliberately violating the rules laid down for his guidance." Then he goes on discussing that, and about half the way down the page, you will see this: "We admit that attempts are made now and then to evade the rules by concealing the dead or leaving vacant a house where a case of plague has occurred. But that is no reason why military officers should vindictively overdo their part to the great distress and suffering of the lower classes. So long as people conceal their dead, house-to-house search is a necessity; but it must be remembered that the plague operations now carried on are against the custom and genius of the people and that is

extremely unwise and tyrannical to increase the rigour of operations on the strength of generalisations based upon a few instances of evasion of the rules." Then it goes on: "Mr. Rand seems to be either incapable or unwilling to realise the force of this argument and the whole of the machinery under him works in the same spirit of utter disregard of the popular feeling on the subject. In short they do not know how to adopt their means to the feelings of the people without sacrificing the main object in view and the result is a reign of terror unprecedented in the history of Poona."

Mr. Justice DARLING: But there is a passage just above that which says: "Mr. Rand never believes that his soldiers can do a wrong." Then a little lower down he says: "Plague is now much better."

Sir JOHN SIMON: Yes, my Lord. "Plague is now much better and there are decided signs of its abating within a short time. But the number of persons segregated every day remains the same. And why? Because the head of this segregating party thinks that it is his duty to send at least three or four scores of people to the segregation camp every day whatever the number of plague cases in the city may be. He must have his victims, and like the rakshasas of old"—that is some reference to Hindu mythology.

Mr. Justice DARLING: It is translated in the margin "demons."

Sir JOHN SIMON: Yes, my Lord. "And like the rakshasas of old, he will carry them to the segregation camp in spite of their protests and wails. We admit that attempts are now and then made to evade the rules by concealing the dead or leaving vacant a house where a case of plague has occurred. But that is no reason why military officers should vindictively overdo their part to the great distress and suffering of the lower classes." Now, Gentlemen, that gives you an idea of that article, and you appreciate, I think, how we have reached that point,

Now, my Lord, there follows on page 466 a letter which is headed: "The Reign of Terror in Poona," which is a long letter, and they not only write very long letters to the paper, but the papers publish them.

Sir EDWARD CARSON: But is this a letter?

Sir JOHN SIMON: I think so. I have not been instructed that it is not. As far as one can see it is a letter. I have heard not only of letters but even of advertisements being put in the agony column, which, as a matter of fact, were made in the editorial office.

Mr. Justice DARLING: How is this one signed?

Sir JOHN SIMON: "X"

Sir EDWARD CARSON: I have seen that signature even in this country.

Sir JOHN SIMON: Yes, quite. Here it is "X." Anyhow, here it is: "The Reign of Terror in Poona." On page 467 the writer complains that: "Plague operations have not been carried on on military lines in Bombay, and it is a matter of extreme surprise that the same operations should be carried on in Poona at the point of the bayonet." Then there is a paragraph headed: "Hardships of the People. People at this time would not mind much by what agency the work is carried on provided they have not to suffer unnecessary hardships. In the present arrangement, however, it is much to be regretted that despite the most benevolent intentions of Government, people have had to complain both against the men employed as well as the measures adopted. The soldiers by their actions have struck terror and dismay into the hearts of people. The terror and consternation of native women can best be conceived by natives alone. In fact, the reign of soldiers is a reign of terror and torture. Every bit of the poor man's furniture is torn and tossed asunder; valuable documents and securities are destroyed; money boxes are broken open; the images of sacred gods are polluted; kitchens and other places of privacy are freely entered into; the women are made mouths at, and those who are present or otherwise incapable of moving out are mercilessly dragged to the Segregation Camp; the most indiscreet attempts are made to swell the number of invalids at the cost of healthy persons; inspection visits have been frequent; each visit causing greatest annoyance to the house owners and greatest insecurity to property; the disinfecting operations are carried out in the most wanton manner; property is made away with almost with impunity; live animals

are thrown into fire; thus manifesting the brutal ignorance of the soldiers and their utter unfitness to hold their powers; and lastly people are unnecessarily stripped naked, abused and insulted!!! This is a short catalogue of the hardships people are suffering from. The task of enumerating them all would be a subject for a separate treatise, if anyone would care to do it after the people are restored to themselves." Then in the middle of page 468 there is a paragraph headed: "A Bad Selection." I think the passage refers to Mr. Rand. "The requests of the deputation that lately waited upon Mr. Rand, if kindly considered, would alleviate much distress. There is, however, no attempt hitherto apparent on the part of the Committee to approach the requests in a friendly way. This cynicism betrays a complete distrust for everything native. Had the plague operations been presided over by a more sympathetic and practical man than Mr. Rand, people would have by this time been relieved of much unnecessary trouble as their co-sufferers in Bombay."

Mr. Justice DARLING: Are these some of the things which were said to be seditious?

Sir JOHN SIMON: One or two of them were actually referred to in the sedition trial, but I will tell your Lordship when I come to it what the article is upon which Mr. Tilak was prosecuted.

Mr. Justice DARLING: I see at the bottom of page 467 it says: "the most indiscreet attempts are made to swell the number of invalids at the cost of healthy persons; inspection visits have been frequent; each visit causing greatest annoyance to the house-owners and great insecurity to property; the disinfecting operations are carried on in the most wanton manner; property is made away with almost with impunity; live animals are thrown into fire; thus manifesting the brutal ignorance of the soldiers and their utter unfitness to hold their powers; and lastly people are unnecessarily stripped naked, abused and insulted! This is a short catalogue of the hardships people are suffering from. The task of enumerating them all would be a subject for a separate treatise, if anyone would care to do it after the people are restored to themselves."

Sir JOHN SIMON: Yes, my Lord.

Sir EDWARD CARSON: Would you read the the last paragraph on page 468?

Sir JOHN SIMON: Yes, it is headed: "A Suggestion out of a Comparision." What it means is "I am going to call attention to an analogy and give you a suggestion." "It need scarcely be stated that this nation of ours has ever been subject to the waves of fanaticism and oppression from prehistoric times. It is said that in times of old when the earth was oppressed by Asuras or the demons, she flew for protection to Lord Shrikrishna reclining on the back of a Hydra in the milky ocean. She narrated her grievance in detail and prayed for relief. The Lord lifted up his eye and assumed some *avatur* and put down the demons. The Poona-earth is similarly oppressed. The prehistoric demons were painted as having black complexions and huge bodies. The present soldier-demons differ only in having white complexions while resembling their rivals in all other respects. In this crisis Lord Sandhurst is our Lord Shrikrishna, to whom the Poona-earth can go for succour. No doubt our present Lord on finding that the earth was plague-stricken, lifted up his eye and on his own motion deputed his angels for relief. But under the angelic influences he was gone to sleep unaware rather too soon. Ye citizens of Poona who represent the Poona-earth, will ye wait upon his Lordship reclining under the cooling bowers of a hilly station and pray for early redress." I understand Lord Sandhurst like a good administrator is not exposing himself to conditions where he could not do the work, and this is a very flowery letter which is saying: "We know how these things were done in days of old but let us appeal to Lord Sandhurst." There is a good deal of material of that sort which follows in another letter which is signed by "Vox populi," but I think I shall satisfy my friend if I call attention at once to a passage on page 472. The editor is commenting on the situation, and neither you nor I nor anybody in Court can determine who is wrong. Things are getting very hot. He says in the middle of page 473: "What should people do under these circumtances? This is, indeed, a great question. If according to the old proverb (current) among us, the fence

itself has begun to eat up the field, then there is no remedy for it, but the present affair is not quite of that sort. In the first place, there was no necessity for the Goverment to have brought soldiers for the inspection of our houses; but because power was given to them to inspect houses, one should not think that (along with it) the liberty to commit thefts was also given to them, and if we cannot prevent them from committing thefts, it must certainly be said that we are not men. Some entertain a fear that the soldiers will beat them unnecessarily, but in our opinion that (fear) also is meaningless. Assuming, however, that there is some ground for that, that does not mean that we should allow the soldiers to play any pranks they like, before our very eyes. If we offer resistance to the soldier while he is acting according to the rules laid down on him we shall be guilty, but there is no offence whatever in preventing a person from committing theft." Then they give an instance: "It is learnt that some days back some ten or five soldiers went into Raste's Peth at night, and created some disturbance for which they received a good thrashing and that one of them died in the hospital, but just as no one could be held responsible for it, so it will happen in other matters also. Only we should act in accordance with law, and it is not that it is very difficult so to act; and we are sure that if the people remain mindful of their respective rights, there will be no excesses which are (now) committed, no matter how rigorous the measures adopted by Government may be, but owing to the better (class of) people having left the town"—most of the people who could afford it had run away—"and owing to the poor people that have remained in the town not being possessed of sufficient courage, no resistance can be offered by us to this zulum, which is a matter of great regret. In these circumstances it is no use writing tauntingly with reference to the Melawalas of the Ganpati (festival). If the people who every year attend the Congress and deliver long speeches there, hastily leave the town and go outside, then there is no wonder if poor people showed cowardice such as they did. The only consolation among the troubles is that signs have begun to appear of this epidemic abating at an early date, and hence there is

hope of this zulum also disappearing." What is the good of coming and making speeches instead of standing and fighting the plague. "The only consolation among the troubles is that signs have begun to appear of this epidemic abating at an early date, and hence there is hope of this zulum also disappearing, along with the epidemic itself within a short time. The figure of daily mortality during the last week has come down to 10 from 15, and the number of daily new cases is decreasing. If this very state of things continues for a few days, we expect to be free this scourge before the advent of the monsoon." This is written in April. Then I must read the next passage, because it contains a reference to Mr. Rand: "Such has become the condition of Poona at present, but that does not reduce the blame attaching to the Plague Committee or the Government. Two deputations waited upon the Plague Committee and made a good many suggestions to it, but our Mr. Rand is so stubborn that he patiently heard them and continued his course of conduct as before. No matter how rigorous the measures may be it is not necessary that their enforcement should be rigorous too. Even a convict imprisoned in jail can be treated with kindness; it may, however, be safely said that the chairman of the plague Committee has not in him a particle of it, nay, we are even in doubt as to whether that gentleman has the ability to understand how great tasks are to be carried out in a manner pleasing to the people. There will scarcely be found any other officer so unfitted as Mr. Rand to mix among and behave in harmony with people, to hear their complaints and to remove such of them as may be just, to explain to them the objects of Government, etc., and a suspicion also arises whether he has been selected solely to give trouble in Poona." Then: "If instead of hundreds of thousands of rupees being spent on account of soldiers, a little more expense had been incurred for better arrangement being maintained in regard to the hospitals and segregation camps, it would not have mattered, but how could this idea occur to those who are determined not to pay any heed at all to the conveniences of the people? We should have sought relief by making repeated complaints and representations to His

Excellency the Governor, but the state of mind of His Excellency being as stated above, and the period of the existence of the Plague Committee remaining to expire being also very short, there is no remedy left in that quarter also. To courts we cannot go. If we think of catching a soldier when he is committing theft then the difficulty is that we have no strength in our body. If we propose to submit a petition to higher authorities, we have met with this difficulty, namely that there is an Order from Her Majesty the Queen herself directing the enforcement of rigorous measures. Thus the present condition of the people of this place is as if they were besieged on all sides, and if Lord Sandhurst will not give any consideration to the same, then we regret very much to have to say that he will cause a slur to be cast upon his administration and will leave his name stained as in the case of Lord Harris. It is never possible for the present Moglai or Randshahi to continue for any length of time and we do not think that the people no matter how meek, will put up this harassment continuously. We therefore request Lord Sandhurst that His Lordship will not try their patience to the utmost so as to make them feel that they had better free themselves from this harassment no matter if they died of plague. If His Excellency makes a little inquiry as to why His Excellency's direction that rigorous measures be adopted, but that they be carried out in a conciliatory manner, is not being given effect to, then all this clamour will at once disappear and besides His Excellency the Governor will secure the credit of putting a stop to the persecution to which the people are being unnecessarily subjected and the work of stamping out the plague will also be duly carried through."

Mr. Justice DARLING: Will you tell me this: When was Mr. Rand assassinated?

Sir JOHN SIMON: On the 22nd June, my Lord.

Mr. Justice DARLING: And that was published on the 27th April?

Sir JOHN SIMON: Yes, my Lord.

Mr. Justice DARLING: It says: "It is never possible for the Moglai" that is the administration of Mr. Rand—" or Randshahi to continue for any length of time

and we do not think that the people, no matter how meek, will put up this harassment continuously." That is the 27th April?

Sir JOHN SIMON: Yes, my Lord.

Mr. Justice DARLING: And two months afterwards he was murdered?

Sir JOHN SIMON: Yes, my Lord. I am going to call attention to the intermediate matter, but I think your Lordship will see I am putting this to the Jury without fear or favour, and the question that will have to be decided is whether this particular libel which treats Mr. Tilak as responsible for the murder is really under the circumstances justified. Mr. Spence points out to me that it is as well I should make the comment now just after what your Lordship has said in order that the Gentlemen of the Jury will follow what I have read earlier in the article that emphasis is laid on the fact that the plague is dying down, and the passage: "it is never possible for the Moglai or Randshahi to continue for any length of time" follows the passage in which there is a severe criticism of Mr. Rand.

Mr. Justice DARLING: That letter apparently was published in the native language?

Sir JOHN SIMON: Yes, my Lord.

Mr. Justice DARLING: Because it is said to be a true translation.

Sir JOHN SIMON: Yes, my Lord, that is so. The passage I meant was ten lines before that which your Lordship has mentioned and is at the bottom of the previous page where the writer says: "The state of mind of his Excellency being as stated above and the period of, the existence of the Plague Committee remaining to expire being also very short, there is no remedy left in that quarter." They say the Plague is dying away and the thing will soon be over. Then it follows that up with this observaion: "It is never possible for the Moglai or Randshahi to continue for any length of time, and we do not think that the people, no matter how meek, will put up this harassment continuously." The next document in the book was one of the documents before the Court when Mr. Tilak was prose-

cuted for sedition. Gentlemen of the Jury, I know your task is a very difficult one, and however clearly I speak and try to explain it, you cannot conceive how difficult I myself feel it to be to convey to you what they are. This is a very curious article called "Shri Ramjayanti and Shivjayanti"—it means the festival of Shivaji. Shivaji was an old character who lived about the time of Cromwell. In this there is a letter signed "Ganesh," which appeared in the paper on the 4th May. It is a long letter really about the life of Shivaji. One must try and put oneself in the position of a very different community with very different traditions. This is a sort of letter. It begins: "We have many birthday celebrations and jatras." Jatra is a periodical festival in honour of an idol. I think I can safely leave out page 476, which is dealing with what is called "A thoughtful perusal of the life of Shivaji Maharaja." Then it sets out what the story of Shivaji was. I think I must read this on page 476 about four lines from the beginning of the second paragraph. The writer says: "To the best of my limited understanding the following is the story of that epic"—it reads rather like the Arabian Nights—"During the rule of King Ravan many Brahmans were harassed, gods were persecuted and sacrifices, &c. were no longer performed. Ravana was, of course, doing what he wanted to do. The Brahmans did not pray to him or to human beings or to any other thousand-mouthed Ravana for deliverance from his oppression, because they were fiends after all. On one occasion all the kine and the Brahmans with fervid devotion and confidence appealed for protection to the Almighty God Himself. How could the merciful God remain patient any longer? He at once gave an assurance to the kine and the Brahmans! Lo! What a wonderful thing then took place! The All-pervading God assumed the human form and played many a pastime to serve as examples to human beings. • To rescue the kine and the Brahmans from oppression he, not minding his affection for his father and to the great grief of his mother suffered the woes of exile in the forest for 14 years. He hardened his frame by living on bulbs and roots. During his

residence in the forest he formed a friendship with the monkeys, and especially with Marutiraya"—he is king of the monkeys, Mr. Spence tells me—" and aided by the monkeys of the forest, God in the form of man, killed the most powerful Ravana, who though living in a small island, had thrown into prison even the gods of the 33 orders, and whose favourite repast was human beings; and thus released all the gods from imprisonment. The bell which rang in heaven at the time of Rama's victory did so only because he had destroyed the powerful demon-warrior by fighting with him. Similar in character was the fight between the inexperienced and slenderly equipped Shri Shivaji Maharaja and the mighty Afzulkhan. God gets such great deeds performed at the hands of human beings themselves and therefore agreeably to the adage 'If a man exerts himself he will rise from the condition of man to the position of God' man ought to do his duty. We are now reaping the fruits of our dereliction of duty in the past and in the present. Does not the above show that Shri Shivaji turned to good account his hearing of the Ramayana? Nowadays we hear the purans or read stories from books, but the only thing we fail to do is to form a firm resolution in our minds after due consideration and to conduct ourselves in a proper manner. The only thing we take pride in and which form the subject-matter of our thought are the writings of one, the nice replies given by another and the speeches of a third. So will our young men instead of doing this, imitate during their lifetime, most of the things recorded in the life of Shivaji and the Ramayana? Otherwise it will be just the same whether the festival is or is not celebrated for hundreds of years more." It is very much as though they said "Celebrate the Christmas festival again. What is the good unless we draw true inspiration from them." Then he goes on in the middle of page 477: "Let that pass." "Let that pass. It is, therefore (my) wish that all Hindus shall, at the time of Shivajayanti, think over and cogitate upon the doings, the courage, the firm resolve, and the ingenuity of Shivaji, and instead of supplicating the Authorities for protection, lay all (their) complaints before God and lovingly implore Him and perseveringly ask

Him again to create among us a Shivaji similar to this. Will (the remembrance of) all the following things (viz.) the present famine, the arrangements made regarding it, the deaths brought on by the (a) 'Politicality' of Government (a), the epidemic of fever, the oppressive measures (resorted to) for its abatement and the effects produced by them, be kept alive by meditating (upon them)? Otherwise, the people (think themselves) free the moment the Queen utters the formula of (these) four words (viz.), 'starve not in famine.' But the number of those dying by the famine is going on increasing. (We) become pleased when the people having already undergone miseries and the gods suffered troubles and Garud (a) ((b) who is one for all Hindus) (b) having been destroyed, in consequence of the Zulum practised on account of the epidemic of fever, a Governor afterwards expresses his 'regret' for those occurrences? Hollow words did not please Shivaji. Let not, therefore, such a thing happen. Let this be known. The date 2nd May, 1897. Your obedient servant, Ganesh." That contribution is one that ought to be introduced as one goes through it.

Mr. Justice DARLING: Is that one upon which he is indicted?

Sir JOHN SIMON: Not the one on which he was actually indicted, my Lord, but one which was certainly exhibited and used at the trial. It was part of the Crown's evidence, and was read for that purpose. Then, my Lord, the next one is on page 495.

Sir EDWARD CARSON: Will you read page 478?

Sir JOHN SIMON: Before I come to that my friend points out that I should read page 478, which is the 4th May, 1897. This again was one of the documents used in the sedition trial. I must read at the beginning: "There is no doubt that many people will have lost their courage revived on hearing that several of the soldiers, who have come here for the purpose of inspecting the houses, are to go back after eight days more. Everybody already knows now of the excesses committed by the soldiers during the Rand regime; and at last even the truth of what we had written is becoming manifest, not only here but even in other places to people like

Anant. It is true that Her Majesty the Queen, the Secretary of State and his Council should not have issued an an order for needlessly practising zulum upon the people of India, without any special advantage to be gained and that the Bombay Government should not have entrusted the execution of this order to a suspicious, sullen and tyrannical officer like Rand and for this one cannot sufficiently blame the Home Government as well as Lord Sandhurst. But in our opinion it is the duty of our leaders to find out some contrivance for the protection of our people when it has once been settled that Government is to practise zulum (and) when we are convinced that no one up to the supreme authority will and does afford any redress for this zulum, as this order has been issued directly by the Home Government itself." Then at the top of the next page there is a very serious complaint made about the soldiers. "The soldiers committed whatever excesses they could (they) defiled (our) temples, burnt down (our) slabs and mullers and pots, and wherever they found an opportunity to do so they even put into (their) pockets things, great and small; but we were not only unable to seize even one of them by the hand but even failed to take such other measures in concert as were necessary. We have already indicated before what these measures are. As the (mere) reviling at rain when it begins to fall with violence would be unavailing for (our) protection, but umbrellas must at once be taken to keep it off, even so we must regulate our conduct at the present time." A homely analogy which even a poor Westerner can understand. Then he goes on at great length in this sort of way. Then, my Lord, I will pass to page 495. I think I may select the best specimens, if that is convenient.

Sir EDWARD CARSON: At page 481 there is another passage.

Sir JOHN SIMON: I will read anything you like. My friend thinks that page 481 is one I might stop to read, my Lord. It is in the middle of the page: "Mr. Rand is perhaps too callous and heartless to realise that a night suprise by the dreaded soldiers strikes fearful panic in the already panic-stricken people"—if this had happened I should think he might be. "Mr. Rand really may be complimented upon successfully carrying out his

stern policy without even showing that he is susceptible either to mercy or kindness. His actions, however, along with those of the Bombay Government, receive strong condemnation from facts and medical opinion; and Mr. Rand had better mend his ways, since it has been patent that the abatement of the plague is not all due to his measures, and therefore his cruelty may be spared at least in the future." I want you to follow how he goes on. The writer is saying: "As a matter of fact medical opinion is against what you are doing." This is what he says: "Dr. Thomas Blaney, in a further contribution to the "Times of India," on the subject of coercive measures for stamping out the plague, condemns the sanitary efforts made by the Government at a time when the plague had too firmly got hold on the city to be dislodged therefrom. He gives his experience of several plague cases in which the infected houses, resorted to by the victims, had continued to be hotbeds of plague germs, notwithstanding the most complete disinfection and lime-washing of them by the Municipality or the owners, and notwithstanding also their complete desertion for two or three months continuously. The victims, returning to occupy these houses, were perfectly healthy, nor was there plague prevalent in the neighbourhood of these houses. The houses thus contained the plague germs, which were in full activity long after the plague authorities believed they were destroyed and rendered innocuous." What he is saying is: "Here is an authority, not a native at all writing to one of the best Indian papers in India saying 'As a matter of fact these plague measures are all on the wrong lines. You seem to think the thing you must at all costs do is to take a person and shut him up, but what you ought to do is to deal more seriously with the infection which remains in the house; you must take away the man although he may not be suffering from the plague and whitewash the house because if he comes back again he would catch the disease as soon as the germ begins to develop.'" This article is quoting that and saying: "Not only have you adopted measures of great hardship but you insisted upon the soldiers going in when it may be that they had done nothing of the sort. You not only have not co-operated

with these people but in fact your methods are against sanitary science and not a bit of good." This is all controversy. I only call attention to it because it occurs before this terror, which certainly if you take the words themselves, was an incident deplored in the most proper terms by Mr. Tilak's paper.

Now, my Lord, I think we can go to page 495, which is a short passage on the 30th May. There is an article called: "The Teachings of the Plague," and about 12 lines from the bottom of page 495 there is the passage beginning: "The Plague Committee and its officers ran riot in the city, as if the city was a silent cemetery inhabited by dead bodies. The unmanly complaints and piteous moanings of men only set off to a lurid glare the degeneration which their innerself had reached. The hand of the executive was unresisted even in the most illegal practices. The excesses of the soldiers which were the occasions of insults to the community ought to have been also the opportunities for the community to show that if unfortunately they could not make law at least they could make the execution of it as it ought to be, mild and inoffensive. But the opportunities were not availed of, and the oppression made by the soldiers in the name of law was a shame, not so much to the executive as to the tame, sheepish people who suffered it. The plague in Poona has shown to the public that the supposed tower of fiery patriotism and independence is but a stack puffed by chaff which cannot do anything but burn itself." Then, my Lord, the next one is on page 496. This must be noted in passing. It is not a comment on this grave matter at all. Sometimes you have something in a newspaper, but this is a comment on a different thing, in a passage called "An Arms Act for the Baroda State." This is a comment on it, and it appears to be a long way off. They say: "The character of the majority of the subjects of the State—the mild Gujerathees—is proverbially innocent. Nor do we think that the Baroda Government need entertain the fears which our ungrateful and over-suspicious Government feels. The British rulers believe that the subjects, if entrusted with arms, may one day use them against the Government. The belief is partially well founded, for the British Government is an

alien Government, and the subjects in trying to get emancipation will, if constitutional methods fail, have some day to resort to arms. But in Baroda, the subjects have a government of their own. It is also a popular government. There can be, therefore, no motive for the Baroda subjects to abuse their arms." That was called attention to at the trial, and I think it is right to read that. Then, my Lord, I think page 501 is a document of importance; that is dated the 15th June. This, my Lord, is not only a document which was used at the sedition trial as evidence, but was a document upon which the charge itself was based, and it will take a little time to deal with it. This, you appreciate, was made the subject of the first of the two transactions for sedition which the authorities in India instituted against Mr. Tilak. There is a very great deal of difference between accusing a man of seditious writing and of being responsible for murder. The prosecution was instituted after the murder of Mr. Rand, although the document on which the prosecution was based was a document before Mr. Rand's murder, if the view taken by the Indian Authorities is that this article which they were going to prosecute on really justifies the accusation that Mr. Tilak had promoted a much more serious charge than the one which was made. This is the article. I have said something about sedition and disaffection. Perhaps my Lord will allow me to read what the actual words in the Indian Code on this subject are. You know how in our own country most, if not all, our criminal law is an unwritten law. A very small portion of the written law relates to very serious crimes, but in India they have a Criminal Code drawn up by very famous men, which is their criminal law all written down, and the law of sedition, which in England is the Common Law and not based upon any particular Act of Parliament in any particular year, in India it is based upon the Code. This is what the Code says: "Whoever by words, either spoken or intended to be read, or by signs or by visible representations or otherwise excites or attempts to excite feelings of disaffection to the Government established by law in British India shall be punished with transportation for life, or for any term, to which the fine may be added, or with imprisonment for a term which may extend to three

years, to which fine may be added, or with fine." You see, that was the section under which the prosecution for sedition was framed, and this is the article which was relied upon.

Now, Gentlemen, this is an account of the celebration by those who are interested in it, and this Shivaji Festival is an ancient festival, and these persons who took an interest in the life of Shivaji on a particular occasion which I rather think was his birthday meet and celebrate his life and works, and history, and read learned papers just in the same way I believe, people, even to this day, do when King Charles I. had the mischance to lose his head, and go about with various emblems and decorate his statue. This is what happens here, according to the paper.

Mr. Justice DARLING: What is the difference? The difference is that people who do that are doing it in memory of the person who lost his head, but in this case the people who celebrate Shivaji are celebrating the deeds of the person who cut his head off.

Sir JOHN SIMON: Yes, my Lord, perhaps it would be more apt to compare it with the way in which, in certain portions of the United Kingdom, the memory of Cromwell is celebrated. This, however, is the 15th June.

Sir EDWARD CARSON: I do not know whether my friend is comparing the natives here with natives in India for the purpose of this comparison?

Sir JOHN SIMON: No. There is a point at which all analogy stops. Now this is the account: "The Shri Shivaji Coronation Festival here commenced on Saturday, the 12th inst., and was brought to a close last night. The Temple of Vithal near the Lakdi-pul (i. e., wooden bridge) was decorated in excellent style for the festival. An image of Shri Shivaji on horse back was installed, and around (it) were arranged pictures of Shri Shivaji Maharaja drawn by different artists. The picture drawn specially for this festival by Mr. Pimpalkhare, the accomplished local artist, representing the incident of Samarth Ramdas Swami and Shri Shivaji Maharaja meeting in the jungle at the foot of Sajjangad and the Samarth exhorting Shri Shivaji; and the 'bust' of the Maharaja, executed by Mr. Bhide, were worth seeing. (Some)

students having recited Pada (songs) in praise (of Shivaji) at the commencement of the festival, Professor Paranjpe read the Puran. He had for the text of his Puran (reading) the story in the Mahabharat about the exasperation on (his) return (home) of the ambitious Suyodhana at the sight of the Rajasuya Sacrifice performed by Dharma Raja, his thoughts in that connection (and) the conversation he had with Shakunimama and Dhritarashtra (on the subject). The Puran reader having with a view to give (his) audience a clear idea of the Rajasuya Sacrifice compared it with the Diamond Jubilee, commenced the Puran (reading), observing, by way of exordium that his was not an attempt to uphold (or justify) what Duryodhan did but (only) to lay before them the philosophical inquiry pursued in the Mahabharat as to the potency and quality of ambition which inspires all beings, and the innate power it has of elevating a country or a party. Professor Paranjpe's style of speaking is vigorous and impressive, (and) therefore the excellence of the most beautiful picture which Shri Vyasa has depicted of an ambitious mind was, on this occasion, well impressed upon the minds of (his) hearers"—then he quotes a bit from the Sanskrit text: "'Discontent is the root of prosperity; but contentment destroys prosperity,' these maxims were the sum and substance of the Puran (reading). The dissertation as to how a man even in affluent circumstances prefers death, in his exasperation, to the indignity of being trampled under foot by his enemies, and how a discontented man secures cooperation and makes up for the lack of arms (and) missiles by (his) craftiness, and other matters, was specially impressive. After the Puran (reading) was over, Professor Jinsiwale very earnestly requested the audience to study the Mahabharat. Professor Jinsiwale on this occasion said that the reason why Shri Shivaji Maharaja should be considered superior to Cæsar (and) Napoleon was that while the great men of Europe were actuated by ambition alone like Duryodhana, the uncommon attributes displayed by our Maharaj were not the blaze of the fire of ambition or discontent, but were the outcome of the terrible irritation at the ruin of his country and religion by foreigners. After the (reading of the) Puran

there was a Kirtan by the pious Matangi Bava at night. The verses composed by the Bava himself on the coronation (of Shivaji) were couched in simple language, and as the Bava had all the accomplishments required for Katha with him. the Katha was very much enjoyed. Vedashastra Sampana Matange had especially come here from Satara for this Katha. On the morning of the second day there were athletic sports in Vinchurkar's Wada. The students of the New English School and the Nutan Marathi Vidyalaya and the other schools acquitted themselves creditably in their performance with Indian clubs and on the Malkhamb. The students of the New School showed themselves to be proficient in playing Kathi, dandpatta, bothati, etc. We hope that the students of other schools will follow their example (in this matter). The students attending the various schools as well as the people attending the gymnasia at this place will not find a better occasion than the festival (of the anniversary) of Shivaji's birth for exhibiting their skill in manly sports. If the Managers of the various schools take concerted action in this matter, it is likely to give special encouragement to physical and manly sports amongst boys. We hope that our suggestion will be duly considered by the Principals of different schools. Well, on the night of the same day a lecture on the subject of 'the killing of Afzulkhan' was delivered by Professor Bhanu under the Presidentship of Mr. Tilak. The Professor ably refuted the charge of murder which English historians bring against Shri Shivaji Maharaj. The Professor has abundant (or strong) evidence in his possession (to prove) that Pantoji Gopinath was not a servant of Afzulkhan but was from the first a servant of Shri Shivaji Maharaj. (Professor Bhanu) having no permission to publish the papers relating to this matter for two years (more), did not place his (documentary) evidence on this (subject) before the meeting. It is, therefore, evident that the charge of treachery brought against Pantoji Gopinath is literally false. How was it possible for the Maharaja even to imagine that Afzulkhan, who had undertaken on oath either to seize Shivaji and bring him alive or to kill him and bring his head to Vijapur, and who had on (his) way trodden

under feet the Goddess of Tuljapur and the Vithoba of Pandharpur, meant really to treat with him? What treachery did the Maharaja commit if he went to meet Afzulkhan on the Machi of Pratapgad after making every preparation for battle for his own safety? The English historians assert that the Maharaja was the first to thrust in the Waghanakhs; but we see it stated in two bakhars (i. e. memoirs), one of them written thirty years after the death of the Maharaja and other about a hundred years after (his) death, that Afzulkhan was the first to strike (Shivaji). Even if we assume that the Maharaja was the first to strike Afzulkhan, what right has any writer to call that man a 'murderer,' who, while nine years of age, had Divine inspiration not to bow down his head in the slightest degree before the Mussalman Emperors? If Mazzini of Italy dons a mourning dress from (his) ninth year for the loss of the independence (of his country), why should not the Maharaja, even at a tender age, be stirred to put forth prodigious efforts for protecting the walking and speaking depositories of knowledge and the kine which are the living index of our prosperity? How can English writers have the audacity to belaud Clive and Warren Hastings who were incomparably inferior to the Maharaja and whose careers were fraught with foul deeds? Is it not a deliberate outrage to the purity of Truth that the pen of the same English writers whose (code of) morality refrains from applying the epithet 'rebel' in speaking of Washington, calls Shivaji a rebel? The history of Europe cannot show even a single upright man of Shivaji's type. History will find fault with Shivaji, (but) from the point of view of ethics his act does not merit censure. How can the European science of ethics, which has 'the greatest good of the greatest number' as its basis (or principal axiom), condemn Shivaji for abandoning a minor duty for the purpose of accomplishing the major one? In the Mahabharat a man of this type is called 'Budha.' The professor concluded (his discourse on) the original theme with the declaration that even if the Maharaja had committed five or fifty more faults, (? crimes), more terrible than those which historians allege Shivaji committed, he would have been just as ready as at that moment to profoundly

prostrate himself a hundred times before the image of the Maharaja." No doubt it was calculated, in the view of some people, to produce hot feelings which might lead to very serious consequences, but I do, with great respect, look to you as sensible men, that as one reads it appears as though the Lecture of the Professor of History was a tremendous long discussion in great detail of things which happened a long time ago, and does not appear to have given any direction towards the sedition: "At the conclusion of the Lecture Professor Bhanu said: Every Hindu, every Maratha, to whatever party he may belong, must rejoice at this (Shivaji) festival. We all are striving to regain (our) lost independence, and this terrible load is to be uplifted by us all in combination. It will never be proper to place obstacles in the way of any person who with a true mind follows the path of uplifting this burden in the manner he deems fit."

Mr. Justice DARLING: That is the application of it, is it not?

Sir JOHN SIMON: I think so, my Lord.

Mr. Justice DARLING: That is the application of what the learned Professor had been talking about with regard to Shivaji. Professor Bhanu applies the text to the present day.

Sir JOHN SIMON: We are coming in a moment, my Lord, to what Mr. Tilak said. I will read it and not comment upon it; it goes on in this way: "It will never be proper to place obstacles in the way of any person who with a true mind follows the path of uplifting this burden in the manner he deems fit. Our mutual dissensions impede our progress greatly. If any one be crushing down the country above, cut him off; but do not put impediments in the way of others. Let bygones be bygones; let us forget them and forgive one another for them. Have we not had enough of that strife, which would have the same value in the estimation of great men as a fight among rats and cats? All occasions like the present festival, which (tend) to unite the whole country must be welcome." So saying, the Professor concluded his speech. Afterwards, Professor Jinsiwale said: "If no one blames Napoleon for committing two

thousand murders in Europe"—I think this gentleman is a Professor of Sanskrit of the Wilson College in Bombay, and when the Professor states that Napoleon committed two thousand murders in Europe, I must say I should have thought that was a very moderate estimate—"(and) if Cæsar is considered merciful though he needlessly committed slaughters in Gaul (France) many a time why should so virulent an attack be made on Shivaji Maharaja for killing one or two persons? The people who took part in the French Revolution denied that they committed murders and maintained that they were (only) removing thorns from (their) path; why should not the same principle (?argument) be made applicable to Maharashtra? Being inflamed with partisanship it is not good that we should keep aside our true opinions. It is true that we must (i. e., should not hesitate to) swallow down our opinions on any occasion when an expression of them might be thought detrimental to the interests of the country (i.e., nation), but no one should permit his real opinions to be permanently trodden under foot. Professor Jinsiwale concluded his speech by expressing a hope that next year there will be witnessed greater unity amongst the various parties in Poona on the occasion of this festival." Then: "After the conclusion of Professor Jinsiwale's speech, the President, Mr. Tilak, commenced his discourse. It was needless to make fresh historical researches in connection with the killing of Afzulkhan. Let us even assume that Shivaji first planned and then executed the murder of Afzulkhan. Was this act of the Maharaja good or bad? This question which has to be considered should not be viewed from the standpoint of even the Penal Code or even the Smritis of Manu or Yadnyavalkya or even the principles of morality laid down in the Western and Eastern ethical system." The next sentence, I do submit, is very important, and as I know one wants to do justice to both sides, I beg the Gentlemen of the Jury later on to be good enough to note it: He says: "The laws which bind Society are for common men like yourselves and myself." He is saying: We are discussing an ethical question about one of our great men in the past, and must remember, though we are entitled to

judge, that, like some people judge the actions of history in a broad way, "The laws which bind society are for common men like yourselves and myself. No one seeks to trace the genealogy of a Rishi nor to fasten guilt upon a king."

Mr. Justice DARLING: That is a little out of date now, is it not?

Sir JOHN SIMON: Yes, my Lord, it is. Mr. Tilak expresses it with great force and propriety, but he could not be expected to know it before the 15th June, 1897. He says: "Great men are above the common principles of morality. These principles fail in their scope to reach the pedestal of great men. Did Shivaji commit a sin in killing Afzulkhan or how? The answer to this question can be found in the Mahabharat itself. Shrimat Krishna's advice (teaching) in the Geeta is to kill even our teachers (and) our kinsmen." I believe that is one of the very great epics of the Hindu community written about 300 or 400 years B. C.. Then: "Shrimat Krishna's advice in the teaching of the Geeta is to kill even our teachers (and) our kinsmen. No blame attaches (to any person) if (he) is doing deeds without being actuated by a desire to reap the fruit (of his deeds). Shri Shivaji Maharaja did nothing with a view to fill the small void of his own stomach." It is a literal translation—it means he did not do it for interested motives. "With benevolent intentions he murdered Afzulkhan for the good of others. If thieves enter our house and we have not (sufficient) strength in our wrist to drive them out, we should, without hesitation, shut them up and burn (a) (them) alive. God has not conferred upon the Mlenchas (b) the grant inscribed on a copper plate, of the kingdom of Hindustan." That means the title is inscribed or engraved on copper plate. At the trial, so far as it was a trial for sedition, it really turned on that sentence, because Mr. Tilak was saying "If only you would understand the Shivaji Maharaja" —people, I think, who talk good French would know that that sentence is entirely in the past tense—and he says that this is an expression which was always used by a man when discussing Hindu traditions referred to the life of the Shivaji Maharaja, and he says that

everybody who understands it would know what this sentence meant. But the other way in which these words might according to some people be understood is that God has not conferred on the barbarian, or foreigner, the grant of the kingdom of Hindustan, and he has imported into the middle of this a discussion of two things that had happened 300 years ago, and going back to the statement that "God has not conferred on the English the grant of the kingdom of Hindustan." Then having made this observation, which was parenthetical and had nothing whatever to do with Shivaji's morals and behaviour, in the next sentence he goes on: "The Maharaja strove to drive them away from the land of his birth; he did not thereby commit the sin of coveting what belonged to others. Do not circumscribe your vision like a frog in a well; get out of the Penal Code, enter into the extremely high atmosphere of the Shrimat Bhagwadgeeta." The people the Maharaja tried to drive away were the Mohammedans and not the English at all. "Do not circumscribe your vision like a frog in a well; get out of the Penal Code, enter into the extremely high atmosphere of the Shrimat Bhagwadgeeta and (then) consider the action of great men. After making the above observations in connection with the original theme, Mr. Tilak made the following remarks relating to the concluding portion of Professor Bhanu's address: A country which (i. e., a people who) cannot unite even on a few occasions should never hope to prosper. Bickerings about religious and social matters are bound to go on until death; but it is most desirable that on one day out of 365 we should unite at least in respect of one matter. To be one in connection with Shivaji does not mean that we are completely to forget our other opinions. For quarrelling there are other days, of course. We should not forget that Ram and Ravan felt no difficulty whatever to meet in the same temple on the occasion of worshipping (the God) Shankar. After the lecture, Pad of the Sanmitra Samaj and Maharashtra Mela were sung and this brought the second day's celebrations to a close." Then: "On the third day Professor Jinsiwale delivered a very long lecture which was replete with information." You will

be very gratified to know that, and he says: "We cannot even give a summary of it to-day. We are glad to say that the Kirtan of the pious Ghamende was, as usual, worth hearing. He took up the same story (subject) of the assassination of Afzulkhan and though it was (narrated) in the old style it was full of new thoughts, as is usually the case with the Buva (i. e., preacher)."

Now, Gentlemen, that was the thing upon which Mr. Tilak was prosecuted for sedition after this terrible event of the Rand murder which nobody deplored more utterly and sincerely than he did. I will read his article. It is a statement of a man who was horrified and distressed beyond words that somebody in his community should have committed this horrible crime and thereby brought disgrace on his town. You can well understand the seething excitement after such a dreadful event. He was summoned some time afterwards and prosecuted not for the murder of Mr. Rand but for writing and publishing in this paper of his that account of this discussion by learned and pious gentlemen of the motives of this historical event.

Mr. Justice DARLING: It is hardly fair to say that he was prosecuted and punished for that. He must have been prosecuted and punished, because, in the opinion of the Court that tried him, he made that historical discussion the means of pointing this moral, that you might do all the things that Shivaji did to the strangers who happened to have replaced the Mohammedans.

Sir JOHN SIMON: Your Lordship is quite right, the conviction was a conviction for seditious publication. Gentlemen, I have read you the article.

Sir EDWARD CARSON: Then there is another one.

Sir JOHN SIMON: Yes, Gentlemen, there is another article, which I cannot read to you now. My Lord is accurate in pointing out that view which he takes of the sentence I have read to you. As far as my own opening is concerned, I trust I shall be able to save you some time. I think we have now got a substantial way on, and nobody is more pleased than I am.

(Adjourned to to-morrow at 10-15.)

SECOND DAY

January 30, 1919.

Sir JOHN SIMON: May it please your Lordship, Gentlemen of the Jury, you will remember that when the Court rose yesterday I had addressed you in opening this case as regards four out of the six libels complained of, and I am not going back on the ground which I have already attempted to cover. I will just remind you of what the six libels were. I have dealt with the libel which I call the Cow Protection Society libel, I dealt secondly with the libel that I call the Gymnastic Society libel, thirdly with the Blackmail libel, and fourthly with the Tai Maharaj, the libel about Mr. Tilak's private litigation. I am glad to say I have very nearly covered the ground in reference to the fifth libel the very serious reflection made upon Mr. Tilak by the Defendants in this book as to the murder of Mr. Rand and Lieutenant Ayerst on June 22nd, 1897. You will remember, Gentlemen, that I told you, and you have it no doubt clearly in mind, that at a slightly later date than that Mr. Tilak was prosecuted for seditious writing. That was after the murder. The article upon which he was prosecuted appeared, however, in the "Kesari," that is the paper, before the murder occurred, and appeard on the 15th June, and we had just completed reading one of the two extracts from that number of the paper of the 15th June when it was necessary to break off for the day. It was an extract which recorded the discussion of various persons at this Shivaji celebration falling on the traditional date of Shivaji's coronation as to the circumstances of that ancient historical event.

Now, gentlemen, there is a second article in the same number of the paper, and that also I must refer to in order that you may have before you the materials appearing in the "Kesari" before the murder upon which the authorities in India based the accusation of sedition. My Lord, the second article is in the same number of the same paper and will be found in the first volume immediately following the one I have already read at page 505. Of course we have the thing printed in the big book because it is convenient for the purposes

of the case, but you, gentlemen, will know that there is a paper consisting of a certain number of sheets, and in one part of the paper you will find the report, and in another part of the paper you will find this. It is headed "Shivaji's Utterances," and it does not deal, as the last article did, with events which happened at the Shivaji celebration or discussion, but is apparently a contribution of a more imaginative kind, and I must read it. You will do your best to follow it as we go. "Shivaji's Utterances. By annihilating the wicked I lightened the great weight on the terraqueous globe. I delivered the country by establishing swarajya"—which means, I think, an India ruling itself, or something of the sort—"and by saving religion. I betook myself to heaven to shake off the great exhaustion which had come upon me. I was asleep: why then did you, my darlings, awaken me? I had planted upon this soil the virtues, that may be likened to the "Kalpavriksha"—which I gather is one of the five trees which, in the mythology of this religion, is supposed to yield whatever may be desired—a most convenient kind of tree—"of sublime policy based on a strong foundation, valour in the battlefield like that of Karna, patriotism, genuine dauntlessness and unity the best of all. Perhaps you now wish to show me the delicious fruits of these. Alack! What is this? I see a fort has crumbled down. Through misfortune I get a broken stone to sit upon. Why does not my heart break like that this day? Alas! Alas! I now see with my own eyes the ruin of my country. Those forts of mine to build which I expended money like rain, to acquire which fresh and fiery blood was spilled there, from which I sallied forth roaring like a lion through the ravines, have crumbled down; what a desolation is this? Foreigners are dragging out Lakshmi" which apparently is one of the goddesses.

Sir EDWARD CARSON: The Goddess of Wealth.

Sir JOHN SIMON: "Foreigners are dragging out Lakshmi violently by the hand, by means of persecution. Along with her Plenty has fled and after that Health also. This wicked Akabaya"—which apparently is the elder sister of Fortune—Misfortune. "This wicked Akabaya stalks with Famine through the whole country. Relent-

less death moves about spreading epidemics of diseases." I apprehend, Gentlemen, in the original, in the vernacular, this is a poetic from, but I do not know whether it is. Sir Ellis tells me it is in the original in a poetic form and it suffers, as indeed most verse, good and bad, suffers, from being translated. We must do our best to understand it as it was in its original form.

Mr. Justice DARLING: It may suffer by translation, but there is a note in the margin you see. As you read it it is: "I sallied forth roaring like a lion through the ravines, have crumbled down; what a desolation is this! Foreigners are dragging out Lakshmi violently by the hand, by means of persecution." Then there is a note which says: "There being, a pun upon the word 'kara,' which means both 'the hand' and 'taxes,' the second meaning of this sentence may be got at by substituting 'by taxes' for 'by the hand.'

Sir JOHN SIMON: Yes, my Lord, it seems to have a double meaning. I am provoked to mention an analogy which came within my own experience, I remember on an occasion when it was my duty to make a speech in the House of Commons explaining some taxation statute I happened to use the expression that the money of the taxpayer came into the fisc, meaning the Exchequer, and I happened when speaking to hold out my hand to explain it, and the reporters of Hansard reported me as saying "That the money of the taxpayer had come into my fist."

Sir EDWARD CARSON: "The Government's fist."

Sir JOHN SIMON: Yes.

Mr. Justice DARLING: I hope, Sir John, the House of Commons was sufficiently learned to understand it.

Sir JOHN SIMON: They do not read Hansard, my Lord.

Mr. Justice DARLING: But I mean, to understand what you said.

Sir JOHN SIMON: I think they understood it.

Now, Gentlemen, I will just go on reading, because it is convenient that you should have the thing before you continuously: but I ask you to notice in the passage I have just read to you that there is a good deal about "a fort has crumbled down," and "I have a broken stone to sit upon," and all that kind of thing. I will show you in

a moment how that refers to this; but I say one of the principal interests of those taking part in this Shivaji celebration, namely, that there should be a restoration of the tomb of Shivaji, is still to be found in a prominent position in the part of India where he lived and died. I will now go on reading the translation which follows "Shlok," which I understand to be a native word which means there is some lyrical passage following. "Say, ye, where are those splendid Mavlas, my second lives" —which means, apparently, 'my beloveds'—"who promptly shed their blood on the spot where my perspiration fell?"

Sir EDWARD CARSON: "Mavlas" means infantry.

Sir JOHN SIMON: "They eat bread once in a day, but not enough of that even. They toil thro' hard times by tying up their stomachs to appease the pangs of hunger. Oh people! how did you tolerate in the Kshetra, the incarceration of those good preceptors, those religious teachers of mine, the Brahmans whom I protected and who, while they abided by their own religion, in times of peace, forsook the darbka"—which is described in the margin as a sacred grass used in sacrifices—"in their hands for arms which they bore when occasion required. The cow—the foster mother of babes, when their mother leaves them behind, the main stay of the agriculturists, the imparter of strength to many people, which I worshipped as my mother and protected more than my life—is taken daily to the slaughter house and ruthlessly slaughtered there." Then in inverted commas: "He himself came running exactly within the line of fire of my gun!" "I thought him to be a bear!" "Their spleens are daily enlarged!" In a moment I will explain what I think those quotations mean. "How do the white men escape by urging these meaningless pleas. This great injustice seems to prevail in these days in the tribunals of justice. Could any man have dared to cast an improper glance at the wife of another! A thousand sharp swords would have leapt out of their scabbards instantly. Now, however, opportunities are availed of in railway carriages and women are dragged by the hand? You eunuchs! how do you brook this! Get that redressed." Then there is more quotation. "He is mad, Lift him up and send him

at once on a pilgrimage." Then there is another quotation. "He is fond of pleasure. Deprive him of his powers, saying that it would be for a time only." "This is the way in which royal families are being handled now. What misfortune has overtaken the land! How have all these kings become quite effeminate, like those on the chess board! How can I bear to see this heart-rending sight! I turn my glance in another direction after telling (i. e., leaving with you) a brief message." That means after leaving with you a brief message. "Give my compliments to my good friends, your rulers, over whose vast dominions the sun never sets; tell them 'How have you forgotten that old way of yours,' when with scales in hand you used to sell your goods in your warehouses! As my expeditions in that direction were frequent, it was at that time possible for me to drive you back to your own country. The Hindus, however, being magnanimous by nature, I protected you. Have you not thus been laid under deep obligations? Make, then, your subjects, who are my own children, happy. It will be good for your reputation, if you show your gratitude now by discharging this debt of obligation." Then I believe the traditional mark for Shivaji a particular shaped sword is printed as a sort of signature to the thing. Gentlemen, it is obscure, I think you will agree, in many passages, and I am not called upon, and indeed am not able to explain many of the lines. To help you as far as I can I have already called attention to a passage about repairing the fort and the like. Will your Lordship now kindly take the reference to the pink book at page 304. You will find, Gentlemen, and I think this is what is being really referred to, that later there was a memorial addressed to the Government, that means to the Bombay Government—Lord Lamington at that time was the Governor of Bombay—by a number of native gentlemen, and the memorial which begins on page 304 is explaining that during a Shivaji festival, which was in a later year, they decided that they would approach the Government with this request. They say: "The movement for repairing the octagonal stone-plinth on which the body of the great Shivaji was cremated in the hill-fort of Rayagad in the Colaba Collectorate of this Presidency, and for erecting

a suitable Chhatri thereon"—that is a suitable stone memorial—"with proper provision for its maintenance and the celebration of annual festivals, originated in Deccan about 25 years ago." Then they refer to a number of interesting historical comments which had been made by English writer of this character in Hindoo history. Then at the top of page 305 they say: "A few months after, Lord Reay, the then Governor of Bombay, gave instructions for fencing and clearing the ground round about the Samadha and keeping it in order at a cost of Rs. 5 a year. The growing interest in the Mahratta history and the discovery and publication of many original papers bearing on the same, together with a new edition of the Maratha ballads published later on by Mr. Acworth, served to keep the interest in this movement alive; and the publication of the Book of Bombay and Western India by Mr. Douglas in 1893, in which the passage regarding the dilapidated condition of Shivaji's Samadha was reproduced, gave it a fresh stimulus. In this book Mr. Douglas, in a footnote to above passage. referred to what Lord Reay had done and observed that 'a few crumbs that fall from the archæological bureau would suffice to keep in repair memorial of a dashing and most romantic period.' The subject was now earnestly taken up by the Vernacular Press in the Province; and a public meeting of the Daccan Sardars and the gentry of Poona was held in Poona, on 30th May, 1895, under the Presidentship of the late Shrimant Shrinivasrao Pant Pratinadhi, the then Chief of Aundh. The late Mr. Justice Ranade, who had organised the meeting of 1885, telegraphed his sympathy with the object of this meeting, and suggested that a permanent fund should be raised for the purpose of carrying it out. Accordingly on the proposal of the late Shrimant Ganpatrao Harihar alias Bapusaheb Patwardhan, the then Chief of Kurundwad (Junior), it was unanimously resolved at this meeting to raise a fund for repairing the Samadha, building a Chhatri thereon for making arrangements for its maintenance as well as for the annual celebratian of a festival in honour of the hero of Maharashtra; and a committee, with Mr. Bal Gangadhar Tilak as the working secretary" —that is, Mr. Tilak—"was appointed for the purpose"—

that is for the purpose of raising a fund for restoring this memorial. "Ths idea then in view was to inaugurate an institution similar to the one existing in the Sinhagad fort near Poona, in honour of Rajaram, Shivaji's second son, which is maintained as a Devasthan by a grant from the State of about Rs. 1,000 a year, and where a festival in memory of Rajaram is annually celebrated. From this year (1896) onward annual festivals, either on the natal or on the coronation day of the great Shivaji, came to be celebrated at various places in the Maharashtra, the first festival at Raygad being held on the 15th April, 1896. The fund which was started at the public meeting held at Poona on 30th May, 1895, now amounts to nearly Rs. 25,000. It is mostly made up of small contributions of less than one anna each from thousands of people, and it is confidently believed that further contributions, if needed, would be given with equal enthusiam. It is now contemplated to apply the fund to the realisation of the object for which it was originally started, namely, to restore the plinth on which the body of Shivaji was cremated, to erect a suitable Chhatri thereon, and to arrange for its maintenance and annual festivals. The ground on which the plinth and the temple of Mahadev near it stand in the Raygad fort has been included in the forest pasture, subject to the reservation of the rights of the public over these historical monuments. It would be difficult, therefore, to carry out the work of repairing the Samadha and constructing a Chhatri thereon without the active sympathy and support of Government; and it is respectfully solicited that your Excellency in Council will be pleased to accord them to this undertaking." They therefore in effect are saying to the Government: "Here is a movement to restore and perpetuate the memorial of Shivaji" at the place where this ruined fort was, to which poor people had subscribed what they could, "and we want to know whether the Government will help?" The answer to that is a little lower down, on page 306, coming from the Acting Chief Secretary to Government: "Sir,—With reference to your memorials dated 26th April and 6th August, 1906, I am directed to inform you that Government are prepared to make a grant of Rs. 5000 towards the cost of repairing

the Gangasagar Tank and of erecting a protective chhatri over Shivaji's tomb at Raigad on condition that the designs for the latter be first submitted to and approved by Government in the Archæological Department. (2) Government have no objection to allow the Committee to take stone and rubble free of charge"—they go on about that, and then finally they say: "The repairing of the octagonal stone plinth on which the body of Shivaji was cremated, the restoration of the temple of Mahadeo, and the fencing of the Durbar ground in the Rajvada and their subsequent maintenace are, I am directed to say, matters which, in the opinion of His Excellency the Government in Council may well he left to private subscription." I think it is pretty plain, therefore, that it is long after the Rand murder. The Government are not at all regarding the enthusiasm which desires to keep up these memorials of a historical character as being reprehensible, or contrary to British interests, but on the contrary they are saying: "Here is a historical character who has got a great many broken down memorials in India. You have collected money to put the thing right, and we will subscribe a substantial sum." That is what it refers to, in the first place, where it speaks of the fort being broken down. Then at the bottom there are some curious quotations: "During the latter half of the year under report the Native Press was mainly occupied with the riots of the 11 th, 12th and 13th August between the Mohammedan and Hindu communities at Bombay and subsequently by those at Yeola in the mofussil. The Cow Protection movement of the Hindus was fixed by some as the immediate cause. The Native Press in general, and the Hindu section in particular, attributed the riots to the encouragement said to be given by some Anglo-Indian officers of Government to the Mohammedan community. Tne general attitude of the press on this important subject has been noticed above. The cow protection movement received last year more than usual attention from the press. The Mohammedan section maintained that the great progress made by this agitation of late was the cause of the frequent collisions between Hindus and Mohammedans, and that cow slaughtered could never be stopped as the Mohammedan

religion enjoined it on the Bakri Id holiday, while Hindu papers asserted that the slaughter of cows for food ought to be stopped by Government, not only because the cow was considered sacred by the Hindus, who formed a great portion of the Indian population, but also because cow-protection was required in the agricultural interest of the country." My understanding of it is that there had been, as I am afraid from time to time there often are in India, some unfortunate cases in which some one of our own race shooting in the jungle and not intending to take life had, unfortunately, hit and killed a native. I think the particular case that it referred to is not the case of a man, but the case of a woman, and the man was put on his trial for the woman's slaughter, and gave an explanation no doubt which from one point of view may have been good enough, was naturally a little resented by some people: "Well, the woman ran into the line of my gun, and, what is more, I thought she was a beat"—and that is what is meant by this quotation here, and ultimately he was made to pay the husband of the lady a sum of money, not a large sum, which was supposed to be compensation. That is the sort of thing referred to in those inverted commas.

Gentlemen, those were the articles which appeared in this paper, the "Kesari" and I submit to you that whatever else may be said about them, you may think they contain language which was seditious. That was the view of the jury which tried Mr. Tilak later. At any rate they seem, in my submission, to be far enough removed from anything which would justify them in being treated as really incitements to murder Mr. Rand. On the contrary, they are plainly dealing with historical matter, I agree, in a rather rhetorical way, and, as I have shown you in this same newspaper, month after month or week after week there have been articles which were dealing with seditious articles in which the paper was teaching the inhabitants that they must accept the sanitary regulations which modern science directs to deal with the plague—articles saying that it was a great shame and a very great pity that the authorities in Poona did not see how very undesirable it was to use

British soldiers for a house to house search, both to invade the men's and women's quarters, when a much better method was being adopted by the Bombay Government, in the same Presidency, where satisfactory results were being obtained without that. You see, strong comment was being made on the administration under the head. What happended was this—I can deal with the matter briefly—that on the 22nd June, Mr. Rand, and also a young officer named Lieutenant Ayerst, was shot. The perpetrator of this deed was ultimately discovered, who was some wretched native or other, but he was not discovered for some time. Lieutenant Ayerst was shot, and died almost at once, and Mr. Rand was seriously wounded, and ultimately died, I think the most convenient way of bringing the matter before you, and the most correct way, is to call attention to page 509, immediately following in the book, which is the first number of this "Kesari" paper which appeared after this had happened. At page 509 of the green book there appears this. I told you that this native paper was published on Tuesday the 22nd June, and the very next number which was published on the 29th June contains, as you would suppose, and is very proper, a reference to this dreadful event. It is called "The horrible incident that occurred on the night of Tuesday last." "When the news of Mr. Rand having been shot by some one was received in the town on Wednesday morning nobody at first believed it to be true. As nobody thought that there was any possibility of such a horrible event happening, immediately it came to the ears, it filled the hearts of all with sorrow and surprise, and owing to it, a great lamentation prevailed everywhere throughout the whole town. There was a grand dinner in the palace of the Governor in Ganesh Khind on Tuesday night in honour of the Jubilee, and a reception for many other people who were not invited to the dinner. Large bonfires were purposely made on all the hills round about Ganesh Khind for the Jubilee festivity, and nice illuminations were made at the Government House also. There was a very large crowd that day in the Government House on account of this festivity, and all arrangements made were excellent. But unfortunat-

ely a dreadful, a sad event occurred at the end. From about half-past 11 o'clock the guests of the Governor Saheb began to leave. Some minutes after 12 o'clock, Rand Saheb "—that means Mr. Rand—" started from there in his carriage. The carriage of Dr. Barry, the Chemical Analyser of Bombay, was in front, and behind was the carriage of Lieutenant Ayerst and his wife, and behind theirs that of Lieutenant Lewis and Sergeant, in all two carriages were behind Mr. Rand's. The horse of the carriage of Lieutenant Lewis and Sergeant was walking slowly, which they did not like "—that means the people in the carriage did not like walking slowly—" and they told the coachman to drive the carriage fast and they went ahead. Afterwards, when the remaining three carriages arrived about five or six hundred yards away from the Government House, someone there got on to the back of the carriage of Rand Saheb and fired a pistol loaded with small shots at his back near the left shoulder, owing to which he immediately dropped down senseless. Then a few seconds after, there was another shot fired which killed on the spot Lieutenant Ayerst who was in the carriage behind. The bullet passed off through Lieutenant Ayerst's head, and he fell on his wife's body. Both these reports were heard by Dr. Barry who was ahead of all, and by the wife of Lieutenant Ayerst. By the reports of the shots the horses got frightened, and the carriages ran at full speed. While Lieutenant Ayerst's carriage coming forward, was passing past Lieutenant Lewis's carriage which had gone ahead of all, Lieutenant Lewis, hearing the cry of Lieutenant Ayerst, stopped the carriage, and and on looking in, found Lieutenant Ayerst lying wounded and unconscious. At this time, Rand's carriage arrived there. Under the belief that he might meet some doctor in that carriage, Lieutenant Lewis, questioned the man inside; but when he did not give any reply, he moved his knee, thinking that he might be asleep. He then began to groan. Thereupon he (Lieutenant Lewis) looked in to see what the matter was, and found Mr. Rand lying wounded and senseless in the carriage. Afterwards, the wife of Lieutenant Ayerst was removed from the carriage and both the wounded gentlemen were sent

to the Sassoon Hospital in their respective carriages, and two nurses, who were going in a carriage after that, were also told to go there. When all these people reached the hospital, there were a few minutes to one o'clock. On their arrival there, the doctors examined them. In that examination it was found that Lieutenant Ayerst had already expired. His funeral was performed the next day. As Rand Saheb was severely wounded and was unconscious, steps were not taken immediately to extract the bullet, and other treatment was commenced to be given. Two days after, he recovered consciousness and began to improve; but it is learnt that since yesterday he has had high fever again and is suffering great pain. Four or five small shots have penetrated his left lung, and all those not having come out, the doctors are of opinion that inflamation and violent pulsation will result, and then administration of medicine will not be possible. May God give him relief! This is all the information that is known with regard to the murder. Although the shots were fired on the public road, no explanation is yet forthcoming as to how no alarm was raised and the murderer was not seized on the spot, or at least how no attempt was made to seize him, and whether any police was not near by and such other things. Next day, that is to say on Wednesday morning, when the police examined the place round about the spot where tha murder had taken place, they found at one place in the Mori"—that means the channel which carries off the water —"under the street, two swords, one bottle, and one stone. It is said that the hilt of the sword is gilt with gold and silver. No other means of detecting the murderer are found as yet, or if found, they have not become known. Mr. Brewin of Bombay has come here, and also detectives from there have come. Government has announced a reward of Rs. 20,000 for the man who will find out the offender and his instigators; and the police also are making investigation with vigour." This is Mr. Tilak's paper. I believe it is his own personal article, and you must have regard to the fact that here he is libelled as a person who has been acting so as to cause the death of this Mr. Rand, and you must bear in mind the attitude which he takes in the face of native population

when this dastardly outrage is committed. Then he goes on to say: "At such a time every man must render such assistance as may be required to the police in detecting the murderer; otherwise, for the folly of one man, a dark imputation and calamity will come over all without any reason." Then he goes on and says: "We had no intention to write more on this subject to-day"—you see it is a week after the murder—"but owing to the comment which the Editor of the 'Times of India' has maliciously made, on this horrible act, and owing to some thoughts that are contained in the speech which the Collector of this place made yesterday by inviting the leaders of the town, it is incumbent upon us to write a few words. It is a common rule of justice and law"—I think you will agree with this—"that when such horrible crimes take place, it is quite improper on the part of anyone to come forward to blame any person by discussing the matter before a full inquiry takes place in the Court. But as the heads of editors, like that of the "Times," are quite turned by the offence, how can this rule suggest itself to them? Immediately on hearing the news of this horrible crime, they at once came to the conclusion that all this is the dark plot made by the rascally Brahmins of Poona. If Rand Sahib himself were to be murdered he could have been murdered at another place and on another day. It is the plan of the Brahmins alone to render the holiday vapid, by committing the murder on the Jubilee day, and that too is not the plan of one or two Brahmins but one devised by about fifty Brahmins in concert." The article is professing to summarise the way in which the "Times of India" had written upon hearing of this crime. "This is what the Editor of the 'Times' says, and the Collector Sahib almost repeated the same yesterday in his speech. The 'Times' has also referred to the Wai affair, and some one assuming the name of Justice has rendered all possible assistance in his power to the editor of the 'Times' to connect the Shivaji Festival also with the whole of this affair. As soon as we got the news of this dreadful offence we had prophesied that all this dark imputation would be brought against us. Really speaking, there is no ground whatever to believe that the Poona Brahmins have made a great plot. If in

countries such as England, France or Russia even, some madcaps are found who shoot the King, there is no reason whatever to scatter calumnies concerning the whole of Poona if someone maddened by the annoyance of the Plague Committee is found here. It is necessary to seize the offender, and there is no objection if any amount of money has to be spent, or any number of men has to be employed for that purpose. We also admit that it is equally dangerous and disgraceful to all that such horrible crimes should remain undetected; but because any individual turns out to be of such character in the whole community, to at once vilify all Brahmins, communities or native papers, and to proceed to bring accusations of any kind whatever against them, is an act more dreadful than committing a murder. English newspaper editors in their heat of anger have begun to rave anything they like. The leading Brahmins of Poona rendered such assistance to the Plague Committee that other people had begun to say that it was the Brahmins themselves who brought the Plague Committee into Poona"—saying "Here we are—at any rate we have been doing our very best to make suggestions in order to work the plague regulations properly." "Still the Government does not cease to look with disfavour upon the Brahmins. There was a rumour that it was intended to kill both Mr. Rand and Lieutenant Lewis, the principal workers during plague (the officers who segregated people), but owing to exchange of carriages Lieutenant Ayerst was killed." I imagine that means after the murder had been committed someone had made that suggestion, because you see they could not have made it before, because "owing to exchange of carriages Lieutenant Ayerst was killed; and in support of that there was also another rumour that someone fired a shot at Lieutenant Lewis the next day, but he received it on his hand. But now it is learnt that neither there was an exchange of carriages nor anyone shot Lieutenant Lewis. The facts relating to Ramji Tatya are already given to-day elsewhere. It is therefore self-evident that the belief of the Europeans that a great conspiracy has been made by some fifty people, and that a great rising has indeed taken

place, is quite wrong. In our opinion, the individuals committing this horrible act must be persons well practised in such acts; otherwise such a daring act cannot be committed by them. Some also say that these must be men who have resigned their service in the army or the police. Whatever may be the fact, there is yet no ground whatever other than wicked feeling existing in the mind for saying that these men must have the support of the people, and particularly of the Brahmins of Poona. It is our guess that the man who shot Lieutenant Ayerst must be someone in the army who had become hostile to him, or the man who shot Rand Sahib, in order that his escape might become easy, must have shot the other also because his carriage was behind that of Rand Sahib. But there is no use relating all these guesses to-day. The minds of Sahibs"—that means Europeans—" have become quite prejudiced at present, and it will appear from the speech itself of the Collector Saheb, which is given elsewhere, how exasperated they have become, and how they are seeking to vent their anger on innocent people. It is indeed a great misfortune that owing to the horrible act of one thoughtless man, the forbearance shown by the inhabitants of Poona up to now should be ignored by Government. But we cannot write anything more about this for the present, until the murderers are found out, and peace is a little restored. It is not that this is the first dark imputation brought against the inhabitants of Poona. When the Budhwar Wada was burnt in the year 1878, similar was the predicament they were placed in; and we have full hopes that just as that calamity passed off, so this also will pass off; but the people without giving up courage must continue their regular work as before of rendering assistance to Government." Whatever may be said as to what is written before, and whatever may be said as to what is written after, I submit to you, with every confidence, that Mr. Tilak's paper, commenting on this dreadful thing, and publishing that article, was writing what no man has any reason to be ashamed of. He was facing his native readers, and he was laying down with no uncertain voice the duty of finding out who the man was, exposing him, getting him punished, and at the same time he was saying it is really monstrous that papers

of another sort should instantly rush to the conclusion that because someone has committed this dreadful deed there is a great conspiracy in which all Brahmin gentlemen of all sorts of standing and degrees of influence are implicated and laying behind the matter. Gentlemen, that is, therefore, what happens immediately after the Rand murder. There are some other articles which may have to be referred to.

Mr. Justice DARLING: Just to complete the story, was anyone discovered?

Sir JOHN SIMON: Yes, my Lord, a man was discovered sometime afterwards. His name was Khadilkar.

Sir EDWARD CARSON: No, it was Chapekar.

Sir JOHN SIMON: Somebody of whom Mr. Tilak knew absolutely nothing, and he was in due course prosecuted, and proved guilty of this crime, and very properly executed. He was a Brahmin. I believe the number of Brahmins in India is about the same as the number of Irishmen in Ireland.

Mr. Justice DARLING: Surely more than that!

Sir JOHN SIMON: I have not the statistics—they may be far more, but at any rate, if we are going to deal with this case on the basis that if a person who belongs to a great race and creed commits a murder, that therefore everybody else in that race and creed is a party to it, that will greatly shorten this inquiry.

Sir EDWARD CARSON: No one suggests that.

Sir JOHN SIMON: I am submitting that there really is on the facts as I have opened them to you, no justification whatever for this fifth libel, and I desire to point this out to you, Gentlemen, finally and in most express terms. I am not asking you to pronounce that Mr. Tilak's paper has invariably conducted itself in a wise way or that it has always avoided seditious utterances. The trial in India has decided that the two articles I have read about Shivaji were seditious. You may very likely say that you are not going to try that issue all over again, but after all there is a very wide difference. I shall hope my learned friend Sir Edward Carson, when he comes to address you, will agree that there is a very wide difference between being associated rightly or wrongly with what some people call sedition and being morally respon-

sible for a murder, and the complaint which the Plaintiff makes here is that he says: If you choose to say of me that I am seditious and that I have been convicted of sedition and that my writings have a seditious tendency, you may have your justification—I do not agree with you but you are entitled to your opinion; but what you are not entitled to do when the facts are what I have just shown you, is to say: Here is a man who has been convicted of sedition twice, when I write my book about Indian Unrest I will not stop at that: Just as I accuse him of having been shown up as a dishonest and dishonourable man in the matter of his trusteeship, so in the same way I will accuse him of being morally the murderer of Mr. Rand. I want to bring this fifth head rapidly to a close. There will be some other matter you may have to consider later. I told you quite briefly that an unhappy controversy often happens of a class which in these cases is not very unfamiliar or unlikely—you have some people whose loyalty in the matter went to such lengths and who were so extremely pronounced in their expression that there was great protest later on, on behalf of the native community, Mr. Tilak's paper took part in this protest at the way in which the whole native community or, at any rate, persons who had nothing in the world to do with this terrible event, were being treated as though they were in effect responsible for it. I have the less cause to go into the details now, for this reason. The murder was on the 22nd June, and the article I have just read, speaking in very proper terms of this dreadful crime on the 29th June and of Mr. Tilak's prosecution, not for being associated with any murder, but for these seditious articles about Shivaji, is instituted immediately after. The actual formal steps took a little time, but the Information was laid on the 27th July, and he was arrested on the 27th July and brought before the magistrate. To sum up that in a sentence, on the 14th September, in the same year, 1897, Mr. Tilak was convicted of sedition in respect to those two articles, and he was sentenced to a term of imprisonment of, I think, 18 months. That is the fifth of these six libels.

Now, Gentlemen, there remains, I am very glad to say, only one more, and I can deal with that—serious as

it is; it is as serious as any libel, I think—more briefly than I have been able to deal with the previous matters. Here again as so often happens, it is very important to understand what the relevant date is. I begin by giving you the date of the murder of Mr. Jackson; Mr. Jackson was murdered on the 21st December, 1909, which is ten years ago. He was murdered at a place called Nasik, a town with some very special local associations. It is, I think, a town on a river, which we learn of in the geography books we have in this country, and it is an ancient town, with very strong local sentiment, based partly on the fact, I believe, that one of the incarnations of the great Hindu deity is believed to have occurred at Nasik under the place where he assumed human form, and assumed visible form and visited the earth; it is, in fact, a city of very special sanctity. What is also rather important to know is that it is not the city in which Mr. Tilak lives, or in which his newspaper is published, but it is a very substantial way off, and, so far as I can discover from these voluminous records here, Mr. Tilak visited Nasik, as it happened, in the year 1906 for two or three days, and that is the extent to which his personal associations with this town of Nasik appear to be relevant. This is before the "Kesari" which is, as I have told you, a paper in the vernacular, published in Poona; it is not published at this small town of Nasik which is over 100 miles away, and it is not a paper which has got any special circulation in Nasik at all. I do not say that there are not copies of it possibly to be found in this town of Nasik—there might be but it is not a part of the country which either by association or by circulation of the "Kesari", with which Mr. Tilak has got any particular connection. There is a third fact which is of very great importance to bear in mind when you find he is in this book accused of being responsible for the murder of Mr. Jackson, and that is this that Mr. Jackson was murdered on the 21st December. 1909, when Mr. Tilak was in prison under the second of the two sentences for sedition—from 1908 right up to 1914. I well understand that a Plaintiff who comes to these Courts and who has in his history the record that he has spent six years in prison for sedition will be

regarded by you as a gentleman who has offended, and most seriously offended, against his country's laws, but the question in this case is not whether Mr. Tilak has been guilty of sedition once or twice, and the question is not whether on a second occasion he got—and deserved, it may be—a long sentence, but the question is simply this: Are the Defendants justified in saying that Mr. Tilak, who has no particular associations with Nasik at all, and who visited the place for two or three days in 1906 in circumstances I will tell you of and was not only not in Nasik at all, but wholly unable to exercise any sort of influence during the six years when he was serving a term of imprisonment and was, I believe, in Mandalay—is Mr. Tilak properly to be accused by the Defendants here of being morally responsible for the murder of Mr. Jackson? That is the really important thing.

There is a very great deal of detail about the murder of Mr. Jackson, which for all I know you may be asked to consider before the case is over, but for my part in presenting to you what it is I think it is fundamental for you to bear in mind that I do not propose to go into an immense amount of detail about this matter and other things connected with it. Here is a man, the Plaintiff, who being prosecuted for sedition and writing some articles about a bomb outrage which occurred in Calcutta and was sent to prison in July, 1908, and being not only locked up but locked up on terms which entirely prevent any communication with the outside world until the year 1914—in those circumstances is he properly to be charged with being responsible for the murder of Mr. Jackson at Nasik on the 21st December, 1909?

Mr. Justice DARLING: You used the words "morally responsible". Are those the words the Defendant used?

Sir JOHN SIMON: It is better for me to read again the words that were actually used. They are on page 62 of the little book "Unrest in India." I cannot help thinking, Gentlemen, and you will think, I think, that desiring, as I trust we all do, and I trust the author of this book does, that however strong his view may

be, and however just his view may be as regards the general subject of Indian Unrest, after all we have to be fair to everybody. The circumstances which I am calling your attention to, as I submit,go to show that Sir Valentine Chirol, deeply moved, as I do not doubt he is, and very naturally moved, by some of the dreadful things that have occurred which he is dealing with in this book, has I fear, allowed his strong feeling, which in itself is quite honourable to him, to do very scant justice to somebody to whom justice must be done, even though he has been convicted of sedition. Now this is what is said.

Mr. Justice DARLING: It begins on page 61, I think.

Sir JOHN SIMON: I almost think I had better begin on the previous page, because it conveniently states it: "The atmosphere of Nasik was no doubt exceptionally favourable for such morbid growths. For Nasik is no ordinary provincial town of India. It is one of the great strongholds of Hinduism. Its population is only about 25,000 but of these about 9,000 belong to the Brahminical caste, though only about 1,000 are Chitpavan Brahmins, the rest being mainly Deshastha Brahmins, another great sect of the Deccanee sacerdotal caste. It is a city of peculiar sanctity with the Hindus. The sacred Godavery—so sacred that it is called there the Ganga—i. e., the Ganges—flows through it and its bathing ghats which line the river banks and its ancient temples and innumerable shrines attract a constant flow of pilgrims from all parts of India. Indeed, many of the great Hindu houses of India maintain there a family priest to look after their spiritual interests. Nasik was, moreover, a city beloved of the Peshwas, and next to Poona preserves, perhaps, more intimate associations with the great days of the Mahratta Empire than any other city of the Deccan. But though no doubt these facts might account for a certain latent bitterness against the alien rulers who dashed the cup of victory away from the lips of the Mahrattas, just as the latter were establishing their ascendancy on the crumbling ruins of the Mogul Empire, they do not suffice to account for the attitude of the people generally in presence of such a crime as the assassination of Mr. Jackson." I pause to observe—

whether this is well-founded criticism or not, it plainly cannot refer to Mr. Tilak, because Mr. Tilak was in gaol in Mandalay, and the attitude of the people in the presence of such a crime as assassination of Mr. Jackson cannot include him, for "if murder is a heinous crime by whomsoever it may be committed, it ranks amongst Hindus as specially heinous when committed by a Brahmin. How is it that in this instance, instead of outcasting the murderer many Brahmins continued more or less secretly to glorify his crime as 'the striking down of the flag from the fort'? How is it that when there was ample evidence to show that murder had been in the air of Nasik for several months"—that is a very material passage—"before the perpetration of the deed, not a single warning, not a single hint, ever reached Mr. Jackson except from the police, whose advice, unfortunately, his blindly trustful nature led to him to ignore to the very end?" Gentlemen, assume that this is true—and I daresay it is—for those several months Mr. Tilak had been in Mandalay, shut up. "How is it that even after its perpetration, though there is much genuine sympathy with the victim and many eloquent speeches were delivered to express righteous abhorrence of the crime, no practical help was afforded to the authorities in pursuing the ramification of the conspiracy which had 'brought disgrace on the Holy City of Nasik'? All this opens up wide fields for speculaton, but there is one point which a statement solemly made by the murderer of Mr. Jackson has placed beyond the uncertainties of speculation. In reply to the magistrate, who asked him why he committed the murder, Kanhere said—

Mr. Justice DARLING: Will you indicate that this is where the libel concerning Mr. Jackson, is said to begin —at the words "In reply to the magistrate"?

Sir JOHN SIMON: Yes my Lord. Gentlemen, I have been reading preparatory matter, and as my Lord says, this sentence I am just reading now is what we set out in this document as being the thing we say is libellous of the Plaintiff. It is necessary to read what comes before to understand it. This is what you have on this sixth libel to consider specially and particularly: "In reply to the majistrate, who asked him why

second time for sedition had an idea that a paper called the "Rashtramat" might be produced, and he had taken some part, I do not remember exactly what, nor does it matter, in the formation of a Company called the National Publishing Company which in due course would produce the paper, but before ever one single copy of that paper appeared Mr. Tilak was arrested on the second charge of sedition. Any numbers that did appear appeared while he was in prison, and right down to the year 1914, when he came out of prison, he had never in his life seen one single sentence in a single number of "Rashtramat" paper. The extent of his connection with the "Rashtramat" paper is that he had, it is quite true, projected the idea of some publishing Company which would produce a new paper, but before that idea was carried out in any way whatever he was in prison, but assume that it is true that this wretched criminal, who is giving an account of what he did, and I contend therefore he is not necessarily always speaking the truth, but assume that it was true that this wretched criminal had been reading the "Rashtramat," it is a most reckless proceeding to suggest that anything in the "Rashtramat" could properly be attributed to the action of Mr. Tilak. Now, Gentlemen, the "Kal" is I think, an example, if I may be allowed to say so, of a certain looseness of writing which one is probably compelled to accept in journalism, which one does not always expect to be carefully edited in the book. You observe the "Kal" is treated in this passage as one of Mr. Tilak's organs. If you turn back to page 52 of the little book, the author of this book knew better when he was writing ten pages earlier, and he is saying here: "Tilak's own prestige, however, with the 'advanced' party never stood higher, either in the Deccan or outside of it. In the Deccan he not only maintained all his old activities, but had extended their field. Besides the 'Kal' edited by another Chitpavan Brahmin, and the 'Rashtramat' at Poona, which went to even greater lengths than Tilak's own 'Kesari,' lesser papers obeying his inspiration had been established in many of the smaller centres." The extent to which this distinction is important you will consider, but the fact is that whether he had for a certain time,

and only for a certain time, a responsibility for the contents of the "Kesari", the "Kesari" was a paper of which he was the proprietor and to which undoubtedly he contributed a number of articles—the "Rashtramat," as I have told you, is a paper that he never saw in his life, and the "Kal," as this passage says, is a paper which is described as going even further than the "Kesari," and is not edited and never has been edited by him; it is edited by another Brahmin. Just one word about the "Kesari." Mr. Tilak must take responsibility for a great deal which appears in the "Kesari." If we are going to inquire into this matter with any minuteness, it may become necessary to know, as regards some of the articles, whether they are articles which Mr. Tilak wrote, and whether indeed he knew they were appearing until after they appeared. I am not going to delay to draw this distinction by reference to particular articles now, but this is important. From the time when he was convicted, not only because it was a necessary consequence, but because it was what was expressly done, his own association with the "Kesari," his own conduct of the paper was, at any rate for the time being, terminated, and during those years, 1908 to 1914, Mr. Tilak may have to bear the responsibility of having left behind him a paper bearing the name of the "Kesari," which had adopted a particular line, and had gone to certain lengths, but he cannot be treated in all common fairness and in all common sense as the person who was taking any part whatever in producing what is to be found in the "Kesari," still less in the "Rashtramat," which he had never seen, or the "Kal." I will only make one observation on this branch of the case so far as the facts are concerned, and that is this: It appears that this very dreadful crime of shooting Mr. Jackson as he was coming out of the theatre was, according to the assertions of those who took part in it, the product of a secret conspiracy consisting of a very limited number of people who had formed that secret conspiracy quite recently, and who carried it out with these dreadful murderous consequences when Mr. Jackson was killed in December, 1909. Of course, the duty of an advocate in a case of this sort is to do nothing in the world but to put be-

fore the Judge and Jury as clearly as he can, and may I say as briefly as he can, what is relevant for them to address their minds to when the evidence is given. You will put these facts together, and ask yourselves as fair people, who mean to do what is fair by any British subject, whatever his colour, whatever his race, whatever his creed, whatever his record, and just ask yourselves: Is there, if these facts are right, or anything like right, a justification for saying to Mr. Tilak: You are not merely a seditious person, not merely a person who has twice been convicted for seditious writing, but although you were locked away in Mandalay Gaol for nearly two years before the murder of Mr. Jackson was committed, although you have never in your life had anything in the world to do with producing the "Rashtramat," although the "Kal" belonged to somebody else, although your connection with the "Kesari" was necessarily stopped when you were sent to gaol, although the conspiracy which killed Mr. Jakson was a conspiracy of a few months' growth, nevertheless I am going to brave it out, and say you are, in the language of this article, really the person who killed Mr. Jackson, you, rather than Kanhere, are the real author of the murder, I will brave it out and prove it, and I will invite the Jury on this sixth libel, to find a verdict in my favour. I referred to the fact that Mr. Tilak had paid a visit to this strange town of Nasik in the year 1906. I will tell you what I understand his evidence is, and there is some confirmation of it, as to what then happened. Something very important may turn on this. Even though he only visited the town casually, if he went there and encouraged people to adopt violent courses, that might be very serious. He was invited to go there to pay a visit to what is called a mitra mela. Mitra means friendly, or friend, and a Mitra Mela is a friendly association. He paid a visit there. It is perfectly distinct, it has nothing to do with the secret society formed by these murderers, long after, to murder Mr. Jackson—it is a kind of association which exists in many parts of India. He went there, and he found that some of the people who were members of this Mitra Mela were talking or swaggering in a way which looked as though they were prepared to dis-

regard the law, and act with violence and in a revolutionary spirit. What did Mr. Tilak do? This is on record, so it will not solely depend on his own evidence. He gave those young men a very good talking to; he told them they must not go on in that way. He told them their action must be constitutional and legal, and they were so much impressed by it that a record actually exists made at the time of the way Mr. Tilak came down on a visit to this friendly club and found some of these wild spirits indulging in extravagant ideas, and pitched into them, and told them that the real future of the country depended on constitutional action. That is the connection with Nasik; that is the connection which exists between him and these other people. This case, as regards these last two libels, is, as I present it to you, a case in which a man who in the view of many of us may have done very wrong, and written in a way which, when the matter is reviewed, lays him open to grave reproach for his seditious writing, but has not been the instigator of these frightful and violent courses; on the other hand, in spite of the extravagance of much of his writing, has not been afraid, and has felt it his duty to stand up against people far more extreme than himself, and just as after the murder of Mr. Rand he addresses this native population that reads his paper, and says, this is a disgrace on us, the one thing we have to do is to find this murderer and expose him, so in the same way, the chance association which he had with this distant town of Nasik in which he says to the people he met there: Mind you behave in a legal, constitutional way, no good comes of violent courses; if that view of the matter which I present in opening this case is consistent, as I trust it may be found to be, with the evidence, I shall submit to you that Mr. Tilak is entitled to a verdict at your hands. You will, I apprehend, have to deal with each of these libels separately; they do not deal with a common subject-matter at all, they are spread over a great many years as regards the incidents they touch; they are wholly different in character. As I have indicated, at present I am at a loss to understand how some of these libels are sought to be justified at all, because I am quite unable to discover in the Particulars any material which would support

justification. It may be you will take one view of one libel, and another view of another. You, at any rate, dealing with these six several accusations, will want to do justice between the parties.

I will not delay you any longer in opening the matters of fact which you will have to consider, but I will call Mr. Tilak into the witness box, you will hear him, I have no doubt, put under the cross-examination of my friend, Sir Edward Carson, and no man can possibly have to undergo an experience more severe.

Sir EDWARD CARSON: Unless he was cross-examined by you.

Sir JOHN SIMON: No. Let me assure the Defendant, Sir Valentine Chirol, when his turn comes, it will not be anything like as bad.

Sir EDWARD CARSON: I hope he has not done as much.

Sir JOHN SIMON: Gentlemen, ultimately when that is all over you will have to get back to the real point of the case, and in my concluding sentence I will say, You may feel very strongly indeed about the impropriety of much of Mr. Tilak's conduct, but do not, in your determination to condemn one wrong, yourselves commit a far greater wrong in failing to deal out justice to a man who is accused of crimes which he never committed.

Mr. BAL GANGADHAR TILAK, sworn.

Examined by Mr. SPENCE.

1. Is your name Bal Gangadhar Tilak?—Yes. Gangadhar is my father's name, Tilak is the family name.

2. You were born in July, 1856, at Ratnagiri?—Yes.

3. I think you are a Chitpavan Brahmin?—Yes.

4. How many Chitpavan Brahmins are there roughly?—There may be between three and five millions; the Brahmins in general I believe about fifteen millions.

5. You were educated at Ratnagiri and came to Poona in 1866?—Yes.

6. What degrees did you take?—A degree in law and a degree in art.

7. Bachelor of Art and Bachelor of Law?—Yes.

8. That is at the Deccan College?—Deccan College,

Poona, and the University in Bombay. I took my degree in arts from the Poona College; the degree in law from the University.

9. What profession was your father?—The headmaster of a school.

10. In 1880 did you open a school?—Yes, after taking my law degree.

11. Was that the new English school at Poona?—Yes.

12. What became of that: was that school successful?—Yes, it is still in existence.

13. What part did you take in the teaching of that school?—I taught mathematics, Sanscrit sometimes, and science.

14. In 1881 were the papers, the "Kesari" and the "Mahratta," established?—Yes, they were started in 1881.

15. You were one of the founders?—Yes.

16. How often is the "Kesari" published?—Once a week.

17. On what day?—On Tuesday.

18. It is a paper in Mahratti?—Yes.

19. About how many people speak that language?—The circulation of the paper was about 15,000 to 20,000. I mean not to start with but at the time of these cases.

20. It rose to about 15,000 to 20,000?—Yes.

21. Did it circulate throughout India, or was it a local circulation?—Not throughout India; a provincial circulation wherever Mahratti is spoken.

22. It would not have any sale in Bengal?—No, nor in the whole of northern India or southern India.

23. How often is the "Mahratta" published?—Once a week, on Sundays.

24. What language is that in?—In English.

25. Was that a local circulation?—About 1,000 to 1,500, the highest.

26. What are the prices of these papers?—The "Kesari" is the cheaper one, about one rupee per year subscription; the "Mahratta" is about four rupees.

27. Is Poona a large city?—It is the second in the Bombay Presidency.

28. How far from Bombay?—120 miles.

29. What part did you take in the production of this paper—were you publisher of the "Kesari"?—I was the declared publisher of the "Kesari" and the "Mahratta"; not from the beginning, but after some years.

30. Were you editor of either?—I was the editor of the "Kesari" from 1889, or 1887.

31. When did you stop editing the "Kesari"?—I stopped at the time of the first conviction—that would be 1897.

32. Were you editor of the "Mahratta"?—Yes, I was the declared editor of the "Mahratta."

33. What do you mean by "declared editor"?—According to the law someone has to declare himself to be responsible for the writings in the paper. He need not necessarily edit it, but he has to give his name to the magistrate as the declared editor and publisher of the paper and be responsible for whatever appears therein, though he may not write it.

34. After you came out of prison the first time, that is to say, after 1898, did you edit the "Kesari" again?—Not the "Mahratta," but the "Kesari." I gave my name again—resumed that declaration.

35. As regards these papers, you published in the "Kesari" a certain number of articles that professed to be contributions?—Yes.

36. Some of them have been referred to, signed by "Anant," are those genuine, or do you publish staff publications in that guise. Were they correspondence from outside the paper or were they manufactured inside?—No, they are not manufactured; they are real correspondence.

Mr. Justice DARLING: Ask if they were paid for.

37. Mr. SPENCE: Were they paid for?—No.

38. In addition to editing the papers you took a part in politics from 1881 onwards?—From 1889 onwards.

39. And you became connected with the Indian National Congress?—Yes, since 1889.

40. That is a yearly membership of the Indian National Congress, is not it? No, you have to go and attend the Session, and have to be elected by some public

body, or at a public meeting, to become a delegate; that is all that is required. Nowadays you have to sign a declaration.

41. How often were you elected a delegate of the Indian National Congress?—Almost every year, except when I was in gaol.

42. Were you a member of the Municipality of Bombay?—No, the Municipality of Poona.

43. A member of the Legislative Council of Bombay?—Yes.

44. After 1889 you took an active part in Anglo-Indian politics?—In Indian politics I took an active part.

45. In 1893 you were living at Poona?—Yes.

46. And paid occasional visits to Bombay?—Yes.

47. In 1893 were there riots in Bombay?—Yes, I heard of them; I was not in Bombay then.

48. You heard that there were riots between the Mohammedans and the Hindus?—Yes.

49. Consequently you dealt with that matter in your two papers?—Yes.

50. You wrote articles upon the topic?—Yes; some must have been written by me.

51. Other were written by other contributors to the paper?—There was a correspondent who supplied us with the account of those riots. The correspondence appeared in the paper.

