

THE FIRST OF JULY 1921 AT DHARWAR.

REPORT OF THE CONGRESS COMMISSIONERS.

ON

THE DHARWAR SHOOTING INCIDENT.

1921.

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DHARWAR.

Price Six Annas.

REPORT OF THE INQUIRY COMMITTEE

APPOINTED BY
THE WORKING COMMITTEE
OF
THE ALL-INDIA CONGRESS COMMITTEE
TO INQUIRE INTO

THE FIRING BY THE AUTHORITIES
ON THE
CROWD AT DHARWAR

ON THE
1ST JULY 1921.



COMMISSIONERS :-

1. **SHRIJ. ABBAS S. TYBJI**, *RETIRED CHIEF JUSTICE, HIGH COURT, BARODA.*
- " **S. S. SETLUR**, *ADVOCATE, SOME-TIME JUDGE, CHIEF COURT, MYSORE*
- " **M. BHAWANI SHANKAR NIYOGI**, *ADVOCATE, NAOPUR.*



Printed by Y. B. Jathar, at the Karnatak Printing Works, Dharwar
and published by R. S. Hukerikar, at the office of the
District Congress Committee,
DHARWAR.

List of accused in the Dharwar 'Riot Case.'



1. Anant Shrinivas Dabade,
Saraf, Congress Propogandist.
2. Trimalrao Krishna Joshi.
Sometime Picket.
3. Waman Dinakar Jathar,
Proprietor, Kanakaditya Press, Dharwar.
4. Annacharya Balacharya Hoskeri.
*Editor "Vijaya" and Proprietor
'Vartakar' Press, Dharwar.*
5. Madhavcharya Krishnacharya Kalkeri.
Newspaper Vendor.
6. Madhaw Shrinivas Kamlapur.
Congress Propogandist.
7. Ranguath Ramchandra Divakar. M. A., LL. B.
Editor "Karmveer."
8. Madhaw Bhimrao Kabbur. M. A., LL. B. Pleader,
Printer and Publisher, Karmveer.
9. Venkatrao Ravajirao Mudvedkar.
Pleader.
10. Imam Husen Maniyar.
Member, Khilaphat Committee.
11. Mahomedsab Abdulhamid Sodagar.
Secretary, Khilaphat Library.
12. Usman Kashim Dadasab Mulla.
13. Sultanmohidin Budansab Rayadurg,
Clerk, Khilaphat Committee.
14. Damodar Vishwanath Herlekar.
Chairman, Municipality Dharwar.
15. Krishnaji Hanmant Mudvekar,
Editor, "Karnatak Vratka"

Continued at the End of the Report—

Foreword.

It may not be amiss here to give in brief the origin of this Inquiry. Immediately after the shooting by the Police on an unarmed crowd of people on the 1st July 1921, the District Congress Committee brought to the notice of the Government, the wantonness and unjustifiability of the Police action; but Government turned a deaf ear to the request, to appoint an independent committee of inquiry and the demand asking for the removal of the officers concerned. The Hon'ble Mr. Hayward, Home Member, Bombay Government, paid a visit to Dharwar and called upon certain prominent people representing all shades of opinion to meet him; but these interviews, it appears, did not lead to any definite results meeting the public wishes. Although the Hon'ble Member said that he wanted a fair trial and promised that he would appoint an impartial judge, he could not make a change in the already definitely settled-upon attitude of Government. This is confirmed by the fact that the only two changes, from the ordinary course in this trial were, first the appointment of a special Additional Magistrate, Mr. J. T. Lawrance of the Indian Civil Service and secondly the holding of the trial in the Dharwar Prison. And these two deviations were matters of public knowledge before any of the interviews were granted. Rao Bahadur Chitale, M. L. C. after a personal visit to Dharwar moved the Council asking for an independent committee of inquiry, but the motion was ruled out by the President, Sir Narayan G. Chandavarkar, on the ground that the matter was sub-judice and that it was not in due form. The Bombay Chronicle had done yeoman service to the Public by its thorough exposition of the incidents, even from the very first day of the happenings in Dharwar. The incident, it was said, had only a parallel in the notorious mistake of the Government in the Jallianwala Bagh. The canvas here was not so large; but the colours the painter used in drawing this miniature Jallianwala were deeper and more sombre. Government having thus shut out all chances of an independent inquiry and the accused in the 'riot case' having made up their minds not to make a defence the District Congress Committee had no alternative but to approach the All-India Congress Committee to get the matter fully investigated. And thus they felt it their duty, under the circumstances, to appoint a Committee of their own, consisting of Shrijs. Abbas S. Tybji, Retired Chief Justice, Baroda, S. S. Setlur, sometime Judge, Mysore High Court and M. Bhawani Shankar Niyogi, Advocate, Nagpur. The Commissioners began their sittings on the 18th August and finished their report by the end of the month.