52. The riots in Bombay were at the end of 1892, I think. When did the riots in Poona begin?—In 1894.

53. Not till about July, 1894. Your papers published a number of articles commenting upon the Bombay riots?—Yes.

54. What was the view that you took of the cause of the Bombay riots?——

Sir EDWARD CARSON: I do not know how that is evidence.

Sir JOHN SIMON: We can avoid any controversy; I have read the documents which the Defendants rely upon, which show, of course, the view which was taken. It is a long case and it is sometimes rather convenient to crystallise it. It can be done by reference to the articles if that is preferred.

Mr. Justice DARLING: I do not know whether Sir

Edward persists in his objection or not.

Sir EDWARD CARSON: My objection is that it is what he wrote, and not what he thought and not what he intended, is really the issue here. The Indian public would only have to deal with what is written. We have to do with what is the probable effect on the mind of the public.

Sir JOHN SIMON: I did not understand that the question had anything to do with asking this gentleman's private opinion. The previous question was about articles in the newspaper, and I understood the question to be, and I suggest it should be for convenience, what was the line taken in your articles about it. That is open to the comment that you can read the articles and see, but it is convenient to have a statement summarily made.

Mr. Justice DARLING: Do you object to that, Sir Edward; if you do you are right.

Sir EDWARD CARSON: I want to shorten this as much as possible, so if he likes to state it in that way I can cross-examine upon it.

55. Mr. SPENCE: What was the line taken by your papers in commenting upon these riots between the Hindus and the Mohammedans?—The view that was advanced at the time by the officials was that the riots were due to the Cow-Protection Societies. I controverted that view.

Sir EDWARD CARSON: I think it is stated in one of the documents that there was a report by the Police Inspector Vincent that the official view was that it was the Cow agitation.

Mr. SPENCE: There was a Government report that Vincent was wrong.

Sir EDWARD CARSON: Are you and I going to argue it?

56. Mr. SPENCE: What line did your papers take then?—I said it was not due to the Cow-Protection Societies but to the kind of bias on which the music rules and the music matters were decided by the officials.

57. Will you say that again?—The riots were due to a kind of bias or partiality observed by officers in the administration of music in the processions.

58. Tell us about the music in the processions?—The Hindus have a right of carrying a procession with music in front of the Mosque. Mohammedans objected to it. This led to riots, and certain rules were published by police officers, restricting the use of music, which were complained of. That led to these riots. That is the cause I attributed to it, that it was on inspiration from outside. There were riots in other places. These were discussed in Bombay, and then that led to the Bombay riots.

59. That was the line adopted throughout by your paper?—Yes.

60. Now about Cow-Protection Societies. It is alleged in the first libel: "Some riots in Bombay of more severe character than usual gave Tilak an opportunity of broadening the new movement by enlisting in its support the old anti-Mohammedan feeling of the people. He started an organisation known as the 'Anti-Cow-Killing Society' which was intended and regarded as a direct provocation to the Mohammedans, who, like ourselves, think it no sacrilege to eat beef." Did you start any Anti-Cow-Killing Society?—I have never started any Anti-Cow-Killing Society.

61. Or Cow-Protection Society?—Or any Cow-Protection Society, myself; nor were any started in that year.

62. Were there any Cow-Protection Societies existing before this year?—Long before—50 years before.

63. Did you belong to any Cow-Protection Society—No, I did not. I am not a member, nor a supporter, of them.

64. You have never subscribed to them?—I have never subscribed.

65. About how many were there in existence in 1893?—Two of them were the principal ones, with branches—I do not know how many.

66. Were they confined to the Bombay Presidency?—No, one was in the Central Provices, Nagpur; one was in Bombay.

67. Are you acquainted with the purposes and objects of the Cow-Protection Societies?—Yes.

68. What is the purpose or object of a Cow-Protec-

tion Society?—

Sir EDWARD CARSON: He says he does not belong to them, and he has not subscribed to them.

Mr. Justice DARLING: I think I could describe the ostensible object of a Cow-Protection Society. I should have thought it was to protect cows.

69. Mr. SPENCE: Does the cow take an important part in the religious ideas of the Hindus?—The cow is a sacred animal according to the Hindu; the killing of it is prohibited.

70. Also, does it take a very important place in the economy of India?—Yes, in the social economy of India it takes an important part.

71. Why does it do so?—Because the cow is sacred according to our religion.

72. I asked you, apart from the religious aspect of the cow, is it regarded as of great importance?—From an agricultural point of view.

73. Are the Hindus vegetarians?—Most of them.

74. As regards the Mohammedans and cows, the Mohammedans are not vegetarians, are they?—No.

75. Is it any part of the Mohammedan religion to kill cows?—So far as I know, it is not a necessary part.

76. So far as your actions are concerned, were the Cow-Protection Societies intended as a provocation to the Mohammedans?—No.

77. Did the Cow-Protection Societies in themselves act as a provocation to the Mohammedans, as far as you know?—As far as I know they did not.

78. Were there riots of this kind in the other parts of India where there were Cow-Protection Societies?—Riots in many parts.

79. It is alleged in the libel that "in vain did liberal Hindus appeal to him to desist from these inflammatory methods"?—I do not understand that sentence.

80. Did any liberal Hindus appeal to you to desist from organising Cow-Protection Societies?—They never did. I do not understand that sentence in the book.

81. The sentence is: "In vain did liberal Hindus appeal to him to desist from these inflammatory methods"?—What inflammatory methods? It is all vague. I did not take any part in Cow-Protection

Societies; either their propaganda or their work.

82. What do you understand a "liberal Hindu" to mean?—I do not understand the phrase there. I am myself a liberal Hindu.

83. You did not appeal to yourself to desist from something which you were not doing, did you?—At one time a few men in Poona said that a meeting ought not to be held in order to express public opinion regarding Hindu and Mohammedan riots at that particular time. That is the only protest I had from some Hindu men in Poona.

Mr. Justice DARLING: The only thing to explain is whether those people were liberal Hindus.

84. Mr. SPENCE: If you understand the word "liberal Hindus," were those people liberal Hindus?—They were liberal Hindus like myself.

85. What was the meeting that they wished you not to hold at that particular time?—After these Hindu-Mohammedan riots.

Sir EDWARD CARSON: I would like that passage to be read.

Sir JOHN SIMON: You had better read it.

Sir EDWARD CARSON: No.

Sir JOHN SIMON: I will take my Lord's ruling on that. I submit that there is no foundation at all for saying that the witness's last answer is not given in a form which is perfectly correct. I do not know why it should be necessary to read something out of a newspaper to make it evidence. I submit it is not so.

Sir EDWARD CARSON: If certain people protested we ought to have the protests in writing, if they were in writing.

86. Sir JOHN SIMON: Were you present when the protest you refer to was made?—I read it at a public meeting.

87. Have you got the document?—No, I have not.

88. Mr. SPENCE: That is the only protest that you recollect?—Yes.

Mr. Justice DARLING: Was that protest made by some liberal Hindus against the holding of these Cow-Protection meetings at that time?

Mr. SPENCE: No.

Mr. Justice DARLING:—Against what?

The WITNESS: Against holding the meeting at that particular time.

Sir EDWARD CARSON: We ought to get the protest.

Mr. Justice DARLING: He said it was at that particular time. You say you read that at a public meeting?

The WITNESS: It was read to the meeting, and I also read it myself.

89. Did you, in spite of the protest, hold the meeting?—There were 50 signatories to the declaration calling the meeting.

90. Was the meeting held?—Yes.

Mr. Justice DARLING: Then it was not paid any attention to?

Sir JOHN SIMON: I think the part which your Lordship has not got was, he does not say the meeting was about cow-protection at all. The witness said there was a meeting at some time connected with the riots, not a meeting at all promoting cow-protection.

Mr. Justice DARLING: You had better find that out.

91. Mr. SPENCE: What was this proposed meeting for?—To express public opinion on Hindu-Mohammedan riots; and causes, and proposed remedies.

92. Causes and remedies?—The proposed remedy was Concilation Boards of Hindus and Mohammedans who would determine what the customs would be, and give advice to the officers to act accordingly.

93. The customs as to what?—Music.

94. Was it about cow-protection?—It stated that the Cow-Protection Societies were not the cause of these riots; expressed an opinion on that point.

95. Mr. Justice DARLING: Did the meeting express that opinion?—Yes.

Sir EDWARD CARSON: It will shorten this very much if my friend will put in the whole of this meeting as it is depicted in this gentleman's own paper, where the resolutions and everything else are set out, page 50, volume I.

96. Mr. SPENCE: This is from the "Kesari" of the 12th September, 1893 page 47. It starts with an account of the meeting. First, this article gives a

description of the holding of the meeting, and in the middle of page 47, it says: "The letter of invitation bore the signatures of about 70 gentlemen, being the leading Sardàrs, Honorary Magistrates, Vakils, Merchants, Kàrkhàndàrs, &c., of the city. In this letter it was distinctly stated that 'this meeting is called for the purpose of communicating to Government the views of the Hindus of this city as to what means should be adopted to prevent the riots which of late have been taking place between the Hindus and the Mussulmans and to promote good feelings between both the communities'"?—That description is correctly given.

97. "Nevertheless those followers of the Rao Bahadur"—who is that?—It is a title; it means there a titled gentleman.

98. "Who had been from the first adverse to the meeting, did not give up the course of action which they had commenced. They had firmly resolved to frustrate this meeting by every means in their power, and, with that object in view, had also been putting forth untiring efforts"?—

99. Mr. Justice DARLING: Was this titled gentleman a Hindu or a Mussulman?—They were Hindus.

Sir EDWARD CARSON: He was a Rao Bahadur afterwards.

Sir JOHN SIMON: I do not think at the time he was.

100. Mr. SPENCE: Then there is a description of the place; then at page 49 he says: "The principal object of convening a meeting of the Hindus alone is this: If a meeting of Hindus and Mussulmans is held together there is a likelihood of the Hindus always scoring a majority of votes at that meeting, and the Mussulmans cannot freely communicate their views." Are there more Hindus than Mussulmans in Poona?—Enormously more—90 per cent. of Hindus.

101. "All without exception desire that there should be friendly relations and amity between Hindus and Mussulmans; but there is not as much likelihood of a reconciliation being effected between the two by one meeting being held as there is if the Hindus communicate to the Hindus and the Mussulmans to the Mussulmans

what things are necessary for bringing about such amity and both are thus accommodated." At the bottom of page 49 it says: "Since, although there are many gentlemen better qualified to become the President at to-day's meeting, you have directed myself to perform that function I am undertaking it, it being my duty to do so. To-day's occasion is a very delicate one. Under the rule of the English Government we have been fully enjoying the liberty of thought; and to-day we are going to make use of one of the facilities afforded for such enjoyment, namely, holding a public meeting; nevertheless, we must always take care, while making this use, not, to wound anybody's feeling causelessly, while on the present occasion we must take special care not to hurt the feelings of anyone at all. All must, on this occasion, bear in mind the advice "—some proverb is then quoted.

Mr. Justice DARLING: You might quote it; it would not do any harm.

Mr. SPENCE: "One should speak pleasantly and truly, and should not speak an unpleasant truth; and one should not speak a pleasant falsehood; this is an eternal and sacred duty."

102. You were present, but you were not in the chair?—No.

Sir EDWARD CARSON: Who was in the chair?

103. Mr. SPENCE: Balasahib Natu. "The President then read out the telegram received by the Committee's Secretary from the Sneha Prasarak Mandali, Dharwad"—that is an association, is not it?—Yes.

104. "Purporting to mean 'We approve the object of the meeting,' and immediately therefore read out to the meeting the adverse letter sent by Rào Bahàdur Bhidé, the President of the local Sàrvajanik Sabhà"?—At the same meeting.

105. "Annexed to this letter was another letter bearing the signatures of ten or twele persons, Rào Bahàdur Bhidè, Pàthak, Ràndè, and others. Their allegation was that 'the minds of the people being at present excited in Bombay, this is not the time to consider the causes of the Hindu-Mussulman riots.' The President read out this letter to the meeting and asked the people in the meeting to express their opinion thereon; when it

was unanimously resolved that the business of the meeting should be proceeded with." Was that unanimously resolved?—Yes.

106. About how many people came to the unanimous resolution?—The signatories of the letter did not attend.

107. Just answer my question?—About 5,000 to 6,000 people.

108. You were one of the 5,000 to 6,000?—Yes.

Mr. Justice DARLING: Where was the meeting? Was it out of doors?

Mr. SPENCE: There is a description of the building—an open shed or hall. In the middle of page 48 it gives a description—a Mandap.

Mr. Justic DARLING: On the Maidan, it says; and that is translated in the margin to be a plain.

Mr. SPENCE: The first word I was referring to, a large Mandap.

Mr. Justic DARLING: "A large Mandap, 100 feet in length and width, was erected on the Maidan opposite to the Shanwar Wada; and as it was open on all the four sides, there was room for people to stand around it as well."

109. Mr. SPENCE: Then the first resolution that was proposed to the meeting was this: "This meeting is sincerely, gratefully and extremely indebted to Her Majesty the Queen for the unceasing solicitude which she has for the welfare of the people of our country and which has quite recently been manifested by the telegram sent by her in connection with the Bombay riots." That resolution was passed?—Yes.

110. Then the second resolution was: "This meeting very much regrets the breach of the friendly feelings between the Hindus and the Mussulmans of Bombay; and this meeting feels extremely obliged to the Honourable Lord Harris for the attempt he made to impress in an excellent manner on the minds of the people the fact that in order that the brotherly affection between these two communities might remain intact, it was extremely necessary that there should be mutual forbearance and generosity"?—Yes, that too, was passed.

111. I see Mr. Manday supported the resolution.

place, about the brothers Natu, who were the brothers Natu?—They were two Brahman gentlemen, landowners in Poona.

120. Did you have some legal proceedings with them?—Not legal, but in the religious court they proceeded against me.

121. Can you tell me the date, about, was it before 1893?—It was after, 1894 I think it was.

122. What did they charge you with before this religious court?—They charged me with taking tea at Christian hands.

123. Did that excite some bitterness?—I was to be put out of caste at once.

124. How long did that suit go on?—Two years.

125. That suit in the spiritual Court lasted two years?—Yes.

126. It caused some bitterness?—Yes, it caused bitterness, all of us who protested against the meeting were in the same boat.

127. The people who protested against the meeting were in the same boat with you in the spiritual Court?

128. Mr. Justice DARLING: Did not he say the brothers Natu put him in the spiritual Court?—Yes my Lord.

129. Mr. SPENCE: What did they charge you with?—Breaking caste by taking tea at Christian hands.

130. What was the upshot of the two years in the spiritual Court, were you punished or absolved?—They wanted me to be put out of caste. The Court said we could get off by paying a small fine.

131. Mr. Justice DARLING: Do you say you were ordered to pay a small fine?— Yes.

132. By the Court?—By the Court.

133. Mr. SPENCE: What was the Court—tell me the name of the Tribunal?—It was presided over by two Shastris, who take the same position as the Pope in Italy.

Mr. Justice DARLING: It must be a very good spiritual Court.

134. Mr. SPENCE: Would it have been a serious matter if the Court had put you out of caste?—I do not think the Court could have put me out of caste. In fact,

I pleaded against the Natu gentlemen. I pleaded this was not a matter in which the Shastris could put us out of caste, and I quoted authority.

135. Mr. Justice DARLING: Then if I understand you, although the Court did not put you out of caste they made you pay a fine?—Yes.

136. How much?—About 1s. or 6d.

Mr. Justice DARLING: That was the price of the tea.

136A. Mr. SPENCE: It was the brothers Natu who prosecuted you before this Court?—Yes.

137. You opposed them?—Yes.

138. Just look at the libel. Did you carry any propaganda into colleges and schools with the help of these brothers?—No, I did not carry any propaganda with their help in schools, neither did I in any schools.

139. First about the brothers Natu, did you do anything at all with their help?—Now and then we associated with them.

140. Yes, but did they actively assist you in any part of your political movement?—No.

Sir EDWARD CARSON: Natu was chairman of that meeting.

Mr. SPENCE: A meeting of 4,000, of which this gentleman was one.

Sir JOHN SIMON: The witness is asked a perfectly regular question; I apprehend he is entitled to have his answer.

Mr. Justice DARLING: He said he did not carry propaganda into schools and colleges in the teeth of the Moderate Party with the help of the brothers Natu.

Sir EDWARD CARSON: We assert it with the brothers Natu.

Mr. SPENCE: Yes, but they do not seem always to have been on the best of terms. They prosecuted him and tried to put him out of caste, so he says.

141. Mr. SPENCE: Putting the brothers Natu out of the question, did you proceed to organise gymnastic societies?—No. I have not organised any.

142. You have never organised any gymnastic societies?—I have never organised any gymnastic societies.

143. Have you ever been a member of a gymnastic society?—No.

144. Have you ever subscribed to a gymnastic society?—No.

145. Have you ever been connected in any way with any gymnastic society?—Except as a spectator of their sports, sometimes.

146. Will you look at the next one, please. "He (meaning the Plaintiff) must have had a considerable command of funds for the purposes of his propaganda, and though he doubtless had not a few willing and generous supporters, many subscribed from fear of the lash which he knew how to apply through the Press to the tepid and the recalcitrant, just as his gymnastic societies sometimes resolved themselves into juvenile bands of dacoities to swell the coffers of Swaraj." You tell us you had no gymnastic societies?—Yes.

147. At the time referred to were you getting in sums of money for the purposes of any propaganda?—Nothing for the propaganda, but there were other purposes.

148. For what purposes have you at any time collected funds or assisted in collecting funds?—I have never collected any funds through fear of lash.

149. We will go by steps, please. For what funds have you ever collected any money?—I have collected money for a memorial fund.

150. For any other fund?—The paisa fund for industrial purposes.

151. What does paisa mean?—It is a small fund, a penny.

152. It means a penny fund. Just tell me when did you begin to collect for the paisa fund, do you recollect?—Yes, I think I first took interest in about 1900, and then that paisa fund was converted into an incorporated body under the Legislature Acts. It was an incorporated body under the Indian Legislature Acts in 1905, I think.

153. How much is the paisa? it is a very small coin?—Yes, it was small, but it has gradually accumulated and has grown to about £6,000.

154. What was the purpose of the fund?—To start and increase small industries.

155. Has it any political purpose at all?—No, nothing. It is expressly stated in the objects that it has not to take any part in political work.

156. Did you collect moneys for any other fund?—There is the National Education Fund for which I collected.

157. When did you begin to collect for that?—1906.

158. Was that registered or unregistered?—It is not registered, but it is a body formed of trustees and councillors.

159. Are there any other funds for which you ever collected moneys?—No.

160. Did any person subscribe to any of those funds for fear of the lash?—No, no lash.

161. Just follow the question; Did anybody subscribe in consequence of any threats?—No, nobody subscribed from pressure from lash or anything.

162. Did you ever attempt to put pressure upon anybody to subscribe for any fund?—No, I did not use any pressure.

163. You never used any pressure?—No.

164. Did you ever use any threat?—No.

165. The particulars in justification allege a number of articles in your papers criticising various social reformers?—Yes, there are a number of articles.

166. Did you ever invite any of the persons who are attacked in your papers to subscribe?—No, nor have they subscribed, nor did I invite them to subscribe.

167. They have not refused to subscribe?—They have not refused, they did not subscribe.

168. Those gentlemen criticised are criticisms upon various questions on Hindu social policy, on which you put forward views in your papers?—Hindu social policy, even political matters too.

169. Ordinary criticism entirely unconnected with any question of money?—Yes.

170. I want to take you to the Tai Maharaj case. Who was the testator in this matter of Tai Maharaj? You recollect the case, do not you?—Yes.

171. It related to the will of Baba Maharaj?—Yes.

172. What was the Baba Maharaj, was he a Brahmin?—Yes, he was a Brahmin.

173. Was he a friend of yours?—Yes.

174. Was he a great friend of yours?—Yes.

175. A friend of many years' standing?—About three or four years. He died afterwards.

176. I want you to tell us about the question of adoption. Is adoption very common amongst Hindus?—Yes.

177. Is there a religious aspect of adoption?—It is considered necessary to have an heir as a son—according to Hindu ideas.

178. For what purpose is it considered necessary?—For performing the funeral rites of the deceased, and to secure for him a proper habitat in the next world.

178A. That is the Hindu belief?—The Hindu belief, it is enjoined in the Hindu sacred books.

179. Was that the belief of Baba Maharaj?—It is the belief of every Hindu.

180. Is an adopted child considered an heir for such purpose?—Also to the estate.

181. We will go by steps. The adopted child can perform the necessary ceremonies for the soul of the deceased, is that so?—Yes.

182. An adopted child becomes exactly the same as a flesh and blood child?—Yes, he takes the place of a natural son.

183. It also takes the place as regards property?—Yes.

184. And as regards continuation of the lineage?—Yes.

185. In 1897 Baba Maharaj died after making a will?—Yes.

186. He appointed you and four other gentlemen trustees and executors?—Yes.

187. We have the will here, it is a short will; your Lordship will find it on page 121 of the record in the Tai Maharaj case in the Privy Council——

Mr. Justice DARLING: What the book says is, there was a great deal of time absorbed in long and wearisome proceedings.

Mr. SPENCE: It seems in anticipation.

Mr. Justice DARLING: We can cut this short.

Mr. SPENCE: I want to make it very clear; it is a

tangle. I will cut it short by this, if my friend does not object.

188. Did the testator express an anxious desire in his will that a son should be adopted?—It was in the will itself that the son be adopted with the consent of the trustees.

Mr. Justice DARLING: The question is that there was a dispute between the two, that is the trouble. Both sides said there must be a son and heir.

189. Mr. SPENCE: He died in the year 1897?—Yes.

190. And in the year 1901 a boy was adopted, that is a boy named Jagannath?—Yes.

191. How old was that boy?—Six years.

192. A little later in the same year the widow, Tai Maharaj, adopted somebody at Kolhapur named Bala Maharaj?—Yes.

193. How old was he?—19, I believe.

194. How old was the widow?—About 18 I should say or 19, nearly the same age or younger.

195. That led to what, a dissension between you and widow?—Yes.

196. The fact that she had adopted the second child led to a dissension between you and the widow?—Yes.

197. And in September, 1901, you brought an action to obtain possession of the property and for a declaration that the adoption of Jagannath was valid?—Not to obtain possession; it was to prevent the others from interfering with the possession and management of the property by us.

198. A little later Tai Maharaj made an application to cancel the probate?—Yes.

199. A long attack was made upon you during those proceedings?—Yes.

200. In the following year the probate was revoked by a Judgment of Mr. Ashton?—Yes.

201. He committed you on various charges?—Yes.

202. He directed a prosecution?—Yes.

203. Then you appealed against the Judgment so far as revocation of the Probate was concerned, and Mr. Ashton's judgment was upset?—Yes.

204. But you were prosecuted. You were prosecuted

on two charges of perjury?—Yes, there were four charges and eventually I was acquitted of all. One was dropped for want of sanction, three were taken up by the magistrate, and out of the three one was dropped for want of evidence.

205. Of the three, Mr. Clements convicted you of two?—Yes.

206. Then you appealed?—Yes, to the District Magistrate.

207. He gave Judgment in your favour on one of the two charges of perjury?—And acquitted me on the other.

208. He reduced the sentence from 18 months to 6 months?——

209. Mr. Justice DARLING: You appealed and succeeded as to the one charge?—Yes.

210. And failed on the other?—Yes.

211. And the sentence was reduced from 18 months to 6 months?—Yes

212. Mr. SPENCE: Then you appealed to the High Court?—Yes.

213. In March 1904, the High Court gave Judgment?—Yes.

214. The High Court acquitted you of all charges of perjury?—Of all charges.

215. And set aside the conviction and sentence, and ordered the fine, if any, to be repaid?—Yes.

216. So that you were then completely acquitted of the criminal charges that had been made?—Yes, there is one thing more. The High Court inquired at the time whether other charges were to be proceeded with or not, and the Advocate-General stated he had abandoned all the charges.

217. After that you went on with the long sleeping civil action for a declaration of the validity of the adoption?—Yes.

218. In 1906 the case was decided in your favour, is that so?—Yes.

219. That was a Judgment of the Subordinate Judge, who decided that the adoption was valid?—Yes.

220. Then the other side appealed?—Yes.

221. That Appeal came on in September, 1910?—Yes.

222. And the High Court decided against you?—Yes.

223. In the civil action then you got leave to appeal to the Privy Council?—Yes.

224. In March 1915, the Privy Council set aside the Judgment of the High Court?—Yes, they quashed it, and in fact upheld the Judgment of the first Court.

225. That is to say, the Privy Council declared that the adoption was valid?—Yes.

226. Fifteen years after the adoption?—Yes.

Mr. Justice DARLING: It comes to this: after a good many vicissitudes he won both the criminal and the civil suits.

Mr. SPENCE: Yes.

227. At the time the libel was written, that is to say in 1910, had all the criminal proceeedings come to an end?—Yes.

228. But at the time the book was published there was the Judgment of the civil Court then against you?—The first was in my favour, the second had gone against me.

229. That was the stage which it had reached when the Appeal had succeeded?—Yes.

230. Throughout these cases what was your position—that of executor and trustee?—Executor and trustee.

231. You were one of several executors and trustees?—One of the four.

232. One of them was unfriendly to you?—One of them was hostile.

233. But the others worked well with you?—Yes.

234. Now, in all these proceedings was there any charge or suggestion of any pecuniary interest on your part?—None. I had no pecuniary interest in the estate, nor was it ever suggested.

235. Were your motives for getting the adoption carried out ever questioned?——.

Mr. Justice DARLING: There is nothing about this in the libel that I can see.

Mr. SPENCE: My Lord, it comes to this, with great respect, one has got to see how any meaning is to be put upon this attack. The comment upon it is the damaging

part: "It is extremely damaging to Tilak's private reputation as a man of honour or even of common honesty." How can anybody reading that read it fairly without knowing whether or not there was any financial question involved?

Sir EDWARD CARSON: That is a comment on the Judgment of Mr. Justice Chandavarkar which was at the time in question.

Mr. Justice DARLING: The plea to this is that it is fair comment on a matter of public notoriety. Honesty does not mean not stealing money, honesty means a great deal more than that.

Mr. SPENCE: May I suggest the whole of these words make it clear that it does. I was going to ask him this question. If your Lordship looks at page 49 we have got this: "He was indicted on charges of forgery, perjury and corruption," that would suggest to anybody's mind that there is a corrupt, financial motive.

Mr. Justice DARLING: Corruption is not always financial.

Mr. SPENCE: That is the case my learned leader is going to put to the Jury, and I submit I am entitled to get the facts from my client.

Mr. Justice DARLING: Very well.

236. Mr. SPENCE: Were you ever indicted on a charge of corruption?—No.

Sir EDWARD CARSON: We have said all that already in the paper except this passage on page 340.

Mr. SPENCE: That is the passage we strongly resent.

237. You were not present when the Judgment was given in the High Court?—No.

Sir EDWARD CARSON: The Judgment is given in evidence by the Plaintiff himself, it is Volume 4, page 296.

Mr. SPENCE: I do not think there will be any gain in reading the whole of this long Judgment. The witness cannot prove it, for he was not present.

Mr. Justice DARLING: It will come in evidence later.

Mr. SPENCE: I think my learned friend puts it in. Mr. Tilak was not present, I think, when the Privy

Council decided the case, so that will have to be proved by some other means.

Sir EDWARD CARSON : I do not want to raise any technical objection : you can put them in whenever you like.

Mr. SPENCE : At page 409 of the pink book is the Judgment of the Privy Council : " Present Lord Shaw, Sir George Farwell, Sir John Edge, Mr. Ameer Ali." The Judgment was delivered by Lord Shaw. I do not propose to read the whole of the Judgment unless your Lordship desires it.

Mr. Justice DARLING : Not at all.

Mr. SPENCE : It was delivered at very considerable length, and there is a long discussion of a long statement of the facts of the case then a long discussion of the Judgment of Mr. Justice Chandavarkar. I am afraid the whole Judgment of Mr. Justice Chandavarkar will have to be read because one of the defences or the substantial defence is that it is " a fair and accurate report of judicial proceedings publicly heard before the Court." That will raise the question, as we do not agree that they are. I do not know if it would be convenient at this stage to read the Judgment, but it will have to be submitted that those are not fair and accurate reports.

Mr. Justice DARLING : Will it not be better to leave it for the Defence ? They say it is a fair report of judicial proceedings, and it is for them to make that out.

Mr. SPENCE : I do not want to labour it, my Lord.

Sir ELLIS HUME-WILLIAMS : We are quite prepared, my Lord, to take up that position. We will put to him the parts of Mr. Justice Chandavarkar's Judgment, which in our submission justify the statement in the book.

Mr. Justice DARLING : You understand, Gentlemen, the justification is that there are hard words used, but they are a fair report of what some Judge said, and that is for the Defence to make out. You do not want to hear it twice over, that is all.

Mr. SPENCE : I should like to read here a part of the Privy Council Judgment because my client is here seeking to clear his character. He complains of the passage which appears in the book, and he complains of

the excerpt from the Judgment: I think I must read that in order to make clear what it is. It is at page 340 of " Indian Unrest. " " The Tai Maharaj case came up once more in September on the Appellate side of the Bombay High Court on appeal against the decision of the Lower Courts. It was contended on behalf of Tai Maharaj, the widow, that her adoption of one Jagannath was invalid owing to the undue influence brought to bear upon her at the time by Tilak and one of his friends and political associates, Mr. G. S. Khaparde, who were executors under the will of her husband, Shri Baba Maharaj. Mr. Justice Chandavarkar, in the course of his Judgment reversing the decisions of the Lower Courts, said that on the one hand they had a young inexperienced widow, with a right of ownership but ignorant of that right, and led to believe that she was legally subject to the control of the executors of the husband's will as regarded the management of the estate which she had by law inherited from her son, prevented from going to Kolhapur even to attend a marriage in a family of relations, and anxious to adopt a boy from Kolhapur as far as possible. On the other hand they had two men of influence learned in the law, taking her to an out-of-the-way place ostensibly for the selection of a boy, and then, as it were, hustling her there by representing that everything was within their discretion, and thereby forcing her to adopt their nominee. In these circumstances they came to the conclusion that the adoption was not valid, because it was brought about by means of undue influence exercised over Tai Maharaj by both Tilak and Khaparde. " Will you turn, Mr. Tilak, to the pink book at page 409. The greater part of it is a narration of the facts, and discussion of the law and discussion of the evidence, and then at page 414 is a question whether certain evidence ought ever to have been admitted.

Mr. Justice DARLING : My difficulty about this is that apparently what is being dealt with on page 340 of the Defendant's book is the Judgment of Mr. Justice Chandavarkar in the Bombay High Court, but this in the pink book at page 409 is the Judgment of the Privy Council. This passage at page 340 of Indian Unrest is

not a comment on what happened in the Privy Council.

Mr. SPENCE : Oh, no, my Lord, but I submit I am entitled to read this to show what became of the action.

Mr. Justice DARLING : But we know you won it. You come and complain of what is published by the Defendant on page 340 of his book, and at that time he did not know what the Privy Couucil had said, because the Privy Council had not said it, and they did not say it till five years later.

Mr. SPENCE : I submit I am entitled in order to clear my client's character to shortly state what the ultimate Court of Appeal did say upon the whole of this matter.

Mr. Justice DARLING : You may do that but we are not dealing with whether this is an accurate account of judicial proceedings in the High Court.

Mr. SPENCE : No, my Lord, I quite agree with that, with respect, but in order that this gentleman's character may by cleared so far as this part of the case is concerned I submit I am entitled to read the view expressed by the ultimate tribunal.

Sir ELLIS HUME-WILLIAMS : There is just one passage I should like you to read at page 413 after dealing with the Judgment of Mr. Justice Chandavarkar, the sentence beginning " the conclusion thus made."

Mr. SPENCE : I should like to read something a little higher up. " It is an admitted fact"—this is perhaps the most important part of it—" It is an admitted fact in the case that neither the trustees nor any of the witnesses for the Plaintiffs had any interest whatsoever in the subject-matter of the suit, and that no motive can be reasonably suggested for them maintaining or testifying that the adoption of the boy mentioned was made, except that this represented the actual truth which occurred. It is in these circumstances that their Lordships have viewed with surprise the charge which is made not only against the trustees, but against the whole body of the Plaintiffs' witnesses, 10 or 12 persons in all. ' The account, unquestionably, to my mind ' says Mr. Justice Chandavarkar, ' given by the witnesses appears to be a true account of many of the series of events ; and a false account of at least one, and that the most important.' This event is the taking of the child on the lap. Later

on in his Judgment he states : ' We are driven to believe that a considerable number of men of good position have conspired together to give false evidence.' The conclusion thus made is of the most serious character, amounting to a plain judicial finding of conspiracy and of perjury." That is the passage my learned friend wished. Then there is a discussion of a highly technical question as to whether part of the ceremony was vitally necessary or not. Then we come to the question that begins on page 418 : " It is in their Lordships' opinion much to be regretted that the rule is not more strictly observed, and their Lordships are of opinion that in the present case much confusion and contention have been caused, together with much expense to the parties, in consequence of its neglect. No definite issue upon any one of the well-known categories of attack was settled for trial, the only issue on the subject being—Whether the Plaintiff, No. 4, is a validly-adopted son of Baba Maharaj. From time to time, in the course of this case, it is clear that specific pleadings in Indian procedure have been abandoned altogether. In short several of the careful prescriptions of the law and of the Legislature, all of which were intended to bring litigation within definite compass and to make articulate and clear the points of difference between the parties have been lost sight of. Their Lordships, however, are unwilling, confused though the charges be, to dismiss this part of the case on such a ground. The position upon the facts was this. The will of the testator prescribing an adoption was clear; the wish of the widow and the trustees alike to follow it was clear, the trustees, so long as the testator's wishes were carried into effect, had no interest of any kind as to who the adoptee should be. It was also clear that the testator's will indicated that a minor should be adopted, because express provision was made for the management of the estate till that minor should come of age. It was manifest that every consideration pointed to the advantage of keeping, if possible, within the gotra, and it was further clear that the trustees, in advising the widow, should pay due regard to her wishes, and that, so far as this could be accomplished, they and she should act together. It is in these circumstances a strange situation that the adoption

should be challenged upon the ground, nebulously stated as it is, of fraud. There is no evidence, says the Subordinate Judge, to prove that any fraud or cajolery was practised upon her, or that there was any suppression or concealment of facts from her. With this Judgment it does not appear that the High Court differs, and their Lordships entirely agree with it. It was for some reason, however, held that the general issue above quoted did include allegations and coercion and undue influence. Coercion is by admission out of the case. There was nothing of the sort, and this is not now maintained. What remains accordingly is the Judgment of the High Court to this effect that—'The question here is difficult, she was indeed willing to adopt, but was she a free agent when she adopted the fourth plaintiff, assuming that she adopted him, or was she forced into it against her will by unconscientious means used by the first two plaintiffs, that is Messrs. Tilak and Khaparde, and unfair advantage taken by them of her ignorance and youth, and of other fiduciary relations between them.' The citation just made is from the notes of Mr. Justice Chandavarkar with much respect to the learned judge, it is, notwithstanding the protracted argument before their Lordships, even now somewhat difficult to gather what are the legal categories under which the attack upon this transaction is made. Unconscientious means are mentioned and in fact advantage is mentioned. It is needless to ask whether this implies fraud, because their Lordships are of opinion that no sort of unconscientious means was employed by these trustees from beginning to end of the transaction, and that no unfair advantage was either taken or meant throughout their whole course. It is true that the adoptive mother was a young widow, probably easily guided, and that the trustees are admitted to have been men of great influence and strong personality, but their Lordships are of opinion that these were used in no respect unduly, but with propriety and entirely in the interests of the proper administration of the estate. Their Lordships cannot approve of the idea that in India the law would make the possession of reputation or high standing an element of suspicion. If it were so, then the result in India would be to import *pro tanto* a disqualifica-

tion and disability into the position of reputable men. A reference is made in the Court of Appeal to the fiduciary relations in which the trustees stood to the widow, and in one part of the Judgment impropriety of conduct upon the part of the trustees is alleged to lie in this, that they failed in their duty of informing her as to her rights. Upon inquiry as to what was meant by this, their Lordships were informed that the reference was to this effect, that if the widow had failed to adopt, then by doing so she would herself have come into the position of being heiress to her infant deceased child. The meaning of this is accordingly as follows: Among Hindus the ceremony of adoption is held to be necessary not only for the continuation of the line of the childless father, but as part of the religious means whereby a son can be provided who will make those oblations and religious sacrifices which would permit of the soul of the deceased passing from Hades into Paradise: The widow in the present case is said to have been injured because she had not been informed that she could win for herself his temporal estate, by violation of her husband's dying wishes, and at the price of sacrificing his soul's happiness. Their Lordships are not of opinion that it was any part of the duty of the trustees to suggest this infamous alternative to her mind. Their duty was to give effect to his wishes, and his wishes were in accordance with the religious belief of Hindus in regard to adoption. It is to be recorded further that the widow herself did not put forward, during her life, any plea or suggestion of this sort; she was as anxious as the trustees that an adoption should be made."

Mr. Justice DARLING: She had died by this time.

Mr. SPENCE: The widow died in 1903.

Mr. Justice DARLING: I do not think the rest is necessary.

Mr. SPENCE: No, my lord.

(Adjourned for a short time.)

238. Mr. SPENCE: Mr. Tilak, it is alleged that your "propaganda mainly consisted in this dissemination of the following doctrines with the following immediate and ultimate objects: (a) The organisation and use of the Anti-Cow-Killing Society before-mentioned, with the

immediate object before-mentioned and with the ultimate object of inflaming Hindu feeling against the British Government, by representing that the Government were deliberately partial to the Mohammedans and unjust towards the Hindus as part of a settled Government policy" and so on. Now (b) is what I want to come to: "The organisation and development of the Ganpati Festivals and the extension of Swadeshi." Will you just tell me about the Ganpati Festivals?—The Ganpati Festival was a religious Festival—social or religious.

239. Who was Ganpati?—A deity worshipped in ancient times by the Hindus.

240. Before 1893 was there worship of Ganpati?—Yes.

241. And before 1894 how long did the Ganpati Festival last?—It lasted for 10 days even before 1893.

242. Will you tell us, very shortly, what happened during the 10 days?—At the Ganpati Festival an Indian god was installed on the first day. Then there was worship and a kind of festival going on during those 10 days, mainly consisting of prayers, songs, lectures, and various sorts of amusement, and on the tenth day the image was taken to be immersed in water.

243. Is that the end of the festival?—There the festival ends.

244. It is alleged that in 1894, with the help of the brothers Natu, you were instrumental in making the Ganpati Festival into a public festival. Is that true?—No, it is not.

245. In what way is that incorrect?—In the first place, this festival is an ancient festival, and it was being observed from ancient times. You my trace it back to the Seventh Century, or even before that. In Poona the public aspect of the festival had fallen into disuse for about 30 or 40 years. That is why it was put in the old form in 1893. That was when I did not assist. I did not assist in 1893, but the idea being approved by the people, a committee was formed in 1894, of which I was a member in order to regulate this festival.

246. It is said that "you took part in these processions." Is that true?—Yes.

247. "And songs were sung in praise of you. Is that true?—I took part in those processions and songs were sung.

248. Is it true that songs were sung in praise of you?—There may have been a song sung here and there like your "You are a jolly good fellow."

249. That is concerning you. Did they sing about Shivaji as a jolly good fellow?—They did sing a few songs about Shivaji here and there, but mainly the proceedings consisted of prayers to Ganpati.

250. Did you have special Ganpati meetings in your own house in Poona?—There were a lot of meetings—they celebrated the festival in my house,

251. Now about the songs that were sung. "At these meetings songs were sung in which the moderate Hindus and the British Government were denounced. The Plaintiff was present at these meetings and approved of the songs and the meetings were largely attended by school and college boys." What is your recollection of those songs? Have you any copies of the songs sung at that time?—No, many of the songs were extempore, in fact made for the occasion and not on this point.

252. Did any question of approving or not approving of the songs arise?—It did not arise.

253. Did you hear all the songs that were sung?—No. Songs were sung before a particular Ganpati. Singing parties were not singing songs from this place to that place.

254. The songs they sang in one place would not necessarily be the songs sung in another place. Is that what you mean?—The same songs may be sung at all places.

255. But you could not tell whether that was so or not?—No.

256. It is alleged that your object in promoting and taking part in the Ganpati festivals and in encouraging sword exercise and other physical exercises for the boys—did you encourage sword exercise and other physical exercises for the boys?—No.

257. "Was in the first place to prevent the people taking part in the Mohammedan festival of Moharum." Is that true?—No, the statements there are not true.

258. " And encourage riots "—is that true?—No, it is not true.

259. "Between the Hindus and the Mohammedans"? —No, it is not true.

260. " Which he knew would take place when the processions without music passed the Mohammedan mosques, and his ultimate object was to encourage the people and particularly the school and college boys to the use of force and arms to develop their martial instincts to turn those instincts against the British Government." Is that true?—It is untrue; it is entirely the author's imagination.

261. Now will you tell me something about the next heading—that is Swadeshi? What is that? I do not think the Jury know?—The Swadeshi is the use of indigenous articles—that is, things made in the country in preference to foreign articles imported into the country.

262. At this time how were home industries—were they in a flourishing state, or not?—No, they are not even now in a flourishing state.

263. Will you just go to this particular period? Were they flourishing or not flourishing?—They were not flourishing.

264. What was the object of the Swadeshi movement at this time?—To increase native industries.

265. Was it at this time used by you as a means of advocating a boycott of all British manufactures and industries?—No, boycott followed from tradition. When you make a vow to use native articles, you do not use other articles, but use the native article.

266. Mr. Justice DARLING: Do you say that it follows?—It follows from the tradition.

267. Boycott follows from Swadeshi?—Yes, it is a negative complement of the positive.

Sir JOHN SIMON: If you use home industries, you do not use foreign-made goods.

Sir EDWARD CARSON: Are you making a speech?

Sir JOHN SIMON: No, I am repeating what the witness has said.

268. Mr. SPENCE: Now about the revival of the cult of Shivaji?—There is one thing more I might explain to

you about this tradition.

269. Tell us shortly who was Shivaji?—The first Mahratta chief in the Peninsula on the other side who established an independent Mahratta kingdom.

270. About what period was that?—About 200 years ago; he died in 1680, I believe.

271. It is a little more than 200 years ago: he established an independent Mahratta empire?—Not quite an empire—a kingdom at that time, but it developed into an empire.

272. There is a question which must arise. There was an episode in his career connected with the death of a Mohammedan of the name of Afzul Khan. Is that so? —Yes.

273. He killed Afzul Khan?—Yes.

274. Is it a settled question who was right and who was wrong?—It is not a settled question.

275. Mr. Justice DARLING: Was Afzul Khan a Mohammedan?—Yes, he was a Mohammedan, a commander of an army.

276. In what way did he kill him?—It so happened that he invaded the Mahratta country and destroyed the Temple, and it was reported to Shivaji that he had come to the country and was going to take him prisoner and take him to the captain. Then an interview was arranged before the actual battle took place between him and Afzul. At that interview two servants were to meet and no other followers were to be taken into the tent, and then both of them went in under suspicion. Then the question was whether Shivaji attacked, or whether he was attacked first, and whether instead of it being in defence he killed Afzul Khan.

277. Mr. SPENCE: I suppose the Mohammedans took one view and the Hindus the other?—Yes.

278. I suppose yours is the Hindu view?—Mine is the Hindu view, and I think it is the correct view.

279. Even Sir Valentine Chirol has not convinced you that you are wrong?—There are greater authorities than he. The latest authority is Mr. Kincaid. He has taken the same view as we have. The book was only published this year.

280. You do not agree with this statement in the

Particulars that Shivaji, a Mahratta chief, had treacherously murdered Afzul Khan?—"Treacherously" is a word I do not like; I hate it.

281. Mr. Justice DARLING: Why? What is the matter with it? You say you hate the word "treachery"?—Yes, I hate the word "treachery" used with reference to Shivaji.

282. Mr. SPENCE: To what extent were you instrumental in reviving the memory of Shivaji?—I was the secretary of a committee.

283. Can you give us about the date?—I was secretary to a committee. This question was under discussion from 1885; it went on and in 1895 a public meeting was held at Poona, attended by the aristocracy of the place. At that meeting a committee was appointed to carry out the objects of the movement, and I was one of the secretaries of that committee, and it is only as secretary that I began to take interest in the movement and the work.

284. Mr. Justice DARLING: But this all happened a long time ago and was a disputed question. Why not have left it alone? All this happened and the end of it took place in 1688; it was a quarrel between Mohammedans and Hindus and each said that the other had treacherously killed the other's chief. Why revive it?—When you celebrate a festival you have to defend the man whose festival you celebrate.

285. But why go on celebrating?—Because it is in the school books.

286. Because it is in the school books you thought they might forget him?—I do not understand.

Sir JOHN SIMON: What was the date, my Lord?

Mr. Justice DARLING: 1688; he told us that it was 1688, as I understood him, that Shivaji was killed.

287. Mr. SPENCE: Shivaji was a Mahratta, was he not?—Yes.

288. We are dealing with the country of the Mahrattas?—Yes.

289. Shivaji freed the Mahratta country from the Mohammedans?—Yes, that is true.

290. And established the Mahratta Kingdom?—Yes.

291. And is regarded by the Mahrattas as a great national hero?—Yes.

292. That is why you considered matters affecting his reputation important?—He is held in high esteem, and any allegation against him offends.

293. It is said here that you "in fact promoted the Shivaji Movement"?—Yes.

294.—"and the celebration of Shivaji's birthday as a means of stimulating active disaffection"?—I do not think so; I do not think promoting the Shivaji movement and the celebration of Shivaji's birthday was a means of stimulating active disaffection, and, so far as I know, it was not considered in that way at that time.

295. But as regards your own motive, did you do it as a means of stimulating disaffection?—No.

296. That is quite untrue——

Sir EDWARD CARSON: That is for the Jury to say.

297. Mr. SPENCE: Is that untrue?—It is untrue.

298. Was Shivaji a Brahmin?—No.

299. He was a Mahratta, and that was good enough for you?—Yes.

300. The next thing that is put against you is as to the Swarajya?—Yes. That is the end of the festival.

301. The Swarajya is a form of self government?—Yes, within the Empire.

302. That you advocated?—I advocated it, meaning self government within the Empire.

303. Is it true that you designed it and used it to represent absolute independence?—No, that is not correct.

304. Or "the immediate and if necessary violent emancipation of India"?—That is untrue.

305. Have you ever advocated the immediate and, if necessary, violent emancipation of India?—No, not emancipation. If it means acquisition of greater rights I do, but if emancipation means complete freedom from British rule I do not.

306. Have you ever advocated it?—No.

307. Have you ever advocated the use of violent means?—Never.

308. Then you accept this, that self-government within the Empire was what you were advocating?—Yes.

309. During the whole period that was what you were endeavouring to secure?—Yes.

310. Now I want you to take the Fifth libel, that is

the Rand and Ayerst murder. Will you just look at what is set out: "What Tilak could do by secret agitation and by a rabid campaign in the Press to raise popular resentment to a white heat he did." Will you tell me about secret agitation. Have you ever done so in any form?—I have never agitated secretly.

311. Have you ever belonged to a secret political society?—No.

312. Or Association?—No.

313. Have you ever had any connection with one?—Which?

314. With a secret society?—No, I have had no connection.

315. As regards the rest of the statement: "The inevitable consequences ensued. On June 27th on their way back from an official reception in celebration of Queen Victoria's Diamond Jubilee, Mr. Rand, an Indian civilian, who was President of the Poona Plague Committee, and Lieutenant Ayerst, of Commissariat Department, were shot down by Damodhar Chapekur, a young Chitpavan Brahmin, on the Ganeshkind Road. No direct connection has been established between that crime and Tilak." What was the real date of the murder, do you know?—I object to these words, "The inevitable consequences ensued."

Mr. Justice DARLING: That is not for you to go into. You are asked what was the real date of the murders?

316. Mr. SPENCE: Do you know what was the real date of those murders? Was it June 27th?—There was a murder, and in my opinion it was due to the vastness of the plague operations; it was the inevitable consequence of that.

Mr. Justice DARLING: You are asked whether the date is right?

Sir EDWARD CARSON: You may take it, it is June 22nd.

Mr. SPENCE: It is the 22nd. It is a misprint.

Mr. Justice DARLING: It is a clerical error. It has very likely been dictated to a typist 22nd, and it has been typed 27th.

Sir EDWARD CARSON: The witness says that the

murder was due to the plague operations.

Mr. SPENCE: Now about the plague. Where did the plague at about this period first show itself?

Mr. Justice DARLING: Need we go into this? What you have to deal with is this particular thing, and not to investigate bubonic plague from its start to its finish. This is a question of the killing of Mr. Rand, an English civilian.

Mr. SPENCE: The question is, what was the cause of it, my Lord?

Mr. Justice DARLING: Does he know why Mr. Rand was killed? It is a very awkward question to ask him, I should have thought.

Sir JOHN SIMON: I think there is a misunderstanding, my Lord. I do not think my friend was putting the question on that ground if it was understood. What I submit is necessary is that the Jury should know from Mr. Tilak's own evidence what part he played in connection with the plague down to the time when this murder took place. If his conduct was conduct of one character, then the conclusion may be very different from that which it would be if his conduct was of another character.

Mr. Justice DARLING: Does not the part he played appear on paper in the articles you read yesterday?

Sir JOHN SIMON: No, my Lord, it is not, in so far as it appears in the articles I read, though I do not suppose my friend, Mr. Spence, wants to read them again. I also made some statements to the Jury, which statements I understand this witness can prove, which are not proved by the fact that I stated them.

Mr. Justice DARLING: Mr. Spence will keep closely to those that cannot be proved by merely reading the article.

317. Mr. SPENCE: If your Lordship pleases. (To the Witness): Where did the plague begin at this period? Where did it break out?—It broke out in Bombay.

318. At about what period?—Six months earlier than in Poona. In 1896 it broke out in Bombay, and at Poona it broke out at the end of the year, or early in 1897.

319. Do you know what steps were taken to deal

with it in Bombay?—Yes.

Sir EDWARD CARSON: I object to going into an enquiry of the steps taken at Bombay, as it is impossible for us to follow that.

320. Mr. Justice DARLING: Were you in Bombay or Poona when the steps were taken?—In Poona.

321. How can you tell us what they did at Bombay when you were in Poona?—

Sir EDWARD CARSON: And besides, my Lord, I respectfully submit that what they did in Bombay, or in any particular place must depend upon the size of the place, and everything else, and has nothing whatever to do with what they did in Poona, where the conditions may be entirely different.

Mr. Justice DARLING: I think I can see what they want to come to, which is this, that if they had done in Poona what they had done in Bombay, he would not have complained.

Sir EDWARD CARSON: He said that in one of the articles.

Mr. Justice DARLING: If you want to go into the difference between what was done in Bombay and what was done in Poona, if objection is taken it must be done strictly, and the witness being in Poona cannot tell us what was done in Bombay. In fact we know exactly how it is, because in the beginning of his evidence some time ago he said that what he wrote in his paper as to what was done in Bombay was got from correspondence which the newspaper had, but he cannot give that as evidence of his own knowledge.

Sir EDWARD CARSON: I submit to your Lordship that it could not be evidence: the two places, Bombay and Poona, are under the same Government, and if the same Government likes to take different methods of dealing with it in any one place from the other it cannot have any relevance to say whether it is right or wrong.

Mr. Justice DARLING: I do not say it could not possibly be evidence, but if it was, what was done in each place must be strictly proved.

322. Mr. SPENCE (to the Witness): I will not ask you for that. When the plague broke out in Poona what did you personally do in relation to it?—When the plague

broke out in Poona I tried to see that all modern principles of eradicating the plague from the town were taken up by the municipality.

323. Were you a member of the municipality?—Yes.

324. What steps did you personally take?—Segregation, disinfection and removing the patients to hospitals.

325. To what hospitals?—A hospital was converted into a plague hospital.

326. Who converted it?—The Government.

327. Was that the only hospital?—At first there was one hospital and subsequently there were two.

328. What was the other hospital?—There was the same plague hospital, and there was one started by me.

329. You started a hospital?—Yes, and I started it for this purpose, that many complained when they went to the Government hospital. They were better treated in this private hospital, and, in order to remove the complaint that patients were not well treated at the Government hospital, especially the better class of people, I started a private hospital, and, on my own initiative I collected the necessary funds for it, started it, and people were treated there at their own expense. Then another complaint was that in the segregation camp there were no proper boarding arrangements to feed the inmates of that camp and I raised funds. The Government only allowed 2 annas a head, that is 2d. a head and that was not enough to feed them. We started a boarding and feeding house by public subscription and these 2 annas were taken from them, and all the expenses were borne by public subscription.

330. You organised that?—Yes, I organised the feeding house and the segregation camp. I went from house to house myself with the search parties.

331. Was that with or without the soldiers?—Sometimes with soldiers and sometimes without soldiers, but mostly with soldiers. I accompanied them.

332. What soldiers are you referring to?—The English soldiers that were brought into Poona for this purpose, and they were formed into parties. A portion was assigned to that, and they went searching from house to house. I accompanied them to some of the places.

333. Why did not you accompany them always ?—It was organised at first by the plague officers, who arranged that we should accompany them to see that they did not go to any excess, and when we found that they would not obey our orders we gave up the practice of accompanying them.

334. Did you make any representation to Mr. Rand on the subject ?—Yes, along with the other leading citizens of Poona they formed a deputation to the plague officers to explain to them how the rules ought to be modified and how searches ought to be made. Representation was made not only to Mr. Rand but also to His Excellency.

335. What was the result of your representations ?—Nothing came out of them.

336. Did others of the citizens assist you in what you were doing ?—Very few.

337. Did all the citizens stay and help you ? Did all the upper classes stay and help you ?—A few only.

338. What became of the others ?—The others went out of the town for recreation.

339. The others went away ?—Yes.

340. A series of articles appeared in your papers that have been read. Do those represent your views at the time of what was happening ?—Yes, they do represent my views.

341. There are several anonymous articles which appeared. Were they bona fide outside contributions ?—Yes.

Sir EDWARD CARSON : How can that have anything to do with what is the construction of the language of this gentleman in its relation to the murder of Mr. Rand ?

Sir JOHN SIMON : May I remind you that you thought it necessary when I was opening to interpose with the question as to whether or not some articles I was referring to were in fact what they purported to be, namely, bona fide articles from outside, or whether they were manufactured under an assumed name in the office. Having raised that question when you interrupted me I submit to my Lord that this question is a proper one to be asked of the witness.

Mr. Justice DARLING: If bona fide only means were they compiled in the office or written outside I think that may be admissible, but if bona fide means were they the genuine opinions of the people who wrote them that cannot be said.

Sir JOHN SIMON: Obviously that cannot be said, my Lord.

Sir EDWARD CARSON: That is all I mean.

Mr. SPENCE: That is not what I asked.

Mr. Justice DARLING: That is what Sir Edward Carson understood.

342. Mr. SPENCE: Do you recollect hearing of the murder or the attack upon Mr. Rand and Lieutenant Ayerst?—I heard of Mr. Rand's murder the next morning.

343. That is on the 23rd?—Yes, on the morning of the 23rd.

344. There is an article that appears in your paper in the very next number, is there not?—Yes.

345. It is at page 509 and is called "The horrible incident that occurred on the night of Tuesday last." Do you know who wrote that article?—I wrote it.

346. You wrote it personally?—Yes.

347. Did that express your honest opinion or your honest belief?—Yes.

348. You were sincere at the time?—Yes.

349. I see you refer to it in this way: "As nobody thought that there was any possibility of such a horrible event happening, immediately it came to the ears it filled the hearts of all with sorrow and surprise." Then: "At such a time every man must render such assistance as may be required to the police in detecting the murderer; otherwise, for the folly of one man a dark imputation and calamity will come over all without any reason." Then: "We also admit that it is equally dangerous and disgraceful to all that such horrible crimes should remain undetected"?—Yes.

350. Were those sincere expressions of your feelings at the time?—Yes.

351. You will find the libel in the red book at page 48. It winds up with "No direct connection has been established between that crime and Tilak." Was there any connection between you and that crime?—Absolutely

none—no connection.

352. Direct or indirect?—Neither direct nor indirect.

353. Had you any knowledge at the time you were arrested who had committed the murder?—No, we had no knowledge at the time.

354. Not until after you had been convicted did you hear of it?—The murderer was found, I believe, a month after my conviction.

355. When the man was found did you know who he was?—No.

356. Or anything about him?—No—nothing.

357. It is said that he is "the young Brahmin who had recited the 'Shlok' at the Shivaji Celebration." Were you present at any Shivaji Celebration at which this murderer, Chapekur, recited the "Shlok"?—No, it was never recited by anybody in my presence——

Mr. SPENCE: I had better inform your Lordship what the "Shlok" is. At the top of page 46 your Lordship will find it.

Sir JOHN SIMON: There is the sentence about the "Shlok" "which I have quoted above." The quotation is at the top of page 46. The question is being put with reference to that.

358. Mr. SPENCE: Was the "Shlok" recited at any festival of Shivaji at which you were present?—No, it is not right that it was recited at any festival of Shivaji at which I was present.

359. You were present at the Shivaji festival immediately before the murder of Mr. Rand?—Yes.

360. Was this "Shlok" so recited at that festival?—No.

361. Was anything recited by Chapekur at that festival?—We did not know Chapekur, or who he was at the time.

362. You had never heard of him at all. Was he a known person. Had you ever heard of Chapekur at all before this murder?—No.

363. You were prosecuted?—Yes.

364. For what were you prosecuted? You were prosecuted, were you not for sedition, that is to say, under the section?—Yes, under Section 124.

365. For exciting, or attempting to excite, feelings of disaffection to the Government established by law?—Yes.

366. And the articles in respect of which you were prosecuted have already been read. You heard them read?—Yes.

367. You were prosecuted after the murder had happened?—Yes.

368. During that prosecution was there any evidence offered of any connection between you or your articles or your newspapers and this murder?—No, no evidence whatever, but, on the contrary, it was said no evidence could be offered.

369. Sir JOHN SIMON: Who said it?—The Advocate General said it, and I believe the Judge, in summing up the case to the Jury, said it, and directed the Jury to keep this out of their mind entirely.

370. Mr. SPENCE: And you were sentenced for sedition?—Yes.

371. You could have been transported for life?—Yes, they could have transported me for life.

372. But you were sentenced to imprisonment for 18 months?—Yes.

373. Did the Judge make any reference to your work during the plague?—Yes, I think he did.

374. Was it a reference in your favour or not in your favour?—In my favour.

375. In awarding the sentence he took into account the work you had done?—Yes.

376. You were sentenced to eighteen months' imprisonment?—Yes.

377. How long did the Government keep you in gaol?—One year—they remitted six months.

378. You received only a short term of imprisonment. This is what the book says at the bottom of page 48, that you were released before the completion of your term under certain pledges of good behaviour, which you broke as soon as it suited you to break them?—That is not true.

379. Those are two statements, first, that you gave pledges of good behaviour, did you?—No.

380. That answers both. Did you break any

pledge that you gave?—I did not give any assurance of behaviour. There were one or two conditions, but those were entirely different.

381. What were the conditions—do you know?—One condition was that if I was released I should not receive any demonstration in my honour. That was the condition, that I should not receive it.

382. Did you get a demonstration in your honour?—No, I prevented it. All the people came to my house. I did not go anywhere.

383. What was the other condition?—The other condition was that if I was again convicted of sedition these six months which had been remitted would be added to the sentence then to be awarded.

384. So far as you know you had the benefit of that condition in your next sentence?—I think they were added.

385. Mr. Justice DARLING: When you were convicted again what were you sentenced to. On your second conviction for sedition, what was your sentence?—Six years.

386. How long did you remain in prison that time?—The whole time, six years.

387. You got no remission?—No.

388. Mr. SPENCE: That concludes what I want to ask you about the Rand case. You were in prison for the year after it, and all about Chapekur's prosecution happened when you were in prison?—Yes.

389. I have nothing to ask you about the intervening period, but I want to take you to the sixth and last libel of which you complain; that is the libel connected with the murder of Mr. Jackson, which was on the 21st December, 1909. He was murdered by Kanhere. Do you recollect that?—Yes. I was not then in Poona or in Nasik—I was out of India.

390. Mr. Justice DARLING: Where were you in December?—In Mandalay in Burmah, about a thousand miles away.

391. Were you in prison?—Yes.

392. Mr. SPENCE: You were arrested in July 1908?—Yes.

393. And you were in gaol from July 1908 until

June 1914?—Yes.

394. The whole time?—Yes.

395. Did you know what was going on in the great world during that time? Were you in communication with the world during that time?—No, all communication was stopped.

396. Now as regards the papers that were referred to by Kanhere, of which the "Rashtramat" was one. You have the statement there that he refers to three papers. I want you to help me with those three papers. Did you ever see a single copy of the "Rashtramat" before you came out of gaol in 1914?—No, it was stopped before I came out.

397. Was any copy of that paper published when you were at liberty?—No, the first copy of it was published after my arrest.

398. And you were never out on bail?—No, I was not let out on bail.

399. Did you see that first copy?—No.

400. Or any other copy of that paper?—No.

Mr. Justice DARLING: Cannot you leave that? If the Defence want to make any point of it, cannot you let them do it?

Mr. SPENCE: Yes, my Lord. I want to get it shortly affirmatively.

401. As regards the "Kal," is that your paper?—No.

402. Had you any interest in it?—No.

403. Or any control over it?—No, absolutely no control.

404. When you were convicted in July, 1908, did your control over the "Kesari" cease?—Yes, my control over the "Kesari" ceased and a declaration was made of responsibility.

405. Another person accepted the responsibility?—Yes.

406. Did you know what was published in it between your arrest and 1914?—No, I did not: no copies were sent to me, or, if sent, they were not delivered.

407. You never saw a copy of it between your arrest in July, 1908, and your coming out of gaol in 1914?—No, I did not see any copy of it.

408. Now I want to ask you a question or two about

Nasik. Will you look at pages 60 and 61 of the book ?

Sir JOHN SIMON : I read this morning in addressing the Jury an account of Nasik and what it is.

409. Mr. SPENCE : Is that correct about Nasik, that it is a particularly sacred place, and so on ?—Some of it is correct.

410. Sir JOHN SIMON : Is the geographical part of it correct ?—Yes.

411. Mr. SPENCE: How far is Nasik from Poona ?—About 120 miles. Bombay, Poona and Nasik form three points of an equilateral triangle.

412. What was the circulation of your paper, the "Mahratta," in Nasik ?—At this time about half a dozen copies.

413. And the "Kesari" ?—Between 30 and 40 at this time.

414. Had you any business yourself at Nasik, or interest in Nasik ?—My son-in-law is in Nasik.

415. How often did you visit him ?—I visited him once in three years.

416. Did you visit Nasik in 1906 ?—Yes.

417. Did you pay any more visits to Nasik before you were arrested, or was that your last visit before you were arrested ?—I think I went once in 1907.

418. At that time in 1906 did you visit your club there ?—Yes, I was invited to a Pan Supari.

419. What is a Pan Supari ?—Inviting people to your house, honouring them ; something like inviting a man to a tea party.

420. By whom were you invited ?—By the members of the Mela.

421. What was the Mela ?—A friendly association; they call it Mitramela, a friendly association of young men intended for promoting social intercourse and for music. That was its character at the time.

422. What happened on this occasion ? Did you have any discussion with the Mela ?—Yes, before accepting that invitation I was told by the leaders in Nasik that these boys were going rather astray.

Sir EDWARD CARSON : How can what he was told be evidence ?

Mr. Justice DARLING : I do not know. This is not

one of the libels apparently ; I do not know what it is introduced for.

Sir JOHN SIMON : I am afraid I have not made plain what I was saying this morning the point about this is. I mentioned it without objection this morning, and I hope the Jury followed. The point is this. The Plaintiff is accused of being in fact associated with this crime at Nasik. I submit that he is entitled to give evidence to show what is the extent of his connection with Nasik, and to show that when he was at Nasik, so far from promoting violence, he was rebuking it. That, I submit, is plainly relevant.

Mr. Justice DARLING : He was going on to tell us what somebody said.

Sir JOHN SIMON : We must excuse a gentleman speaking a foreign tongue.

Mr. Justice DARLING : If Mr. Spence will put a question such as you indicate, as to whether he was approving or discouraging treason in Nasik he can answer Yes or No.

Sir JOHN SIMON : He is giving details saying he went there by invitation——

Sir EDWARD CARSON : You ought not to repeat it, as you know it is not evidence.

Mr. Justice DARLING : He was clearly going on to say what is not evidence when Sir Edward Carson interrupted.

Sir JOHN SIMON : I agree, but what I was saying I should have thought was evidence.

Mr. Justice DARLING : The whole thing seems to me so small a point I wonder anything was made of it.

Sir JOHN SIMON : If people are accused of being responsible for murders it is well to show what they did in the place.

Mr. Justice DARLING : The very thing this is about is not put in the libels.

Sir JOHN SIMON : Your Lordship has not followed what the point is which I opened.

Mr. Justice DARLING : I have entirely.

Sir JOHN SIMON : It has nothing to do with the passage in the book. Will your Lordship allow me to put a question and if it is not legitimate you will rule upon it?

423. Mr. Justice DARLNIG (to the Witness): This question may be objected to; do not answer it until I tell you——

424. Sir JOHN SIMON: Have you ever encouraged violence in Nasik?—No.

Sir EDWARD CARSON: The threatening tone of my friend made him answer.

425. Sir JOHN SIMON: Do not answer the question I am going to put until the Judge says that you may. Have you ever used your influence in Nasik one way or other about violent conduct?——

426. Mr. Justice DARLING: You may answer that?—I have used my influence against violence being used.

427. In what year was that?—In 1906.

428. On what occasion was that?—It was on the occasion of my visit to Nasik for the festival in 1906 when I was invited for the Pan Supari.

429. How was it that you exercised your influence against violence. What did you do or say?—I advised them to confine their activities to strictly constitutional work or education, and not to go wrong.

430. Unless you happened to go again to your son-in-law's were you ever again in Nasik after that?—No.

431. Have you ever at any time given them any advice different to that?—No.

432. We have heard the name of the man who murdered Mr. Jackson was Kanhere. Did you know him?—No.

433. Had you ever heard of him?—I heard of him after the murder.

434. Down to the time of the murder had you heard of him?—No.

435. Had you ever had any association with him?—No.

436. I think there were several people who were tried and convicted. There was a secret conspiracy of some sort. Did you know any of them?—No.

437. Did you know anything of the conspiracy?—All that took place in my absence.

438. Did you know anything at all of the secret conspiracy?—No.

439. As you have explained, you were otherwise

engaged?—I was out of India.

440. As far as this last libel is concerned, the Jackson libel, suggesting that you were really the person who murdered Mr. Jackson, is there any truth in it?—Completely untrue.

Cross-examined by Sir EDWARD CARSON.

441. When did you get out of gaol last?—In 1914.

442. What month?—June.

443. You did not bring this action until near the end of 1915?—I instructed my solicitor in 1915 to bring this action.

444. Towards the end—October. Did you ever take any proceedings in India to set up your character there?—No.

445. Was not it more important for you to set up your character in India than to come all the way to set it up here?—I thought this place was better for the proceedings.

446. Is that because we would not understand the natives?—No; another reason.

447. Or know much about you?—No; that is not the reason.

448. What is the reason?—The real reason is that this book is read all over the Empire, and a decision of an English Court would be more beneficial to me, and would stop the circulation of this libel all over the Empire.

449. Is it then your case that you have a European reputation or, you have an Empire reputation? Is that what you mean?—No.

450. And you want to clear it before the Empire?—The book is circulated all over the English-reading people and if I take it in India and would have a Judge there, and an Indian Judge decides in my favour, that would not be regarded as a very good justification for me.

451. Is that the only reason you have for coming all this way?—That is the most important reason.

452. Then I may take it that you have done nothing to set yourself up in India where you live?—In India the fact is well known.

453. That is what I am going to point out. Let me draw your attention to what the Judge said when he

sentenced you in the last case in which you got six years' transportation. You remember being sentenced by the Judge?—Yes.

454. You had yourself, I think, spoken for 26 hours?—I do not know exactly, about that—20 or 26.

455. Was the Judge a native of India?—Yes.

456. Mr. Justice Davar. Here is what he said: "Bal Gangadhar Tilak, it is my painful duty now to pass sentence on you. I cannot tell you how painful it is to see you in this position. You are a man of undoubted talents and of great power and influence." You agree to that, I suppose?—Those words were uttered by the Judge.

457. "Had these talents and that influence been used for the good of your country you would have been instrumental in bringing about a great deal of happiness for those very people whose cause you espouse. Ten years ago you were convicted. The Court dealt most leniently with you then, and the Crown dealt still more leniently with you; after you had undergone your imprisonment for a year, six months of it were remitted on conditions which you accepted." You had accepted conditions?—Yes.

458. "The condition which you signed was: I hereby accept"—he does not quote the whole of it. Listen to this: "It seems to me that it must be a diseased mind, a most perverted mind, that can think that the articles that you have written are legitimate articles to write in political agitation. They are seething with sedition; they preach violence; they speak of murders with approval." Did the Judge say that?—Yes, the Judge took that view.

459. "And the cowardly and atrocious act of committing murders with bombs not only seems to meet with your approval, but you hail the advent of the bomb into India as if something had come to India for its good. As I said, it could only be a diseased and a perverted mind that could consider that bombs are the legitimate instruments of political agitation, and it would be a diseased mind that could ever have thought that the articles that you have written could be legitimately written. Your hatred of the ruling classes has not

disappeared during these 10 years, and these articles deliberately and definitely written week after week, not written as you say on the spur of the moment, but a fortnight after the cruel and cowardly outrages committed on English women persistently and definitely refer to a bomb as if it was one of the instruments of political warfare. I say such journalism is a curse to the country." Mr. Tilak, was that published all over India?—That was published all over India.

460. Does that explain why you did not bring any proceedings in India to vindicate your character?—No, that does not explain it.

461. Then you are satisfied in India to rest under this imputation that you have preached violence, that you have spoken of murders with approval, and that the cowardly and atrocious act of committing murders by bomb not only seems to meet with your approval, but you hail the advent of bombs in India as if something had come to India for its good." Tell me, and point out to me, any single statement in Sir Valentine Chirol's book, that is severer upon you than is that statement of Mr. Justice Davar, one of your own fellow subjects in India?—What is your question?

462. The question is, can you point to me anything in Sir Valentine Chirol's book which is more severe upon you as a criticism than what the learned Judge says in that passage that I have just read?—Yes, I can.

463. What is it?—It is the actual connection with the fact. I do not complain of opinion; any man may have any opinion of my conduct. I complain of being connected with these murders by a particular series of facts as stated in Chirol's book.

464. Is the man who preaches violence and speaks of murders with approval less guilty than the man who commits them?—If it be so. I do not accept that.

465. Is he less guilty than the man who commits it? —On the supposition that the man is approving murder, and all that, if the first part of it is true, you are asking me whether the inference from that is true or not. I say if that is true, then the other may have some justification.

466. But you see, the learned Judge, having tried the case before a Jury, one of your own Indian Judges,

has found that is true; or the Jury found it. Now I ask you again, do you draw a distinction between a man who preaches violence and the approval of murder, and a man who commits murder ?—There is a difference even then.

467. What is it ?—Which do you think is the more courageous of the two ?—I cannot say; it is only a supposition case.

468. You have the book there; will you turn to page 54. Here is the description given: "The appeal which Tilak made to the Hindus was twofold. He taught them, on the one hand, that India, and especially Maharashtra, the land of the Mahrattas, had been happier and better and more prosperous under a Hindu Raj than it had ever been or could ever be under the rule of alien 'demons'"; had you taught them that ?— "Could ever be" —those words would be right if it had continued to be under their own rulers.

469. I ask you a simple question. I have to go through a great deal which I have in your writing. Did you teach that ?—There are lots of statements in the book that I selected on advice. I complain of it, of course.

470. Did you teach the Hindus that India, and especially the land of the Mahrattas, had been happier under the Hindu Raj than it ever had been or could be under the rule of alien demons—meaning the British ?—I did not preach it.

471. Mr. Justice DARLING: It does not say "preach," it says "teach" ?—I did not preach this.

Mr. Justice DARLING: I do not know whether he is taking the exact words. It does not say preach; it says he taught it.

472. Sir EDWARD CARSON: Did you ever teach that ?—No.

473. Be very careful now what you say. Did you ever call the British rulers, demons ?—No.

474. Alien demons ?—Aliens.

475. And demons ?—No.

476. Or some word that means demons ?—No.

477.—" and that if the British Raj had at one time served some useful purpose in introducing India to the

scientific achievements of Western civilisation, it had done so at ruinous cost, both material and moral, to the Indians whose wealth it had drained, and whose social and religious institutions it had undermined, and he held out to them the prospect that if power were once restored to the Brahmins, who had already learnt all there was of good to be learnt from the English, the golden age would return for gods and men." Did you preach that?—No.

478. Or teach it?—No.

479. Or write it?—No.

480. You are quite sure?—Quite sure.

481. Did you preach that?—No.

482. Did you teach it?—No.

483. Or write it?—No.

484. You are sure of that?—I am sure of that—quite sure.

485. "That Tilak himself hardly believed in the possibility of overthrowing British rule is more than probable, but what some Indians who knew him well tell me he did believe was that the British could be driven or wearied by a ceaseless and menacing agitation into gradually surrendering to the Brahmins the reality of power, as did the later Peshwas, and remaining content with the mere shadow of sovereignty. As one of his organs blurted it out: 'If the British yield all power to us and retain only nominal control, we may yet be friends.'" Was that your policy?—No.

486. And you say you did not teach that?—No.

487. "Such was the position when, on June 24, 1908, Tilak was arrested in Bombay on charges connected with the publication in the 'Kesari' of articles containing inflammatory comments on the Muzafferpur outrage, in which Mrs. and Miss Kennedy had been killed by a bomb—the first of a long list of similar outrages in Bengal." You know there were many outrages by bomb, do not you?—Yes.

488. "Not in the moment of first excitement, but weeks afterwards, the 'Kesari' had commented on this crime in terms which the Parsee Judge, Mr. Justice Davar, described in his Summing-up as follows." Those are the words I have already read to the Jury, and

I shall not read them again. "The bomb was extolled in these articles as 'a kind of witchcraft, a charm, an amulet.'" Those are words from your own articles?—The words as quoted here are correct, but the construction is wrong.

489. "And the 'Kesari' delighted in showing that neither the 'supervision of the police' nor 'swarms of detectives' could stop 'these simple playful sports of science'"?—Not "playful sports of science" but "tricks of science."

490. "Whilst professing to deprecate such methods, it threw the responsibility upon Government which allowed 'keen disappointment to overtake thousands of intelligent persons who have been awakened to the necessity of securing the rights of Swaraj'"—that is independence?—That sentence is right, but the construction put upon it is wrong.

491. Does Swaraj mean independence?—No.

492. What does it mean?—Self-government under the Empire.

493. But altogether removing the white population?—No.

494. I will come to your articles in a few moments. We will see what it means. "Tilak spoke four whole days in his own Defence—21½ hours altogether—but the Jury returned a verdict of 'Guilty,' and he was sentenced to six years' transportation, afterwards commuted on account of his age to simple imprisonment at Mandalay." Then, my Lord, I would like to call attention to page 57: "The agitation in the Deccan did not die out with Tilak's disappearance, for he left his stamp upon a new generation, which he had educated and trained. More than a year after Tilak had been removed to Mandalay, his doctrines bore fruit in the murder of Mr. Jackson, the collector of Nasik—a murder which, in the whole lamentable record of political crimes in India, stands out in many ways pre-eminently infamous and significant." Now you have not made any complaint about that passage that it was your doctrine that bore fruit?—That count has been included in the Plaint, but not every word about it in the book.

495. I am pointing out the statement that it was

your doctrine that bore fruit. That is not what you complain of; what you complain of is that you were alleged to be connected with the murder?—The connection is shown in the book. That is wrong. That is the meaning of it.

496. Now I ask you again why, under these circumstances, did not you take any steps to vindicate your character in India?—I gave you my reason for not proceeding in India.

497. Have you no other reason?—No important reason. There are minor reasons.

498. Was this book translated in India?—Yes.

499. Was it translated into your own language?—Yes.

500. Did you take any proceedings against persons there?—I was then in gaol.

501. But afterwards when you came out?—This is the step that I took.

502. That is over here?—Yes.

503. You complained here of the passage at page 62: "In reply to the magistrate who asked him why he committed the murder, Kanhere said: 'I read of many instances of oppression in the "Kesari," the "Rashtramat," and the "Kal," and other newspapers. I think that by killing sahibs we people can get justice. I never got injustice myself nor did anyone I know. I now regret killing Mr. Jackson, I killed a good man causelessly.'" Do you know as a fact that this man Kanhere, who was convicted of the murder, did make that statement?—As a fact I verified it from his confession, a copy of which I have taken—a certified copy.

504. Sir EDWARD CARSON: My Lord, this is in the third volume, page 469. Here is what he said. The magistrate said to him: "Did you know anything personally about Mr. Jackson?—I personally knew nothing about him. Q. If Karve had told you, would you have killed any sahib without making any inquiries whatever?—Yes, I would have killed: for I have full confidence in Karve, because he was at any rate more educated than I. Q. How did the idea of killing sahibs first come into your head?—It appeared to me that our people do not get justice from sahibs." Have you said that over and

over again in the "Kesari"?—No.

505. Never?—I do not say never. Not over and over again.

506. How often?—Not exactly like that.

507. Was that your view?—In cases where between European and native there is difficulty for us to get justice in India, that is my view.

508. And difficulty as between Mohammedans and Hindus?—No.

509. Did you not say so?—Not as difficult as that.

510. But did not you preach over and over again that Mohammedans got justice and that the Brahmins could not get justice?—In cases of riots, not otherwise.

511. And that the British favoured the Mohammedans?—Yes, the officers.

512. And that the British officers incited people to do injustice?—They favoured the Mohammedans.

513. And incited people to do injustice?—They tried to do things which resulted in injustice.

514. Was that the kind of thing you were preaching in the "Kesari" for 10 or 15 years?—In a case like that there was comment, but there was no separate preaching.

515. "I have read many instances of zulum (oppression) in the 'Kesari.'" Was not that true?—He said something more.

516. Let us take it by steps. Had you given many instances of the oppression by the sahibs in the "Kesari"?—Some instances of it were noted in the paper.

517. Almost every week?—No, not almost every week.

518. How often?—When accounts were published in English papers we commented upon them.

519. We will come to the comments in a few moments. Did you get up the Company that floated the "Rashtramat," the National Publishing Company?—I was one of the directors who started it.

520. As regards the "Kal," who owned the "Kal"?—A man named Paranjape.

521. Does he spell his name P-a-r-a-n-j-a-p-e?—Yes.

522. Was he a pupil of yours?—He was in the school.

523. Did you teach him?—I taught the class where

he was.

524. Did you teach him? Just give me a plain answer, please?—Yes. I taught the class in which he was. I did not specifically teach him anything.

525. When you were arrested was Paranjape living with you?—If living means occupying the adjoining room in the hotel, he was. We both put up in a hotel in Bombay.

526. At that time was Paranjape himself out on bail on a charge of sedition?—I do not think he was on bail.

527. Just think now. Had not he been charged with sedition?—Yes.

528. And was not he actually in the room when you were arrested for a charge of sedition?—At the time I was arrested he was in my room and he occupied the adjoining room in the hotel.

529. Were you helping him to prepare his defence in the case for sedition for which he was charged?—I was partly helping him.

530. What do you mean by partly helping him. You mean he had other helpers?—There were several friends of his, and I was one of them.

Mr. Justice DARLING: Was he charged with sedition?

Sir EDWARD CARSON: I have the record here, my Lord.

531. Was he also convicted?—Yes, he was convicted.

532. Before or after you?—Before me.

533. How long before?—It may be about a fortnight.

534. For the same kind of articles that you had been writing?—It was coming under the general head of sedition according to the Court.

535. With regard to the same bomb outrage?—I have not read those articles, so I cannot say.

536. Had you no curiosity about the man whose defence you were helping to get up?—I was finding out the barrister and finding out about lending him money, that was the help we rendered. We did not read the articles.

537. Is that the way you were helping him?—Yes.

538. Were you helping him to prepare a defence to articles, no matter how wicked the articles might be:

were you helping him without having read them?—I was not reading them.

539. Did you care whether they incited to outrage by bomb or not?—Every man is entitled to prepare his defence, and every friend of his is entitled to help him.

540. Did you care whether he had incited to outrage by bomb or not? Did you concern yourself with whether he had incited?—We did not concern ourselves with that.

541. Would you associate with a man who was inciting to outrage by bomb and have him in your room? —He was never in my room. Association means if I help him so far as—

542. You said he was in your room when you were arrested?—Yes, he came to see me when the police were there.

543. That is what I am putting to you; is that the kind of man you would associate with who was preaching assassination by bomb?—I did not know that; he was not then convicted.

544. Had you taken the slightest trouble to find out?—That was not my business; I did not do anything about it.

545. Were not you really sympathising with him because he was charged?—Not because he was charged; it was because he was known to me and friend of mine that I assisted him.

546. Has he continued a friend of yours?—He has been a friend for 15 years or more, ever since he was in the school.

547. Has he continued up to the present?—Yes.

548. Therefore his conviction made no difference to you?—No difference in friendship.

549. Whether it was for inciting to murder or assassination or anything else?—No difference in friendship.

550. Is that the kind of associates you generally keep?—I do not take the same serious view of the offence that you do.

551. Mr. Justice DARLING: You had seen this man often since he came out of prison?—Yes.

552. You say you did not read the articles before he went to prison?—Yes.

553. When he came out, did you know that he had been sent to prison for advocating murder by the use of bombs?—Sedition was the general charge.

554. Will you just develop that a little, Sir Edward? He said he has associated with him since. He is a friend of 15 years' standing. He had not read the articles, that he was helping him to prepare his defence.

555. Sir EDWARD CARSON: Will you tell me what were the articles that your friend was convicted of—your friend for 15 years?—I cannot just now tell you the nature of the articles complained of.

556. Did you ever ask him?—No.

557. Did you ever read an account of his trial?—No, I was not present at his trial.

558. That is not what I am asking. Did you never read about his trial?—I read about his trial in the papers, but did not read the whole proceedings.

559. What did you read?—I read what was going on, that he was examined on such and such a day and so on.

560. Do you tell the Jury that reading that you did not make inquiry into what it was was the substance of his crime? Do you ask the Jury to believe that?—Yes, I thought that the articles on which he was prosecuted were rather strong articles, but that he ever approved of the murders I never thought.

561. They were rather strong you thought?—Yes.

562. In what respect?—In expressing his thoughts.

563. What about?—About the whole affair, making the bombs and other matters in the articles.

564. And how to make them?—I do not think he stated how to make them.

565. How do you know? You have not read the article?—That is my opinion. I have not read the article. I am stating it from my information.

Mr. Justice DARLING: Sir Edward Carson, he told us early in his examination that when he taught in this school where he had many other scholars, among them Paranjape, he taught science? What sort of science did he teach?

566. Sir EDWARD CARSON: What science used you to teach?—That which is usual for pupils—

physics, mechanics, astronomy.

567. Chemistry?—No.

568. Picric acid?—I am not a proficient man. It was never a study I taught.

569. You know what picric acid is used for?—Yes, from the papers.

570. Have not you said in your own paper?—Yes.

571. Yes, we will read it in a moment "I think that by killing the sahib we people will get justice. I never got injustice myself nor anyone else whom I know. I regret having killed Mr. Jackson. I killed a good man causelessly. I feel sorry for it." Would your Lordship allow me to go back to one question about Paranjape. Did you see in the articles of Paranjape this passage, or did you learn this passage: "Public opinion has undergone a terrible change (starting) from most humble petitions the stage of bomb (throwing) has been reached and the bomb throwers are plainly declaring that they are throwing these bombs for taking revenge on those who practise oppression upon them and for (achieving) their country's independence. What does this signify? Fear of Government has fled from the people's minds." That is page 1055 of volume 2, my Lord. I would like to add one sentence at the beginning: "How long will the fabric. of English Empire remain tottering on the unsecure foundation of such artificial sympathy of public opinion"?—My attention has never been drawn to that passage and I do not remember to have read it.

572. But the general tenor of it as to the effect of the bombs, had that been brought to your notice?—That is not my attitude.

573. I am not saying it is; I am asking about Paranjape?—I have not heard him say this.

574. Had it been brought to your notice that he had written this?—No.

575. If it had, would it have made any difference in your conduct?—No, I assisted him as a friend.

576. And now that you have found out, it will not make any difference?—Not in the friendship. I may disapprove of his opinions.

Mr. Justice DARLING: "Country's independence." Those words come in.

Sir EDWARD CARSON: Yes, my Lord.

577. Was this man Paranjape present with you at any time at Nasik?—No.

578. Are you sure?—Yes.

579. Had he been at Nasik with you in 1905?—I do not think he was.

580. Here is your own paper at page 645, volume 2, the second article: "Local News. Last Saturday, on the auspicious occasion of Dasra, a grand procession was taken out for 'Simollanghan,' when the students of this place and some other gentlemen made a bonfire of the foreign articles in their use in order to manifest their contempt for foreign goods. At that time about five to six thousand people had assembled; and before the bonfire was kindled, and while the burning was going on, Professor Paranjape and Ra Tilak made speeches." Do you remember that?—That was at Poona, not at Nasik.

581. Is not that at Nasik?—No.

582. I will go on and show you why I said Nasik. "Some reformers have made a comment that as this 'Holi' took place on the auspicious Dasra day, the 'Dasrepana' (auspiciousness of the Dasra) was gone, and it became an evil omen. But this instead of proving any mistake on the part of the students, only clearly shows that these objectors do not properly understand the very principle of auspicious time. Swadeshi movement, in other words, is indeed a war of Swadeshi goods against foreign goods; and as in former times a beginning of any war used to be made at the auspicious time of Dasra, in the same way, foreign goods having been consigned to the flames, the Swadeshi movement is begun. If anyone sees any evil omen in this, it must be considered to be his misfortune. It is learnt that at Nasik also a third grand meeting was held on the very day under the presidentship of Ra. Ra. Daji Saheb Ketkar, and after Ra. Ra. Bhat, Datar, and Gosavi pleaders made spirited speeches, Belbhandar was thrown about. Goddess Kali was carried in grand procession, Simollanghan was performed and a bonfire made of English clothes?—Yes.

583. At that time when you and he were at a place where they were burning English clothes—I will come to what that means in a moment—they were also holding

a similar meeting at Nasik?—Yes.

584. All over the country?—No.

585. Nasik only?—Yes.

586. Mr. Justice DARLING: What is the goddess Kali? You say the goddess Kali was carried in grand procession. Is it the goddess of Destruction?—Kali and his wife are both gods of Destruction.

Mr. Justice DARLING: She is the goddess of Destruction, and she is the wife of somebody who is the god of Destruction.

Sir EDWARD CARSON: Between them they seem to be the king and queen of Destruction.

(Adjourned till to-morrow morning at 10-30.)

THIRD DAY

January 31, 1919.

Sir JOHN SIMON: Perhaps I may just mention that in the Shorthand Note which is being taken in this case, the print of yesterday contains a slip, though in most respects it is extraordinarily accurate considering the difficulty of transcribing what is said by the witness. On page 78, and as it happens also at Question 78, the answer is not quite what the witness said. 77 was: "Did the Cow-Protection Societies in themselves act as a provocation to the Mohammedans, as far as you know?—As far as I know they did not." The next question was: "Were there riots of this kind in the other parts of India where there were Cow-Protection Societies?" The answer has been printed as though it was: "Riots in many parts." His answer was: "There were societies in many parts, but no riots." I have pointed that out to my friend, and I do not think there is any dispute about it.

Mr. BAL GANGADHAR TILAK, recalled.

Cross-examination continued by Sir EDWARD CARSON.

587. Did you notice in the confession of the murderer in Jackson's case that he said this: "It is my determination that my body should wear itself out in the country's cause"?—

Sir JOHN SIMON: The witness is being asked about a confession said to have been made by the murderer of Jackson, a confession which I presume is recorded, and is in my friend's hands, and I submit that he cannot ask questions of this witness, who was at this time in gaol—he cannot ask the question: Is this sentence in the confession; he must put the document to him.

Sir EDWARD CARSON: The document is in.

Mr. Justice DARLING: It was put in yesterday.

Sir JOHN SIMON: By my friend?

Sir EDWARD CARSON: Yes. You did not make any objection.

Mr. Justice DARLING: The whole thing is put in one of these large books. It is quoted in the Defendant's book.

Sir EDWARD CARSON: Yes, it was put in, and it

was proved in evidence on the Commission which had to be sent out to India to take evidence. If the witness would like to have it before him, he is entitled to it.

588. I am reading now page 459. Just look for this sentence: "Then I said it is my determination that my body shall wear itself out in the country's cause." Is that right?—Yes; what you have quoted is here.

589. "Then I and Anna went on the road by the jungle and these people were following us. After going a mile and a-half I and Anna sat down at a certain place. Anna asked me: How did your mind become so ready? I said by reading the book on Mazzini my mind became ready. He asked: Where did you read the book?" Had a book on the life of Mazzini been dedicated to you?—In Mahratti a summary of his life was dedicated to me.

590. Was it dedicated to you jointly with the gentleman we were talking about yesterday, called Paranjape?—I think so.

591. Did you review it in the "Kesari"?—I think it was reviewed in the "Kesari," but not by me.

592. But at the time you were responsible?—Yes.

593. And you did not object to the review?—They never got my permission, or asked for it.

594. Did you ever object to it; you are the proprietor?—There are many books like that which are dedicated to me without my permission.

595. I am talking about what is in the "Kesari"——

596. Mr. Justice DARLING: Counsel is asking whether it was by your permission, or with your knowledge, that the review of the book about Mazzini appeared in the newspaper "Kesari"?—I read it afterwards.

597. Sir EDWARD CARSON: Did you ever make any objection to it?—After that I did not take any objection.

598. Will you take volume 2, page 926? It is headed: "The Italian patriot, Mazzini." "The readers must of course be remembering what we wrote two weeks ago with regard to the great festival in connection with the Italian hero Garibaldi. In order to complete that very subject we propose to write some words more to-day."

Then if you will turn to page 927 you will see: "So far as our information goes there are these books written on the life of Mazzini, one in Hindi and two in Mahratti. The writing in Hindi is written by Lala Lajpatrai himself." Did you know him?—Yes

599. Was he deported?—Yes.

600. For what?—For sedition.

601. Of the books in Mahratti one is by Ra. Ra. La. Go. Ghanekar and the other, which is only lately published, is by Ra. Ra. Vinayak Damodar Savarkar, B. A. —did you know him?—Yes, somewhat.

602. Was he the gentleman who wrote that dedication to you?—That I do not know.

603. Was he the gentleman who dedicated his book on Mazzini to you?—I do not know; I cannot say without seeing the book.

604. You had never seen the book?—I have seen the book. I cannot remember whether the gentleman dedicated it, or some one else.

605. Here is the dedication. Perhaps I can remind you of it, page 179, Volume 3. Here is the book itself in Mahratti. (Handing book.) Is that the book? —Yes.

606. Now listen: "Translation of portions of the biography and the political principles of Joseph Mazzini, written by Vinayak Damodar Savarkar, B. A., and published by Ganesh Damodar Savarkar, First Edition, 1907. Dedication. May the Goddess of Independence be propitious." "From a sense of gratitude arising in the mind for the greatest obligations conferred in the present times, namely, the transcendental service of the people and the continuous gift of the knowledge of independence by the ardent patriot and votary of indepenence Loka Manya Tilak." What does "Loka Manya" mean?— Respected by the people.

607. "Loka Manya Tilak, the editor of the "Kesari" newspaper, and Loka Manya Paranjape, editor of the "Kal" newspaper. This first flower in a large garland is dedicated to the feet of these high-souled personages affectionately and reverentially; The Publisher"?— Yes.

Sir JOHN SIMON: Who is the publisher?

Sir EDWARD CARSON: It says up above: "Ganesh Damodar Savarkar." Before I quote anything in that book, I will go on with your review of it.

Sir JOHN SIMSON: You ask the witness a question first of all from the article which gives the name, Vinayak Damodar Savarkar, and it appears the dedication was signed, "The Publisher," and the publisher is not Vinayak Damodar Savarkar, but Ganesh Damodar Savarkar. The distinction may be important or not. One can understand why the witness wanted to know who it was dedicated the book to him.

Sir EDWARD CARSON: I should have thought he knew himself.

Mr. Justice DARLING: On this title page from which Sir Edward has been reading, it says: "Written by Vinayak Damodar Savarkar, published by Ganesh Damodar Savarkar."

608. Sir EDWARD CARSON: Are they two brothers?—Yes.

609. You knew them both?—I knew them both, somewhat.

610. What became of them? They are now sentenced to transportation.

611. For what?—For being concerned in the Nasik conspiracy.

612. Was that a conspiracy to wage war on this country?—I did not know that. It appears from the proceedings of the case, that is the Nasik conspiracy case which I examined, that that was their object.

613. They were transported for life?—For life.

614. Were they also transported for being concerned in the murder of Mr. Jackson?—I think so.

615. Here is what you say about the book, or what is said in your paper, "in the book written by Ra. Ra. Savarkar"—that is a term of respect, is not it?—"Ra. Ra." is equivalent to "Mr."

616. There is the translation of the autobiography written by Mazzini himself, and of the select extracts from his writings on some political subjects, and these books are likely to give to the readers an idea as to what was the condition of Italy about 100 years ago, and what Herculean efforts were made by the Italian patriots

who entertained the ambition that their nation should rise from the lives of the pair of the Italian Guru; what is "Guru"—is that teachers?—A preceptor or a teacher.

617. "Written by Ra. Ra. Kelkar and and Ra. Ra. Ghaneker. One can form an idea as to what should be the life of a true patriot so far as an individual is concerned and from the book written by Ra. Ra. Vinayak Damodar Savarkar, the utterances of Mazzini at different times, about his own country, the history of his mental development, and a picture of the account of the secret and open endeavours made by himself and others at his time towards the formation of political societies stands well before the eyes, and one gets detailed and trustworthy information as to how the preparation for the emancipation of a nation is required to be made." Do you agree with that?—That is the purport of the book.

618. At the end of the article, page 930, the last three lines, it says: "But it is necessary for us to remember what those things were with regard to which there was no difference of opinion between these two parties. These things were the readiness even to part with one's life when self-sacrifice demanded it, and to keep to the firm determination of effecting the emancipation of the nation, and for that purpose all to exert themselves unanimously." Then the murderer of Mr. Jackson said it was by reading that book that his mind became ready for murder?—What is the question?

619. Does it appear, therefore, from reading the confession of this man, Kanhere, that it was from reading that book that his mind became ready for murder?—He might have said that. I do not say that is true.

620. Do you think he committed a murder?—I have heard that he did. I was then in gaol.

621. Do you call that a murder?—If I know the fact, I certainly call it a murder.

622. Just let us see what the preface to this book said. You will find it at page 182 of volume 3.

Sir JOHN SIMON: My Lord, I will take your ruling on this, because the same question may arise again. I understand my friend is now seeking to read to the Jury the preface, or part of the preface, in this

book, and I submit that unless it appears that Mr. Tilak has read the preface, there is no justification for cross-examining Mr. Tilak or Sir Edward reading out of this book, any more than reading out of any other book. It was quite another matter to ask Mr. Tilak if he had seen this article in the "Kesari" and upon his saying that he had seen it, it was quite proper, of course, to read an extract from it and question him about it; but that is no reason, I submit, why it is legitimate to read an extract from this book until, at any rate, the witness says that he has seen the book, and knows its contents. Otherwise, I do not see any reason why either of us should not read exfracts from any book to the witness, and ask him whether he agrees with it or not.

Sir EDWARD CARSON: May I put very shortly why I say I am entitled to read this? In what I have read out from the "Kesari," there is this passage which does not refer to any book we like to read, but to this book. From the book written by Vinayak Damodar Savarkar the utterances of Mazzini at different times about his own country, the nature of his mental development, the picture and account of the secret and open endeavours made by himself and so on, stand well before the eyes, and one gets detailed and trustworthy information of how the preparation for the emancipation of a nation is required to be made. That is a recommendation to people to read this book, and I have proved that this murderer of Mr. Jackson read that book,—a man who said he was incited by the "Kesari."

Sir JOHN SIMON: With great respect, what you have proved is, he *said* he did.

Sir EDWARD CARSON: I know. He said he did. I submit I am entitled to show what was the book he was recommending.

Mr. Justice DARLING: What was the book that the Plaintiff was recommending, do you mean?

Sir EDWARD CARSON: Yes. The book which was dedicated to himself.

Mr. Justice DARLING: Dedicated to him, but he says many books have been dedicated to him without his knowing it This book by the Defendant is dedicated to Lord Morley with his permission. This book

says: " Dedicated by permission to Viscount Morley as a tribute of private friendship and public respect." The Plaintiff says it does not always follow that because a book is dedicated to a man that he gave permission, and he did not give permission.

Sir EDWARD CARSON: No, but after it is dedicated to him he gets it, and he announces it in the public Press. It is announced in his public Press, that that is a good book for those to read who want to see the proper means of getting the emancipation of a country.

Mr. Justice DARLING: That is what is said in the review published in his paper?

Sir EDWARD CARSON: Yes, and I seek to show what it was he was commending; that is my point.

Mr. Justice DARLING: I think this is very near the line, but I do not want to overstep the line, therefore I shall exclude this.

Sir EDWARD CARSON: Will your Lordship reserve me the right to raise this at another point when I have given my evidence?

Mr. Justice DARLING: I cannot prevent you doing that.

Sir EDWARD CARSON: I have to piece this case together, and to connect Nasik with what happened there.

Mr. Justice DARLING: I say, on the evidence now before the Court, I disallow this question.

623. Sir EDWARD CARSON: Did you read that book at the time?—At what time?

624. At the time it was published?—No.

625. When did you first read it?—Several months after, I think.

626. Some moths after did you read it?—Several months after; and then only a part of it.

627. Did you read it before you wrote the articles on the bomb?—No. I had read the life of Mazzini in English. I did not require this translation.

628. But did you read Savarkar's life of Mazzini before you wrote your articles on the bombs?—

Sir JOHN SIMON: I do not think he said he did write articles on the bombs.

The WITNESS: In the first place I did not write those articles on the bombs. In the second place, I do

not think there is any necessity for me to read this book.

629. Sir EDWARD CARSON: Did you read it?—I did not. I have never read the whole of this book.

630. Did you read the preface?—Part of it.

631. How much of it?—I cannot remember now.

632. Do you swear you did not read the whole of it?—Yes.

633. Can you give any indication of what did you read?—I cannot. I simply looked over it to see what was the life of Mazzini.

634. You saw the praise of it in the "Kesari"?—Yes.

635. Is there anything in the "Kesari" that dissents in any way from what is laid down in that preface?—I do not know. In the "Kesari" violence is not preached—never preached.

636 You never preached violence?—The "Kesari" has not preached it.

637. But can you tell me any place in the "Kesari" in which any criticism or dissent was made from that book of Savarkar's?—Yes, in here.

638. Is that the only criticism?—I cannot say that.

Sir EDWARD CARSON: I do not know whether your Lordship will allow me to read the preface now. He says he read part of it.

Sir JOHN SIMON: I submit my friend is not able to yet.

Mr Justice DARLING: We have not been able to ascertain what parts of it he read.

Sir EDWARD CARSON: Cannot I put to him: Did you read this? I will not press it if your Lordship thinks there is any doubt about it.

Mr. Justice DARLING: Strictly speaking, in cross-examination you may.

Sir EDWARD CARSON: I do not want to do anything that is not right, if your Lordship thinks there is any doubt.

Mr. Justice DARLING: I say, strictly speaking, as you are cross-examining you have a right to put the question in that form, but seeing that it appears very probable he will say "I did not read this," or "I did not read that," I cannot stop you, but I understand you do not desire to do it

Sir EDWARD CARSON: I certainly do not want to do anything that is not strictly right. I do not want to do in an indirect way what I cannot do directly.

The WITNESS: I have an explanation to offer, and that will settle the matter very briefly.

639. Sir EDWARD CARSON: You are entitled to make any explanation?—In 1906 at the Mitramela Club, of which Savarkar was a member, he was distinctly warned to proceed on constitutional lines by myself; and Ganesh Savarkar was also similarly addressed by myself.

640. Then you knew in 1906, before this book was reviewed in the "Kesari," that they were dangerous people?—Not dangerous, but hot-headed people at that time, as they appeared to me.

641. And likely to go on unconstitutional lines?—Yes.

642. You learned, I suppose, in May, 1908 of the murder of two European ladies and their coachman at Muzaffapur?—Yes.

643. Is that in Bengal?—Yes.

644. Had you been encouraging the Bengali people for breaking the law?—Not a bit.

645. Will you turn to page 936: "Well done, Bengali brothers, well done." What had they done well?—In resorting to a Swadeshian boycott, urging that as a political weapon for the purpose of getting redress for their grievances.

646. Had they been prosecuted?—Some of them had been prosecuted.

647. For sedition?—For sedition.

648. Was it because they had been prosecuted for sedition that you said, "Well done, Bengali brothers"?—No.

649. Now we will read it, 17th September, 1907: "No one who sees the courage of mind and patience shown by the Bengali Babus in connection with the numerous cases of sedition, &c., which the Government, having become angry towards the leaders and students in Bengal have started against them, will fail to give utterance to the exclamation stated at the top." That is "Well done, Bengali brothers"?—That is a general heading, it does not apply to every sentence.

650. Look at the first sentence. Let me read it again; "No one who sees the courage of mind and patience shown by the Bengali Babus in connection with the numerous cases of sedition, &c, which the Government having become angry towards the leaders and students in Bengal have started against them, will fail to give utterance to the exclamation stated at the top." That is "Well done"?—That expression at the top is well done.

651. "Well done for your courage and patience in sedition"?—Not in sedition; I consider the prosecutions which were instituted were not justified.

652. The numerous cases of sedition?—They may be numerous, I do not know.

653. You say so here. Did not you read this?—In withstanding the prosecution, and prosecution like that, I considered they were "Well done."

654. Did you write this?—No, I did not.

655. "Some did not even think up to this day that the Bengali people possessed these qualities." What qualities?—The quality of courage; they were called cowards.

656. Courage in taking part in sedition?—No, in bearing quietly the prosecution that was lodged.

657. "No one doubted that the Bengalis were learned people, were eloquent speakers or were intellectual people, but a good many people did not think that the qualities of courage, perseverance and resoluteness which were necessary in fighting with the white officials" —who were white officials?—The police and the civil officials in Bengal.

658. The British Government?—Not the British Government.

659. Government officials?—Yes, Government officials but not Government.

660. "Which were necessary in fighting with the white officials while suffering persecution at their hands"—that is you were telling these people they were persecuted by the Government?—So I thought, or the writer thought rather than myself.

661. And you agreed?—Yes, I do agree to a large extent.

662. "Suffering persecution at their hands for the

acquisition of national rights or would under such special circumstances manifest themselves in people like the Bengalis, that is to say, the people whom Macaulay some years ago had reviled as being weak. However, the current of time is now so changed that just as Ravan" —who was Ravan ; was he the demon king ?—That is a general word used—" demon " is a general word used for non-Aryans in those days.

663. He was defeated and killed by Rama, the King of Oudh, was not he—so I find in the margin here. Is that right ?—Yes.

664. What race did Rama the king of Oudh belong to ; was he an Aryan ? —He was an Aryan, an incarnation of the Supreme Being.

665. " However, the current of time has now so changed that just as Ravan had at last to suffer defeat at the hands of a weak human being, whom he had regarded with contempt, so these very old and young people of Bengal, regarded by Macaulay with contempt, have been instrumental in making the obstinate and haughty official class in India yield." That is, you were praising them for breaking the law ?—For withstanding the persecution, not breaking the law. We break a law and brave the consequces if we think the law is not good.

666. I suppose every man judges for himself ?—A man must judge reasonably.

667. If he thinks the law is not good, he must break it ?—If the law is broken you have to withstand the punishment. That is what we call passive resistance.

668. " This establishes one fact, namely, that when the time comes by the grace of God even the weak people are inclined to set themselves against the headstrong or tyrannical rulers." Was that the British ?—The officials.

669. Was it the British Government ?—No, I make a distinction between a government and the officers.

670. But a government must consist of officials ; it is not an abstract entity ?—A house consists of rooms, but a room does not mean a house.

671. " Against the headstrong and tyrannical rulers. " Who were the rulers ?—The officials in Bengal who tried these coercive measures.

672. Does that include the Governor of Bombay?—This article is nothing to do with the Bombay Government.

673. Well, does it include the Government of Bengal?—The Government officials of Bengal.

674. Everybody from the highest to the lowest?—Not necessarily.

675. —"and determination and unprecedented firmness of mind being added to the same, truth, justice and independence eventually succeed. The present agitation offers some explanation as to why the great sage Valmiki"—he was apparently the author of "Ramayana"—"placed before us the encouraging Puranic instance of monkeys striking the demons down."?—Yes.

676. The Bengalis were the monkeys?—That is a reference to the story of Rama.

677. Does not it mean the Bengalis, these weak people, were striking down the demons, the British rulers?—Not the rulers.

678. What is it introduced for?—To show you require courage to withstand the official oppression.

679. They are the demons?—They are not compared to demons; it is a comparison of the story.

680. I know it is only a comparison; like we say here "the very devil," is that it?—No, it is not like that, it is a comparison with the story of Rama.

681. Mr. Justice DARLING: What you are asked is this: In this comparison are the Bengali likened to the monkeys?—Not likened to them. Just as monkeys acted in that case, these people acted here.

682. As the monkeys against the demons?—So these were acting here. One is helpless, the other has all the power.

Mr. Justice DARLING: I think it is pretty obvious.

683. Sir EDWARD CARSON: I think so. "The leaders of the new party in Bengal have with great courage secured the credit of bringing it to the notice of the world how greatly firmness of mind, devotion to truth, self-sacrifice and other moral qualities indeed more than physical strength or rifles and guns are essential in the fierce fight"—listen to this—"which there seems a

chance of taking place between the white officials in India and the poor subjects trampled under foot by them for the acquisition of the rights of Swarajya, independence or nationalism." Is this your teaching to those people, that the white officials, which means the British rulers in India, were trampling under foot the subjects, and that there was a chance of a fierce fight for the acquisition of the right of Swarajya, independence or nationalism? Is that what it means?—Which line—which page

684. Just after that, about striking down the demons. Does that mean that the white officials in India, that is the rulers of India, were trampling under foot the poor subjects?—Yes.

685. And that there was a chance of a fierce fight to procure Swarajya, independence or nationalism?—That is the independence of the Indian Empire.

686. "For that we heartily congratulate them. Like Bengal, the Punjab also is at present overtaken by a calamity"—what was the calamity?—A number of leaders were prosecuted at that time.

687. That was an action, I suppose in the Punjab. You were telling them that they were trampling upon the people?—The people were persecuted.

688. Prosecuted wrongly?—Persecuted.

689. By the British?—By the officials.

690. "But it must be said that the Punjabis who are many times physically superior to the Bengali people, have failed to maintain a sufficiently firm and dignified conduct even though there was an occasion (for them) to display the virtues possessed by them, as Babu Bipin Chandra Pal, Babu Ashwinikumar Datt or the student Sushilkumar or Babu Surendranath did"—who were they? Were they all prosecuted?—I do not know if they all were, but their Bengal leaders.

691. Now listen to this: "Both Pindidas and Dinanath of ages under 25 years, who patiently heard the order of sentence of rigorous imprisonment for five years each, and with smiling countenance went to jail, deserve praise for the same"—deserve praise?—Yes.

692. Were they prosecuted and convicted of inciting the Sepoys to mutiny?—That is supposing it is the fact.

693. I am asking you the fact?—I cannot take it as

the fact.

694. But perhaps I can help you. Were not these two men, Pindidas and Dinanath, prosecuted and sentenced to five years each for inciting Sepoys to mutiny?—I did not know that. It is not written by me. I cannot accept every word of it.

695. I do not expect you to?

Sir JOHN SIMON: You have asked him about four long names.

Sir EDWARD CARSON: I am not talking of the four. He told me that they were Bengalee leaders.

Sir JOHN SIMON: You read out four long names to him.

696. Sir EDWARD CARSON: And he said they were Bengalee leaders, and I asked him then who were Pindidas and Dinanath, and whether they had incited Sepoys to mutiny, because he says they deserve praise. I want to know what they deserve praise for?—For resisting.

697. Now look at page 963, and you will find what those men were convicted of?——

Sir JOHN SIMON: I ask your Lordship's ruling about this? I submit the fact that the Defendants have enclosed in these books extracts from a great number of papers, including the "Kal," does not entitle my learned friend to read passages to this witness, telling him to look at them, and then he will see what they were convicted for. There is no difference between doing that and asking him to look at a preface which he has not read. You do not make the thing evidence by putting it in a book. What my learned friend is referring to is an exhibit from some newspaper about which it may be this witness can speak, but, if so, the foundation must be laid, and he must be asked whether he has read it, or whether he is responsible for the "Kal" newspaper—otherwise you may as well put to him the London "Times."

Mr. Justice DARLING: What do you say, Sir Edward?

Sir EDWARD CARSON: I ask him, my Lord, to look at that and say whether he can recollect what they were convicted for?

Mr. Justice DARLING: What part of it do you want him to read?

Sir EDWARD CARSON: The middle of page 963: "Is not that big mutiny an alarming event?"

Sir JOHN SIMON: I do not wish to give unnecessary trouble, but I object.

Mr. Justice DARLING: Then give me the book and I will mark the passage. (The learned Judge marked the passage in the book, which was handed to the Witness). Just read that passage to yourself where I have marked it with a blue line. Now, Sir Edward, what is your question?

698. Sir EDWARD CARSON: My question is: Can you recollect now what Pindidas and Dinanath were convicted for?—This is not from my paper.

699. That is not the question I ask you. I ask you, do you now recollect that Pindidas and Dinanath——

Sir JOHN SIMON: With great respect, I object.

Sir EDWARD CARSON: We shall soon have a Punch and Judy show.

Sir JOHN SIMON: It is really no good my friend being in this temper.

Sir EDWARD CARSON: I am not in a temper, and you have no right to say so.

Mr. Justice DARLING: Are you addressing me, or Sir Edward Carson?

Sir JOHN SIMON: I am asking that when I take a proper course my friend should sit down quietly.

Sir EDWARD CARSON: I did sit down quietly.

Mr. Justice DARLING: Will you sit down again, Sir Edward?

Sir EDWARD CARSON: Yes, my Lord.

Sir JOHN SIMON: I will ask another thing, and that is, I will ask my learned friend, when I take an objection, not to say, in the hearing of the Jury: "We shall soon have a Punch and Judy show." That is not the proper way, with great respect, for one Counsel to speak to another.

Mr. Justice DARLING: I did not hear it.

Sir EDWARD CARSON: I will call you "my right honourable friend," in future.

Sir JOHN SIMON: The objection I take, my Lord,

with great respect, is that my learned friend is not entitled because he has marked a passage in somebody else's paper and asked the witness to read it, to then ask him a leading question: "Now that you have read that, do you know"——

Sir EDWARD CARSON: I have not read from the paper; that is what I object to. My friend misrepresents me over and over again. I have never read a line of that, which I may very well have put to him.

Mr. Justice DARLING: I understood the question to be directed to this, whether having read that passage on page 963, he could now recollect what he said before that he could not—whether he did not know what Pindidas and Dinanath were convicted of?

Sir JOHN SIMON: If that question was put I should have no objection.

Sir EDWARD CARSON: That is exactly the question.

700. Mr. Justice DARLING: I will put it myself. (To the Witness): You have read that passage that is marked?—Yes.

701. Do you now recollect of what offence Pindidas and Dinanath were convicted?—It is stated here.

702. Do not repeat what is stated there. You do not recollect what they were convicted of?—No.

703. Sir EDWARD CARSON: At all events, in the "Kesari"—there can be no doubt about this—they were praised for an offence for which they were each sentenced to five years rigorous imprisonment?—That might be.

704. It is there on the face of it. Now read on further. Just listen to this, on the same page following on that: "But the reputation of the Punjab has become marred owing to the proclamation of their loyalty to the Sovereign which the whole body of the leaders in the Punjab issued"——

Mr. Justice DARLING: I will show it to him. (His Lordship marked the book, which was handed to the Witness.) You read where I have marked it with a red pencil.

705. Sir EDWARD CARSON: Have you got it now?—Yes.

706. Will you read it yourself: "But the reputation of the Punjab has become marred owing to the proclamation of their loyalty to the Sovereign which the whole body of the leaders in the Punjab issued." Why was the reputation marred owing to the issuing of a proclamation?—There are always certain gentlemen who are ready to sign what officials require of them, or supply to them, and you may be sure it does not meet with the approval of the people. It is one of these tactics adopted in such cases.

707. Would not you be glad yourself that there should be a proclamation of loyalty to the Sovereign?—It is not what is done any way in India, or by some officials in India.

708. That is not what I am asking you. I am asking you here: Why should the fact of a proclamation of loyalty to the Sovereign—you represent yourself as loyal to the Sovereign, do you not?—Yes, I am loyal.

709. Loyal to the Sovereign?—Loyal to the Empire and the Crown.

710. This is not the official class: this is the Sovereign?—Who?

711. That you are talking of here?——

Mr. Justice DARLING: He says: "Yes, I am loyal to the Empire and the Crown"—that is the Sovereign.

712. Sir EDWARD CARSON: Yes, the Sovereign is the representative. (To the Witness): I really must ask you to tell me why, the reputation of the Punjab should be marred?—It must have been inspired.

713. Even if it was, would it not be a good thing to have?—What is the good of a false loyalty?

714. Would it not be a good thing to have a proclamation, even inspired, of loyalty when there was a great deal of unrest and disaffection and sedition?—But this was not disloyalty; it was due to oppressive measures.

715. To the oppression of the rulers?—To the oppression of the officials.

716. Is that all you can say now?—Yes.

717. Were you sorry this petition or proclamation was got up?—Yes, because it was manufactured.

718. Who manufactured it?—The officials.

719. Give me a name?—They do it in all parts.

720. Give me a name; you were living there?—I do not know anything about the Punjab, but I know how this was done.

721. Listen to what it says, "which the whole body of the leaders in the Punjab issued"?—Yes.

722. What leaders?—I do not know; I do not know that it is official. They are not given here.

723. "The whole body of the leaders"?—Yes.

724. Were they under the control of the official class?—I do not know who did and who did not; it had been taken to them and got published.

725. Was not that a proclamation of loyalty?—It is called there a proclamation. But it seems to me, from the account here, that it was a declaration made that we are loyal and showing that although something has happened, our loyalty has not been questioned.

726. And that is a very reprehensible thing?—It was done under prompting.

727. Were you, when you said that, trying to bring discredit upon the people who were loyal to the Crown?—Certainly not.

728. For what other purpose?—In India that pronouncement of loyalty is not good.

729. Were you trying to create disaffection?—Certainly not.

730. That you would not like to do?—No, I have never done it, and I do not like to do it.

731. You have been convicted twice of it?—Yes, a man can be convicted, but it does not mean that he is guilty.

732. Then it goes on on page 937: "Many people did not think that the Bengalis would display so much tenacity or spiritedness; why, even the white official class was under a delusion that if ten of five criminal prosecutions were started, and five or 25 students or leaders were sent to jail, the prating (going on) in Bengal would diminish, and along with that the new party that has come to the front in connection with political matters would be annihilated and quiet would be restored all over India; but the Bengalis have now completely removed the delusion under which the official class was labouring. Two persons, the editor and the publisher

of the 'Yugantar' paper, were prosecuted twice and were sent to jail and yet like the bird phœnix the 'Yugantar' has succeeded in raising its head. Sushilkumar, a student, was cruelly taken to jail and was given 15 stripes on the buttocks by the magistrate and yet he did not feel sorry for it; on the contrary, the people carried him in procession in great pomp through the city and hailed him with shouts and acclamations; not only this, but because he had to fall a victim to the zulum (tyranny or oppression) of the official class and because he came out sound through that (trouble) it was decided to give him a gold medal publicly." Did you approve of all that?—If the man was convicted and sentenced for a wrong thing, is it the right thing to do for the people?

733. Were they all prosecuted for wrong things, as you call it?—That is how it was represented in the Bengal papers; I have taken that from the Bengal papers.

734. Did you make no enquiry as to whether it was true?—No, I did not.

735. Had you abused all the white officials without ever having made any enquiry as to whether what you were stating was true?—The enquiry was published; the proceedings were published.

736. Now I go further down the page: "The case of the political sacrifice going on at present is of this very sort. Political agitation (developing) gradually has this day attained a state when people are eagerly waiting to know not how many speakers there are, not how many statisticians there are, but how many persons there are who would be regardless of their lives, for obtaining the rights of Swarajya." That is the end of page 937. Was that inciting people to risk their lives for Swarajya?—Of course, by way of passive resistance.

737. But how do you know that it was by way of passive resistance?—It means that if they have bad laws they must take the consequences. You cannot get a bad law upset unless you do this.

738. "Of learned graduates who can make speeches before meetings, there have been and there will be a good many, but the land of the Aryans (i. e., India) is waiting to know whether there are or there are not in our

country persons who for the sake of the desired object or for the accomplishment of the intended purpose would endanger their own lives or happiness and thereby establish the truth of their opinions—nay—who would, by their determinedness and self-sacrifice, astonish even the opposite party"—who were the opposite party?—In the present instance they are officers; in this present case it means the British officials.

739. "That the religious merit and glory of the sacrifice of one's ownself are greater than those of a horse-sacrifice or human sacrifice has already been made known at least to all the Christian nations by the example of Jesus Christ." Then a little further on: "Moral strength more than mere intellectual strength is necessary for us at present, and when the matter is looked at from this standpoint, we are obliged to say that the example of his true determination and firmness of mind which Bipin Babu though aware of the fact that the full punishment prescribed by law would be inflicted upon him, has set the (whole) world by refusing to act as Purohit in connection with the sacrifice commenced by the tyrannical rulers for persecuting the subjects desiring independence is extremely praiseworthy." There again you depict the subjects as persecuted. Was this a gentleman who refused to give evidence in a case?—Yes, because he thought that the case was launched by this officer for a public purpose.

740. He was being judged as to whether he ought to give the evidence?—Yes.

741. I suppose your case would be that no man is obliged to give evidence if he thinks the case is a public one?—No. Every man is bound to tell on oath what he knows in a Court of Law, subject to certain punishment, and it is for a man to decide whether, by giving his own evidence, he will help, or refuse to give evidence and take the consequences. That was his case; that is how he explained it, and it is only a repetition of what he has said.

742. Then further down: "Let the matter be considered from any point of view—be it from the side of justice, be it from the side of morality, or be it from the side of rights of national independence—it must certainly

be said that this determination of Bipin Babu was and is commendable and praiseworthy." The "Kesari" approved of it?—It approved, but he said the reasons which he gave.

743. "It is true that we have no strength in us to resist the zulum (i. e., tyranny or oppression) of the white official class, but just as a real and saintly Pativrata"—is that a good wife?—Yes.

744. A chaste wife?—Yes.

745. "But Just a real and saintly Pativrata disappoints evil-minded and tyrannical persons by putting an end to her life, and just as she in pursuance of divine justice throws the whole sin of that deprivation of life on the heads of those desiring to outrage her modesty, even so the present conduct of Bipin Babu has been, in all respects, spotless and worthy of imitation even if it is looked at from the point of view of any of the things, viz., religion, morality and law"?—Yes.

746. That is, his refusal to give evidence was equal to the woman who took her own life rather than be outraged?—Yes, it is comparing it.

747. "Well, then, in a case where justice to be administered by the wolf is to be measured out by the scales of the wolf as in Æsop's Fables, we, too, like Bipin Babu, fail to understand why we, the lambs, should do even the work of holding the scales." Of course the scales of the wolf meant the British officials. When you said: "Where justice to be administered by the wolf is to be measured out by the scales of the wolf" you referred to the British officials?—Yes, but I do not call them wolves though. That is a parody.

748. You said that to keep things quiet out there, I suppose?—It had no connection with Poona at all.

749. There was a good deal of unrest going on in Poona at this time?—No, I do not think so. That is September, 1907.

750. Then further down: "That being so, what is wrong in saying, 'Do what you like, I am not going to give evidence in this case.' All should render help in a matter of justice; it is the duty of every citizen to do so. This principle of law is right. It has been accepted also in ancient times by Manu and others; but in cases where

unjust directions have to be carried out in the name of law, there cannot, speaking from the point of view of religion or from point of view of morality, exist an obligation requiring that those directions must be carried out." Who is the person who is to decide all that ?—The law-givers, the writers of jurisprudence.

751. But supposing a witness comes up into the witness-box—?—Like myself ?

752. Yes, like yourself ?

Mr. Justice DARLING: I think if you read a little further on you will see what he should do. Read to the bottom of the page.

Sir EDWARD CARSON: "This indeed is the secret of the proposition laid down by the Shastras, namely, that even speaking the truth is at times contrary to religion." Is that part of your doctrine ?

Mr. Justice DARLING: Read to the bottom of the page.

Sir EDWARD CARSON: "The evasive answer, namely, 'Whether it was the man (named Ashwathàmà) or the elephant (named Ashwathama) that was killed which Yudhisthir gave, was given by him to serve his own interest and hence he incurred the sin of telling a lie. If Bipin Babu had in the present case given such answer on oath before the Court we do not think he would have incurred sin, because he had no self-interest to serve thereby; but a better course still was indeed not to give evidenee in such cases, and we cannot sufficiently praise Bipin Babu" ?—Yes.

753. Does that mean that the witness, if he thinks proper, and does it for no self-interest, ought in the witness-box to tell a lie, and may tell a lie, and be praised for it?—No, he may be silent if he does not want to answer and he puts up with the consequences.

Mr. Justice DARLING: We have got beyond the silence and have got to this, that this man in the case when he was asked whether it was the man or the elephant, whose names were very much alike, who killed somebody, told a lie, and you condemn that because he acted from self-interest. Now will you read that ?

754. Sir EDWARD CARSON: "If Bipin Babu had in the present case given such answer on oath before

the Court, we do not think he would have incurred sin, because he had no self-interest to serve thereby." Then if he told a lie he would not incur sin ?—This is not the writer; this is a paraphrase.

Mr. Justice DARLING: If it were necessary I could find something very like that in the letters of Pascal, not that he recognised that kind of thing but he points out who do recommend doing that very thing. It is a matter of history that he pointed out that the same thing might be done in three or four different ways, and Pascal discussed with them the morality of that doctrine.

755. Sir EDWARD CARSON: But do you adopt that principle yourself in giving evidence here ?—I do not think I am adopting it. I have myself been a Plaintiff in this case. I have fought this case and these proceedings, but that is not a case which is parallel to this case.

756. Sir EDWARD CARSON: You would not be justified in this case under any circumstances in telling a lie ?—Under any of the instances given by the "Koran" for telling a lie.

757. Will you now turn over to page 940: "Since Bipin Babu has deliberately drawn upon himself the punishment he does not care whether he is sentenced to simple imprisonment for six months or to pay a fine. Looking at the matter, however, from a public point of view, we must say that in passing upon Bipin Babu the full term of sentence prescribed by law, and that too by a native magistrate, the officials reached the height of their slavery and meanness, and for this very reason at least, that is to say, for the sole purpose of testing the independence or impartiality of the High Court it is necessary to prefer an appeal to the High Court against this decision." Who was the native magistrate ?—I do not know who he was.

758. He was an Indian ?—Yes.

759. He reached the height of slavery and meanness ?—Yes, those words are used there.

760. Did it ever occur to you that language of that kind about magistrates might lead to their assassination? —No, my paper is not read in Bengal.

761. I am not asking you that. You see I have read

to you and you have seen the confession of the man who said that it was the oppression of the sahibs that led him to commit that awful murder of that official, Mr. Jackson? —This is nothing to do with it.

762. I ask you now : was language of that kind in a place like Poona calculated to lead peoples' minds to dealing in that manner with a native magistrate?—No, I do not. This is absolutely nothing to do with it.

763. Does not this hold up the native magistrate as having reached the height of slavery and meanness for doing his duty?—I do not think it was a duty.

764. Well, for prostituting his duty?—And it is not prostitution—it is carrying it too far. He is giving the full sentence by the Code for crime.

765. Then you go on to say that to test the independence of the High Court, it is necessary to prefer an appeal?—Yes.

766. That is to say, if the High Court take the same view as the magistrate, it would have no independence? —If the High Court take that view you can go further; there is the highest Court.

767. Is it not a threat that if the High Court takes the same view as the magistrate, it would have no independence?—If the High Court takes the same view there the matter ends. I think your inference is not right.

768. In writing that article, "Well done! Bengali brothers, well done," were you not attempting, to the best of your ability——?—Not in my opinion.

769. I have not asked you the question yet. Were you not attempting to set these people against the official classes?—Certainly not.

770. The official classes in India?—Certainly not.

771. The Jury can judge of that?—I say certainly not.

772. Was it calculated to do so, in your opinion?— It is not calculated to do that, in my opinion.

773. You would go further and say that it was calculated to improve the relations between the people and the official classes?—No. It is commenting upon the cases from a moral and legal point of view rather, and I was perfectly justified in doing so.

Sir JOHN SIMON: I do not know whether you

have finished reading this, but, if you have, I should like to ask you if would read the next eight or nine lines; I think it would be fair to do so.

774. Sir EDWARD CARSON: Certainly, I will read any part you wish: "At Bombay, in the month of April last, the conscience of the editor of the 'Times (of India)' had, in this very manner, found itself within the grip of the pincers of law. It is a (journalistic) etiquette that journalists should keep as confidential the articles or news which their correspondents send them"?—Yes.

775. "To do so might not be permissible or allowable under the law, but this principle is fully accepted by approved custom and practice"?—Yes.

776. "On this very principle Mr. Fraser, the editor of the "Times of India," refused to produce in the Small Cause Court in the Caucus case the telegram received from Aga Khan, but for that the Judge, Mr. Kemp, did not inflict upon him a heavier fine than one of Rs. 50 only. That the telegram was produced in Court later by the Editor of the 'Times' is a different matter, for, the offence of contempt of Court had been completed already before (its production). The nature of the offence committed by Mr. Bipin Babu are, in the eye of law, one and the same; nay, there is no objection whatever to say that the conscience of Bipin Babu is more clear and sacred than that of Mr. Fraser. Why then a fine of (only) Rs. 50 in the case of Mr. Fraser and six months' simple imprisonment in the case of Bipin Babu?"

Sir JOHN SIMON: Will you read on?

777. Sir EDWARD CARSON: Yes: "If the sole reason for it be that Bipin Babu's skin is black, then this thing is calculated to cast a great slur on (the reputation of) the goddess of British justice." In issuing that statement were you alleging to this great Indian population that British justice made a difference because of the colour of the man's skin?—Which sentence are you referring to?

Mr. Justice DARLING: I will mark it for you. (His Lordship marked the book, which was handed to the Witness.)

778. Sir EDWARD CARSON: Will you read it out yourself to the Jury?—"Why then a fine of (only)

Rs. 50 in the case of Mr. Fraser and six months' simple imprisonment in the case of Bipin Babu. If the sole reason for it be that Bipin Babu's skin is black, then this thing is calculated to cast a great slur on (the reputation of) the goddess of British justice."

779. Was that suggesting to the Indian people that they got no justice, or different justice, because their skins were black?—That is the inference drawn from the previous fact.

780. Was that suggested here; did you believe that?—I did not write it myself.

781. But do you believe it?—I believe that different justice is administered to Europeans and natives.

782. Different justice?—Yes. Here is a case of a fine of Rs. 50 in one case, and six months' imprisonment in another for the same offence.

783. I ask you again, was the stating that the colour of the man's skin caused different justice to be administered calculated to incite the people against the officials who tried to carry out their duty?—It is not inciting them against the officials; it is complaining of injustice.

784. I ask you your opinion: Was that calculated to incite the people against the officials?—No, otherwise all complaints about injustice will cease; that is not calculated to incite the people against the officials.

Mr. Justice DARLING: I should like to point out that what was done was this: the punishment awarded to Bipin Babu did not result in his obeying the Court and so clearing his contempt, and in the case of the punishment awarded to Mr. Fraser it was sufficient, because it did induce him to clear his contempt, as appears here. He was fined Rs. 50 because he would not produce a telegram, and then he produced the telegram as appears here. That telegram was produced in Court later. So that Rs. 50 was quite sufficient to make him do what the Court said he should do, whereas in the other case it was not.

785. Sir EDWARD CARSON: Quite so, my Lord; they gained their object. (To the Witness): Will you now listen to this and follow it: "The Presidency magistrate, that is, Mr. Kingsford, before whom the Vande Mataram case is going on could have, within his

own powers, sentenced Bipin Babu to a fine of Rs. 200, or to simple imprisonment for one month, but he having thought that this punishment would be inadequate made a case against Bipin Babu under the (Indian) Penal Code and sent him to another magistrate, and this other magistrate in his capacity of a slave, fulfilled the desire of Mr. Kingsford"—that is, that the magistrate was a slave?—It is translated "slave" here, but it means a subordinate.

786. Mr. Justice DARLING: That was the native magistrate?—Yes.

787. Sir EDWARD CARSON: Mr. Kingsford sent him to a native magistrate?—Yes.

788. "When one sees this disgracing of the goddess of Justice taking place during the British rule, one cannot but have one's hair stand on end through surprise and pain." Now, Mr. Tilak, was not that Mr. Kingsford the man they tried to murder with a bomb when the two English women and the coachman were blown up instead?— Yes, I think so.

789. Do you not think now, calmly looking at this article in the "Kesari," that it was likely to lead someone to take this course against Mr. Kingsford?—No, nothing of that kind.

790. Do you not think that this article about the man who sends on the case to the slave, who obeys him and does injustice to a man because of the colour of his skin, was likely to influence the attempt to murder him, when two English ladies and a coachman were blown up by mistake by a bomb?—This is nothing to do with that.

791. How do you know?—Because my paper is not read in Bengal; it is read in Poona.

792. If it was read in Bengal?—It is not read in Bengal; the language is different.

793. But it would be likely to cause disaffection towards Mr. Kingsford?—It is not likely to cause injustice, but to stop it because——

794. Do you think that it was likely?——

Sir JOHN SIMON: Will you let the witness finish his answer; you interrupted him in the middle of a sentence.

Sir EDWARD CARSON: He can go on.

795. Mr. Justice DARLING: He was saying that the language of Bengal and his paper are different?—Yes, entirely different. The characters are different and the language is different. This is like writing in England about what happened in France, or more than that.

796. Now let me go on to the attempted murder of Mr. Kingsford, which you will find at the bottom of page 1037. "News is received that two European ladies and one coachman were killed at Muzafurpur in a dreadful manner with a bomb which was thrown at them." Was that in Bengal?—Yes.

797. "The European community is as much agitated by this murder also as it was agitated by the murders of Mr. Rand and Lieut. Ayerst at Poona in the year 1897." I will come to that presently. "Last Thursday at about 8.30 at night two European ladies, Mrs. Kennedy and Miss Kennedy were driving in a carriage at Muzafurpur past the house of Mr. Kingsford. Immediately they arrived in front of Mr. Kingsford's bungalow a bomb was thrown at them into their carriage. Immediately the bomb was thrown there was such a loud explosion that the whole city of Muzafurpur shook to its very foundation. The buggy was shattered to a thousand pieces. One of the ladies died immediately, and the other died sometime afterwards, and the coachman was killed on the spot. This is the first bomb outrage in India,"—there have been many bomb outrages since that, have there not?—Yes, since then. This is the first one.

798. "And it is but quite natural that the whole of the European society and the Indian society should be shocked by it. After these murders had taken place one Khudiram Bhose who, it is said, threw the bomb, was arrested at a railway station some 24 miles distant from Muzafurpur. He was found to possess one bomb and three revolvers. This accused has made a confession stating that he himself and his friend, one Dinesh Chandra Roy, taking bombs with them started for Muzafurpur to commit the murder of Mr. Kingsford, and that they threw a bomb at Mr. Kingsford and murdered him. Mrs. Kennedy and Miss Kennedy were killed by mistake. The police believed that the mistake occurred

owing to the carriage of Mr. Kingsford being similar to the carriage of Mrs. Kennedy. This mistake occurred in front of Mr. Kingsford's bungalow. Mr. Kingsford is for the present the Sessions Judge of Muzafurpur, but if it is remembered that he was a Presidency Magistrate a short time ago at Calcutta and a number of cases of sedition and riots were heard by him, it explains why this tragedy occurred at Muzafurpur."

799. Was this written by you ?—No, I do not think so, it is a short editorial note, which I do not write.

800. Is the meaning of that—am I right in this—that the explanation of the tragedy was that he presided at a number of cases of sedition ?—Writing of Bengal from Poona one guesses that may be the reason.

801. I want to see what the state of your mind was when you came to write some articles I am coming to. You thought that the condition of affairs was such that the mere fact of a gentleman presiding at some sedition trials should be enough to explain the murder by a bomb ?—Not the mere fact, the belief in Bengal was that these sentences were heavy and not justifiable.

802. Then it says: "One of the ladies died immediately, and the other died some time afterwards, and the coachman was killed on the spot. This is the first bomb outrage in India, and it is but quite natural that the whole European society and the Indian society should be shocked by it. After these murders had taken place, one Khudiram Bhose who, it is said, threw the bomb, was arrested at a railway station some 24 miles distant from Muzafurpur. He was found to possess one bomb and three revolvers. This accused has made a confession stating that he himself and his friend, one Dinesh Chandra Roy, taking bombs with them, started for Muzafurpur to commit the murder of Mr. Kingsford, and that he threw a bomb at Mr. Kingsford, and murdered him. Mrs. Kennedy and Miss Kennedy were killed by mistake. The police believed that the mistake occurred owing to the carriage of Mr. Kingsford being similar to the carriage of Mrs. Kennedy. This mistake occurred in front of Mr. Kingsford's bungalow. Mr. Kingsford is for the present the Sessions Judge of Muzafurpur, but if it is remembered that he was a Presidency Magistrate a short

time ago at Calcutta and a number of cases of sedition and riots were heard by him it explains why this tragedy occurred at Muzafurpur. After Khudiram Bhose had been arrested Dinesh Chandra Roy was arrested at Mokame, a railway station on the bank of the Ganges. Immediately on his arrest he ended his life by shooting himself with a revolver." "Muzafurpur is situated in the Provinces of Behar and is the chief place in the northern part of the Ganges. Although the town of Muzafurpur is not much known in India it will be known now throughout the country as the place of the first bomb outrage. After this tragedy had happened at Muzafurpur the Calcutta police arrested at Calcutta about 20 persons who had come there from the province of the Eastern Bengal and sojourned there. During the night of Friday the Calcutta European police kept a guard on particular eight houses and took a search of them, paying a surprise visit. During the search which was taken at this time there were found several bombs and materials which are used in making bombs, such as picric acid, dynamite, detonators, gunpowder, and other things were found in abundance. The Bengalis have shown a great skill in making the bombs here only; they can keep these bombs concealed in smallest things." Therefore, sir, you knew perfectly well at that time the great danger that existed in India from the manufacture of bombs?—Yes, I knew that there was danger.

803. And you knew that they were manufacturing them and had the materials for manufacturing them?—That was so published in the paper—in all the papers. It is not what I know personally, it appears in the papers.

804. "It appears from the tragedy of Muzafurpur that the Bengalis have thoroughly learnt the art of bomb-making. As the chemicals which are required in the manufacture of bombs are those which are used in the colour works, or which must necessarily be found in any chemist's shop, the police say that these bombs could be prepared with a little labour and with a small capital. A representative of one of the Calcutta Anglo-Indian dailies had an interview with one of the big police officers at Calcutta, during which he was asked his opinion about the matter. The said police officer stated

it as his opinion that as the members of the present secret society are arrested, the making of bombs may cease for a time, but that it was impossible to stop that business totally. As these formidable projectiles can be prepared with a little technical knowledge, with a small imagination, with a few materials and with a little money, it is impossible for the police to make these factories of bombs extinct"?—That is the police officer's opinion.

805. I am reading this to you to explain some things that will be referred to in subsequent articles.

Sir JOHN SIMON: Will you go on, please?

Sir EDWARD CARSON: "If we think on these lines it would seem that it is quite natural for the Anglo-Indian community to think that a great calamity has arisen in the form of this bomb."

Mr. Justice DARLING: I see what is coming, do you want the rest of this, Sir John?

Sir JOHN SIMON: No, my Lord, it seems to me it is better for it not to be read if your Lordship has observed it. Only I want my learned friend in fairness, as I am sure he will, to have it in mind: that really will be better.

Mr. Justice DARLING: The paper was published at that time it seems to me very inexpedient.

Sir JOHN SIMON: I desire here in the difficulty of conducting this case to see that public interest is secured.

Sir EDWARD CARSON: I thought you wanted me to read it.?

Sir JOHN SIMON: I want my learned friend to see what it was.

Sir EDWARD CARSON: I purposely was not reading it.

Mr. Justice DARLING: I will let the Jury see it.

(The book was handed to the Jury.)

806. Sir EDWARD CARSON: Nobody knew better than you did the danger of the bomb?—Everybody knew it.

807. I am putting it to you; you were a very intelligent man?—There were hundreds of men like me in India.

808. I do not think anybody quite as great?—Well, I do not know that; my opinion is there are hundreds.

809. But at all events you knew about the bomb, how easy it was to manufacture it, what a small space it took?—Yes.

810. How easily it could be stowed away, and how cheap it was?—Yes, from the accounts in the newspapers I knew that.

811. And you realised and felt, I suppose, a great responsibility as a leader of the people in relation to the bomb?—Yes.

Sir EDWARD CARSON: I prefer to wait till the Jury have finished inspecting the book.

Mr. Justice DARLING: Yes, it was so outrageous I thought it had better not be published all over the world. Quite irresponsible people may say things.

Sir EDWARD CARSON: My Lord, I have been reading the article on the 5th May; the one I am going to read is on the 2nd June, 1908. It is Volume 2, page 1073, or your Lordship will find it if you have the book of the trial. It is headed "The Secret of the Bomb," page 49 of the book of the trial.

Mr. Justice DARLING: According to this book it is a copy put in at the trial, and it is from the "Kesari" of the 2nd June, 1908.

812. "The Secret of the Bomb." "From the murder of Mr. Rand on the night of the Jubilee in the year 1897 till the explosion of the bomb at Muzafurpur, no act worth naming and fixing closely the attention of the official class took place at the hands of the subjects. There is considerable difference between the murders of 1897 and the bomb outrage of Bengal. Considering the matter from the point of view of daring and skill in execution the Chapekar brothers take a higher rank than the members of the bomb party in Bengal. Considering the end and means the Bengalis must be given the greater commendation." Now, Mr. Tilak, why should either of these murderers get any commendation at all?—It is not commendation, it is comparing two criminals.

813. "Considering the end and means, the Bengalis must be given the greater commendation. Neither the Chapekar nor the Bengali bomb throwers committed

murders for retaliating the oppression practised upon themselves; hatred between individuals or private quarrels and disputes were not the cause of these murders. These murders have assumed a different aspect from ordinary murders owing to the supposition on the part of the perpetrators that they were doing a sort of beneficent act. Even though the causes inspiring the commission of these murders be out of the common, the causes of the Bengali bomb are particularly subtle." Was not this what you tried to preach?—I am not trying to preach, I am only trying to compare two criminals and show what their different criminality was.

814. And the amount of commendation?—My answer is not completed. All this is a comment on what appeared in the accounts in the newspapers at the time.

815. Did you write this?—No, I was out of Poona then.

816. But you accepted full responsibility for it at the trial?—Yes.

817. "In the year 1897 the Poonaites were subjected to great oppression at the time of the plague, and the exasperation produced by that oppression had not exclusively a political aspect. That the very system of administration is bad, and that unless the authorities are singled out and individually terrorised, they would not consent to change the system, this sort of important question was not before the eyes of the Chapekar brothers." What do you mean by "unless the authorities are singled out and individually terrorised." Do you mean by bombs?—That is the doctrine of the anarchists.

818. Yes, I will take that from you. "Anarchists." We will see how far it is preached here. "That the very system of administration is bad, and that unless the authorities are singled out and individuals terrorised, they would not consent to change the system, this sort of important question was not before the eyes of the Chapekar brothers." Why do you call it an important question if it is the doctrine of the anarchists?—It occurred in this case for the first time.

819. "Their aim"—that is the Chapekar brothers —"was specially directed towards the oppression consequent upon the plague, that is to say, towards a particular

act." Were you drawing special attention towards the oppression consequent upon the plague in your papers?—Yes, I was drawing special attention to it; that is nothing to do with this.

820. And abusing Mr. Rand, were you?—I was assisting Mr. Rand then, and also criticising his operations.

821. Did you call him a sullen tyrant?—He was sullen so far as I observed.

822. Who ought to be removed?—No, it was to be removed by the Government from the office.

823. Yes. Then you say: "The aim of the brothers Chapekar was specially directed towards the oppression consequent upon the plague, that is to say, towards a particular act." And there is no doubt in your mind that the Chapekars committed murder of Mr. Rand in consequence of the oppression caused in the administration of the plague rules?—Yes, I think so.

824. Very well, I will take that admission. "The Bengali bombers have of course their eye on the partition of Bengal." Was that an act done by the Government here and the Legislative Council in India, dividing up the administration of Bengal, is that what is referred to?—What they call the partition of Bengal.

825. I want the Jury to understand what that partition means?—Division of one province into two.

826. There were separate administrations set up for different parts?—Not quite separate. It was splitting up one nation into two, it is not merely administrative convenience.

827. "But the glance of the bomb is also playing upon a more extensive plain brought into view by the partition of Bengal." Do you mean to say that it was the partition of Bengal caused bombs?—Their grievance was the partition.

828. And that justified the bombs?—Not justified, that led to the bombs.

829. We will see. "But the glance of the bomb is also playing upon a more extensive plain brought into view by the partition of Bengal. Moreover, a pistol or a musket is an old weapon; while the bomb is the latest discovery of the western sciences. The western sciences

have strengthened the power of the official class in every country." "One ruler is able to fight with another ruler, but it has become difficult for the subjects in any country to fight with the army of that very country." You mean to rebel?—No, not necessarily.

830. How can a man fight with the army of his own country unless he rebels?—It may be that; it may be a civil war; it may be a rebellion.

831. "The power of the army has terribly increased in consequence of new scientific discoveries; and the bravery of the people most celebrated for their valour proves useless in an instance before new guns, new muskets, and ammunition of the new sort. It was owing to this reason alone that the revolutionary plans of the Russian subjects failed in the year 1905-6; and if tomorrow the army of England becomes completely subservient to the will of the Emperor Edward VII, and if His Majesty be so inclined, he will be able to reduce to dust, without taking much time, the institutions of Swarajya like the Parliament in England whatever fitness for exercising the rights of Swarajya the people of England may possess. The western sciences have made the might of the armies so terrible. But in that identical minute seed which contains the power to produce a mighty tree, is also born, along with the birth of that tree itself, the principle of death, which is destined to destroy the tree." Was the meaning of that that the intervention of the bomb would be able to destroy the power which had come through science to the army?—No; that is not the meaning.

832. What is the meaning?—The meaning of it is if the power which Western science had placed in the hands of military authorities was used for the purpose of oppression, by the very act itself at that very moment the seed came and grew to a rebellion afterwards.

833. What is the seed?—The seed of rebellion.

834. Is not it the bomb?—No, not the bomb.

835. "The Western sciences have made the might of the armies so terrible. But in that identical minute seed which contains the power to produce a mighty tree, is also born, along with the birth of that tree itself, the principle of death which is destined to destroy the tree." Does not that "principle of death" mean the bomb?—

There is no reference to the bomb there.

836. "Death is ordained at the very time of birth. Birth is first seen; the veil over death subsequently begins to be gradually removed. God himself creates the universe and God himself is the governor of the universe; it was the Westerners' science itself that created new guns, new muskets and new ammunition; and it was the Westerners' science itself that created the bomb." "The military strength of no Government is destroyed nor does the bomb possess the strength to change the current of military strength; but owing to the bomb the attention of Government is riveted to the disorder which prevails owing to the pride of military strength." That is that anybody who felt himself oppressed, as you would say, by military strength could use the bomb?—No, that is not what it means. When a bomb is ordered for military use, their attention is directed to what they are doing.

837. To the use of the bomb?—It is the abuse of military power.

838. For instance, if there are cruel tyrannical soldiers devastating houses and ravaging women, the bomb is the remedy?—It has no reference to ordinary life. It is the military power concentrated in one place and used for militarism as in the case of Germany at present. There are many things like that in English papers.

839. "Owing to the murders of 1897, the attention of the authorities was directed towards the disorder in plague administration"?—This is a reference to quite a different thing.

840 I know it is?—After the plague a commission was appointed to inquire, and that commission eventually recommended that no such operations should be used.

Mr. Justice DARLING: What this means is perfectly plain.

841. Sir EDWARD CARSON: "And since that time the aspect of the plague administration began to change, and complete transformation took place in the plague administration very soon after." That is that they got the change by the murders?—No, by murder,

riots—everything. At the time the murders and riots took place a commission of inquiry was appointed.

842. Do you call that anarchy?—It is not anarchy. Bomb-throwers are anarchists.

843. If you want a change, and you have bombs and murders, is that not anarchy?—Bombs are anarchy riots are anarchy.

844. The murder of Mr. Rand was anarchy?—Yes.

845. If you want to get a change by these methods, is not that preaching anarchy?—Those methods have never been recommended. That this change should be brought about by anarchy is never suggested in this part of the article.

Mr. Justice DARLING: Just listen to this: "Owing to the murders of 1897 the attention of the authorities was directed towards the disorder in plague administration, and since that time the aspect of the plague administration began to change, and complete transformation took place in the plague administration very soon after." Does not "since that time" mean in consequence of what happened at that time?—Nothing is suggested in consequence of it, but these facts are stated: there were these riots, there were these bombs—

846. Sir EDWARD CARSON: I will just put this question, and I will pass from that sentence. Is not this saying: the murder of Mr. Rand was useful, as it brought about a change in the plague administration?—That it brought about the change is the only assertion made.

847. "It is at present being asserted that Government do not care two straws for the bombs of the Bengalis. What do the words 'care two straws' mean? The Bengali bomb-makers have themselves admitted that the English Government cannot be overthrown by the bomb. There is no cause for Government to feel any fear of the bomb, too; but the pride of military strength must necessarily be afraid of the bomb, and it is not derogatory to any mighty power to frankly admit this fear. The plague administration in the beginning was such that it was disliked by the people, was extremely vexatious and exasperating; this fact was not at first known to Government. Mr. Rand's murder brought this mistake to the notice of Government." Is not the meaning

of that, that the only way to bring a mistake to the notice of the Government is to commit a murder?—No, it does not mean that.

848. What else: "The plague administration in the beginning was such that it was disliked by the people, was extremely vexatious and exasperating; this fact was not at first known to Government. Mr. Rand's murder brought this mistake to the notice of Government"?—And they had to face it.

849. Had not you yourself gone on deputations to Mr. Rand?—Yes.

850. Brought it to the notice of the Government?—Yes.

851. Is not what you are implying there: all that was no good, you had to have murder?—It does not mean that.

852. Listen to the next sentence: "And plague riots occurred everywhere subsequently. Government did not also hesitate to openly admit the mistake. It is not to be understood that because Mr. Rand's murder took place, the plague administration was proved to be mistaken; the administration was a mistaken one from the very first, was wrong from the very start, but it did not appear to be mistaken to authorities, owing to their conceit about their own wisdom. Some things must be viewed from the people's standpoint; it is by no means enough to look at them only from one's own point of view; this light had not dawned upon the minds of the authorities. This light dawned upon their minds owing to the murder of Mr. Rand." It directed their attention the more. "And the conceit of wisdom having produced knowledge within itself, the conceit left the authorities so far at least as plague administration was concerned." What was amiss in this? You see nothing amiss in that, that the conceit of the authorities left them having been knocked out of them by the murder of Mr. Rand? What is there amiss in this?

Mr. Justice DARLING: I think if you read on it becomes perfectly plain.

Sir EDWARD CARSON: "Where was any stigma cast upon the might of the English Government in this? That one should not forget to make use of the eyes while

walking—when is this lesson to be learnt if not when one has actually stumbled? The man who says: 'Though I may stumble any number of times, I will remain blind like an intoxicated person, despite my having eyes,' is his own enemy. The Indian Government have had a stumbling in the shape of the bomb; and if Government do not make use of this stumbling in reforming the administration of the country, they will prove their own enemies. Such stumbles are necessary in life, whether in the case of a king or a pauper; nay, God has so arranged the very constitution of the world that such stumbles should be experienced by all spontaneously at the proper place." I do not think I need read the next bit, because it goes into analogies of fathers' and grandsons' deaths, and that sort of thing.

Mr. Justice DARLING: I think this deals with it: "When a man refuses to learn wisdom"——

853. Sir EDWARD CARSON: "When a man refuses to learn wisdom from the stumble of death, he becomes the cause of his real ruin. Newspapers like the "Bombay Times," that are making a suggestion to Government that they should, without paying any regard to the bomb, go on conducting themselves with even greater intoxication, are, it seems to us, taking their revenge now upon Government for acts done in a past life. When a son is wild and licentious he does not learn the lesson to be learnt from his father's death, but, on the contrary, becomes still more blind from intoxication in consequence of such stumbles; such has been the condition of some Anglo-Indians. Just as the liquor shop-keepers and the prostitutes in a village are overjoyed to hear the news of the death of the father of a licentious son, so the 'Bombay Times' which is stupidly intoxicated by nature, and some native newspapers of Poona and Bombay included amongst journals indirectly supported by Government, seeing that the troublous times of the bombs has overtaken Government, are beginning to think that they would now fare sumptuously. This overjoyed band of blackguards are saying to Government that Government have had the stumble in the shape of the bomb owing to the writings in newspapers and the speeches of the national party;

and that, therefore, without paying any heed to the bomb, Government should muzzle these papers and speakers." Did they suggest they should muzzle your paper?—All native papers.

854. In 1897—that is the time of the murder of Mr. Rand—"In 1897 this set of blackguards"—that is the European Press?—It is their own abuse returned to them.

855. I am not concerned with their abuse—I am concerned with what you say: "In 1897 this set of blackguards had brought very similar imputations against newspapers." Had they brought imputations against yours, that yours led to the murder of Mr. Rand?—Yes, the "Times of India" said that.

856. The "Times of India" said that your paper led to the murder of Mr. Rand. "And Government have tested, in the shape of bombs the bitter fruits of that policy of repression that has been continuously maintained by them for the last 10 years on account of their being half influenced by these imputations. If Government do not change this policy at this time, its consequence will not fail to be even more terrible than at present to the rulers and the subjects." Does that mean if Government are not aroused by this bomb outrage there will be more bomb outrages?—No, it does not mean that. On account of distress and suspicion the rulers will get more tyrannical.

857. "If Government do not change this policy at this time"—that is the time when the bombs were introduced?—It is the present time not the time of the bomb.

858. Is not it the bomb you are talking about, it is headed "The Secret of the Bomb." "Its consequences will not fail to be even more terrible than at present"?—More terrible times will come, that is what it means.

859. You have just told me that the "Times of India" imputed to the articles in your paper that they encouraged the murder of Mr. Rand?—Yes.

860. Did you take any proceedings against them?—Yes, I went to Bombay to take proceedings against the "Times of India," to consult my lawyers in Bombay, but it so happened that I was arrested on the same day.

861. But you never took proceedings afterwards? —How could I do that?

862. You were let out in a year?—Let out after a year, and then the matter was settled. I did take proceedings in 1899 and got an apology.

863. About when?—About October, 1899.

864. That had nothing to do with 1897?—Yes, it is the same matter, they repeated it again.

865. Have you got that apology?—Yes.

Mr. Justice DARLING: Go on while it is being looked for.

866. Sir EDWARD CARSON: I go on down to page 1076: "Taking into consideration both the wishes of the host and their own poverty, beg alms in a low tone and in soft words; they should not emit a harsh sound like that of a bomb by over-taxing their vocal strength. The 'Bombay Times' and other Anglo-Indian journals have, in the above fashion, given other reasons why the policy of repression should be stringently enforced. Sophistical reasoning of the above kind has been made use of owing to the nature, power and true meaning of the bomb not having been understood. To start with, the very idea that bombs are thrown from a desire to beg alms by seeking to intimidate Government, is a mistaken one; for, terrible and deplorable occurrences like bomb outrages are considered by none to be pleasant and convenient. Bombs explode when the repressive policy of Government becomes unbearable." That is if a man thinks there is a sufficient amount of repressive policy, the bomb explodes?—That is not what it means.

867. Mr. Justice DARLING: It explains it in the next sentence: "Oppression is required to be practised by Government first, while oppression in the shape of bombs at the hands of the people follows next"?—"It is a dishonest attempt to make it appear that Government are not at all at fault."

868. Sir EDWARD CARSON: "The above is a dishonest attempt to make it appear that Government are not at all at fault, and that bombs are thrown in a hateful or overbearing spirit." Was it your opinion that it was the Government who were the cause of the

bombs?—No. It made people desperate when means had not been taken to alter their oppression. That drives people to bombs.

869. "If a system of rule under which the pressure of public opinion is brought to bear on the administration be not in vogue, if the situation be such that, while public opinion is on one side, those who hold the reins of authority are on the opposite side, then such a state of things does not fail to become unfavourable to the rise of the nation. It is not looked upon as a sign of cowardice in England that the authorities should consider that public opinion is entitled to hold them answerable, and that they themselves are responsible to public opinion. In India, the official class is irresponsible, and the efforts of the national party are directed towards making it responsible, or, in other words, towards securing the rights of Swarajya to the people. To give the rights of Swarajya at least partially to the people, what are the authorities required to do?—The authorities have to conduct themselves in subservience to public opinion, in proportion to the rights of Swarajya acquired by the people. That power should remain in the hands of such authorities as may be approved by the people, and that it should be taken away from the hands of such authorities as may not be liked by the people, this itself is called the exercise of the rights of a Swarajya. If the rights of Swarajya are granted to the people as they become fitted for the same, then, disquieting calamities like bomb outrages do not befall any one at all. When a struggle ensues between the fitness of the people for the rights of Swarajya and the miserliness of the authorities in granting those rights, and when the authorities begin to act wildly, being intoxicated with the pride of military power, then the deplorable bombs are naturally constrained to intervene in order that the attention of the authorities may be attracted to the intoxication which obstructs real progress." Is that a description of what you thought was going on in England, that the authorities were acting widly, intoxicated with the pride of military power?—It is not about England.

870. In India I said, the English Government in

India?—The British officials in India.

871. Yes, were intoxicated with the pride of military power, and, therefore, the deplorable bombs were naturally constrained to intervene—naturally?—That is what they say.

Mr. Justice DARLING: Would you read on, Sir Edward?

872. Sir EDWARD CARSON: "When obstruction is caused to the progress of a nation through cupidity or temptations, by taking undue advantage of the terrible power which the Western sciences have produced in the army of the Government, then bombs spontaneously spring into existence in order to remove that obstruction; no one manufactures them with the object of terrorising the authorities by means of intimidation. Calamities like bomb outrages have never been interpreted in the history of any country to mean that the people are not fitted for the rights of Swarajya, or that the people have begun to mock the rulers with bombs owing to the latter having indulged the people more than they deserved. When the official class begins to overawe the people without any reason, and when an endeavour is made to produce despondency among the people by unduly frightening them, then the sound of the bomb is spontaneously produced to impart to the authorities the true knowledge that the people have reached a higher stage than the vapid one in which they pay implicit regard to such an illiberal policy of repression." Does that mean that the state of affairs under British Government and rulers had been such in India that it required a bomb to impart to the authorities the true knowledge of the stage which the people had reached?—It means the official class. Why do you say British Government and rulers?

873. I had not drawn a distinction?—A set of officials may be changed; Government cannot be changed without a power. We are speaking of the officials of the particular Government about which there is no complaint except that the officials go wrong.

874. Mr. Justice DARLING: Then do you mean this—that if certain officials go wrong then it is a perfectly natural thing that bombs should be exploded

amongst them in order that they may be removed or exchanged and that there is nothing to condemn in doing it?—It does not mean that.

875. I understand you draw a distinction between changing the Government by means of a bomb, which you say, the Government being abstract, cannot be done; but changing officials is very simple?—Not changing the official class. It draws attention to a particular grievance when a bomb explodes as the last means employed by anyone.

876. Sir EDWARD CARSON: When Mr. Kingsford, the Judge, was displeasing to the people and did not administer justice as they wished, the right thing to do was to have a bomb?—This is nothing to do with Mr. Kingsford.

877. You are commenting on his murder?—I am simply stating the conditions under which bombs came into existence, according to the cases and according to the comments that appeared in the journals at the time.

878. Do you think the official who was going to be murdered ought to get a trial or anything?—This is nothing to do with a particular case.

879. I will take a particular case: Do you think he ought to be allowed to make his case or defend himself in any way by the committee of bomb-throwers?—It is nothing to do with a particular case. This is simply a general observation.

880. A general observation ought to have a particular application. The particular application is that if the official is in their opinion tyrannical or not properly doing his duty, not administering the law as they would like it, then spontaneously and naturally there is to be a bomb. I am asking you, is the official to get any trial?—That is not the interpretation to put upon it. It is a general treatment of a general question, not only referring to India, but to other countries also. This is once a week, and a reply is made to all that appears in the papers of the week.

881. That makes it all the more comprehensive; it would apply to every oppression committed by every magistrate during the week?—It is not everyone.

882. Every magistrate who committed oppression? —It must be borne in mind that this is a reply to what appeared in the Anglo-Indian papers at the time.

883. It is the view of your paper?—You must take it with the context and the circumstances surrounding.

884. "The authorities have got this opportunity to see calmly what the real state of things is." What was the opportunity? Is it the opportunity afforded by the murder of these two poor ladies and the coachman?—Accidents and bombs, not a particular fact.

885. A bomb having gone off, they have an opportunity to see calmly—that is a good opportunity to be calm?—It is not "be calm," it does not mean that; not go into hysterics over a particular accident.

886. I do not think I need read the rest unless my friend wants it——

Sir JOHN SIMON: I think so.

Sir EDWARD CARSON: "A powerful desire has arisen amongst the people that they should have some sort of control over the acts of the authorities; if Government do not bring into force simple and universally acknowledged measures to meet this desire, that is to say, if Government do not make a beginning to grant the rights of Swarajya, then some impatient or turn-headed persons will not fail to attempt to bring about secretly, deviously and improperly that very thing which should be brought about with the consent of Government and in conformity with the conditions of the people. If Government have a desire that the people should not betake themselves to a secret and terrible path in impatience and violence, they should, understanding the real secret of the bomb, give up hurting the subjects for nothing, and should make a beginning to grant liberally the rights of Swarajya to the people; and the official class should not allow themselves to be carried away by the false notion that such a step is derogatory to the might of Government; this is at present beneficial to all."

(Adjourned for a short time.)

Sir JOHN SIMON: My Lord, I have found now what we were pausing to find, that is what the witness referred to when he said he had taken proceedings against

the "Times of India," and they had apologised. It is in the pink book. I am not anxious to go through it now in detail. It begins at page 44 in the Information of Mr. Tilak, and he is complaining of what appeared in the "Times of India" including the statement that he speaks of—"The campaign of murder which Mr. Tilak directed if he was not its organiser." It is the middle of page 44. Then on the opposite page is the official record in the Courts of what happened. I am not going to delay my friend now, because I know how inconvenient it is to be interrupted. In the middle of page 44 you see what appeared in the "Times of India." It really was a quotation from the "Globe" newspaper of London: "Happily Sir Stafford Northcote goes to his important office with much fuller knowledge of the state of affairs than his predecessor possessed until his mind was informed by the campaign of murder which Tilak directed, if he was not its organiser." Then the article goes on. Then on the opposite page, 45, is the official record and sealed and certified record of what passes in the Court when the article is read and an apology is offered on behalf of the "Times of India": "Mr. Bennett entirely dissociates himself from any of the insinuations so brutally conveyed by the paragraph in the 'Globe' and retracts with regret the sentiments embodied in the paragraph complained of." That is the official record. Then on the next page 46, is what the "Times of India" published what the newspaper itself published.

Sir EDWARD CARSON: Are you going into it now?

Sir JOHN SIMON: I just want to give these four references.

Sir EDWARD CARSON: It requires some dealing with, and I would rather do it when I deal with the Rand case.

Sir JOHN SIMON: Yes. I just want to point out on page 46 what the "Times of India" published. There follows on page 47 a more detailed account in the "Times of India" in which Counsel said: "It is a course my clients have determined to take independently of any legal advice whatever, and prompted only by their own sense of what is right and just and fair to the plaintiff."

Sir EDWARD CARSON: Your Lordship sees that was in 1899. I am not going to deal with it now, my Lord. I have some observations to make upon it, but that, I think, would be inconvenient now.

Mr. Justice DARLING: Very well.

887. Sir EDWARD CARSON (to the Witness): Now will you open that book at page 1043. It is headed "The Country's Misfortune." I am not going to read it through, but there are certain passages in it I want to call your attention to: "No one will fail to feel uneasiness and sorrow on seeing that India, a country which by its very nature is mild and peace-loving, has begun to be in the condition of European Russia. Furthermore it is indisputable that (the fact of) two innocent white ladies having fallen victims to a bomb at Muzaffurpur will specially inspire many with hatred against the people belonging to the party of rebels. That many occurrences of this kind have taken place in European Russia, and are taking place even now, is a generally known historical fact. But we did not think that the political situation in India would, in such a short time, reach its present stage—at least that the obstinacy and perversity of the white official class bureaucracy of our country would (so soon) inspire with utter disappointment the young generation solicitous for the advancement of their country and impel them so soon to (follow) the rebellious path." You were preaching there that it was the obstinacy and perversity of the white official class that drove them to the bomb?—Not my preaching, it was my opinion. This article is not written by me. That was the writer's opinion.

888. "But the dispensations of God are extraordinary." Then I go to the top of page 1044: "The young Bengali gentlemen who perpetrated these terrible things do not belong to the class of thieves or badmashes"—what is a "badmash"?—A criminal—a rascal—a rogue—bad character: low-class people.

889. "Had that been so, they would not also have made statements frankly to the police as they have done now. Though the secret society of the young generation of Bengal may have been formed like that of the Russian rebels for the secret assassination of the authorities,

it plainly appears from their statements that it has been formed, not for the sake of self-interest, but owing to the exasperation produced by the democratic exercise of the power by the unrestrained and powerful white official class." Was that putting forward a defence for these bomb-throwers?—Would that be what?

890. Was it putting forward a defence for these bomb-throwers?—

891. Mr. Justice DARLING: Was that putting forward an excuse for the bomb-throwers?—It is not an excuse; it is a fact.

892. Sir EDWARD CARSON: But the fact that there was bombing, whoever wrote this, was attempting to palliate?—No, it is not intended to palliate; it is an explanation. It explains the sequence of events.

893. "It is known to all that the mutinies and revolts of the Nihilists that frequently occurred even in Russia took place for this very reason; and looking at the matter from this point of view one is compelled to say that the same state of things which has been brought about in Russia by the oppression of the official class composed of their own countrymen has now been inaugurated in India in consequence of the oppression practised by allowing alien officers." Was that saying that the Russian Nihilists had a less palliative, or that there was less to be said in their favour than the Indian ones?—No, not necessarily. It simply means in one place it was the outcome of democracy and in another it was alien, or foreign. It makes a difference.

894. That meant British?—Yes.

895. And that made a difference?—In that way there is a difference between the two.

896. It was not so bad for the Indians to do it as it was for the Russians?—It does not mean that necessarily.

897. What else does it mean?—It points out the difference between the two kinds of operation.

898. Russia uses bombs although they have native officers, and India uses bombs in consequence of the oppression practised by the alien officers—that means the British officers?—No.

899. Was the effect of that article to hold up alien officers, which means the British officers, for the

consideration of a bomb-thrower, the assassin?—No, not at all. If you will allow me to explain I will explain it.

900. Certainly?—It discusses the condition under which bomb outrages took place in different countries, and it compares the conditions and tries to assign the causes. It does not say that bombs have been caused, but it gives the sequence of events and directs the attention of Government officers to that, and requires them to take lessons from it, and also it gives a warning to the bomb-throwers, that this is not the way in which the present situation can be reformed. That is an article for both sides.

901. "There is none who is not aware that the might of the British Government is as vast and unlimited as that of the Russian Government. But rulers who exercise unrestricted power must always remember that there is also a limit to the patience of humanity"—was that the British Government you were referring to?—It is general there.

902. Is that the British Government that you are referring to there?—It is for all despotic rulers.

903. Did you include the British Government in what you were referring to there; did you include them in the despotic rulers?—If they do exercise it, I include them, but not otherwise.

904. Did you include them there; you knew the system of the British Government?—This sentence which you have pointed out to me is a general sentence—it is a generalisation, and it included all. There are previous instances quoted.

905. The sentence before it says: 'There is none who is not aware that the might of the British Government is as vast and unlimited as that of the Russian Government. But rulers who exercise unrestricted power must always remember that there is also a limit to the patience of humanity.' Did you include in that the British Government as exercising unrestricted power?—"British officials then exercising unrestricted power" would be better. In that generalisation is included British officers when they exercise unrestricted power.

906. That is not what you say. If a man comes to the conclusion that the British officer is exercising

unrestricted power he may expect a bomb. Is that what you say?—Not "he"—in the country a state of things is produced which creates bombs, as in Ireland.

907. I do not think we ought to try that country in this case. Then it goes on: "Since the partition of Bengal the minds of the Bengalis have become most exasperated, and all their efforts to get the partition cancelled by lawful means have proved fruitless, and it is known to the world that even Pandit Morley"—what does "Pandit" mean?—It is a translation of "learned man." It is a title given to any learned Hindu.

908. "Or now Lord Morley, has given a flat refusal to their request."?—It is stated there you see. "Lord Morley."

909. Was the partition of Bengal the cause of all this?—Yes, I think so.

910. Setting up the partition of Bengal was the cause of the bombing?—Exactly as in the case of Ireland and Ulster.

911. Never mind Ulster. Ulster will take care of itself. You will not gain anything by trying to introduce personal matters into the case?—I am not introducing personal matters into the case. You will find Ireland quoted in the articles.

912. "Since the partition of Bengal the minds of the Bengalis have become most exasperated." Was there anything else to exasperate them?—The cause of the exasperation consisted not merely in the partition but in persisting and sticking to it in spite of all.

913. Sticking to the partition?—Yes.

914. If the Government had only given way, although they thought the partition was the best thing for the country, there would have been no bomb? Is that what you mean?—Not exactly.

915. "Under these circumstances no one in the world except the white officials, inebriated with the insolence of authority, will think that not even a very few of the people of Bengal should become turn-headed and feel inclined to commit excesses." That means a bomb?—Excesses of any thing, not necessarily a bomb.

916. Later on it says: "It may even be said without hesitation that the inhabitants of that country in

which it is possible for this feeling of indignation to always remain thus within prescribed bounds, are destined to remain perpetually in slavery." That is under the British Government?—I do not follow what you are reading.

917. It is about 10 lines from the bottom of the page. Will you read on from there?—"Old and experienced leaders can, so far as they themselves are concerned, keep this indignation permanently within certain prescribed limits with the help of their experience and mature thought; but it is impossible for all the people of the country thus to keep their spirit, indignation or irritability always within such bounds; nay, it may even be said without hesitation that the inhabitants of that country in which it is possible for this feeling of indignation to always remain thus within prescribed bounds, are destined to remain perpetually in slavery."

918. Under the British Government?—No, it is a general statement. It means it is impossible to find a country where you cannot drive the men to desperation.

919. Does it not also mean that they remain perpetually in slavery unless they resort to bombs?—No, not at all, unless it be a country of imbeciles.

920. Then, further on, at the top of page 1046: "Most of the Anglo-Indian newspaper editors have committed this very mistake when writing on the Muzaffurpur affair. They have brought a charge against the Indian leaders." "That it was by the very writings or speeches of the said leaders who passed severe comments on the high-handed or contumacious conduct of the English official class that the present terrible situation was brought about; and they have next made a recommendation that the Government should henceforth place greater restrictions upon the speeches, writings or movements of these leaders"?—Yes.

921. "In our opinion this suggestion is most silly." Then you compare it to a dam built across a river which gives way?—Yes.

922. Then a little lower down: "It is no use striking idly and continually a (piece of) rope after calling it a snake. The rule of the autocratic, unrestricted and irresponsible white official class in India is becoming

more and more unbearable to the people. All thoughtful men in India are putting forth efforts in order that this rule or authority, instead of remaining with the said official class, should come into the hands of the representatives of the subject-people. Some think that this thing can be accomplished by supplicating this intoxicated official class itself, or by petitioning the Government in England, who exercise supervision over it. Some others think this improbable, and they have persuaded themselves into the notion that, in accordance with the maxim 'the mouth does not open unless the nose is stopped,' unless a spoke is put somewhere into (the wheel of) the car (of the administration) of the present rulers, their desired object will not be accomplished. The opinion of this party is that whatever may be wanted (by them) should be plainly stated and it should be obtained by (following) the path of (passive) resistance." Does that include the bomb?—No.

923. I should have thought not. "But to say that not even a single man out of the thirty crores (of people) in the country should go beyond these two paths is the paroxysm of the indignation or exasperation produced by this oppressive system of Government is like saying that the indignation or exasperation of the thirty crores of the inhabitants of India must always necessarily remain below a certain degree." That is all I will read in that, because I do not want to be reading the same things that occur in other papers. Now will you look at the article of the 9th of June on page 1082?—Had the Government in consequence of these incitements in the Press passed an Act preventing meetings?—Yes, in the article it says so.

924. I just want to know about that. Had they passed also an Act relating to newspapers?—Yes, an Act was not passed at this time, but there was a talk about it. It was passed by the Legislature a little later on.

925. At all events they were introducing it, as we call it?—Yes.

926. Now a little bit further on in page 1083: "See how the understanding of the Government has become fatuous."

Mr. SPENCE: Will you read a few lines above beginning: "The first desire of the official class"?

927. Sir EDWARD CARSON: Yes: "The first desire of the official class is that bombs should be stopped, in India, and that the mind of no one should feel inclined towards the manufacture or the throwing of bombs. That the authority should entertain such a desire is natural and also laudable. But just as he who has to go towards the North goes to the South, or, he who is bound for the East takes the way to the West, in the same way the authorities have taken a path leading to the very opposite direction (of their goal). This is exactly what is called infatuation." Where I was reading was this: "See how the understanding of the Government has become fatuous. The authorities have spread the false report that the bombs of the Bengalis are subversive of society." Was that a false report?—The whole of the Indians were being dragged down.

928. They were going to the dogs?—Yes.

929. Do you say that the authorities had spread a false report that the bombs of the Bengalis were subversive of society?——

Mr. Justice DARLING: The next lines clear it up absolutely.

930. Sir EDWARD CARSON: "There is as wide a difference between the bombs in Europe desiring to destroy society and the bombs in Bengal as between the earth and heaven. There is an excess of patriotism at the root of the bombs in Bengal. While the bombs in Europe are the product of the hatred felt for selfish millionaires." Now, sir, when you were saying: "There is an excess of patriotism at the root of the bombs in Bengal," or when this paper was saying it, was not that an encouragement to anybody who thought he was patriotic to use a bomb?—No.

931. Was it not an incitement to a patriot to use the bomb?—I do not think so.

932. Were you not telling him that if he would only use a bomb, all he would be guilty of was an excess of patriotism?—That sentence about selfish millionaires more or less refers to what is called "Bolshevism."

933. There is nothing about "Bolshevism" here at

ali——

934. Mr. Justice DARLING: Look at this passage: "There is as wide a difference between the bombs in Europe desiring to destroy society and the bombs in Bengal as between the earth and heaven." That is saying, is it not, that what is done in Bengal is a heavenly thing and what is done in Russia is an earthly thing?—The motive of the two is the same.

935. But one is an earthly thing, that is, the bomb in Europe, and the bomb in Bengal is a heavenly thing?—There "heaven" has no particular meaning; there is no difference between "earth" and "heaven."

936. You say that "heaven" means exactly the same thing in English as "earth"—but why is it earthly to do in Europe what in Bengal is heavenly?—The phrase is intended to explain a great difference. "Heaven" is not a proper translation.

937. Sir EDWARD CARSON: Was there a religious meaning attached to it?—No, it is a common phrase.

938. Mr. Justice DARLING: But do look at it and tell us candidly, does it not mean that it is wrong to throw a bomb in Europe, but it is perfectly right to throw it in Bengal?—No, my Lord, it is not perfectly right.

939. Sir EDWARD CARSON: But it may have been right?—It means that there is as vast a difference between the motives of the two as there is between earth and heaven.

940. That is, if you only get a good motive?—There is nothing about "good" in it: "Heaven" does not denote "good"; it is an ordinary Mahratta phrase translated "heaven."

941. If you throw the bomb against one person it is heavenly, and if you throw it against somebody else you get the difference that is earthly——

942. Mr. Justice DARLING: You read English?—Yes.

943. And you have read many English authors?—Yes.

944. Did you ever read this: "Though Brutus dealt the God-like stroke, Yet perished fated Rome"? Did

you ever read that?—I do not think it is in this book.

Mr. Justice DARLING: No, it is not in that book.

945. Sir EDWARD CARSON: I really want you to tell me what you say would be the effect of this. You know these people are, a great many of them, uneducated, and greatly exercised with the mysticisms of religion in your own country. What would be the effect of saying: "There is an excess of patriotism at the root of bombs in Bengal"?—It would have the effect of of getting a national wrong redressed. Whether it was rightly or wrongly directed I do not say. It may be wrongly directed, or they may use bad measures.

946. But who is to judge?—This is not a final judgment passed upon them.

947. What I want to know is, accepting for the moment what you are laying down here, that "there is an excess of patriotism at the root of the bombs in Bengal," who is to judge whether the opportunity or the occasion has arisen for the excess of patriotism?—Judgment would be passed by the whole country.

948. After the bomb is thrown?—Yes, after the bomb is thrown. We are discussing the situation.

949. It is not much good to discuss it after the two ladies have been blown up, is it?—There was a sense of grief and sorrow expressed at the introduction of the bomb.

950. Then it goes on: "Bengalis are not anarchists, but they have brought into use the weapon of the anarchist, that is all"?—"The Bengalis are not anarchists, but they have brought into use the weapon of the anarchist, that is all."

951. "That is all." There is nothing much in that?—That is the difference. That is all.

952. But what is the difference?—It does not mean going on doing this.

953. "That is all"?—Yes, that is all.

Mr. Justice DARLING: As you might use a knife for cutting up your dinner or for cutting somebody's throat—that is all.

954. Sir EDWARD CARSON: Yes, that is the only difference. Now listen to this: "The anarchist murdering the President in Paris simply because he is

the President, is one man; while the madcap patriot of Portugal throwing a bomb at the King of Portugal because he suppresses the Parliament is a different (person)." Which of them is the worst or the best?—The difference is being pointed out.

955. Which of these two are the best?—I cannot say; both of them are wrong.

956. I am glad of that. "The anarchist who murders a millionaire in America for the only reason that he is a millionaire, is one man, while the exasperated Russian patriot who throws a bomb in despair because the Czar's officers do not grant the rights of the Duma in Russia, is different. No one should forget that the bombs in Bengal do not belong to the first category, but to the second, and the ministry of the new boy-monarch had to abandon the previous repressive policy." Does that mean if you will only bomb enough white officials in India you will get your Swarajya? Is not that what it means?—I beg your pardon.

957. Does not that mean if you will only use the bomb effectively in India?—No.

958. Does it not mean that if you will only use the bomb effectively in India you will get changes just as they got them in Portugal?—No such notion is conveyed.

Mr. Justice DARLING: Just read it again.

Sir EDWARD CARSON: "No one should forget that the bombs in Bengal do not belong to the first category but to the second"—that is to the man who murdered the Czar's officers.

Mr. Justice DARLING: It is dealing with Portugal.

959. Sir EDWARD CARSON: "The bomb in Portugal effected a change in Portugal, and the ministry of the new boy-monarch had to abandon the previous repressive policy." What is the lesson from that?—It is not stated here.

960. Is it put down there as a joke?—It is not a joke; it is pointing out the difference.

961. Mr. Justice DARLING: Just look at this. I think this sums up the whole, and it is worth pages and pages: "No one should forget that the bombs in Bengal do not belong to the first category but to the second."

"The bomb in Portugal"—that is the second—"effected a change in the system of Government." What does that mean? Does not that mean that if you use a bomb and effect a change in the system of Government there is very little to be said against it?—No, it does not mean that.

962. Sir EDWARD CARSON: Now will you read the next? "The most mighty Czar of Russia, too, had perforce to bow down before the bomb, and, while making repeated attempts to break up the Duma, was at last obliged to establish it as a matter of course." Is not that what I think the Judge called in part of his summing-up: "The cult of the bomb"?—The cult had been there in the beginning. The bomb had been condemned. Now we are going to discuss the situation, what has caused it, and what is the sequence in point of time.

963. What do you think would be the effect of that on an ignorant man who thought he was suffering some wrong from the Government and wanted to have a change?—It never would have produced that effect.

964. Like these wretched young men who were executed for the murder of Mr. Jackson. How many of them were there?—Most of the young men in my part know what my opinions are, and what the opinions of the "Kesari" are. They know that the "Kesari" is against that, as a matter of fact, and any insinuation drawn from a sentence here and there I do not think ever occurred to them, or ever occurred to any of the readers, whether they be young or old.

965. How many men were executed for the murder of Mr. Jackson?—I do not know many, but I heard there were three.

966. Were they all young men—students?—They may have been; I do not know their ages.

967. Have you not read it over and over again?—I do not remember their ages. One of them was a graduate.

968. Where they all of your caste?—Were they Chitpavan Brahmins?—I do not know.

969. Did you ever look into that?—I did not look into that; if I had looked into it I could tell you.

970. Were they of your own caste?—They might be.

971. You were the leader of the Chitpavan Brahmins, were you not?—These were out of three millions of men.

972. Were you not the leader of the Chitpavan Brahmins?—I am a Chitpavan Brahmin. I cannot denounce my own caste.

973. Were you not the leader of them?—I am the leader of the whole people, not the Chitpavan Brahmins. There is nothing in that.

974. At Nasik, how many men were transported for life for being engaged in the conspiracy of murdering this man Jackson?—I do not know how many. I could look into the papers and see.

975. Were they all Brahmins?—I do not know that.

976. Did you never inquire?—No, I do not believe it is correct. It is all a false theory and the outcome of a diseased brain.

977. That is what the judge said about you?—And he judged wrong. I had no opportunity to reply.

Mr. Justice DARLING: It seems to me that a great deal of this will be the same thing over and over again.

Sir EDWARD CARSON: I am not going to read anything now, my Lord, until I get two pages on.

978. Mr. Justice DARLING: Will you look at the middle of page 1084? This is what I mean: "The English have not got even as much generosity as the Moguls and they have not even as much military strength." Were the Moguls great tyrants in your opinion?—Great tyrants.

979. Sir EDWARD CARSON: Were not these Moguls overthrown by Shivaji. Was it not Shivaji who overthrew the Moguls?—The last of the Moguls.

980. He overthrew them?—

Mr. Justice DARLING: Will you go on with that?

981. Sir EDWARD CARSON: Yes, my Lord. "The English have not even got as much generosity as the Moguls, and they have not even as much military power. As compared with the imperial sway of the Moguls, the English Empire in India is extremely weak and wanting in vigour from the point of view of military strength.

The Emperor Aurungzebe exercised tyranny of various kinds over the Hindus from the point of view of religion, though not from the point of view of the distribution of wealth; and his ten or twenty lakhs of troops also perished completely during his Deccan campaigns of ten or twenty years. Still the Empire of Delhi lasted for a hundred and fifty years—albeit in hobbling manner, after his death. If the English Army in India were to be confronted by difficulties similar to those which Aurungzebe's forces encountered, the English rule will not last in India even for a quarter of a century after that. The principal reason of that is that the English remain in India like temporary tenants or birds of passage." You told me you had nothing in your mind about driving the English out of India?—Yes.

982. It was not part of your policy?—No.

983. What does this refer to?—This does not mean that. This is saying of the English that they are like birds of passage in India.

984. Mr. Justice DARLING: It is not birds of passage but this: "If the English Army in India were to be confronted by difficulties similar to those which Aurungzebe's forces encountered, then the English rule will not last in India even for a quarter of a century after that." What is the word that is here translated into the English "rule"? This is written in the Mahratti language?—Yes.