The management of the Karnatak Education Society, Dharwar were kind enough to lend their spacious hall for the holding of the sittings of the Committee. Although the Sessions Case was going on asynchronously, the Congress

Committee Inquiry was very eagerly attended by the public. Witnesses came in numbers, but the Commissioners had to close their proceedings as they had no time. Of course one or two witnesses resiled even after their depositions in open court: but in a place like Dharwar rift asunder by factions and petty jealousies, the reason is not far to seek. It is however sincerely hoped that this bitter feeling vanishes gradually at least after the present slaughter of the innocents. Shrij. V. N. Joshi of Hubli conducted the preliminary inquiry of the Congress Committee and before the court of the Commissioners he was ably helped by Shrij. S. V. Kaujalgi of Bijapur, who put the case for the public as vigorously as one could do it. There are a host of others, whom it is difficult to mention. To all such, thanks are due for the work they did for the public.

The days are not yet come when Government shall participate in these popular proceedings. But we have reason to believe that not a single incident escaped the local officials at Dharwar, as was but too evident from the presence of a Sub-Inspector of Police who took full notes at the Committee's sittings throughout.

This is not the place to comment upon the proceedings in the Committal and Sessions Courts. The Government and popular versions read side by side will give much thought to those interested in the giving and receiving of justice in India. Not on account of non-cooperation alone, but owing to various other reasons, one of which was their conviction that they would not get justice, the accused in the 'riot case' remained undefended to the last. Thus the prosecution story is one-sided. Whereas the Congress Commission, not shutting its eyes to the other side of the shield, throws a flood of light on the events of the fateful 1st July 1921 in Dharwar.

The Commissioners do not feel bound to touch certain points although there is abundant evidence, before them. The public are therefore requested to wait for the second volume of this publication which will contain the evidence before the Congress Commission.

GADAG,
-9-1921.

} N. H. DAMBAL,
} *Secretary Karnatak Provincial Congress Committee,*

REPORT.

Appointment and Constitution of the Inquiry Committee.

This Committee was appointed by a Resolution of the Working Committee of the All India Congress Committee which met on 31st July 1921 at Bombay. The resolution runs thus :—

“Resolved that a Committee consisting of the following gentlemen be appointed to inquire into the firing by the authorities on the crowd at Dharwar on the 1st of July and the full circumstances connected therewith and to make report thereon within a month :—

1. Shrij. ABBAS S. TYABJI,
2. Shrij. BHAVANI SHANKAR NIYOGI,
3. Shrij. S. S. SETLUR,

that the Secretary of the Karnatak Provincial Congress Committee be required to serve as Secretary for the purpose.”

Invitation to the Police, Government and the Public to take part in the Proceeding.

2. In pursuance of this Resolution, Shrij. Abbas, S. Tyabji, and Shrij. B. Niyogi arrived at Dharwar, on the 16th of August 1921 and forthwith informed the District Magistrate and the District Superintendent of Police of Dharwar that the Committee intended to commence inquiry into the circumstances of the firing by the Dharwar Police on 1st July in accordance with the aforesaid Resolution and invited them to participate in the proceedings, if they so desired, by offering evidence relevant to the purpose of the inquiry and by the cross-examination of witnesses examined before the Committee on behalf of the Public of Dharwar. His Excellency, the Governor of Bombay too was informed of this request by an urgent telegraphic message. A general invitation by a notice which was printed and distributed broadcast in the city was issued to the public to place before the Committee such evidence as may be pertinent to the inquiry. All necessary steps were thus taken to ensure that no evidence available in any quarter was shut out.

Defects arising out of the non-participation by the Government and the Police, how remedied.

3. No one however appeared before the Committee on behalf of the Government or the Police. Only a Sub-Inspector of Police attended as a member of the public and took notes of the proceedings from day to day. Every care has been taken to utilise all such materials as were available from the records of the Committing Magistrate and Session Judge in the riot case up to the date of the report and thereby remedy the defects that arise from the

non-participation of the Government in the Inquiry. The Committee is aware that the prosecution evidence before the Committing Magistrate was not tested by cross-examination on behalf of the accused either in that Court or in the Sessions. This disadvantage could not be helped at this stage under the circumstances of this case as the accused, all of whom are not non-cooperators, decided not to make any defence alleging want of confidence in the authorities of this District. Under these circumstances the absence of those who are the accused in the riot case, at the Committee's inquiry, has not been such a great disadvantage as it would otherwise have been. The Committee has taken great pains to minimise the defect of want of cross-examination, by any representative of the Government, of the witnesses examined on behalf of the public by taking care not to allow any statements to pass without proper sifting.

Scope of the Inquiry.

4. The scope of the inquiry which the Committee held was wider than that of the trial of the accused by the Sessions Court which is confined to the guilt or otherwise of the accused appearing before it. We have to decide in view of all the circumstances of the case whether the firing by the Police on the 1st of July which caused the death of some and injury to many young and old, was justifiable. This has naturally led to the admission before us of a large body of evidence which would, under ordinary circumstances, be inadmissible in the Sessions trial. Subject to this, the Committee has treated the inquiry strictly as a judicial contest between the Public of Dharwar and the Police of Dharwar.

Evidence sufficient for forming definite conclusions.