985. Was the word "raj" in English "rule"?—Yes.

986. That is not one or other of the officials. This is the whole thing?—Yes.

987. Sir EDWARD CARSON: Now about halfway down page 1085: "The bomb is not a thing like muskets or guns. Muskets and guns may be taken away from the subjects by means of the Arms Act: and the manufacture too of guns and muskets, without the permission of Government, may be stopped; but is it possible to stop or do away with the bomb by means of laws or the supervision of officials or the busy swarming of the detective police? The bomb has more the form of knowledge, it is a kind of witchcraft, it is a charm, an amulet." Your Lordship will remember that is what

the Judge quoted in his summing up. "The bomb has more the form of knowledge, it is a kind of witchcraft, it is a charm, an amulet. It has not much the features of a visible object manufactured in a big factory." What was the form of knowledge that the bomb had. It says: "The bomb has more the form of knowledge"?—Yes, material property can be shown and exhibited and it occupies space but knowledge does not mean that.

988. The bomb is an invisible power; is that it?—Yes, an invisible power.

989. That it was a good thing to teach people with, was it not?—No, that does not mean that.

990. It is a kind of witchcraft?—If you have that, a very extraordinary consequence takes place.

991. When you have a grievance?—A bomb is subtle and simple.

992. The bomb gets rid of your grievance. All you have to do is to fire it out and kill a couple of ladies and a coachman?—It is not that; I do not think it means that; I have explained all this in my trial. It is not a new inspiration.

Mr. Justice DARLING: This goes on and deals with the difficulty of discovering the thing. It has not much the features of a visible object manufactured in a big factory.

993. Sir EDWARD CARSON: "Big factories are necessary for the bombs required by the military forces of Government, but not much (in the way of) materials is necessary to prepare five or ten bombs required by violent, turn-headed persons." It is quite an easy thing to make a bomb?—Yes, very easy; it does not cost much money, and it is not much trouble to make a bomb, and consequently it is so difficult to detect it.

994. Quite, and consequently——?—Consequently very difficult to suppress.

995. And consequently——?—Consequently greater care ought to be taken——

996. Any man with a grievance——

997. Mr. SPENCE: Do let him finish his answers?—Consequently greater care ought to be taken. Being subtle, great skill is required, and I contrast it with the later methods of rebellion, and having a number of

soldiers and muskets—that is one thing and a bomb is another.

998. Do you mean that you were writing this in the interests of the British Government so as to tell them how to put a stop to rebellion, or were you writing it to simply show them that they could not put a stop to it, because it was so difficult of discovery?—It was simply to show that.

999. Do you think that they did not know that already?—This is a comparison between the two. Many of these facts are known to everybody.

1000. But were you writing this for the good of British Government?—For the improvement of society I was pointing out the difference and pleading with the Government, that such being the case the steps should be different from what they were taking. Their steps were not lasting, and they were a mere repression.

1001. Do you mean that they should adopt whatever foolish people wished who were prepared to throw bombs?—No, not that; I mean that the bombs had to be suppressed—it is stated in one of the articles later—but that they should be accompanied by some measures of reconciliation.

1002. Sir EDWARD CARSON: Then every time the Government is threatened they ought to prove their might by a bomb. Is that what you mean?—Certainly not.

1003. What else does it mean?—It means the bomb is the symptom of a disease. It would not do merely to apply the experiment to the tree, but you must go to the root.

1004. "But not much (in the way of) materials is necessary to prepare five or ten bombs required by violent, turn-headed persons. Virendra's big factory of bombs consisted of one or two jars and five or ten bottles; and Government chemical experts are at present deposing that the factory was, from a scientific point of view, faultless like a Government bomb-factory." Were you putting that in to inform the Government?—This is a quotation.

1005. Was that to inform the Government?—No.

1006. Because you say: "Government chemical

experts"—or was it to inform the people?—It is in support of the arguments used above.

1007. "Should not Government pay attention to the true meaning of the accounts published in (the course of) the case of Virendra's conspiracy? Judging from the accounts published of this case, the formula of the bomb does not at all appear to be a lengthy one and (its) process also is very short indeed. The power of keeping the knowledge of this formula a secret from one who is turn-headed, has not now been left in the laws of Government. This knowledge is not a secret in Europe, America, Japan, and other countries. In India it is still a secret knowledge. But when the number of turnheaded (persons) increases owing to the stringent enforcement of the policy of repression, what time will it take for the magical practices, the magical lore of Bengal to spread throughout in India? The labour of acquiring this lore will not be as hard to those who are turn-headed as the labour of bringing their brains again to a normal condition; and even in putting this lore to a practical use there is very little possibility of the exasperation being even calmed down through a magistrate owing (to the plot) being frustrated by the skill and vigilance of the detective policy. To speak in (the language of) hyperbole, this factory can be brought into existence in a trice and (also) broken up in a trice. Therefore, how can the nosestring of the law be put on these turn-headed wizards of the bomb. When the Explosives Act was passed in England (about) 10 or 13 years ago, the bomb had not attained such a form of knowledge (as at present). The bomb had not (then) become a mere toy of the Western sciences." Does that mean that there is no way in which the Government can deal with the bomb? —No, it does not mean that. I am pointing out the difficulty of suppressing bombs without being accompanied by reconciliation.

1008. According to that theory, what alternative is there to the Government either to yielding, or to have a bomb fired?—No insinuation of the kind is intended.

1009. How else could you deal with it? You say the Government cannot put it down, and then you say: "The bomb had not then become a mere toy of the

western sciences"—and all the rest of it. What is the Government to do, according to you?—I never said the Government should not pass an Explosives Act.

1010. But you said the Explosives Act was of no use——?—That it would not be proved to be of full use as it was if the previous condition of things had existed.

1011. What do you suggest the Government ought to do?——

Mr. Justice DARLING: Look at the second line from the top of 1087.

1012. Sir EDWARD CARSON: The real and lasting means of stopping bombs consists in making a beginning to grant the important rights of Swarajya to the people. "It is not possible for measures of repression to have a lasting effect in the present condition of the Western sciences and that of the people of India." Was not there the moral of the whole of this?—The moral of the whole of the article is—

1013. Let the Government yield to them?—No. The Government, if a strong Government, will never yield; but if they use repressive measures they must justify them by acts of reconciliation.

1014. But supposing the Government thought that it would not be good for India to grant them Swarajya, what were they to do?—It would be a mistake if they persisted in it because it would lead to estrangement between the people and the Government.

1015. That is your opinion?—That is what I say.

1016. That was your opinion, but supposing the Government thought differently, what were they to do?—Then this will go on.

1017. The bombs will go on?—No, not bombs necessarily, but discontent.

1018. In British India how many different races are there and how many different religions?—There are a number of them.

1019. How many of them?—Different races in what sense? I do not understand. Do you mean castes or races? If you mean castes there are more than 200 castes.

1020. You say that if I mean castes, there are more than 200?—Yes there are subdivisions.

1021. How many different religions are there?—

About five.

1022. How many absolutely different races are there coming from a different stock?—I think about 200 castes —not races.

1023. If you have this Swarajya, which of them is to govern the others? Which of them is to be the governing caste or race or religion?—You do not want one caste, you want democracy of all castes.

1024. They would all agree, would they, and there would be no bombs?—No—bombs can never be stopped in this world so long as there is autocratic rule.

1025. But then would you agree that if any of those castes of the 200 castes thought the Government of Swarajya tyrannous and oppressive they ought to begin to throw bombs?—Not every minority; that would not be right; they look to the opinion of the majority.

1026. Mr. Justice DARLING: Is that so, that not every minority has the right to throw bombs against the others?—No, my Lord, I said that no minority has the right to throw bombs against the majority, but that the minority may be properly represented.

1027. I thought you said that not every minority has a right to throw bombs?—The minority cannot throw bombs; the minority has no right to throw bombs against the majority.

1028. Sir EDWARD CARSON: I should like to clear this up. You say that no matter how oppressed or tyrannised the minority may be, they have no right to throw bombs?—No man has a right to throw bombs.

1029. There are one or two passages from another article on the same subject in the paper of the 19th May, page 1060, five lines from the top: "The present juncture is indeed very difficult for trying; but it is for this very reason that we say that our people should exercise particular vigilance at such a time. We have nothing to say about those who wish to always pass their time in slavery under the irresponsible and uncontrolled sway of the white officers in India." Was that a representation that they were passing their time in India in slavery?—There is a class of people in India who thank God that we have good government, and we want no more rights.

There is that class of politician who take that view in India.

1030. If they do not think it slavery, why should they want all this?—Slavery is the English translation. The word in the original is applied to any kind of position in which a man has not authority over his own acts; it means a servant, it means a slave, it means any subordinate position.

1031. "But all those who, finding the present system of administration in India to be intolerable, think that the said system of administration should be reformed some time or other, should take care that they do not, while expressing their disapproval of the fact that some innocent persons lost their lives by means of bombs, give that Government, either knowingly or through cowardice, any absurd admission from them, an admission which, if given, would be just the thing desired by Government and obtained by them without any effort on their part." What was the admission?—That it was good for us. This discusses three or four classes of politicians in India, all parties. One say we want the Government and do not want any change; there is another class who says: We want change. To those the advice is given: Well, kindly do not make any admissions prejudicial to you by claiming that you do not want any change, and that what you are doing is all right.

1032. Had certain responsible leaders admitted to the Government that this introduction of the bomb had come by reason of seditious writings and speeches?—Some have said that.

1033. Was that what you refer to there, that you advised them not to be making that admission?—Yes.

1034. Was that the admission you were objecting to?—That is one of the admissions.

Mr. SPENCE: My friend ought to begin this article a little earlier. It is extremely unfair to pick out a sentence here and there.

Sir EDWARD CARSON: Do not say it is unfair: I have read everything you asked me.

Mr. Justice DARLING: Where does it begin?

Mr. SPENCE: At page 1059: "We, too, consider

it reprehensible that anyone for any reason should take the life of another by bombs or by any other means. Not only has it no sanction of the code of morality, but also no one else, just like ourselves considers that if one of the white officers were murdered in this manner we would thereby at once obtain Swarajya. We have already stated in our last issue that such is not the belief even of the young persons themselves who threw the bombs. In short, no one would fail to disapprove of taking the life of anyone belonging to the official class by means of a bomb; and if anyone were to express his disapproval to that extent there is also nothing improper in it."

Sir EDWARD CARSON: Your Lordship will always notice in this writing there is a "but". "But the admission that these horrible deeds are caused by the writings or lectures of some political agitators which some people from amongst us, while expressing such disapproval, have now begun to make, is wrong and suicidal in the extreme, and it is our duty to tell this not only to these persons but also to the rulers themselves."

Mr. SPENCE: Will my friend read on?

Mr. Justice DARLING: A person is glorified because he would not make any admission, would not give evidence, would not say anything. Here is the same thing over again, it seems to me: "It is quite wrong to throw bombs, but nobody ought to admit it is the agitators who cause people to do it."

Mr. SPENCE: The article says it is not true.

Mr. Justice DARLING: Why people should make admissions which are not true strikes me as odd "Admission" is the word.

Mr. SPENCE: It is protesting against these people making untrue admissions.

Sir EDWARD CARSON: No it is not untrue admissions. What he says is: "But all those who, finding the present system of administration in India to be intolerable think that the said system of administration should be reformed some time or other, should take care that they do not, while expressing their disapproval of the fact that

some innocent persons lost their lives by means of bombs give that Government, either knowingly or through cowardice, any absurd admission from them, an admission which, if given, would be just the thing desired by Government and obtained by them without any effort on their part." Nothing about untrue admissions; it rather suggests the contrary. Later on there is a passage, page 1061: "Such spirits exist and are found in all countries and in all places. Why then should there be such a clamour if such a thing takes place in India alone? And what, forsooth, is the reason of scattering calumnies against political agitators on that account? We do not understand this phrase. It is true that this is the first time that this method of Russian excesses has come to India; but inasmuch as the history of political revolutions in Russia, Germany, France, Ireland, and other places is daily coming before our eyes, how is it possible that not even one, or even two persons in this country should not have a mind to imitate it. In short, history bears open witness to the fact that in any country where an irresponsible and unrestrained official class, be it native or alien, exercises authority over the subjects without any control the subjects of that country are sure to be always discontented; and that if the prayer or demand of the said subjects be overbearingly rejected many times, one or two of them at least are sure to become heedless, and feel inclined occasionally, at any rate, to commit excesses."

Mr. Justice DARLING: I do not know what you think about it. It seems to me this is very much the same thing over and over again.

SIR EDWARD CARSON: Of course, your Lordship seems there must be a limitation, but what I want to show is that this was not anything hasty in a single article—that it was a deliberate policy framed by this gentleman with objects which I will be able to show afterwards.

Mr. Justice DARLING: There is no doubt about what is said in a great number of articles. The question, of course, to be discussed and disputed is what is the real meaning of it. Nobody can say it is one hasty expression of opinion.

1035. Sir EDWARD CARSON (to the Witness):

These were the articles that were before the Judge?—Yes, under the second case.

1036. When he made the observations that I read yesterday they were founded on those articles?—Yes.

Sir EDWARD CARSON: My Lord, before I go further I want to ask your Lordship's ruling about this. I propose now to put to him an article, perhaps two, in Paranjape's paper, the "Kal," because your Lordship sees in the alleged libel it talks of the "Kal" and the "Kesari" and the "Rashtramat" as being Tilak's papers. Of course, the sense of what you mean by "Tilak's papers," or anybody's papers, is for the Jury. What I am going to ask the Jury to say, if it becomes necessary, is that Tilak's papers, or Tilak's press means the press supporting his policy, and I want to show your Lordship I have already proved this gentleman was convicted at or about the same time for disaffection, or creating disaffections and I want to prove now what it was——

Mr. Justice DARLING: Which page is this libel?

Sir EDWARD CARSON: Page 62. Your Lordship will see: "I read of many instances of oppression in the 'Kesari,' the 'Rashtramat,' and the 'Kal' or other newspapers. I think that by killing sahibs (Englishmen) we people can get justice. I never got injustice myself nor did anyone I know. I now regret killing Mr. Jackson. I killed a good man causelessly. Can anything be much more eloquent and convincing than the terrible pathos of this confession? The three papers named by Kanhere were Tilak's organs. It was no personal experience or knowledge of his own that had driven Kanhere to his frenzied deed, but the slow, persistent poison dropped into his ear by the Tilak Press. Though it was Kanhere's hand that struck down 'a good man causelessly,'" &c. Your Lordship remembers the evidence yesterday about Paranjape. If your Lordship will look at the Particulars you will see that I am not raising this now for the first time.

Mr. Justice DARLING: You contend that "Tilak's organs," means what?

Sir EDWARD CARSON: Means, organs supporting the same purpose and the same objects. I also wish to put another ground; it is this: that when the Jury

have to estimate as to whether the inference drawn by Sir Valentine Chirol was right, they have the right to know all the circumstances under which these articles were published in the "Kesari," and that I have the right to say, as I think I shall endeavour to show when I come to address the Jury, that Tilak was only one member and his paper one organ of a widespread conspiracy to bring about, if necessary by assassination, the removal of existing British Government in India. I propose therefore to read this in order that the Jury may see, first. what was going on at the same time, secondly, to prove what I think I have already laid the foundation for, that these two gentlemen were acting in concert, were convicted of the same thing, and to let the Jury contrast and see whether from the writings they will not deduce that there was a conspiracy for the overthrow of existing British Government.

Mr. Justice DARLING: I do not think I can allow articles from the "Kal" and "Rashtramat" to be read at present on those grounds. It would require evidence of the conspiracy and evidence which went to show that in pursuance of the conspiracy those two organs were published by Paranjape and the other editor, before I admit that. It may be before the case concludes it will be perfectly relevant, and it may be rightly given to prove that there is such a conspiracy, and that these were all party to it, but I do not see anything as yet to justify me in allowing passages in those two papers to be read really on the ground that they are said to be, in the book, "Tilak's organs." It may be proved yet.

Sir EDWARD CARSON: The meaning of "Tilak's organs" is a question for the Jury.

Mr. Justice DARLING: It may have to be left to the Jury. If I came to the conclusion that there was good evidence of that I should allow extracts to be read.

Mr. SPENCE: May I say a word?

Mr. Justice DARLING: As I have ruled in your favour I do not think it is necessary.

Mr. SPENCE: I think your Lordship will see it is. It is suggested that a charge of conspiracy is going to be brought forward against Mr. Tilak. We have had

particulars and particulars in this action and a commission in India, and this is the first hint that there has ever been of that.

Mr. Justice DARLING: The proper time is when the evidence is offered.

Mr. SPENCE: I am suggesting there ought not to be put before the Jury any suggestion that there is such a conspiracy.

Sir EDWARD CARSON: I must give the reasons why I offer evidence.

Mr. Justice DARLING: The thing was properly put before me, and I have ruled upon it.

Sir EDWARD CARSON: And I hope I have respectfully received it, though it is in my friend's favour.

1037. Now, I come for the moment to your first trial; at least, I do not know whether it was the first trial. Were you ever tried before the sedition trial of 1897?—Yes.

1038. How long before?—In 1882.

1039. That is a long time ago; what was it; it was not libel or anything of that kind?—Defamation, as we call it.

1040. Did you accuse an officer at that time of trying to poison somebody?—There was a native officer; I got information and the information was that certain letters were published in which he was charged with ill-treating his Master. His Master means the Prince of the State.

1041. Was the ill-treatment giving the Maharajah poison and drugs to make him mad?—To make him mad, taking the poison.

1042. Were you imprisoned for that?—Yes.

1043. How long?—Four months.

1044. Sir EDWARD CARSON: I am always sorry to go back, but there is one question I omitted about the other trial. When Mr. Justice Davar pronounced that sentence upon you did you appeal against the Judgment?—Appealed to the Privy Council. I was not there but my friends appealed.

1045. And it went to the Privy Council, who decided against you?—First, it went to the High Court.

1046. They confirmed it?—Then we sent the appeal

have to estimate as to whether the inference drawn by Sir Valentine Chirol was right, they have the right to know all the circumstances under which these articles were published in the "Kesari," and that I have the right to say, as I think I shall endeavour to show when I come to address the Jury, that Tilak was only one member and his paper one organ of a widespread conspiracy to bring about, if necessary by assassination, the removal of existing British Government in India. I propose therefore to read this in order that the Jury may see, first. what was going on at the same time, secondly, to prove what I think I have already laid the foundation for, that these two gentlemen were acting in concert, were convicted of the same thing, and to let the Jury contrast and see whether from the writings they will not deduce that there was a conspiracy for the overthrow of existing British Government.

Mr. Justice DARLING: I do not think I can allow articles from the "Kal" and "Rashtramat" to be read at present on those grounds. It would require evidence of the conspiracy and evidence which went to show that in pursuance of the conspiracy those two organs were published by Paranjape and the other editor, before I admit that. It may be before the case concludes it will be perfectly relevant, and it may be rightly given to prove that there is such a conspiracy, and that these were all party to it, but I do not see anything as yet to justify me in allowing passages in those two papers to be read really on the ground that they are said to be, in the book, "Tilak's organs." It may be proved yet.

Sir EDWARD CARSON: The meaning of "Tilak's organs" is a question for the Jury.

Mr. Justice DARLING: It may have to be left to the Jury. If I came to the conclusion that there was good evidence of that I should allow extracts to be read.

Mr. SPENCE: May I say a word?

Mr. Justice DARLING: As I have ruled in your favour I do not think it is necessary.

Mr. SPENCE: I think your Lordship will see it is. It is suggested that a charge of conspiracy is going to be brought forward against Mr. Tilak. We have had

particulars and particulars in this action and a commission in India, and this is the first hint that there has ever been of that.

Mr. Justice DARLING: The proper time is when the evidence is offered.

Mr. SPENCE: I am suggesting there ought not to be put before the Jury any suggestion that there is such a conspiracy.

Sir EDWARD CARSON: I must give the reasons why I offer evidence.

Mr. Justice DARLING: The thing was properly put before me, and I have ruled upon it.

Sir EDWARD CARSON: And I hope I have respectfully received it, though it is in my friend's favour.

1037. Now, I come for the moment to your first trial; at least, I do not know whether it was the first trial. Were you ever tried before the sedition trial of 1897?—Yes.

1038. How long before?—In 1882.

1039. That is a long time ago; what was it; it was not libel or anything of that kind?—Defamation, as we call it.

1040. Did you accuse an officer at that time of trying to poison somebody?—There was a native officer; I got information and the information was that certain letters were published in which he was charged with ill-treating his Master. His Master means the Prince of the State.

1041. Was the ill-treatment giving the Maharajah poison and drugs to make him mad?—To make him mad, taking the poison.

1042. Were you imprisoned for that?—Yes.

1043. How long?—Four months.

1044. Sir EDWARD CARSON: I am always sorry to go back, but there is one question I omitted about the other trial. When Mr. Justice Davar pronounced that sentence upon you did you appeal against the Judgment?—Appealed to the Privy Council. I was not there but my friends appealed.

1045. And it went to the Privy Council, who decided against you?—First, it went to the High Court.

1046. They confirmed it?—Then we sent the appeal

to the Privy Council; that was refused. Another application was made to the Privy Council here to permit appeal, and that permission was refused.

1047. Mr. Justice DARLING: That is when you were sentenced to six years?—Yes.

1048. The Appeal went to the Privy Council?——

Mr. SPENCE: He asked for leave to appeal from the High Court which was refused, then he asked for special leave to appeal to the Privy Council.

Sir EDWARD CARSON: What happened was this; he appealed to the High Court for leave to appeal to the Privy Council and the High Court after hearing the matter refused. His Counsel then over here applied for leave to appeal to the Privy Council here and they refused.

The WITNESS: The second time the appeal was made to the High Court on the merits, then they made it one thousand rupees fine. An appeal was made to the High Court for leave to appeal, and the application was refused.

Mr. Justice DARLING: The end of it all was the High Court decided against him, the Privy Council decided against him; then he served his six years.

Sir EDWARD CARSON: That is what it is.

1049. Now I want to ask you about the trial in 1897. Was the charge against you there of exciting or attempting to excite feelings of disaffection to the Government established by law in British India?—Yes.

1050. I would like the Jury to know this, the code under which you were prosecuted states: "That such a disapprobation of the measures of the Government as is compatible with the desire to render obedience to the lawful authority of the Government is not disaffection." You are allowed to criticise the Government so long as you do not go in for unlawful attempts to resist authority?—That is stated in the exception there, but they would not grant me the advantage of that exception.

1051. I am not going into the corruption of the Court——

1052. Mr. Justice DARLING: Were you tried before a Jury?—Yes.

1053. Who were they; were they all European or not?—No; six were European I believe, and three of them were Indians.

1054. How many were there altogether?—Nine.

1055. Had they to be unanimous?—No six were against me and three in my favour. According to the Indian Law the Judge has power to accept the verdict of the majority and to sentence the accused.

Sir EDWARD CARSON: I think some of the laughter at the back of the Court by the supporters of this gentleman is rather undignified. There is nothing in the question to call for it.

Mr. Justice DARLING: I gave a warning this morning. The result of any attempt of that kind will be met by me by a clearance of all those in that part of the Court from which the interruption comes; and if it is all over the Court the Court will be cleared altogether with the exception of those engaged in the case.

1056. Sir EDWARD CARSON: In 1897 Poona was in a very bad way?—By plague.

1057. And famine?—By plague and famine.

1058. I just want to read you this to see if you will accept it as a statement of the conditions: "We know quite well that famine appeared in the land and spread over a vast area of the country. Plague, which commenced first in Bombay, spread to various parts of the country and to Poona. Great distress naturally followed in the wake of famine and of plague, and the Government had to come forward and deal with the plague as well as the famine. It had to adopt measures appropriate for suppressing the plague, which had led to the goods of this country being boycotted all over the world"—that is the goods of India—"and those measures being opposed to the sentiments of many of the people, the necessary interference with their domestic habits created great excitement." Is that all true?—Yes.

1059. "The Government had to take steps which were unpopular, and especially had to resort to segregation, separating the persons suffering from the disease from persons not attacked. In addition, to find out cases which had been concealed, house to house visitation

was resorted to in order to discover the concealed cases of plague, and in Poona it was deemed necessary to employ British soldiers to form the search parties"? —I do not think the employment of soldiers was necessary.

1060. It was deemed necessary by the Government? —The Government might think so, but I did not.

1061. You were not the Government?—I was not the Government.

Mr. SPENCE: Would my learned friend kindly give me the reference to this passage.

Sir EDWARD CARSON: I adopt that as my own statement of the facts and I am putting it to him. If he accepts it it does not matter where it appears.

1062. You were fully aware of the responsibility of exciting a people under those conditions?—I did not excite anybody.

1063. I have not said you did; I say: You were fully aware of the responsibility that there would be?—Where the question of responsibility comes in I do not know. I never excited anybody. I went with the search party myself and I started a hospital.

1064. We all know that, but I want to ask you, was not there a grave responsibility upon anybody who attempted to excite the people under those conditions against those who were carrying out the order of the Government?—I did not have any responsibility. I was working and helping.

1065. I am asking you whether you realise now that there was a very grave and difficult responsibility? —"Now" means at this moment. With regard to my conduct I say there was no responsibility.

1066. I will ask you plenty about your own conduct in a few moments. Were you in the month of February, 1897, trying to teach the people that they were living under oppression?—I complained of it, and I told them to keep quiet—"complained of it" does not mean excitement.

1067. Listen to this at page 419 of volume I, under the heading "Sample of the tyranny or oppression practised in Khandesh." I am only going to read what shows the purport of it. "It is natural that under such

imperialistic administration an ignorant person should give utterance to an exclamation like this: 'We do not want this Government. It is better to emigrate to another country, but where to go? Wherever we go we see no other than the British Government.' I will now give another sample of zulum. The readers themselves should determine whether it would be proper or not if anyone took from that sample a lesson to this effect namely: 'The conduct of the English is like that of a harlot. They will say one thing and do quite another. No one should rely upon their sweet words.'" Do you think that was likely to calm the people?—This is, in the first place, correspondence.

1068. I do not mind, it is published in your paper?—Yes, it is published in my paper and as publisher I am responsible, but it is not written by me. I had a correspondent outside, and he described the state of things in his Province. He said people have come to say this, and to say that, and it has come to the notice of the collector of the district.

1069. You are publishing that in Poona?—I am publishing that in Poona.

1070. At a time when there could not be a worse state of affairs?—This has no reference to it.

1071. Turn to page 421: "When the people understand the law, they also come to know that Government is practising zulum upon them. Our collector—the ocean of mercy does not want that. It is natural that his honour should entertain a desire that the people should remain in darkness, and he should be in a position to exercise his imperial sway in such a manner as he may like, without the people knowing about it, but along with that, His Honour must not forget as well that it is the duty of the leaders of people to explain the law to the people and to bring to their notice the tyrannical conduct of the Government." Was that an incitement?—No, it is not, it is a statement of fact. I will explain to you. As a matter of fact that there were rules with regard to the revenue which were printed and sent out, but although they were intended for public benefit they were not published as a fact. The law required that they should be published in the vernacular.

1072. Mr. Justice DARLING: Tell me this. If the Government was tyrannical, how was it you were allowed to publish such a thing as this?—The complaint is that those rules were not carried out.

1073. Sir EDWARD CARSON: Would not it have been a better thing to say this: If this is a genuine case which you are trying to make here: the following rules for the benefit of the people have not yet been published we would like to draw attention to it?—That was said in the previous issue exactly in the same way as you say it now.

1074. What is the necessity on accouut of that of saying that the conduct of the English is like that of a harlot?—It is a quotation from the Sanscrit.

1075. That does not make it any better?—The translation looks offensive, but the original does not, it actually compares a king to a harlot, and it is taught in our schools and colleges.

1076. Yes or No—do you agree with that?—I would agree with the Sanscrit, but not with the translation here.

1077. We must take it as it is?—I have given my explanation. This is a reference to a book which is taught in our schools and colleges. In writing our vernacular we often borrow, as you borrow Latin and Greek expressions. It is used in our classics.

1078. I ask you again now, and please answer, because it will shorten matters: do you or do you not agree with the statement in your paper that the conduct of the English is like that of a harlot?—I have given my explanation, I cannot go further.

1079. Do you or do you not agree?—I have given my explanation. I said if I had to write I would use that expression in the Sanscrit.

1080. They will say one thing and do quite another?—They have done that.

1081. Is that your view?—They have done it on many occasions.

1082. Is that your view of the English. You are a very intelligent and educated man, you know what I mean?—This is not the English in England, but the English officials in India.

1083. "No one should rely upon their sweet words." Was that what you were telling a people excited by plague and famine, when the Government were trying to deal with the situation, that no one should rely upon their sweet words?—It is to do with famine actually. Rules were published and not carried out. The Famine Commission recommended the rules, and, although they were published, they were not carried out.

1084. I suppose you thought the English were the cause of the famine?—The promises given and the promises not carried out, that is the point.

1085. I suppose you thought the English were the cause of the famine?—No, that is not what it means. The rules were published and they were not carried out.

1086. Did you think the English were the cause of the famine?—No, certainly not, that is not what it means.

1087. We will see what you have said about that. The first mention of Mr. Rand is at page 421, "Bubonic Plague in India"——

Mr. Justice DARLING: This has been read by Sir John Simon.

Sir EDWARD CARSON: I cannot take Sir John Simon's readings altogether; they were partial.

Sir JOHN SIMON: I did my best to read it all.

Sir EDWARD CARSON: I am not complaining.

Mr. Justice DARLING: I only mentioned that as I have got it marked.

1088. Sir EDWARD CARSON: "Mr. Rand is already known to the public on account of the Wai prosecutions." What were the Wai prosecutions?—Certain Hindus were prosecuted as taking part in riot, andthose Hindus were convicted and sentenced.

1089. Did you think they were wrongly convicted?—I think so.

1090. Have not you said so in your paper?—Yes.

1091. Therefore in the midst of this excitement in Poona your first introduction to Mr. Rand is: "This is the gentleman who wrongly convicted the Hindus at Wai?"—That is the fact; it is who the man is.

1092. And you go on to say: "The appointment of such on officer is perhaps a significant indication of

the determination of Government to show no mercy and no hesitation in enforcing the preventive and remedial measures." That was that Mr. Rand, from what you knew of him, was a kind of man who would show no mercy?—He was known to be a thoroughly firm and determined man who would carry out his own opinion irrespective of public opinion.

1093. And unjust?—I say his own opinions, whatever they may be.

1094. But the reference to the Wai prosecutions was not that to suggest he was unjust?—There he carried out his own views.

1095. Right or wrong?—Right or wrong he would form an opinion and so on. He was an executive officer.—a very good executive officer.

1096. Just turn to page 423: "Our opinion in this matter, is that if there be anybody who is committing an act of treason it is our Government itself." That had reference to the famine. Then later: "The power itself is in its hands and the Government may therefore do anything it likes on the strength of that power, but, whether such acts are just or unjust is quite another matter. That does not depend upon one's having power but it depends on truth and wisdom. It appears that as regards both these qualities there is a great want of them in the Bombay Government's Durbar at present"?—"In both these qualities there is a great want of them in the Bombay Government Durbar at present." It does not mean absolutely.

1097. That refers of course to Lord Sandhurst?—Yes.

1098. Have you abused every Governor that has been there?—I do not know that.

1099. Lord Harris?—If there are any oppressive or unpopular acts I have criticised them no matter whose administration they may be.

1100. Were not they all quoted as tyrannical acts?—Tyrannical in one case, going against the wishes of the people. People wish one thing, and Government wish another—I am an advocate of the people.

1101. The policeman who stops a gang of thieves goes against the wishes of the people?—That is not

against the wishes of the people.

1102. You say again at page 424: "Our side is so just and strong that at least one of these authorities would feel ashamed to say 'No,' but if they should follow the Mogul Government in its ways when there is no help for it; yet, even ignorant people would once more understand well that our Government acts on the maxim 'Wicked persons speak one thing and think of others in their mind—and do quite a third thing.'" Was that your description of the British Government?—"Are you going to give us postponements of assessment in accordance with the law or not; and their answer should be obtained." That is what I advised the people to do. "If the Collector says 'no,' we should approach the Commissioner; if the Commissioner says 'no,' we should approach our local Bombay Government. If he says 'no,' we should approach the Government of India, but we should constantly be after them. Our side is so just and strong that at least one of these authorities would feel ashamed to say 'No,' but if they should follow the Mogul Government in its ways then there is no help for it; yet, even ignorant people would once more understand well that our Government acts on the maxim: 'Wicked persons speak one thing and think of others in their mind—and do quite a third thing.'" That is adopted as a quotation.

1103. Is that your description of the British Government?—Some of the promises are not fulfilled.

1104. Is that your description of the British Government?—Do you mean the British officials in India?

1105. No, this means a great deal more. "We should approach our local Bombay Government"?—Every Government in India.

1106. Look at page 425. All this time the famine is going on, and the riots and the rows, and everything: "England has come into existence to parade its political power before the people of other nations who are its equal in order to make them suffer the miseries of slavery." Is that your view?—If you keep a Dependency always in a state of dependency, it means that.

1107. Is that your view?—It means that. That is my answer, and that is my view.

1108. Look at what it says, that they came into power in order to make them suffer. That that is their object?—Their object is that.

1109. If that is your view do not be ashamed to say so?—I am not ashamed at all. I rather believe in expressing myself too freely. That is the view of the people. If you keep a Dependency always a Dependency the Government does not do its duty.

1110. Was it your view that: "England had come into existence to parade its political power before the people of other nations"—not subordinate nations—"who are its equals in order to make them suffer the miseries of slavery"?—Keeping them in a state of tutelage. That word also is used is the Sanscrit.

1111. "The miseries of slavery"?—It is a misery to be in a state of perpetual tutelage.

1112. There is nothing there about tutelage, it is "nations who are its equals"?—I do say that here. It is always a misery to be in a state of perpetual tutelage.

1113. Do you agree with it?—I say here that is my view, and to keep a nation in perpetual bondage is not right.

1114. Now come to page 426, which deals with "The Three Prosecutions": "But the Government was disposed to think otherwise. It regarded the action of the Sabhas and the Press as an encroachment upon their domain of exclusive guardianship of the interests of the people. They, therefore, in dealing with these unofficial agencies began by disfavour and suspicion and ended by quarrel and persecution." That is the Government?—The Bombay Government. It is only a statement of fact.

1115 "While their representatives were thus ill-treated, the people themselves fared as badly at the hands of the Government. Proper relief was not given to some, while undue and special severity was used towards others in exacting from them dues to Government." Does that mean that the Government was not impartial?—It is not a question of impartiality. It is a case of assessment. There is no question about it, but as a matter of fact assessments were taken from people

from whom they should not have been.

1116. That the Government were favouring some and persecuting others?—A quarrel and persecution, yes. Some of the people were persecuted.

1117. "And cases are on record of magistrates persecuting and summarily punishing men who were trying to approach these agents of Government, not with weapons, but with humble petitions in their hands." Is that a suggestion that the magistrates persecuted men because they brought petitions?—Yes.

1118. Did you see it yourself?—It is the fact; there were men persecuted for bringing petitions, and harsh measures were used to collect the revenue.

1119. I am talking of the Petitions, not of the Revenue. "Many may yet be sent to civil jails and many more will have their lands resumed or sold for not being rich enough to satisfy the extortionate demands of Government—their cruel creditor. The persecutions, however, of the representatives of the people have special interest for a judge of the actions of the Government. Their significance is greater, and they are far reaching in their consequences. To go to the matter straight we say that the prosecutions were intended to be a sort of counter-action to the efforts of the people. Government wanted to terrorise public workers. A plot, therefore, seems to have been entered into in high quarters to take the scourge of law into the hand and to abuse it for the purpose of punishing these men." Now, Sir, did that mean this——?—That is a fact which actually happened in those days.

1120. Just a moment till you hear my question. Does that mean that the Government of India——?—It refers here more to the Bombay Government.

1121. Well, the Bombay Government—Lord Sandhurst and his two assistants—had entered into a plot to improperly use the scourge of the law, and to abuse it for the purpose of punishing men, because they had dared to petition?—The petitions were not granted, the relief was not granted and they were punished.

1122. Can you tell me anything that would be more likely to excite a stricken population as Poona was at that time than to be informing them that there was a

plot in Bombay by the Government who ought to protect them?—It is only telling them plainly how men got relief from Government.

1123. Is that all you mean, that they cannot get relief?—The Government is going to persecute them.

1124. Do you say it is a small thing with these people?—We must complain and express ourselves. It may be a grave thing, but if there is a state of affairs like that you have to complain and bring it to the notice of the Government.

1125. Who got up the plot—Lord Sandhurst?—"Plot" there means it is not exactly a plot.

1126. Why did you put in a thing "not exactly a plot" was entered into in high quarters?—I do not know.

1127. Mr. Justice DARLING: Just look: "a plot, therefore, seems to have been entered into in high quarters to take the scourge of law into the hand and to abuse it for the purpose of punishing these men"?—And "cases are on record of Magistrates persecuting and summarily punishing men who were trying to approach these agents of Governments, not with weapons, but with humble petitions in their hands. Many may yet be sent to civil jails and many more will have their lands resumed or sold for not being rich enough to satisfy the extortionate demans of Government—their cruel creditor."

1128. Sir EDWARD CARSON: I am calling your attention to this, that you say: "A plot to abuse the law"—to abuse the law and a plot to do it?—What your Government makes is law. They publish one thing, then do not stick to it. That is all I mean.

1129. It goes on, and says—was not this a terrible thing to write in the middle of a condition of affairs such as there was at Poona—"At a given signal as it were the reign of terror began by arrests and searches." Was that the result of the plot?—It is the result of Government orders.

1130. Was that the result of the plot?—"Plot" is the word used here in the translation of the Mahratti. It is the result of the action of the Government. Actually some were prosecuted, and I had to go and get out some of them from the clutches of the law.

1131. You need not trouble about the Mahratti; this is published in English, and the word is "plot"?—I do not write Mahratti.

1132. I am not saying you did. Was not all this part of your campaign to turn the people against British Government by bringing the vilest charges against them. Could there be a fouler charge than to say they had entered into a plot and at the given signal the reign of terror began by arrests and searches under warrants?—"Plot" means their resolution.

1133. Was Mr. Rand——?—This has nothing to do with Mr. Rand.

1134. Was he an associate to the plot?—This relates to famine affairs; it does not relate to plague at all.

1135. Who were parties to the plot?—The parties mean the whole Council. The whole Council came to a conclusion on a resolution. That we say was the reason of the prosecution by the law officers.

1136. Do you mean the whole Legislative Council of India?—The Bombay Executive Council. The matter was taken to the Executive Council, and they affirmed it.

1137. Will you show me what the evidence of the plot you have is?—The resolution itself is the evidence—the unanimous resolution.

1138. Do you mean to say there was a resolution that they were to abuse the scourge of the law?—Not to observe the law previously laid down in the Famine Code.

Sir JOHN SIMON: While we are on this would my friend refer to the next page. Breaking off in the middle does leave an impression which I know my friend does not want to leave. It does appear from the next page—I am not giving evidence, but it is the fact—that there were prosecutions, and it was found when they were prosecuted, as a matter of fact, they were not guilty at all.

Sir EDWARD CARSON: It does not bear out that at all, with great respect to my learned friend.

Sir JOHN SIMON: I am sorry my friend says it does not. I stated it simply as a matter of fact.

Sir EDWARD CARSON: I will state it in the

words of the witness.

Mr. Justice DARLING: The shortest way will be to read it.

1139. Sir EDWARD CARSON: At 427 in the middle of the page: "Here again the Government was baffled in its attempts. The accused candidly confessed to having published the leaflets. It was for the Government to prove that their act amounted to any offence on earth. The magistrate, with all his ingenuity and sophistry, could not convince himself as to the guilt of the accused, and the latter, too, had to be discharged. But that was too much for Government." In that way you reply that the magistrate was trying by ingenuity and sophistry to convict when he knew he ought not to? —With reference to the argument before the magistrate at which I was present. He tried every means to defend the orders of Government and to have the accused before him sentenced, but he could not. He heard the case before him, and eventually we succeeded in convincing him that they should not be convicted.

Mr. Justice DARLING: If you want to see in what way he represented the Government were acting then, read the last four words of page 426, and then up at the top.

Sir EDWARD CARSON: "Professor Sathe had, as a matter of fact, kept himself within the bounds of law; and all the misguided zeal of the police was of no avail. Not a single perjurer could be secured to give evidence for Government." A lot more follows of the same kind.

(Adjourned till Monday morning at 10-15.)

FOURTH DAY

February 12th, 1919.

Mr. Justice DARLING: Sir Edward Carson, I have had a doctor's certificate handed up to me with regard to one of the gentlemen of the Jury to say that this gentleman is in bed with high fever, and it is quite impossible for him to attend here at present. Under those circumstances, unless the parties are prepared to dispense with his services and go on with eleven Jurymen, as I hope you will do, the case will have to be again postponed.

Sir EDWARD CARSON: I am quite prepared to go on with eleven, my Lord.

Mr. SPENCE: And we are prepared to go on with eleven Jurors, my Lord.

Mr. Justice DARLING: Very well.

Mr. BAL GANGADHAR TILAK, recalled.

Cross-examination continued by Sir EDWARD CARSON.

1140. Mr. Tilak, when the Court adjourned I was calling your attention to certain articles in your newspapers which were immediately prior to the murder of Mr. Rand. You remember that?—Yes.

1141. Sir EDWARD CARSON: With your Lordship's permission I should like to read out of the book the passage which is complained of so that the Jury may have the exact issue on which I am cross-examining Mr. Tilak. It is on page 48, five lines down. The general passage is this—I will tell you when I come to what is complained of: "Worse was to follow when the plague appeared. The measures at first adopted by Government to check the spread of this new visitation doubtless offended in many ways against the customs and prejudices of the people, especially the searching and disinfection of houses, and the forcible removal of plague patients even when they happened to be Brahmins." Then comes what is complained of: "What Tilak could do by secret agitation and by a rabid campaign in the Press to raise popular resentment to a white heat he did." Then, my Lord, these words are left out: "The 'Kesari' published incitements to violence which were put into the mouth of Shivaji himself." (To the Witness):

You do not complain of those words, Mr. Tilak, do you?——

Mr. Justice DARLING: Will you take the book before you? (Book handed to Witness.)

Sir EDWARD CARSON: I do not know whether the Jury would care to have copies of the book too.

Mr. Justice DARLING: I think it would be convenient that they should have them. (Books handed to the Jury.) (To the Witness): The words which you complain of in your action, Mr. Tilak, are within those brackets I have put, and you do not complain of those not within the brackets. I have marked the words with a blue pencil that you complain of as libellous, but you leave out those within the pencil brackets. Now, Sir Edward, what is your question?

1142. Sir EDWARD CARSON: I will put it to the witness if he will just follow me. It is page 48. Here is what you complain of: "What Tilak could do by secret agitation and by a rabid campaign in the Press to raise popular resentment to a white heat he did." Then come the words: "The 'Kesari' published incitements to violence which were put into the mouth of Shivaji himself." You have not complained of that?—I do complain of it.

1143. You have not complained of it in this action. It has been purposely left out?—This is asking me whether certain articles were published, and that I can admit, but that those articles bear a particular character is what I object to.

1144. But the point is this: It is a very remarkable thing, you see, to leave out a bit in the middle almost of a sentence; it is not done accidentally. Would your Lordship look at the Statement of Claim? There is a break in the print, and then: "What Tilak could do by secret agitation and by a rabid campaign in the Press to raise popular resentment to a white heat he did." Then there is a break. Then come a lot of dots to show it is purposely left out.

Mr. Justice DARLING: I will show the Jury the passage in the Statement of Claim. (His Lordship indicated the passage to the Jury.)

1145. Sir EDWARD CARSON: Now, Mr. Tilak, I

ask you, was not the reason you left that out because it was true and it could not be controverted?—No, that is not it. The Statement of Claim is not my drafting.

1146. At all events, your legal advisers were of opinion it ought to be left out?—I do not know the reason of that, but I do complain of this——

1147. Wait a moment. "The 'Kesari' published incitements to violence which were put into the mouth of Shivaji himself." Was not that what you were prosecuted for?—For these articles?

1148. Yes?—Yes.

1149. The articles inciting to violence which were put into the mouth of Shivaji?—The articles which were put in the "Kesari" were not an incitement. I do not agree with that.

1150. Mr. Justice DARLING: Whether you agree that you were rightly accused or not, is that article in the "Kesari" which put these expressions into the mouth of Shivaji, who had been dead 200 years, the article in respect of which you were prosecuted and convicted?—That was one of the articles.

1151. Sir EDWARD CARSON: And if you turn to page 339 of the book the article itself is given. I shall have something to say on that afterwards when I come to it. That was the prosecution in which you got the 18 months' rigorous imprisonment?—Yes.

1152. "The inevitable consequences ensued. On June 27th, 1897, on their way back from an official reception"—I believe my learned friend has conceded that that should be the 22nd—"in celebration of Queen Victoria's Diamond Jubilee, Mr. Rand, an Indian civilian, who was President of the Poona Plague Committee, and Lieutenant Ayerst, of the Commissariat Department, were shot down by Damodhar Chapekar, a young Chitpavan Brahmin, on the Ganeshkind Road." That was true?—I have heard of it.

1153. Have you any doubt about it?—I was not a personal witness to it.

1154. Nobody ever said you were?—I have heard of it. The man was convicted. That was in my absence.

1155. That is all you know about it. "No direct connection has been established between that crime and

Tilak." That is true?—That is true, but the insinuation conveyed by it is false.

1156. Now you see what follows explains that. That is all you complain of down to there. You do not complain of the next passage?—I do complain of the next passage.

1157. It is left out of your Statement of Claim. My point to the Jury will be that one cannot be read without the other. "But like the murderer of Mr. Jackson at Nasik last winter, the murderer of Rand and Ayerst—the same young Brahmin who had recited the Shlok, which I have quoted above, at the great Shivaji celebration—declared that it was the doctrine expounded in Tilak's newspapers that had driven him to the deed. The murderer who had merely given effect to the teachings of Tilak was sentenced to death, but Tilak himself, who was prosecuted for a seditious article published a few days before the murder"—it was a week before the murder, was it not?—Yes.

1158. "Received only a short term of imprisonment and was released before the completion of his term under certain pledges of good behaviour which he broke as soon as it suited him to break them"?—Yes.

1159. Now I want to ask you this: was it your opinion that it was the oppression of the administration of Mr. Rand during the Poona plague that led to his murder?—I think it was the harshness of the measures he adopted which led to the murder—his insisting upon those measures.

1160. You see there that the book says it was the doctrines expounded in Tilak's newspaper that had driven him to the deed. Do you deny that?—Which page is that?

1161. Page 48, the same passage. "He declared"—that is the murderer declared—"that it was the doctrines expounded in Tilak's newspapers that had driven him to the deed"?—Yes, I deny that.

1162. Now let me just see. Did you from the month of April down to the murder of Mr. Rand state over and over again in your papers that in the search of houses a great tyranny was practised by the soldiers?—I did say that.

1163. Did you say that in the search of houses a great tyranny was practised by the soldiers?—In the search of houses?—Yes, I did say that.

1164. Did you say that they entered the Temple and brought out women from their houses, broke idols and burnt books? You said that?—Yes, it is a fact.

1165. Is that exactly what Chapekar said in his confession?—It might be.

1166. Just listen to this. This is Volume 4, page 15: "I went to Poona with the whole family. Then the operations for the suppression of the plague were commenced, and Mr. Rand was appointed the head of the Plague Committee. In the search of houses a great zulum"—that is tyranny—"was practised by the soldiers, and they entered the temples and brought out women from their houses, broke idols and burnt Pothis (holy books.") Is not that exactly what you have just told me your paper had been saying for three months before he was murdered?—I mentioned those facts as proof, and I wanted to draw attention to it.

1167. But you did put those forward as oppression?—Yes, I called it an oppression: it was an oppression.

1168. And you put them forward as fact?—They are facts.

1169. Then do you see that they operated upon the mind of this young man who I think was only 24 years of age, and a Brahmin——

Mr. SPENCE: He was 27.

1170. Sir EDWARD CARSON: He said himself in his confession that he was 24. However, we will say he was 27 years of age. Then he goes on and says this: "We were determined to revenge these actions, but it was no use to kill common people, and it was necessary to kill the chief man. Therefore we determined to kill Mr. Rand, who was the chief man"?—Yes.

1171. Did you from the moment Mr. Rand was appointed up to the day of his death keep on abusing him?—Not abusing him but pointing out the defects of his administration. On the contrary, I co-operated with him.

1172. Did you describe him as being more than a tyrant?—I want to see that.

1173. I am putting it to you now, and I will call attention to the passages in a moment?—Will you show me the passage?

1174. No, I will ask you now. You remember very well your attacks on this unfortunate young officer. Did you describe him as being more than a tyrant?—It may be. I cannot say without seeing the passage.

1175. Was he more than a tyrant in your opinion?—I will say it may be, but will you show me the words?

Mr. Justice DARLING: Do attend to the question.

1176. Sir EDWARD CARSON: Was it your opinion that Mr. Rand was more than a tyrant?—It may be I said—

1177. I am not asking you what you said. Was it your opinion?—I have said that he was guilty of oppression.

1178. Was it your opinion at the time that Mr. Rand was more than a tyrant?—I never described the man generally; his measures were oppressive and tyrannical.

1179. Did you describe him as a suspicious, sullen and tyrannical officer?—The purport is true.

1180. A suspicious, sullen and tyrannical officer. Did you say he was guilty of callous and heartless cruelty?—Yes.

1181. And do you now ask the Jury to believe that your writings in the "Kesari" after what the man said himself had nothing to do with Mr. Rand's murder?—I do not think they had anything to do with it. Those acts were before the public.

1182. How much damages do you claim for having said it had? How much damages do you want?—For what.

1183. For what is stated in the book here, that it was your doctrines expounded in your papers that had driven him to the deed?—I do not think he has said that. In the first instance, I deny that the murderer said that my doctrines drove him to do the deed. He has not said it.

1184. Chapekar?—Yes. Those are facts. Those are not the doctrines.

1185. I have read it to the Jury, and I am not going back upon that?—Those are the facts that drove him to

do the deed.

Mr. Justice DARLING: He draws a broad distinction between his stating what he says are the facts and the statement of those facts being called his doctrine, but he does not seem to deny that Chapekar was driven to do the deed by what he read in the "Kesari" as far as I make out, but he calls what he read not his doctrines but his statements of fact.

Mr. SPENCE: I submit to your Lordship that is not what the witness is attempting to say.

Mr. Justice DARLING: If it is not it will be cleared up.

Sir EDWARD CARSON: It will be cleared up, my Lord. I am going to call the attention of the Jury to what is actually stated.

Mr. Justice DARLING: I mentioned it to you, Sir Edward, with the object that you should clear it up, because the witness seemed to me to draw that distinction.

1186. Sir EDWARD CARSON: Now will you take the first volume and turn to page 428. I will complete an article I was reading, I am not going back to what I drew the attention of the Jury to on the last day, but there is a passage I wish to call attention to now. Your Lordship will remember that it was with reference to the prosecutions which were taken by the police. "The police had no motive to set up these proceedings, though once they were set up they were bound to use all the fair and the foul means in their power to prosecute them." Do you see that?—Yes. "The police, on doubt, acted with zeal, but they acted only as, to use the magistrate's own words, the unacknowledged tools of others more diplomatic, and perhaps we may add more wicked than themselves. The police had no motive to set up these proceedings though once they were set up they were bound to use all the fair and the foul means in their power to prosecute them."

1187. Was that teaching the people that the police, no matter how unjust, were adopting violent means?—We are discussing the particular case in that article, and they did use unfair means in that case. It is not a general proposition.

1188. What were the foul means?—In that case they

got evidence which was not true.

1189. How do you know?—I was present at the trial of those cases.

1190. You were the Judge?—No, not the Judge, but the Judge acquitted the persons whom the police charged.

1191. "The question of the cynic 'Who is to benefit?'"—then it goes on: "If the people understood their rights the Treasury would suffer. It was the Revenue officers then who were to benefit by standing between the rayat and the public preachers. The three prosecutions must have been directed by very high Revenue authorities and they were evidently intended to intimidate all public workers. If the people understand their rights, the power and prestige of the Government officers suffer, and naturally, therefore from the beginning of the famine crusade they are consistently thwarting the well-meaning efforts of the popular leaders in educating the ignorant people." Was Mr. Rand one of the Government officers?—He was.

1192. Now listen to this. Do not be afraid of it?—I am not afraid, but this is a comment on three particular cases. This is an article on that, and it has nothing to do with the plague.

1193. This was published in Poona?—Yes, it was.

1194. In February, 1897?—When those cases were heard.

1195. Just listen to this: "They have used all means for the purpose." Who had? Is that the Government officers?—Yes, all its officers.

1196. "Inducements, admonition, snubbing, warning"?—Yes.

1197. Intimidating?—Yes.

1198. Terrorising?—Yes.

1199. And chastising?—Yes.

1200. Those are the Government officers?—That is one of the general complaints against the police in India.

1201. No, it says: "The power and prestige of the Government officers"?—The officers that were concerned in that case, not every Government officer.

1202. Then you go on: "They have stood between the people and their proper advisers; and we have no

hesitation in pronouncing these officers the worst enemies of the people." Was Mr. Rand one of the worst enemies of the people?—This is nothing about Mr. Rand. Those officers who have used inducements, admonition, snubbing, warning, intimidation, terrorising and chastising are the officers who stood between the people and their proper advisers.

1203. Did you think that was calculated at a time of famine and plague in a plague-stricken land—to use the words of this—to raise popular resentment to a white heat?—I do not think it was. It is nothing to do with it.

1204. Do you think it would calm the people?—This is a particular case, and commenting on facts. It has nothing to do with the plague.

1205. It is a general statement founded, no doubt, on particular cases. "The people and their proper advisers; and we have no hesitation in pronouncing these officers the worst enemies of the people"?—In that particular case yes, the police officers who practised it.

Mr. Justice DARLING: It is not the police, it is the revenue officers.

Sir EDWARD CARSON: It is the Government officers.

Mr. SPENCE: Will you go back to the beginning?

Mr. Justice DARLING: To go back pages and pages is most inconvenient. This witness can be re-examined, as I have no doubt he will be.

Mr. SPENCE: It is only a very few lines, my Lord.

Mr. Justice DARLING: It is not a very few lines it is a very long way back. The only question the witness was raising was what officers were referred to.

Mr. SPENCE: The passage is a few lines before it.

Mr. Justice DARLING: He is told it is the revenue officers. I must object to this going back and interfering with the cross-examination in this way. The witness can be re-examined in the regular way.

1206. Sir EDWARD CARSON: I am afraid, my Lord, that I shall never get through what I have to do if I cannot go straight ahead. (To the Witness): Now I turn to page 441: "Plague work in Poona" it is headed.

That is on the 4th April. Now listen to this: "Another pitiable case has been brought to our notice where a man actually went mad by being sent to the segregation camp. Widows and orphans and even pregnant women are sometimes mercilessly caught hold of and severed from their friends and neighbours by being removed to the segregation camp. Soldiers, many of whom are rough men, are practically allowed to commit excesses and destroy property to the great confusion and dismay of the houseowners whose protests to the authorities generally go unheeded." Were you suggesting there that those responsible for working the plague regulations allowed these things to be done?—That is the complaint.

1207. That they allowed them?—They do not redress the complaint.

1208. "Soldiers, many of whom are rough men, are practically allowed to commit excesses and destroy property to the great confusion and dismay of the houseowners whose protests to the authorities generally go unheeded." You notice this: "Widows and orphans and even pregnant women are sometimes mercilessly caught hold of." You mean even where there was no plague, I suppose?—No.

1209. It was their way of asking them to get out of the house?—I never meant there was no plague. I have done that thing myself, but not mercilessly.

1210. As a matter of fact, do you not know perfectly well that the British soldiers were from day to day risking their lives in going through these houses, purging them, whitewashing them and cleansing them so as to try to get rid of that frightful plague-stricken area?—And so were we.

1211. Did you know that?—Yes, and we took the risk together.

1212. And you bring these charges against these soldiers?—I mean that they did not show kindness and courtesy that is usual, and that ought to have been shown in these cases.

1213. I am not going to read the rest of that. That is quite enough. There is the whole article. I only draw your attention to it. I will comment on it afterwards.

Mr. Justice DARLING: Sir Edward, you have asked him for an explanation of a great many of these passages. I do not think you are bound to ask him for an explanation of every one you are going to read to the Jury from his newspaper. With regard to many of them, you are entitled to say: "There it is; on the face of it what does it mean?" because Sir Valentine Chirol had in writing his book to say what he gathered from reading this.

1214. Sir EDWARD CARSON: Yes, my Lord. (To the Witness): Now will you turn to page 446. I just want to summarise the kind of charges that you made——

Mr. SPENCE: Would your Lordship allow me to say that I do not assent to your Lordship's proposition that my learned friend should be allowed to read passages to the Jury. I only make that observation.

Sir EDWARD CARSON: I do not know what the objection is.

Mr. Justice DARLING: If passages are complained of as being libellous and Mr. Tilak admits that he published in his paper certain things, and it is said that those things which were published in those passages are fair comment, I have said it is not necessary to put every word of every one of those passages in those articles to Mr. Tilak in order to raise that defence.

1215. Sir EDWARD CARSON (to the Witness): Will you just look at page 448: "The Test of Serving the Cause of the Public." "The interests of our present Government and their subjects do not, generally speaking, lie in one and the same direction. It is therefore not surprising that if anyone in his solicitude for the welfare of the subject"—that is the people—"begins to exert himself on their behalf our Government which calls itself a lover of truth should not bear it." What was your charge against the Government there?—When we say something in the interests of the people, our saying is ignored and is not heeded.

1216. But you say the Government should not bear it?—No, it is put aside.

1217. How did the Government show that they could not bear it?—Because we bear no consideration about it.

1218. "And the more a person begins to serve

the cause of the people the greater is the exasperation of the corporeal representatives of the incorporeal Government"?—Yes.

1219. That is, the better citizen they found the more exasperated they were and the more tyranny came of it. Is that what you were teaching the people?—If there was a grievance, and we set up an agitation, that grievance is not only not heeded but sometimes the same policy is carried out.

1220. You say the Government becomes exasperated. That is what you wanted to teach the people, that anybody who tried to help them only exasperated the Government?—This is not a general article, it is upon that particular thing and that criticism is not the general principle laid down.

1221. It is a general article?—No, it is not.

1222. Yes, it is, if you look at it. The heading of it is: "The test of serving the cause of the public." Now I come to page 450. Will you just look at this and tell me, was this calculated to incite the people to white heat. "Bless the Bombay Government and its advisers. Well have they blazoned their power. But why should they be backward in exercising zulum in such manner as they like in broad daylight, under the name of the law or of a Government resolution? What are you worth that they should not trample you under foot as they like? In the history of the whole world there is not even one instance of the acquisition of political rights by piteous whining and weeping! Even if you passed seventeen thousand resolutions, got an imitation Parliament (Congress) held, made speeches feelingly in the yearnings of compassion, still there is as much difference between your Parliament and the English Parliament as there is between a mock wedding of a toy bride and bridegroom of girls and a real wedding, or between a native prince of the last century and a native prince of the civilised nineteenth century. What sort of strength do you possess that they should at least give you their bare attention, let alone their doing or not doing anything agreeably to your wishes? But our Government is not of the common sort; it is clever. They will by no means show that they hate you,

consider you to be insignificant. They have fully appreciated your worth, perhaps they secretly laugh at your mock-sports even; but they will never betray their feelings." What were the mock-sports?—Holding meetings and passing resolutions of protest.

1223. "Only the resolution of Government regarding the Sarvajanik Sabha appears inconsistent with their usual wily conduct. Instances very seldom occur of Government getting angry like ordinary men. They will, as far as they can, keep humouring you; saying to themselves they have been well occupied. The poor on account of the famine, the poor and the rich on account of the epidemic, and all persons on account of the Government annoyance feel sad; where is one to go now? Things have come to such a pass. It remains to be seen how many can see the way. Finally,—The call of death cannot be avoided; trying to save the body, you cannot save it. Being thoughtful, you do not understand. What is to be done?" Was that an incitement against the Government?—No.

1224. An incitement to rise against the Government?—No.

1225. What was it?—It was simply to find out a means of getting a hearing. The meaning of it is that we had held meetings and made protests which were of no avail, and this was with regard to what to do next.

1226. We must do something better than that?—The advice given is passive resistance.

Mr. Justice DARLING: Will you find out what he means by that, Sir Edward?

1227. Sir EDWARD CARSON: What was the passive resistance? Was it to die?—Passive resistance means to suffer.

1228. That would not be doing much. There would not be much resistance in that?—The word "passive" means sufferance—not active.

1229. "The call of death cannot be avoided." What did that mean?—That is a quotation from a religious book.

1230. I suppose it had a meaning?—The meaning is this. It is a quotation from a religious book, and it

means it is addressed to a man from a religious point of view. It is to understand your duty to God, and to take care to think over it and understand why you are living.

1231. It would not mean anything like this, would it, that you have to die any way, or do something?—No, that is not the meaning. The meaning is taken from a religious book which has no reference to violence: it is absolutely inaccurate.

1232. What does "Dasanudas" mean? It is signed "Dasanudas"?—It is not an article of mine. It is from a correspondent.

1233. What does "Dasanudas" mean?—A servant of a servant.

1234. It means the slave of a slave?—No, it means the servant of a servant.

1235. A ground-down slave. Is not that what it means?—No, it is just a humble servant—"Your humble servant."

1236. This is what it says. The translator who has signed this says it is the slave of a slave?—It is a title assumed, like "Your humble servant." It means humble servant.

1237. Mr. Justice DARLING: Do you mean simply conventional like when we sign "your obedient servant"? You know when people write to the papers in England, they often sign themselves "your obedient servant"?—No, I did not know that. It simply means "your humble servant."

1238. Sir EDWARD CARSON: That is your humility to the Press, but I put this to you, that you never see a letter—I am only speaking upon instructions—signed "Dasanudas" as merely "your obedient servant"?—It does mean that.

1239. It means a ground-down slave—a slave of a slave?—No.

1240. Mr. Justice DARLING: The man who translated it says that is what it means? It comes in this way. The word "Dasanudas" stands for a servant as well as a slave in Mahratti.

1241. What is put in the margin is this: "A slave of a slave. A title assumed for oneself by an earnest

humble speaker." I do not know, it may be merely conventional or it may not. I give you the benefit of it.

Sir EDWARD CARSON: There are plenty more, my Lord.

Mr. Justice DARLING: I do not know if you have ever presented a Petition to Parliament, Sir Edward?

Sir EDWARD CARSON: No, my Lord, I never presented one, because nobody takes any notice of them.

Mr. Justice DARLING: Petitions that were presented to Parliament used to conclude always: "And your Petitioners will ever pray."

1242. Sir EDWARD CARSON: Yes, my Lord. (To the Witness): I put it to you that the object of that letter was to stir up somebody to do something more than talking?—It is a complaint generally against the acts of oppression and how to serve the public.

1243. It was not calculated, you think, to stir up popular resentment?—No.

1244. Now will you turn to page 452: "The Mogul rule is far better." What was the Mogul rule?—It means the Mohammedan rule.

1245. That was far better than the English rule?—Yes, that is the heading there.

1246. Did you agree with that?—In some respects I did, and in some respects I did not.

1247. But you make a general statement there?—This is not mine. This is a heading given by a correspondent.

1248. But you see what I am calling attention to is to justify what Sir Valentine Chirol said. Was not that calculated to lead to popular resentment and bring it up to a white heat. Look at the commencement of that. I am not going through the whole of it: "When at the very beginning, the people are dying like ants by plague, they are getting dejected, being absorbed in the thought as to what may happen to them in future, on whom, and what calamity might next befall them and thanking themselves that the day which has passed they could call their own. At such a time the Government which has undertaken the task of taking care of us in every way —nay—it has by putting forward this excuse (i. e., of taking every care) taken away from us the whole of

whatever we had by justice or injustice and has completely pauperised us, the said merciful British Government —should now come forward to free us from our troubles." Was that your view which you were teaching people?—That was the correspondent's view.

1249. Did you agree with it?—I said partly I did and partly I did not.

1250. Did you put anywhere in your paper that you disagreed with any of it?—It is always understood in the case of correspondents.

1251. Mr. Justice DARLING: But just look at the words and consider them because you read them before you printed them, I suppose—" taken away from us the whole of whatever we had by justice or injustice, and has completely pauperised us, the said merciful British Government—should now come forward to free us from our trubles." That is headed: "The Mogul rule is far better." Mogul rule was pretty stiff, was it not?—The Mohammedan rule.

1252. Sir EDWARD CARSON: Is not that what Shivaji put an end to?—Yes.

1253. And why you crack up in all your articles about Shivaji which we will come to afterwards?—That has nothing to do with this here. If you compare English rule with Mogul rule it does not mean that it has to be done away with.

1254. Then: "The utterances of His Excellency the Governor Sahib and the Government resolutions passed in connection with this matter are sweet simply to hear and read, but are they of any substantial use to us the subjects? The real state of things is that His Excellency the Governor Sahib authoritatively gives utterance to one sort of views and the subordinate officials execute them in quite another way," that would include Mr. Rand?—This has no reference to Mr. Rand; it has reference to Mr. Rand's policy.

1255. Mr. Rand was the gentleman meant there?—It has no reference to the plague, but it has reference to the Government policy.

1256. Mr. Rand was the gentleman put there for the purpose of carrying out the orders as regards the plague?—This has nothing to do with that.

1257. Mr. Justice DARLING: How can you say that? Look at the way it begins: "When at the very beginning, the people are dying like ants by plague"?—This is not a correspondence on the plague only.

1258. Sir EDWARD CARSON: I will read a little more and you will see it is an abuse of everybody that is carrying this out: "The real state of things is that His Excellency the Governor Sahib authoritatively gives utterance to one sort of views and the subordinate officials execute them in quite another way, but this great difference between the law and the execution of the law in this English Raj is not of to-day's or of yesterday's date. Similarly, the absence of those higher qualities the possession of which distinguishes the man from the beast in most of the soldiers is not of to-day's or yesterday's date—barring those qualities of taking food and enjoyment of sleep which are common to both." That is your description of the British soldier?—Yes, the latter part, but this is a mixed up paragraph.

1259. I do not mind whether it is mixed up or not. I think it is pretty clear: "Similarly the absence of those higher qualities"—that is that the soldier is without the higher qualities—"the possession of which distinguishes the man from the beast"——

Mr. Justice DARLING: That passage you have just read is one of those selected by Sir John Simon to read to the witness. I have it marked already. It is the very thing.

1260. Sir EDWARD CARSON: You were there, or whoever wrote this that was put in with your authority, telling these plague-stricken people who were daily coming in contact with the soldiers that the soldiers were no better than the beasts?—That is what they complained of themselves to me.

1261. Mr. Justice DARLING: Who complained about it?—The people.

1262. What people?—I went into their houses along with the parties of soldiers and they always complained of that to me. I was a personal witness of it.

1263. Sir EDWARD CARSON: Did not Lord Sandhurst come down himself to Poona?—All these things had been brought to the notice of Lord Sandhurst.

I myself brought them to his notice.

1264. Did not he inquire into all your complaints, and do you not know that he found every one of them unfounded? Do you not know that Lord Sandhurst came down and examined the hospitals and compounds and investigated these charges which you were making and found that there was not a scintilla of truth in any of them?—I do not know what inquiries he made, but he did say that, and as a matter of fact I know there were about 400 complaints made in Mr. Rand's office which were properly authenticated inside. I have seen the book myself of those complaints.

1265. Listen to this at page 453. I will only read these bits at the present moment: "The official class is engaged in prosecuting both the upper and lower classes of the people and in inflicting fines and sentences upon them. That is only right. If the Government did not recover the expenditure which it is put to on account of the plague, by inflicting fines of 10 and 15 rupees on even poor people, would it not create another source of anxiety to the Finance Minister who is broken down with the anxiety of making up the deficiency caused to the Treasury on account of the famine." Does not that represent that the Government officials were corruptly inflicting fines on the poor people in order to make up the expenses of administration?—The sentence means this—that in the plague times it was not desirable to fine people; a warning would be quite enough. The latter part is humorous, rather. It means we hope it is not intended to enrich the Treasury.

1266. Was this a joke?—Yes, a humorous comment, not a joke.

1267. A humorous comment to say to these people nearly driven mad with the plague: "The fines that are being inflicted upon you poor people are in order to enrich the Treasury"? That is your humorous comment; you say that to my Lord and the Jury?—I am satisfied it is.

1268. Now look at page 455, 10 lines down: "The soldiers (as you would expect them) are in most cases strong but clumsy fellows. They are of real use at the time of the war. For the purpose of the house inspection

work they are quite unfit people. What to speak more; they do not even hesitate to commit a theft on entering a house." Did you believe that?—There were complaints.

1269. Did you know anything about them?—I cannot say; I was not present. There were complaints made to Mr. Rand about that.

1270. Do you know whether Mr. Rand inquired into them?—To my knowledge, he did not.

1271. How do you know?—Because I was there in the office working with him. I have seen piles of complaints, and I know that they were not disposed of.

1272. Do you mean to say you saw Mr. Rand's private reports?—It was not private. They were kept in the office, and we had access to them, as being his assistants in the campaign.

1273. How often were you in Mr. Rand's office, more than twice or three times?—I was there almost every day.

1274. How long?—It may be about a month.

1275. At the beginning was that?—Yes.

1276. Until you began to abuse it?—No, until I saw no redress could be obtained.

1277. I take it then, you were not there at this time. "Picking up whatever comes into one's hands, giving unneccessary trouble to the inmates of the house and sending away to hospitals patients—whatever may be their disease, immediately burning away all the clothing and apparel of the patients—these acts are not parts of the real inspection work we fail to understand why properly speaking are soldiers required for the inspection work. It appears to have escaped the notice of His Excellency the Governor Sahib that besides what is stated above, the amount of expenditure will be considerably swelled on account of these white soldiers. On account of the white soldiers, the daily expenditure of 1,000 rupees is incurred, and, again even after all this expenditure they are able at the most to find out 10 to 15 patients a day." Did you believe that about the soldiers?—I have seen it with my own eyes. I have seen articles of clothing burnt, even a grindstone burnt, because they thought it was infected.

1278. Do you say the articles ought not to have been burnt?—Articles may be burnt which are infected but they burnt everything in the house.

1279. In the plagued houses. How many people perished through this plague?—200 a day in a town of 80,000.

1280. Did you ever make any complaint in writing which you could show us to Mr. Rand of anything which you saw?—Nothing from my own house was stolen, therefore I did not make a complaint about the theft, but I did represent all these things to him.

1281. Have you anything to show us that you ever put down in writing to Mr. Rand?—Myself?

1282. Yes?—Myself I have no reason to complain, but I have seen these things.

1283. Now page 456: "We do not know how long the Poona people will have to pass their days under these circumstances. If the plague subsides earlier it would be better; otherwise our town will suffer more by the harassment of soldiers than by the plague itself, and if the whole of the cost thereof be fastened on the municipality we fear that the municipality also would be reduced to a very bad condition for 10 to 12 years. So far as regards the Government officials; but there are some wrong notions prevailing among the people which also require to be removed immediately. Many persons believe that all this trouble has been brought into our town by the municipality, but this belief is erroneous. The arrangement which is being made at present is being done by the orders of the British Government, and, the said Government has sent three doctors of experience from China for putting that arrangement into practice. A portion of the harassment which is caused is due to the advice of these doctors." Were those doctors specially brought there as being accustomed to treat plague, or diseases of that kind?—I think there were one or two doctors specially brought to Poona.

1284. "Due to the advice of these doctors." You even abuse the Chinese doctors?—Doctors from China; they were not Chinese doctors.

1285. "And the rest of the trouble is being caused by the officers who owing to want of confidence on their

part in the natives have brought soldiers to carry out the arrangement." Was Mr. Rand one of the officers?—Yes; he ordered the soldiers.

1286. "Let this regime of doctors and soldiers end when it may, but, the recourse on the part of our people to fleeing away, and the cowardice which they display are really wonderfully regrettable. Soldiers are not tigers. They have been brought for the inspection of houses, but they have not been brought for looting the houses. The people have not wits enough to understand this much, and therefore, as a matter of course, they are bringing ruin upon themselves. Orders have been passed that they are not to break open small boxes, not to drag out women folk out of their houses for inspection, and that they are not to burn anything except the bedding of the patients; but, if the soldiers act in defiance of these orders and act in a rowdy way, should not any of us be able to check them on the spot?" How?—Catching them red-handed, and taking them to the police.

1287. That is all?—Yes.

1288. "Even if people remember this much that it is not an offence to catch a thief in the act of stealing, a considerable number of their complaints would disappear of themselves. Nobody need be told the principle that the help which God gives he gives to those who help themselves, and not to the idlers. People should not therefore give up helping themselves and making efforts for themselves." Now if you will turn to page 458, an article of the 18th April headed: "Racial misunderstanding and the Reign of Terror." "The Hindus and Mohammedans cannot certainly gain anything by shedding each others' blood. Nor is a prolonged state of mutual distrust very favourable to life and business. It devolves upon the Government officers of course, to act as mediators in such a state of things, and even for the guidance of such officers we may suggest that an impartial and active peacemaking is far better than the patent method of imposing a punitive police force. We may in concluding remark, that even taking things as they are, the Mohammedans are as usual showing themselves to be the aggressors." That you

always said?—"As usual"; not always.

1289. Well, "as usual." As usual, in the "Kesari" and the "Mahratta"?—In the majority of cases.

1290. "So long as the record of perpetrated offences is clearly against that community"—that is the Mohammedans—"and though we may allow that it is only the Badmashis that are responsible for them, it must be remembered that they are the Mohammedan Badmashis. The murder of Pandit Lekhram has not driven the Hindus to any wild acts of lawlessness and the fact proves not only that the Hindus are not aggressors but that they are so peace-loving, some may say pusillanimous, as not to be disturbed even by thirst for retaliation or revenge which is very natural under such circumstances of aggression and provocation." So it would be very natural if the Hindu were to take the law into his own hands under the circumstances of aggression and provocation? —The Mohammedans acted in that way, and the Hindus were always treated as Hindus by the officials.

1291. Who was Chapekar?—He is nothing to do with it.

1292. Was he a Hindu?—Yes.

1293. Was he a Brahmin?—Yes.

1294. Was he a Chitpavan Brahmin?—Yes.

1295. What was Kanhere, the man who murdered Jackson?—A Hindu.

1296. Was he a Brahmin?—Yes.

1297. Chitpavan?—I do not know about his being that.

1298. Did you ever hear it?—Yes, but we do not know all the details of them. I do not know all the Englishmen there.

1299. They were two of the peaceful Hindus who were "pusillanimous, not to be disturbed even by thirst for retaliation or revenge"?—Generally it is said that the Mohammedans are a strong, virile race, and it is the Hindus who suffer. That is what the officials say, and this is a comment on that.

1300. At page 459, what is that that is printed there; is that a poem?—That is a poem. On page 461 are the initials of the writer.

1301. What is Ramdas?—Ramdas is an assumed

name.

1302. Has it no meaning?—No. It is a proper name, but here it is assumed as a *nom-de-plume.*

1303. Does not Ramdas mean teacher?—There are hundreds of persons who are called Ramdas.

1304. What is the object of this document? Is it to stir up strife?—This describes in verse the grievances at the time.

1305. Just look at one or two of them. Take No. 11 "It"—that is the Government—"starts famine relief work. Takes people to a distance of 20 Koss." How much is that?—40 miles.

1306. "Pays only starvation wages. What should we say to this! An institution strives solely for the good of the Government and the subjects. The King disregards it altogether." What does he disregard?—He does not pay any attention to it. The Government is here symbolic for officials; it is poetry.

1307. Listen to the next one, No. 13: "The white Sahib (that is, European officer) of Ahmednager looked to the happiness of the subjects. He was therefore removed and thrown away to a distance. What could be the secret of that"?—This refers to the case of a collector who was transferred for showing some leniency in the famine administration. He was sent a long way away.

1308. Is not that merely teaching the people that if any European officer shows that he looks after the happiness of the subjects he will be removed and thrown away to a distance?—He was as a matter of fact. That refers to a particular case.

1309. Did you know him?—Yes, I knew the case; I was there at the time.

1310. Did you know him?—No, I did not know him. It was reported in the papers.

1311. That suggests that Lord Sandhurst, who was the Governor at the time of Bombay—he is going to be examined, and the Jury will see for themselves—that Lord Sandhurst's policy was: If he found an officer who looked to the happiness of the subjects, he was to be removed and thrown away to a distance?—This is a matter of fact. In one case a collector was found to take a view opposed to the view of the central Government, he recom-

mended something, and, according to the Government, exceeded his power, so that he was transferred to another district.

1312. That is not what you say there. Can you tell me of anything more likely to affect the action and the whole course of conduct of an ignorant plague stricken people than to represent that the British Government has torn away any official who showed any regard for the happiness of the people?—Yes, if the view of that official regarding the happiness of the people differs from the view of the Government, that official will be removed—it is the discipline of the administration.

1313. No. 28: "If the King of the Forest gives me a word of encouragement then by the grace of (God) Rama, I will render small service." What is that?—Put the grievances in words and give them publication.

1314. "If the King of the Forest"—that is the lion? That is the name of the paper.

1315. It is a play on the word "Kesari," which means lion?—If it gives me any encouragement by inserting this, I will write you another piece of poetry.

1316. "Then by the grace of (God) Rama, I will render small service." Who wrote that?—I do not know now, but I think it was a poet we had. "Ke" stands for Kesh, "Mo" I do not remember. They were the initials of the man; he was a known writer of verses.

1317. Look at your editorial notes on that day, on the same page of the 10th April, 1897. This, my Lord, is very important: "However that may be this much is true that the disease is diminishing in proportion. But it is a matter of extreme regret that in proportion to which the disease is diminishing, the oppression of the Plague Committee is increasing. To carry away entirely wrong persons and detain them in the segregation camp, to enter into the houses of the people in their absence and to damage their goods, to catch hold of old and infirm men and send them to the hospital as plague cases, such and other methods of oppression and injustice are going on even with greater vigour than before. And if a complaint is made to the Committee itself, no notice is taken of it by Mr. Rand, the Chairman of the Committee." This is an editorial note. Did you write this?—I do not

generally write the editorial note.

1318. Were not you the editor?—I cannot remember now. I do not generally write it.

1319. But listen. Were you representing there that although Mr. Rand knew that wrong persons were detained in segregation camps, that the houses of the people in their absence were entered, and their goods damaged, that although infirm men were taken out and sent to the hospital as plague cases, when they were not plagued at all—that Mr. Rand, knowing all that, allowed it to go on. Was that what you were saying about him?—That is what this gentleman says.

1320. Who is the gentleman?—I do not know who wrote it. I am responsible for it.

1321. Who is he?—I do not know; a man on my staff at that time. All these are facts. I can tell you that.

1322. I put it to you, Sir, could anything be more likely to lead, in a place like that, to the assassination of the individual charged with the difficult task to carry out the plague administration than to tell the people that he allowed the entry of houses, the seizure of old people who had not plague, and segregating them, and breaking into houses in the absence of the people? Could anything be more calculated to lead to his assassination?—My answer to that question is this—it is these acts of oppression which led the people to it, and not because we comment upon them.

1323. Then you see on page 462: "The reason of all this mismanagement and oppression is, in our opinion, only this—that the President of the Plague Committee here"—that was Mr. Rand?—Yes.

1324. "Is not so liberal-minded as that of the Plague Committee at Bombay. It is by no means the case that the Government had issued one order for Bombay and a different one for Poona," &c. Then it says later on: "But as neither of these things was done, oppression commenced from the beginning. No native gentlemen now wish to accompany soldiers." As a matter of fact, did not a native go always with the soldiers when they were entering the houses?—For a few days in the beginning.

1325. All through ?—Not all through.

1326. All through, I put it to you ?—No, not all through.

1327. Well, I will give my own evidence about that. "On the contrary there would be insult at every step. Under such circumstances no respectable gentleman dares accompany any segregation party and the soldiers composing it oppress the people just as they like. If Mr. Rand were to go personally with the segregation parties, he would come to know the above things." Do you mean to say Mr. Rand did not go from time to time ?—He did go from time to time.

1328. And go and risk his life in these very plague-stricken houses ?—He did not alter the measures, the harshness of the measures, even after going.

1329. Did not he go there and himself see what was going on from time to time ?—He did go.

1330. And go into the plague-stricken houses ?—He did go into the plague-stricken houses, I never denied that.

1331. "If Mr. Rand were to go personally with the segregation parties, he would come to know the above things. But we do not think that the above officer possesses so much competency or skill to do Government work, keeping the people pleased. Certainly true it is that the well-known Mr. Crawford was a bribe-taking man." What is the meaning of that ?—He was the Governor, and he was charged before a Commission by the Government on charges of bribery and corruption.

1332. Why do you suggest that here; are you suggesting Mr. Rand was a bribe-taking man ?—No, in order to contrast Mr. Rand with Mr. Crawford, that is all. He was a corrupt man, but he was sympathetic with the people.

1333. Do you mean it would be better to put back the bribe-taking man than Mr. Rand ?—In spite of all his faults. We are only comparing here the quality of sympathy with the people.

1334. This was the suggestion to the people: Crawford was a corrupt and bribe-taking man, but anyway he would be better to have there than Mr. Rand ?—That is not it.

1335. What else is it?—The thing is, sympathy is a quality which is rare, and however you may blame Crawford for the corruption, yet he had real sympathy with the people.

1336. It is quite plain in the next sentence: "But if he had been here at this time he would have done Government work keeping the people pleased." "Mr. Rand goes out on his rounds in the morning"—was there ever a more industrious official than Mr. Rand?—That is correct.

1337. Did he ever neglect his business?—He saw, he went, but he did not change his policy.

1338. Did you ever give him any credit for doing his best?—He did his best.

1339. But this is the way you hold him up?—A man may do his best, and yet his acts may prove oppressive.

1340. Do you think he ought to have acted on his own views or yours?—This is the view of the people of Poona, not mine.

1341. "Mr. Rand goes out on his rounds every morning. But certainly very few instances could be found of his having made inquiries on the spot regarding the oppression practised on the people and of his having granted relief to them." How do you know; you were not with him?—"But certainly very few instances could be found of his having made inquiries on the spot regarding the oppression practised on the people and of his having granted relief to them."

1342. How do you know, you were not there?—I was in the office, in Mr. Rand's office working; I went round with the parties.

1343. You did not go round with Mr. Rand?—I did go round the whole City, not with Mr. Rand, but I knew whether the grievances were redressed or not.

1344. You did not go round with Mr. Rand?—No.

1345. Therefore you do not know or could not know ——?—Could not know personally.

1346. How many cases he inquired into?— I could know by report.

1347. "And if he cannot do this work, then it will be well if His Excellency the Governor at least transfers" —is that a suggestion that Mr. Rand should be got rid

of out of this place. Anything would be better than to keep Mr. Rand in this Poona administration?—Mr. Rand should be transferred or his acts should be checked; that is what they could have done.

1348. Was there anybody at that time in the Government there that pleased you at all; did anybody please you?—I have not understood.

1349. Did anybody act rightly?—Anybody acting rightly always pleased me.

1350. I cannot find them in the "Kesari" that is all?—In the issue I have collected for England you cannot, but there were numbers of cases.

1351. I can only deal with what I have?—These are selected as what have been criticised.

1352. You were not pleased with Lord Sandhurst?—I was pleased, and displeased.

1353. Lord Harris? The position is this. The Press in India occupy the same position as here but more permanently. We have to criticise acts of Government; there is no constitutional body to do it, and the Press have to do it. They have the place of a permanent opposition in India.

1354. I asked a very simple question. If you could point me to any passage? There are a number.

1355. You really must allow me to put the question and please answer it shortly: Was there anybody connected with the Government at Poona at the time whom you praised?—Yes.

1356. Well, show it to me?—In these articles I cannot; but I can produce files.

1357. You cannot show them now?—No.

Mr. Justice DARLING: Perhaps he remembers the name of somebody.

1358. Sir EDWARD CARSON: Who was it?—Lord Reay was one.

1359. Lord Reay was not there at that time at all. I asked was there anybody there at the time of the plague, any official of the Government dealing with it whom you praised?—There is an instance given here as contrasted with Mr. Rand, the plague officer in Bombay.

1360. I am asking you about Poona. You are a very clever man and you know perfectly well what I am

asking you ?—In Poona in this particular case there is no one. I am not pleased.

1361. Now page 464. 25th April, the "Mahratta". " The appointment of Mr. Rand as the chairman of the Poona Plague Committee was an unfortunate choice. He thinks that he has to stamp out the plague, and if that object is achieved by any means he cares little how much he offends the susceptibilities of the people or what hardships and miseries are inflicted upon the people by his indiscriminate operations." Was that your opinion of Mr. Rand ?—Certainly.

1362. That he did not care what hardships and miseries he inflicted upon the people ?—He always considered they were natural.

1363. Was that calculated, Sir, to raise resentment against Mr. Rand ?—That is not my business to raise resentment—

1364. I am not asking what your business is. I am asking your view as a clever journalist you knew what you were up to very well when you wrote all this. The Jury will judge you by your view: Was that calculated, or was it not, to raise resentment against Mr. Rand when you said that he did not care what hardships and miseries were inflicted on the people ?—It is not calculated to incite people to do any unlawful act.

1365. That is not what I asked you, but the Jury have heard your answer. Now then: " His supreme contempt for the suggestions made to him in a spirit of co-operation, his laconic and curt replies to any queries put to him, his indifferent and very often sullen bearing, and above all, extreme distrust in the work of native agency and native gentlemen, have all made him more than a tyrant at a time when people are suffering from the double scourge of plague and famine. " Would you be astonished at any man taking up and reading that in the midst of these miseries shooting Mr. Rand ?—On the supposition that the man had heard absolutely nothing and had not seen anything, but this was going on in Poona and every Poona man knew that was going on——

Mr. Justice DARLING: Will you listen to the question put to you, and answer the question ? You are not attempting to do so.

1366. Sir EDWARD CARSON: I ask you again, could anything be more calculated to lead to what we know took place, the murder of Mr. Rand, than language of this kind disseminated from day to day amongst the plague-stricken people of Poona?—I do not think it was.

1367. Supposing you wanted to bring about his assassination what would you say of him?—I never wanted to.

1368. I know you did not: I will assume that in your favour, but supposing you did want to?—If the man acts despotically what can we do but to expose his acts; I believe I was within my rights.

1369. But then if your exposition leads to assassination is not it rather an unusual thing to bring an action for damages because people have said so?—The assassination was due to the oppressive acts and not to their being exposed.

1370. "Mr. Rand never believes his soldiers can do a wrong. He has more confidence in the roughest of them than in a native gentleman of means and position." That meant you, did not do it?—Not necessarily, there were others to advise him.

1371. It meant he had more confidence in those rough British soldiers than he had in Tilak, the editor of the "Lion" or "Kesari"?—There is no Tilak mentioned there; there were several advisers.

Mr. Justice DARLING: We know there is not.

1372. Sir EDWARD CARSON: "He gives instructions to the soldiers but is unwilling to curb their overzeal by making an example of any one of them where he is found to be deliberately violating the rules laid down for his guidance." Does that mean even when he was aware of illegal things he took no notice?—It means several complaints were made into which he did not inquire.

1373. Reading that, did you mean to impute to Mr. Rand that even when he was aware of soldiers committing illegal acts he was unwilling to curb them?—I do mean that; what is stated there is true.

1374. What object had Mr. Rand——?—There is no further object in it.

1375. I am asking the question, if you will just

remember you are not at a Shivaji Festival. Just listen to this : Tell the Jury for what reason Mr. Rand should act in this way, that when he knew the soldiers had done wrong he did not curb them ?—I cannot give it in evidence, it is a fact.

1376. What reason do you suggest ?—That he did not attend to the complaints is a fact and I have criticised it.

1377. For what reason, if he found the complaints proved—he may have found there were many lies told, as there often are—for what reason can you suggest to the Jury should Mr. Rand have condoned illegal acts by His Majesty's soldiers ?—I can ; shall I give it ?

1378. That is what I am asking you ?—He believed in the efficacy of his own acts and not in the complaints; he thought the best way of stamping out the plague was to carry out his own ideas in spite of popular discontent to the contrary.

1379. That is no answer to the question I put ?—That is all I can give.

1380. Mr. Justice DARLING: What you have accused him of is this, and you admit it, that when he realised that the soldiers were doing wrong he did not curb the soldiers or find fault with them or punish them, and you are asked by Sir Edward Carson what reason do you suggest Mr. Rand had for behaving in such a fashion as that ?—He believed his own measures must be carried out at any cost.

1381. Sir EDWARD CARSON: Now the next sentence : " Nominally each division of the searching or the whitewashing party is under the control of a military officer, but in practice this officer stands out in the street." Did not the officer very often go into the house ?—Some of them—not all.

1382. " And soldiers are practically allowed a free hand in searching or whitewashing the houses and segregating the healthy. " It was not a very pleasant occupation for the soldiers, was it ?—No.

1383. " Plague is now much better and there are decided signs"—just listen to this—"of its abating within a short time. But the number of persons segregated every day remains the same. And why ? Because the

head of the segregating party"—that is Mr. Rand——?—No.

1384. His officer?—A subordinate officer.

1385. "thinks that it is his duty to send at least three or four scores of people to the segregation camp every day whatever the number of plague cases in the city may be. He must have his victims." Now Mr. Tilak, do you see the awfulness of that accusation; do you see what a horrible accusation that is?—I do not see.

1386. Read it again, Sir?—I have read it, and if you like, I will say what I have to say.

1387. I ask you this: Is it a horrible accusation to make to say that although the plague is abating that the officer charged with this anxious terrible work is, for the sake of having victims, sending men who are not stricken with the plague into the plague camps?—Horrible, if untrue.

Mr. Justice DARLING: Just read to the end of the passage.

1388. Sir EDWARD CARSON: "And like the demons of old he will carry them to the segregation camp in spite of their protests and wails." Is the demon the British officer?—It is a comparison.

1389. Is the demon the British officer?——

Mr. SPENCE: Like the demons of old.

1390 Sir EDWARD CARSON: Is the British officer there meant to be represented like the demons of old, as the Hindus understood?—Yes, by comparison.

1391. Mr. Justice DARLING: Listen to me a moment; that passage was read to you and you were asked if it was horrible and you said: "That is horrible if untrue." Now I ask you, is it untrue, or is it true?—It is true.

1392. Sir EDWARD CARSON: Have you got a single witness here to prove the truth of it?—I have not got any witness, but all these facts have been acknowledged in the Plague Commission's Report.

1393. What Commission?—The Plague Commission appointed by Government.

1394. They must be referred to here; we cannot have statements of that kind. Have you a single witness here or did you examine—there was, my Lord, a Commission in India which sat a long time taking

evidence—did you examine a single witness in India to bear out the truth of one single fact that you allege against our soldiers and our officers in these horrible writings of yours?—It was not in issue at that time, and I was not obliged to give evidence on that.

1395. At all events there is no witness, Sir?—There were facts admitted in Government's report.

1396. Do not you think, Sir, that if a man reading that believed it was true that he would almost be justified or at least driven to remove some of these officers by force?—I do not know; this is alleged merely to the exposure of grievances. It is a broad statement of grievances.

1397. "The reign of the Terror in Poona." It is in the same paper. "The soldiers by their actions have struck terror and dismay into the hearts of people. The terror and consternation of native women can best be conceived by natives alone. In fact the reign of soldiers is a reign of terror and torture. Every bit of the poor man's furniture is torn and tossed asunder" &c, it goes on in the same way. "Images of sacred gods are polluted; kitchens and other places of privacy are freely entered into; the women are made mouths at and those who are present or otherwise incapable of moving out, are mercilessly dragged to the segregation camp; the most indiscreet attempts are made to swell the number of invalids at the cost of healthy persons." What does that mean?—"Most indiscreet attempts are made to swell the number of invalids at the cost of healthy persons." That means they are crowded there.

1398. Does not it mean, Sir, that healthy persons are treated as invalids and put in the camps?—Healthy persons and unhealthy persons are put together.

1399. "Each visit causing greatest annoyance to the houseowners and greatest insecurity to property; the disinfecting operations are carried on in the most wanton manner; property is made away with almost with impunity; live animals are thrown into fire." Did you ever see that happen?—I have not seen it but I have heard it, and it is acknowledged in the Plague Commission Report living animals were thrown in the fire.

1400. If anything is acknowledged it must be

proved here. We cannot have this mere hearsay?—In the newspaper we do not write everything we see.

1401. "Thus manifesting the brutal ignorance of the soldiers and their utter unfitness to hold their powers; and lastly, people are unnecessarily stripped naked, abused and insulted!" Was that calculated to lead to the assassination of those who were doing these things?—This writing is not calculated to do it.

1402. Then you say on page 468, at least this correspondent if he is a correspondent, says: "A bad selection." Having gone through all these miseries: "the requests of the deputation that lately waited upon Mr. Rand, if kindly considered, would alleviate much distress. There is, however, no attempt hitherto apparent on the part of the Committee to approach the requests in a friendly way. This cynicism betrays a complete distrust in everything native. Had the plague operations been presided over by a more sympathetic and practical man than Mr. Rand, people would have by this time been relieved of much unnecessary trouble as their co-sufferers in Bombay." You are attributing it all to Mr. Rand?—Yes.

1403. Is it any wonder he was murdered?—

1404. Mr. Justice DARLING: Are you surprised that somebody murdered him?—His oppression, his acts, not my writing; I do not think my writing contributed to it.

1405. Then at page 469: "The present soldier-demons differ only in having white complexions, while resembling their rivals in all other respects." Now look at page 470: "If the plague does not cease before the rains commence"—this is 27th April, my Lord—"then after that it will go on increasing and ultimately it will so happen that the other countries will not take the goods, coming not from India alone, but coming also from England, a country that has necessarily to maintain a connection with India, and that injury being thereby caused to the trade of England, both England and India—but England immensely—will suffer loss, and there will be great wailings everywhere. In order that the same may be prevented the present zulum is commenced to be practised upon us under the direction of

Her Gracious Majesty the Queen." Does that mean this, that because English trade would be interfered with the Queen has ordered this tyranny to go on in India, in Poona?—It is not my suggestion, this was the argument in Anglo-Indian papers. This is merely a repetition.

1406. It is an editorial note. Does that express your own view or not?—The expression is mine, but it represents what the other side say.

1407. What other side?—The Anglo-Indian papers. This resolution was made, that all the plague measures must be carried out. Orders have come from home Government, and this Government must carry them out.

1408. Did you agree with this?—I have said what I have to say on it. This is the criticism of it.

1409. Page 471: "Not only this, but it has brought and kept as many white military people and black military people as would be sufficient to capture the whole of Poona; in short all people from Her Majesty the Queen down to Mr. Rand have formed a uniform determination that this arrangement for stopping the plague must be brought into force, happen what might." Is that your view?—That is the view of the other party.

1410. Is that your view?—Not my view.

1411. Where do you say that is not so?—You will find it further on in the article.

1412. Just tell me any passage, it will relieve the monotony of the abuse?—"Be that as it might, the Government of India"——

1413. I do not see anything. (The witness perused the book.)

Mr. Justice DARLING: Page 473 seems to me to be the important part of it, the passage which was read by Sir John Simon, it goes on, then it comes to this: "If we offer resistance to the soldier"—it is eight lines from the bottom. Suppose you begin at "Assuming, however."

Sir EDWARD CARSON: "Assuming, however, that there is some ground for it, that does not mean that we should allow the soldiers to play any pranks they like,

before our very eyes. If we offer resistance to the soldier while he is acting according to the rules laid down for him, we shall be guilty, but there is no offence whatever in preventing a person from committing theft." My Lord, what I was asking him about was the charge that the origin of the whole of this was the desire of the English with respect to their trade.

Mr. Justice DARLING: It is put as plain as possible that it was because they would suffer loss; he said that is what the other side was saying, but I have read this and I cannot see he said anywhere that was an unjust suspicion.

Sir EDWARD CARSON: No, my Lord, that is what I was asking him to point out.

Mr. Justice DARLING: He was dealing with what was certain to happen, or did happen. At the bottom of page 473.

Sir EDWARD CARSON: "If we offer resistance to the soldier while he is acting according to the rules laid down for him we shall be guilty, but there is no offence whatever in preventing a person from committing theft. It is learnt that some days back some ten or five soldiers went into Raste's Peth at night, and created some disturbance for which they received a good thrashing and that one of them died in the hospital, but just as no one could be held responsible for it, so it will happen in other matters also. Only we should act in accordance with law, and it is not that it is very difficult so to act; and we are sure that if the people remain mindful of their respective rights, there will be no excesses which are now committed, no matter how rigorous the measures adopted by Government may be, but owing to the better class of people having left the town and owing to the poor people that have remained in the town not being possessed of sufficient courage, no resistance can be offered by us to this zulum, which is a matter of great regret." That is the tyranny of the soldiers, I suppose?

Mr. Justice DARLING: Then a few lines further on you come to Mr. Rand introduced.

Sir EDWARD CARSON: "Our Mr. Rand is so stubborn that he patiently heard them and continued

his course of conduct as before."

1414. Mr. Justice DARLING: Come, Mr. Tilak, do you see any connection at all between setting out that story of what happened to the soldier when he went on acting as he had been told and got killed, and then immediately afterwards the complaint of Mr. Rand, Rand being mentioned by name. Do you see any connection between the two? It is the bottom of page 473, and the first complete paragraph of page 474 near the top? (The Witness perused the passage.)—This has nothing to do with it.

1415. That is the very question you were asked, but it goes on: "There will scarcely be found any other officer so unfitted as Mr. Rand to mix among and behave in harmony with people, to hear their complaints and to remove such of them as may be just," and so on. "Suspicion also arises whether he has been selected solely to give trouble to Poona."

Sir EDWARD CARSON: I was going to ask him about that. Mr. Tilak, just look at that sentence there: "There will scarcely be found any other officer so unfitted as Mr. Rand to mix among and behave in harmony with people, to hear their complaints and to remove such of them as may be just, to explain to them the objects of Government, &c., and a suspicion also arises whether he has been selected solely to give trouble to Poona." Selected by whom?—Selected by Government.

1415A. Lord Sandhurst?—Yes, it is not a particular individual, it is Government.

1415B. Do you mean to say you were suggesting to these people that he was purposely selected in order that he should create trouble in Poona?—That would be the impression to the people, if you do not remove it.

1415C. Was that what you wanted to convey to the people?—No, that is what I say the people would say.

1415D. But it is your suggestion "a suspicion arises whether he has been selected solely to give trouble to Poona." Can you make a more wicked suggestion?—It is not a wicked suggestion?—It is what the people will be led to believe.

14I5E. Did you believe it yourself?—I have said people may be driven to believe it.

14I5F. Did you believe it yourself?—I believed that myself so far that that impression would be produced on the people.

14I5G. You were an intelligent man educated at a University with great influence as we know—when you said there: "a suspicion arises whether he has been selected solely to give trouble to Poona." Did you believe a word of that?—I did not believe Government did it for the purpose, but I did believe this would be the impression produced on the public mind.

14I5H. I am asking you, may I take it when you wrote that you did not believe it yourself?—I believe the—

14I5I. Did you believe he had been selected?—It is a double question. I can only give an explanation.

14I5J. Mr. Justice DARLING: You can answer perfectly well. Somebody writes to your paper: "There will be scarcely found any other officer so unfitted as Mr. Rand to mix among and behave in harmony with people, to hear their complaints and to remove such of them as may be just to explain to them the objects of Government &c., and a suspicion also arises whether he has been selected solely to give trouble to Poona." Did you yourself, you are asked, believe that he had been selected solely to give trouble to Poona.?—My answer, my Lord, is this—

14I5K. You will answer Yes or No to that question. Did you yourself believe that he had been selected solely to give trouble to Poona?—I did not believe it myself.

14I5L. Then attend to me: Why did not you say so in your paper—in a note or somewhere?

14I5M. Sir EDWARD CARSON: Why did not you go on and say: We warn the people there is no foundation for such suspicion?—It will be created, that is what I have said.

14I5N. Why did not you say: "I myself"—this is an editorial note—"do not believe a word of it"?—I have stated what impression will be created.

14I5O. Mr. Justice DARLING: I have asked you

that, and you have at last answered Yes or No. Look at the top of page 475?—"It is never possible for the present Moglai to continue."

1415P. You have missed out a word What does "Randshahi" mean?—It is the rule of Mr. Rand's administration.

1415Q. "It is never possible for the present Moglai or Randshahi to continue for any length of time and we do not think that the people, no matter how meek, will put up with this harassment continuously."

1415R. Sir EDWARD CARSON: Was that a direct incitement to murder him?—No.

1415S. Mr. Justice DARLING: How long did he live after that was published?—He was murdered in June, and this was written in April.

1415T. He was murdered June 22nd, and that was published on the 27th April.

1415U. Sir EDWARD CARSON: Now Mr. Tilak, What was he murdered for?—According to the confession of the murderer, he was murdered for his oppressive acts.

1415V. In relation to the plague?—In relation to the plague.

1415W. I asked you before about your view of this murder. When you were writing about the bomb?—Yes.

1415X. Years afterwards you said this: "From the murder of Mr. Rand on the night of the Jubilee in the year 1897 till the explosion of the bomb at Muzafurpur, no act worth naming and fixing closely the attention of the official class took place at the hands of the subjects. There is considerable difference between the murders of 1897 and the bomb outrage of Bengal. Considering the matter from the point of view of daring and skill in execution, the Chapekar brothers take a higher rank than the members of the bomb party in Bengal." They were the men who murdered Mr Rand?—This is a comparison between the criminality of the two acts.

1415Y. "Considering the end and the means, the Bengalis must be given the greater commendation. Neither the Chapekar nor the Bengali bomb-throwers committed murders for retaliating the oppression practised

upon themselves; hatred between individuals or private quarrels and disputes were not the cause of these murders. These murders have assumed a different aspect from ordinary murders owing to the supposition on the part of the perpetrators that they were doing a sort of beneficient act." Is not that exactly what you are pointing out here, that the people ought not to be so meek as to allow this to go on?—This is a comparison.

1415Z. That was the passage I called attention to. Page 1073, volume 2. "The Secret of the Bomb." Then you go on "The people no matter how meek will put up with this harassment continuously. We therefore request Lord Sandhurst that his Lordship will not try their patience to the utmost so as to make them feel that they had better free themselves from this harassment no matter if they died of plague." How were they to free themselves?—I have not encouraged them to commit murder, I tell you what this means. We would rather die of plague, rather than suffer in this way.

1416. That is not freeing yourselves, you mean commit suicide by getting plague?—We would rather die of plague.

1416A. "Will not try their patience to the utmost so as to make them feel that they had better free themselves from this harassment." What is the harassment?—Rather than put up with harsh measures we are prepared to die of plague.

1416B. That is not freeing themselves, you know?—That is what people said actually.

1416C. I will go on to the article on page 475. This is, my Lord, 4th May, 1897. I think it is as well to keep the dates as one gets on towards the 22nd June. I am not going to read the whole of it at the moment, it will have to be read sometime to the Jury in evidence. I am now going to page 477: "Similar in character was the fight between the inexperienced and slenderly equipped Shri Shivaji Maharaja and the mighty Afzulkhan. God gets such great deeds performed at the hands of human beings themselves and therefore agreeably to the adage 'if a man exerts himself he will rise from the condition of man to the position of God,' man ought to do his duty." What were the great deeds that were

performed ?—The killing of Afzulkhan and routing his army.

1416D. Killing him for what ?--Because he invaded the provinces with that army.

1416E. Because he was a tyrant ?—It has nothing to do with being tyrannical.

1416F. I will have to come to that passage when I deal with the Shivaji part. Was not he looked upon as a foreigner who has no right to be there within the dominions which Shivaji presided over ?—Yes.

1416G. And he killed him on that ground ?—Because he invaded; he came with an army and invaded his territories.

1416H. He killed him and you were commending it. You are putting it forward as an example. Listen to this: " We are now reaping the fruits of our dereliction of duty in the past and in the present. What was the dereliction of duty ?—Dereliction of duty not to do anything to counteract. The whole thing is we cannot sit quiet: we must work.

1416I. To counteract what ?—Any oppressions we do not like and get them removed.

1416J. A British Government ?—Not the British Government, the measures.

1416K. The measures and the officials ?—Measures initiated by the officials.

1416L. " We are now reaping the fruits of our dereliction of duty in the past and in the present." Was that language not imitating what Shivaji did to Afzulkhan, was that the dereliction of duty?—That does not say that.

1416M. " Nowadays we hear the purans or read stories from books but the only thing we fail to do is to form a firm resolution in our minds after due consideration and to conduct ourselves in a proper manner. The only things we take pride in and which form the subject matter of our thought are the writings of one, the nice replies given by another, and the speeches of a third. So will our young men, instead of doing this, imitate during their lifetime most of the things recorded in the ilfe of Shivaji and in Ramayan ? Otherwise it will be just the same whether the Festiyal is or is not celebrated for hundreds of years more." What did that mean ?—

They must take proper lessons from the Shivaji Festival otherwise it is no use.

14I6N. The method of killing the invader?—Oh, no.

14I6O. What other lesson was it?—Self-reliance, self-honour, to be active, patriotism—these are the things.

14I6P. To be active?—These are the lessons.

14I6Q. "It is therefore my wish that all Hindus shall at the time of the Shivajayanti think over and cogitate upon the doings, the courage, the firm resolve, and the ingenuity of Shivaji, and instead of supplicating the Authorities for protection, lay all their complaints before God, and lovingly implore Him and perseveringly ask Him again to create among us a Shivaji similar to this." What did that mean?—Lessons to be derived from the Festival.

14I6R. Did not that mean that they were to cogitate on the courage, the resolve, and the ingenuity, and pray God to raise up another man who would murder another Afzulkhan and deliver the people?—That is not what it means. I again point out this is not an article written on plague measures, but written just at the time of the Shivaji Festival, and it relates only to the Festival.

14I6S. It is written at the same time—

14I6T. Mr. Justice DARLING: Mr. Tilak, listen to the last few words read: "perseveringly ask Him"—that is ask God—"again to create among us a Shivaji similar to this"?—Not similar.

14I6U. Yes, it does say "similar to this"?—My Lord, I have only one explanation to give. We always pray that patriotic men, self reliant men, will be raised.

14I6V. Tell me what was the very best thing that Shivaji ever did?—The foundation of the Hindu Empire.

14I6W. How did he do it?—It was the foundation of the independence of the Nation.

14I6X. Did not he do that by the killing of Afzulkhan?—That was one of the acts.

14I6Y. Could he have done it without?—I cannot say that.

14I6Z. Sir EDWARD CARSON: Was it one of the minor acts, the killing of Afzulkhan?—No; one of the acts I said. There is one explanation I might give. Supposing we have the Festival here it does not mean

we go on killing kings and others—it has been said at one of the Festivals.

1417A. This was one of the articles given in evidence at your trial?—Yes, it was.

1417B. When you say you were wrongly convicted? —Yes.

1417C. "But the number of those dying by the famine is going on increasing" This had relation to the famine anyway?—No; this is written of the Festival.

1417D. Had it relation to the famine on pages 476 and 477?—No, this has relation to the Shivaji Festival during that week.

1417E. Look at page 477. "But the number of those dying by the famine is going on increasing." "We become pleased with the people having already undergone miseries and the gods suffered troubles and Garud who is one for all Hindus having been destroyed in consequence of the zulum practised on account of the epidemic of fever." Is not that the plague?—Yes.

1417F. You said this had nothing to do with the plague?—The article had nothing to do with the plague.

1417G. I will not labour it, my Lord. "A Governor afterwards expresses his 'regret' for those occurrences? Hollow words did not please Shivaji. Let not, therefore, such a thing happen. Let this be known." Hollow words did not please Shivaji. Were you suggesting you wanted something more than hollow words?—It is not hollow words. It means you must be a man of action.

1417H. Like Shivaji?—Like Shivaji.

1417I. Enticing a foreign general and then murdering him?—Oh, no.

1417J. Who is "Ganesh"?—It is an assumed name.

1417K. Why is it assumed?—They do not want to disclose their name.

1418. What does it mean?—It means God. It is a famous name among the people.

1419. Is it the same as "Ganpati," the god with the elephant's head?—Yes, but here it does not mean that god.

1420. What does it mean?—It means a proper name.

(Adjourned for a short time.)

1421. Sir EDWARD CARSON: Now Mr. Tilak, will you look at page 478. There is another article in the same number of the 4th May, which also seems to have been given in evidence at your trial. This begins: "There is no doubt that many people will have their lost courage revived on hearing that several of the soldiers, who have come here for the purpose of inspecting the houses, are to go back after eight hours more. Everybody already knows now of the excess committed by these soldiers during the Rand regime; and at last even the truth of what we had written is becoming manifest, not only here but even in other places to people like Anant. It is true that Her Majesty the Queen, the Secretary of State and his Council should not have issued an order for needlessly practising zulum upon the people of India, without any special advantage to be gained." What order was there for needlessly practising tyranny?—It was published in both papers at that time that the plague operations should be carried on.

1422. In the way you describe them?—Yes.

1423. The orders for putting down the plague?—Yes.

1424. "And that the Bombay Government should not have entrusted the execution of this order to a suspicious, sullen and tyrannical officer like Rand; and for this one cannot sufficiently blame the Home Government as well as Lord Sandhurst. But in our opinion it is the duty of our leaders to find out some contrivance for the protection of our people when it has once been settled that the Government is to practise zulum and when we are convinced that no one up to the supreme authority will and does afford any redress for this zulum, as this order has been issued directly by the Home Government itself." You are there imputing to the Home Government connivance at the tyranny?—Not connivance.

1425. What?—That they would have it as it is.

1426. Is not that connivance?—No.

1427. You mean that they took the responsibility of it?—They took the severest view of the case.

1428. The Home Government?—As well as the Bombay Government.

1429. That was Lord Sandhurst and the officers on the spot?—It does not mean Lord Sandhurst alone—he and his Council.

1430. And the officers on the spot?—It means he and his Council.

1431. And the officers on the spot?—They are not included in the word "Government"; they have to obey orders; they carry out those orders.

1432. They carry out the tyranny. They were, were they not, in a conspiracy to impose tyranny upon the people?—There is a difference between the two views. One man thinks that this must be done whatever the consequences, and the other man does not.

1433. If you disagree with them when they are doing their very best to put down the plague you hold them up to the people as tyrants and oppressors?—In my opinion or in the opinion of the people so much oppression was not necessary, and that is the difference between the two views.

1434. Now I go to page 481, that is the 9th May: "The plague and the plague measures." "The plague itself has given a pledge to people not to molest them any more; but the tyranny of the Plague Committee and and its chosen instruments is yet too brutal to allow respectable people to breathe at ease. Only the other day at the dead of night a surprise party beseiged a house and carried the inmates by force, prisoners to the segregation camp. Even supposing that the people were evading segregation, we contend that the brilliant manœuvre could have been made with success in the morning." Was that a case in which the people were trying to evade the plague regulations?—They were suspected of trying to evade the plague regulations and their houses were surrounded at midnight.

1435. "Mr. Rand is perhaps too callous and heartless to realise that a night surprise by the dreaded soldiers strikes fearful panic in the already panic-stricken people. Mr. Rand really may be complimented upon successfully carrying out his stern policy without even showing that he is susceptible either to mercy or kindness." Is that your view of him?—To go at night with a surprise party is not kind.

1436. Was that your view of him?—Yes.

1437. An inhuman creature without mercy or kindness?—It was not kind to disturb them. That is about this particular incident which is true.

1438. "His actions, however, along with those of the Bombay Government receive strong condemnation from facts and medical opinion; and Mr. Rand had better mend his ways, since it has been patent that the abatement of the plague is not all due to his measures and therefore his cruelty may be spread at least in the future." "Mend his ways"—is that likely to exasperate the people?—This is not what exasperates the people. What exasperates the people is the act itself and not that.

1439. Now coming on to another exhibit, in your trial on page 484, there is this from the "Mahratta": "Free Thoughts." "But the British rule has compelled the helpless peasantry to leave their beloved fields and happy homes and to resort to the dirty and overcrowded parts of Bombay. There they live in filthy huts, cut their bread by the sweat of their brow and return back to their native villages with savings only sufficient to meet the demands of the rigid system of land assessment. The bold peasantry of Maharashtra and the hardy race of cultivators in Konkan, no longer shine in the army or navy of the land as in the days of the Peshwas. The dwarfing influence of the British Raj has turned the backbone of Maharashtra and Konkan, once forming the famous cavalry (Hujur Pagas) of the Deccan and the navy of Konkan, their country's pride, into a mere servile class of field labourers, destined now to work like slaves for the luxuries of the omnipotent bureaucracy—luxuries far surpassing in vanity and folly the fabulous pleasures of the mighty demons of yore, described by the most exuberant fancy of this land of poets." Was that what you wanted the people to believe of the English rule in India?—This is nothing to do with English rule. I believe they have omitted the context. The industrial civilisation was opposed to the rule at that time, and this relates to the fact that Bombay was rebuilt after the plague, and the writer says: "Are you going to be turned into a mere servile class of field labourers."

1440. This is not what you say. I am reading what you say. You are saying something he might have said. You say it does not deal with British rule. Listen to this: "The British rule has compelled the helpless peasantry to leave their beloved fields and happy homes and to resort to the dirty and overcrowded parts of Bombay"?—They had introduced an industrial civilisation into the land before for the growth of the cities and the growth of villages.

1441. It is very easy to protest against that in language not quite so exasperating?—This is not my contribution. I might do it in a different strain.

1442. You might have argued that the introduction of industries or civilisation into a country is a mistake? —This is the effects of it.

Mr. Justice DARLING: He might have written like Mr. Ruskin did.

1443. Sir EDWARD CARSON: Yes, my Lord. (To the Witness): Now will you turn to page 489, the 25th May, where you contrast the Ramayan with British rule. "The case with our present Yavan"—yavan means foreign, does it not?—The English sovereignty.

1444. It means a foreign sovereign, does it not—you treated him as a foreign sovereign?—Yes.

1445. "The rulers cannot see anything beyond their own interest, the interest of their own country, and the interest of their own people." They are a dreadful lot, the English?—This is not about the English; it is the effect of the present rule.

1446. "They do not regard the thirty crores of subjects as their subjects or their own people. In their view, we are not human beings"—was that your view?— That has been said by the best philosophers.

1447. "But are moving and talking machines to produce wealth for them and to be ready in their service —nay, in servitude." Was that calculated to exasperate the people up to a white heat?—It is nothing to do with white heat. It is a general complaint of the administration. It is calculated in the mind of their writer to create a desire——

1448. I am only asking you a very simple question. You are a very learned and intelligent man, as everybody

admits?—Excuse me.

1449. You are a very learned and intelligent man and can answer if you like?—I will answer as best I can.

1450. Was that calculated to exasperate the people who read it against British officials?—It was not calculated to exasperate the people against British officials.

1451. "They have become so arrogant through intoxication of wealth that they have forgotten the commandments of their own Dharmic and of the Son of the God." Then you talk of some lady who was out there, and you say "Where has that lady gone now? Why does she not tell the whole English nation that its conduct towards India is wicked and unjust; or is there none left in the world who would say to our Yavana sovereigns, 'You are committing perfidity towards the subjects; you are committing a great sin and God is sure to punish you for this sin.'" Was that your view of the English rulers?—Will you look at the bottom of the page?

1452. No, this is about 10 or 12 lines from the bottom?—"Where are those missionaries too gone? They feeling sorry for the violators always shed large crocodile tears. They ought this day to come forward and save the reputation of their country."

1453. Will you just look at this: "Why does not she now tell the English nation that its conduct towards India is wicked and unjust; or is there none left in the world who would say to your Yavana sovereigns, 'You are committing perfidity towards the subjects'"—that is the British Government—"'you are committing a great sin and God is sure to punish you for this sin'"? Was that calculated to excite the people to exasperation?—No.

1454. Would you tell me how you would excite people to exasperation? Would you give us a little seance now of stronger language?—We must complain of being deprived of the rights——

1455. I am asking you to tell me what kind of language you would use?—That is what I am going to do.

1456. Will you tell me what kind of language you would use if you wanted to excite the people to

exasperation?—We have been suffering from not being entrusted with rights, and we wanted to complain. We do want that the people should take remedies to remove it, and if I wanted to rebel I should openly say: "Go ahead with it."

1457. But that is not half as strong as what there is here. I want a specimen of your best when you want to excite to exasperation?—My best is to incite them to persistent agitation.

1458. Will you look at the second paragraph on page 491: "To add to that calamities like epidemics and famines are befalling us. The chief cause of these calamities is, according to our old idea, the iniquitous conduct of the sovereign, and that idea is true at least so far as the famines are concerned." Who was the sovereign who was guilty of iniquitous conduct?—It was the iniquitous conduct of the Government.

1459. It says: "The iniquitous conduct of the sovereign, and that idea is true at least so far as the famines are concerned. Even the uneducated have now begun to realise that the policy of conduct of our Yavan sovereigns has become spoiled. The other day a merchant came here from Bombay. I asked him about the state of affairs at Bombay. He then said: 'Why do you ask?' 'The policy of conduct of the sovereign has become spoiled. In the first place one does not know who is the sovereign and who should be obeyed. Great zulum (tyranny or oppression) is going on.'" Is that part of your best for exciting exasperation?—It is not as you say.

1460. Then I go to page 493, and this brings me to the 30th May: "The plague has almost gone and probably also for ever" is how the article commences. Then on page 495 you say this: "But very few things can be expected from a foreign and so unsympathetic a Government." That is the English Government?—Yes.

1461. "There is much that people ought to do for themselves. If the Government policy is fixed and its executive relentless, then it becomes the duty of the educated people to step in between the Government and common people who are most affected by the high-handed rule of Government at a time like that of the

plague. But the plague has taught us that co-operation in Poona of educated men for any useful purpose is impossible. This teaching of the plague is very disquieting. For with the hope of such co-operation is lost all hope of the Poona public doing any good to themselves or to others." Then I pass on to this: "The educated men evinced their pusillanimity by going out of the city and leaving the poor masses to the tender mercies of Mr. Rand and his colleagues." Does that mean they ran away from the plague?—Most of them did—half a dozen or a dozen people.

1462. But Mr. Rand stayed there through it, and the risk of getting the plague?—And so did the other people.

Mr. Justice DARLING: Were the educated men natives or Europeans?

1463. Sir EDWARD CARSON: Who do you mean by "the educated men"?—The men who are educated in our cities and considered to be the leaders of the people in Poona—Hindus and Mohammedans.

1464. Natives?—Yes.

1465. But they ran away?—Many of them.

1466. They ran away, but poor Mr. Rand could not run away?—And I could not.

1467. But he did not run away?—No.

1468. And the soldiers did not run away?—No.

1469. And that was why Mr. Rand was murdered, was it not?—I do not know.

1470. "The uneducated showed that they lacked the courage which, for want of education, was supposed to be residing in them. The Plague Committee and its officers ran riot in the city as if the city was a silent cemetery inhabited by dead bodies. The unmanly complaints and piteous moanings of men only set off to a lurid glare the degeneration which their inner self had reached. The hand of the executive was unresisted even in the most illegal practices. The excesses of the soldiers which were the occasions of insults to the community ought to have been also the opportunities for the community to show that if unfortunately they could not make law at least they could make the execution of it as it ought to be, mild and inoffensive. But the opportunities

were not availed of and the oppression made by the soldiers in the name of law was a shame not so much to the executive as to the tame, sheepish people who suffered it." Was that inciting the people to revolt?—No.

1471. What was it?—It was rather a reproof upon the people who fled away from the town.

1472. But it says: "But the opportunities were not availed of and the oppression made by the soldiers in the name of law was a shame not so much to the executive as to the tame sheepish people who suffered it." Does that mean that they ought to have resisted?—No, it does not.

1473. And taken active steps?—No.

1474. What does it mean?—It does not mean that. Shall I explain?

1475. Yes, but do not be too long?—Shall I give an explanation?

1476. Yes?—The explanation is that this is referring to the officers who were carrying out harsh measures, and it is also referring to the natives who fled from the town. The officers ought to be there on the spot. If the officers had been on the spot this could have been prevented. That is what it says.

1477. Mr. Justice DARLING: But you are not dealing with the question. What you are asked is to explain these words: "The opportunities were not availed of, and the oppression made by the soldiers in the name of the law was a shame, not so much to the executive as to the tame sheepish people who 'suffered it.'" What you are asked to say is what ought the people to have done?—They would not interfere with them.

1478. Who would not?—The English, the leaders.

1479. You are not speaking of the leaders; it is "the tame sheepish people." What do you mean? What is the characteristic of a sheep?—To suffer; not to complain.

1480. But supposing a dog sets about a sheep it will not bite back?—They must not complain.

1481. Do you mean this: That these people were unjustly treated and they behaved just as sheep would have behaved in the same circumstances?—I meant that

they were unjustly treated.

Mr. Justice DARLING: You know, Sir Edward Carson, you have asked him to explain a great many of these passages. I have listened to the explanations that he has made, and so have the Jury. Do his explanations really help us to understand the meaning better than we can get it by reading it for ourselves?

Sir EDWARD CARSON: My Lord, I do not want to leave myself open to the criticism that I did not give him an opportunity,—when I have to come to deal with this,— of making an explanation.

Mr. Justice DARLING: He has had the opportunity, and he has made a great many explanations, but my point about it is that, after all, it remains for the Jury to read the thing in its natural sense, and to say what they think it means.

Sir EDWARD CARSON: The sole question is whether the deduction drawn by Sir Valentine Chirol, who was out there and wrote this history, are fair representations of what is to be taken from this.

Mr. Justice DARLING: Yes. A good many of these passages have been read to the Jury by Sir John Simon, and he has asked the witness about them.

1482. Sir EDWARD CARSON (to the Witness): Now will you tell me this: Did you ever advise the people that if constitutional methods failed they would have to resort to arms?—I have never given that advice.

1483. Will you look at page 496. This is the 30th May: "The British rulers believe that the subjects if entrusted with arms may one day use them against the Government. The belief is partially well founded, for the British Government is an alien Government, and the subjects in trying to get emancipation will, if constitutional methods fail, have some day to resort to arms"?—That is not my opinion.

1484. Then what is it? Is not this one of the articles for which you were prosecuted and which was given in evidence at your trial?—As you see in the note, we are discussing the position where arms are necessary for the good of the State, and the writer says that the arguments which are advanced usually in

British India do not apply in the case of Poona.

1485. You knew, of course, that the Queen's Jubilee was coming off on the 22nd June?—We never dreamed but that we were going on in the usual course.

1486. Did you know that the celebration of the Queen's Jubilee was coming off on the 22nd June?—Yes.

1487. Did you know that it was to take place?—Yes.

1488. Did you know that some of the Indian Princes had been invited over to London to it?—Yes.

1489. Did you abuse them for going?—I beg your pardon?

1490. Did you abuse them for going?—No, I did not abuse them for going.

1491. Now listen to this at page 498. Could there be anything more scandalous? "It is a pity that some of our Chiefs and Princes have got greatly mistaken notions of loyalty. In their zeal for exhibiting loyalty to the Queen they go so far as to forget themselves and the high position which they hold in their own land. The unworthy self-forgetfulness is clearly shown by the mania, which has seized some of our Princes, of going to England for the purpose of spreading their gay plumages before the eyes of the British public. The Queen's Jubilee has afforded them only another opportunity for gratifying their vanity under the pretext of making a homage pilgrimage to the Queen's throne. Those uninvited guests are, of course, unwelcome; nor is even good grace or common courtesy shown by the host in receiving them." What ground had you for saying that?—The account in the newspapers.

1492. "But in their eagerness to lick the dust of the Queen's feet these Princes swallow up ill-treatment and insults too. They invariably pay the penalty of thrusting themselves where they are not wanted; but we have seldom seen any of them taking a wholesome lesson for his future guidance. We feel extremely nervous about these Princes, when we imagine what insignificant atoms they must prove themselves to be in the crowd of the magnificent assemblage that will throng London in the Jubilee time. They will attract no notice, at least not a

regardful notice."

Mr. Justice DARLING: Would you go back to this: "These uninvited guests are of course unwelcome; nor is even good grace or common courtesy shown by the host in receiving them."

1493. Sir EDWARD CARSON: What ground had you for saying that the late Queen insulted these people, and what ground had you for saying that these people were unwelcome?—The account that appeared in the newspapers.

1494. What newspapers?—English as well as Indian and Anglo-Indian.

1495. Mr. Justice DARLING: Just tell me this. Did an account appear of a Durbar held in the India Office—a great ceremony held in the India Office, at which the Princes were received, each one very carefully and punctiliously, according to his rank? Did you read of it or not? This is comment upon what appeared in the Anglo-Indian and Indian papers.

1496. Sir EDWARD CARSON: Did you make any inquiry about it?—No, the newspapers made the inquiry

1497. You seek to create hostility against even the native Princes without making the slightest inquiry?—This appears in the other newspapers.

1498. Mr. Justice DARLING: No matter whether it appeared in the other papers, if it is false you cannot make it right by saying that other people told the same falsehood. Just attend to me. Do you or do you not—?—I do not know personally——

1499. Will you attend to me. Did you know or did you hear or read whether a great ceremony—a great reception—took place at the India Office of these Princes from your own country?—I read an account of it in the papers.

1500. Is there anything the matter with it?—I made no personal inquiry into the matter.

1501. Never mind whether you made a personal inquiry into the matter. You read an account of it in the papers and yet you published this?—It was in the papers.

1502. Just attend to this, and listen to me. You published this: "Nor is even good grace or common

courtesy shown by the host in receiving them." Do you repeat that?—This is——

1503. Do you repeat that statement, or do you not?—This is a comment made in the papers. I do not remember what I put in, but this is a comment on the account which appeared in the newspapers.

1504. I do not care what it is. I ask you now, knowing all that you do as to the reception of those princes at the Jubilee, do you repeat to-day what you published in your paper?—It is a comment.

1505. Do you repeat to-day that there was not common courtesy shown in receiving them?—It is a comment made on what appeared in the papers at the time.

1506. But you do not answer my question. I will give you one more chance of doing so. Never mind whether it is a comment or whether it is not. You published it in your paper. Knowing the facts that you do, do you repeat those words to-day?—Knowing the facts as I did—I did not know them personally. Your Lordship will see that this is a comment upon the accounts in the papers. If those accounts are correct, these comments are correct.

1507. Sir EDWARD CARSON: There is no statement that it is a comment You state it as a fact. Let me go on a little more with it: "Reuter announces that the uniforms of the natives excited much admiration, we fear much irreverent amusement." Where did you get that about irreverent amusement? You are telling the people that the princes were received here in London with irreverent amusement Where did you get that?—That is a comment upon it.

1508. Is not that pure malice towards the British Government?—I do not think so.

1509. You see: "Reuter announces that the uniforms of the natives excited much admiration, we fear much irreverent amusement." What did you base that upon?—It is comment. Any new men coming amongst you——

Mr. Justice DARLING: I think you had better read right to the end, Sir Edward. We get a better opinion of it if we have the whole thing read to the end.

1510. Sir EDWARD CARSON: If your Lordship pleases: "And that the Prince of Wales 'inspected' them at Marlborough House"—inspected is put in in inverted commas—"this royal inspection, we think, scarcely means any other than the inspection by a circus-wallah of his brutes in the menagerie, or his fancy animals in their cages, preliminary, to their being trotted out in the arena under the smack of the whip." What did you found that on? Is not that as gross a perversion of facts as could be put by any malicious individual to create ill-feeling in India?—No, it is not.

1511. What does it mean?—It simply means that there is a class of people who do not like this kind of thing.

1512. Does it not mean this—that the late King, who was then Prince of Wales, had an inspection, and that he appeared like a circuswallah inspecting his brutes, who were the Indian Princes, in the menagerie or his fancy animals in their cages preliminary to their being trotted out in the arena under the smack of the whip. What does that mean?—We do not like the doings of the aristocracy.

1513. Is not that your best in the way of exasperating the people?—It is not calculated to exasperate the people.

1514. Mr. Justice DARLING: Now will you attend to my question and answer it? Is it your opinion now to-day that when the Princes of India came over here to the Queen's Jubilee they were honourably received as great Princes, or is it not your opinion?—I do not really know anything about it.

1515. Then why did you write about it?—I was writing from reports in other newspapers.

1516. Why did you write and publish such a thing as that?—I got the reports from the newspapers and generally in newspaper offices, many of the notes are written as comments on what appears in other papers.

1517. Sir EDWARD CARSON: Can you tell us of any object whatever in writing that stuff except to create ill-feeling in India with regard to the way in which their individual Princes had been treated by the Royal Family in this country?—No.

1518. No other object?—That is not the object. The object is to say that the aristocracy is entirely useless.

1519. Mr. Justice DARLING: What?—That the aristocracy is entirely useless to a nation.

Mr. Justice DARLING: He says that the object is to show that the aristocracy is entirely useless to a nation.

1520. Sir EDWARD CARSON: Why did you not put that without heaping insults which were to exasperate the Indian people against the British rule?—It is not exasperation. This is what the writer has said. This is not myself. I might put it in a different shape if I were to write myself. I am only explaining what he means.

1521. What you would probably say is: "We think a country is better without the aristocracy"?—Yes, I do say that.

1522. I am not objecting to your views at all, but what I am objecting to is that you should bring an action for damages when you do these things?—It is that we could do without the aristocracy.

1523. Mr. Justice DARLING: Mr. Tilak, do you see the difference between writing to say that India ought not to have an aristocratic band of princes and writing to say that when they came over here they had been grossly insulted by the ruler of this country? Do you see the difference?—It is that they should not put up with this treatment.

1524. But do you maintain that they met with that treatment? What is a circuswallah?—It means being under the control of one man.

1525. Is a circuswallah the man in the ring with the greasy hair and the long whip?—Yes.

1526. Sir EDWARD CARSON: Now I come to the 15th June, which is exactly a week before Mr. Rand was murdered. It commences at page 501. This is one of the articles with regard to which you were prosecuted. This is an account of the Shri Shivaji Coronation festival. I think you had been greatly expanding the Shivaji festivals?—I took an interest in promoting the Shivaji festivals.

1527. They had been greatly increased in numbers

and length ?—Yes.

1528. For political purposes ?—No.

1529. Do you deny that ?—Yes.

1530. I shall have to examine the Shivaji festivals. Did not you support or help to promote the Shivaji festivals for political purposes to try and relieve India of British rule ?—The latter part of it is not correct. I promoted the festivals for historical and national reasons. If that means political, it is political.

1531. I put it to you that the Shivaji festival was one of your political weapons against English rule in India ?—No.

1532. I hope the Jury will remember that when I come to examine it in a few moments. Did you also at the Shivaji festival preach that Shivaji was an example that they should follow in obtaining their independence ? —In fighting against our present rulers—in fighting for liberty.

1533. Exactly—in fighting for liberty against their present rulers ?—Against the present Government.

1534. Did you also use Shivaji festivals as a means of teaching the youth who were growing up what was their duty towards their foreign rulers, as you call them ?—No.

1535. Do you swear that ?—I did not use it as a means.

1536 Used young people—students—to come there ? —I did not use it as a means.

1537. Did students come there ?—It was not intended for students, it was intended for all.

1538. I only want to see how far you are to be relied upon. Did you use it as a means for promoting Swarajya ? —No.

1539. And boycotting ?—No.

1540. Do you swear that ?—Yes, I am already on oath.

1541 We shall see in a few moments. Now I come to this celebration. Were you yourself present upon this occasion ?—In 1897 I was present.

1542. Was that great man, Professor Paranjpe, with you upon that occasion ?—Yes.

1543. He was there ?—Yes.

1544. He was the gentleman who you told us was convicted about the same time as yourself for sedition?—Not in 1897. That was in 1908.

1545. I say he was the gentleman who you told us was convicted at the same time as yourself?—No.

1546. In 1908?—No.

1547. Paranjpe?—No, not in the same trial as myself.

1548. I did not say in the same trial—at the same time?—No—before me.

1549. A few days?—A fortnight.

1550. He was the owner of this paper called the "Kal"?—I do not think he had started the "Kal" then.

1551. Do you say there were no students at this Festival. I find in this Indian paper: "Some students having recited Pada in praise of Shivaji at the commencement of the Festival, Professor Paranjpe read the Puran." Was not that a common feature that the students should recite songs in praise of Shivaji at the festivals? Was it not a common feature at these celebrations that the students should be brought there to recite songs in praise of Shivaji?—Some students recited songs.

1552. Then on page 502: "After the Puran"—that is the reading—"was over, Professor Jinsiwale very earnestly requested the audience to study the Mahabharat. Professor Jinsiwale on this occasion said that the reason why Shri Shivaji Maharajah should be considered superior to Cæsar and Napoleon was that while the great men of Europe were actuated by ambition alone like Duryodhana the uncommon attributes displayed by our Maharaj were not the blaze of the fire of ambition or discontent, but were the outcome of the terrible irritation at the ruin of his country and religion by foreigners"?—Yes.

1553. Was all that to draw attention to the rule of the country by foreigners at the date at which the Festival was held?—No, this is an account of the Shivaji Festival.

1554. "On the morning of the second day there were athletic sports." Was that a usual part of the Shivaji Festival?—Not usual—sometimes.

1555. And exercised with Indian clubs?—Yes.

1556. And on the "Malkhamb" that is a pillar—"some feats were performed" that is a reference to a

previous part of the book to which I need not go at the moment. "Students in the New School showed themselves to be proficient in playing Kathi"—that is a stick —"dandpatta"—that is an exercise with a fencing stick and the weapon called patta—"bothati"—that is a staff of bamboo with a tapknot or bunch of cloth—"we hope that the students of other schools will follow their example in this matter. The students attending the various schools as well as the people attending the gymnasia at this place will not find a better occasion than the festival of the anniversary of Shivaji's birth for exhibiting their skill in manly sports. If the managers of the various schools take concerted action in this matter, it is likely to give special encouragement to physical and manly sports amongst boys. We hope that this our suggestion will be duly considered by the principals of different schools. Well, on the night of the same day a lecture on the subject of 'The killing of Afzulkhan' was delivered by Professor Bhanu under the Presidentship of Mr. Tilak. The Professor ably refuted the charge of murder which English historians bring against Shri Shivaji Maharaj." Then on page 503: "The history of Europe cannot show even a single upright man of Shivaji's type. History will find fault with Shivaji but from the point of view of ethics his act does not merit censure. How can the European science of ethics, which has 'the greatest good for the greatest number' as its basis or principal axiom, condemn Shivaji for abandoning a minor duty for the purpose of accomplishing the major one"?—No, not exactly that.

1557. Very nearly that?—No.

1558. How near?—It means we have now to consider. Shall I explain that?

1559. Yes, if you can do it briefly?—It means, if you apply the principle of the greatest good for the greatest number—if you apply that as the moral standard, even this action would be found to be not condemned.

1560. That is, if you think that you do good to a great number of people you may commit a murder?—No, not that you may commit a murder—that will be the consequence from the utilitarian point of view.

1561. Like the murder of Mr. Rand?—That was nothing to do with it.

1562. You said from the utilitarian point of view?—It has no value from the utilitarian point of view.

1563. Do you not yourself say over and over again that it was the one thing that brought the attention of the Government to it—the zulum practised in Poona?—It has nothing to do with it.

1564. It has a great deal to do with it?—You have said so.

1565. Why should they not murder Mr. Rand if that doctrine is true according to what you have said about it?—There are limitations to that doctrine. It is the doctrine of the greatest good for the greatest number, and if some fools misunderstand that I cannot help them.

1566. "The Professor concluded his discourse on the original theme with the declaration that even if the Maharajah had committed five or fifty more faults (? crimes) more terrible than those which historians alleged Shivaji committed, he would have been just as ready as at that moment to profoundly prostrate himself a hundred times before the image of Maharajah." So that if he had committed 50 other slaughters of chiefs ——?—That is what the man who wrote this said.

1567. Did you agree with it?—It is the doctrine of the greatest good to the greatest number.

1568. You were in the chair?—Yes.

1569. Did you applaud that?—I am criticising the man.

1570. Did you applaud that?—If anything is done to justify the principle of the greatest good to the greatest number, I would call it moral.

1571. Is it used for its moral?—It is used for its moral from the utilitarian standard.

Mr. Justice DARLING: What we want to know is—do you yourself adopt the utilitarian standard or not?

1572. Sir EDWARD CARSON: Do you yourself approve of that utilitarian doctrine?—I consider that doctrine to be much superior to the spiritual doctrine.

1573. Then you do approve of it?——

1574. Mr. Justice DARLING: I think this wants clearing up. Whatever is useful is moral according to

the utilitarian standard. Is that your standard?—No.

1575. Sir EDWARD CARSON: Is there anywhere here that you say that is not your standard? When you are giving an account of this meeting at which you presided, do you protest against it anywhere?—No, I have given my view.

1576. You allowed this to go out to the people at Poona within a week of Mr. Rand's murder?—Yes, but it was the occasion of the festival.

1577. I do not care what it was the occasion of?—In the ordinary course, the festival would have followed on a week earlier. There was a discussion about it.

1578. Mr. Rand is a tyrant?—Yes.

1579. "Sullen and worse than a tyrant" is what you say?—Yes.

1580. Unless Mr. Rand is removed no penalties can become penal?—Removed by the Government.

1581. It is a moral thing for the sake of the good of the greatest number to get rid even by death, as Shivaji did, of an oppressor?—This third proposition is not connected with the first one.

1582. But it is given to the same people, you see. Now comes the next thing: "At the close of the lecture Professor Bhanu said every Hindu, every Mahratta, to whatever party he may belong, must rejoice at this Shivaji festival. We all are striving to regain our lost independence, and this terrible load is to be uplifted by us all in combination. It will never be proper to place obstacles in the way of any person who with a true mind follows the path of uplifting this burden in the manner he deems fit. Our mutual dissensions impede our progress greatly. If anyone be crushing down the country above cut him off; but do not put impediments in the way of others." Now I ask you in the first place on that passage as to whether the Shivaji festival was not part of a conspiracy to regain what you are pleased to call your lost independence?—No, it is not.

1583. It says so here: "If anyone be crushing down the country above cut him off." Was Mr. Rand crushing down?—This is nothing to do with it.

1584. Was Mr. Rand crushing down in Poona?—He was the author of oppressive measures.

1585. Crushing measures?—Yes.

1586. A tyrant—cut him off?—But this has nothing to do with it.

Mr. Justice DARLING: Never mind whether it has anything to do with it. That the Jury will judge. You answer the questions. The Jury will judge whether it has anything to do with it or not.

1587. Sir EDWARD CARSON: Within a week of that Mr. Rand was cut off?—The words "cut off" we have given an explanation of in that case. There was a comment upon this passage and an explanation had been given that the words "cut off" were a rather bad translation.

1588. You could have put in any other translation yourself when the evidence was being given. "Afterwards Professor Jinsiwale"—was he a friend of yours?—Yes.

1589. Was he prosecuted?—Neither he nor I were prosecuted.

1590. Was Professor Bhanu dismissed from his school by reason of this?—No, not for this.

1591. What for?—Something else.

1592. Sedition?—The matter was reported to me. He has written a history book for Indian scholars, and it was not approved by the Department.

1593. "Have we not had enough of that strife which would have the same value in the estimation of great men as a fight among rats and cats. All occasions like the present festival which tend to unite the whole country must be welcome. So saying the Professor concluded his speech." Afterwards Professor Jinsiwale said: "If no one blames Napoleon for committing two thousand murders in Europe and if Cæsar is considered merciful though he needlessly slaughters in Gaul (France) many a time why should a virulent attack be made on Maharajah for killing one or two persons?" Was that a defence of murder? This is on the same page. My question is: If you read that passage about Napoleon is that a justification for murder?—It is not a justification for murder. In the first place I do not consider that Shivaji committed a murder.

1594. "The people who took part in the French

Revolution denied that they committed murders and contend that they were only removing thorns from their path; why should not the same principle be made applicable to Maharashtra "——

1595. Mr. Justice DARLING: What does "Maharashtra" mean?—The country of the Mahrattas.

1596. That is Poona, is it not?—Poona.

1597. Sir EDWARD CARSON: Or the Deccan?—Yes.

Mr. Justice DARLING: Why should not the same principle be made applicable to the Deccan including Poona?

1598. Sir EDWARD CARSON: "Remove the thorns." In your opinion, was Mr. Rand a thorn in the sides of the people during the Poona plague?—Not in the sense in which the word is used here.

1599. In what sense?—He was a thorn to the whole nation.

1600. Would it not be a good thing to remove the thorn?—That was his view; that was what he said.

1601. Remove the thorns from their path. Why should not the same principle be made applicable to him?—This is a general historical discussion. No one thought of applying that to the present.

1602. You were in the chair?—Yes.

1603. We will come to what you said in a moment. On page 504: "After the conclusion of Professor Jinsiwale's speech the president, Mr. Tilak, commenced his discourse. It was needless to make fresh historical researches in connection with the killing of Afzulkhan." That was your assumption and your arguments, that he first planned and then executed the murder. "Was this act of the Maharajah good or bad. This question which has to be considered should not be viewed from the standpoint of even the penal code"—that is the laws that exist under British rule?—Yes.

1604. "Or even the Smritis of Manu or Yadnyavalkya or even the principles of morality laid down in the western and eastern ethical systems. The laws which bind society are for common men like yourselves and myself. No one seeks to trace the genealogy of a Rishi nor to fasten guilt upon a king. Great men are above

the common principles of morality. These principles fail in their scope to reach the pedestal of great men. Did Shivaji commit a sin in killing Afzulkhan or, how? The answer to this question can be found in the Mahabharat itself."

1605. Mr. Justice DARLING: Is that your opinion, that "great men are above the common principles of morality"?—Yes, a superhuman man is not bound by it.

1606. What do you mean by a superman?—A great man.

1607. Any great man?—Not any great man.

1608. "Great men are above the common principles of morality." That is your opinion, is it?—Yes, it is my opinion.

1609. Do you apply it to the Kaiser, for example? Do you apply it to the late Emperor of Germany?

1610. Sir EDWARD CARSON: Do you apply it to the late Emperor of Germany?—No I do not.

1611. Why not?—Because his mission was to master the whole world, which is, in my opinion, a sin. No man should rule over the whole world.

1612. Mr. Justice DARLING: You told me just now that if he was a superman, and that would be a man who would control all the others, then you ought to apply it—that he is above the common principles of morality?—"Common" means everyday life. You have to judge him by a higher standard.

1613. That will not do, because you are saying here that if a man like that commits murder it is not murder. Look at it. You say you cannot judge "from the standpoint of the penal code or even the Smritis of Manu or Yadnyavalkya or even the principles of morality laid down in the western and eastern ethical systems. The laws which bind society are for common men like yourselves and myself. No one seeks to trace the genealogy of a Rishi nor to fasten guilt upon a king." Then comes this most illuminating passage: "Great men are above the common principles of morality"?—Yes I do hold that.

Mr. Justice DARLING: Then we have only to decide who is a great man and he may do as he pleases.

1614. Sir EDWARD CARSON: Yes, and each one

for himself decides that. (To the Witness): Now listen to this. I am going on: "Shrimat Krishna's advice in the 'Geeta' is to kill even our teachers and our kinsmen." Do you agree with that advice?—In a civil war it has to be done, and the advice is given there in that book.

1615. It is "to kill even our teachers and our kinsmen"?—Yes, in open war.

1616. There was no civil war there?—Yes, there was civil war.

1617. "No blame attaches to any person if he is doing deeds without being actuated by a desire to reap the fruits of his deeds." Is that your view?—That is the Geeta view.

1618. Is that your view?—In such cases in those circumstances.

1619. Is that your view?—Yes, I adopted that Geeta view, and I was criticised upon it.

1620. Then a man who got no benefit like Chapekar himself for the murder of Mr. Rand, and was doing it for the sake of the people, would be justified on that proposition?—Certainly not.

1621. Why not? Just listen to this: "No blame attaches to any person if he is doing deeds without being actuated by a desire to reap the fruit of his deeds." Why should not Chapekar murder Mr. Rand?—This is no comparison with it.

1622. What I am putting to you is this. We know that this unfortunate Chapekar said about what he learnt from oppression, and why he committed the murder within one week of this?—You are reading that into this article now.

1623. He did commit the murder within one week?—Yes, but you are reading back.

1624. No, I am not reading back, I am going forward pretty fast: "No blame attaches to any person if he is doing deeds without being actuated by a desire to reap the fruit of his deeds. Shri Shivaji Maharaja did nothing with a view to fill the small void of his own stomach from interested motives. With benevolent intentions he murdered Afzulkhan for the good of others." Then you can commit a murder with benevolent intentions according to your doctrines?—Sometimes it so happens.

1625. For the good of others?—Not for the good of others, but murder is sometimes excusable, as in the case of a doctor performing an operation.

1626. Mr. Justice DARLING: Just listen to me. Do not you know perfectly well in that case it is not murder at all?—It is a double question.

1627. A doctor tries to save the life of a man, and if the man dies under the operation it is not murder?—It is not murder.

1628. Sir EDWARD CARSON: Do you swear to the Jury that what you are talking about there—a doctor performing an operation when you started on this: "Let us even assume that Shivaji first planned and then executed the murder"?—It is not true.

1629. But that is the hypothesis on which you are laying down this doctrine?—I do not agree.

1630. Now we go on: "With benevolent intention he murdered Afzulkhan for the good of others. If thieves enter our house and we have not sufficient strength in our wrist to drive them out we should without hesitation shut them up and bury them alive." Did you mean by that that if you had not the strength to drive the English out of India you should take other steps?—No, I do not mean that.

1631. What does that mean?—I will tell you. It is a story.

1632. I do not care whether it is a story or anything else. Why is it put there in the context?—My answer is this, that there are cases in popular stories as well as in history where killing is not regarded as murder.

1633. I am not asking you that. I am asking you whether you are not referring there to what you call the foreign Government in India?—It has nothing to do with it. I am simply discussing it from an ethical point of view.

1634. Now I go on: "God has not conferred upon the Mlenchhas the grant inscribed on a copperplate of the kingdom of Hindustan." What does Mlenchhas mean?—Foreigners—not natives.

1635. A barbarian or foreigner?—Barbarians in the Greek sense.

1636. Is not that the English? "God has not conferred

upon the Mlenchhas the grant inscribed on a copper-plate of the kingdom of Hindustan." Does not that mean God has not conferred a title upon the English?—I did not mean that.

1637. Mr. Justice DARLING: Whom did you mean by "the Mlenchhas"?—The Mohammedans.

1638. Sir EDWARD CARSON: "The Maharajah strove to drive them away from the land of his birth; he did not thereby commit the sin of coveting what belonged to others. Do not circumscribe your vision like a frog in a well; get out of the Penal Code." That is the English law?—The Indian law.

1639. "Enter into the extremely high atmosphere of the Shrimat Bhagwadgeeta and then consider the actions of great men." It is "the extremely high atmosphere of the Shrimat Bhagwadgeeta." Does that mean the right to kill your relatives?—It does not mean that. It is a philosophical book-a book of ethical philosophy.

1640. Does that not refer to the passage you mentioned before: "Shrimat Krishna's advice in the Geeta is to kill even our teachers and our kinsmen"?—Yes, it is civil war, but you mistake the context.

1641. "After making the above observations in connection with the original theme, Mr. Tilak made the following remarks:" I need not go into that. That was one of the articles on which you were prosecuted?—Yes.

1642. And in the same paper there is the article on page 505, where Shivaji is supposed to come to life. Who wrote this?—I cannot say. It is a contribution.

1643. Who wrote it?—I do not know.

1644. Did you publish it without knowing who wrote it? You were in Poona then?— Yes.

1645. This is a very serious article?—It may be, according to your view.

1646. And it is signed "Mark of the Bhawani Sword," if you look at the end on page 507. "The Bhawani Sword." Was that Shivaji's sword?—Yes.

1647. And does it mean the goddess of destruction?—No.

1648. What does it mean?—Shivaji did not know how to read or write, so where he had to put his signature he put it with a sword. It means the signature of Shivaji

by his mark.

Mr. Justice DARLING: It appears to be his trade mark.

1649. Sir EDWARD CARSON: Now was this in the "Kesari" newspaper?—Will you read the beginning?

1650. I am reading from page 505. This was in the "Kesari" newspaper, and therefore it was addressed in Mahratti to a Hindu population?—This letter was addressed to the readers of the "Kesari."

1651. Now listen to this, and just pay attention closely to what it says, and do not be afraid of it: "By annihilating the wicked I lightened the great weight on the terraqueous globe. I delivered the country by establishing 'swarajya' and by saving religion." "Swarajya" there means independence, does it not?—Yes.

1652. "I betook myself to heaven to shake off the great exhaustion which had come upon me. I was asleep; why, then, did you, my darlings, awaken me? I had planted upon this soil the virtues, that may be likened to the Kalpavriksha, of sublime policy based on a strong foundation, valour in the battle-field like that of Karna, patriotism, genuine dauntlessness, and unity the best of all. Perhaps you now wish to show me the delicious fruits of these. Alack! What is this? I see a fort has crumbled down." What is the fort?—Shivaji's own fort. It is the name of the fort where he was crowned.

1653. "Through misfortune I get a broken stone to sit upon. Why does not my heart break like that this day? Alas! Alas! I now see with my own eyes the ruin of my country." That is bringing it up to the present day. He saw the ruin of his country when he woke up in 1897?—Yes.

1654. "Those forts of mine to build which I expended money like rain, to acquire which fresh and fiery blood was spilled there, from which I sallied forth roaring like a lion through the ravines, have crumbled down; what a desolation is this. Foreigners are dragging out Lakshmi violently by the hand." What is Lakshmi?—The goddess of wealth. It is to say that the country has grown poor, riches have gone out, and poverty has stepped in.

1655. "Foreigners are dragging out Lakshmi violently by the hand, by means of persecution. Along with her plenty has fled and after that health also." The foreigners are the English?—Yes.

1656. The English are dragging out Lakshmi violently by the hand "by means of persecution". "Along with"—that is along with the English, or is it along with the goddess? "Plenty has fled and after that health also." That is the plague, is not it? "This wicked Akabaya"—that is the elder sister of Fortune; what they call Miss Fortune?—It is poverty there.

1657. "Stalks with famine through the whole country. Relentless death moves about spreading epidemics of diseases." "Say, ye, are those splendid Mavlas"—those are infantry?—They formed the infantry.

1658. "Who promptly shed their blood on the spot where my perspiration fell." What did he want with infantry?—It is a poetic way of saying "who followed me through thick and thin."

1659. "They eat bread once in a day but not enough of that even." This is a description of the present day in 1897. "They toil through hard times by tying up their stomachs to appease the pangs of hunger. Oh people! how did you tolerate in the Kshetra"—that is some sacred place?—Yes.

1660. Was that Wai? "The incarceration of those good preceptors"—does that refer to Wai?—That means Mr. Rand.

1661. You find every incident here refers to something connected with the plague, or Mr. Rand. "Oh people! how did you tolerate in the Kshetra, the incarceration of those good preceptors, those religious teachers of mine, the Brahmins." Does not that refer to the fact that in 1894 certain Brahmins of Wai, who were ordered not to play music going by the Mohammedan mosque had been condemned by Mr. Rand?—No, it does not refer to that; it is a general statement. It does not refer to anything in particular.

1662. What does it mean?—It means: In my holy land persecution is going on.

1663. What incarceration of good preceptors is referred to?—What ones unless the ones in Wai?—It is

a general reference, not a reference to a special case.

1664. Oh, no; it must refer to something; "Brahmins whom I protected and who, while they abided by their own religion, in times of peace, forsook the darbha"–that is the sacred grass–"in their hands for arms which they bore when occasion required. The cow—the fostermother of babes when their mother leaves them behind, the mainstay of the agriculturists, the imparter of strength to many people, which I worshipped as my mother and protected more than my life—is taken daily to the slaughter-house and ruthlessly slaughtered there." Is that put there to incite the Hindus?—No.

1665. For what then?—It is a statement of fact comparing the state of the country in 1897 with what it was in the days of Shivaji.

1666. For what purpose, Sir?—There is no purpose, Sir; it is not done with specific intention.

1667. You wrote down this with no purpose: "The cow—the foster-mother of babes when their mother leaves them behind, the mainstay of the agriculturists, the imparter of strength to many people, which I worshipped as my mother, and protected more than my life —is taken daily to the slaughter-house and ruthlessly slaughtered." Is not that a most offensive thing to the Hindu?—The Hindus have taken the remedy by starting our Protection Society.

1668. Is not that a most offensive thing to the Hindu?—It is one of their complaints. It is not offensive.

1669. And one of the causes of the frequent riots between them and the Mohammedans?—Yes.

1670. And you tell me that that is not put there for any purpose?—It is not.

1671. Not to incite the Hindus?—Not to incite the Hindus to riot.

1672. Or against the British Government?—No.

1673. It is merely put there for the fun of the thing?—No.

1674. For what?—For the Government to redress if they can. It is one of the grievances which have been enumerated.

1675. "'He himself came running exactly within

the line of fire of my gun!' 'I thought him to be a bear.'" Did that refer to a case which you had referred frequently to in the "Kesari," of somebody of the name of Fgin who had shot someone by accident?—This does not exactly refer to that; it is a case of the same kind.

1676. As far back as the year 1892?—It may be that, but it refers to general cases of this kind from time to time reported in all newspapers.

1677. Was what you are meaning to suggest that under English rule what were vain pretexts and defences were accepted? Is that what you mean?—Yes.

1678. "I thought him to be a bear! Their spleens are daily enlarged. How do the white men escape by urging these meaningless pleas. This great injustice seems to prevail in these days in the tribunals of Justice." That is Shivaji was telling them that he found corrupt administration of justice?—That is not what it means exactly. It means something more.

1679. "This great injustice seems to prevail in these days in the tribunals of Justice. Could any man have dared to cast an improper glance at the wife of another? A thousand sharp swords would have leapt out of their scabbards instantly." Was that referring to an alleged incident?—Which alleged incident?

1680. I am asking you?—It is one of those excuses.

1681. Was that a suggestion that under English rule improper glances were given at the wife of another?—Yes.

1682. And that "A thousand sharp swords would have leapt out of their scabbards instantly" in Shivaji's days?—In Shivaji's days they would not have tolerated it. That is what it means.

1683. It goes on and says: "Now, however, opportunities are availed of in railway carriages and women are dragged by the hand." Is that telling the people from Shivaji who are supposed to be resurrected for the occasion, that we found women were debauched in railway carriages by the English?—Not debauched; it means insulted—taken by the hand.

1684. "Dragged by the hand." "You eunuchs! how do you brook this? Get that redressed." Who are the eunuchs?—The people. Shivaji is saying it to them.

1685. The Hindus?—Yes, and Mohammedans.

1686. The Hindus chiefly?—Yes.

1687. Brahmins chiefly?—There is no Brahmin there.

1688. "How do you brook this? Get that redressed! He is mad. Lift him up and send him at once on a pilgrimage." Does that refer to the Maharajah of Kolhapur, who went out of his mind in 1892?—His and similar other cases.

1689. That is that the English Government were driving them all mad?—It is nothing to do with that. This is an excuse. These are actual cases, and it is based upon them.

1690. But these are excuses Shivaji is quoting as being made at the present time by the present rulers? —It is the rule of Government. There are certain grievances, and it is a public way of putting those grievances to give them a little more emphasis.

1691. "He is fond of pleasure. Deprive him of his powers, saying that it would be for a time only. This is the way in which royal families are being handled now." Does that mean that the English were making away with the local Princes under various pretexts? —Some of the things were done in that way at that time.

1692. "What misfortune has overtaken the land! How have all these kings become quite effeminate, like those on the chessboard!" Those were the native Princes?—Some of them, not all.

1693. "How can I bear to see this heartrending sight? I turn my glance in another direction after telling (that is, leaving with you) a brief message. Give my compliments to my good friends, your rulers, over whose vast dominions the sun never sets." That is the English?—The English.

1694. "Tell them 'How have you forgotten that old way of yours,' when with scales in hand you used to sell your goods in your warehouses! As my expeditions in that direction were frequent, it was at that time possible for me to drive you back to your own country. The Hindus, however, being magnanimous by nature, I protected you. Have you not thus been laid under deep obligations? Make, then, your subjects, who are my own children, happy. It will be good for your reputation,

if you show your gratitude now by discharging this debt of obligation." As I said before, within a week of that Mr. Rand was murdered?—Yes.

1695. He was murdered when coming away from the Governor's house?—Yes.

1696. On the occasion of the Jubilee celebration?—On the occasion of the Jubilee celebration.

1697. Are you sorry or were you ever sorry for all you wrote against Mr. Rand?—I never wrote anything against Mr. Rand.

1698. Or you published?—Why should I be sorry? This has no connection with it. I say I was not sorry, because this has no connection.

1699. Have you ever expressed the slightest regret for all that you wrote against Mr. Rand?—Why should I be sorry for what I wrote against him. He was murdered because of his own acts, because of his own indiscretions.

Mr. Justice DARLING: You used the word "wrote" again, Sir Edward.

Sir EDWARD CARSON: I meant published, of course, my Lord—I do not know who wrote these things.

1700. On that 22nd June you got rid, or at least Poona got rid, of a man who was worse than a tyrant?—Of Rand.

1701. Of Rand. Worse than a tyrant, sullen, who connived at the debauching of women?—No, not debauching, connived at a woman being insulted.

1702. Who connived at the soldiers carrying out everything with tyranny and oppression?—Connived at their repressive acts.

1703. Who was put there in order that he might create trouble in Poona?—I do not understand you.

Mr. Justice DARLING: Sir Edward Carson is quoting your own paper: "Put there in order that he might create trouble at Poona."

1704. Sir EDWARD CARSON: I will go on, my Lord. I see after he was murdered you describe it on the 29th June at page 509 as "the horrible incident that occurred on the night of Tuesday last," and so it was. On page 511 you say this: "But as the heads of editors like that of 'The Times' are quite turned by this

offence how can this rule suggest itself to them? Immediately on hearing the news of this horrible crime they at once came to the conclusion that all this is the dark plot made by the rascally Brahmins of Poona." It was a Brahmin of Poona who did it?—Yes, but they attributed the plot to the whole Brahmin community.

1705. "It is the plan of the Brahmins alone to render the holiday vapid by committing the murder on the Jubilee day, and that too is not the plot of one or two Brahmins, but one devised by about fifty Brahmins in concert. This is what the editor of 'The Times' says, and the Collector Sahib almost repeated the same yesterday in his speech. 'The Times' has also referred to the Wai affair, and some one assuming the name of Justice has rendered all possible assistance in his power to the editor of "The Times" to connect the Shivaji festival also with the whole of this affair." So at the time out there, at all events, some of the Press connected your Shivaji festival, which I have just read of, with the crime?—Some of them did—not our Press.

Mr. Justice DARLING: I suppose the "Times" spoken of there is the "Times of India"?

Sir EDWARD CARSON: Yes, my Lord.

1706. "As soon as we got the news of this dreadful offence we had prophesied that all this dark imputation would be brought against us. Really speaking, there is no ground whatever to believe that the Poona Brahmins have made a great plot. If in countries such as England, France or Russia even, some madcaps are found who shoot the King there is no reason whatever to scatter calumnies concerning the whole of Poona if some one maddened by the annoyance of the Plague Committee is found here." That was your view, was it?—Yes.

1707. That it was one maddened by the annoyance of the Plague Committee who had done that?—It was one madman.

1708. Before I ask you a question or two about your own trial, I want to ask you this. Do you know Professor Gokhale?—Yes, I know Gokhale.

1709. He died, I think, last year did not he?—No, I believe it was in 1916.

1710. Was he ever in England at the time of the Jubilee?—I think he had returned by that time. I do not know exactly.

1711. But he had been over in England?—He had been over here.

1712. Do you know that he made charges in England against the soldiers that women had been violated and one had committed suicide?—Yes, he made those charges. I learnt it from the papers.

1713. Never mind how you learnt it. I will ask you a question about that in a moment. Did you know that there was a question asked in the House of Commons to the Secretary of State for India, who was then Lord George Hamilton?—A question was put in Parliament.

1714. A question was put in Parliament, and that the Minister replied that upon investigation there was not one shadow of ground or truth in the matter at all?—Yes.

1715. Do you know that then Professor Gokhale apologised for having made the statement?—Yes.

1716. Did you then begin abusing him in your Press for having apologised?—He went too far in his apology.

1717. You were the judge of everybody; you were the judge of whether he went too far or not?—That is what I say about it.

1717A. At page 526 there is a reference to it, my Lord, the "Mahratta," of course, seizes upon it at once: "We hear that Professor Gokhale, who returned from England yesterday"—that is in August—"acknowledges without reserve that he was misled by the Poona correspondents to either withdraw or account for their statement, and in the event of their failing to do this, he will take the earliest opportunity of making a full statement to Government of the circumstances under which he was misled, and of offering an apology for having been the means of circulating a report for which he is now satisfied that there was no foundation. As to the interview reported in the "Manchester Guardian," while he admits that it is in the main correct, he points out that in one passage there is a serious inaccuracy. He

is reported to have said that he 'saw' what was going on in Poona, and then to have gone on to describe what the European soldiers were doing. What he did say, we are informed, was that before he left Poona on the 5th of March, it was known that soldiers were to be entrusted with plague operations and that the news had already alarmed people, and caused an exodus. His interviewer then asked what 'plague operations' meant, and he explained that the term included whitewashing, fumigating, segregating, and so on, and this description appears in the report as Mr. Gokhale's own account of what he saw the soldiers doing before he left. He saw nothing of the work of the soldiers, as he left for England a week before." Then, my Lord, at page 531, you will find an editorial note in the "Mahratta" on the 8th August: "Professor Gokhale's Apology." "What passed between the Professor and the head of the Bombay Police, who was the earliest to welcome him, and also claimed the best part of his attention even while on the steamer, is more than we or anybody can say. But the letter of apology which Professor Gokhale addressed to Lord Sandhurst on the 1st of August perhaps betrays the secret." Were you suggesting that Professor Gokhale, a friend of yours, a Brahmin, was influenced by the police to make a false apology. "The letter is an interesting exposition of a series of psychical phenomena. It is as touching to the reader as humiliating to the writer." That is Professor Gokhale's letter?—Yes.

1718. "The long and short of the letter is this: Professor Gokhale has successfully settled the 'little question of dates' and once more established his claim to honesty, which has been allowed to him even by the Anglo-Indian Press. He read violent complaints and bitter lamentations in most of the Indian papers that he received in England, about the Poona Plague measures." Perhaps he got the "Kesari"?—I do not know, I do not think he did.

1719. "These were confirmed by private letters of friends." Then you go on later, and you say: "Professor Gokhale hoped he would get his friends to substantiate their information, but he hoped in vain.

He had nothing left but to apologise; and therefore he did make a general withdrawal of his allegations, a complete retraction of his words and an unqualified apology to Lord Sandhurst, the Plague Committee and the British soldiers engaged in the plague operations." That apology never came out before the death of Mr. Rand?—No.

1720. In the next page you again criticise him: "For, for a man removed 5,000 miles away what more evidence on earth was needed and could have been granted, for putting belief in a certain thing when the most truthful friends and the most sober papers vouched for its truth?" Is that the kind of way you manufactured things?—No.

1721. Why do you think he ought to be satisfied?—He has got some information from his friends and his party papers, and that turned out to be false.

1722. Who were the truthful friends?—I do not know who his friends were, but they were in the colleges and schools.

1723. How do you know they were truthful?—I know all his friends in connection with the Society, they were all good fellows.

1724. We know now that they lied; if you do not know who they were, how do you describe them as truthful?—We know Professor Gokhale and his Society, and his friends. Professor Gokhale was once my colleague and I know that they were good and honourable men.

1725. Is that all you say, the men who had sent home lies against the soldiers?—They might have been misinformed.

1726. You describe them there as his truthful friends?—They might have been misinformed. An honest man may be misinformed.

1727. Is that what you mean? That is not what you are saying. "For, for a man removed 5,000 miles away, what more evidence on earth was needed and could have been granted, for putting belief in a certain thing when the most truthful friends and the most sober papers vouched for its truth"—but they had admitted that it was false?—Yes.

1728. But he ought to have been satisfied?—This is defending Professor Gokhale. If his friends believed in Professor Gokhale would they write from India: I exculpate him for putting belief in this people.

1729. Mr. Justice DARLING: It all seems to come to this, Sir Edward. Page 533, he calls this a defence of Professor Gokhale, it comes to this. "But Professor Gokhale's illogicality does pot stop here. The one special allegation, about the violation of two women which he made, failed to be substantiated; and Professor Gokhale jumps to the conclusion that it is false. We venture to say, that Professor Gokhale does not properly appreciate the distinction made in the law of evidence between things 'disproved' and things 'not proved.' But that is not all. The mere fact that one specific allegation is 'not proved' is enough for him to suggest the falsehood of all other general allegations also. Thus at one stroke he hurls untruthfulness in the face of not only persons of slight acquaintance but friends who could not consciously mislead, nay, all the native newspapers he read in England, not omitting the 'Indian Spectator,' his ideal of sobriety. We wonder how Professor Gokhale could achieve that even if he meant to. Here is ground indeed for the Professor to heap reproaches upon himself if he likes. But unnecessary self-humiliation such as he has indulged in cannot lend either one more degree of candour or one more shade of charm to his already honest and humiliating confession. Lord Sandhurst's utterances, in the Council Hall at least, must bring the fact home to him. He will now know it but perhaps it will be too late." What was he a Professor of?—Professor of history.

1730. You say there he did not know the difference drawn in the laws of evidence between things not proved and things disproved?—Yes.

1731. Very well. He must have known precious little history.

1732. Now, Mr. Tilak, you have reported in the "Mahratta" of the 15th August, 1917, Lord Sandhurst's speech in reference to this matter?—Yes.

1733. At page 335 he deals with your "baseless

accusations," and he says this. This was a speech made at the Legislative Council: "These mis-statements have found their way into newspapers of various descriptions, and they have found their way into the House of Commons. I cannot remember whether it was in the petition of the body styling itself the Deccan Sabha that this was stated, but stated it was that on operations commencing so great was the terror caused that the public fled in large numbers." You had stated that anyway. "Now what is the fact? Precisely the opposite; no statement could have been more misleading. Before the measures took place a certain number of people did leave the city, but when it was ascertained how simply, how quietly, how harmoniously the operations were carried out, the people began to come back. No more people left the city, and they began settling down to their avocations. Mr. Rand, with whom I was in constant touch, wrote to me that since the operations had begun, on the 13th of March, the exodus had stopped. Not only so, long before the operations were over, the people were returning in large numbers. Other equally erroneous statements besides those I have mentioned were made in the various petitions. I had it from Mr. Rand's own lips, and from many other sources, that he did make all possible inquiry in regard to the things which were brought to his notice. Not only so, he posted a notice in the vernacular"—that would be in the Mahratti language, I suppose?—Yes.

1734. "—pointing out that complaints should be made on the spot, if possible, because identification might be difficult later on. There was every anxiety to get at the bottom of grievances and remedy them. Some people may say that is not the fact, but in reply to that I may say that that dead man's word is good enough for me. Of course the measures to which I have referred were inconvenient and unpleasant; nobody likes a party to come into their house, nobody cares to be made to go into hospital, and so forth. But what the people would not do for themselves we had to do for them in the hope of stealing a march on this almost, not to be defeated enemy." That was the plague my Lord, I suppose. Then he goes on: "In regard to

one statement I put the words 'malevolent fabrication' into the mouth of the Secretary of State. The statement was that women were brought down into the streets and stripped to be examined. For this statement there was no foundation whatever. As you are all aware, a great many houses in Poona are extremely dark, and, in fact, it is almost impossible to see into them. It was considered necessary, if possible, to get all the inmates of such houses, not always into the street, but into some lighter room or into a courtyard to observe them to see if they looked ill. If there were indications that the persons were not in good health, a medical inspection did ensue, but with every regard to decency. Women were examined by women, unless, as was not infrequently the case, no objection was offered to an examination by a commissioned medical officer. It was, however, reported to Mr. Rand, I think by a deputation, that this practice was objectionable to a large number of the population. Mr. Rand said : 'Very well, we will see what we can do,' and at the risk of impairing the efficiency of the organization he decided to give up the practice. A still more malevolent invention was the allegation that two women had been violated by British soldiers and that one of them had committed suicide. Well, some silly person has observed that Mr. Lamb was making inquiries into this charge after I had informed the Secretary of State that it was false, and said it was a pity that I had given this extreme contradiction without having first made these inquiries. The man who made this remark must have been very ignorant of the ordinary way in which business is carried on. Who would suppose that I should go and deny any statement without first making inquiries as to whether there was any possible foundation for it ? I did make such inquiries, because I telegraphed to the Secretary of State, and if the man who blames me for being, as he thinks, too hasty in the matter had read the telegram, as given by the Secretary of State in the House of Commons, he would have seen that what I telegraphed was this : 'From all inquiries I have made, I am convinced that this is a still more gross and malevolent invention than that about stripping of women.' Inquiries have been made

of all the persons attending the search parties, and as far as I have been able to ascertain from their replies, only one of them had ever heard even a rumour of ill-treatment of women, and on enquiry could find no basis for the rumour." Then he goes on and deals with other allegations at page 537: "I should like to say a word about the conservancy of the town"—that is Poona—"I believe it is difficult to imagine the filthy state in which the town of Poona was. I believe now it is in an extremely clean state. But then their was hardly a night-soil cart in proper repair and the night-soil and refuse instead of being taken to the proper place was shot out here and there. All this has now been put right, and in a good measure owing to the industrious efforts of the British non-commissioned officers and soldiers who themselves have done a great deal of the sanitary and disinfecting work which would have fallen under ordinary circumstances into other hands. Now I should like to ask how all these ceaseless and unselfish efforts are met by a certain section of the people of Poona? They were pleased to put in the background all the generous assistance, the voluntary and self-denying energy that was shown by all those who endeavoured to do good and instead to misrepresent—misrepresent is a mild term—the objects and the measures and to assume and to put about that they were instigated by cruelty, greed and lust. Also what happened after Mr. Rand had been shot and when he was lying at the point of death? It was then that this question was prompted and found vent in the House of Commons, and without a word of generous recognition of the energy, the sympathy he had shown, the untiring and ceaseless watch that he had kept over the plague operations. The feeling that prompted those questions is one which I believe is repudiated by a great proportion of the native inhabitants not only of the Bombay Presidency but also of other parts of India."

1735. Mr. Justice DARLING: I see on the next line: "Then it is true that an apology and withdrawal has been made by a gentleman whose name was prominently for a few days before the public." Was that Mr. Gokhale he is alluding to?—Which page is that,

my Lord?

Mr. Justice DARLING: It is headed "Professor Gokhale's Apology."

Sir EDWARD CARSON: Yes, my Lord.

Mr. Justice DARLING: Very well, you need not trouble.

Sir EDWARD CARSON: At page 539, I think I ought to read to the Jury the tribute he paid to the murdered man. I am going to call Lord Sandhurst—he was in constant communication: "As to the one who was shot down, Lieutenant Ayerst, it is so distressing that I can hardly allude to it. A boy just commencing his career, beloved by his brother officers and respected by the soldiers whom he had commanded—all I can do is to express what, I am sure, are the sentiments of this Council, by saying that we all deeply deplore his death, and we tender our respectful sympathy to the widow he has left behind him."

Mr. SPENCE: Is my learned friend addressing the Jury or asking a question. It is difficult for me to follow.

Sir EDWARD CARSON: I am putting it to him to know if he has any statement to make upon it. I have to read it first.

Mr. Justice DARLING: This is from his paper the "Mahratta".

Sir EDWARD CARSON: The "Mahratta" is his own paper. "In regard to Mr. Rand again, expression almost fails me. I was particularly thrown with the late Mr. Rand throughout the whole of these operations. I heard from him, I think without intermission, daily. I stayed at Poona on two occasions, and I saw him at several other times. I have said, through the Secretary of State, that the Civil Service has lost in that gentleman an able and devoted servant. Again here let us offer our respectful sympathy to his widow, and in the face of the baseless calumnies with which he was assailed, I will merely say he was a man of honour who tried to do his duty. Turning to the other officers, the Council will observe that it would be impossible to enumerate by name every officer with whom I have come into contact and to whom I wish to give praise which has been so

well observed by all. I cannot speak too highly of the way Government have been served—nay the public have been served—by officers both Civil and Military; by the medical officers of both the Army Medical Staff and the Indian Medical Service; by the subordinate Government servants, and by the private soldier, both native and European. Also I must speak with gratitude of the vast amount of work voluntarily done by the ladies who assisted us, and by the very large number of English and native gentlemen and by the sisters and nurses." I do not go on any further there, though there is a great deal more that is to be said. Then at the middle of page 541 he deals with the work of the soldiers: "I tender the thanks of the suffering public of the Bombay Presidency to all the civilian officers, subordinate servants, military officers, private soldiers, English and native nurses, private gentlemen and the members of the various departments of Public Works and Revenue officials engaged in famine and plague work. I cannot think at this moment that I have excluded anybody, but if I have inadvertantly excluded anybody who ought to be included, he must consider himself included. I have made this speech on my own responsibility as being responsible for the department which has administered the campaign against the plague. Without disrespect to this Honourable Council I have one regret about this speech. If I may say so, I should have liked to make this speech before a full body of those who have so villainously traduced the soldiers face to face with their accusers." Now, Mr. Tilak, after that did General Sir O'Moore Creagh go out?——

Mr. SPENCE: I understood my learned friend was going to ask some questions with reference to what he had been reading. This is merely published in the man's paper.

Mr. Justice DARLING: I do not know what the question is that Sir Edward Carson is going to put. It may have relation to all this. Let us hear the question first.

1736. Sir EDWARD CARSON: Did General Sir O'Moore Creagh come out afterwards in command there?—He came out afterwards as a plague officer.

1737. Did he take charge of the work that Mr. Rand had been carrying on?—Yes.

1738. Is not it a fact that the Hindus and the people of Poona gave an entertainment to all who had been engaged in getting rid of the plague?—Yes.

1739. And did they insist that the private soldiers should be asked to the entertainment in consequence of the great work they had done in helping to put it down? —I do not know that myself.

1740. Did they come there?—This was not done to my knowledge.

1741. Did you never hear of it?—I read it in the papers.

1742. In your own papers?—Yes.

Mr. Justice DARLING: He says he read it in the papers.

(Adjourned till to-morrow morning at 10.15.)

FIFTH DAY

February 13, 1919.

Mr. BAL GANGADHAR TILAK, recalled.

Cross-examination continued by Sir EDWARD CARSON.

1743. Sir EDWARD CARSON: You were tried, I think, before Mr. Justice Strachey and a Special Jury?—Yes.

1744. September 8th to the 14th, 1897, in the High Court at Bombay?—Yes, I do not remember the date.

1745. For causing disaffection amongst His Majesty's subjects?—Yes.

1746. And you were convicted?—Yes.

1747. Did the Judge say this to you on sentencing you: "Tilak, you have been found guilty of attempting to incite feelings of disaffection of the British Government established by law and I agree with that verdict; I do not think any reasonable and fair man applying his mind to these articles could doubt that in publishing them you have been animated by a feeling of disloyalty and disaffection to the British Government and that you attempted to inspire those feelings in your readers. I have now to consider what sentence I shall pass on you. I may state at once that I do not intend to pass on you the maximum sentence allowed by law or anything like that sentence. In my opinion the maximum sentence ought to be reserved for the worst possible offence under the section. Although I take a serious view of your offence, I do not take such a serious view of it as that. There are certain considerations which I shall take into account in passing sentence. I take into account that this is the very first prosecution under the section in this Presidency, and the second in India. The section under which you have been convicted has been allowed to remain for a considerable time almost a dead letter, and I think that you and others like you may have been emboldened by this to think that there was no kind of writing in which you might not indugle with impunity. I shall take that into consideration to some extent in passing sentence upon you. I shall also take into account and will attach still more weight to the fact that at all events for a considerable period you did good work in connection with the

plague and attempted to enforce a reasonable policy upon your countrymen. To that extent you co-operated with the Government and did so not long before you published these articles. I shall also take that into account in passing sentence upon you. But on the other hand I must take into account certain other facts which are not in your favour. You are not an ordinary obscure editor and publisher but you are one of the leading members of your community; and being a man of influence many of your people look for their guidance to you—a man of intelligence, a man of remarkable ability and energy, and who might under other circumstances have been a useful force in the State. Instead of adopting that course which would have brought you credit, you have allowed yourself to publish articles of this kind which if persisted in could only bring misfortune upon the people. I must also take into account that a man like you must know that at such a time as this it behoves everyone, especially persons of influence, to be careful as to how they address the people in regard to their relations with the British Government. I have done my best to bear in mind everything that could be considered in your favour as well as the matters considered against you, and the result is that I have come to the conclusion that I ought to pass upon you half the full term of imprisonment allowed by the section, namely a sentence of 18 month's rigorous imprisonment." Did the Judge say that?—Yes.

1748. He gave you full credit for everything you did?—He gave credit according to his views.

1749. You do not no doubt agree with them. Now when you had been some time in imprisonment you were allowed out without serving your full term?—Yes, I was released after a year.

1750. Was that on these conditions: "First that you would not countenance or take part directly or indirectly in any demonstration in regard to your release or in regard to your conviction or sentence"?—Yes.

1751. "Secondly that you would do nothing by act, speech or writing to incite disaffection towards the Government"?—Something more than that.

1752. One at a time?——

1753. Mr. Justice DARLING: Was that one of the conditions of the release?—Yes, but there was some more.

1754. Sir EDWARD CARSON: The whole document is here. Then you signed under that: "I hereby accept and agree to abide by the above conditions, understanding that by the act, speech or writing referred to in the second condition is meant such act, speech or writing as may be pronounced by a Court of Law to constitute an offence under the Indian Penal Code, and I acknowledge that should I fail to fulfil these conditions or any portion of them the Government of Bombay in Council may cancel the remission of my punishment, whereupon I may be arrested without warrant and remanded to undergo the unexpired portion of my original sentence"?—I do not think I agreed to that.

Mr. SPENCE: I do not think that this is in evidence at all; we have no copy.

1755. Sir EDWARD CARSON: Read it at the bottom and see is that what you agreed to?—So far as I remember now, I think I said that if I violated any one of these conditions it should be judged by a Court of Law.

1756. That is what I have read out?—Not by His Excellency in Council.

Mr. SPENCE: Surely the original of this documeut has never been in evidence.

Mr. Justice DARLING: He is being asked questions on it.

Mr. SPENCE: This is a copy of the document.

Mr. Justice DARLING: That does not matter.

Mr. SPENCE: He says he does not recollect.

Mr. Justice DARLING: He has not said he does not recollect. He has given his own version of one particular condition, but he evidently is studying it still.

1757. Sir EDWARD CARSON: "I hereby accept and agree to abide by the above conditions, understanding that by the acts, speech, or writing referred to in the second condition is meant such acts,speech or writing as may be pronounced by a Court of Law to constitute an offence." Is not that right?—Yes, pronounced by the Court of Law, that is right.

1758. And then when it has been pronounced by a

Court of Law the Government in Bombay in Council may cancel the remission ?—Add to the sentence.

Mr. Justice DARLING : It is not " may add to the sentence." He has no power to add to the sentence. The sentence has been pronounced and you have been released from doing six months of it. The condition is that if you offend again in the opinion of a Court of Law then the President in Council may send you back to serve the rest of your sentence. It is what in this country is called a ticket of leave, Gentlemen.

1759. Sir EDWARD CARSON : After you came out from your imprisonment do you remember going to see a gentleman named Mr. Edward Giles ?—A director of public instruction ?

1760. That is right, director of public instruction at Bombay ?—I went to see him, I do not exactly remember the date, but I did go to see him by appointment.

1761. Did you tell him you were anxious to take up some Sanscrit work ?—I will tell you. One of my friends had composed a Mahratti dictionary, and that friend had died in the meanwhile. He was promised by Government some patronage for his work, and I went to enquire whether the old Government promise still stood and whether the same help would be given by Government afterwards or not.

1762. That is what I put to you, that you were to take up the Sanscrit work ?—Mahratti work, not Sanscrit. I was not to take it up, I was to undertake the publication —it was ready.

1763. I will not quarrel with you about that, I only want to bring the occasion to your mind. Did Mr. Giles ask you on that occasion what was the object you were aiming at in the propaganda in your paper ?—I think we had a conversation on that subject. He introduced it himself.

1764. Did you tell him in the course of that conversation that it was no use merely agitating in constitutional matters against the British ?—I do not think I said that.

1765. Will you swear you did not ?—Yes, I think I never said that ; I never said it to anyone.

1766. That it was no use merely agitating in constitutional matters against the British ?—That is not what

I said.

1767. That nothing was obtained by this; did you tell him that?—He asked me what was my plan and I explained to him that unless we added something to mere petitioning, passive resistance and so on, it would not succeed. Our agitation was perfectly constitutional.

1768. Did you say it was no good to argue with the British?—No.

1769. And if you wanted to attain anything the British must receive a shock; did you say that?—I do not remember.

1770. Will you say you did not?—I do not remember to have said that.

1771. That if you wanted to attain anything the British must receive a shock?—No, I did not say that.

1772. Will you swear that, now that you did not?—I did not say that.

1773. Did you from that time on down to your second conviction in 1908 proceed to organise throughout the Deccan a conspiracy to bring about the withdrawal of British Government from India?—No.

1774. Do you swear that?—I am already on oath, and I again say no.

1775. Did you use the Shivaji festival for that purpose?—No.

1776. The Ganpati festival?—No.

1777. Did you introduce Swadeshi?—For this purpose?

1778. Yes?—No.

1779. We will see by your writing; I thought I might have shortened it. Did you and those who were acting with you advocate at Shivaji and Ganpati festivals the entire boycott of English goods?—We advocated it always.

1780. Did you advocate at the Shivaji and Ganpati festivals the entire boycott of English goods?—We advocated it always; it may be also in the festivals.

1781. You did advocate it then. Always. Did you lay down that it would be better to have Swadeshi anarchy than to be governed by an organised administration of English leeches?—Shall I answer?

1782. Yes?—I did not advocate it in those words,

but it is in the paper. It is a translation of the maxims that were preached in England. Even a bad native rule is better than efficient and despotic rule.

1783. Mr. Justice DARLING: Repeat those last words. What did you say is better than efficient despotic rule?—Even a bad native rule.

1784. Sir EDWARD CARSON: Did you cause the students in the schools to be taught Swadeshi?—By whom? By me?

1785. To be taught Swadeshi?—Not in the schools. I gave public lectures.

1786. Did you call upon the teachers in the schools to teach their students Swadeshi?—Not call upon teachers. We advocated it in the papers that it should be taught in schools.

1787. You did advocate it should be taught in shools. Very well. Did you teach the children in the schools to burn everything English?—I did not teach it in schools.

1788. Did you advocate it?—Not everything English.

1789. How much English?—There was a bonfire made of foreign goods once, and at that time I spoke and I said that you had better commence your vow of Swadeshi with sacrificing something.

1790. Was there a vow of Swadeshi?—That he would use one or two articles prepared in the country in preference to foreign articles even at a cost.

1791. Are you suggesting to the Jury that was to promote home industries?—Well, it was.

1792. That that was the real object of it? I put it to you, Sir, it was to promote anti-British feeling to bring about Swadeshi?—No.

1793. Mr. Justice DARLING: What were the British goods that you had burnt?—Cloth. Sugar and cloth were the two chief articles.

1794. Were they goods you could have produced at home?—They were produced on a large scale.

1795. Then Sir Edward Carson suggests to you you did this to promote home industry; did you hear the suggestion that that was done with a view to promote home industries?—To protect home industries.

1796. That is what it was for?—Yes, it was a protection for home industries.

1797. Sir EDWARD CARSON: There was nothing political about it?—It came in Bengal in 1905 politically; not till then.

1798. Then was it used for the purpose of promoting a campaign against British Government?—Not against British Government.

1799. Against what?—Against the Partition of Bengal, to get that cancelled.

1800. Was that an act of the British Government?—It is an act, but it is not British Government.

1801. You yourself went so far as to say, did not you, or write, that you would rather than print the "Kesari" on English paper, print it on German and Austrian paper?—Anything—it is a protest.

1802. German and Austrian paper?—It had never been printed on English paper.

1803. Did you yourself lay down that rather than print it on English paper you would print it on German and Austrian paper?—I said it was printed on German and Austrian paper all through.

1804. At this time there was no paper of the home industry. See here is what you said in 1908, page 1004: "We have not as yet got paper in in accordance with this order"—that is an order you gave to a local mill. "As soon as we are able to get it, we have resolved not to use foreign made paper, but to make use of the Swadeshi paper only, and we will use the same in accordance with our resolution. In the meantime it is necessary as a matter of necessity to make use of foreign-made paper, that is to say, paper manufactured in Austria and Germany." Mr. Tilak, I put to you with reference to what my Lord asked you a moment ago, that Swadeshi was political and not industrial merely?—That was from 1905. It was industrial as well as political.

1805. Why did you make it political?—I did not; the Bengali made it first.

1806. Why?—In order to bring pressure on British Government through the merchants of England.

1807. If your Lordship looks at page 607 there is an article on the Boycott Expedient: "Begin to use those

goods which are now produced in the country; if goods manufactured in India are not available, then at least buy those manufactured in any Asiatic country like Japan; if those, too, are not available, then buy those in Germany, France or America; and this done, your difficulty generally speaking, will disappear. For, an article will very rarely be found which is not manufactured in America, Germany or France and other countries but is manufactured in England alone. To be saying constantly, 'When will you become like me,' without recognising this principle in the present movement, or, after deliberately acting contrary to it and after throwing cold water upon the ardour of the young generation is an indication of timidity, of lack of political sagacity or of folly. Some gentlemen have also said that the present movement is in no way political, and that it is merely industrial. This, in our opinion, is misapprehension. It must be distinctly admitted that the present movement is not directly political, but that nevertheless the object of the promoters' rule in India has now become so fearless that the rulers have ceased to care for our views at all and have become quite reckless. In such a state of things we have at our command no political means whatever remaining—except begging—to bring them round. And nobody gives alms. In such a state of things there is only one means of illumining the minds of our rulers with our views. That is this, the characteristics of both the professions, namely, that of the warrior and of the merchant, being combined in our rulers, we should, by obstructing the exercise of the mercantile profession out of those two professions, bring them round." Now I put it to you, Mr Tilak, was not the whole of this a conspiracy against British rule in India?—No.

1808. Very well——

Mr. Justice DARLING: Will you read a few lines further down?

1809. Sir EDWARD CARSON: "This resolution assumes a political aspect in an indirect manner, and it is our very wish that it should do so. There is no means in denying this. It is no use being dilatory in this work, because all goods cannot be indigenous just at present. If you give up using English goods and if you use goods

worth a pice manufactured in India or other countries, in Asia, or in countries other than England, then it is certain that thereby England will sustain a loss of a half or a quarter pie at least; while, if those goods are manufactured in the country, that profit will remain in the country. And we must needs exert ourselves as far as we can to bring about that result; otherwise, at least the profit will not go to England but will go to other countries. We have only this much to say to our rulers: 'It is true that we do not possess the ability to oppose in a political manner, the recklessness which you have set on foot as rulers; but why should we give rude people like yourselves even the crores of rupees which we give you annually in the shape of trade? We will, in the first instance, manufacture these goods in the country; otherwise we will buy them from others, but we will not buy your goods.' If the whole of India resolves in this way, then the Pioneer's turn will very shortly come to lay down, in connection with the English merchants also, the same sort of proposition that it has laid down in connection with the people of America. Our indigenous trade is now altogether ruined; and the world knows that the English have knowingly ruined it." Now, Mr. Tilak, why were you preaching the boycott of English goods?—It was, I told you, initiated in Bengal.

1810. Why were you doing it there?—It was approved by the Indian National Congress and its leaders, and it was a policy of the country which my paper supported.

1811. For what purpose?—It was originated in Bengal for the purpose of bringing pressure on British Government.

1812. For what?—For cancelling the Partition of Bengal.

1813. You were not in Bengal?—It is the case for the whole of India.

1814. This is Poona?—It was all over the country, it was in Madras, all over the country.

1815. Was not it all to weaken British Government and incite the people, as you had done before, to disaffection against the British Government?—That is not it.

1816. Very well. We will leave the Jury to judge. Did you at the same time turn the Ganpati festival to

political purposes also to weaken English rule?—No.

1817. Will you just look at page 618; on 617 there is an article on the Shri Ganpati festival, and at that meeting you were in the chair?—Yes.

1818. "Mr. Balwantrao Tilak." At the top of page 618: "At present if we see from any side whatsoever we find that there is disappointment growing in the minds of our people because we are certainly continuously declining in all respects. The festival of Ganpati is the thunderbolt to destroy this female demon of disappointment. Many persons take objection to this Ganpati festival. The first objection is that of bringing about enmity with Mohammedans. The Hindus are tolerant towards another's religion. They do not want to hurt the feelings of persons of another religion. Hence they will never try to provoke Mohammedans by the festival of Ganpati. The second objection is that in the Melas in connection with Ganpati, political songs are sung, and political subjects are dwelt upon and thereby the sentiment of devotion is destroyed. But these objectors have not realised the object with which a public aspect has been given to this Ganpati festival. Every man certainly does devotional service at his own house. Like the Christian religion, our religion does not require us to congregate in one place on Sundays to perform devotion. The festival of Ganpati is indeed a religious festival. But the spreading of political questions and political education among the masses is the predominant object therein, and not mere devotion. And it is for the very purpose of accomplishing that object that effort is made to introduce political subjects into the Melas." That was the musical bands, was not it?—Yes.

1819. "Moreover, Christian religion has at present invaded our country. This invasion is much more terrible than the invasion of the Buddhist religion or the Mohammedan religion in the past. The followers of the Buddhist religion carried on a debate to show the superiority of their religion and caused the defeated party to accept their religion. As regards the Mohammedan religion, it was being spread by force of the sword. But this Christian religion is being tied round the necks of persons afflicted by famine and dying for want of food

against their wishes. Under these circumstances if you have the means it would be preferable to open orphanages and save the poor from missionaries. But on account of poverty we have not the means to do that. Therefore this festival is the best means to create a sort of religious frenzy." Do you agree with that?—It is patriotism.

Mr. Justice DARLING: It seems to me really the most illuminating passage is at the bottom.

1820. Sir EDWARD CARSON: I was coming to that, my Lord: "After this, the chairman, Mr. Tilak, while concluding the subject, said: When this festival was first started, that is to say, when the present aspect was given to it, 'political training' or 'public movement' was the sole object of the starters. Consequently there is nothing wrong in that public matters are considered before the Ganpati." Do you say after that, Mr. Tilak, the Ganpati festival was not taken advantage of as a political movement?—Not as a political movement, the question here discussed was whether a pledge on the current political question can or cannot be discussed at the Ganpati political festival.

1821. Mr. Justice DARLING: Look at what you said three or four lines further on: "It is alleged that Mohammedans feel offended by this festival. But it appears that these accusers have invented this theory sitting in their chambers. If someone gives an undertaking that if this festival is stopped Mohammedans will render us full help in our national cause we will positively stop this festival." What is the use after that of saying it had no object at all but a religious one; if the Mohammedans would come in and join you in your national cause you would give up your religious festival?— That is not a statement. It was an answer to an objection that Mohammedan feelings were alienated; that if anyone could show that, we would rather stop this than alienate them.

1822. Then you go on: "We are prepared to go so far that except giving up the Hindu religion, we will do whatever else is required to keep our Mohammedan brothers pleased." Keep them pleased to the extent of debating nationalism with you, and if they do that you will give up the Ganpati festival and everything except the Hindu religion. You said that, did not you?—What

I say is—

1823. Did you say that?—I did say that, but the object of it was to say to what extent we cared for the co-operation of the Mohammedans. We would rather give up this than estrange them.

1824. It is no good talking to the Jury if you do not look at it. On condition that they give you their help in your national cause. You see it, Gentlemen, one line from the bottom—

1825. Sir EDWARD CARSON: Did these people who debated this policy take an oath or a vow?—They took a vow.

1826. What was the vow?—That they would use certain articles, one or two were named, in preference to any others even at a sacrifice.

1827. Did the children take that vow?—Not the children, they must be men of age.

1828. Did not the students take it?—Yes, if they were over 21.

1829. Schoolboys?—No, not under 21.

1830. Are you able to say that?—The form of the vow itself stated that the man must be over 21.

1831. I will pass on. This Swadeshi movement grew very much did not it, it extended very much?—Yes, it extended all over India.

1832. I am not going through all the articles but turn to page 734. That gives an account of the various towns and villages in which the Swadeshi movement—is that in the Deccan?—Yes.

1832A. Was being pushed on. Now if you turn to page 736 take "Yeola:—Through the efforts of"—certain gentlemen—" Bhat, Pleader and others, a pompous procession of King Shivaji was taken out from Ganga Darwaja to the temple of Dutta." Was Bhat a friend of yours?—(No answer.)

1833. Is Yeola near Nasik?—About 20 miles.

1834. We will have something to say about Nasik afterwards. Further on, after the national anthem was sung, somebody made a speech "in the course of the festival only Swadeshi indigenous articles were used." Was that festival at Nasik there according to your account held in the school?—I do not know.

1835. Just read it there?—It is a school, the building where it was held.

1836. Was that a Shivaji festival?—I do not know that. There were Shivaji festivals at Nasik.

1837. The Sanmitrasamaj celebrated the festival in honour of the birth of Shivaji in the Shri Shivaji Marathi school. Was not Shivaji and Swadeshi all mixed up?—No, they are not all mixed up. Swadeshi was preached on every occasion at every festival.

Mr. Justice DARLING: Apparently at this particular festival they celebrated the birth of Shivaji by eating nothing but Swadeshi sugar. They mixed them to that extent.

Sir EDWARD CARSON: That is at Solankur. Then on the other page. I only want to show the extent of it. At Pasle: "Great hopes are entertained by the people here as regards the Swadeshi indigenous sugar. Foreign sugar having been served on leaf dishes at the house of Rajeshri Mungekar, the people discarded the leaf dishes at the suggestion of Rajeshri Parulekar." Then: "At night a picture of Shivaji Maharaj was taken out in procession, seated in a palanquin and some persons swore in the presence of the deity that they would use Swadeshi articles and not drink liquor." Then at Belgaum were there wrestling fights? Your Lordship will remember in the earlier articles it is complained of: "small and large wrestling fights, distribution of prizes, etc., were gone through." Ganpati, I am told is fencing.

Mr. Justice DARLING: Wrestling fights, then they wound up by completely boycotting the foreign sugar.

1838. Sir EDWARD CARSON: Then again at Jalna people take vows not to use foreign sugar. Then again at Nasik: "The Shivaji festival was celebrated with pomp on behalf of the Mitra Mela. In the theatre about three thousand people had gathered. Speeches were made by Rajeshri Waman Ramchandra Joshi, Patankar Pleader, V. Datar, V. D. Savarkar, and other gentlemen." You tell me he was a friend of yours?—He was not a friend, but I knew him.

1839. You told us that he had been afterwards convicted: "Manly games were gone through, and ballads were recited and prizes were also distributed." Now

will you turn to page 742? The Shivaji festival at Calcutta: "Shivaji was essentially a man, and that is the reason why we should celebrate his life. The Goddess Kali is the presiding deity in Bengal"—that is the Goddess Kali?—There is a temple dedicated to Kali, it is a deity in Calcutta.

1840. Is she the goddess of destruction?—Yes, along with the god.

1841. Has not she got a necklace of human skulls round her?—Yes, in Calcutta.

1842. She is the presiding deity in Bengal, the goddess of destruction. The same goddess was the protectress of Shivaji?—Yes.

1843. "I am told that some persons objected to the worship of Kali here to-day. I see no reason in fact, no logical reason, why such objections should be raised." Then you say at the end: "Abstaining from the worship is no reason why we should not take part in the festival itself. It is to give corporal shape to our political ideas that we, Hindus, should have festivals like these." What were the political ideas?—The festival was intended simply to bring together people of different persuasions in the worship of the national deities.

1844. That is what you mean by the political ideas?—Yes.

1845. Then again at page 747. This is again the celebration of Shivaji at Calcutta where you were in the chair, apparently. It is said: "Babu Sureshchandra Samajpati made a speech marked by ardour, and asked the people to take a vow before Shri Shivaji Maharaj that they would not give up their pride for Swadeshi, and accordingly the people took vows"?—Yes.

1846. Was not the Shivaji too there used for the purpose of promoting the boycott?—I agree every occasion was taken to promote boycott.

Mr. Justice DARLING: Need you go into that with such particularity now, Sir Edward. The last answer was every occasion was taken to promote boycott. You have shown what sort of boycott it was, how it was mixed up with the adoration of Shivaji and of Kali the goddess of destruction.

1847. Sir EDWARD CARSON: My Lord, I will

take it more shortly after that. We will get on now to page 754. This is a speech by Mr. Tilak himself on the Ganpati festival: "There is a great responsibility upon the knowing people of the nation. If they fearlessly took upon themselves the said responsibility they would be putting the nation under great obligations. On account of the Swadeshi and boycott movements people's minds have become greatly agitated. Like the bodies our minds also should become 'Swadeshi.' If we become Swadeshists we need not for the present consider what would happen in the future. We are 'Swadeshists' already, but we have come to forget that we are so. If that recognition comes back, the result thereof cannot but be good. The state of things in which we are required to be told that we are 'Swadeshists' is very bad. 'Swadeshi' thoughts should always reign in our hearts. 'Swadeshism' is not a creed of a particular caste. It is of all. The country of Hindustan is not the property of some particular castes. Every one should remember that 'It is of all.' Mr. Tilak having spoken to the above effect and the Kalyan people having again expressed their thanks, the business of the meeting came to an end. Afterwards Mr. Tilak left for Nasik, by the night train." Does that generally carry out the views you had at the time?—This expresses the view I had to a certain extent.

1848. What did you mean that you should be Swadeshi in thought?—That you should not be required to be reminded that you have made a vow, you must bear it in mind at all times.

1849. Be always thinking of it?—You must be Swadeshi through and through.

1850. Mr. Justice DARLING: I suppose it means, does not it, you must not eat Swadeshi sugar on Monday and British sugar the rest of the week. You have got to remember it every meal, is not that so? It would not do to eat the Swadeshi sugar only now and then?—Once Swadeshi, always Swadeshi.

1851. I do not know how it would be with the Jury, but I think I know what Swadeshi is now——

Sir EDWARD CARSON: My Lord, I just want to go a little further to show how it was brought into the

schools and into the whole life of the place.

1852. Will you look at page 754: "Short notes on current topics by the Editor." That is by you, I suppose. "There has appeared in the issues of the 'Kesari' from time to time a discussion about the head master of the Thana High School having dismissed several boys of the High School on account of those boys having discussed the Swadeshi question in the boys' private meeting and about the correspondence which in consequence thereof took place between the guardians of those boys and the Director of Public Instruction in the Presidency of Bombay. Ra. Ra. Narayan Anant Manohar, the guardian of two of the dismissed boys, having made a representation to the Bombay Government on the date the 2nd of May in the year 1906. . . . The Government has not in this resolution expressed its clear opinion upon the questions raised by the guardians of the boys dismissed from the Thana High School. About the general questions, whether the teacher should command his students and whether his pupil should obey his teacher and such other things neither the guardians nor anyone else has any dispute with others. A Government resolution was not necessary to tell the people that if the students violated general and all approved principles of morality prevailing in the community in which both the teacher and the student live, the Guru (teacher) has a right of telling a few words of advice to his students; and that the teachers in England and in Europe do exercise such right. The question which the guardians of the Thana boys had placed before the Government was of this nature that when a movement like the 'Swadeshi' movement which is shaking the whole nation is going on in their particular village or in their country, and when the majority of the nation have been struggling hard for the success of that movement, whether any country school teacher has any authority to ask his boys not to participate in that movement, simply because some of the Government officials do not approve of this movement; and whether if any thoughtless teacher so advised his students and if the boys disobeyed him, would it be proper for that teacher to drive the boys out from the school for that act? It is not that the

Bombay Government does not know that if teachers or college professors in England were to tell their students that they should not attend meetings of the Liberal party or that they should not go to hear the lectures of the Labourite leaders and that they should give their opinions according to the views of the Conservatives, how many of the guardians of English boys would ask their children to hold out their hands under the canes of these teachers who foolishly meddle with things which do not concern them." I think I need not read it through, but at the end there is: "To ask us in this way to give our boys into the charge of teachers who are merely servilely obeying the Government is like asking us to sit quiet while the minds of our young generation are being moulded on the pattern of slaves' minds. The Bombay Government in its resolution has not at all considered the above question in a proper manner." You told me a short time ago that you never suggested introducing this into the schools?—No.

1853. Do you say that now?—Yes, even with this passage before me. This has nothing to do with that.

1854. Why not?—Supposing I have my boy in the school, and if he does not express his opinion which accords with the opinion of his guardians he would be dismissed from the school. That is the point.

1855. Now page 759. You were at Nasik?—Yes.

1856. You there pointed out that the teachers of religion could be useful for Swadeshi?—"Teachers" there means our priests.

1857. I will read what you say: "On this occasion he"—is that you?—Yes.

1858. "Pointed out how the teachers of religion could be useful for the spread of the Swadeshi movement and made a pressing request to all the people assembled there that they should take a vow in the presence of the deity Bhadrakali that they would use the Swadeshi (i. e. Home made) goods such as sugar, &c. The subject of the lecture which he delivered at the Dargah was the union of Hindus and Mussulmans." Then it says who you were supporting. Then: "It is highly creditable to the leaders of Belgaum and Nasik districts that there is a stronger

agitation in these districts than in other districts, for the use of home made goods and abstention from liquor, and we only request that these people should try to utilise such occasions as they arise as much as they can towards these national objects, or, we might say briefly, that the only true object of holding such festivals is that they should be utilised in the above manner, and, when we consider the fact that the rich merchants of Nasik and Belgaum took a leading part in inviting Mr. Tilak to be present on these occasions we hope that the request so earnestly pressed on their attention by Mr. Tilak will not have been made to quite the wrong people." That is all in furtherance of Swadeshi?—Yes, it was a lecture on Swadeshi.

1859. Then again on page 761 Swadeshi is described as a kind of national religion?—Yes.

1860. Now at page 781—I will only read a sentence or two: "The object of the Swadeshi Vastu Pracharini Sabha is to bring about the spread (of the use) of Swadeshi (i.e., country made) things, visible and invisible, to bring about the gradual disappearance of visible foreign things and to bring about the gradual disappearance of foreign ideas also." That meant British, did it not. It is your own speech, is it not? Read it?—"The object of the Swadeshi Vastu Pracharini is to bring about the spread of Swadeshi (i.e., country made) things, visible and invisible, to bring about the gradual disappearance of visible foreign things, and to bring about the gradual disappearance of foreign ideas also."

1861. Was that English?—Any foreign ideas.

1862. To get rid of all English ideas?—It is not necessarily English—foreign there means detrimental to your national growth.

1863. Do you include English ideas in foreign ideas there?—These are the words stated. They are the words of that correspondent.

Mr. Justice DARLING: Do attend to the question.

1864. Sir EDWARD CARSON: It is a simple question, and will you kindly attend to it. When you say there that you want to bring about the gradual disappearance of foreign ideas——?—I have not said it. It is a letter from a correspondent in Bombay explaining

in the words of the Swadeshi itself what its object was. They are not my words.

1865. This is not a letter, it is your own speech?—No, this is not my speech.

Mr. Justice DARLING: Apparently it is a letter addressed to the editor.

Mr. SPENCE: You will see before the passage you are reading quotations from remarks of Mr. Tilak quoting this letter. This is what the correspondent himself is saying.

1866. Sir EDWARD CARSON: Does this accord with your own views of Swadeshi?—They are not expressed in these words.

1867. Mr. Justice DARLING: Do attend to the question. Do these words here express your own views or do they not?—They do not exactly.

1868. In what way do your views differ? Will you explain that to the Jury?—My view about Swadeshi is that we should use Swadeshi articles and that we should as far as possible use articles prepared in the country in preference to articles imported from foreign lands.

1869. Supposing that is so, would it not bring about exactly what this man writes? Look at that page.

Sir EDWARD CARSON: This is Mr. Tilak's own speech, my Lord. The letter is giving a description of what Mr. Tilak said.

1870. Mr. Justice DARLING: Here are the words. Whether he used them or not I should like to know whether he agrees with them: "The object of the Swadeshi is to bring about the spread of Swadeshi"—that is country made things—"visible and invisible, to bring about the gradual disappearance of foreign ideas also." If all the visible foreign things were abolished in India and all the foreign ideas also what would be left of English Government?—This has nothing to do with Government.

1871. What would be left of England in India at all if every visible foreign thing was gone and every foreign idea was gone?—This has nothing to do with it. This means that our minds are becoming Anglicised and that it is desirable that a love of the country and nationality should be created. It does not mean that it

should not include foreign ideas.

1872. Then what is the meaning of this: "And to bring about the gradual disappearance of foreign ideas"?—Foreign means those ideas that are not nationalised, and which do not conduce towards nationality. That is all it means.

1873. Sir EDWARD CARSON: Then it goes on: "The question of Swadeshi now no longer remains a question of argument. To the question: 'Why are you Swadeshi?' must be given the straight answer 'Because we are born in this country.' Just as there is no reason as to why we speak Mahratti, so also there is no reason that can be assigned for the use of Swadeshi articles. Now the circumstances are such that to cast aside the vow for the use of Swadeshi things would mean death"?—Yes.

1874. Does that mean that to anybody who broke away from his vow it would mean death?—That is not the meaning of it; this is a far-fetched construction.

1875. What did it mean?—Death means there that the nation will die; it will be completely at the mercy of other nations.

1876. Is it not clumsily put if it means only the nation will die?——

Mr. Justice DARLING: You were quite right, Sir Edward, when you said that this is from his own speech.

Sir EDWARD CARSON: It is, my Lord.

Mr. Justice DARLING: If you look at it, the eleventh line from the top shews it: "The president, Mr. Tilak, rose to speak, and he said"—and then come the inverted commas.

Sir EDWARD CARSON: Your Lordship will find at the end of page 782 it says: "After a speech to this effect was delivered by Mr. Tilak, and after thanks were given to the president the meeting dispersed."

Mr. Justice DARLING: I think you had better let him see that this is so. He has denied that these are his ideas.

Mr. SPENCE: I was wrong, my Lord, when I said that it was the letter of a correspondent.

Mr. Justice DARLING: But the witness denied that

these were his ideas, and said they were the words of a correspondent, and did not express his opinion.

Mr. SPENCE: I was mistaken, my Lord.

Sir EDWARD CARSON: But the witness ought to know.

Mr. Justice DARLING: You were mistaken, Mr. Spence, and that is natural enough for a Counsel, but the witness not only said that these were not things he had said but were the words of a correspondent, and he said to me that they did not represent his own opinion, and went on to explain what was the meaning of it.

1877. Sir EDWARD CARSON (to the Witness): Do you say that these are your own words?—These are not my own words.

1878. Yes, they are?—There was being published in Bombay the programme, and this is a quotation from that.

1879. How does it show it is a quotation: "Now the circumstances are that to cast aside the vow would mean death"? Do you say that that is a quotation?—That is not a quotation. The first part I took from the pamphlet.

1880. You took it from the pamphlet?—Yes.

1881. Did you approve of it?—I say what I have to say futher on.

1882. Is it any excuse that you took it from a pamphlet?—I understood it to mean that it was intended for Swadeshi.

1883. You get away as if you were writing an article. Cannot you keep to the point? You say now that this is not a quotation?—The first part——

1884. Wait a moment. "That to cast aside the vow for the use of Swadeshi things would mean death." That is not a quotation?—Under the circumstances—

1885. Is not that the penalty for the breach of the vow? Is it not as plain as it can be?—That is not meant as a penalty—death. What is meant by this is, that if you will not have Swadeshi, you will die as a nation.

1886. What does that say would happen if a man broke away from his vow of Swadeshi?—If a man breaks his vow, he will ruin his country.

1887. Then it goes on: "That you are forgetting

your country is known also to God; and it does not seem probable that He will, under the circumstances, do good to you." That is, if you break your vow, God would punish you ?—Get angry with you.

1888. Would not do good to you ?—Yes.

1889. "If the vow for the use of Swadeshi things tumbles down, the consequences of the failure will have to be borne not by you alone, but by the future generations also. This is a great question to-day before Hindus, Mussulmans, Parsees and Christians. We must first do what lies in our hands. *Not* to do what lies in our hands and sit bewailing our sad lot because such and such a person or persons did not give; how does that avail ?" I put it to you that you were laying down the penalty of death and the anger of God for breaking the vows of boycotting English goods ?—No, I have not laid down the penalty of death. That is wrong.

1890. By degrees, did the Swadeshi movements spread amongst the schoolchildren ?—Among all classes.

1891. I did not ask you about all classes. Cannot you give me one straight answer ?—Not amongst schools specially. That is the answer.

1892. Did the Swadeshi movement spread amongst the schoolchildren ?—Some of them.

1893. Now will you turn to page 795 and see what it means ? This was a speech made in your presence at a Swadeshi gathering by Professor Vijapurkar. You knew him, did you not ?—Yes.

1894. What became of Professor Vijapurkar ?—He is now conducting his school.

1895. Was he afterwards convicted ?—Yes.

1896. For what ?—For sedition, I believe.

1897. Was he convicted for abetting murder ?—I do not know : I do not think so.

1898. You were present at this meeting ?—Yes.

1899. Now listen to this: "This Swadeshi movement has now become very extensive. It has spread not only amongst the educated and uneducated, men and women, but amongst little children also. There are children who by throwing away thin paper because it is foreign, put even their teachers to shame or throw out of their dishes sweetmeats made of foreign sugar while grown up

men sitting in the same row are freely indulging in them. Since the younger generation is possessed by such a spirit, however obstinate the grown up and the old generations may have become, it shall not be possible for the Swadeshi movement ever to disappear from India." I see you spoke yourself at that meeting ?—Yes.

1900. I need not go through your speech for the moment. We have had so many of them. Now, will you turn to page 801 ? Did you lay down there in your paper that at a marriage, unless Swadeshi goods were used, the death of the husband or wife would occur within a few days ?—I want to see the sentence.

1901. Cannot you tell me without looking at it ? Were you laying it down ?—I want to see it.

Mr. SPENCE : Let him read it.

Sir EDWARD CARSON : He need not read it. He can answer me without reading it.

1902. I ask you, did you lay down in your paper that at a marriage ceremony, if Swadeshi goods were not used, people must expect such an event as the death of the husband or the death of the wife within a few days of the marriage ?—It was inauspicious.

1903. Inauspicious ? Is that what you say ?—Yes.

1904. And is that the way you laid it down ?—Yes.

1905. Is that your method ?—The methods in every way to promote Swadeshi.

1906. I will read it : " The marriage season will commence in a few days. It appears from the market rates of Bombay that the merchants who store up Manchester cloth and foreign sugar are eagerly awaiting at Bombay as to how soon when the marriage season shall have commenced, they would send the money of India to foreign countries by tying this foreign soot round the necks of the Hindus. If on the holy auspicious occasions like marriages, we allow this inauspicious and ill-boding plunder by foreign goods to go on, then how can the bride and the bridegroom who are to be married be happy ? If a marriage ceremony means the swarming of inauspicious and ruinous foreign articles, then what wonder is there if within a very few days of the celebration of marriages such events as the death of the husband in some cases and the death of the wife in others should

occur ?" Was that laying down that the penalty for using other than Swadeshi goods whould be the death of the husband or the wife ?— It is not the penalty. It is put in this way, that you must observe Swadeshi in every possible path of life, and if you do not, it will be inauspicious.

1907. If you do not, you will die ?—It would be inauspicious and would bring misery on you.

1908. Mr. Justice DARLING: Do you really believe that ?—I believe in the Articles of Faith.

1909. Do you really believe that as an Article of Faith ?—An Article of Faith means—

1910. What is it you believe as an Article of Faith ?—I believe it as an Article of Faith.

1911. What ?—The use of Swadeshi.

1912. Do you believe if a man got married and at the marriage there were things used which were not produced in India, that he was more likely to die or that his wife was more likely to die within a very short time—a natural death, you know—than if all the articles had been produced in India ?—That is not the exact question.

1913. Do you believe that ?—I do not believe that death comes by breaking the vow, but this is what appeals to the people, and I say you make it a sacred thing, and if you do not do it you incur the displeasure of God.

1914. You say you do not believe it yourself ?—Not exactly in the main—it is cause and effect.

1915. But it was necessary to appeal to the people and make them believe it ?—That is not the point, my Lord. The point is this : any evil that comes upon you will be the result of your breaking the vow if you once take the vow.

1916. Sir EDWARD CARSON : Now let me go on with this : " Such events as the death of the husband in some cases and the death of the wife in others should occur. The reformer nowadays complained that many young women became widows, and as a remedy they have suggested that widow-remarriages should be performed. So long as we are not ashamed to hold an exhibition of inauspicious foreign articles even on such auspicious occasions as

marriages so long only poverty, famine, plague, and other inauspicious events will prevail everywhere in our homes." Were you laying down that all these horrible things you mention would follow—poverty, famine and plague?—If you break your vow, the consequences will follow. That is what it means.

1917. Mr. Justice DARLING: Do you believe that if you take the vow of Swadeshi and do not keep it, you would get the plague?—I believe a sort of evil will come if you break your vow.

1918. But do you believe it yourself?—If your vow is broken, I do believe it.

1919. You have taken the Swadeshi vow?—Yes.

1920. Do you believe if you were to eat English sugar you would get the plague?—It may be plague or anything.

1921. Do you think that if you eat English sugar you might lose this action?—That is carrying it too far.

1922. Sir EDWARD CARSON: What would happen if you invoked the English law to help you?—This is a religious law: that is what I am speaking of. It is not an English law.

1923. I know you are not preaching English law, but it is a foreign thing. English law is a foreign thing to you?—It is not said here that English law is a foreign thing.

1924. Mr. Justice DARLING: And Sir John Simon is not a Swadeshi lawyer either?—We are speaking of articles in ordinary use.

1925. Sir EDWARD CARSON: No, because you said even foreign ideas would?—I understand the word there to mean foreign ideas inconsistent with our national law.

1926. Let us just finish this: "And when this state of things has happened, whence can our people get the happiness of a married couple. If people wish that newly-married brides should not become widows, then remarriage is not the remedy for that. But they should take precaution not to allow the couple to have even the sight of inauspicious and ill-boding foreign articles in any auspicious ceremony. Both the parties (i. e. of the

bride and the bridegroom) must understand that the vow of Swadeshi is itself the Mangalsutra at the wedding." Is that what we call a wedding ring?—No, not a wedding ring exactly.

1927. "A marriage string with a bit of gold strung in it. The bridegroom casts it at the wedding around the neck of his bride and she wears it until widowed." They take the neck instead of the finger out there. Then the vow of Swadeshi was to have the same effect as this marriage string?—If it is broken—if you break the vow it is like breaking this marriage string.

1928. It is breaking your marriage vow?—Yes.

1929. At page 810 there is this: "News and Notes." You announce "A big sensational Swadeshi case is reported from Senhati, one of the most advanced villages in East Bengal. Some boys, including a graduate of the University, are implicated in the case. Some anti-Swadeshi shopkeepers lodged information at the Khulna Police Station that several young men of the village had looted their shops, thrown away a large quantity of Liverpool salt, burnt *belati* cloths"—that means English, does it not? Is not *belati* the same as Blighty? It is the origin of the word Blighty, is it not?—"*belati* cloths of considerable value and assaulted them, because they would not give up selling them in spite of their earnest appeal. The Superintendent of Police investigated the case in person and sent up one, Akshoy Kumar Sen, aged about 12 years, under sections 380 and 148 Indian Penal Code. The date of the hearing was fixed for yesterday, when another boy, by name Surendra Nath Roy, also surrendered himself to the officiating magistrate." Was there making war at that time when the boys began pillaging shops?—This is a particular case that is reported in Bengal. There were many offences committed.

1930. I know it is only one particular case, but I am pointing out to you that it was leading to the burning of goods and the looting of shops?—In Bengal excesses were committed.

1931. Did you take any steps to stop it?—How can I do it in Bengal. Bengal is not my home, it is a thousand miles away from me.

1932. Did you take any steps to stop the Swadeshi

movement when you wrote that?—I cannot take any steps at Bengal.

1933. No, at Poona?—What steps can I take at Poona a thousand miles away?

1934. I will tell you what steps you did take. That was the 13th January that I read out. Now this is on the 15th January. You published this: "As the Swadeshi movement has now met with the full approval of all thoughtful persons in the country, to act contrary to the principle of Swadeshi during marriage ceremonies is tantamount to voluntarily inviting and taking upon one's own head, the curses of all learned, working, responsible and thoughtful saintly persons in the country." Was that your view?—Yes.

1935. Then you go on: "When the bride and bridegroom and their friends and relations should have accepted the Swadeshi vow in marriage ceremonies in this manner, then for the sake of the completion of the said vow in all its details, it is necessary that the money presents given at feasts should go to the 'Pice Fund' and a due proportion of the saving thus made, owing to the vow of Swadeshi in the expenditure regarding superfluous articles of luxury, to the Maharashtra Vidya Prasarak Mandali. This the persons taking a leading part in marriages must not forget." Was the Pice Fund one of your funds?—Yes, the point of it is I was a trustee.

1936. And part of the marriage ceremony was that the money should go to you?—That means to a national fund, not to me.

1937. For carrying on what?—Industry.

1938. Carrying on your propaganda of Swadeshi?—No, it had nothing to do with Swadeshi.

1939. What did happen if they did not give the money?—This is an exhortation to them to pay. If they do not pay, what can I do?

1940. What would happen if they did not do it?—This will go against the wishes of the country. There is not anything strange in it.

1941. What is the Vidya Prasarak Mandali that is referred to there? This particular passage is important on one of what Sir John Simon called the minor libels.

I am asking you what is the Vidya Prasarak Mandali?—That means for the extension of education in Mahratti.

1942. For the spread of education—what kind of education?—It was a school for national education.

1943. Was that to do away with the British education?—No.

1944. Was that the object of it?—No.

1945. I will come to it later and I will show you what you say about it. I want particularly to ask you about this. Was that National Paisa Fund devoted to political movements?—No.

1946. Never?—It was educational purely.

1947. Was it ever devoted to political movements?—No.

1948. Just look at page 855: "It is the opinion of the New National party that students should necessarily take part in such public movements as the 'Paisa Fund,' and such other things or in political movements, that they should receive education with respect to these matters along with the training in other matters." Was not the Paisa Fund used for political matters?—That means that they should be allowed to serve as volunteers for collecting money for that purpose.

1949. Was not the Paisa Fund—you denied it a moment ago and I referred you to this passage—used for educating the students in political movements?—No.

1950. Then what does this mean?—"It is the opinion of the New National party that students should necessarily take part in such public movements as the Paisa Fund and such other things or in political movements, that they should receive education with respect to these matters along with the training in other matters." Is that what you asked me?

1951. Yes?—It means that students should not be allowed to attend any public meeting, and that students should never in any way take part in them and should not go to them. The New National party preaches that this exclusion put upon them was not proper.

1952. But I am asking you about this passage if you would only give me one or two direct answers—"that they should receive education with respect to these matters along with the training in other matters." What

are those matters?—In their public and political matters.

1953. Political matters?—Yes.

1954. That is what I asked you a moment ago and you denied it?—No.

1955. As to whether the Paisa Fund was not being used for education in political matters?—Yes, but I do not understand it in the way you do. I do not deny it.

1956. "These matters" mean political and public matters?—Political and public matters, and students should be allowed to take part as students in them, if we want volunteers or people to assist us.

1957. Or if you want dacoities?—No, it is nothing to do with dacoities.

1958. We will see afterwards when we come to that. Now, by reason of this agitation, had the Government to prevent students attending political meetings?—Not by reason of this agitation. I did not know their motives, but there had been a Government circular asking students not to attend the meetings, and asking schoolmasters to prohibit them.

1959. Will you just turn to page 847: "The purport of this resolution is as follows: Students from high schools shall not attend any political meetings; masters and students from college may attend, but they shall not take any special leading part," &c. Then you see this: "The gagging of private and other schools commenced by Lord Curzon has been completely done by this resolution." Then further down you say: "If Government were to pass such a resolution in England, the clauses and restrictions therein would not but be mutilated at every step. We are even doubtful to what extent this resolution can be observed in India. The arrest of Lala Lajpatrai has now made it known all over the world how far political movements are disliked by the Government. This resolution has been issued with the object that this movement might not reach the ears of boys in schools and that by such discipline their spirit might be damped from the very childhood. There is only one remedy for counteracting its effects and that is this, namely, that hereafter without taking help from Government, schools and colleges for imparting national education should be started and a University also should be established. If

private schools and colleges now in existence are not prepared to impart such education then the pecuniary help which these institutions are receiving from us must be stopped, and that money must be spent on national education. We had already guessed that the ultimate aspect of Lord Curzon's policy regarding education was of such nature; and from this point of view itself the series of leading articles headed: 'These are not our Gurus at all' had been published in the issues of the 'Kesari.' But this policy of Government did not then thoroughly occur to several people. Now none will entertain any doubt regarding the Government policy. We cannot write anything more on this subject to-day for want of space. We say this much only, that now people had better set themselves to establishing schools and colleges that would impart national education." Were you laying down there that this doctrine must be pushed even to the extent of starting separate schools in order that the children might learn?—Where children might be educated on the national merits.

1960. That is Swadeshi?—There are a great many other things.

1961. Indeed I know there are and Swadeshi was one of them. Your complaint was that the Government would not allow the children from an early age to be taught this anti-British doctrine?—It is not anti-British.

1962. Boycotting all English goods?—As a matter of fact, schools had been started.

1963. Had not the Government eventually to shut down one of these schools that were started in opposition to the Government schools?—Yes.

1964. Just listen to this: "Whereas the Governor General in Council is of opinion that the association styled 'The Samartha Vidyalaya' situated at Talegaon in the Poona district of the Bombay Presidency has for its object interference with the maintenance of law and order and constitutes danger to the public peace: In exercise of the power conferred by Section 16 of the Indian Criminal Law Amendment Act, 1908, the Governor General in Council hereby declares the said association to be unlawful"?—Yes.

1965. Was that a school kept by a man named

Vijapurkar?—Yes.

1966. Was he a friend of yours?—Not a friend, but an acquaintance.

1967. Did you travel all over the country with him?—No.

1968. To raise funds for the Talegaon School?—I went once with him to some place.

1969. For what purpose?—To raise funds for national schools.

1970. For the Talegaon School?—That was one of them. Not that one specially.

1971. A school that was afterwards shut up?—Yes.

1972. For teaching interference with law and order, and constituting a danger to the State?—Yes, the Government has given permission for that school now.

Mr. Justice DARLING: It was set up for that purpose?

1973. Sir EDWARD CARSON: Yes, my Lord. (To the Witness): That is the school for which you went about with this gentleman collecting funds?—Not for that school, but for schools generally. We collected for a general purpose.

1974. What became of this friend of yours?—He is still in Poona.

1975. What became of him after that. You were removed for six years?—He is now in Poona.

1976. What became of him? Was he convicted?—He was convicted afterwards.

1977. For what?—For sedition, as I said.

1978. Was not he convicted—I have the documents here if it is necessary to refer to them—on a charge of abetment of murder?—I do not know that.

1979. And of sedition?—I do not know that.

1980. What sentence did he get?—He was convicted in my absence.

1981. What sentence did he get?—I think it may be three years.

1982. Is he still a friend of yours?—Indeed an acquaintance, and he continues to be an acquaintance.

1983. Nearly all your friends seem to have been convicted?—No, not nearly all. There are lots of my friends who are not yet.

1984. I want to ask you about your connection with Nasik. Nasik was the place where Mr. Jackson was murdered?—That is what I have heard. I was not present.

1985. We never said you were. The book says you were in Mandalay at the time he was murdered?—Yes.

1986. That was true?—Yes.

1987. Mr. Jackson was murdered at Nasik. Do you know there were four sets of trials at Nasik?—I do not know how many sets of trials there were.

1988. But you know a great number of people were prosecuted there for the murder of Mr. Jackson?—Yes, a great number. That I knew.

1989. A great number more were prosecuted for attempting to wage war on the King?—I think so.

1990. You know that very well?—I read the proceedings, and from my reading of the proceedings I can give evidence.

1991. Amongst those convicted there was V. D. Savarkar?—I think he was one of them.

1992. Do not you know it?——

Mr. SPENCE: How can he know it? He was not present.

Mr. Justice DARLING: He says he has read the proceedings. Sir Edward Carson is not asking him if he saw the man convicted.

Sir EDWARD CARSON: No, nor whether he saw him commit the murder.

Mr. Justice DARLING: He can ask him if he knows that Columbus discovered America, but he did not see him do it, of course.

1993. Sir EDWARD CARSON: Was Ganesh Savarkar a friend of yours?—I had seen him once or twice.

1994. Only seen him?—Yes, he was not a friend.

1995. Is he not the gentleman that you gave private advice to, not to go too far?—I gave it to him at the club where he was.

1996. Then you were at all events on sufficient terms to warn him of what he was doing?—They appeared to me to be hot-headed youths and they were removed——

1997. Just to know what they are when I come to read these passages, was he convicted for abetment of

the murder of Mr. Jackson?—That was in 1910.

1998. We know the murder of Mr. Jackson was in 1910?—My advice was given in 1906 when none of them were convicted.

1999. Was he convicted for abetment of the murder of Mr. Jackson?—That was in 1910.

2000. Was he convicted for abetment of the murder of Mr Jackson?—I cannot say unless I have the proceedings in my hand.

2001. You have told me already. Who is V. M. Bhat?—One of the Nasik men belonging to the "Kesari."

2002. Was he convicted also of waging war against the King?—Afterwards.

2003. At that time?—Not at that time.

2004. Yes, 1910?—Yes, 1910, four years afterwards.

2005. No, no?—Four years after the advice.

2006. What about this man, Bhat? Was he a friend of yours?—I know him.

2007. Was he a friend of yours?—No.

2008. Did he accompany you to various places?—There was a meeting and he was there.

2009. What sentence did he get?—I gave the advice not to one man——

2010. What sentence did he get?—I have not heard.

2011. What sentence did he get?—I do not know that.

2012. For how long was he in prison?—I cannot say.

2013. About how long?—It may be four, five or six years.

2014. Did you immediately take him into the "Kesari" newspaper office after he had been convicted?—No, we gave him some work afterwards in connection with the office.

2015. Was Bhat convicted of waging war and helping you to get up this case?—Some work was given to him in our office.

2016. Was he helping you to get up this case before the Commissioner in India?—He was employed in inspecting files of papers.

2017. Is he in your employment still?—I do not know yet, but I think he is. I am here now.

2018. Do not be ashamed of it?—I am not ashamed of anything. When members convicted sit in Parliament, why should I be ashamed of him.

2019. Was Ganesh Savarkar a friend of yours?—No, he was not a friend.

2020. Did you know him?—Yes.

2021. What happened to him?—I do not know.

2022. Did you meet him at Nasik at your meetings?—I cannot remember. He was avoided.

2023. Was he convicted of waging war?—I do not know that. He might be. There are 50 names I do not remember.

2024. I am only putting to you a few?—If you give me the list, I will say Yes.

2025. Do you know Bhave?—No, I do not know him.

2026. Was he not one of your friends at Nasik?—Not my friend.

2027. Did you know him?—He may have come in the club, that is all.

2028. Did you know him?—I do not know him.

2029. Not at all?—I may have met him at the club.

2030. Was he present when you had your meeting?—He may have been.

2031. What became of him?—There was a meeting of the club members called by the secretary and the organiser at the club at which all the members were called.

2032. What became of Bhave?—I do not know. I had nothing to do with the club afterwards.

2033. Was he convicted of waging war?—I do not know. I cannot remember all the names.

2034. Let us see what your connection was with Nasik. In the first place in August, 1905, did you go to Nasik?—It was in 1906.

2035. I think you are right; I beg your pardon. Had you a celebration at Poona of the Shivaji Coronation in 1905?—None whatever.

2036. At Poona?—No, at no place; neither in

Poona nor any other place was there a celebration in 1905.

2037. Would you just look at page 577, and tell me what is the meaning of this: "Celebration at Poona of the Anniversary of Shivaji's Coronation"?—In 1905, there was, yes. I understood you to mean 1895.

2038. I will accept that; I do not want to make any point of it. There is no doubt there was the celebration there at that time?—From 1896 those celebrations were celebrated.

2039. I want to know at that celebration were Savarkars from Nasik there? Can you tell me if one of the Savarkars was at that meeting?—I do not think he was present at that meeting.

2040. Did boys come over from Nasik—boys as you call them—for that meeting?—Some boys did come.

2041. At pages 583 it states this: "We may safely say that the object of holding a Shivaji festival has to a considerable degree been fulfilled, even if people generally have begun properly to understand the real nature of the English policy. Finally the president said: 'Keep the example of Mr. Rajwade before your eyes. These are the persons who show that Maharashtra is still a living country.' After the president had thus spoken he thanked those who had rendered assistance in bringing to a successful end the Shivaji festival, namely, the persons who performed the Kirtans, those who recited the Puran, the lecturer, the 'Sanmitra' Samaj, the boys from Nasik, the secretary, the painter and those other persons who had laboured for the festival, and the owners of the temple." Was it usual for the boys of Nasik to come over to the festivals at Poona?—To sing that song. A few boys were there from Nasik, singers especially, who came there to sing a song.

2042. Mr. Justice DARLING: What is the newly composed National Anthem which they sang, mentioned at page 578, at the last line of the first paragraph: "At the outset the 'Sanmitra Samaj' sang the newly composed National Anthem and two or three other songs." Had you got a National Anthem of your own,

a Mahratti National Anthem?—The Mahratti National Anthem is a translation of a song of Bengal.

2043. What was the newly composed one which was sung at this celebration of Shivaji?—It was a translation of the Bengal song newly made at that time.

2044. A National Anthem?—A National Anthem; that is what we called it.

2045. Sir EDWARD CARSON: Would you look at page 580: "After the president had spoken, the boys who had come from Nasik specially for that purpose sang the song composed by Vinayak." Was that Savarkar?—I do not know.

2046. You were there, you know?—I do not know whether it was Vinayak, I do not know which it is.

2047. The boys had come from Nasik; Savarkar lived there, did not he?—Yes.

2048. These were the boys from Nasik who came down there? Was not he the author of many songs?—I think so.

2049. Was not he prosecuted for them?—I do not know.

2050. Now will you look at page 599, 29th August, 1905: "As published in the last issue, 2,000 students had assembled in the meeting held last Tuesday in the hall of the Sarvajanik Sabha here. Ra. Ra. Tilak was in the chair. A resolution expressing sympathy for the determination made by the Bengali students to use country cloth was passed; and it was resolved that all the students with the consent of their guardians should take oath to use country cloth from to-day. At the meeting Professor Paranjpe, Ra. Chinchalkar, Ra. Savarkar and one Bengali student made speeches." Had he come from Nasik?—I think it was Vinayak.

2051. Vinayak, the poet?—I think it was the man who came to England here.

2052. Ganesh?—The man who came here.

2053. And Paranjpe, who was there at the same time, was the man, you told us, who was proprietor of the "Kal" afterwards?—Yes.

2054. Who helped you in getting up your defence, or you helped him?—I did not help him. He had an independent Press.

2055. I am not going back, I only want to show the three together. That Savarkar was the one who went to England?—Yes.

2056. Was it you who got him sent to England?—No.

2057. Did you recommend him for a prize by which he was enabled to come to England?—I did not recommend him; he came to me with an application for a scholarship. He had a recommendation from the principal of his college, and he asked me to sign that recommendation as a second witness to it, and I think I have signed it.

2058. Then you recommended him to get the scholarship?—No, I did not recommend him.

2059. What did you recommend him for?—He is a student.

2060. Yes, I know?—And a good student; that is all.

2061. What were you signing this for? I want to show your connection with this Savarkar particularly? —He was a good student recommended by the principal of his college.

2062. Would it be putting it too high to say you helped him by signing these documents?—I do not think it would have that effect. He wanted to produce a certificate from the principal of his college, and one gentleman from the town, and he came to me and asked if I would sign it; I said: "If your principal has signed, I have no objection."

2063. But what was the certificate for?—It was for a school course; for proficiency and intelligence—that he was a good scholar.

2064. Then did he get a scholarship that enabled him to come over to England?—Yes, he got it.

2065. Was he brought away from England charged with being concerned in the murder of Mr. Jackson? —I think that appears from the proceedings.

2066. Was not it he who sent out the pistols with which Mr. Jackson was shot?—I have no personal knowledge of it. I have read things in the reports, and I will answer from that if you like. I do not know anything personally, as I was then in gaol.

2067. I am not saying you know personally at all, but as a matter of fact, was not it proved that it was he

who sent out the pistols from England to shoot Mr. Jackson?—That was reported in the case.

2068. And he was afterwards himself tried and sentenced to penal servitude for life, or transportation, for abetting the murder of Mr. Jackson?—That is what appears in the case.

2069. He was with you there upon that occasion, and Paranjpe was there?——

Mr. Justice DARLING: This was in 1905. When was Mr. Jackson murdered?

Sir EDWARD CARSON: Mr. Jackson was murdered, my Lord, in December, 1909.

Mr. Justice DARLING: It was after the 1905 campaigns that Savarkar went to England and got the pistols.

Sir EDWARD CARSON: Yes, my Lord.

Mr. Justice DARLING: You say he served a very long term of imprisonment.

Sir EDWARD CARSON: He was transported for life, my Lord.

2070. Now if you will look at page 645, see what you were doing with Paranjpe again: "Last Saturday, on the auspicious occasion of Dasra, a grand procession was taken out for 'Simollanghan,' when the students of this place and some other gentlemen made a bonfire of the foreign articles in their use, in order to manifest their contempt for foreign goods. At that time about five to six thousand people had assembled; and before the bonfire was kindled, and while the burning was going on, Professor Paranjpe and Ra. Ra. Tilak"—that is you—"made speeches. Some reformers have made a comment that as this 'Holi' took place on the auspicious Dasra day, the auspiciousness of the Dasra was gone, and it became an evil omen. But this instead of proving any mistake on the part of the students, only clearly shows that these objectors do not properly understand the very principle of auspicious time. Swadeshi movement, in other words, is indeed a war of Swadeshi goods against foreign goods; and as in former times, a beginning of any war used to be made at the auspicious time of Dasra, in the same way foreign goods having been consigned to the flames, the Swadeshi

movement is begun. If anyone sees any evil omen in this, it must be considered to be his misfortune. It is learnt that at Nasik also a third grand meeting was held on the very day under the presidentship of Ra. Ra. Daji Sahib Ketkar, and after Ra. Ra. Bhat"—is that the same man who is still in your employ?—Yes.

2071. "Datar and Gosavi pleaders made spirited speeches. Belbhandar was thrown about." What is Belbhandar?—What we put upon an idol for worshipping—they swear by it.

2072. "Goddess Kali was carried in grand procession"—that is the same goddess of destruction?—This was not in my presence.

2073. I know it was not. What I am pointing out is that in the "Kesari" these two meetings are put together at the same time. I will have observations to make about that afterwards. What is Simollanghan?—Crossing the boundary. Each man is required to come out of the boundary of his village.

2074. "Simollanghan was performed and a bonfire made of English clothes." The same thing was going on in Nasik as in Poona?—It appears from this.

2075. From your paper?—Yes.

2076. It was all one conspiracy, was it not?—Certainly not.

2077. The same in Nasik?—No.

2078. The same in Nasik as in Poona?—It might be. It was celebrated at other places also, independently. It was no conspiracy.

2079. What was the difference?—It was a new idea and captured the people, and it was celebrated in places independently.

2080. And led up eventually to all these trials at Nasik?—No, that had nothing to do with it.

2081. Had you a correspondent at Nasik?—Not a permanent correspondent.

2082. I did not say permanent?—Not appointed nor paid. A man sometimes writes to me from Nasik to the papers.

2083. Had you a correspondent at Nasik?—No.

2084. Why did not you say No, at once?—Perhaps a man writes to me now and then. If you call him a

correspondent he is a correspondent.

2085. You are a very able man and a very able journalist, and you know very well it is no use going on in that way. Had you a correspondent at Nasik?—No.

2086. Who sent you the news from there?—Any man might send. There was not a permanent correspondent at Nasik paid by us, retained by us, or appointed by us.

2087. If you will not tell me, I cannot help it——

Mr. SPENCE: I submit he has told you quite fairly.

2088. Sir EDWARD CARSON: At page 652, on the 17th October, 1905, does that record a movement at Nasik in connection with the Swadeshi movement, or is it at Bombay?—It appears so.

2089. To promote Swadeshi?—Yes.

2090. Had you Paranjpe with you there?—Yes, I think so.

2091. That is all I have to ask you about that. Now turn to page 692. Do you give an account of a speech made by Savarkar at Nasik?—Yes.

2092. Savarkar, B. A., which of them was that?—The one who came to England.

2093. Vinayak "made an interesting speech for 1½ hours"—that was not much—"he said as follows"—I am not going to read the hour and a-half speech, Gentlemen—"at the time of any revolution agitation must certainly arise. Following this rule the agitation for 'Swadeshi' has become prevalent now. Without a fight no country whatever gets 'Swarajya.' The nature of this fight changes according to country and times. At present we have to fight, with Swadeshi movement and boycott as instruments. Afterwards De. Bhat"—is that the same poet that is still in your employment?—It may be—I do not know.

2094. What do you think? He comes from Nasik. Did your Bhat come from Nasik?—Yes; it may be he; that is what I say.

2095. "Afterwards De. Bhat and the president made speeches. It was resolved to boycott foreign sweetmeat, and shouts of 'Vande Mataram' were raised"

—what does that mean?—That means "Hail, oh mother." It has been adopted as a national cry in India after the partition agitation.

2096. Like the Fatherland in Germany, I suppose? —Like any national cry; not necessarily German.

2097. "The movement for boycotting foreign sugar is in full swing. There is agitation among the Bhikshuk class"—is that the beggar class?—The priest class.

2098. "And not only the rows of the members of their caste sitting down at meals, but those of other castes also are leaving the meals and walking away in order to avoid eating foreign sugar! By the endeavours of the Sanmitra Samaj Mandali a meeting for condemning liquor drinking was held on the Monday preceding the last, and the committee was appointed. It has been resolved that hereafter whoever may drink liquor should be fined 5 rupees, and for the second offence he should be subjected to the punishment of Dhind." What is that?—Taking the man round the city.

Mr. Justice DARLING: He has got to have a bottle tied round his neck.

Sir EDWARD CARSON: Something like putting a man in the stocks: "The work of taking signatures on the declaration paper is commenced."

Mr. Justice DARLING: I do not see we are getting much out of this. It might be better to read the American Liquor Laws.

Sir EDWARD CARSON: My friend asked me to read the last bit. May I state to your Lordship what the importance of this is, and how I will present it to your Lordship, so it should be followed. The importance is to show the connection of the movement at Nasik and the movement at Poona, and that the doctrines and teachings were the same. Your Lordship will see one of the libels we have to justify is, what the murderer said we have set up in the book, namely, that it was the teachings in the "Kesari," the "Kal" and the "Rashtramat" which led him to commit the murder, and I want to show, my Lord, that there was as between Nasik and Poona and other places, as is now clear, a regular conspiracy having for its object all the same thing, anti-British feeling which eventually led to the murder of

Mr. Jackson. It will then be for the Jury.

Mr. Justice DARLING: That is what I foresee, that a great deal of this will have to be read again. It will have to be read in your speech, or referred to, and it seems to me when we get a bit so dull as that, it might be omitted.

2099. Sir EDWARD CARSON: I really was not going to read the last bit, but for my friend. He wanted to show his interest in temperance. I should have thought that it was more drunken frenzy than anything else. Then at page 703—I will take it as shortly as I can, my Lord, but in the way I view the case it seems to me to be of importance—you again give an account of the Swadeshi movement throughout the Deccan. There you begin: Some people had purposely come here from Nasik; 800 to 1,000 people had assembled. All the people—small and great—in the town had come. De Vaijnath Jijaji, Bapurao Kulkarni and others had taken particular trouble. Under the presidentship of De Shashtribowa, an interesting speech was made by the Nasik volunteer De Abhyankar, pleader, for 1½ to 1⅔ hours which made a good impression upon the people's minds. De Gopalrao Savarkar had purposely come from Nasik." Then at page 704: "De Gadgil the volunteer on behalf of the Nasik-Mitra-Mela had purposely come here." What was the Mitra-Mela?—The Society of Friends.

2100. Then there was a lecture on "The Acceptance of Swadeshi and boycott of foreign goods, which indeed made a good impression on the minds of the students." Then further down: "Nasik 9th March, 1906. In the open Court of Sunder Narayan, a grand meeting was held on behalf of the Mitra-Mela, under the presidentship of Lo. De. Baba Saheb Khare, for the purpose of 'Boycott and bonfire of English goods.' Spiritedness and earnestness were prominently manifest among people—especially among young people. De Waman Shashtri Datar and De Gadgil made excellent speeches on the importance of boycott and the necessity of bonfire. In the same manner, De Patekar, De Savarkar, De Marathe, De Chintopant and others made speeches." "The president made a brief speech, giving

his assent to the bonfire. In the meantime English clothes were brought there from all quarters in a large quantity and the bonfire blazed up." That is Savarkar again.

Mr. Justice DARLING: Just, above there is a nice passage: "Lastly Lo De Baba Sahib Khare very earnestly, feelingly, and lovingly addressed a speech to the Brahmins containing request—really speaking advice, which made a good impression upon the minds of the Brahmins assembled there. All those amidst the shouts of Har Har Mahadeo manifested their firm determination accompanied with oath, not to eat foreign sugar and to eat country sugar, and if that cannot be had, then jaggery." It looks like getting to business.

Mr. SPENCE: I am told it is unclarified sugar, my Lord, native sugar.

Mr. Justice DARLING: Then the next page: "Lo De Baba Saheb made a short, impressive speech at the Holi, and threw into the Holi his own coat and jacket previously made, saying, 'Unholy things must of course be destroyed'; and immediately shouts of 'Vande Mataram' (I bow to the mother), 'Victory to illustrious Shivaji Maharaj' began to be raised. The Holi was burning for about three-quarters of an hour. Shouts of 'Vande Mataram' were continuously raised. Eventually it was decided in the presence of fire to observe the vow of the boycott-expedient; and all people went to their respective houses shouting 'Vande Mataram!'"

Sir EDWARD CARSON: In other places you will see something of the same thing. For instance: "Through the endeavours of the leading Acharyas, Swadeshi procession was taken out, English articles were taken from each house, a bonfire was made thereof, and in this way the Shimgi Purnima (the 15th of the bright half of the month of Falgun) was rendered beautiful. In the Sanmitra library, on the Hutashani day a Swadeshi meeting was held. All determined to use Swadeshi articles and made a bonfire of foreign goods. In the town, valuable foreign clothes and caps were thrown into two to three bonfires. Instead of stamp impressions of obscene words, stamps of the letters

'Vande Mataram', 'use country goods,' were impressed on people's wearing apparel." Again at page 735, there is another account in 1906. I shall not go through it except to refer to a few points on the Swadeshi movement in the Deccan. It goes through the same way in a number of places.

Mr. Justice DARLING: It strikes me the time to refer to it will be later. Here they are; they are all in evidence, and there is no dispute they are extracts from the "Kesari," and so on. He has told us exactly what his view was. It does not seem to make much difference whether a few more jackets were thrown on the fire or not.

Sir EDWARD CARSON: I had to commence with this, my Lord, that he said it had no political significance.

Mr. Justice DARLING: Yes, I know, and he still says so.

2101. Sir EDWARD CARSON: If your Lordship will look at page 738: "Nasik. The Shivaji festival was celebrated with pomp on behalf of the Mitra Mela. In the theatre about 3,000 people had gathered. Speeches were made by Rajeshri Waman Ramchandra Joshi, Patankar Pleader, V. Datar, V. D. Savarkar and other gentlemen. Manly games were gone through, and ballads were recited." Then in August, 1906, you yourself went to Nasik?—Yes, on invitation.

2102. Was that to the Ganpati festival?—Yes.

2103. Will you just look at page 759?——

Mr. Justice DARLING: It has been read.

2104. Sir EDWARD CARSON: Yes, my Lord. "Nasik being a holy place the Brahmins of that place in an assembly convened for that purpose presented to Mr. Tilak in the temple of the deity Bhadrakali an address followed by blessings. On this occasion he pointed out how the teachers of religion could be useful." I read that before. Then again in 1907 at page 836—it is celebrations again—"Ramdas was the name of a saint. He was the religious preceptor of Shivaji." Then at page 837 your Lordship will see: "Ra. Nagarkar, Superintendent of the Shivaji Marathi School made a speech on the subject of 'Whether Shri Samarth was the dawn of

independence.'" Then there were recitals. I need not read the next passage, and then at page 865 there is a letter to you, "Movements at Nasik." Who was Govind who signed the letter?—The title of a religious head of a sect.

2105. Who was Govind, who signed this letter?—I do not know.

Mr. Justice DARLING: He does not seem to be anybody much.

2106. Sir EDWARD CARSON: I want to pursue that a little. Who was the man who signed this letter to you?—I do not know.

2107. Because I find previously in your own paper at page 647: "Ode to Goddess Independence," and that is signed by Govind?—I cannot say whether the two men are the same.

2108. Do you mean to tell me you do not know who it is you put in that poem from which preaches independence and injustice, and then writes this letter? Was he a correspondent of yours at Nasik?—Not my permanent correspondent.

2109. Who was he?—I cannot say; I do not know who he was.

2110. Then it gives an account of a lecture given, and he maintained: "The existence of religion depends on Swarajya itself." Then he gives the name of the people and amongst others I notice Bhat. Is that your friend?—I cannot say.

2111. Then at 4: "'The Vasant Vyakhyan-Mala' started on behalf of the Mitra Mela is also begun this year as is done every year and the first lecture of that series was delivered by Deshabhakta Babasaheb Savarkar"—is that the same Savarkar?—Not that came to England; it is an elder brother.

2112. "The Soul of the Swadeshi Movement. Therein he maintained that Swarajya or independence is the very soul of the Swadeshi movement. After that, the illustrious Goswami also delivered a lecture and he too supported the statement of Deshbhakta Savarkar. And the speech of the president also was to the same effect. The second lecture was delivered by Deshbhakta Waman Shastri Datar on the subject 'A Fair battle.'

Therein he maintained that the battles in words and in arms taking place anywhere in the world for the prosperity of one's own nation or country are all certainly 'Fair Battles' as described by the God Krishna in the Geeta. Deshabhakta Patankar Vakil was the president. The third lecture was delivered by Deshbhakta Narayanrao Savarkar under the presidentship of Deshbhakta Akut, pleader on the subject 'Panipat.' The lecturer and the president advised that now at least all should guard against hatred to one's country which lost the battle of Panipat."

2113. Mr. Justice DARLING: When was the battle of Panipat? Who fought it?—I do not know exactly when it was fought, but it was between Mahrattas and Mohammedans.

2114. Who won?—The Mohammedans.

Sir JOHN SIMON: I am told, my Lord, the date is about 1751.

2115. Mr. Justice DARLING: The Mohammedans won because the Mahrattas did not love their country, I suppose?—At least that is what the lecturer said.

2116. Sir EDWARD CARSON: Then: "He showed by quoting authorities from history that the God Ram comes down to every country in different forms to kill the Ravan of dependence." Your Lorship will see that is "a huge and ugly fellow"—"and only for that reason festivals are celebrated in his honour. The president also made a suitable speech and made some proper suggestions also," and so on. That is also from Nasik, 30th April, 1907. Then at page 884 there is an article headed: "Activities at Nasik." Then at page 886: "The festival of the anniversary of the birth of Shri Shivaji was like every year celebrated this year, too, with great eclat by the Mitra Mela. As soon as the procession arrived at the place of the meeting, Patriot Bhat"—your Lordship will see they had come to calling them patriots. "The patriot Vishnu Mahadeo Bhat, B. A."—is that your friend?—Not friend. He is the same man.

2117. The same man who is still in your employment?—Yes.

2118. "Delivered a fluent speech on the subject of 'The Establishment of Swarajya.' The festivals of the

anniversaries of the births of Shri Shivaji or Rama or Krishna are not individual birthday anniversary celebrations, but they are all directly or indirectly Swarajya celebrations themselves. At the time of the acquisition of Swarajya Rama, the enemy of Ravana, Krishna, the enemy of Kansa, the Pandavas, the enemies of the Kauravas, and Shivaji, the distroyer of the Mlenchhas"—they are foreigners, I believe—" are sure to descend upon the earth. But as they are to be born from among the very mass of the people, the mass of people must be so prepared as to be able to produce men like Tanaji, Suryaji "—and others, I need not go through them. " He concluded his lecture by telling the audience to prepare such a mass of people. After that the well-known athlete, Professor Rammurti, the prototype of Sandow, also delivered a very interesting lecture. Patriotism, Religion, and Physical Health were the three points in his lecture. Then the Pavada on the assassination of Afzulkhan was recited. The Pavada was delightful and inspiring, and being, moreover, sung by boys skilled in it, with proper acting, the audience was charmed. The audience amounted to from 2,000 to 2,500 persons." Then: " The next day athletic sports were held." Then: " At this very time Patriot Patankar, Pleader, was at Miraj, Patriots Khare and Savarkar at Magar, Patriots Ketkar and Barvi at Manmad, Patriots Wamanshastri Datar and Gopalrao Bhat at Pimpalgaum, gracing the festival by their presence and speeches. Patriot Khare, Pleader, has gone to Umbargaum." There is no doubt at that time—1907—there were great activities for Shivaji at Nasik?—It appears from this.

2119. That is from your paper?—

Mr. Justice DARLING: There is a delightful poem on the assassination of Afzulkhan; it is called, " Recited with proper acting."

Sir EDWARD CARSON: " Sung by boys skilled in it."

Mr. Justice DARLING: That is 1907. When was Mr. Jackson murdered?

2120. Sir EDWARD CARSON: 1909, my Lord. Then further on, on the 4th June, 1907, at page 892, there is an account of proceedings held at Nasik. You were

there at that time?—I think I was there.

2121. Will you look at page 893: "Then Ra. Tilak, who had on that occasion occupied the presidential chair, began by saying that the question of widow remarriage could not be a national question; and he supported the position of the National Party in this respect, which was one of indifference. Last Friday, a huge public meeting was held under the presidentship of Ra. Tilak in that very tent, erected for the performance of Ram Murti's feats, for the purpose of giving vent to their expressions of indignation and sorrow at the resolution which the Indian Government have very recently passed in connection with the students attending schools, and a protest against it was entered. Speeches were, at this time, made by Ra. Ra. Babasaheb Khare, Ra. Ra. Gosavi, pleader, Ra. Barve and Ra. Pagey. Finally, the president stated that the Indian Government were following in the footsteps of the Russian system, citing authorities for his statement, and earnestly advised the students and audience that they should, like the National party in Russia, continue to carry out their work in these hard times with courage and firm resolution, and we should open schools for the national education in every district." Certain gentlemen went there, the Indian Sandow and other gentlemen. "People of Nasik passed this week in great rejoicings and joys. Credit of bringing about the conference of the native physicians must be given solely to Ve. Shankar Shastri Padey." That is 1907. Then, my Lord, we come to articles which I read in another context before, but it is well to keep them in their order. At page 911 there is an article on "Garibaldi" which I am not going to read at the present moment. Then at page 918 there is an article on Russia, where your Lordship will see, at the middle of the page, it describes how the political movement was advanced there: "The young generation and the old generation could not agree; and young men and women of good families even in order to bring about revolution according to their wishes, began to do the work of preaching their principles to people. At first this movemeut was confined only to matters social. But very soon, it developed into a political movement started for acquiring constitutional

rights."

Mr. Justice DARLING: Now they have got them.

Sir EDWARD CARSON: They have in Russia. Then, my Lord, at page 926 there is an article which I have already cross-examined about with reference to Mazzini, which deals with the book of Savarkar which had been dedicated to the Plaintiff. Your Lordship will remember that, it is at page 927, and it says: "One can form an idea as to what should be the life of a true patriot so far as an individual is concerned; and from the book written by Ra. Vinayak Damodar Savarkar, the utterances of Mazzini at different times about his own country, the history of his mental development and a picture of the account of the secret and open endeavours made by himself and others at his time towards the formation of political societies, stand well before the eyes, and one gets a detailed and trustworthy information as to how the preparation for the emancipation of a nation is required to be made." Then, my Lord, there is a passage at the end of the article at page 930.

Mr. Justice DARLING: These have been read, Sir Edward, this very passage has been read.

Sir EDWARD CARSON: Yes, my Lord, I read this when I was cross-examining about the previous conviction in 1908; I want to bring it up to the time of the Jackson murder. The importance of that, my Lord, is this.

2122. You remember, Mr. Tilak, that Kanhere said that he was influenced by reading the life of Mazzini in committing the Jackson murder?—I do not know personally.

2123. That is what is in his confession. I am not saying whether it is true?—I must see his confession; I do not know exactly.

(Adjourned for a short time.)

2124. Sir EDWARD CARSON: Now, Mr. Tilak, in November, 1907, was there an Act passed by the Indian Legislature for the prevention of seditious meetings?—Yes, I think so.

2125. You refer to it in the "Kesari" at page 952. If you will look at page 952 the article commences: "It is a matter of great regret that during the Morley-Minto administration"—your Lordship will remember that Mr.

John Morley was Seceetary of State and Lord Minto was Governor General—" the Indian subjects' rights of individual liberty of freedom of speech and of freedom of writing are being trampled upon more and more day by day. We are at a loss to know whether we should laugh or cry at it. The Indian Government has now quite beyond doubt begun to imitate the Russian system of administration." Then at page 953 he says: "The circumstances which give rise to the above thoughts is the Bill for the Prevention of Seditious Meetings Act coming before the Legislative Council of the India Government at Simla on Friday next, that is the 18th instant." That Bill was passed ?—Yes.

2126. Then on the 30th April, 1908, there was the murder of Mrs. and Miss Kennedy and the coachman that we have gone into before by a bomb ?—It was about that time.

2127. It is at page 1037. Then, notwithstanding the Act had been passed, you still went on writing as you did before ?—Yes.

2128. And you wrote the articles which I am not going now to refer the Jury to again. In May, 1908, you wrote the articles on the culture of the bomb ?—They were published in my paper. I did not write them myself.

2129. You published them ?—They were published in my paper for which I am responsible.

2130. You were the editor ?—Yes.

2131. And proprietor ?—Yes.

2132. And you got the money made out of them ?—I do not know about that.

2133. Did you get the money made out of them ?—I cannot say that. I got the paper issued.

2134. Who got it ?—I was the proprietor; I must get it.

2135. Did you pay for getting them written. Did you pay anybody to write them ?—Yes, the assistant editor.

2136. Did you ever say you wrote them yourself ?—No.

2137. Did not you say at your trial that you wrote them yourself ?—No.

2138. Did not you suggest at your trial that they

were not done deliberately, but were merely a kind of impromptu articles. Did you not say that to the Judge?—I cannot remember that.

2139. I will call attention afterwards to his judgment again, but I am not going to stop for it now. I am merely putting the questions to you. In that same year, 1908—I want your special attention to this—did Ganesh Damodar Savarkar publish a book of poems?—He may have.

2140. I think you will know a little more about it when I come to it. Did not he publish a book of poems called "Laghu Abhinav Bharat Mala"?—There was a series of poems of that name.

2141. That means the new India garland?—A series of them.

2142. Did you commend that book of poems in the "Kesari"?—I did not. It might have been noticed in the review column.

2143. Just take it in your hand? (Book handed to Witness.)—This is the book published. It might have been noticed in the review columns.

2144. I will call your attention to what was said. This is page 348 in Vol. 4. This was exhibited at the trial. It is: "Translation (1) of the heading and (2) a short note thereunder containing opinion appearing in column 2 at page 7 of the issue of the 'Kesari,' a Mahratti weekly newspaper, dated the 7th of April, 1908, and having at the foot thereof a note as translated: 'This newspaper was printed and published by Bal Gangadhar Tilak at the 'Kesari' Printing Press, in House No. 1486 in Narayan Peth, Poona.'" Then (2): "Laghu Abhinav Bharat Mala. That is a short new India series, Flowers 8 and 9." Will you look at that book there, and tell me if that is the description of it? (Handed to Witness.)—Yes; "in this book there are printed 18 select poems of the poet Govind of Nasik who has composed spirited songs breathing sentiments of devotion to (one's) country. The Maharashtrians are already aware as to how spirited and inspiring is the nature of the poems of this poet from the songs sung by the Mela of Nasik. This book has been published by the respected Ganesh Damodar Savarkar of Nasik and its price is one anna." Was that

a proper description respecting Ganesh Damodar Savarkar?—It is corresponding to "Mr."

2145. Was he prosecuted for that book of poems which you commend there?—The review was made by the sub-editor. I cannot say anything about it. It has been noticed as a book sent to the paper for review, that is all.

2146. No. You see when this book was reviewed here. Although there is a short review given of it you see it says "Selected poems of the poet Govind of Nasik." Is that the man who used to write you those letters?—I do not think that it is the same.

2147. But you remember the poem I called your attention to. Is not that the same Govind?—I do not know.

2148. "In this book there are printed eighteen selected poems of the poet Govind of Nasik who has composed spirited songs breathing sentiments of devotion to one's country. The Maharashtrians are already aware as to how spirited and inspiring is the nature of the poems of this poet from the songs sung by the Mela of Nasik." Was he poet to the Mela?—I do not know that. That was taken from the description here.

2149. I ask you was that gentleman, Ganesh Damodar Savarkar, in that month of June, 1909, convicted at Nasik?—I do not know. He was convicted, but whether it was at Nasik or Bombay, I do not know.

2150. For the publication of these poems?—I do not know that. It was in my absence in 1909.

2151. Have you not read the proceedings?—I cannot remember them.

2152. Was not he found guilty with reference to these poems which you were commending in your "Kesari"?—I know nothing about it.

2153. Wait a moment. Was he convicted of creating disaffection amongst His Majesty's subjects, and of inciting to the wage of war against the British Government?—I do not know anything about it.

2154. Did he get transportation for life?—I heard of it afterwards.

2155. You have never seen him again?— I do not know. I have heard of it. That was in 1909, the year

after I was convicted.

2156. Was that when you were at Mandalay?—Yes.

2157. He was convicted?—In Bombay.

2158. And you have never seen him again?—No.

2159. You heard he was transported for life?—Yes, I have heard it.

2160. Did you take any care at all in your journal, the "Kesari," published amongst these people speaking Mahratti? Are these poems in the Mahratti language?—Yes.

2161. Did you take any care at all as to what you were advising the people to read and do?—I have not read the book myself yet. This is the first time I have seen the book.

2162. That is not an answer to my question. Did you take any care at all?—What care can I take? It has been reviewed in the review column by our sub-editor, who reviews all the books.

2163. Did you pay him for it?—I do not know. I have not read the book, and I cannot answer your question.

2164. Was not Savarkar the gentleman that you said you had warned against going too far?—This was the man.

2165. This is the same man?—Yes.

2166. He was convicted—I will put in the conviction—in June, 1909, at Nasik for what I have already said. Was Mr. Jackson murdered on the 21st December, 1909?—I have no knowledge of the date. He was murdered I knew afterwards. I came to know it in 1914.

2167. Do you know that his murderer said he had been incited to it by reading the "Kesari"?—I do not know that.

2168. I am not going back on that at present. I have cross-examined you about that before——

Mr. Justice DARLING: All this has been read.

Sir EDWARD CARSON: Yes, my Lord.

Mr. Justice DARLING: He has said so.

2169. Sir EDWARD CARSON: I only wanted to get it in its sequence now, my Lord. (To the Witness): Were there after that 35 persons charged with waging war at Nasik?—I heard of it in 1914 when I came out of

prison.

2170. Thirty-five?—About 35.

2171. Were they all Brahmins?—I do not know that.

2172. Were you not present in the Court in India when the evidence was being taken in this case in which it was sworn that they were all Brahmins?—Unless I see the names again I cannot say.

2173. All Brahmins, I think, except one?—You are asking me about things that took place in my absence.

2174. But you know all about that?—From the report.

2175. Did you know a gentleman of the name of Chandwadkar?—No.

2176. Perhaps you would know him uuder another name?—I do not know the gentleman.

2177. Perhaps you would know him under the name of Brahmagri Buwa?—Yes, I know him,

2178. Was he afterwards known as Chandawdkar?—No, I do not know that.

2179. Was he a friend of yours?—No, he was an acquaintance. There are so many men in Poona I know.

2180. Was he at Nasik?—I do not know that.

2181. Where did you meet him?—In Poona.

2182. What was he doing there?—He was a clerk in a Government office.

2183. Was he convicted?—Yes, he was.

2184. What was he convicted of?—In that same trial, but this is all hearsay. I was away.

2185. Did he make a confession?—I do not know that. Several made confessions in that case.

2186. I will pass him for the moment. Now I want to ask you one or two others. Did you know G. B. Modak?—Yes.

2187. Was he a Brahmin?—Yes.

2188. What were your relations with him?—He was just an acquaintance. I have seen him four or five times.

2189. Was he ever appointed a manager of the "Rashtramat" or made one of the directors?—Not to my knowledge.

2190. Was he not manager of the "Rashtramat"?—He was subsequently.

2191. When did he become manager? I do not

know.

2192. You were a director of the paper?—Yes, but this was after my arrest.

2193. You now know he was appointed. You were a director of the paper?—I read it afterwards. I had no knowledge of it.

2194. Do you know him now?—I know him now.

2195. You do know him now?—I know he was subsequently appointed.

2196. Was he prosecuted?—He was prosecuted. I learnt it subsequently from the papers.

2197. Was he charged with conspiracy in regard to the murder of Colonel Ferris, the late political agent?—I do not know the details of his trial.

2198. Was it before or after that that he became editor of the "Rashtramat"?—I cannot say. I do not know the date.

2199. Was he transported for seven years?—I do not know that.

2200. I want now to go back to some of what my learned friend called the minor libels. Will you take before you this book: "Unrest in India." (Same handed to Witness.) Before I come to the earlier ones which commenced the first in 1893 on page 43 of the book, let me draw your attention to page 5 of this book of Sir Valentine Chirol's: "It is important to note at the outset that the more dangerous forms of unrest are practically confined to the Hindus, and amongst them to a numerically small proportion of the vast Hindu community. Not a single Mohammedan has been implicated in, though some have fallen victims to, the criminal conspiracies of the last few years. Not a single Mohammedan of any account is to be found in the ranks of disaffected politicians. For reasons, in fact, which I shall set forth later on, it may be confidently asserted that never before have the Mohammedans of India as a whole identified their interests and their aspirations so closely as at the present day with the consolidation and permanence of British rule." Now, Mr. Tilak, will you turn to page 43. His Lordship will observe that the first part of the libel comes after the second part. I do not know why they have transposed

them. I will deal with this first. Here is the passage.

Mr. SPENCE: Will you ask him with regard to page 5 whether he agrees with that?

Sir EDWARD CARSON: I am asking him to bear that in mind. I have a right to refer to the whole book. You cannot pick sentences out.

Mr. Justice DARLING: No one has a right to prescribe to the Defendant's Counsel what questions he shall ask on a particular passage. Sir Edward says to the witness: "Read that passage and bear it in mind."

2201. Sir EDWARD CARSON: Your Lordship will see the relevance of it. What I am going to is this. Sir Valentine Chirol says that Mohammedans were loyal, and it was the Hindus who were making all the mischief. On page 43 there is this: "If amongst many Brahmins of Maharashtra hatred of the British is the dominant passion, amongst the Mahratta population at large whatever there is of racial and religious jealousy is mainly directed against the Mohammedans. This is partly, no doubt, a legacy of the old days of Mohammedan supremacy. In 1893 some riots in Bombay of a more severe character than usual gave Tilak an opportunity of broadening the new movement by enlisting in its support the old anti-Mohammedan feeling of the people. He not only convoked popular meetings in which his fiery eloquence denounced the Mohammedans as the sworn foes of Hinduism"—he does not complain of that—he has picked that out of the sentence—"but he started an organisation known as the 'Anti-Cow-Killing Society,' which was intended and regarded as a direct provocation to the Mohammedans, who, like ourselves, think it no sacrilege to eat beef. In vain did liberal Hindus appeal to him to desist from these inflammatory methods." What is it you complain of in that passage?—I never started any Anti-Cow-Killing Society with the intention of fomenting quarrels.

2202. Would it be a libel for a Hindu to say he belonged to or started an Anti-Cow-Killing Society?—If it is simply restricted to that it is no libel to say that.

2203. Although you may not have started it, did you try to get all the Anti-Cow-Killing Societies put together so as to be formed on a national basis?—I did

not try. It is not my work.

2204. You did not do it?—No.

2205. Now let me call your attention to page 97 of volume I. These are the editor's stray notes. Just listen to this: "But how are the prejudiced officers to understand this fact? In this matter the Go-Rakshana Sabhas"—are those Anti-Cow-Killing Societies?—Yes.

2206. "Of all places ought to imitate the example of the National Congress. When at one time all white officers, from the Governor General down to an insignificant police constable, were against the Congress, it protected itself by certain remedies and ultimately stopped the mouths of the opposite party. The Go-Rakshana Sabhas ought also to adopt the same course. What that course is we will show in detail some time hereafter. To-day we shall tell only two things of principal importance. The first thing is not to transgress the limits of the law, whatever may be the nature of persecution done; and the other thing is, all to make a combined and joint effort, instead of making separate movements by establishing separate Sabhas (i. e. societies) at different places. There are many Go-Rakshana Sabhas in the North-West Provinces. There are two in Bombay. There is one at Poona. And also at other places in the Maharashtra there are or were such Sabhas. And in the districts of Nagpur and Wardha this work of Go-Rakshana (i. e. cow protection) is carried on very systematically. That being so, if all these Sabhas (i. e. societies) were brought together and one general Sabha (i.e. society) were established for the whole country, the people of different places would become acquainted with one another and also would receive more encouragement to do the work. In this matter someone must take the lead. And we think that this work will be well accomplished by the promoters of the Go-Rakshana Sabha of Nagpur"—the Anti-Cow-Killing Society. Now, sir, do you deny, having regard to that——?—It is a suggestion thrown out in an article; that is all, and I did not take any part in it; it was not my work; it is a suggestion.

2207. You suggested it?—Several suggested it; amongst them I suggested it.

2208. It is the editorial note?——

Mr. Justice DARLING: He says now "several suggested it and I suggested it."

Sir EDWARD CARSON: Yes, my Lord.

2209. Mr. Justice DARLING: But if you are one of those who do it, how can you say you did not do it?—I did not start the association.

2210. Sir EDWARD CARSON: Is that your point on which you ask the Jury to give you damages? The difference you know is that you did not start an organization as the "Anti-Cow-Killing Society"?—Yes.

2211. But you brought together all the Anti-Cow-Killing Societies and turned them into a whole?—I made a suggession to that effect.

2212. Was it not done?—I have never worked at it. I have never written to them. It is a newspaper suggestion. I have never worked at it. I have never brought it about.

2213. Was your suggestion not carried out?—It was carried out ten years afterwards. Now we have a general Cow-Killing-Protection Society.

2214. No. Just turn over to page 103?——

2215. Mr. Justice DARLING: Before you leave this, will you just look at these words on page 97: "In this matter, someone must take the lead." Who did take the lead?—I did not take the lead.

2216. I did not ask you that. Who took it?—At that time nobody took the lead. The lead was taken four years ago and we have got it in 1917.

2217. Is that all you complain of here in asking for damages, because the book says: "He started an organisation known as the Anti-Cow-Killing Society which was intended and regarded as a direct provocation to the Mohammedans, who, like ourselves, think it no sacrilege to eat beef. In vain did liberal Hindus appeal to him to desist from these inflammatory methods." Is that what you complain of? You wrote that article and then somebody did start it?—I cannot exactly say whether I wrote it, but it is in my paper. The suggestion appeared in my paper of forming an All-India Cow-Protection Society.

2218. You call it a suggestion?—Yes.

2219. And the Defendant says you started it?——

2220. Sir EDWARD CARSON: When Sir Valentine Chirol read that, do you think it was an unfair thing for him to say?—I think it is unfair.

2221. You think it is unfair?—I still think so, after reading that.

2222. Although you wanted to bring together the whole of these societies to make them more powerful than they were before?—It is a suggestion in the review of that work.

2223. At that time was the Cow-Protection movement being pushed with growing vigour?—No, it was not with much vigour.

2224. Will you turn to page 102. You really ought to think before you speak. "Mr. Vincent's opinion, in a matter of this kind, is of the highest value, but it is to be observed that, while the Cow-Protection movement has undoubtedly been pushed of late with growing vigour, the movement itself is not a new one." Why did you tell me that it was not being pushed?—I cannot say what his opinions are. I do not think it is a correct statement of fact.

2225. Is that a correct statement of fact?—No, not in my opinion.

2226. It is the "Kesari" there?—It is Mr. Vincent.

2227. It is published in the "Kesari"?——

Mr. Justice DARLING: As a matter of fact, I think it is published in the "Mahratta," if you look at page 98.

Sir EDWARD CARSON: Yes, my Lord. (To the Witness): You do not agree with that view?—No.

2228. Is it a fact that in some places at that time the Anti-Cow Killing Societies were assuming a national aspect?—It had no national aspect then.

2229. Now will you look at page 103: "The Go-Rakshani"—that is the society for the protection of cows —"Sabha at Nagpur. Many are aware that this Sabha (i. e. society) was started five or six years ago, and its annual festival is held on a large scale. But this subject had not received a national aspect up to this day. Efforts were made this year to give it that aspect; and as we think that those efforts have met with considerable success, it is desirable that at least some information

regarding the said festival should be given to the readers enthusiastically." I ask you, at that time were not the Anti-Cow-Killing Societies assuming, in some places, a national aspect?—No, not at that time.

2230. Was the Anti-Cow-Killing Society a provocation to the Mohammedans?—No, not in my opinion.

2231. Did the Mohammedans regard it as a provocation?—Not when they were started.

2232. Did they at that time?—As I said, the Anti-Cow-Killing Societies were not started to provoke them.

2233. I did not ask you that. Did they regard it as a provocation, and did it lead to riots?—No, not the starting.

2234. Did the Anti-Cow-Killing Societies lead to riots with the Mohammedans?—No, not in my opinion.

2235. Did the Government think so?—Some of the Government officers thought so.

2336. Did you make use of the riot that occurred for trying to raise bad feeling amongst the Mohammedans?—No, I did not.

2237. And against the British Government?—No.

2238. Now I must take you to a few pages. Did you accuse the British Government or their officers of instigating the Mohammedans to make a riot?—Of partiality.

2239. No, I am taking the words: "Of instigating the Mohammedans to make a riot"?—By showing favours they thereby encouraged them.

2240. The English Government encouraged the Mohammedans to make riot with the Hindus?—It is not the Government. It is the officers.

2241. Just look at page 95: "But if it be correct, then how the white officers instigate the Mohammedans to make a riot can well be seen from the Raver affair." I am not going into that. Then at page 96: "Just as things were quieting down in this way the temple of (god) Ram, built by a merchant named Dayal Kunjlal Shet, was Set on fire in another quarter of the town, and in a very short time it was burnt, along with the cotton stored therein. A considerable number of pilgrims who had put up there escaped with great difficulty. No trace of some women and children is found as yet. While the

Hindus were engaged in quenching the fire the Mohammedans were witnessing the fun." Do you say you were not trying to provoke bad blood between the Mohammedans and Hindus. Was not that calculated to provoke bad blood between them?—It is not calculated, as a fact, to provoke bad blood between them.

2242. Just read it again: "While the Hindus were engaged in quenching the fire the Mohammedans were witnessing the fun." What was the fun?—The fire.

2243. Burning the women and children?—Burning the houses.

2244. With the women in them?—This is a fact; it is not an opinion.

2245. "The Mahalkari himself arrived there two or two and a-half hours later on, that is to say when the temple was quite burnt. While this state of things was going on in the town, the company of the collector and other officers were engaged in shooting in a neighbouring village! Whoever reads this account will have his hair stand on end. If that account be correct it would not be very hard to find out who is at the bottom of the riot. If even the clever police like that of Bombay are still unable to discover how sticks and weapons found their way into the Jumma Masjid at Bombay, then there is not much ground for us to hope that any trace can be found of the persons who set fire to the temple of Ram at Raver." Did you read the report of the Government?—The man who wrote it must have read it.

2246. Then will you look at page 101. Here is where they give the reasons of the riots: "The Governor in Council now comes to a consideration of the causes which led up to the deplorable outbreak of August last, His Excellency in Council would have preferred to consider this question first had he been able to trace the origin of the riots back to a clear and definite first cause; but the result of his inquiries amongst prominent members of both the conflicting communities has been to throw considerable doubts on the possibility of ascribing the trouble to any one cause. On the one hand, the leaders of the Mohammedan community asseverate with certainty that the anti-kine-killing agitation, which has of late undoubtedly become more active, was the sole cause.

Hindus, on the other hand, while admitting that the cow-protection movement may have been a contributory cause, contend that the main factor was an intrigue set on foot by persons of authority in the State of Junagadh in Kathiawar, with the supposed object of distracting attention by raising a riot in Bombay from the Prabhaspatan riots which had occurred in that State a short time previously. In support of this theory it is pointed out that emissaries from Junagadh were in Bombay stirring up their co-religionists to a practical sympathy with the rioters arrested in Junagadh." Was that what you were teaching the people?—Riots took place at Junagadh, and then they came to us.

2247. Were you constantly putting forward that it was the British Government who were instigating the Mohammedans to make a riot?—Some officers took sides with the Mohammedans. That is my opinion.

2248. I put it to you that your real grievance at this time against the Mohammedans was that they were loyal to the British Government and quite willing to obey the laws which were enacted for the government of the country?—They were the aggressors in these cases. That is all I have said.

2249. In every way the Mohammedans were the aggressors?—In those cases, and in that year 1893.

2250. Now let me call your attention to page 108—the riots of Yeola: "The story, therefore, does not really begin with the desecration of the mosque but with the destruction of the Maruti's temple, and it is, to say the least, extremely hazardous to definitely determine at this moment, who were or who were not the aggressors in the recent disturbance, the last phase of the Yeola riots. But as stated above we must however consider the matter as a whole, and if we do so, we have no doubt that it is the weakness and vacillation of the executive officers of Government that will be found to be the real and ultimate cause of the outbreak of these riots this week." That is the Government?—The officers.

2251. "It is a painful duty to charge these officers with directly or indirectly encouraging racial differences." Did you charge these officers with that?—Yes.

2252. "With encouraging racial differences and thus

unwittingly becoming the cause of so many deaths reported this week, but in the interests of good government and of the public we must frankly state the truth." Who was it who encouraged the racial differences?—The officers.

2253. What were their names?—I cannot say.

2254. Did you see any of them encourage them?—I cannot say. It was the local officers who manage and keep order in the district.

2255. Who tried the rioters in this Yeola?—I do not know.

2256. Then the Government issued what they understood were the true facts as regards these riots?—The Government issued them.

2257. At page 131—I am not going through it, because I want to give what you said on it. It is page 131 to page 138. At the top of page 139 there comes your comment: "On reading the lengthy resolution which the Bombay Government have recently published regarding the Yeola riot, one cannot but be convinced of the dexterity with which Lord Harris and his colleagues, the Councillors, disposed of the work, their sluggishness and their want of ability. We had some hope, up to this day, that the Hindu subjects at Yeola would get at least some justice at the hands of Lord Harris. But on reading this final resolution that hope has now entirely disappeared." There I suggest to you you were inciting Hindus against the British Government?—I do not think so.

2258. And leading them to believe that they could get no justice as against the Mohammedans?—They got no justice, and in saying that there is no incitement.

2259. On page 140 you go on in the same article at the end to say: "We do not think that upon reading the said resolution any further evidence would be required to convince any person whatever that the Governor and his Councillors are not discharging their duties properly. If the Government had tried to refute the allegation made by the people, this resolution would have been looked upon as being impartial to some extent at least. But when the Government, instead of taking the trouble of answering the objections raised by the people, has published that European officials only are good, native

officers are bad, and that the riots took place only owing to the impudence of the Hindus, their sense of justice, ability, impartiality, dexterity, and statesmanship must certainly be said to have reached the climax." Did not you always abuse everybody who censured or blamed the Hindus?—Not if we knew the facts. That was our opinion, and we expressed it.

2260. And did you blame the magistrate?—We did not blame the magistrate. We thought it was injustice.

2261. Did you blame the magistrate who tried them?—I do not think justice was dealt out to them.

2262. Was there a conspiracy of injustice towards the Hindus as compared with the Mohammedans?—There was no conspiracy of Hindus throughout India.

2263. I did not ask you that. Were the English governors there wilfully doing injustice to the Hindus in their squabbles with the Mohammedans?—If you omit the word wilful, they were doing injustice.

2264. Were they innocently doing injustice?—The English officers were doing injustice to us; and that I do say.

Mr. Justice DARLING: The passage on this very page 139, a little beyond where you are reading, says this: "Not to hear what the people have to say and not to respect public opinion as far as possible—this has become the very secret of the administration of Lord Harris, and certainly in accordance with this principle he has published the present resolution, wherein he has praised all the three officers"—then he gives the names, Winter, Hayward and Gibbs—"and has declared the three native officers, Mamlatdar, head clerk and police inspector, unfit for Mamledarship, service and the present duties respectively." Then a little further down, in the next paragraph, he says this: "Be it so! Whoever will read a little carefully this final resolution which has been published by Lord Harris will readily see with what dexterity he has taken the side of Government officers and the Mohammedans as evinced therein." That leaves the Hindus on the other side. It purposely takes the side of the Government officers and Mohammedans.

Sir EDWARD CARSON: My Lord, I will skip a great many articles.

Mr. Justice DARLING: Gentlemen, this comes in upon Mr. Vincent saying that the Plaintiff in the case was stirring up the Hindus against the Government and the Mohammedans and making out that the Government and Mohammedans on one side were oppressing the Hindus. That is what the Plaintiff has written.

2265. Sir EDWARD CARSON: Now again at page 110 you will find the same thing; it begins at the bottom of page 109: "It is alleged in the said petition that by celebrating the Ganpati festival on a large scale the Hindus intend to insult and censure the Mohammedan religion, and that as the Mohammedans do not take part in movements as that of the Congress, etc., the enraged Brahmins of Poona are inciting other Hindus in this matter, not only that but these disloyal people are endeavouring to endanger the British Rule itself in a way by making a reference to the names of Shivaji and Ramdas. We need not say how childish, foolish and jealous the above ideas are. It is stated at one place in this very petition that there had not been any disputes between the Hindus and Mohammedans of Poona up to this day, but of late the Brahmins have given rise to them; as if the Poona Brahmins have come to reside in Poona just now. But neither the Brahmins nor the Mohammedans have newly come to reside in Poona. What then is the cause that led to the disputes to-day? The secret encouragement of the officers, the instigation of some scheming persons and the folly of others. What else can there be? The truth of the saying that it is a thief who himself raises a cry is fully borne out by this petition." That was the Mohammedan petition, was it not?—The official——

2266. That was the Mohammedan petition you were dealing with then?—On page 240.

2267. No, on page 210: "The festival of the deity Ganpati which the Hindus celebrate is by no means a new one. There is this difference only, namely, that there may probably be held some more public Ganpati festivals this year than during the last year . . ." I am not going on to read that, because we have dealt with that before: "If there be any likelihood"——

Mr. Justice DARLING: You have skipped what

appears to me to be a very important line: "Why the Mohammedans should be exasperated at this"——

2268. Sir EDWARD CARSON: "Why the Mohammedans should be exasperated at this, we do not know; if they say they are exasperated for no reason, it is not proper for the Government even to deprive the Hindus of their lawful right for the sake of keeping the Mohammedans pleased." That is the charge you were making against the British Government?—That is intended to be a charge in this action.

2269. "The Mohammedans have excited fear in the Government, saying that the Hindus are going to make a rebellion and have mentioned many other false things in the petition; but the Government officers must fully bear in mind that this statement of theirs is purely malicious and mean. If there be any likelihood of a harm being done to the British Rule, such harm in our opinion will take place only, when the Government will give up treating the people of all castes and of all religions with equality and impartiality as they ought to treat agreeably to the proclamation of Her Majesty the Queen. And for that reason only we make a severe criticism on the partial conduct of some Government officers which comes to our notice in this matter. Such officers are, in our opinion, the real enemies of the British Rule, and from the present petition the Government will see what effects their evil acts are producing on the people. It is not the case that if the Government or Government officers really intend to mete out justice, it would take long to settle these disputes; but unfortunately for us, of late, officers meting out justice are to be seen only rarely. We do not know whether there are very few of such people in England itself, or whether such people have fallen to our lot only! Be it what it may. We hope the Government will dispose of this false petition written maliciously in the way it deserves"——

2270. Mr. Justice DARLING: That petition was the petition of the Mohammedans?—Yes.

2271. Sir EDWARD CARSON: Putting forward their case. Now, I wish you would take up the red book again. What is it really that you complain of in this,

what they call the first minor libel? It is the passage on page 43. Tell us in your own words what you complain of?—I complain of being connected with Cow-Protection Societies for the particular purpose of fermenting quarrels between Hindus and Mohammedans.

Mr. Justice DARLING: It is worth noticing this, and unless people have the Pleading before them I do not think they realise it. The first libel is taken from page 43, and it begins: "In 1893 some riots in Bombay of a more severe character than usual gave Tilak an opportunity of broadening the new movement by enlisting in its support the old anti-Mohammedan feeling of the people. . . . ." Then it skips a passage—I will read it—and begins again with: "He started an organisation known as the 'Anti-Cow Killing Society.'" He skips this, and it is not complained of as a libel at all: "He not only convoked popular meetings in which his fiery eloquence denounced the Mohammedans as the sworn foes of Hinduism, but "—then there is that which I have just read, but it is not complained of as a libel at all.

" Sir EDWARD CARSON: He does not complain of this: " He not only convoked popular meetings in which his fiery eloquence denounced the Mohammedans as the sworn foes of Hinduism."

Mr. Justice DARLING: It is not only that, but he does not complain of this, but this says he convoked them, and he does not complain of it. He does not say: "No, I did not; that is false."

Sir EDWARD CARSON: That is so, my Lord.

2272. Mr. Justice DARLING: Why did you, when you sued the Defandant for libel upon this passage in this book, leave that out of the middle of the paragraph you complain of; that you convoked popular meetings in which your fiery eloquence denounced the Mohammedans as the sworn foes of the Hindus?—I did not omit anything intentionally.

2273. Did you see the Statement of Claim before it was delivered?—Yes, I have seen the claim. I entrusted my case to my lawyers, and they selected the sentences which they thought fit.

2274. Why was that left out?—I cannot say. I complain of the whole.

2275. It is not only a sentence that is left out, but it is the first part of the sentence?——

Sir EDWARD CARSON: If you look at the pleadings you will see it is purposely left out, because there are asterisks put in.

Mr. Justice DARLING: Yes, and there is a capital "H" put where he started.

Sir EDWARD CARSON: Whereas that is in the middle of a sentence.

Mr. Justice DARLING: Yes. You see, Gentlemen, one point about this is—there are several—that there are these words published by the Defendant: "He not only convoked popular meetings in which his fiery eloquence denounced the Mohammedans as the sworn foes of the Hindus "—if you think that contains a libel on him you cannot give him a halfpenny for it, because he does not bring an action for that. He purposely omits those words, so that whether those words are libellous or not, they are not in the case. Then you pick up the paragraph after those words.

Sir EDWARD CARSON: You pick it up in the middle of a sentence.

Mr. Justice DARLING: Yes.

2276. Sir EDWARD CARSON: There are one or two more passages on this subject, and then I will pass from it. (To the Witness): Now, will you turn to page 291 of Vol. I? If you look down the page you see: "Life of Harris." It is very big?—Yes.

2277. Was that Lord Harris?—Yes.

2278. "Lamentations of the subjects. What a Government this is! The very present policy of Government is widely known, being unprecedented. Indeed they openly cut one another's throats. The Yavans "—was that the Mohammedans?—Yes.

2279. "Entered the temples of the Hindus and set fire to them." Did it mean that the British Government allowed that?—It is the fact that this happened.

2280. They massacre the worshippers and pollute the idols. They (the Hindus) throw dead pigs into the Masjids of the Yavans, break the hanging globe lamps, put obstacles in the worship held by Mullajis." Were those Mohammedans?—They were the Hindus who did

that.

2281. Now listen to this: "The white police standing at a distance see the fun and give encouragement to them saying 'Well done! Bravo!' "——

2282. Mr. Justice DARLING: Will you tell us this: did the Hindus throw dead pigs into the mosques of the Mohammedans?—This is an allegation by Mohammedans.

2283. But is it true. Did the Hindus do it?—The facts were published then.

2284. Do answer my question. Did the Hindus throw dead pigs into the mosques of the Mohammedans?—That is the allegation made.

2285. Did they do it?—As a matter of fact I know nothing about it.

2286. Then why did you publish this: "The white police, standing at a distance, see the fun and gave encouragement to them, saying 'Well done! Bravo!' "

2287. Sir EDWARD CARSON: If you knew nothing about it, is not that a terrible charge to make against the white police?—It is a terrible charge.

2288. And you know nothing about it?—I wrote it on information which is supplied to newspaper offices.

2289. You knew nothing about it?—Personally.

2290. Who are the white police?—The white police means the European chief constable.

2291. Only the chief constable. Would not all the other police be natives?—It may be. It means all white police.

Mr. Justice DARLING: Now look at what the white police do next.

2292. Sir EDWARD CARSON: I want to get out from him this, my Lord. (To the Witness): There is no such thing as white police except the inspector of the district—the head of the district?—There are others.

2293. Is not the only one at the head of the district?—There are many more. One is head of the district. There is a police inspector and three chief constables entrusted with the duty. There is a European police constable.

2294. What you are referring to here are the chief officers of the police?—All white police—all officers

engaged.

2295. But were there any white police except officers ?—The chief constables in Bombay and Poona.

2296. I am talking of Poona ?—In Poona there are white constables.

2297. Then it goes on : " They seize innocent persons and take them to prison. They fine them and also disgrace them. In this way they exceedingly harass them." Was that true ?—It is true to my knowledge.

2298. Who was it that did that ?—The officer there.

2299. What was his name ?—I do not know.

2300. Were you there ?—I once visited the riots.

2301. Did you see innocent persons taken by the police and fined and disgraced ?—Some of them were acquitted.

2302. Mr. Justice DARLING: According to this what the white police do is this ?—They prosecuted the people.

2303. No, they did more than that. According to that the Hindus threw dead pigs into the mosques and broke the globe lamps, put obstacles in the worship held by the Mohammedans, and the white police standing at a distance see the fun and give encouragement to them, saying : " Well done ! Bravo ! " Then having done with calling out Bravo to the real culprits they then seize innocent persons and take them to prison and fine them and disgrace them. It is called " The Life of Lord Harris. "

Sir EDWARD CARSON : Yes, my Lord.

Mr. Justice DARLING : That is his official life.

Sir EDWARD CARSON : I am not going to read it all through, my Lord, but would your Lordship look at paragraph 9.

Mr. Justice DARLING : Before you get to that, the one I am looking at is this : " They add to your misery"–

2304. Sir EDWARD CARSON : That is the very one I was coming to, my Lord. " They add to your misery, saying ' You ungrateful villains, you create unrest everywhere, you rogues ; you thieves ! ' " Who did that ?—These officers ; they insulted the Hindus.

2305. " Oh (God) Har, Har, we do not want to live ! Now relieve us from this misery entirely ! You are the

protector of the helpless !" I ask you was that calculated to provoke ill-will ? Was it a direct provocation to the Mohammedans ?—No.

2306. And to Hindus ?—No.

2307. And bringing disgrace and disrepute upon the British Government ?—No. It was a statement of a grievance of the people.

Mr. Justice DARLING : Now look at the next paragraph.

Sir EDWARD CARSON : " Thus ends the third canto entitled ' The Lamentations of the Sujects ' of the great poem ' Life of Harris ' composed by the poet Madhav, an inhabitant of the city of Poona." Did you know him ?—No, I do not know him.

2308. Did you ever know him ?—I do not know who he is. I cannot bring him to my mind.

2309. How do you know he is a great poet ?—He has himself written it.

2310. I think I understand—it is that at the end of his poems he puts a canto of verse in, saying : " I am the great poet Madhav, an inhabitant of the City of Poona."

2311. Mr. Justice DARLING : Now that we have got to the end of this, will you tell me this. What did this tyrant Lord Harris do to the man who wrote and published this about him ?—I do not know what he did.

2312. Sir EDWARD CARSON : Nothing was done to you for publishing it ?—No.

2313. Nor any of these things. Now, will you turn to page 385 : " A Libel on Young India." Then turning to page 386, ten lines from the end : " There is a lurking idea in the overheated brains of some Anglo-Indians that the late Hindu-Mohammedan riots were deliberately fomented by intriguing Brahmins who wanted to bring all administrative machinery to a dead block by setting the two communities by their ears. The charge of obstruction was brought forward most prominently in the Deccan, where according to the Anglo-Indian point of view the Poona Brahmin is at the bottom of every kind of opposition to the Government. In that now historical speech of Lord Harris, we were told with remarkable bluntness, if not impudence, that the difficulties of Government were due

to the non-existence of commonsense in the Deccan. In fact from Lord Harris down to Anglo-Indian prints the Poona Brahmin was held up to ridicule, censure and abuse. But he has survived all these charges, simply because they were false. The 'Pioneer' says that the educated Hindus first raise the dust by putting themselves at the heads of the Anti-Cow-Killing movements that have spread all over the country. Here is a distinct charge and it requires a distinct refutation. The popular belief is that the misguided European magistrates unconsciously gave cause to rioting by the foolish desire to change the *status quo.*" What is the *status quo* ?—The prevailing state of things.

2314. Could you tell us what the state of things prevailing at the time was when these conspiring magistrates wanted to change the *status quo* ?—I can explain it if you like. Hitherto there were no riots, the question was not raisad in Poona, but it was raised at this time.

2315. That was for the purpose of causing riots ?—No, not for the purpose of causing riots but by taking wrong sides.

2316. "It would be easy for us to give instances; but we do not think it necessary to do so. We believe we are within the mark when we say that the general impression in the country that 'divide and rule' is one of the root principles of British administration." Was the meaning of that that one of the principles of British administration was to set one or the other lot of citizens against the others ?—That was said by the Anglo-Indian papers at the time.

2317. No: "We believe we are within the mark when we say that the general impression in the country that 'divide and rule' is one of the root principles of British administration." Was that your own opinion ?—That was said by them.

2318. Was that your own opinion ?—That was the opinion——

2319. Was it your own opinion ?—In the case of these officers they did it. I did say it.

2320. They set the Mohammedans against the Hindus and the Hindus against the Mohammedans, and they set both of them against the British Government ?—

No, that is not it.

2321. "It is only to refute this damaging charge that Anglo-Indians are trying to delude their readers into the belief that the educated Hindus fan the flame to obstruct the Government. It is now proved that the Hindus did everything in their power to establish amicable relations between the two races who were set by the ears, by the foolish policy of some magistrates." Wat did the Hindus do to establish the good relations?—They appealed to the High Court.

2322. Was it by establishing Anti-Cow-Killing societies, and was it by playing music going past the Mohammedan mosques?—You asked me what did the Hindus do. They did appeal to the High Court and they got acquitted.

2323. I am asking you what did they do to establish amicable relations. Appealing to the High Court never does that. What did they do to establish amicable relations with the Mohammedans?—We held meetings which were held with their co-operation—we held public meetings. Public meetings were held all over the country.

2324. You keep on saying you held public meetings. Could you say it again to please my learned friend?—They held public meetings all over the country.

2325. Did they ever stop the music going by the mosques?—They did not stop it and it is not stopped now.

2326. Did they ever keep up the Anti-Cow-Killing Societies?—No.

2327. I do not think they did much, do you, to bring about amicable relations?—They asked the Government to establish reconciliatory relations.

2328. "It is said that the educated Hindus have no real and heartfelt sympathy with the anti-cow-killing movement because according to the 'Pioneer,' they have no objection to eat beef or take brandy. We confess we read this with considerable amazement and indignation. Some of the educated Hindus have, it is true, become denationalised, but it is sheer calumny to say that they have no objection for taking beef. It must be distinctly understood by our Anglo-Indian critics that the slaughter

of innocent cows is opposed by every thoughtful Indian, not only on sentimental and religious grounds, but for a very good political and economic reason." Were you not at that time running this question of the Anti-Cow-Killing Societies for political reasons?—No, I do not think so.

2329. Now will you take up the little red book again and I will give you one more chance of answering. Will you turn to page 43? What is it you complain of now that I have read all these things?

Mr. Justice DARLING: It is in brackets, beginning with the words: "he started an organisation," and ending with the word "methods".

Sir EDWARD CARSON: Yes, my Lord.

2330. Mr. Justice DARLING: Perhaps Mr. Tilak does not appreciate what you asked him?—No.

2331. Mr. Justice DARLING: Why did not you say so?—I have not heard anything.

2332. I do not think you wanted to hear. Once more, will you tell me what it is you complain of in this, what you call your first minor libel?—On page 43: I complain of being connected with the Cow-Protection Societies for the purpose of creating fermentations of the quarrels between Hindus and Mohammedans. I have never done that. I have not been connected with any such idea.

2333. The Jury have heard you. That is the whole thing?—Yes.

2334. Sir EDWARD CARSON: Now I come to No. 2, on page 42. You see they go back, No. 2 libel comes before No. 1. "With the help of the brothers Natu"—it begins. Before we come to the piece complained of, which commences three lines from the end of page 42, I must read the passage: "Tilak's defeat was shortlived. The introduction of the Age of Consent Bill, in 1890, to mitigate the evils of Hindu Child-marriage, gave him a fresh opening. Ranade, discouraged and alarmed by the violence of the Tilak party, had by this time retired from the forefront of the fray, but in Dr. Bhandarkar, Mr. Justice Telang, Mr. A. K. Nulkar, Mr. (now Sir N. G.) Chandavarkar, the other courageous Hindu reformers, with whom Mr. Gokhale was always ready to co-operate

against the forces of religious superstition, he had left disciples ready to carry on the good fight. Tilak raised against them a storm of passion and prejudice. In the columns of the "Kesari," of which he had become sole proprietor, he denounced every Hindu who supported the measure as a renegade and a traitor to the cause of Hinduism, and thus won the support of conservative orthodoxy, which had hitherto viewed with alarm some of his literary excursions into the field of Vedantic exegesis." Did you oppose the "Age of Consent Bill?"—Yes.

2335. It raised the age for children being married from 10 to 12?—No, not of marriage, the consummation of marriage.

2336. From 10 to 12?—No, not 10 to 12. 12 only.

2337. Before it was 12 it was 10. It is page 42 where the second libel is. Then it goes on with what you complain of. You do not complain of that. That is what it says: "With the help of the brothers Natu, who were recognised leaders of Hindu orthodoxy, he carried his propaganda into the schools and colleges in the teeth of the Moderate party, and proclaiming that unless they learnt to employ force the Hindus must expect to be impotent witnesses of the gradual downfall of all their ancient institutions, he proceeded to organise gymnastic societies in which physical training and the use of more or less primitive weapons were taught in order to develop the martial instincts of the rising generation." What do you complain of in that?—It is entirely untrue.

2338. Did you bring your propaganda into the schools?—No.

2339. Do you swear that after what we read out this morning—I am not going back?—Yes.

2340. Did not the Government have to shut up the schools because of your propaganda?—No, not on account of my propaganda.

2341. The propaganda you were carrying on?—I was not carrying it into schools.

2342. Did you have the children come to the Shivaji festivals?—I did not ask any children or any students to come to the Shivaji festivals. It was not for students or

for these children.

2343. Were the children joining in burning English goods through the Swadeshi?—Some of the students did, with the consent of their guardians.

2344. And at these festivals of Ganpati and Shivaji when they were teaching the Swadeshi, did not you have students come in to give exhibitions of physcial training? —Yes, some of them did; it is an ordinary practice in Poona; it is not my doing.

2345. Did not they give exhibitions at these meetings?—Sometimes they did.

2346. With more or less primitive weapons?—I do not know. These gymnastic exercises are practised in Poona for the last hundred years, and Poona has about 50 or 60 gymnasia; I have not organised any of them. It was customary in Poona in the processions to have something like this.

2347. Is that all that you complain of now, that you did not organise them?—Yes.

2348. Now I come to another complaint of yours. This is on page 49: "For three or four years the Tai Maharaj case, in which, as executor of one of his friends, Shri Baba Maharaj, a Sirdar of Poona, Tilak was attacked by the widow and indicted on charges of forgery, perjury and corruption, absorbed a great deal of his time, but, after long and wearisome proceedings, the earlier stages of the case ended in a Judgment in his favour." You do not object to that?—It says the *earlier* stages did.

2349. Did end in your favour?—The final one did.

2350. "Which was greeted as another triumph for him, and not unnaturally though, as recent developments have shown, quite prematurely, won him much sympathy, even amongst those who were politically opposed to him. But throughout this ordeal Tilak never relaxed his political activity either in the Press or in the manifold organisations which he controlled." What is there wrong in that passage?—The wrong in the passage is that in the earlier stages I was acquitted, that that was premature; that is what the insinuation is. That is not the case.

2351. Mr. Justice DARLING: What is the insinuation?—The insinuation is that it is only in the earlier stages of the criminal prosecution that I was acquitted,

but, as subsequent events showed, that was premature.

2352. Sir EDWARD CARSON: That is not what it says: "After long and wearisome proceedings, the earlier stages of the case ended in a Judgment in his favour which was greeted as another triumph for him, and not unnaturally though, as recent developments have shown, quite prematurely, won him much sympathy, even amongst those who were politically opposed to him." Then the reason it puts—"have shown quite prematurely"—is set out if you turn over to page 340. Is not it true that after you had won you brought an action yourself?—Yes. That was previously, not after I had won.

2353. Well, at the same time?—Three years before.

2354. You brought an action?—Three years before that.

2355. You brought an action in the Bombay High Court against the decision of the lower Courts. Just turn to page 340.

Mr. Justice DARLING: Mr. Spence, are you going to insist on this thing as a libel on page 49?

Mr. SPENCE: Yes, my Lord.

Sir EDWARD CARSON: Then I must put two or three questions; it is very difficult to see where it comes in.

2356. As a matter of fact is not the statement on page 340 accurate?—The last part of it—"Mr. Justice Chandavarkar is a Hindu Judge of the highest reputation"—I do not object to that—"The effect of this Judgment is extremely damaging to Tilak's reputation as a man of honour or even of common honesty." That is what I object to.

2357. But was not Mr. Justice Chandavarkar's Judgment damaging to your reputation?—No, it was not.

2358. Now I will read it——

Mr. SPENCE: He complains of his selecting this extract.

2359. Sir EDWARD CARSON: "Mr. Justice Chandavarkar is a Hindu Judge of the highest reputation, and the effect of his Judgment is extremely damaging to Tilak's private reputation as a man of honour, or even of common honesty." I am going to show that that is a proper criticism upon his judgment. I will read it as it is here first, so that the Jury may follow, then I will take

it from the official report: "The Tai Maharaj case came up once more in September on the Appellate side of the Bombay High Court on appeal against the decision of the Lower Courts. It was contended on behalf of Tai Maharaj, the widow, that her adoption of one Jagganath was invalid owing to the undue influence brought to bear upon her at the time by Tilak and one of his friends and political associates, Mr. G. S. Khaparde, who were executors under the will of her husband, Shri Baba Maharajah. Mr. Justice Chandavarkar in the course of his Judgment, reversing the decisions of the Lower Courts, said that on the one hand they had a young and inexperienced widow, with a right of ownership but ignorant of that right, and led to believe that she was legally subject to the control of the executors of her husband's will as regarded the management of the estate which she had by law inherited from her son, prevented from going to Kolhapur even to attend a marriage in a family of relations, and anxious to adopt a boy from Kolhapur as far as possible. On the other hand they had two men of influence learned in the law, taking her to an out-of-the-way place ostensibly for the selection of a boy, and then, as it were, hustling her there by representing that everything was within their discretion, and thereby forcing her to adpot their nominee. In these circumstances they came to the conclusion that the adoption was not valid, because it was brought about by means of undue influence exercised over Tai Maharaj by both Tilak and Khaparde." If it was true that you had exercised undue influence over this widow as he says here, if you had done it in the way he says, would not that be damaging to your reputation as a man of honour? —I never did so. You put a hypothetical case; "If I had done so and so, if it is true"; it is not true.

2360. The Judge held it was true. I want to see what the comment made was. I know the Privy Council upset it, I will give you the full benefit of that, but if what Mr. Justice Chandavarkar found as a fact was true that you had committed that undue influence, would not it have been a fair comment to say that it was damaging to your reputation as a man of honour?—No, that does not justify it—not want of honesty. We were trustees of a young woman of 16 or 17; under age. She followed the

advice of the trustees. We gave her that advice and we trust her to follow it. The whole question was whether we were wanting in common honesty in that.

2361. Mr. Justice DARLING: Listen to the question put to you. If the words which Mr. Justice Chandavarkar used about you are true, then do you say they are not against your honour?—No, I do not think so.

2362. Sir EDWARD CARSON: Just read this; does not this reflect on your honour: "On the other hand they had two men of influence learned in the law, taking her to an out-of-the-way place ostensibly for the selection of a boy, and then, as it were, hustling her there by representing that everything was within their discretion, and thereby forcing her to adopt their nominee. In these circumstances they came to the conclusion that the adoption was not valid because it was brought about by means of undue influence exercised over Tai Maharaj by both Tailk and Khaparde." Do you tell the Jury that that statement of the Judge does not reflect upon your honour and reputation?—What I say is this; it may affect my position to a certain extent, but this is going too far—the comment made here. It is not a question of honesty.

2363. Mr. Justice DARLING: What it says is this: "This judgment is extremely damaging to Tilak's private reputation as a man of honour or even common honesty." What he says is: you being a trustee of a widow of about 15 years of age with another man learned in the law, hustled her into adopting a person by means which he called undue influence. Take it that that was true, assume it to be true, do you say that that was not against your honour to do such a thing?—Taking that as true, I say that the comments are not justified.

2364. Do answer my question; taking that to be true, if you did that, or if any man did it——?—It would not reflect on my character.

2365. Would he be an honourable man if he had done that?—It does reflect to a certain extent on my character.

2366. Answer my question. You are, as the Judge said, a man learned in the law. You had with you another

man learned in the law; he says between you you hustled a widow of 15 by means of undue influence into adopting your nominee. I ask you, supposing that to be true, did you do what a man of honour ought not to have done?—I think we did what we were bound to do.

Sir EDWARD CARSON: I will put to you one passage out of the book itself. Did the Judge say this: "Defendant No. 1 being a lady without any assistance at the place and not knowing what Plaintiff No. 1 would do" (that is you) "under these circumstances and being uncertain as to what predicament she would be in if she did not consent to what he said and considering further that under the circumstances unless Plaintiff No. 1 say was accepted she could not get away she signed under Plaintiff number 1's pressure and compulsion against her own will two documents which Plaintiff No. 1 asked her to sign. The making of such signatures was forced upon Defendant No. 1 under the above circumstances. Plaintiff No. 1 having taken the signatures from Defendant No. 1 against her will in a helpless condition put her in the train for going to Poona."

Mr. Justice DARLING: Sir Edward, If I remember right, at the time this book was published, that Judgment of Mr. Justice Chandavarkar was still good; the book was published in 1910.

Sir EDWARD CARSON: Yes.

Mr. Justice DARLING: The appeal to the Privy Council was when?

Sir EDWARD CARSON: In 1915—five years afterwards.

Mr. Justice DARLING: So when the Defendant wrote that, the Judgment of Mr. Justice Chandavarkar was the final Judgment in the case.

Sir EDWARD CARSON: Yes; that is the point, and Sir Valentine was commenting on the existing state of facts.

Mr. Justice DARLING: He could not comment on what did not occur till five years afterwards.

Sir EDWARD CARSON: I would like to call attention to a passage in the Privy Council case if he says this Judgment did not reflect upon his honour.

2367. Did you read the Privy Council Judgment?—I read it, but I cannot remember it.

2368. I am only going to read you just a line to show what the learned Lords said at the Privy Council. "Their Lordships have observed with regret and surprise that the general principle and the specific statutory provisions have not been followed. The verdict of the High Court is an inferential verdict—none the less sweeping on that account—but an inferential verdict actually of perjury." Now, as we know the Judgment was reversed five years afterwards. When you complained to Sir Valentine Chirol through your solicitors did he tell you that in the next edition of the book he would have that matter set right by inserting the Judgment that had taken place in the Privy Council?—I do not know.

2369. Did your solicitor never tell you that?—I do not know that.

2370. Did you never hear of it?—No.

2371. Mr. Justice DARLING: You say you never heard that the Defendant said he would put this right in the next edition of his book?—I did not hear it.

2372. Sir EDWARD CARSON: Is there anything else you have to complain of in that No. 3?—The last paragraph is a reflection on my common honesty.

2373. Mr. Justice DARLING: It is the same thing over and over again?—Nothing further than that.

Sir EDWARD CARSON: Now I come to the next one. On page 53: "His primary motives may have been excellent"—that is Tilak's—"but he subordinated all things to his ruling anti-British passion, whilst the fervour of his philanthropic professions won for him the sympathy and co-operation of many law-abiding citizens who would otherwise have turned a deaf ear to his political doctrines."

Mr. Justice DARLING: Now the libel begins; that part is not complained of.

2374. Sir EDWARD CARSON: They leave out what is said in his favour: "He must have had a considerable command of funds for the purposes of his propaganda, and though he doubtless had not a few willing and generous supporters, many subscribed from fear of the lash which he knew how to apply through the Press to the tepid and the recalcitrant, just as his gymnastic

societies sometimes resolved themselves into juvenile bands of dacoities to swell the coffers of Swaraj." Had you considerable command of funds?—I had two or three funds of which I was a trustee, that is all.

2375. Let me call attention to the Paisa Fund, which we have been talking about already. Your Lordship will find it at page 1015 of the second volume. It is headed: "The National Education Campaign." "Mr. Tilak"—and other gentlemen are named—"these persons who are devoted to the interest of the country having undertaken the work of the spread of the National education in the Maharashtra there is no reason at all to be sceptical about that work. All people are aware that these persons established the 'Shri Samarth Vidyalaya' at Talegaon and have commenced this work on a small scale. Nobody need to be told that without money this work will not be able to assume a comprehensive aspect. In order therefore that work of the National education may be begun on a comprehensive scale in our Maharashtra, it is decided to collect subscriptions on behalf of the Maharashtra Vidya Prasarak Mandali in the 25 Mahratti-speaking districts, and in accordance therewith Dr. Deshmukh, R. B. Vaidya, Prof. Vijapurkar, Ra. Tilak, Ra. Joshi, Ra. Panvalkar and other gentlemen on behalf of this Society first came last Wednesday to this City of Sholapur, which is noted for its trade and for its munificence." Then at page 1017 there is an account of the Paisa Fund: "The present condition of the Paisa Fund is such that it is necessary that people should pay more attention to it than they have hitherto done and a necessity has arisen for the volunteers to work harder for it. No doubt it is true that on account of the 'Swadeshi' movement the Paisa Fund has been receiving more help than before, but as the Paisa Fund has now made a commencement to do practical work of some kind or other, there is no doubt that the moneys collected at present will, in very near future, prove to be insufficient in view of the object to be attained." Then it goes into the expenditure. "From what is stated above the reader will easily get an idea of the Paisa Fund and of the work which it is going to do in the present and in the future. Although the name Paisa Fund

may be a new one, yet, the method of raising the fund, and by means of it, of getting performed some religious or public work is a very old one; or we might say, this method has become permanently fixed in the nature of man." Then it goes through a large number of cases which I need not mention, and at page 1019 it says: "In our present National movement the Paisa Fund is bringing about the fulfilment of the above object. The Paisa Fund teaches all people how to utilise their money and bodily power to the national object in a natural manner. When the people will get accustomed to this teaching and when they will as a fact get to taste the sweet fruits thereof that is to say when the Paisa Fund will enter into the daily programme of the household of the people, this fund along with the household life will not fail to be prosperous. When once the current of the innate desire of the people to do good acts turns towards the new national object—then nobody will have the power to stop that current until it reaches the ocean, that is to say, until the fulfilment of the desired object, and if in its course even a mountain of the old sins of a nation were to bar its passage, it would reduce to dust the formidable looking blocks of its stones and make its way even through the mountains. The Paisa Fund is trying to yoke to the wagon of the industrial and educational movement the physical energy of the time which the people can spare (from their household duties) and their moneys which they can spare after the expenses of their household affairs are defrayed. When these two things are yoked to any wagon, no official class will have in its hands the power to stop the motion of that wagon. Only when the above pair takes off its necks from under the national yoke, then only, the further motion of this wagon will stop. What we call government is conducted only with the help of the physical energy and the money which a nation can spare after doing its daily worldly life. When a Government lays its hands on the physical energy and the money power necessary for conducting the daily worldly life of a nation, then that Government takes no long time to go down the way of becoming extinct." A little later on it says: "The Paisa Fund is generating that tendency, and it is the duty of every

Maharashtrian who gives a thought to the welfare of his nation to make the undertaking of this Fund a success. The work of the Paisa Fund is threefold. The first part is to make the industries and the education thereof undertaken by the Paisa Fund a success. Some work in connection with this is likely to be done by stipendiaries. The fund must be large enough to maintain the persons who conduct the manufactory and the teachers who do the teaching work as paid people, but the work of determining the nature of the manufactory, the lines on which the education there will be conducted, and such other things, should be done by the learned and circumspective people of the Maharashtra in their own spare time and with their spare moneys as a matter of benevolence. In order that the attention of the thoughtful and the persons conversant with these matters in the Maharashtra may be given to the Paisa Fund in the manner stated above, and in order that the Paisa Fund may obtain in time the moneys required for defraying the expenses for going on the lines laid down by such (people) it is necessary to create an awakening among the people with regard to this fund. It would not do to rely on stipendiaries for creating this awakening (among the people). The burden of these stipends is at present too much to bear for this fund. Again, the fund has not reached that stage where the people would believe what the paid preachers might preach. This work of the awakening must therefore be done of their own accord by persons who are carrying on various movements of their own. It is necessary that all kinds of writers, speakers and workers should carry on the work of this fund along with the work of their movements." Were not you there laying down that it was a duty as part of the political movement of Swadeshi to collect this Paisa Fund?—No, it is not a Swadeshi matter, it is a different thing altogether independently of Swadeshi.

2376. Had not you given advice on one of these occasions where the marriage ceremonies were referred to as bringing misfortune, unless you used Swadeshi?——

Mr. Justice DARLING: They were read this morning.

2377. Sir EDWARD CARSON: Yes. Did not you tell them that as part of the operations they had to contribute to the Paisa Fund—a part of the same matter?—I have said that, that is true.

2378. Then at page 855: "It is the opinion of the new National party that students should necessarily take part in such public movements as the Paisa Fund and such other things, or in political movements, that they should receive education with respect to these matters along with the training in other matters."——

Mr. Justice DARLING: The paisa is a very small coin, is it not? In some of these documents it is spelt "pice."

Sir EDWARD CARSON: "Pice" is a farthing; it is the same word.

Mr. Justice DARLING: That is the point of it, it is a fund to which everybody who has got a farthing could contribute, so it is called the Paisa Fund—the farthing fund.

2379. Sir EDWARD CARSON: Now with reference to the last part: "Just as his gymnastic societies sometimes resolved themselves into juvenile bands of dacoities to swell the coffers of Swadeshi." Did you know anybody of the name of Dandekar?—I do not know.

2380. Or Amdakar, at Nasik?—No, I do not know.

2381. Did you know that they were convicted of dacoity for swelling the coffers of Swaraj?—No, I do not know.

2382. Then I will not ask you further about it. We will prove it ourselves if it is so. Now I think I have only one more question to ask you. Were you on the 31st July last prohibited by order of the Government from making public lectures or addresses?—Yes.

2383. Was that because of your speeches in relation to recruiting?—Yes.

Sir EDWARD CARSON: That is all I ask.

(Adjourned till to-morrow morning at 10.30.)

SIXTH DAY.

February 14, 1919.

Mr. BAL GANGADHAR TILAK, recalled.

Re-examined by Sir JOHN SIMON.

2384. Mr. Tilak, on the Third Day, do you remember that you were asked some questions about what the "Times of India" had said about you?—Yes.

2385. And whether you had taken proceedings against them?—Yes.

2386. It is on the Third Day, at page 133. At the bottom of the page, at Question 859, you were asked this by Sir Edward Carson: "You have just told me that the 'Times of India' imputed to the articles in your paper that they encouraged the murder of Mr. Rand?"—Yes.

2387. That you said?—Yes.

2388. You were asked: "Did you take any proceedings against them?" and you said "Yes, I went to Bombay to take proceedings against the 'Times of India,' to consult my lawyers in Bombay, but it so happened that I was arrested on the same day"?—Yes.

2389. Then you were asked at the top of the next page: "But you never took proceedings afterwards? —How could I do that? Q. You were let out in a year? —Let out after a year, and then the matter was settled. I did take proceedings in 1899 and got an apology"? —Yes.

2390. "About when?—About October, 1899. Q. That has nothing to do with 1897?—Yes, it is the same matter, they repeated it again. Q. Have you got that apology?—Yes." Is that true that you took proceedings against the "Times of India"?—Yes.

2391. I mean legal proceedings?—Yes, legal proceedings, a criminal case.

2392. For criminal libel?—Yes, for criminal libel.

2393. Now will you look at page 44 of the Pink Book. (Same handed to Witness.) I see that is a criminal information on Bal Gangadhar Tilak before the magistrate: "I reside in Poona. There is published in Bombay a daily newspaper known as the 'Times of India,' which is printed at the 'Times of India' Press, situated in the Fort. The proprietors of that newspaper

are Messrs. T. J. Bennett and F. M. Coleman. The said Mr. T. J. Bennett is also the editor of the said newspaper and the said Mr. F. M. Coleman its managing proprietor and publisher. In the issue of the said 'Times of India' newspaper of the 18th instant"—that is the 18th November, 1899—"there is published a paragraph under the heading 'New Governor of Bombay. Home opinion,' in which the following occurs." This is an extract from what the paper at home here said: "The 'Globe' "—that is the London paper—"points out that Sir Stafford is now appointed to a sphere much more responsible than he has yet occupied." Is that Sir Stafford Northcote? —Yes.

2394. "For some years past, parts of the Western Presidency had been permeated by seditious conspiracies of a most dangerous sort, and although the ringleaders have seen fit to remain quiet since that archplotter Tilak was imprisoned, sedition is merely in temporary abeyance. It rests with the new Governor to complete its extermination by such rigorous measures as the occasion may demand; neither Bombay nor any other portion of India can be allowed to form a nucleus for disaffection, disloyalty, treason and assassination. Happily, Sir Stafford Northcote goes to his important office with much fuller knowledge of the state of affairs than his predecessor possessed until his mind was informed by the campaign of murder which Tilak directed, if he was not its organiser. The new Governor knows beforehand that the Brahmins in particular are never to be trusted, let them speak as smoothly as they may. Many of these high caste men still dream of restoring Mahratta supremacy; they believe, not without reason, that but for the coming of the British Raj, that formidable power would have dominated the whole of India, carrying (restoring) with it the supremacy of Hinduism over all other religions." Then I see the Information which you laid before the Court goes on: "The whole paragraph is grossly defamatory of me and imputes to me that I was 'arch-plotter' of 'seditious conspiracies of a most dangerous sort,' and that I directed a 'campaign of murder' if I was 'not its organiser.' I say that these imputations are entirely false

and under cover and pretence of quoting from English newspaper are maliciously published in the said 'Times of India' with the intention of libelling and defaming me. It is utterly and absolutely untrue that I have had or have anything to do with any seditious or other conspiracy or with any campaign of murder. I say further that the said newspaper has for a long time past attacked me." I do not know that I need read to the end of that. Now, Mr. Tilak, that information having been laid by you before the Court in Bombay, was it brought before the Court?—Yes, it was.

2395. And is the next document on page 45, Exhibit A 13 (a) the certified decision of the trial extracted from the records of the Court?—Yes.

2396. It is quite short, and it is just this: "Case No." —so and so. They number these cases. "Bal Gangadhar Tilak, Complainant against T. J. Bennett and F. M. Coleman, Accused." You will remember they were the editor and proprietor. "Charge.—Defamation." Then it gives the names of the counsel appearing. "Honourable Mr. Mehta and Mr. Setalwad for complainant. Mr. Macpherson for accused. Mr. Macpherson reads paragraph published in the "Times of India" on November 24th. Mr. Bennett takes all responsibility for the publication as Mr. Coleman has nothing to do with the editorial business of the paper. The paragraph in original produced. Mr. Bennett states that he does not believe what the 'Globe' states— —he actually never saw what was stated in the paragraph by the 'Globe.' Since Mr. Tilak has been convicted there has been hardly any comment whatever on Mr. Tilak. Mr. Bennett entirely dissociates himself from any of the insinuations so brutally conveyed by the paragraph in the 'Globe' and retracts with regret the sentiments embodied in the paragraph complained of". Then there is a record that the Counsel for Mr. Tilak accepted that apology for Mr. Tilak, and on behalf of his clients accepts the handsome apology offered by Mr. Macpherson, and the case is withdrawn. Now, Mr. Tilak, is that what happened? Will you turn over to page 46, Exhibit A 14? Is that what the "Times of India" published in its own columns?—Yes.

2397. So that its own readers might see how it withdrew what it had said about you. Will you just look at the "Times of India," of the 24th November, where there appears this editorial note: "Mr. Tilak and the 'Times of India.' With reference to the application made yesterday before the Chief Presidency Magistrate on behalf of Mr. B. G. Tilak, it is right that we should state that yesterday's proceedings for the first time brought to our notice the paragraph whose publication is complained of. It appeared amongst a number of cuttings from the London Press; commenting upon the appointment of the new Governor of Bombay, which were selected and arranged by our London correspondent. On their arrival in Bombay they were inserted as received without unfortunately undergoing any revision, for a selection of comments by the home press upon the appointment of Sir Stafford Northcote is the last place in which one would expect to find objectionable matter. We have no hesitation in saying that we in no degree associate ourselves with the views of the "Globe", that if the paragraph in question had been brought to our notice, it would at once have been struck out, and that we regret the insertion through inadvertence in our columns of statements which we regard as unwarranted, and as doing a serious injustice to Mr. Tilak." Is the "Times of India" a paper published in English?—Yes.

2398. And as I read here in your Information published, amongst other places, in Bombay?—Yes.

2399. Is it widely read over in India?—Yes, they call themselves the leading paper of India.

2400. Is it a paper in a good position to know the truth about what happens in Bombay?—Yes.

2401. And in the same number of the paper there followed, still in the "Times of India," a report like a legal report in a newspaper of what happened in Court. I am not going to delay by reading it all, it is a long report, but I must read a little of it. It is at the top of page 47. This appears in your paper as appearing in the "Times of India": "At the Esplanade Police Court, this afternoon before Mr. J. Sanders Slater, Chief Presidency Magistrate, the action for defamation filed by Mr. Bal Gangadhar Tilak against T. J. Bennett and Mr. F. M.

Coleman, Editor and Proprietor and the Managing Proprietor, respectively, of the 'Times of India' was called on for hearing." Then it gives the names of the counsel, and so on. "Mr. Macpherson,"—who is the barrister for the "Times of India,"—"addressing the magistrate said: I am instructed for the Defendants Messrs. Bennett & Coleman, and under their instructions I propose to take a course which I feel will commend itself to the Court and I trust will satisfy my learned friend and his client." Then he says this: "It is a course my clients have determined to take independently of any legal advice whatever and prompted only by their own sense of what is right and just and fair to the Plaintiff." Do you see that?—Yes.

2402. It is not the result of some barrister giving advice but the real judgment of the "Times of India." "That course has already been shadowed forth and more than shadowed forth in the paragraph which appeared in the 'Times of India' the very morning after the information was filed before your Worship and I cannot do better than read that paragraph." Then he proceeds to do so, and refers to the fact that the extract had come from the "Globe" and that apology having been offered your counsel, I see, accepted the apology?—Yes.

Sir EDWARD CARSON: Will you read what it says at the top of page 48?

2403 Sir JOHN SIMON: Certainly I will. Now I must go back a little, because Sir Edward asks me to. In the course of the speech made on behalf of the "Times of India" there occurs this which Sir Edward would like me to read at the top of page 48: "On that appointment Mr. Bennett had already expressed his views, and, therefore, not being desirous of expressing any further views, he did not expect any further light in the paragraph. Consequently, he passed it without revision, and actually never read the passage in question until he saw it referred to in the information. These are the facts. It may be, it probably is, that a technical offence has been committed, but I think your Worship will be of opinion that it is only in a most technical sense that such an offence has been committed. Then there are certain suggestions that this defamation is an item in a series of

similar articles. For that, we assert there is not the slightest real ground. There have been occasions upon which Mr. Bennett in the discharge of his public duty has deemed it right to comment unfavourably on Mr. Tilak's conduct, and these comments all occurred at a period of Mr. Tilak's career, which culminated in an event which to some extent must be deemed to justify everything that has been said. Mr. Bennett does not for a moment admit that there was anything improper or unjustifiable in anything then said. Since Mr. Tilak's conviction there has been hardly any reference at all to that gentleman in the 'Times of India.' Mr. Bennett absolutely dissociates himself from all the injurious imputations and expressions which, very much to his surprise, are contained in the 'Globe', and regrets that a place was found for them in his paper." Now, Mr. Tilak, so far as the "Times of India" or Sir Valentine Chirol, or anybody else, criticises unfavourably the way in which you have conducted your campaign, do you complain of it?—No, I do not complain of the expression of opinion, but I do complain of my private character being attacked.

2404. Do you complain of being accused of being a director if not an organiser of murder?—That I complain of.

2405. And in the same way do you complain of being accused of being morally responsible for the murder of Mr. Rand?—Yes.

2406. That is the distinction I understand you draw?—Yes.

2407. Mr. Justice DARLING: I understand you do not complain that you were accused of being guilty of sedition?—No, not sedition.

2408. Sir JOHN SIMON: Just to complete it, at the end of page 50 I see Mr. Macpherson says: "I have been asked by Mr. Bennett"—that is, asked by the editor of the "Times of India"—"to acknowledge in the fullest terms the handsome conduct of the prosecution." The "Times of India" was thanking the prosecution for accepting that apology?—Yes.

2409. Was that what you referred to when you told my learned friend that you had taken proceedings

against the "Times of India" and they had apologised? —Yes, these proceedings.

2410. Now leaving the book for a moment, the murder of Mr. Rand occurred, did it not, in 1897?—Yes.

2411. What was the name of the man who was ultimately caught and confessed that he had killed him? —Chapekar.

2412. You have been asked by Sir Edward Carson about Chapekar's confessions?—Yes.

2413. Two of them I think there were?—There were two.

2114. From first to last in his confessions did Chapekar ever suggest that it was you who had influenced him or your papers that had influenced him? —Not a word about it.

2415. Did he ever mention your name in either of his confessions?—No.

2416. Did he ever mention your papers in either of his confessions?—No.

2417. Or any newspapers?—No.

2418. You have told us already that you did not know him?—Yes, I did not know him.

2419. Or anything about him?—No.

2420. Now in this little red book at page 48——

Mr. Justice DARLING: There it says: "No direct connection has been established between that crime and Tilak."

Sir JOHN SIMON: Yes, my Lord, I want to go on: "But like the murderer of Mr. Jackson at Nasik last winter, the murderer of Rand and Ayerst—the same young Brahmin who had recited the Shlok, which I have quoted above, at the great Shivaji celebration—declared that it was the doctrines expounded in Tilak's newspapers that had driven him to the deed."

Mr. Justice DARLING: It is not complained of in the libel.

2421. Sir JOHN SIMON: No, my Lord, I am not seeking at the moment to do more than ascertain the facts. (To the Witness): As a matter of fact, is it true or false that Chapekar declared that it was the doctrine you expounded that had driven him to the deed?—That is false.

2422. And in another of his two long confessions is there a word to the effect?—There is not a word about it.

2423. That is what we call the fifth libel—the Rand libel. Now I want to ask you a question or two about another matter. What is the name of the place where Mrs. and Miss Kennedy were killed by a bomb?—Muzaffarpur in Bengal.

2404. Muzaffarpur is not very far from Calcutta?—No, not far.

2425. How far away is it from Poona?—About 1,000 to 1,200 miles, 48 hours' journey by rail.

2426. Your paper the "Kesari" and the "Mahratta," I think, published in Poona, wrote some articles commenting on that bomb outrage, as we know?—Yes.

2427. Does your paper circulate in Bengal at all?—No.

2428. Are the natives who live in Bengal people who could read your paper?—No, they could not.

2429. I mean besides knowing what the words mean could they spell them in the print. Is the alphabet the same—the characters?—No, they cannot read the characters.

2430. That is to say, it is Greek to them. Whatever else your comments in your papers did, could your papers influence native opinion in Bengal?—No.

2431. What is the part of India in which your papers circulate?—Maharashtra, the part of the Bombay Presidency.

2432. A part of the Bombay Presidency with Poona in it?—Yes, round about Poona.

2433. As a matter of fact were there any bomb outrages at that time in that district at all?—No.

2434. This book of Sir Valentine Chirol's was published in 1910?—Yes.

2435. Right down to the time this book was published was there, so far as you know, any bomb outrage of any sort or kind in the Bombay Presidency?—There was none in Maharashtra.

2436. I am going to avoid going through these books of extracts except in more than one or two instances, but there is one I should like to put to you in

this connection. They are before my Lord and the Jury. Will you take before you Vol. 2. (Same handed to Witness.) At page 1043 there is a long article, but I only want to refer to one or two things. I see on that page there is an article in the "Kesari" published on the 12th May, 1908?—Yes.

2437. Published therefore at Poona?—Yes.

2438. 1,000 miles away?—The heading is: "12th May, 1908. This newspaper was printed and published at the 'Kesari' Printing Press, No. 486, Narayan Peth, Poona."

2439. Quite right. The Muzaffarpur outrage had been in April, and this was in the following month?—Yes

2440. You begin: "No one will fail to feel uneasiness and sorrow on seeing that India, a country which by its very nature is mild and peace loving, has begun to be in the condition of European Russia. Furthermore, it is indisputable that the fact of two innocent white ladies having fallen victims to bombs at Mazaffarpur will specially inspire many with hatred against the people belonging to the party of rebels." You go on to speak of the utter disappointment to the young generation "solicitous for the advancement of their country and impel them so soon to follow the rebellious path." Now will you turn to page 1047. The second sentence on the page is: "We are aware that our Government will, by assuming a stern aspect, and by the adoption of harsh measures, be able to stop immediately outrages like the one that occurred at Muzaffarpur. But even if such means be necessary at the present time to maintain peace, still that will not completely remove the root of the disease; and so long as the disease in the body has not been rooted out, no one will be able to guarantee that if a boil on one part of the body is cut away, another will not develop again in some other part. It is the King's and the subject's great misfortune that such times should befall a mild country like India which is naturally loyal and averse to horrible deeds." Now will you just look at this sentence: "There is no difference of opinion that those who are responsible for the maintenance of peace in the country, should immediately stop outrages of this kind on

their coming to light; but the remedies that are to be adopted with a view to prevent the repetition of such horrible calamities should only be adopted with foresight and consideration. It is now plain that not only has the system of government in India become unpopular but also that the prayer made many times by the people for the reform of that system having been refused, even some educated people, forgetting themselves in the heat of indignation, have begun to embark upon the perpetration of improper deeds. Men of equable temperament and of reason in the nation will not approve of such violence; nay, there is even a possibility that in consequence of such violence, increased oppression will be practised upon the people for some time to come, instead of its being stopped." Then you go on to refer to the history of Russia. Then: "It is true that in order to acquire political rights efforts are required to be made for several successive generations, and those efforts, too, are required to be made peacefully, steadily, persistently and constitutionally! But while such efforts are being made, who will guarantee that no person whatever in society will go out of control?" and so forth. I do not know whether you wrote that article yourself or whether somebody else wrote it. Do you know?—I have not written it.

2441. Anyhow, it appeared in your paper?—Yes.

2442. And I suppose you saw it?—Yes.

2443. Do those passages which I have been reading there represent your view?—They represent my attitude as well as the attitude of the paper.

2444. And whatever may be said about your articles on the bombs, as far as you know, have they led to any bomb-throwing whatever?—No.

2445. I want you to tell the Jury this: In these articles and in conducting this paper, is your object to drive out the Britrsh Raj?—No, it was never my object.

2446. What is your object in the large political sense?—That we should be a self-governing unit of the Empire, like the other units of the Empire. It is the ideal of the national conduct I have been supporting.

2447. Whether that ideal is right or wrong, is it a Hindu idea, or do Mussulmans share it?—It is the idea of

Hindus and Mussulmans both.

2448. And since all these things we are asking about in this case there has been, of course, the announcement of the Indian Reform Scheme——

Sir EDWARD CARSON: I ask your Lordship whether you will allow a question of that kind.

Mr. Justice DARLING: First of all, it is a leading question.

Sir JOHN SIMON: I will not pursue it, my Lord.

Mr. Justice DARLING: In order that the objection may be sustained you put it on the strongest and the least disputable ground, and that is that it is a leading question, which I think it is.

Sir JOHN SIMON: Then, my Lord, I will not ask it.

Sir EDWARD CARSON: I will agree to the scheme going in if your Lordship will allow me to go into the report.

Mr. Justice DARLING: No, because if I did, this case would then be a sort of Commission as to the better government of India and would wind up with a report by the Jury.

2449. Sir JOHN SIMON: This I think I should be entitled to put, my Lord. (To the Witness): Mr. Tilak, do you accept the suggestion made to you in this case, that you are not acting loyally by the British Crown?—No, I do not accept it. It is wrong.

2450. Now will you take the pink book again. I want to refer to page 295——

Sir EDWARD CARSON: I object, my Lord, to this document being put in in evidence. It is in 1914.

Sir JOHN SIMON: Wait a moment, Mr. Tilak, do not look at it yet.

Mr. Justice DARLING: I see what it is. Now, Sir John, what is the question you want to put?

Sir JOHN SIMON: All I wish to do, my Lord, is to ask the witness whether this is the expression of his views when he came out of prison in, I think it was, June or July, 1914, and I submit, my Lord, that I am entitled to do that, and I am entitled to use the letter, amongst other grounds, on this ground, that the witness has been cross-examined as to his loyalty. Almost the last question my friend asked him yesterday was a question involving

his attitude to the Great War, and I submit I am plainly entitled to have this before the Jury as an expression of Mr. Tilak's own view in his own paper on the first opportunity when he is released from a long term of imprisonment. I submit with the greatest respect that there is no good ground whatever——

Mr. Justice DARLING: You cannot get rid of the fact that he has been twice convicted of sedition. There are the convictions, and they stand. What you want to show now is that after his sentence was over he was loyal.

Sir EDWARD CARSON: Four years after the book was written.

Mr. Justice DARLING: Never mind about the book. After his sentence has been served he was a loyal subject. That is what you want to show, I understand. I have always understood that one of the reasons for punishing people was that they should become better when they come out of gaol than they were when they were put in. If people are dishonest you put them in gaol, and they think over their misdeeds and come to the conclusion that it is better to give up being dishonest and become honest. You put them in traitors and they come out loyal subjects, and you give them a free pardon, and so on. If this means nothing except that in August 1914 those were his opinions, I cannot see that it has any bearing.

Sir JOHN SIMON: Before your Lordship definitely rules, I ask your Lordship to note that I do not withdraw this question, and I press it and stand upon it, of course always subject to your Lordship's ruling.

Mr. Justice DARLING: In what form do you want to get it in? Do you want to read it to the Jury?

Sir JOHN SIMON: Yes, my Lord.

Mr. Justice DARLING: As an expression of what he thought in 1914.

Sir JOHN SIMON: Before your Lordship decides, may I add this. I do not know whether your Lordship has the Shorthand Note of yesterday?

Mr. Justice DARLING: It is here.

Sir JOHN SIMON: I am sorry to trouble your Lordship with this, but I mention it as I have my duty to do

in the case.

Mr. Justice DARLING: What is the page to which you wish to refer?

Sir JOHN SIMON: It is the last two questions of the day. Sir Edward Carson is there asking Mr. Tilak a question not before the publication of the book or before the outbreak of the war. He is asking questions which are addressed to as late as July, 1918. I submit for your Lordship's consideration, and I ask for your Lordship's ruling upon it, that I am entitled in re-examination to ask the witness whether this is the letter which appeared in his paper, and then to ask him as to the sincerity of the opinions which he there expresses, and as to the attitude he there takes.

Mr. Justice DARLING: Do you say you are entitled to do that because of this Question 2382?

Sir JOHN SIMON: No, my Lord, I am not putting it solely on that ground, I am only pointing out that the point taken against me is that a much later date is involved in those questions.

Mr. Justice DARLING: This is Question 2382: "Then I will not ask you further about it. We will prove it ourselves if it is so. Now I think I have only one more question to ask you: Were you on the 31st July"—that is 1918—" prohibited by order of the Government from making public lectures or addresses?—Yes. Q. Was that because of your speeches in relation to recruiting? —Yes." Now it appears by that in July, 1918, he was making speeches which the Government prohibited because they were opposed to the recruiting of the Forces of the Crown. Now you propose to read in connection with that a letter which he wrote four years before. Of course, if people always held the same opinion it would be conclusive to prove that a man was in favour of the Government in 1914, but we all know there are people who were in favour of the Government in 1914 who are not now, and there are people in whose favour the Government was in 1914 and they are not now. If opinion were fixed like the law of gravitation, I could see the value of it, but it is not.

Sir JOHN SIMON: I should have submitted, with great respect, that those observations which your

Lordship has been good enough to make, might possibly go to the Jury and might form hereafter a part of your Lorpship's charge to the Jury, but they are not relevant on the question of whether this evidence is admissible in re-examination.

Mr. Justice DARLING: If it is simply limited to this, that he expressed himself in a certain way in 1914, and if it is not to prove what he thought four years before or four years afterwards, I will consider it on that basis.

Sir EDWARD CARSON: I hope your Lordship will not allow this because, my Lord, it would necessitate an examination of other documents that he issued after 1914. My Lord, take a simple case. How can what a man says after the libel and after all the transactions that have happened in this case, be evidence? For instance, take the case where a man committed a murder, and take it that somebody said he had committed a murder and that he brought an action for libel and he had admittedly committed the murder. Could he relieve that by saying: "When I came out of gaol five years afterwards I wrote an article saying how much I detested murder and hated murder." It could have no reference at all to the question which is referred to. The last question I asked the witness is plainly evidence on that Inquiry. This gentleman is here asking the Jury to weigh the value of this question and a re-examination to ask him as to what he had done in 1918 and up to the present moment is not germane to the question. A man cannot make a case for himself by writing: "I disavow this and that." He has to be tried for things he actually did. You might as well try and produce against a man convicted for receiving or stealing an article that under the Holy Writ stealing was a crime.

Sir JOHN SIMON: I do not think my friend has in mind his own question. I have got it now. Would your Lordship look at page 120 on the Third Day, when Sir Edward Carson was cross-examining the gentleman. What I wish to re-examine him upon is where my friend challenged him directly as to whether he represents himself as loyal to the Sovereign. It is question 707: "Would you not be glad yourself that there should

be a proclamation of loyalty to the Sovereign—you represent yourself as loyal to the Sovereign, do you not? Yes, I am loyal. Q. Loyal to the Sovereign?—Loyal to the Empire and the Crown. Q. This is not the official class—this is the Sovereign?—Who? Q. That you are talking of here? (Mr. Justice Darling): He says: 'Yes. I am loyal to the Empire and the Crown'— that is the Sovereign." I submit to your Lordship that on the face of that cross-examination, with very great respect, it is quite plain that I am entitled to ask him in re-examination a question that bears directly on the challenge there made. If your Lordship rules against me, I shall do as your Lordship says.

Sir EDWARD CARSON: Your Lordship sees these questions of which Sir John now refers were in 1897. It was with reference to getting up a loyal address to the Throne in 1897.

Mr. Justice DARLING: The question you called attention to, Sir John, is 708?

Sir JOHN SIMON: Yes, my Lord.

Mr. Justice DARLING: "You represent yourself as being loyal to the Sovereign, do you not?"

Sir EDWARD CARSON: And he says he is.

Mr. Justice DARLING: Yes, he says he is. Now, what Sir John Simon wants to show is that it is not the first time he has said it, and that therefore it is very likely true. I have very great doubt whether this, which he wrote in explanation of his conduct in 1914, can possibly be evidence, but I think that there is less risk of trouble and expense in admitting it than by excluding it, so I shall admit it.

2451. Sir JOHN SIMON: Just turn to page 295 of the pink book. Do you see there an Exhibit marked A 98. dated 30th August, 1914?—Yes.

2452. When did you come out of prison at Mandalay?—In June, 1914.

2453. You were in custody from June, 1908, to June, 1914?—Yes.

2454. When you came out of prison, did you learn for the first time what had been happening in the world while you had been shut up?—Yes, I was excluded from all news while in gaol.

2455. There were no visiting days at Mandalay?—No, no visitors were allowed.

2456. Down to the time that you came out of prison, did you know anything of Sir Valentine Chirol's book?—Nothing. I knew nothing of it, or of any public news.

2457. Then, as we know, in 1914 the War broke out with Germany?—Yes.

2458. Did you write this letter?—Yes, it is signed by me.

2459. You wrote this and published it in the "Mahratta"?—Yes.

2460. "Sir,—In view of the exceptional circumstances of the present time I have to ask you to publish the following in order to remove any possible misunderstanding as to my attitude towards Government at this juncture. I have already given expression to these views when addressing my friends the other day at the Ganpati gathering at my house." Is that true?—Yes.

2461. "But feeling that a wider publicity to them is advisable I am addressing this letter to you. A couple of months ago, when I had an occasion to address those who came to congratulate me on my safe return to Poona, I observed that I was very much in the position of Rip Van Winkle returning to his home after a long sleep in the wilderness. Since then I have had opportunities to fill up the gaps in my information as to what has occurred during my absence, and to take stock of the march of events in India during the past six years. And let me assure you that in spite of certain measures like the Press Act—upon which, however, it is not necessary for me to dilate in this place at any length—I for one do not give up the hope of the country steadily making further progress in the realisation of its cherished goal. The reforms introduced during Lord Morley's and Lord Minto's administration will show that Government is fully alive to the necessity of progressive change and desire to associate the people more and more in the work of Government. It can also be claimed and fairly conceded that this indicates a marked increase of confidence between the Rulers and the ruled, and a sustained endeavour to remove popular grievances. Considered from a public point of view I think this is a

distinct gain; and though it may not be all unalloyed I confidently hope that in the end the good arisen out of the constitutional reforms will abide and prevail, and that which is objectionable will disappear. The view may appear optimistic to some; but it is an article of faith with me, and in my opinion such a belief alone can inspire us to work for the good of our country in co-operation with Government." Were you sincere in writing this? Is it your sincere view?—Yes.

2462. "There is another matter to which it is necessary to refer. I find that during the six years of my absence an attempt has been made in the English Press here and in England, as for example in Mr. Chirol's book, to interpret my actions and writings as a direct or indirect incitement to deeds of violence, or my speeches as uttered with the object of subverting the British rule in India. I am sorry the attempt happened to be made at a time when I was not a free citizen to defend myself. But I think I ought to take the first public opportunity to indignantly repudiate these nasty and totally unfounded charges against me. I have, like other political workers, my own differences with the Government as regards certain measures, and to a certain extent even the system of internal administration. But it is absurd on that account to speak of my actions or my attitude as in any way hostile to His Majesty's Government. That has never been my wish or my object. I may state once for all that we are trying in India, as the Irish Home Rulers have been doing in Ireland, for a reform of the system of administration and not for the overthrow of Government; and I have no hesitation in saying that the acts of violence which have been committed in the different parts of India are not only repugnant to me, but have, in my opinion, only unfortunately retarded, to a great extent, the pace of our political progress. Whether looked at from an individual or from a public point of view, they deserve, as I have said before on several occasions, to be equally condemned. It has been well said that British rule is conferring inestimable benefit on India not only by its civilised methods of administration but also thereby bringing together the different nationalities and races of

India, so that a united nation may grow out of it in course of time. I do not believe "—look at the sentence carefully—"that if we had any other rulers except the liberty-loving British, they could have conceived and assisted us in developing such a national ideal. Every one who has the interest of India at heart is fully alive to this and similar advantages of the British rule; and the present crisis is, in my opinion, a blessing in disguise inasmuch as it has universally evoked our united feelings and sentiments of loyalty to the British Throne." What is " the present crisis " ?—The War.

2463. This was written on the 30th August, 1914: " England, you know, has been compelled by the action of the German Emperor to take up arms in defence of a weaker State, whose frontiers have been violated in defiance of several treaty obligations and of repeated promises of integrity. At such a crisis it is, I firmly hold, the duty of every Indian, be he great or small, rich or poor, to support and assist, His Majesty's Government, to the best of his ability; and no time, in my opinion, should be lost in convening a public meeting of all parties, classes and sections in Poona as they have been elsewhere, to give an emphatic public expression to the same. It requires hardly any precedent to support such a course. But if one were needed I would refer to the proceedings of a public meeting held by the citizens of Poona so far back as 1879-80 in regard to the complications of the Afghan War, which was proceeding at the time. That proves that our sense of loyalty and desire to support the Government is both inherent and unswerving; and that we loyally appreciate our duties and responsibilities under such circumstances. I am, Yours, &c., B. G. Tilak. " Did that letter represent your real view ?—Yes, it did.

2464. Your real sentiment ?—Yes.

2465. I want to go back for one minute to ask you about the partition of Bengal—not as a matter of general politics, but as a matter of fact. You were asked questions about it ?—Yes.

2466. What was the year in which the partition of Bengal was proposed ?—1905, I believe.

2467. Just in a sentence, tell the Jury as a matter of

fact what was the proposal? What does the partition of Bengal mean?—The partition of Bengal meant that the Bengali-speaking race which considered itself a nationality, was to be divided into two provinces—to be split.

2468. For administration?—Yes.

2469. Mr. Justice DARLING: Were you opposed to the partition, or in favour of it?—I was opposed to it. I took the same view as the Bengalis.

2470. Did you write in the "Kesari" about it?—Yes.

2471. But I thought your paper did not circulate in Bengal—nobody could read it?—Yes, but we discuss all matters all over the world.

2472. It is 1,200 miles away?——

Sir JOHN SIMON: I think there was a good deal of discussion of it in the English papers, my Lord, thousands of miles away.

Sir EDWARD CARSON: And in the English House of Commons.

Mr. Justice DARLING: The English papers do not concern themselves with Bengal, and the Bengalis cannot understand them.

Sir JOHN SIMON: I think there is a little confusion, my Lord.

2473. Your articles about the partition of Bengal, could they be read by the Bengalis?—No.

2474. Who would read your articles about the partition of Bengal?—The Mahratti-speaking population in Maharashtra.

2475. I suppose you wrote them because you thought your readers would be interested in the subject?—Yes.

2476. Do you see anything very surprising in natives living in Bombay being interested in that question?—No.

Sir EDWARD CARSON: Is that a question of direct examination: do you see anything surprising?

Mr. Justice DARLING: There was a case long long ago in which that phrase was consecrated, but very few people understand.

Sir JOHN SIMON: As long as I have made the distinction plain, I am quite content.

2477. Was the partition of Bengal as proposed in 1905 carried out?—No. It was carried out for a time

but was cancelled afterwards in 1911 or 1912, I think, when His Majesty went to India.

Sir EDWARD CARSON: Are we going into that, my Lord?

Mr. Justice DARLING: I should think we have gone as far as we are going.

2478. Sir JOHN SIMON: In that connection you told my learned friend, Sir Edward Carson, that there was Swadeshi in Bengal?—Yes, they began to use Swadeshi in Bengal as a political weapon in order to bring pressure on Government. The movement started in Bengal.

2479. Had you anything to do with that?—We approved, and the National Congress approved.

2480. What I want to understand is this: Had you anything to do with starting that in Bengal?—No, I had nothing to do with starting it.

2481. Was the Swadeshi movement in Bombay at first a political movement?—No.

2482. What was it?—It was an industrial movement intended for the protection of native industry; it was an economical movement.

Mr. Justice DARLING: It seems to me the antithesis is pretty plain.

Sir JOHN SIMON: It seems to be a "Use home industries" movement in a strong form.

Mr. Justice DARLING: If we go into this deeply we can compare it with the Cobden Club.

Sir JOHN SIMON: I do not think the Cobden Club would regard that view as necessarily treasonable.

Mr. Justice DARLING: I do not know what is considered treasonable nowadays.

2483. Sir JOHN SIMON: That is what you say about the Swadeshi movement in Bombay to begin with. Did it change its character?—It did not change its character in Bombay until the Bengal question came up.

Sir JOHN SIMON: I want to ask a question, my Lord, on page 149 of the Shorthand Note, still in the Third Day. May the witness have a copy in his hand?

Mr. Justice DARLING: Certainly, (Copy handed to the Witness.)

2484. Sir JOHN SIMON: Just turn to page 149, at the middle of the page. My learned friend is making the submission, and he is saying there: "Organs supporting the same purpose and the same objects. I also wish to put another ground," and so on. Then he says: "I have the right to say, as I think I shall endeavour to show when I come to address the Jury, that Tilak was only one member and his paper one organ of a wide-spread conspiracy to bring about, if necessary by assassination, the removal of existing British Government in India." You, I suppose, have been through the Particulars of Justification in this case?—Yes.

2485. There are pages and pages of them. Is there any allegation there that you are a party to that conspiracy?——

Mr. Justice DARLING: Any allegation where?

Sir JOHN SIMON: Anywhere in the whole of the Particulars of Defence?

Mr. Justice DARLING: But you see, Sir John, I excluded all this. Sir Edward Carson wanted to go into this, and I excluded it.

Sir JOHN SIMON: Very well, my Lord.

Sir EDWARD CARSON: My learned friend is going to cross-examine him on my arguments.

Mr. Justice DARLING: I decided against Sir Edward Carson, and would not allow him to read it.

Sir JOHN SIMON: As long as it is quite clear, my Lord, I do not mind.

Mr. Justice DARLING: It is quite clear. Sir Edward Carson asks me to read those things, and I said: "I do not think I can allow articles from the 'Kal' and 'Rashtramat' to be read at present on those grounds. It would require evidence of the conspiracy and evidence which went to show that in pursuance of the conspiracy those two organs were published by Paranjpe and the other editor, before I admit that. It may be before the case concludes it will be perfectly relevant, and it may be rightly given to prove that there is such a conspiracy, and that these were all party to it, but I do not see anything as yet to justify me in allowing passages in those two papers to be read really on the ground that they are said to be,

in the book, 'Tilak's organs.' It may be proved yet. (Sir Edward Carson): The meaning of 'Tilak's organs' is a question for the Jury. (Mr. Justice Darling): It may have to be left to the Jury. If I came to the conclusion that there was good evidence of that I should allow extracts to be read. (Mr. Spence): May I say a word? (Mr. Justice Darling): As I have ruled in your favour I do not think it is necessary."

Sir JOHN SIMON: I am very glad, my Lord. I will not say another word about it.

2486. I want to ask you this. In the first of your two convictions for seditious writing, were the Jury unanimous?—No.

2487. You have stated that, I think, already. I do not know the Indian practice, but you can tell me, is it stated what the proportion is, how many are one way and how many the other?—Yes. Six were against me, and three in my favour.

2488. In your second conviction, the conviction in 1908, was the Jury unanimous?—No.

2489. Mr. Justice DARLING: Were they juries of mixed race?—Yes.

2490. British and Indian?—British and Indian.

2491. Are they ever unanimous?—No, they are not, my Lord; they were not unanimous.

Sir JOHN SIMON: Quite unintentionally, I do not think your Lordship conveyed to him the question.

2492. Mr. Justice DARLING: Are these mixed juries ever unanimous? Do they ever all of them agree?—Yes.

2493. Do they?—Yes.

2494. Often?—In many cases.

2495. Often or not?—Yes, in many cases.

2496. In political trials do they?—In political trials too, sometimes.

2497. Sometimes?—Yes.

2498. Sir JOHN SIMON: I was just asking you about your second trial. You have said the Jury were not unanimous. How were they divided?—Seven to two; seven against, and two in my favour.

Mr. Justice DARLING: Perhaps they had heard of the first conviction.

2499. The first of those trials was after the death of

Mr. Rand?—Yes.

2500. Did it take place in the town where Mr. Rand had been killed, at Poona?—No, it did not take place at Poona, in Bombay.

2501. 120 miles off?—120 miles.

2502. Was there any suggestion in that case that you were responsible for the murder of Mr. Rand?—No.

Mr. Justice DARLING: That is the man who was murdered by Kanhere.

Sir JOHN SIMON: No, my Lord.

Mr. Justice DARLING: Kanhere murdered Mr. Jackson?

Sir. JOHN SIMON: Yes My Lord: the man who murdered Mr. Rand was Chapekar, your Lordship will remember he makes no reference to Tilak in his confession.

2503. The murder of Mr. Jackson is at the end of 1909, December?—Yes, December, 1909.

2504. And your second conviction was in June, 1908?—In June I was arrested; in July I was sentenced.

2505. You were arrested in June; convicted in July, 1908?—Yes.

2506. So you had been in prison, as we see, for about 18 months?—Yes.

2507. Had you anything to do with the Jackson murder at all?—Nothing to do with it; it was 17 months after I was arrested.

2508. You have been asked about a man named Savarkar. The one I want to ask you about is Vinayak Savarkar?—Yes.

Sir JOHN SIMON: Your Lordship remembers they are brothers?

Mr. Justice DARLING: Yes.

2509. On what terms of intimacy were you with Vinayak Savarkar?—I had seen him three or four times before he came to Europe.

2510. Have you ever seen him since he came to Europe?—No.

2511. You have seen him three or four times in your life?—Yes.

2512. Was he ever associated with you in your political propaganda?—No.

2513. We have heard about this man Savarkar in the questions put to you, he was an extremist. Did you share the same opinions?—No.

2514. How do you know?—I had advised him to work constitutionally. He was a hot-headed youth, and in conversation when I saw him two or three times as I said I had occasion to give him advice and warning.

2515. Mr. Justice DARLING: What was he going to do?—He appeared to me a hot-headed youth; he was coming to England, and I warned him.

2516. Sir JOHN SIMON: Was he an admirer of yours?—In certain respects possibly he had some respect for me.

2517. How do you know?—He was educated at the college at Poona, my own city, and these students know about me.

Sir EDWARD CARSON: He dedicated a book to him.

Sir JOHN SIMON: I think that is the brother.

2518. You used the word just now "constitutional" or "constitutionally," say it again?—I advised him to restrict himself to the constitutional agitation strictly; I warned him in fact.

2519. Did he accept that advice?—Well, to my face he did.

Sir EDWARD CARSON: How can this witness tell?

Mr. Justice DARLING: I should have thought it was such an unnecessary question. Nobody ever does, and we know he did not, because he has been sentenced to penal servitude for life.

Sir EDWARD CARSON: And he sent the pistols out with which Mr. Jackson was murdered.

Mr. Justice DARLING: You do not get that for being a constitutionalist.

2520. Sir JOHN SIMON: I want you to take this book "Indian Unrest" for a minute; I want to ask you about the Tai Maharaj matter. Turn to page 340. You will remember this passage, Gentlemen. You have read, have you not, this note on this page very carefully?—Yes.

2521. You need not trouble to read it again now.

Do you accept that note as fairly and correctly representing the Tai Maharaj proceedings up to that date? —No, that does not represent correctly, report even correctly and fairly the proceedings.

2522. I am not asking about the Privy Council, but up to that date?—This does not fairly represent or report proceedings in that civil case or even the Judgment of Mr. Justice Chandavarkar.

2523. Take the last two words "common honesty"? —"A man of honour, or even of common honesty."

2524. "Extremely damaging to Tilak's private reputation as a man of honour, or even of common honesty." What do you understand if it is said of you that you are not a man of common honesty?—I resent it.

2525. What do you understand it to mean?—In ordinary dealings between man and man I am not fair; I care for my own personal interest and I do not look to my duties.

2526. Had you any pecuniary interest in the Tai Maharaj case at all?—None whatever, and it was acknowledged by both parties.

Mr. Justice DARLING: He did not say he understood honesty to be limited to pecuniary honesty. If he did it would show he did not understand what to be honest is.

Sir JOHN SIMON: That is perfectly true, my Lord.

Mr. Justice DARLING: It is a most mean limitation to say that a man can be an honest man so long as he does not take property which is not his.

Sir JOHN SIMON: If it could be said, as nobody would be likely to say at the present day, that a judge was not an honest judge, one would not mean he took bribes, but he did not try cases as fairly as he could.

Mr. Justice DARLING: That is so, and the same in other cases. Dishonesty may take many forms, one form is pecuniary dishonesty, other forms are quite different.

2527. Sir JOHN SIMON: Tell us why it is you say you do not regard this as a fair summary?—In the first place it says nothing about the evidence given in the case, nothing about the Judgment of the first Court which found that we were acting honestly and our motives

were good, and we had no pecuniary interest in the matter. Even in the Judgment of Mr. Justice Chandavarkar it is said whatever has been done he has given us credit for honest, good motives, and in spite of that the case was viewed upon as undue influence. There is nothing about that here.

Sir EDWARD CARSON: I have put in the whole of the Judgment.

Mr: Justice DARLING: I think the example given by Sir John Simon about the judge is a very interesting one, because those who wrote about Lord Bacon, I think, are pretty well agreed that he was a quite honest judge, that he decided quite honestly and properly, but he did take bribes.

Sir JOHN SIMON: I do not understand your Lordship to be suggesting the words "common honesty" cannot refer to pecuniary matters.

Mr. Justice DARLING: It may refer to that, but it may refer to many, many other things.

2528. Sir JOHN SIMON: Just one other thing about the note: Do you notice the fourth sentence: "Mr. Justice Chandavarkar in the course of his Judgment reversing the decisions of the lower Courts." Do you see that plural, "lower Courts"?—Yes.

2529. Was he doing that?—Not reversing all the decisions; I believe decision there means their findings. There was only one Court.

2530. You had been, had not you, tried on a criminal charge in one Court and tried on a civil charge or been in a civil action in another Court?—Yes.

2531. Had Mr. Justice Chandavarkar anything to do with the criminal proceedings at all?—No, nothing.

2532. In the criminal proceedings, proceedings for perjury, was not it?—Yes.

2533. Were there two lower courts?—Yes.

2534. And in the criminal proceedings charging you with perjury what was the ultimate decision?—I was acquitted of all charges.

2535. And did Mr. Justice Chandavarkar's decision affect the criminal proceedings at all?—No.

2536. Mr. Justice DARLING: There were two lower Criminal Courts, were there?—Yes.

2537. And the charge was perjury? What happened in the first of them—were you acquitted or convicted?—There were four charges in all—one was dropped for want of evidence, another was not proceeded with and I was convicted in the first court on two.

2538. Convicted on two charges of perjury?—Yes.

2539. Then you appealed?—Appealed to the District Judge.

2540. What happened before him?—He acquitted me of one of the two and confirmed the other.

2541. So that you were before two criminal courts on four charges, and the end of the proceedings was you were convicted on one?——

2542. Sir JOHN SIMON: Oh, no if your Lordship will now ask him, you will see? There were so many counts in different trials—four charges in one criminal case.

2543. But at the end of it all were you found to be guilty of anything or not?—No.

2544. Nothing at all?—The third Court acquitted me.

Sir JOHN SIMON: That was why I asked the question whether in the criminal proceedings there had been two lower Courts.

Mr. Justice DARLING: Three Courts altogether.

Sir JOHN SIMON: May I merely, give your Lordship the dates, to give this—it is convenient and better than shouting questions at this witness: The conviction he speaks in the first instance, followed by the first Appeal was quashed by the High Court at Bombay on the 3rd March, 1904.

Mr. Justice DARLING: The end of it all was after three criminal Courts having investigated it, he was acquitted altogether.

Sir JOHN SIMON: Altogether, my Lord, and that stood.

2545. Having been acquitted altogether of any criminal charge in 1904, had anything happened to vary that up to 1910?—No.

Mr. Justice DARLING: It could not.

Sir JOHN SIMON: Just look at this page 340: 'Mr. Justice Chandavarkar in the course of his judgment

reversing the decisions of the lower Courts." Do you see, is in the plural?

Mr. Justice DARLING: The whole of this contention, explanation and so on is founded on the fact that in the book appears not "lower court" but "lower courts." Then you must look and see what he is writing about: The Tai Maharaj case came up once more in September on the Appellate side of the Bombay High Court on appeal against the decision of the Lower Courts." He was not talking of criminal courts at all; he was talking of the Appellate side of the Bombay High Court hearing appeals from lower courts and they were not criminal courts at all. The whole thing comes to nothing if the "s" were not there. If the word was "court" there would have been no mistake about it. When you read further is it not plain there is no allusion to criminal courts because it is the Appellate side of the Bombay High Court to which the appeal from the lower Court came?

Sir JOHN SIMON: So far as it is a matter of comment, I do not deal with it now. I just want to ask the witness this—your Lordship will do as you like.

2546. Just turn back to page 49. I want to see what it is that this is a note about. You see on page 49, the passage you complain of: "After long and wearisome proceedings, the earlier stages of the case ended in a judgment in his favour, which was greeted as another triumph for him, and not unnaturally though, as recent developments have shown, quite prematurely." Do you see that?—Yes.

2547. Then the note comes. Had the decision of Mr. Justice Chandavarkar which is referred to there as interrupting your triumph anything in the world to do with your acquittal?—Nothing to do with the acquittal.

Mr. Justice DARLING: Nothing to do with the acquittal, that is quite plain.

2548. Sir JOHN SIMON: I want to put this further thing: In the Tai Maharaj case was it ever in dispute that you had no interest in the subject-matter?—It was admitted on both sides I had no interest in the matter; I was simply trustee, and nobody suggested I had any pecuniary interest in the matter.

Sir JOHN SIMON: May I just say, as it will help your Lordship I hope: What I am looking at is what is stated in the Judgment of the Privy Council; I am not relying on the Judgment in the Privy Council, which was afterwards, as in any way affecting the Defendant when he wrote the book, that would be absurd, but your Lordship will see it in the pink book.

Mr. Justice DARLING: It has been referred to.

Sir JOHN SIMON: Very well. It is enough if I just say this.

2549. In the Privy Council, after the book was published, the Court says: "It is an admitted fact in the case that neither the trustees nor any of the witnesses for the Plaintiffs had any interest whatsoever in the subject-matter of the suit, and that no motive can be reasonably suggested for them maintaining or testifying that the adoption of the boy mentioned was made, except that this represented the actual truth which occurred." And lower down on the same page, 413: "Referring to Messrs. Tilak and Khaparde"—who is he?—Now a member of the Imperial Council.

2550. He was your co-trustee?—Yes.

2551. Mr. Justice Chandavarkar observes that they were men of mature years, of exceptional education and mental qualities, lawyers and men of affairs of great repute and good standing, and both men of dominating personality. Some of the witnesses who gave evidence for the Plaintiffs are also persons of considerable standing. It is a priori difficult to understand how these men, with no object to gain and no interest to serve, could be supposed to have entered into the conspiracy and committed the perjury which the High Court Judgment found"——

Sir EDWARD CARSON: I do not know how far your Lordship thinks this is evidence, because this is a Judgment of the Privy Council delivered years afterwards. I am relying on a comment made on the existing state of affairs in 1910, when the book was written. Why my friend is parading before the Jury the things written five years afterwards, I do not know.

Mr. Justice DARLING: Do not you?

Sir EDWARD CARSON: I mean from a proper

point of view.

Sir JOHN SIMON: With great respect, my learned friend is also relying on another thing unless he withdraws it. He is relying on this defence that the note on page 340 is a fair and accurate representation of the proceedings down to that date. I am not suggesting he could prophesy. It is on that issue which is raised in this case that I was putting the questions, and that was why I asked whether at any stage there had been any dispute as to these facts.

Sir EDWARD CARSON: My friend if he wants to challenge that as an accurate report should not put in a report of a proceeding five years afterwards; he should put in the report before Mr. Justice Chandavarkar, which I am prepared to put in and rely on every line of it.

Sir JOHN SIMON: I am not trying to fasten my learned friend with a knowledge in 1910 of what happened in 1915, it appears as absurd as convicting a man thousands of miles away of murder, but this is what is given by the Privy Council as having been admitted right through the case. I am entitled, I submit, to use that as an argument to show that as in 1910 the note was not fair.

Mr. Justice DARLING: We do not know whether the Privy Council were right in saying that or not. The Privy Council are not infallible. They have the advantage which the House of Lords has, of speaking last, that is all.

Sir JOHN SIMON: And I may add speaking with one voice, which the House of Lords has not got.

Mr. Justice DARLING: Half a dozen judges may sit, and if the majority come to an opinion one Judgment is delivered, and the others have to sit absolutely silent, I believe, and hear that said with which they do not agree at all.

Sir JOHN SIMON: They are not obliged to listen.

Mr. Justice DARLING: I only said they sat silent. It is perfectly obvious if you read all this, that the Privy Council said that this is the obvious comment; it is all said five years after Sir Valentine Chirol wrote his book; he commented and founded his remarks on what Mr. Justice Chandavarkar had said just as Mr. Justice Chandavarkar is admitted to be a perfectly competent

honest judge who had the facts before him and who spoke then upon the facts. He was giving the Judgment of the Court, I think.

Sir ELLIS HUME-WILLIAMS: There were two Judges.

Mr. Justice DARLING: He was giving the Judgment of himself and the other Judge. There is no word said that he was not a perfectly honest competent Judge; he made these remarks, and upon those remarks the Defendant commented. Five years afterwards the Privy Council in this Judgment differed from Mr. Justice Chandavarkar, but that does not show what facts Mr. Justice Chandavarkar had before him.

Sir JOHN SIMON: No, my Lord, with great respect. It is because I realise that that I have already put one question and got an answer, and if your Lordship thinks it right I propose to put a second. The question I have put is this. I have asked the witness whether at any stage of the case anybody suggested that he had any interest in the subject-matter.

Mr. Justice DARLING: He said over and over again that he had not any pecuniary interest, and the Judgment of the Judicial Committee of the Privy Council if I remember rightly said no personal interest. They were both of them lawyers and people of position, they said, and they were trustees and I do not know that Mr. Justice Chandavarkar said that he had any pecuniary interest.

Sir EDWARD CARSON: He does not. He said they were two men influenced and learned in the law. It is the same language.

Mr. Justice DARLING: What Mr. Justice Chandavarkar found fault with him was he said they had a widow of 15 and bullied her into doing what she did not want to do. He did not say because they got money out of it.

Sir JOHN SIMON: The whole question was whether or not their excessive zeal upset the appointment of the adopted child or whether they were discharging the duty which they had in putting that pressure upon the women, that is all.

Mr. Justice DARLING: I should have thought myself it would have puzzled even two lawyers of the highest class to choose an acceptable son for a widow.

Sir JOHN SIMON: Especially if one of the candidates was older than the lady.

Mr. Justice DARLING: Which one was?

Sir JOHN SIMON: Jagannath, a name which suggests he might be a little oppressive, was the younger one; but the other gentleman, named Ganesh, was older.

Mr. Justice DARLING: I indicated to Mr. Spence yesterday this Tai Maharaj is not the most important part of the case.

Sir JOHN SIMON: I have not spent very long on it, but it is one of six libels, and I submit I am entitled, with great respect, to put these questions.

2552. Now there is only one other thing, and then I think I have done all I want to do in re-examination. When you came out of prison and learnt what had happened in your absence, did you notice the libels that you complain of in the Defendant's book?—Yes, I did notice them after I was released. It was the first time.

2553. The Writ here is a Writ of the 27th October, 1915?—Yes.

2554. Before using that Writ did you consult your solicitor?—Yes, I did.

2555. And they wrote a letter to Sir Valentine Chirol and to Messrs. Macmillan?—Yes.

2556. It is a letter of the 1st October, 1915, from Messrs. Downer & Johnson to Sir Valentine Chirol: "Dear Sir,—We are instructed by Mr. Bal Gangadhar Tilak to write to you concerning the serious attack made upon his reputation by you in a book entitled 'Indian Unrest' published by Messrs. Macmillan & Co. For reasons with which you are acquainted, this book did not come to the notice of Mr. Tilak until last year, hence the apparent delay in addressing you upon the subject. Our client, a man who has taken a prominent part in politics, does not object to your book—whatever his private views concerning the opinions expressed in it—so far as its statements are correct and its comments fair but, unfortunately, many of the allegations of fact are untrue and therefore will not support the comments upon them; and moreover, in some instances the comments are unwarranted by the allegations themselves, and show a deplorable desire to injure the reputation of

Mr. Tilak. We now propose to indicate generally the chief heads of Mr. Tilak's complaints which in our opinion are well founded. First we refer to the serious charge made against him in connection with the murders of Lieutenant Ayerst and Mr. Rand. Your remark 'no direct connection has been established between the crime and Tilak' taken with the rest of the passage on page 48, is gravely libellous because it suggests that at the least an 'indirect connection' has been established between that crime and Tilak and, worse still, because it hints that a 'direct' connection existed but could not be proved. The reports of the speech of the Attorney General for the prosecution and of the Summing-up of Mr. Justice Strachey show that there was no foundation for the suggestion or the hint, and this is confirmed by the comparative leniency of the sentence for seditious writing passed upon our client. This matter is re-inforced and seriously aggravated by the statement and comments in the book on pages 61 and 62 concerning the murder of Mr. Jackson in which occur the phrase: 'Though it was Kanhere's hand that struck down the good man causelessly, was not Tilak rather than Kanhere the real author of the murder? It was merely the story of the Poona murders of 1897 over again.'" Then the letter goes on: "This passage was published more than 18 months after the conviction of our client (in 1908) for seditious writings, and whilst he was still in prison at Mandalay; it attributes the murder of Mr. Jackson *inter alia*, to three newspapers described as the 'Tilak Press' and 'Tilak's Organs,' although two of them had never been his in any sense of the word, whilst the third, as you knew, had passed entirely from his control for more than a year and a-half. At the time when this terrible charge was made it was well within your knowledge that our client, an elderly man from an Indian point of view, and by no means robust, had still four and a-half years of his sentence of transportation to endure. The next matter to which we draw your attention concerns charges as to Mr. Tilak's political methods. We refer to the allegations (page 43) that Mr. Tilak proceeded to organise 'Gymnastic Societies' and then employed them (page 53) for highly

improper objects, also that he used his newspapers for political blackmail; these charges are without any foundation in fact. The same remark applies to the statements on page 43 concerning 'The Anti-Cow-Killing Society.' Mr. Tilak's ideals and his methods may not meet with your approval, but this can hardly justify you in charging him with conduct of which he is entirely innocent. The third matter in some respects is the most remarkable and serious of all. Whatever was thought by his political opponents of Mr. Tilak's political ideals, and his mode of endeavouring to attain them, his personal character in private matters stood high among all classes until your book appeared. Nevertheless, quite irrelevantly to the subject-matter of your book, and for the purpose of injuring him as a private individual, you dragged in reference to the Tai Maharaj case; see pages 49 and 340. At the time when the book was published, you knew that the criminal proceedings referred to on page 49 had ended conclusively, and entirely in favour of our client, yet by the use of the terms 'the earlier stages' and 'prematurely,' and the reference to page 340, you cause readers to believe that the prosecution ultimately was successful. The extract from the Judgment given on page 340 is quite unfair, and your comment upon it makes a grossly inaccurate suggestion as to the character of the civil proceedings. No one can read your reference to 'honour' and 'common honesty' without assuming that the alleged 'undue influence' was due to corrupt motives though, as a matter of fact, no such motives were ever imputed to our client by anybody; and even Mr. Justice Chandavarkar in finding that there was 'undue influence' was unable to suggest that in employing it he was actuated by anything worse than excess of zeal when attempting to carry out the wishes of the testator. You will be interested to learn that this case came before the Privy Council during last spring, and that on the 26th March a judgment was delivered in favour of our client by which the judgment of Mr. Justice Chandavarkar was not merely reversed but very severely criticised, whilst the conduct of our client was approved, and he was exonerated in the fullest possible way from all the

charges brought against him. Mr. Tilak has no wish to put money into his pocket: his desire is to have his character cleared and to make sure that his reputation will not suffer needlessly from your book. We therefore wish to know whether you are prepared (A) To make a suitable apology and withdrawal, in a form approved by us, in the Indian and Anglo-Indian and English newspapers that we may select. (B) To take steps indicated by us to prevent further circulation and sale of your book and any translations of it without corrections and the insertion of the apology and withdrawal in a prominent place. (C) To make a contribution of an agreed amount to the 'Indian War Relief Fund.' Since the matter is not of very recent date we are willing to give you a substantial time for consideration and, therefore, no further steps will be taken by us in the matter within three weeks of the day, but unless during that period we receive your assurance that you intend to comply with our request, we shall institute proceedings in the English Courts for exemplary damages. Yours faithfully, Downer & Johnson." Mr. Tilak, you have been cross-examined a long time and have been in the box for some days. Do you still complain of these six libels?—Yes.

Sir JOHN SIMON: That is all I ask you.

Sir EDWARD CARSON: My Lord, with reference to the article in 1914 that your Lordship allowed to be put in, I now propose, my Lord, to read the prohibition served upon this gentleman in July, 1918, as containing the speech and to contrast it with this article.

Mr. Justice DARLING: You ask leave to do that?

Sir EDWARD CARSON: Yes, my Lord.

Mr. Justice DARLING: Yes, I give you leave.

Further cross-examined by Sir EDWARD CARSON.

2557. Mr. Tilak, will you take before you a copy of the Prohibition, and just look at that document. (Same handed to Witness.) You see it is dated 31st July, 1918?—Yes.

2558. Is that a copy of the document which was served upon you, prohibiting you from attending meetings?—Yes, it is a copy of the Order served on me.

Sir EDWARD CARSON: Now, my Lord, I propose

to read this.

Mr. Justice DARLING: Yes.

Sir EDWARD CARSON: This is the copy served upon you on the 18th July last: "To Bal Gangadhar Tilak, residing at Poona. Whereas it has been declared in a gracious message from His Majesty the King, Emperor of India, that it is of ever-increasing importance that the operations of our armies in Egypt, Palestine and Mesopotamia should be largely sustained from India. And whereas from this and from published declarations of His Majesty's Government and of His Excellency the Viceroy and otherwise, it is matter of public knowledge that a great increase in the number of recruits for the Indian Army is necessary for the prosecution of the war and the defence of India. And whereas you, Bal Gangadhar Tilak, on the 22nd June 1918 in a speech delivered in the Kirloskar Theatre at Poona used the following words or words of like import and substance, namely." Then it begins, and what it says is: "'A calamity is hanging over India. What is that to us? Why should we come forward to protect that India in which we have no rights, in which we are treated like slaves? At this juncture they want a salaried army, they want mercenaries who will work under them and thereby their authority—the authority of the bureaucracy—will remain inviolate.' 'The man has his eye on the rupees, not on the country. And to-day at least our argument is that all the recruits who are enlisted in the Bombay Presidency are of this sort and come from the lower ranks whose occupation up till now was to maintain themselves by committing thefts.' 'The bureaucracy has over-run the whole nation; and we are not prepared to become soldiers in order to increase the power of these men.' 'Declare publicly that they would get all the appointments in the military department and would have the same rights as Europeans, and one, two or ten lakhs of people will this day be ready to die. This our saying does not meet with their approval. The Sarkar says that we come in the way of the work of recruitment. We do not do so at all. He who wishes to go as a recruit for Rs. 100 is sure to go in spite of anything we may tell him. But there are thousands

of people who will not be available as recruits for Rs. 100. They will not go though we may tell them to do so. What are we to tell them? Join the army to strengthen the zulum of these English people? If we have to defend against the Turks and Germans a country in which we have no Swarajya, in which our welfare is not encompassed, which is possibly to be invaded by Germany or by the Turks; what matters it if that country be in the possession of the Turks or in the possession of the English? If the English continue to act in future in the same manner, it is to be distinctly told to them that they will not get assistance from this nation in this matter'. 'As for recruiting at present, it is going on just in the same way as has been described. A regiment of Mahars, a regiment of Berads. What protection will these Mahar and Berad regiments afford to the country when these Berads are discharged from the army they would again take to thieving alone.'"

2559. Mr. Justice DARLING: What is a Mahar?—A criminal class.

2560. What is a Berad?—A tribe—a sect.

2561. "Mahar" is a criminal class and "Berad" is a tribe?—Yes.

2562. Sir EDWARD CARSON: "There are many Berads and Ramoshis." What are Ramoshis?—A tribe.

2563. Are the Ramoshis the village police?—Some of them are village police.

2564. "'Have the Ramoshis ever enlisted in the Army? Thieving is their occupation'"—that is the police—"'to receive beating is their occupation. They cannot stand the discipline of the army. They have to be sent back. Such Ramoshis and such Berads are to be taken in the army. High caste genuine Maratha Brahmins, of whatever caste, are to be excluded. Their assistance is not to be desired. To do this is unjust. It is opposed to policy.'" That ends the speech. Then it goes on: "And whereas the said words and the general purport of the said speech are calculated to discourage recruiting for the Indian Army. And whereas in the opinion of the Governor of Bombay in Council there are reasonable grounds for believing that you have thereby acted in a manner prejudicial to the public safety and

the defence of India; Now therefore the Governor in Council, in exercise of the powers conferred by Rule 3 of the Defence of India (Consolidation) Rules 1915, published in the notification of the Government of India in the Legislative Department, No. 86, dated the 9th December, 1915, is pleased to direct you, pending further orders, to abstain from making any public speech without the previous permission in writing of the district magistrate of the district in which you propose to make such speech or in the city of Bombay of the Commissioner of Police. This prohibition extends to any public lecture or address; and in this Order the expression public speech, lecture or address includes a speech, lecture or address delivered to the public or any class or portion of the public, notwithstanding that it may be delivered in a private place and notwithstanding that admission thereto may be restricted by ticket or otherwise. This prohibition however does not apply to any speech confined to the subject of the constitutional reforms made at a special session of the Indian National Congress summoned for the purpose of discussing that subject. By order of His Excellency the Governor of Bombay in Council. (Signed) J. Crerar, Ag. Secretary to the Government." Now Mr. Tilak, that is a very different kind of speech from what you say in 1914, that your one desire is to help the British Empire?—It is not a different kind.

2565. I do not think I will take up time over this——

Mr. Justice DARLING: As you say that, I think it is worth while to call attention to what he says about invasion by the Germans or Turks.

Sir EDWARD CARSON: I propose, my Lord, to comment on it and compare the two before the Jury, but I think the Jury can compare them themselves.

Mr. Justice DARLING: He says there is no difference.

The WITNESS: Can I give an explanation?

Mr. Justice DARLING: You may be re-examined.

Sir EDWARD CARSON: There is one question more I would ask your Lordship's permission to put. There is this which I had not got yesterday, and I have been trying ever since to get it. He made an answer on

the 12th February, when I was cross-examining him about the statements that he made with reference to the conduct of Mr. Rand and his officials in relation to his dealing with the plague. At page 176 of the Notes on the Fourth Day at Question 1383, I asked him this question: "'The plague is now much better'"—I am reading Volume 465, and this is a quotation from that—"'and there are decided signs'—just listen to this—'of its abating within a short time. But the number of persons segregated every day remains the same. And why? Because the head of the segregating party'—that is Mr. Rand——?—No. Q. His officer?—A subordinate officer. Q. 'thinks that it is his duty to send at least three or four scores of people to the segregation camp every day whatever the number of plague cases in the city may be. He must have his victims.'" Your Lordship sees that is a quotation. "Now, Mr. Tilak, do you see the awfulness of that accusation; do you see what a horrible accusation that is?—I do not see. Q. Read it again, sir?—I have read it, and if you like, I will say what I have to say. Q. I ask you this: Is it a horrible accusation to make to say that although the plague is abating that the officer charged with this anxious terrible work is, for the sake of having victims, sending men who are not stricken with the plague into the plague camps?—Horrible, if untrue. (Mr. Justice Darling): Just read to the end of the passage. (Sir Edward Carson): 'And like the demons of old he will carry them to the segregation camp in spite of their protests and wails.' Is the demon the British officer?—It is a comparison. Q. Is the demon the British officer?"—and then Mr. Spence intervened.

Mr. Justice DARLING: I remember Mr. Spence's intervention. He put emphasis on the "of old," with the intention of showing it cannot have been with reference to the British officers because it was the demons of old before there were British or officers.

2566. Sir EDWARD CARSON: Then your Lordship says: "Listen to me a moment; that passage was read to you and you were asked if it was horrible, and you said: 'That is horrible if untrue.' Now I ask you, is it untrue, or is it true?—It is true. (Sir Edward

Carson): Have you got a single witness here to prove the truth of it?—I have not got any witness, but all these facts have been acknowledged in the Plague Commission's Report. Q. What Commission?—The Plague Commission appointed by Government. Q. They must be referred to here; we cannot have statements of that kind. Have you a single witness here or did you examine—there was, my Lord, a Commission in India which sat a long time taking evidence—did you examine a single witness in India to bear out the truth of one single fact that you allege against our soldiers and our officers in these horrible writings of yours?—It was not in issue at that time, and I was not obliged to give evidence on that. Q. At all events there is no witness, Sir?—There were facts admitted in Government's Report." Now, my Lord, I have got the report here. (To the Witness): You told us, Mr. Tilak, that the facts were admitted in the Government report of sending men improperly into segregation camps?—Yes.

2567. Here I have a report on the plague, and I propose to read what it says as regards this segregation—

Mr. Justice DARLING: What is the date of it?—

Sir EDWARD CARSON: It is dated 1901.

Sir JOHN SIMON: With great respect, I submit if this challenge is to be raised it does not arise out of my re-examination.

Mr. Justice DARLING: I gave leave upon the understanding that I could leave to Counsel——

Sir JOHN SIMON: I only meant, my Lord, that it does not arise out of the re-examination, but I should submit that if there is the same challenge about this answer the proper way in which it should be dealt with is to ask Mr. Tilak to point to, if he can, or find if he can, the passage to which he refers. It would not, I submit, be proper to cross-examine him afresh on such an answer and take this very large Blue Book and read out of it, I do not know how much, but at any rate passages.

Mr. Justice DARLING: I cannot say that, but there may be a passage —I have not seen it—which goes towards disposing of the point he made. The witness referred to the report, and it may be there is something in the report which shows that he wrongly construed it.

Sir Edward Carson can ask in cross-examination, and, of course, I cannot prevent you in re-examination, asking the witness to find what he was referring to.

Sir JOHN SIMON: I follow that, my Lord.

Sir EDWARD CARSON: I propose to ask the question Sir John Simon suggests to find out from him what he refers to in his report, and I propose also to negative it by reading a passage. If he can find out anything, very good. He has appealed to the report, and I am quite satisfied to judge by the report.

Sir JOHN SIMON: I do not make any objection to that. I only thought my learned friend might be entering upon the reading of passages from the report other than a passage which bears on this precise point.

Mr. Justice DARLING: No, that, of course, he cannot do.

2568. Sir EDWARD CARSON: I can find no such passage. I do not profess to have read it, but those who are instructing me say that there is no such passage as he refers to, making admissions. At page 325 I find this: "The objections of the people were apparently increased by the employment of soldiers at house searches. It is not surprising that they should associate the presence of soldiers at the search of a house with a possible use of force, and it is not unnatural that they should have enhanced the dislike entertained by them to the measure, but the actual conduct of the troops, British and native, on the work of searching did not warrant this attitude on the part of the people. The behaviour of the soldiers in carrying out this disagreeable duty is reported to have been exemplary." Now I ask you, Mr. Tilak, to find me the passage in the report on the Plague Commission where you said that it was admitted that people were sent wrongly as victims to the segregation camps to keep up the numbers. I will have to look into that. You will probably show it to us if you can get it?—Yes.

Sir JOHN SIMON: We will. I do not think anybody would be expected to find at a moment's notice what it is he is referring to.

2569. Mr. Justice DARLING: No, of course not. He referred to the report, and it is for him to substantiate the charge. It is a very definite charge. You said to him:

"Is it a horrible accusation to make to say that although the plague is abating that the officer charged with this anxious terrible work is, for the sake of having victims, sending men who are not stricken with the plague into the plague camps?—Horrible, if untrue." Then you are asked to read to the end of the passage, and you read it: "And like the demons of old he will carry them to the segregation camps in spite of their protests and wails." Then there is a question about the demons of old, and then I said this: "Listen to me a moment; that passage was read to you, and you were asked if it was horrible and you said: 'That is horrible if untrue.' Now I ask you, is it untrue, or is it true?—It is true. (Sir Edward Carson): Have you got a single witness here to prove the truth of it?—I have not got any witness but all these facts have been acknowledged in the Plague Commission's Report." You understand what you are asked to do is to refer to the Plague Commission Report, and find those facts which are acknowledged, and to prove that officers of the English Government took people whom they knew not to be suffering from plague and put them in the segregation camps as victims, because they must have victims as the demons of old used to do. That is what you have to find?—I shall have to look into it, my Lord.

Mr. Justice DARLING: Yes, of course.

Further re-examined by Mr. SPENCE.

2570. Mr. Tilak, have you this Proclamation?—Yes.

2571. It purports to set out the words of the speech you made?—Yes.

2572. Do you follow it?—Yes.

2573. You have the Proclamation?—Yes.

2574. You observe it purports to set out a speech or extracts from a speech of yours?—Yes.

2575. Did you present a Petition to His Excellency Lord Willingdon in answer to this Proclamation?—Yes, I have a copy, but not here.

2576. Are those extracts from your speech which are set out in the Proclamation fair extracts, and do they fairly represent your speech?—No, I have not accepted them, and neither are they fair extracts.

2577. You do not accept them as extracts from

your speech?—No.

2578. Was any copy of your speech submitted by you before this Proclamation was issued?—No.

Mr. Justice DARLING: Submitted to whom?

Mr. SPENCE: Submitted to the Government. This purports to be extracts from a speech which Mr. Tilak has made.

Mr. Justice DARLING: You say "submitted." Do you mean submitted to him for his correction?

Mr. SPENCE: No, my Lord.

Mr. Justice DARLING: Submitted to whom?

Mr. SPENCE: I meant, was his speech submitted to the Government?

Mr. Justice DARLING: How does he know?

Mr. SPENCE: I ask by him. He would know that.

Mr. Justice DARLING: You mean, was it submitted by him to the Government?

Mr. SPENCE: Yes, my Lord.

2579. Mr. Justice DARLING (to the Witness): Did you submit your speech to the Government before you delivered it?—No.

2580. Mr. SPENCE: Do you know how they got these extracts?—I do not know how they got them.

2581. Was the speech published in your papers?—Only a short summary.

2582. Have you a copy of the Memorial?—I have not got it here. I have a copy in London but not here in Court. I submitted a Memorial to the Government upon it asking for reconsideration.

Mr. SPENCE: I have a copy of the Memorial. This is Mr. Tilak's Memorial in answer to the Proclamation to the Government requesting the Government for the reasons stated in the Memorial to the Government to set aside the Proclamation.

2583. Mr. Justice DARLING: Did they set aside the Proclamation or not?—No, it has not been set aside.

Mr. SPENCE: I submit I am entitled to read the Memorial.

Mr. Justice DARLING: There is no harm in reading it.

Mr. SPENCE: I have not a copy for the witness, my Lord.

Mr. Justice DARLING: You read it. He cannot make it any better by looking at it.

2584. Mr. SPENCE: If your lordship pleases, I will read it: "That your Excellency's memorialist, feeling aggrieved by the order passed against him by Your Excellency in Council under Rule 3 of the Defence of India Rules 1915, and dated 30th July, 1918, begs leave to approach Your Excellency and pray that Your Excellency in Council will be kind enough to reconsider the matter and withdraw or cancel the said order for reasons given below. 2. First in regard to the words and passages quoted in paragraph 3 of the said order as having been used by the petitioner in his speech at the Kirloskar Theatre, Poona, on the 22nd June, 1918, the petitioner begs to submit that it is not a correct version of what he said at that meeting, nor do the words, being torn away from the context, correctly represent what the petitioner meant or intended to say at that meeting. A summary of that lecture which appeared in the 'Kesari' only three days after is appended (in translation) herewith (Appendix A) to show what the main subject of the lecture was and how it was treated by the petitioner in his lecture. The question of the present recruitment only came in indirectly in the petitioner's presidential remarks on a lecture delivered by Mr. Khadilkar on Coulton's book entitled 'A case for compulsory Military Service.' The petitioner, as president, only wished to draw attention to the military service under the Mahratta rule by way of comparison with and as historical parallel to the instances quoted from Coulton's book by Khadilkar. The petitioner further begs to observe that as a matter of fact his words or the general purport of his speech did not produce on the audience the effect which it is alleged to have produced in paragraph 4, nor he begs to assure your Excellency, did he act with the intention or in a manner to prejudicially affect the public safety or the Defence of India as mentioned in paragraph 5 of the said order. 3. That the petitioner's attitude has never been unfavourable to the present recruitment. In February and March, 1917, when the Indian Defence Bill was before the Imperial Legislative Council, the petitioner warmly appealed to the youths of the country

both at Bombay and Poona to enlist themselves as Volunteers under the I. D. F. Act and it is a well-known fact that it was his warm support of the measure that induced on the spot about 800 persons to come forward for enlistment at the meeting at Shantaram's chawl in Bombay. It was the earnest appeal made by the petitioner that turned the tide of public opinion at this time in favour of enlistment, for till then the public hesitated as to what course they should adopt. It was in this lecture that the petitioner clearly pointed out how every Home Ruler was bound to help the Empire in the hour of its need and that Home Rule and Home Defence were indissolubly connected. Similary when the the Premier made a stirring appeal to the people of India in April last, the petitioner, as a Vice-President of the Home Rule League, telegraphed both to the Premier and the Viceroy his readiness to place the humble resources of the League at the disposal of Government for that purpose, if in the words of the Premier the Indians were made to feel that they were not fighting to establish a principle abroad which was not applied to them in India. The petitioner expressed the same view at a public meeting held in Bombay on the 16th of June, 1918, and publicly made an offer to personally undertake to enlist recruits if people were assured in the manner indicated by the Premier, as will be seen from his letter to Mr. M. K. Gandhi, appended herewith. (Appendix B). 4. It will be seen from the above that the petitioner's attitude regarding recruitment has been grossly misunderstood. As a Home Ruler he has always appealed to the people to come forward in large numbers to defend their country, and has done and is prepared to do, all that he can for that purpose. But while strongly appealing to the people to do their duty to the Motherland, he humbly pointed out to Government what was necessary to be done to rouse to the fullest extent the enthusiasm of the people, especially of the middle classes, in their country's cause. He begs to assure Your Excellency that herein he has done nothing, nor did he ever intend to do anything prejudicial to the defence or safety of India, nor, as a matter of fact, has he interfered in any way directly or indirectly with the recruiting operations of Government at any place in the

Presidency or outside. 5. The order in question is thus based on a misunderstanding of the petitioner's attitude about recruitment. Besides, as the petitioner is proceeding to England in the last week of this month and is likely to stay there for about six months, the order will not only be inoperative during that period but is likely to prejudice his cause in England. He, therefore, humbly requests that your Excellency-in-Council will, in justice and fairness, be graciously pleased to favour the petitioner by cancelling the same. And for this act of kindness Your Excellency's petitioner will every pray." Are those statements in this Memorial correct?—Yes.

2585. That is a matter which would be for the Governor to judge. He was willing to receive that, and he did not revoke the order.

Mr. SPENCE: That is the Plaintiff's case, my Lord.

(Adjourned for a short time.)

Sir EDWARD CARSON: May it please your Lordship, Gentlemen of the Jury, as you know, I appear in this case on behalf of the Defendant, Sir Valentine Chirol. Sir Valentine Chirol is a gentleman who has for many years, many years prior to 1910 the date of his book which is called in question here, taken an interest in Eastern, and especially, I think I may say, in Indian affairs. He had travelled many years before that, as the book relates, through India, and he subsequently became for a considerable time a director of the foreign department of "The Times" newspaper—I mean "The Times" newspaper published in London. In that capacity he was sent out by "The Times" newspaper directors to investigate the state of affairs in India in the year 1910, because, of course, we do not shut our eyes to what goes on in these distant parts of the country, and one knows that at that time and for some time previously there had been a great deal of political unrest in India. He went there to write articles for "The Times" with no bias, with no predilections, to ascertain for himself on the spot what were the changes that had taken place since his previous visit, and I need hardly say without any knowledge, except such as anybody studying Indian affairs in relation to the aspect as they are governed from London in the India Office might possess,

without any feelings of any kind as regards Mr. Tilak or anybody else. Gentlemen, Sir Valentine Chirol is, I think, an acknowledged authority, as far as anybody in this country can be an authority, upon Indian affairs, and I may state in passing, that he is one of those who have been attached by the Government to the Delegation at the Peace Conference in Paris which has to deal, of course, with our Indian Empire as well as with the other parts of His Majesty's Dominions. It is not imputed to him in this case that he has malice towards Mr. Tilak, indeed, how could he? He had not to live in India, he had not to deal with Mr. Tilak in any kind of way, and he went out under the conditions that I have explained to you. He wrote these articles in "The Times" newspaper very much as they are in this book with some emendations, and he published them in this book which is now called in question, "Indian Unrest." He published these articles, and by permission as you will see upon the first page dedicated them to Viscount Morley, "As a tribute of private friendship and public respect," Lord Morley having been himself Secretary of State for India at the time when a great deal of what is depicted in this book had occurred, and I merely say as I go along that I do not suppose that anyone will impute to Lord Morley, whatever else his defects may be, that he was not a sympathetic ruler as regards India, for I do not suppose there has ever been a more liberal administration in relation to our Indian dominions than that which was carried on under Lord Morley at this time, and Lord Minto in India, as is referred to here. The preface to the book is written by Sir Alfred Lyall, another great Indian authority who was for some years Lieutenant Governor of the North West Provinces. Isolated passages in the book with, in some cases, sentences left out, and in all cases with the context left out, are complained of in this action, and let me say, to make this matter perfectly clear from the outset, that Sir Valentine Chirol withdraws nothing and apologises for nothing that is in his book. If he had been wrong in anything that he had said, he had the chance of withdrawal when that letter which my friend, Sir John Simon, read out this morning was written five years after the book had

appeared. He could have avoided the whole of this litigation by an apology and by a subscription to the Indian War Relief Fund, but he and those with whom he was co-operating in the best interests of India itself, and certainly in the best interests of our Empire, felt that to make an apology under the circumstances of this case or to withdraw or retract what they had deliberately stated and published, would be a disaster of the very greatest kind as regards the Government of India. To set Mr. Tilak up, which as I will show is his object here, in his long campaign from 1903 to 1908 of hostility to British Government in India would have been to dearly purchase the avoidance of the cost and the expense and the trouble of this case. I need not tell you, Gentlemen, what it is to have to defend a case of this kind. It does not cost nothing. It has been going on since 1915. We have had commissions out in India and volumes of exhibits taken out in India. The expense is gigantic —an enormous expense for private individuals, and he could have avoided it all by an apology and by payment of a small sum. He would do nothing of the kind, and I hope you will say he was right when you have heard this trial out, as you will, to the very end. I cannot help noticing a strange statement in this letter which Sir John Simon put in this morning, because having dealt with these libels, the more serious ones of which are, as you will see, those which attribute to him that his doctrines led to the murder of two able, conscientious, courageous and loyal citizens of the Crown—while it refers to those it then states that a third matter in some respects is the most remarkable and serious of all, and it goes into the question of the Tai Maharaj case, the question in which he quotes the Judgment of Mr. Justice Chandavarkar, to which I will come in the course of my address—it is, I submit, a trivial, futile suggestion, but it is worthy of remark that he treats that as the most serious part of this case. Now, Gentlemen, so far for Sir Valentine Chirol.

Gentlemen, who is Mr. Tilak who comes here, who has come all the way from India for the purpose of this case to ask a British jury to measure in money the damage done to his character. He is a very able

man. Sir Valentine Chirol does full justice to his ability in many passages in this book. He is an able man, a lawyer, a professor, a newspaper proprietor and politician; nobody doubts his ability, nobody has ever questioned the position he holds in India amongst a large number of his race, the Hindu race and amongst his own caste, the Brahmins, a sacerdotal caste in India of great influence which, as one of the Judges said in one of the Judgments, he could very well have turned to the benefit of our Empire and of English rule in India. But instead of that, from 1893 down to 1918 when this country was in the most desperate throes of the great European War, he has taken advantage of every difficulty that has ever arisen in relation to British government in India, as I will show you, for putting forward his own theories of government, his own wishes, if you like his conscientious wishes—we have nothing to do with that here—and he has spread far and wide conspiracy to try and destroy British influence in the government of that great part of our Empire. Gentlemen, the first thing that will occur to you is this: Why does he come here? If his character is worth anything to him it is more valuable to him in India, where he still runs his "Kesari" and his "Mahratta," than it is here; I do not suppose the bulk of the people in this country have ever heard of him. Why does he come here? This book was published in India, was translated by a translator there and published in native dialects in India, and he dare not take an action there where he is known, where his own fellow citizens live. He dare not take an action for many reasons: first, because of his well-known history; secondly, because it would be thoroughly understood out there what all these things which I have been reading out to you through his cross-examination for nearly three days really meant, and what were the effects they were likely to produce amongst Indian subjects. It is all very well to come into the cool atmosphere of England and to either minimise or ridicule statements that are made day after day of stirring up sedition, of inciting to political assassination and of leading to these diabolical crimes that have been committed, and to say: How could that lead anybody to a murder? How is it possible that murder could

ensue from these things? Gentlemen of the Jury, neither you nor I are acquainted with the mentality of these native tribes, these Indian castes, and these Indian races. It does not affect you or me what may be said or put into the mouth of ancient heroes of India like Shivaji or the Ganpati festivals. They are curious to us, though heaven knows I do not wish to speak otherwise than with respect of their curious rites and ceremonials and festivals. All that he leaves behind. All that he wishes to eliminate from this case. He wishes to submit to you how would this, that or the other thing affect you. Gentlemen, he comes here to try this case, having shirked the issue in India. It is all very well for my learned friend—and of course it is right as a matter of advocacy—to read out something that happened in 1900 as regards the paragraph that was published from an English paper in an Indian paper, the "Bombay Times" I think it was, and to say that "The Times" there apologised. I dare say if "The Times" were sued again over there they probably would apologise again; people apologise over and over again rather than incur what we are incurring here, the vast expense and the vast trouble to which one is put in these kind of actions. Gentlemen, that charge such as it was, was made in the year 1899 if I rember the date aright; from 1899, as I will show you down to 1908, when he was imprisoned, Mr. Tilak never ceased for one moment his activities against the British Government, culminating in his defence, which I will have to call attention to in its due order, of the bomb as a political weapon to bring about changes as against the British and advance the interests, as he is pleased to think, of his native Hindus. We had very little re-examination about those articles which I read to you upon the first day of his cross-examination. There they are, and there they remain, the vilest writings, unequalled in their audacity, and in their attempt to promote crime and assassination as against the English officers, whom he distinguishes from the British Government in his fulminations, with a view to promoting the theories which he had in his mind. Who is this gentleman who comes here to ask for damages? Twice he has been convicted of creating;

disaffection amongst His Majesty's subjects, once in 1897, once again in 1908, and I will have to draw your attention to the circumstances under which one of these convictions took place. Gentlemen, a libel action is brought to recover damages for really outraged character. What character has he in a Court of Justice? What character has he, who has preached disaffection, who has pointed out the most criminal methods of carrying out what he believes to be the proper object of Hindus, what character has he, after those convictions, to come and claim in this Court? I will read you again, to remind you of it shortly what was said by the native Judge who tried him in 1908, and I venture to think if you know this book of Sir Valentine Chirol's, you will not find in it anything half as bad as what his own native Judge said, who had heard patiently the whole case, and had heard him explain his defence for some 22 or 25 hours. But in addition to that, Gentlemen, who is this gentleman who comes forward claiming damages for libel? Tilak! Why, Tilak has been the greatest libeller of British officers and British Government that has ever written in a newspaper. He coming to claim damages for libel! He, the man who has written day after day, and week after week, the foulest libel on our soldiers and our military officers, on our civil officers, on our police, on our governors, on the native princes, on our own King and our own Queen, in language that is almost vile—he comes here, and he says: "Give me damages for my character"—after this long course of libel on character which one fails to find words to criticise before a Jury.

Gentlemen, in the remarks that I will make to you now, I will try, as far as possible, to avoid reading at this stage of the case much of what has already been put before you, and which it may be necessary at a subsequent stage of the case to recall to your minds. There are certain definite facts which cannot be got rid of, and cannot be gainsaid by any ingenuity of argument, or any ability of any advocate. Now in the first place, let me say this: You must look upon this case as a whole; do not pick out a line here or there; take the main charges. Gentlemen, the main charges in this

case are with reference to the murder of Mr. Rand and with reference to the murder of Mr. Jackson, two of His Majesty's civil servants. If his teachings, as we say, or his doctrines expounded in his newspapers have led to those deeds, if we are right in that, what becomes of all the rest of the case—as to whether he was in an Anti-Cow-Killing Society, or whether comment as regards this lawsuit that he had with the Tai Maharaj is right or not, though I will show you that every word of them is justified. These are the real charges made agsinst him, that he went on preaching doctrines from time to time, taking advantage of the condition of affairs that existed in India, promoting those objects which he had in view on his fertile ground, and that it is a natural inference to draw, and a fair comment to make, that those writings of his and doctrines that he preached led in the one case to the murder of Mr. Rand, and in the other case to the murder of Mr. Jackson. You remember the first day I cross-examined him, when he drew a distinction as regards the propaganda which he was carrying on between the British Government and the British officers; he said his campaign was not against the Government, it was only against the British officers. Gentlemen, it is a remarkable thing in this case that what we are dealing with is the murder of two faithful British officers, two men who had gone out from this country to discharge their duties, which they did unflinchingly, and under great difficulties, certainly in the case of Mr. Rand, who when the whole population was flying from Poona, and when 200 or 300 inhabitants out of a population of some 80,000 were dying from day to day, took upon himself in the discharge of his duties the enforcement of the rules that were necessary for the purpose of trying to stamp out this plague, and, certainly, if there is one thing more than another that has to be conceded, it is that nothing deterred him in all the midst of the risks he ran of daily losing his own life by this terrible disease which had invaded the country—nothing ever deterred him or the faithful men under his control from going in and out of these plague stricken areas and these plague-stricken houses to try and relieve the natives from the terrible oppression of the affliction that was

upon them. And his reward was that, upon the 22nd June, he met with his death at the hands of an assassin —of an assassin who said himself—I will call your attention in more detail to it in a moment—that he had murdered him because of the oppression which he had shown in carrying out these measures connected with the plague, and because of the action of British soldiers in the work that they had to do. That is a tragic instance, one of the facts which cannot be denied in this case, and it is for you to say in relation to that matter as to whether that unfortunate result was not brought about, or at least that it is a fair inference that it was brought about by the action Mr. Tilak took in his undoubtedly influential papers, the "Kesari" and the "Mahratta." Gentlemen, if he was convicted of sedition in 1897, if he was convicted again in 1908, if it is a fair comment to make that in 1897 and 1908, up to then, his conduct was such as to lead to murder, what has all the rest of the case to do with it? What would be the damages that a man convicted of sedition, and a man convicted of publishing documents, and preaching doctrines that led to murder, could be awarded when he comes into this Court?

Now, Gentlemen, just let us see in relation to these two charges, one in 1897 and the other in 1908, as to what are the facts which cannot be denied. First, let me call your attention to what is actually said in the libel as regards Mr. Rand's murder: "What Tilak could do by secret agitation and by a rabid campaign in the Press to raise popular resentment to a white heat he did." Then you will remember they leave out this sentence, a very remarkable sentence to leave out: "The 'Kesari' published incitements to violence which were put into the mouth of Shivaji himself." They leave that out. Gentlemen, that omission is purposely made by whoever advised in the institution of this action. It is purposely left out. Why is it left out? Because it was upon that article—"the incitements to violence were put into the mouth of Shivaji himself—that he was convicted of sedition a few months later." But the real bearing it has upon this case is that having for months held up Mr. Rand in what he had to do in Poona to

odium, detestation and vilification of the character that you have read here, he then proceeds in what he puts into Shivaji's mouth, as you will see in the article, to show how you will get rid of this conduct by asserting yourself in the way Shivaji did, that is by making away with the person who is accountable for the zulum, oppression, and within one week of his doing that Mr. Rand lies a corpse, murdered by this young man who had been affected by what he called zulum, or oppression that had been practised during the plague. That is where the importance lies in the leaving out of this paragraph. Then it says: "The inevitable consequences ensued. On June 22nd, 1897, on their way back from an official reception in celebration of Queen Victoria's Diamond Jubilee, Mr. Rand, an Indian civilian, who was President of the Poona Plague Committee, and Lieutenant Ayerst, of the Commissariat Department, were shot down by Damodhar Chapekar, a young Chitpavan Brahmin, on the Ganeshkind road. No direct connection has been established between that crime and Tilak." Gentlemen, here is that which they do not complain of and do not answer here in the libel. They stop there. "No direct connection has been established between that crime and Tilak. But, like the murderer of Mr. Jackson at Nasik last winter, the murderer of Rand and Ayerst—the same young Brahmin who had recited the Shlok, which I have quoted above, at the great Shivaji celebration—declared that it was the doctrines expounded in Tilak's newspapers that had driven him to the deed. The murderer who had merely given effect to the teachings of Tilak was sentenced to death, but Tilak himself, who was prosecuted for a seditious article published a few days before the murder, received only a short term of imprisonment, and was released before the completion of his term under certain pledges of good behaviour which he broke as soon as it suited him to break them." Gentlemen, was this young murderer likely to be affected by these teachings? What did he say himself? Gentlemen, it is a piteous story. There is this young man, Damodhar Chapekar, who was only 27 years of age—you will see afterwards what I have put about the wide conspiracy to get the youth and children of the

country into disaffection towards the British Government —Damodhar Chapekar, 27 years of age; occupation, playing a harmonium; residence, nowhere in particular— that is the description of the man—here is what he said: "I therefore determined to do something for my faith and began to oppose the reforming party. Therefore my brother Balkrishna and a man named Bhiskute joined with me, and at different times we gave a thrashing to several reformers with an iron pipe, namely, to Patwardhan, Kulkarni, Thorat, and Velinkar, who had become a Christian. Our object was by practice to gain courage and also benefit our faith. Last year I was in Bombay, where I generally come every year for four months, and then I put some dammer on the Queen's statue and a string of shoes round the neck. Afterwards I burned the Examination pendal at Colaba." Later on he says: "I went to Poona with the whole family. Then the operations for the suppression of the plague were commenced, and Mr. Rand was appointed the head of the Plague Committee. In the search of houses a great zulum was practised by the soldiers, and they entered the temples and brought out women from their houses, broke idols, and burnt pothis—(holy books). We determined to revenge these actions, but it was no use to kill common people, and it was necessary to kill the chief man. Therefore, we determined to kill Mr. Rand, who was the chief." And later on he says at page 20: "I found that lots of people had been harassed on account of this affair. The Natus had been imprisoned and other persons had been troubled, and so I determined to make a confession. I had done this deed for the benefit of the people, and I did not want other people to be harassed." Gentlemen, you will observe, there is not one word there that he himself had received any wrong from Mr. Rand, or in the course of carrying out necessary regulations as regards the plague, but he says: "In the search of houses a great zulum was practised." Gentlemen, I asked Mr. Tilak yesterday as regards that, whether this confession and what the confession states led him to this, were they not the very matters which he himself had been putting forward against Mr. Rand in his papers—and he agreed that it was so; it is not necessary for me to go in detail into the

matter. That is exactly what he was preaching from beginning to end: "In the search of houses a great zulum was practised by the soldiers, and they entered the temples and brought out women from their houses, broke idols and burnt holy books. We determined to revenge these actions, but it was no use to kill common people, and it was necessary to kill the chief man. Therefore we determined to kill Mr. Rand, who was the chief." I ask you, Gentlemen, to put yourselves in Sir Valentine Chirol's position. If there was nothing else in the case but that, why is not that a fair comment; indeed, I do not know that it is complained of, that it is introduced, but why is not it a fair comment to say that those doctrines of Mr. Tilak's were the doctrines that brought about the murder of Mr. Rand, such effect had they upon the mind of this young Chitpavan Brahmin of the same caste as Tilak himself, as it is there upon the face of his very confession, within one week of the article to which I have already called your attention. I ask you, was it an unfair comment to say that it was the doctrine which Tilak propounded brought about this disastrous result. Gentlemen, what had been going on in that place for months? There was a famine in Poona, and in the midst of the famine came the plague. Gentlemen, it is not easy for you or for me to understand the effects of a plague in a place like Poona with these native Hindus and other Indian races. It is not easy for you and for me to understand what would happen in a place like that when stringent hygienic rules had to be laid down for the purpose of trying to grapple with a plague that killed off from day to day hundreds and thousands of our fellow-subjects in India. We all know that the people there are not accustomed as we are to interference as regards health matters and hygienic precautions. Gentlemen, I say it was that condition of affairs which existed there which Mr. Tilak took advantage of to further the campaign of hostility against this country which he had been preaching from the year 1893 to which we have to go back in another branch of this case. What does he do? He might have used his paper to quiet the people, he might have suggested various alterations that could be made, he might have done everything he could for the purpose of pointing out

how necessary it was to grapple with this plague, and he might have taught the people that the English were doing their very best, as they were, under these difficult circumstances. No. He found his advantage. He found a population restless under these restraints, and he took full advantage of it. He proceeds from the moment Mr. Rand goes there never to leave him alone for one day or for one hour in holding him up to opprobrium and attributing to him every wrong and injury that had come upon the people through the visitation of the plague and the visitation of the famine. What more does he do? As regards Rand you have the language before you. He charges Mr. Rand with being a tyrant, as being callous, sullen and indifferent to the people, desiring to carry out in the most cruel and most offensive manner the duties that are put upon him. He never gives him a dog's chance amongst the people in the way he holds him up in this paper, published in their own language, and having, as is said the greatest influence of any paper in the whole district. But that is not all he does. That might be merely criticising the man and the personality and the temperament, but he does far more than that. He says that this gentleman, Mr. Rand, is put there purposely by the Government to inflict hardships and disasters upon the people. He says that that is part of the scheme of the English Government to do damage to the people—these alien rulers as he calls them—those are the words that he uses—like slaves and like dogs. You remember one thing that was referred to just at the end his cross-examination to-day —he makes a horrible charge against Mr. Rand even to this : true it is, he says, the plague is abating, true it is, he says, that there is not so much necessity as there was before for removing the people, but Rand is such a demon, Rand is such an inhuman monster that even when he finds he has not got victims enough he must take those who are not afflicted with the plague at all and take them for the purpose of keeping up the numbers of those who are still inflicted with plague. Was there ever a more scandalous or outrageous charge? He told me that was all admitted in the Report, but those who instruct me have not been able to find that. Then,

Gentlemen, that is not all. Systematically from day to day—I am not going to read it now—he attacks everybody connected with the Administration, everybody from the Governor down to the very humblest policeman, and, God knows, it was no mild task that our officers and British soldiers had to do there. I believe what happened was that so vile were the conditions there, so horrible were the duties that had to be carried out with relation to the health matters to try and get rid of this devastating plague, that the Government had to apply for volunteers amongst our soldiers who would be willing to take the risk and go into these houses and themselves examine them and whitewash the rooms and carry out the necessary disinfection with which we are acquainted in this country as the only way of getting rid of such a matter in this plague-stricken district. Our soldiers as they always will and as they always would, volunteered and went there, and not a single one of them is ever alleged to have shirked his duty. Day by day and night by night these men went—on I suppose one shilling a day—into these plague-stricken houses, running the risk at any moment of themselves contracting the disease which was almost certain to be fatal. Yes. What is the recompense that Tilak gives? Lie after lie and falsehood after falsehood against both the officers and the men come glibly to his tongue. Oh, the British soldier, that vile and inhuman being who goes down there and takes advantage of the plague to commit some petty theft or break some Hindu idol in a temple, or something of that kind. Gentlemen, it is a lie from beginning to end. It is the invention of this man who is taking the opportunity of using this paper of his and libelling our soldiers and our officers and our governors —libelling them that he might forward his campaign of sedition against the British Government for which he has been twice convicted in the Courts of India where he is known so well. Damages! Damages to Tilak for libel, for abuse that he got for false charges! Why, Gentlemen of the Jury, I should have thought he would have asked you rather to give him a medal as the champion libeller of our fellow subjects of England, and the men that we sent there to do their duty. Thank God they did it—

and they were paid a miserable pittance for doing it; he, no doubt, was reaping the rewards of an increased circulation of his newspaper, paid for writing of this stuff to vilify our men and to inflame his own fellow Brahmins against them, which culminated within a week of the worst of his articles with the murder of Mr. Rand, against whom none has been able to say, or ever will be able to say, one word that he was not a conscientious civil servant. May I say in this context that I believe in the whole history of our Empire there is nothing of which we may be more proud than the manner in which, having regard to all the difficulties our Indian Empire has been governed under British rule, not for selfish purposes, as he seems always to think; not for selfish purposes, but for the purpose of giving the best possible Government to these mixed up tribes and races who have no cohesion amongst them. I notice a quotation from Lord Morley on the first page of this book on "Indian Unrest." "We have now as it were before us in that vast congeries of people we call India a long slow march in uneven stages through all the centuries from the fifth to the twentieth," and of all the civil servants that we have I doubt if anybody will ever quarrel with this, that the ablest of all of them are the men who go out from the country to take their place in the Government of India. Gentlemen, that is, putting it very shortly, the Rand case. Within a week, as I said, the murder took place. He was then tried himself for sedition, and, Gentlemen, do not forget this; do not take these matters as isolated incidents; all the time that he was attacking Rand he was also running a political campaign just as all the time from 1905 onwards in the second part of the case he was at the same time abusing individuals and officers, but running at the same time a political campaign. You must take the matter as a whole. Gentlemen, he was prosecuted on the very minor charge, at least minor as compared with inciting to murder and sedition, and he was convicted. I do not know what the point of it was, but my learned friend asked as to whether the Jury were unanimous, and the answer was they were six to three. But what did the Judge say? The Judge said: "I agree with that

verdict; I do not think any reasonable and fair man applying his mind to these articles could doubt that in publishing them you have been animated by a feeling of disloyalty and disaffection to the British Government and that you attempted to inspire those feelings in your readers. I have now to consider what sentence I shall pass." Gentlemen, he appealed from that sentence to a higher Court, and the appeal was dismissed. But what was the nature of the article on which he was indicted? I have read them to you and I shall read them again if necessary before the end of the trial, but they were—at least this was the tenor of them, putting it very shortly —murder is rigt under certain circumstances. murder could be aplogised for. When Shivaji murdered Afzulkhan it was quite a legitimate murder because he was an oppressor. If you are not doing murder to fill your own stomach, as he said, in one place, but are doing it from an unselfish motive, it is to be weighed in a different scale. Are we greater slaves now than the people were when Shivaji lived? Have we no Shivaji? Have we no one who will put down oppression? Is there no one who will imitate his example? And I tell you, I, Tilak, the great Brahmin professor learned in the law and champion journalist, the champion of the Hindus and the Brahmins as against a brutal British Government— I tell you now that murder under certain circumstances would not be murder at all.

Gentlemen of the Jury, is it any wonder under these circumstances that a murder was committed? Does it pass fair comment on a gentleman who went out having no connection with the matter to investigate this matter, who had before him the full record of these statements, the full record of the incitements to voilence in the "Kesari" which were "put into the mouth of Shivaji himself" and which are not denied or complained of in this action? What other inference can you draw? You may not agree, it is not necessary you should agree with his conduct. I do not know that you are in a position to investigate it in the way he did on the spot, but all you have to investigate is was it a fair comment, whether you agree with it or not. I leave that part of the case at all events with you with the greatest possible con-

fidence that no other comment could have been made or ought to have been made by a man like Sir Valentine Chirol who had gone out faithfully to do his duty than the one he made in reference to that case. Gentlemen, what followed? He was sentenced to 18 months' imprisonment. When he had been there 12 months he was released upon terms which I have read to you before and which it is not necessary to read to you now, and no one could go through this case without seeing that there was a leniency exhibited towards Tilak which can only be explained on one theory, and that is that the Government were anxious to conciliate him. They were anxious, if possible, to win him over, and so they let him out, and I believe at one time with a view to his conciliation Lord Sandhurst, the Governor of Bombay invited him to the Legislative Council, where he was for a time a member. Nothing did any good. Having received this leniency and having got the terms which I have read to you, he comes out and he met Mr. Giles—I cross-examined yesterday about it, but he will be produced before you—he comes to him for work, and Mr. Giles says he is quite willing to give him work. Then he states to him that it is no use dealing with the British Government constitutionally, the British Government must get a blow or something of that kind, and then we find him in 1905 getting another opportunity of venting his spleen against the British Government as we were told this morning. The British Government for the purpose of administration thought it necessary to divide Bengal into parts, and Tilak found there hostility in Bengal, and he sees a good opportunity of setting about with a view to creating more ill-feeling against the Government. For the moment I pass by—though you will have to consider it as a whole in regard to this matter—the great conspiracy that he organised all through, certainly through the whole of the Deccan, the Mahratta country, and I believe from the evidence further than that, the great conspiracy which he organised which was composed of the Ganpati festival, the Shivaji festival, the Swadeshi movement, and of the Swarajya movement, were really all one, as I shall show you in time when I come to discuss it. But, Gentlemen, I pass on briefly for the moment to 1907 and

1908, and you find Tilak through the whole of that time on every occasion—when I go back you will see—trying to raise hostility towards the British Government and especially towards the British officials who were engaged in carrying out administration for the British Government.

Gentlemen, an event occurred in May of 1908 in which there was an attempt made to kill a Mr. Kingsford who was a civil servant, just as Mr. Rand was or Mr. Jackson was, by the explosion of a bomb, and instead of his being killed a Mrs. Kennedy, a Miss Kennedy and I think a coachman were killed by this bomb. Gentlemen, I ask you now to watch the course that Tilak took in reference to this charge. It is said that that was the first introduction of the bomb as a weapon of assassination into India. It certainly has not been the last as he has told me; there have been many bombs to kill officers, and there was one attempt made to kill Lord Minto himself by a bomb. I find it impossible to stigmatise in proper language the articles that were written after that by this gentleman, Mr. Tilak.

Gentlemen, I ask you, and really I think it is the only thing of any length to which I will have to ask to listen to, allow me to call your attention once more to this article for which Tilak was convicted. It is on page 1073 of volume 2. Really it is the index to the mentality of Tilak. Gentlemen, I hope I have made it clear in what I have said, and certainly I do not want to be misunderstood, it may be right or it may be wrong, I am not going to discuss the question here, nor are you, to get rid of British rule in India. That is not a question that we have to determine, but to say that you can lay down that British rule or any other rule in a country has to be got rid of by assassination and by using these kinds of weapons is going a step further. Let me even concede for the moment to Mr. Tilak that he was so devoted to his country, and he so honestly thought that England as a foreign ruler ought to be driven out of his country, that he felt driven to advocate those courses; let me take that hypothesis. Well even then we may blame him in our own minds for putting these questions forward, but if you do blame him and if you do point out his wrongs, that

that is what he is doing and that the only inference to be drawn from subsequent evidence is that they have been caused by that—we are not doing anything to Mr. Tilak. It is he that is complaining that we say so. He brings an action for libel; we are not complaining here that Tilak did this, that or the other thing. If a man likes to preach the doctrines of assassination, knowing what will follow or seeing what will follow and does not feel any qualms about them, I do not think he ought then to object if somebody records in a book or in a newspaper that he has done so and bring an action for libel on it. A man may be such a fanatic in the particular case that he advocates, that he goes too far and then if somebody says he goes too far he certainly ought not to growl and grumble and bring a libel action as Mr. Tilak is doing in this case. It is very necessary to keep before one that distinction. We cannot try here whether British Government was good or bad in India, though I hope my observations will not be misunderstood as to my suggestion that it was bad—I have nothing to do with it in this case. If it was bad and if Mr. Tilak thought it ought to be reformed and if he thought the only way to reform it was by holding up officers to opprobrium which led to their disaster and their death; well, that is his own look out, but when we say he did that, as he undoubtedly did, why should he come and ask for damages for his character? That is the part of this case which is so absurd.

Well now, Gentlemen, what was this article? I read this article before to you and I do apologise for reading it again, but it is the whole basis as I say of his plan for getting rid of English government, and it is the matter which openly preaches the doctrine of assassination as a necessary ingredient. Gentlemen, when I call your minds to what the learned Judge said who tried this case I think you will see that I am not saying one word more in my position as an advocate than what the learned Judge said about it; yet it is important, too, because in this article Tilak compares the Rand murder and the using of the bomb. Here is what he says: "From the murder of Mr. Rand on the night of the Jubilee in the year 1897 till the explosion of the bomb at Muzaffarpur,

no act worth naming and fixing closely the attention of the official class took place at the hands of the subjects." Then he says this: "There is considerable difference between the murders of 1897 and the bomb outrage of Bengal. Considering the matter from the point of view of daring and skill in execution the Chaphekar brothers take a higher rank than the members of the bomb party in Bengal. Considering the end and means the Bengalis must be given the greater commendation." Now really, Gentlemen, when a man comes and claims here damages for it being said that his doctrine contributed to murder, and you have here in his own paper, published amongst his own people, his drawing a contrast between which of them was to get the higher praise and the taking of greater commendation, where two innocent ladies and a coachman were blown up by a bomb, it is really difficult to understand the mentality of the man who, having put that forward, then comes into a British Court of Justice and asks you to give him damages because it is said his doctrines led to assassination. "Neither the Chaphekar brothers nor the Bengali bomb-throwers committed murders for retaliating the oppression practised upon themselves; hatred between individuals or private quarrels and disputes were not the cause of these murders. These murders have assumed a different aspect from ordinary murders owing to the supposition on the part of the perpetrators that they were doing a sort of beneficent act. Even though the causes inspiring the commission of these murders be out of the common, the causes of the Bengali bomb are particularly subtle. In the year 1897, the Poonaites were subjected to great oppression at the time of the plague, and the exasperation produced by that oppression had not exclusively a political aspect. That the very system of administration is bad, and that unless the authorities are singled and individually terrorised, they would not consent to change the system, this sort of important question was not before the eyes of the Chaphekar brothers. Their aim was especially directed towards the oppression consequent upon the plague, that is to say, towards a particular act. The Bengali bombers have, of course, their eye on the partition of Bengal. But the glance

of the bomb is also playing upon a more extensive plain brought into view by the partition of Bengal. Moreover, a pistol or a musket is an old weapon, while the bomb is the latest discovery of the western sciences. The western sciences have strengthened the power of the official class in every country. One ruler is able to fight with another ruler, but it has become difficult for the subjects in any country to fight with the army of that very country. The power of the army has terribly increased in consequence of new scientific discoveries, and the bravery of the people most celebrated for their valour proves useless in an instance before new guns, new muskets and ammunition of the new sort. It was owing to this reason alone that the revolutionary plans of the Russian subjects failed in the year 1905–6, and if to-morrow the army of England becomes completely subservient to the will of the Emperor Edward VII, and if His Majesty be so inclined, he will be able to reduce to dust, without taking much time, the institutions of Swarajya like the Parliament in England whatever fitness for exercising the rights of Swarajya the people of England may possess. The western sciences have made the might of the armies so terrible. But in that identical minute seed which contains the power to produce a mighty tree, is also born, along with the birth of that tree itself, the principle of death, which is destined to destroy the tree. Death is ordained at the very time of birth. Birth is first seen; the veil over death subsequently begins to be gradually removed. God himself creates the universe and God himself is the governor of the universe; it was the westerners' science itself that created new guns, new muskets and new ammunition; and it was the Westerners' science itself that created the bomb."

Now I pass on a few lines. Then he says: "Death does not change the current of worldly life nor does it do away with worldly life. The duty of taking away the pride of worldly life is assigned to death and therefore death takes care not to allow life to become impure. The military strength of no Government is destroyed by the bomb"—now, Gentlemen, mark this—"the bomb has not the power of crippling the power of

an army, nor does the bomb possess the strength to change the current of military strength; but owing to the bomb the attention of Government is riveted to the disorder which prevails owing to the pride of military strength." That is, if you want to get the attention of Government riveted to a disorder, that prevails which otherwise they would not remedy because they have the military strength, the bomb is the weapon. "Owing to the murders of 1897"—now, Gentlemen, mark this—"the attention of the authorities was directed towards the disorder in plague administration; and since that time the aspect of plague-administration began to change and complete transformation took place in the plague-administration very soon after. It is at present being asserted that Government care two straws for the bombs of the Bengalis. What do the words 'care two straws' mean? The Bengali bomb-makers have themselves admitted that the English Government cannot be overthrown by the bomb. There is no cause for Government to feel any fear of the bomb, too; but the pride of military strength must necessarily be afraid of the bomb and it is not derogatory to any mighty power to frankly admit this fear." That is that it is better for the Government to yield to the bomb. "The plaugue-administration in the beginning was such that it was disliked by the people, was extremely vexatious and exasperating; this fact was not at first known to Government. Mr. Rand's murder brought this mistake to the notice of Government"—now, Gentlemen, clearly I submit there, there is the clear announcement that the way to bring to the notice of the Government, mistakes, is to murder an official—"and after the plague riots occurred everywhere subsequently Government did not also hesitate to openly admit the mistake. It is not to be understood that because Mr. Rand's murder took place, the plague-administration was proved to be mistaken; the administration was a mistaken one from the very first, was wrong from the very start; but it did not appear to be mistaken to the authorities being to their conceit about their own wisdom. Some things must be viewed from the people's standpoint; it is by no means enough to look at them only from one's own point of view; this

light had not dawned upon the minds of the authorities. This light dawned upon their minds owing to the murder of Mr. Rand, and the conceit of wisdom having produced knowledge within itself the conceit left the authorities so far at least as plague-administration was concerned. What was there amiss in this? That one should not forget to make use of the eyes while walking —when is this lesson to be learnt if not when one has actually stumbled? The man who says 'Though I may stumble any number of times, I will remain blind like an intoxicated person, despite my having eyes,' is his own enemy. The Indian Government have had a stumbling in the shape of the bomb; and if Government do not make use of this stumbling in reforming the administration of the country they will prove their own enemies. Such stumbles are necessary in life, whether in the case of a King or a pauper." I will not read the next bit, my Lord. It will make it a little shorter. Then it goes on: "This overjoyed band of blackguards"—that is the English Press—"are saying to Government that Government have had the stumble in the shape of a bomb owing to the writings in newspapers and the speeches of the national party; and that therefore without paying any heed to the bomb, Government should muzzle these papers and speakers. In 1897 this set of blackguards had brought very similar imputations against newspapers and Government have tested in the shape of the bombs the bitter fruits of that policy of repression that has been continuously maintained by them for the last ten years on account of their being half influenced by these imputations. If Government do not change this policy at this time, its consequence will not fail to be even more terrible than at present to the rulers and the subjects. The answer given by the newspapers enjoying the favour of the official class, to the question as to why the bombs should be utterly disregarded, is that this is an attempt to intimidate the Government and that if the people once come to know that Government are afraid they will not fail to harass Government by showing them the bugbear of bombs even in every trifling matter. This is a trick of begging for alms by intimidating Government; it is not desirable to throw a piece of bread to those who

intimidate Government in this manner, but the only path of wisdom is to give them two slaps in the face; the master of the house should never allow beggars to form an idea that alms can be secured by the infliction of injuries upon their own bodies. The host and the moderate mendicants should by combining together drive away these beggars who have trouble by raising a clamour. The beggars should, taking into consideration both the wishes of the host and their own property, beg alms in a low tone and in soft words; they should not emit a harsh sound like that of a bomb by overtaxing their vocal strength. The 'Bombay Times' and other Anglo-Indian journals have, in the above fashion given their reasons why the policy of repression should be stringently enforced. Sophistical reasoning of the above kind has been made use of owing to the nature, power and true meaning of the bomb not having been understood. To start with the very idea that bombs are thrown from a desire to beg alms by seeking to intimidate Government is a mistaken one; for terrible and deplorable occurrences like bomb outrages are considered by none to be pleasant and convenient. Bombs explode when the repressive policy of Government becomes unbearable." That is, of course, if the represssion of the Government becomes unbearable, you must use a bomb. "Oppression is required to be practised by Government first, while oppression in the shape of bombs at the hands of the people follows next. The above is a dishonest attempt to make it appear that Government are not at all at fault and that bombs are thrown in a hateful or overbearing spirit." That is an apology for the bomb. "If the system of rule under which the pressure of public opinion is brought to bear on the administration be not in vogue, if the situation be such that, while public opinion is on one side, those who hold the reins of authority are on the opposite side, then such a state of things does not fail to become unfavourable to the rise of the nation. It is not looked upon as a sign of cowardice in England that the authorities should consider that public opinion is entitled to hold them answerable, and that they themselves are responsible to public opinion. In India, the official class is irresponsible,

and the efforts of the national party are directed towards making it responsible, or, in other words, towards securing the rights of Swarajya to the people. To give the rights of Swarajya at least partially to the people, what are the authorities required to do! The authorities have to conduct themselves in subservience to public opinion, in proportion to the rights of such authorities as may be approved by the people, and that it should be taken away from the hands of such authorities as may not be liked by the people, this itself is called the exercise of the rights of a Swarajya. If the rights of Swarajya are granted to the people as they become fitted for the same, then, disquieting calamities like bomb outrages do not befall any one at all. When a struggle ensues between the fitness of the people for the rights of Swarajya and the miserliness of the authorities in granting those rights and when the authorities begin to act wildly, being intoxicated with the pride of military power, then the deplorable bombs are naturally constrained"—naturally constrained—" to intervene in order that the attention of the authorities may be attracted to the intoxication which obstructs real progress." Gentlemen, there is the whole doctrine of his preaching. If you have oppression, if you have the Government refusing to grant the right you want, the natural result is a bomb. Really with this kind of theory it would be difficult to judge. As far as I can see each man would have to judge for himself as to whether he ought to use a bomb: If you accept that theory, for Mr. Tilak's sake, in this case, everybody is to judge for himself when the bomb naturally comes into play. Even if we accept that doctrine that he lays down or do not discuss it for the moment, it is an abominable doctrine, but let us assume it is a just doctrine from his point of view. The point I am arguing is that if anybody says that it is an abominable doctrine or likely to lead to assassination, why does he bring an action for libel? We cannot examine it. It is not part of his case to examine what are the doctrines. It is a very wide subject as to when, if ever, subjects have a right to take up this attitude towards Government but if a man does take it up and if he is abused for taking it up, I do not think the Jury will say he has much right to

come to a Court of Justice and say: "You are to give me damages because somebody says I did take up that attitude." That is what it comes to: "When obstruction is caused to the progress of a nation through cupidity or temptations, by taking undue advantage of the terrible power which the Western sciences have produced in the army of the Government, then bombs spontaneously spring into existence in order to remove the obstruction; no one manufactures them with the object of terrorising the authorities by means of intimidation. Calamities like bomb outrages have never been interpreted in the history of any country to mean that the people are not fitted for the rights of Swarajya or that the people have begun to mock the rulers with bombs owing to the latter having indulged the people more than they deserved. When the official class begins to overawe the people without any reason, and when an endeavour is made to produce despondency among the people by unduly frightening them, then the sound of the bomb is spontaneously produced to impart to the authorities the true knowledge that the people have reached a higher stage than the vapid one in which they pay implicit regard to such an illiberal policy of repression."

Gentlemen, is not the plain meaning of that this, the official class, which is what I have always abused, the official class in India are overawing the people without any reason and producing despondency amongst the people by frightening them, and that being so, the sound of the bomb spontaneously produced would impart to the authorities the knowledge that the people have reached a higher stage, and that the depression ought to be put off. It is an abominable doctrine, but, as I said before, assuming that according to his notion that is the true doctrine of gaining freedom according either to history or his religion, of which I know nothing, but assuming it is so, and having propounded it, he really cannot well come into Court and say I am to get damages because some body has said that.

Now, Gentlemen, I venture to ask you to take that article as the basis here of this charge, and I ask you to compare what is said there with what is said by Sir Valentine Chirol in his book that these doctrines lead to

assassination. Is there any doubt about it? What is the object of it? Why should the man apologise about the bomb? Why should he write the article at all if it was not to meet with a weapon what he calls the Government's tyranny. Gentlemen, for that he was prosecuted, and he was found guilty, and I submit to you that if there is to be any law in the land at all, and I have no doubt there may be people who will argue that there ought not to be any law in the land at all, but if there is to be any law in the land at all, one is not surprised to find this gentleman being prosecuted for that and a number of other articles which I am not going to read to you at the present moment, and found guilty, and sentenced by the Judge to six years' transportation. He was sentenced by the Judge in 1908; he was a native Judge, a Parsee, and I must really press you with the Judgment of that Judge, and I ask you again to compare what Mr. Tilak himself wrote with the language of this Judge who knew India, was born in India, an Indian lawyer, and had been promoted to the Bench, and was dealing with a native of India. What was the view he took of that language? Are you better judges than he is? Can you understand the effects of this explosive matter and the powder magazines of India better than the Judge did? Here is what he said, addressing Tilak: "You are a man of undoubted talents and great power and influence. Those talents and that influence, if used for the good of your country, would have been instrumental in bringing about a great deal of happiness for those very people whose cause you espouse. Ten years ago, you were convicted and the Court dealt most leniently with you then, and the crown dealt still more kindly with you. After you had undergone your simple imprisonment for one year, six months of the sentence was remitted upon conditions which you accepted. The condition which you signed then was this: (Reads from document) 'I hereby accept and agree to the above conditions, understanding the meaning to be such act or writing as is considered as an offence.' It seems to me that it must be a diseased mind, a most perverted mind, that could say that the articles which you have written are legitimate weapons in political agitations. They are

seething with sedition; they preach violence; they speak of murders with approval, and the cowardly and atrocious act of committing murders with bombs, not only seems to meet with your approval, but you hail the advent of the bomb in India as if something had come to India for its good. As I said, it can only be a diseased and perverted mind that can think that bombs are legitimate instruments in political agitations. And it would be a diseased mind that could ever have thought that the articles you wrote were articles that could have been legitimately written. Your hatred of the ruling class has not disappeared during these ten years, and these articles deliberately and defiantly written week by week, not, as you say, on the spur of the moment"—I suppose that refers to something he said—"but a fortnight after that cruel and cowardly outrage had been committed upon two innocent English women. You wrote about bombs as if they were legitimate instruments in political agitations. Such journalism is a curse to the country. I feel much sorrow in sentencing you. I have considered most anxiously in the case of a verdict of guilty being returned against you what sentence I should pass upon you."

Gentlemen, there was an appeal in that case. Again, I must make this observation. How can a man who has recorded against him in his own country a Judgment like that come here before a British Jury and say: "I am entitled to damages because it is said my doctrines led to murder" when the Judge who tried this case and understood the Indian people, who is not attacked as an improper Judge, says these articles are "seething with sedition; and they preached violence; they speak of murders with approval, and the cowardly and atrocious act of committing murders with bombs not only seems to meet with your approval, but you hail the advent of the bomb in India as if something has come to India for its good." I say there is nothing that Sir Valentine Chirol has said of him that goes further than that.

Mr. Justice DARLING: Sir Edward, you said a moment ago that there was an appeal in that case.

Sir EDWARD CARSON: Yes, my Lord.

Mr. Justice DARLING: To whom was the appeal? Was it to the High Court?

Sir EDWARD CARSON: Yes, my Lord.

Sir JOHN SIMON: I think I would like to look into that.

Sir EDWARD CARSON: It came before the High Court on leave to appeal to the Privy Council here.

Mr. Justice DARLING: Whatever the point of it was, we know that the appeal must have failed, because he actually served his sentence in Mandalay.

Sir EDWARD CARSON: Yes, my Lord.

Sir JOHN SIMON: I think my friend will find that the point on which it was sought to have an appeal was a point of practice. It is a question about joining some charges and things of that sort. I am only saying I think so.

Mr. Justice DARLING: If that is so, there was no appeal on the merits at all.

Sir JOHN SIMON: I absolutely agree that the conclusion was a final conclusion which has not been reversed.

Sir EDWARD CARSON: It does not really matter. If he did not appeal, the matter stands, of course.

Sir JOHN SIMON: I agree, but in point of fact it was an appeal on some misjoinder of charges.

Mr. Justice DARLING: The only reason I asked was that you, Sir Edward, interjected the remark: "There was an appeal in that case." I thought as you had said that I ought to make it quite clear. The Jury might possibly think that he succeeded in the appeal.

Sir JOHN SIMON: No, my Lord.

Mr. Justice DARLING: Whatever the form of it was, he failed, and served six yea rs with manual labour for publishing those articles.

Sir EDWARD CARSON: I see there was another proceeding before the Judge himself. I will look at it and see if there is anything of importance in that.

Sir JOHN SIMON: I am quite willing to make it plain. I admit, my Lord, if I am entitled to admit in a civil proceeding, that the decision reached at this trial, which resulted in Mr. Tilak being sentenced to six years'

imprisonment, is a decision that was not reversed but stood. That will clear that up. . .

Mr. Justice DARLING: Quite.

Sir EDWARD CARSON: There that stands recorded against him, and, Gentlemen, he comes here and asks you to give him damages. Now you find an additional reason why he comes here, and does not go to India. What would be thought of him in an Indian Court with that Judgment there, and with the knowledge of all the mischief he had done in India, and all the misery, that had been caused by the murders of these officers. It is certainly an extraordinary thing that in each of these three cases with which we have to deal it is always an officer, Mr. Rand, Mr. Kingsford, and Mr. Jackson, and there were also two innocent women killed. Mr. Jackson was, as you will be told, one of the most lovable of men, and a man who was more than most people devoted to the cause of the nation, and more devoted to it probably than any other officer who has ever been there. Gentlemen, Mr. Tilak got six years' imprisonment and while he was in gaol there was plotted the murder of Mr. Jackson. That is not the libel at all, or what is alleged to be a libel. Unless you get an accurate view of these things, you get away from the real question we are trying. On the contrary, Sir Valentine Chirol's book states at page 57: "The agitation in the Deccan did not die out with Tilak's disappearance, for he left his stamp upon a new generation, which he had educated and trained. More than a year after Tilak had been removed to Mandalay, his doctrines bore fruit in the murder of Mr. Jackson, the Collector of Nasik—a murder which, in the whole lamentable record of political crimes in India, stands out in many ways pre-eminently infamous and significant." He states there when he is giving the story, so far from saying Mr. Tilak was concerned in it otherwise than by his doctrines, that he was at Mandalay, that he had been removed to gaol there, and his comment is: "But his doctrines bore fruit," and it is for you to say whether that is an unfair criticism of a man who preaches political assassination by bombs or otherwise. He goes on and says: "The chief executive officer of a large

district, 'Pundit' Jackson, as he was familiarly called, was above all a scholar, devoted to Indian studies, and his sympathy with all forms of Indian thought was as genuine as his acquaintance with them was profound. His affection for the natives was such as, perhaps, to blind him to their faults, and like the earliest victims of the Indian Mutiny he entertained to the very last an almost childlike confidence in the loyalty of the whole people. Only a few days before his death he expressed his conviction that disaffection had died out in Nasik"—you remember his murder was in Nasik—"and that he could go anywhere and at any hour without the slightest risk of danger. That he was very generally respected and even beloved by many there can be no doubt, and there is no reason to question the sincerity of the regrets which found expression on the announcement of his impending transfer to Bombay in a series of farewell entertainments, both public and private, by the inhabitants of the city. Only two days before the fatal 21st of December, an ode in Mahratti addressed to him at a reception organised by the Municipal Council dwelt specially upon his gentleness of soul and kindliness of manner."

Mr. Justice DARLING: Will you read the next two lines, Sir Edward?

Sir EDWARD CARSON: Yes, my Lord. "Yet this was the man whom the fanatical champions of Indian Nationalism in the Deccan singled out for assassination as a protest against British tyranny." Of course that is not complained of you see, in the book.

Gentlemen, what I am pointing out to you is that he had to be transported. He could not, of course, as he was in gaol, take any part, nor do we suggest that he took any part in the murder of this gentleman, but we do say that the doctrines which he preached, the doctrines against the officials, the doctrines against everybody connected with the administration in India, is an unflinching criticism of the whole British system, and the methods he advocates for getting rid of it was that which led up to the murder of Mr. Jackson or may have contributed to it, and, Gentlemen, really there is one theory which has been attempted to be laid down by my

learned friend in this case which I suggest to you is absolutely fatal, and that is, if you once preach crime you can say: "Oh, because I was not here, or because I was not there, or because I was in gaol, my preaching of crime had nothing to do with the crime that followed—impossible." The man who preaches crime, and he may do it deliberately, I do not say that he did not—he may do it out of good motives, if he likes to take that to his soul according to his mentality, and if he preaches crime and crime follows it is ridiculous to say that a man writing a book, or a journalist to "The Times" has not a right to say this man has preached crime, political assassination and violence as found by the Indian judge who tried him. You are not going to look through a microscope to find something connected actually with the murder and say where the doctrines of crime that he preached began to blossom forth and what particular bloom is due to the particular doctrine of crime that has been enunciated. Gentlemen, I say that the comment of Sir Valentine Chirol upon that is a mild comment, and I do not apologise for one word of it. Sir Valentine Chirol, and those connected with him, will take consequences rather than have this man go back to India and say by any word he has said or by any apology that he has made he has given countenance to the idea that a man can in India amongst all these people with their strange castes and races adopt a career of this kind and apologise for murder, violence and political assassination, and then come forward and say: "You have no right to say that my words bore fruit and that something happened under it"—never—because any man who is in India would know that would be giving a free license in that country to again reopen the preaching of these terrible crimes which have so often been a blot in the history of that progressive country.

Gentlemen, on this branch of the case what connection is there between this gentleman and the murder? Gentlemen, I said that the confession of Chapekar was a very pathetic thing. If it was, the confession of this man Kanhere was even more so. I will read part of it to you.

Mr. Justice DARLING: This is the man who killed Mr. Jackson.

Sir EDWARD CARSON: Yes, my Lord, the man who killed Mr. Jackson. Now, Gentlemen, it is quite true Mr. Tilak was in gaol, but had this murder no connection with Mr. Tilak's teaching? This is done when he has been a year in gaol. It is a very remarkable thing. Nobody anticipated this trial at that time, and nobody can say, I suppose that this confession was got up for the purpose of helping Sir Valentine Chirol. He had not commenced his book and had not gone out there at that time. But really do look at the sadness of this. It is at page 446 of Vol. 3. "My name is Anant. My father's name is Lakshman Kanhere. My age is about 17." That is probably the most pathetic part of it, and when I come to survey briefly a part of the case that I dealt with yesterday—it was not easy to follow why it was necessary to go into it—when I come to show you the steps that this man Tilak took to get the youth of the country, from schooldays up to their student days, into this conspiracy of hatred against British rule, and when I come to examine that, you will not wonder that this was a boy of 17. He says: "By caste I am a Brahmin. My occupation is that of a student. I am an inhabitant of Aurangabad"—that is one of the places you will see at which they held these festivals, which were political, as I hope I shall be able to convince you. Then he refers to page 448, and gives a number of conversations, but I do not want to read those. "Then I said to Ganu Vaidya; 'If I agree to do this work of murdering the Sessions Judge, will your association help me?' I said to him: 'It is a matter of shame to you Nasik people that not even one of you should give his life for our fellow-countryman Savarkar who left his family and home and fell a victim for the sake of his fellow-countrymen.' He said: 'You may call us any names you please; none from amongst us has yet become ready to do so.'" Then further on, at page 450: "He said that his name was Vinayak. I asked that boy 'Can I get here some books to read?' so he went to the library and brought the Arabian Nights, The Life of Mazzini, written by G. D. Savarkar who is in England'" —that, you remember, was the life which was reviewed in the "Kesari," as I pointed out to you. Then later on at the end of that page he said: "Then Ganu Vaidya

came and said to me, 'They are our own people. There is no reason to be afraid.' Then I replied, 'I cannot say anything at all about it now.' Then one of them said, 'Do you know who is to be murdered.' I said: 'No!' Then I got this answer in return: 'The Society has resolved on the murder of Mr. Jackson who is here.' I said: 'Why did you decide so? What fault has he committed?' I said: 'I do not wish to murder Mr. Jackson, but I want to murder the Sessions Judge.' They said: 'Mr. Jackson is himself the Chief Officer here. By talking sweetly with people he gets his work done by having recourse to tricks.' Then I said: 'Who got up the case against Savarkar.' I got this reply: 'Mr. Jackson himself deliberately got up the case against Savarkar. It was Mr. Jackson himself who was the principal cause of Savarkar being transported.' Then I said, 'Alright.' Then I said to them, 'I have no practice with the revolver'"—and so on. Then at page 455: "I questioned Ganu, 'Why are you killing Mr. Jackson causelessly? Why do not you kill Davar who punished Tilak?'"—very remarkable, Gentlemen—"'Why do not you kill Davar who punished Tilak?' Then I said to him, 'If you are going to send me I will first kill Davar's son; for then he will understand what grief on account of one's children is, because he has got Tilak removed from the midst of his children and has sentenced him to transportation for six years.'" A most remarkable confirmation of the way in which Tilak was being followed by these young men.

Then later on at page 459: "After some time Anna came by the Nasik Express at 7.30. Then I, Ganu, Anna, Daji, and Shanker went to the Railway Gate which is quite close there. Anna at once questioned me: 'Why have you become ready to commit the murder?' Then I said: 'It is my determination that my body should wear itself out in the country's cause.' Then I and Anna went on by the road to the jungle. And these people were following us. After going a mile and a-half I and Anna sat down at a certain place. Anna asked me: 'How did your mind become so ready?' I said: 'By reading the book on Mazzini my mind became ready.' He asked: 'Where did you read this book?' I then said: 'Gangaram

had brought this book from Yeola.' He asked me: 'Who is Gangaram?' Then I said: 'He is my friend in whose house I live.'" Then at page 464 it gives an account of how he shot Mr. Jackson. I do not think it is necessary to go into that. Then at page 469 there is this: "Did you know anything personally about Mr. Jackson?—I knew nothing about him. Q. If Karve had told you would you have killed any Sahib without making any inquiries whatever?—Yes, I would have killed, for I had full confidence in Karve, because he was at any rate more educated than I. Q. How did the idea of killing Sahibs first come into your head?—It appeared to me that our people do not get justice from Sahibs. I have read many instances of zulum (oppression) in the 'Kesari,' 'Rashtramat,' 'Kal,' and other newspapers. I think that by killing Sahibs we people will get justice. I never got injustice myself nor anyone else whom I know. I now regret having killed Meherban, i. e. (the kind) Mr. Jackson. I killed a good man causelessly. I feel sorry for it.' Gentlemen, there is that. There are many instances of zulum.

Mr. Justice DARLING: Then there is this: "What do you know about Savarkar's Secret League?"

Sir EDWARD CARSON: Yes, my Lord: "What do you know about Savarkar's Secret League?—I read in the newspapers that there there was Savarkar's Secret League, and it was in consequence of that that I asked Ganu about it. Q. Look at Vinayak Sadashvi Barwe, the accused, who is now in court. Do you know him?—I don't remember ever having seen him. Q. Do you know Damodar Mahadeo Chandratray, the accused, now present in court?—I don't remember ever having seen him." That is how Savarkar came in. If you look back you will see this: "I think that by killing Sahibs we people will get justice."

Gentlemen, what is the bomb for? It is this: if there is injustice the Government can only be got to attend to it by such a murder as Mr. Rand's or by a bomb.

Gentlemen of the Jury, I say I have up to this put absolutely nothing but facts. They have not been challenged, and cannot be challenged, in relation to these matters, and I put it to you seriously as regards these two

libels—these two alleged libels—which are the real substance of this, the question of his doctrines leading to murder, that that is the broad issue, the broad matter, which comes out in the book here. I put it to you that any other comment of Sir Valentine Chirol's would be unworthy of him, and he would not have been fitted for the post which he occupied in writing these articles in a great public journal and afterwards republishing them after having gone out to investigate the real truth. Now, Gentlemen, the matter does not rest there. I can show more connection between his doctrines and these crimes,

My Lord, I do not know whether it would be convenient to start upon that on Monday.

Mr. Justice DARLING: Very well.

(Adjourned till Monday morning at 10-30.)

SEVENTH DAY.

February 17, 1919.

Sir EDWARD CARSON: May it please your Lordship, Gentlemen of the Jury, on Friday, when we adjourned, I had attempted to deal with the case of the two prosecutions of Mr. Tilak, and I had gone through, without reading most of them, the main documents that refer to that matter, and I had asked you to say upon those facts which are not in controversy in this case, and cannot be in controversy, to say that Sir Valentine Chirol was justified in drawing the conclusions which he did as a matter of comment in this book which is now impeached here. Gentlemen, apart altogether from the mere circumstances of those prosecutions and the matters leading up to them and the confessions of the two murderers on each of those occasions, which of course, are of vast importance in this case, there is another matter which you have to consider in judging Sir Valentine Chirol's book, and it is this: What were the circumstances existing in India at the time under which these productions of Mr. Tilak's were published, in other words, what were the elements that he had at his disposal when he was putting forward what I suggest to you are the most wicked doctrines of anarchy.

Gentlemen, at that time, and for some years previous to that, Mr. Tilak had been organising in India a widespread conspiracy for the overthrow of the British Government as it then existed. He had been organising it in various ways, with which I will deal very briefly. He had a fertile soil, which had been prepared by himself, and his own methods, and, of course, you will see at once the importance of this—that it is one thing to send out articles about bombs and articles defending murder and articles abusing officers and magistrates and everybody connected with the administration of the law in a perfectly peaceful contented place, but to send them out when you have prepared a vast conspiracy for the overthrow of British Government in the particular place is another. It has been often said that it is one thing to throw a match into a field and another thing to throw it into a powder magazine. That is what he was doing

and it is right to point out and it is necessary to bear in mind in the course of this case that all that is dealt with as well in Sir Valentine Chirol's book. He gives the ground on which he drew these inferences as regards Mr. Tilak. It is not something we are putting forward in this case now for the first time; all this is gone into and dealt with in Sir Valentine Chirol's book; the conspiracy of the Swarajya which meant independence, the methods in which that was carried out by the Swadeshi preaching, of which I will say a few words in a moment, at these festivals of Ganpati and Shivaji. Those were his methods and it is right that I should read what is not challenged here in this case but what is part of what has to be considered. You cannot take out of a book a sentence here or a sentence there and then say that is the whole matter. You have to read it all as one matter. I will deal with something Sir John Simon has put forward in this case about what he is pleased to call separate libels when I come to deal with that matter, but here now upon this point you have to take the whole matter put forward, and see the inferences which Sir Valentine Chirol drew and which he asks you to draw upon the materials before you. Now I take first, my Lord, at page 30 of "Indian Unrest," this passage at the bottom of the page. I am trying to select portions to bring to your mind what I mean: "Hand in hand with this campaign for the glorification of Hinduism at the expense of Western civilization there has been carried on another and far more invidious campaign for the vilification of everything British. The individual Englishman is denounced as a bloodsucker and a tyrant; his personal integrity is impugned and derided; his methods of administration are alleged to be wilfully directed to the impoverishment, and even to the depopulation, of India; his social customs are traduced as depraved and corrupt; even his womenfolk are accused of common wantonness. This systematized form of personal calumny is a scarcely less significant feature of the literature of Indian unrest than its appeals to the Hindu Scriptures and to the Hindu deities and its exploitation of the religious sentiment for the promotion of racial hatred. Swadeshi and Swarajya are the battlecries

of this new Hindu 'nationalism,' but they mean far more than a mere claim to fiscal or even political independence. They mean an organised uplifting of the old Hindu traditions, social and religious, intellectual and moral, against the imported ideals of an alien race and an alien civilisation, and the sincerity of some, at least, of the apostles of this new creed cannot be questioned. With Mr. Arabindo Ghose, they firmly believe that 'the whole moral strength of the country is with us, justice is with us, nature is with us, and the law of God, which is higher than any human law, justifies our action.'" Of course, Gentlemen, you understand you are not concerned in this case as to whether those who preach those doctrines are sincere or whether they are not. That is not the question. The question is whether that was their object, to overthrow in this method everything that was British. If you will turn to page 44, you will see this passage: "Tilak's propaganda had at the same time steadily assumed a more and more anti-British character, and it was always as the allies and the tools of Government, in its machinations against Hinduism, that the Hindu reformers and the Mohammedans had in turn been denounced. In order to invest it with a more definitely religious sanction, Tilak placed it under the special patronage of the most popular deity in India. Though Ganesh, the elephant-headed god, is the god of learning whom Hindu writers delight to invoke on the title page of their books, there is scarcely a village or a frequented roadside in India that does not show some rude presentment of his familiar features, usually smeared over with red ochre. Tilak could not have devised a more popular move than when he set himself to organise annual festivals in honour of Ganesh, known as Ganpati celebrations, and to found in all the chief centres of the Deccan Ganpati Societies, each with its mela or choir recruited among his youthful bands of gymnasts. These festivals gave occasion for theatrical performances and religious songs in which the legends of Hindu mythology were skilfully exploited to stir up hatred of the 'foreigner'—and mlenccha, the term employed for 'foreigner,' applied equally to Europeans and to Mohammedans—as well as

for tumultuous processions only too well calculated to provoke affrays with the Mohammedans and with the police, which in turn led to judicial proceedings that served as a fresh excuse for noisy protests and inflammatory pleadings. With the Ganpati celebrations the area of Tilak's propaganda was widely increased. But the movement had yet to be given a form which should directly appeal to the fighting instincts of the Mahrattas and stimulate active disaffection by reviving memories of olden times when under Shivaji's leadership they had rolled back the tide of Mussulman conquest and created a Mahratta Empire of their own. The legends of Shivaji's prowess still lingered in Maharashtra, where the battlemented strongholds which he built crown many a precipitous crag of the Deccan highlands. In a valley below Pratabghar the spot is still shown where Shivaji induced the Mohammedan general, Afzulkhan, to meet him in peaceful conference halfway between the contending armies, and, as he bent down to greet his guest, plunged into his bowels the famous 'tiger's claw' a hooked gauntlet of steel, while the Mahratta forces sprang out of ambush and cut the Mohammedan army to pieces"—that is what one had to remember when Shivaji is being held up. "But if Shivaji's memory still lived, it belonged to a past which was practically dead and gone. Only a few years before an Englishman who had visited Shivaji's tomb had written to a local newspaper calling attention to the ruinous condition into which the people of Maharashtra had allowed the last resting place of their national hero to fall. Some say it was this letter which first inspired Tilak with the idea of reviving Shivaji's memory and converting it into a living force. Originally it was upon the great days of the Poona Peshwas that Tilak had laid the chief stress, and he may possibly have discovered that theirs were not after all names to conjure with amongst non-Brahmin Mahrattaas, who had suffered heavily enough at their hands. At any rate, Tilak brought Shivaji to the forefront and set in motion a great 'national' propaganda which culminated in 1895 in the celebration at all the chief centres of Brahmin activity in the Deccan of Shivaji's reputed

Printed by V. P. Pendherkar at the Tutorial Press,
211a, Girgaon Back Road, Bombay