4. Although, technically speaking, the proceeding of the Committee, may seem to lack the merit of thoroughness on account of the fact that the Police was not represented before it, yet, the Committee feels, that, as it has been placed in possession of the evidence bearing on all the aspects of the case, it was justified in forming definite conclusions. The committee went over the locality on the 16th and again on the 25th and inspected the liquor and toddy shops with a view to examine the situation in the light of the evidence that had been adduced before it particularly in reference to the allegation that the crowd indulged in recklessly throwing stones and burning the tatti in the liquor shop in order to set fire thereto.

Review of Public activities in Dharwar.

5. The history of public activities of the District dates from the 1st session of the Karnatak Political Conference held under the Presidentship of Dewan Bahadur V. P. Madhavrao, C. I. E., the retired Devan of Mysore, on 12th May 1920. Under the impetus given by the Conference political life went on gathering strength and after the Nagpur Congress the people were prepared to work up vigorously the programme of Non-violent Non-co-operation in the district,

Secession of Lingayats.

6. Unfortunately however, on account of some serious difference having arisen in the Reception Committee of the first Karnatak Conference, an important section of the people mostly consisting of the non-Brahmins seceded from the Conference and issued a Manifesto calling upon non-Brahmins not to participate therein but to hold a separate Conference of their own. Accordingly a special Conference was held at Hubli in July 1920 under the presidentship of Sir Tyagaraj Chetty, the well known anti-Brahmin leader of Madras.

Official Manipulation suspected.

7. During the session of the 2nd Non-Brahmin Conference held at Belgaum in June 1921, two prominent Non-Brahmin Nationalists were forbidden to speak by an order under section 144, Cr. P. C. This led the public generally to conclude that the split between the two important sections of the people was due to official manipulation.

The attitude of Mr. Painter, the District Magistrate towards Non-cooperation.

8. The political workers in the district had to contend against the opposition of a large number of Non-Brahmins on the one hand and the hostility of the officials on the other. Both the opposition of the Non-Brahmins and hostility of the officials became very acute since the arrival of Mr. Painter as Collector of the District. As to his attitude towards the Non-cooperation movement we may refer only to the following:—

- (a) The confidential circular N. C. O.....5 of 23-5-1921 issued to his officers indicating the lines on which they were to fight Non-cooperation.
- (b) Exh. 97, the deposition of Mr. Yellappa a public spirited shoemaker that when he resigned his Municipal membership in the beginning of the year, he was sent for by the Collector, and was given a draft disclaimer for publication in the Press, It gives a clear insight into the psychology of Mr. Painter's mind. We give it here in extenso. (Exh. 98):—

Dharwar, 1921.

"To,

The Editor of

DEAR SIR,

There is a belief in some quarters that I have resigned my membership of the Dharwar Municipality, in pursuance of Non-cooperation. This is entirely wrong. My resignation was due the mismanagement prevailing in the Municipality where the demands of the poor rate-payers and especially those of my

own caste did not receive any attention. I entirely repudiate having embraced Non-cooperation principles. I abhor that movement. Please publish this in your newspaper. I will pay the charges on the publication.

YOURS TRULY "

- (c) A Memo: N. C. O. 1/26 of 1921 filed before us by Mr. Shrinivasrao Raghvendra in which the District Magistrate declared that he was not willing to renew his Arms licence as he was believed to be a Non-cooperationist, *i. e.* hostile to the state.
- (d) A similar N. C. O. Memo. given on 30-4-1921 to another licensee who gave his evidence in camera before us.
- (e) A formal Circular issued on the 5th of August 1921 to bring home to the ignorant masses "the serious rise in prices which may lead to disorder and looting" and the precious fact that "those consequences will be the result not of any action on the part of the Government but of Mr. Gandhi's campaign" and also to give his trusted officers "a good opportunity to distinguish themselves on the lines already indicated, in the Confidential circular of May 1921." To further prove his earnestness, he asked to send any cloth dealers who are opposed to the boycott to the Collector in his office any day from 12 noon to 2 P. M.

The foregoing speak for themselves.

Attitude of Mr. Painter, the D. M. towards picketing at liquor shops.

9. To an officer who feels called upon to carry on a propaganda against a political movement, which he believes to be dangerous, the anti-drink campaign would appear to be monstrous as it directly affects the public treasury which it is his duty to fill. He seems to have therefore taken personal interest in putting down picketing. Mr. Joshi a respectable Pensioned Government officer who is now the President of the District Congress Committee testifies to the correctness of the account published in the issue of Karnatak Vritta of 14-6-1921 (Exh. 68 Appendix I). As an instance of his hostile attitude to picketing at liquor shops we may refer to an altercation with a picket, Mr. Abdulrahman, who now figures as accused 19 in the Sessions trial, on 8th May 1921 at the Market liquor shop (Exh. 136). The Collector asked the volunteer what he would do if he (the Collector) should get his Mahomedan Sepoy to drink in his (picket's) presence. The latter retorted that he would note down his servant's name and get him punished by the Jamat. Mr. Painter then pressed his servant to drink, which he, however, refused to do, being a Mahomedan.

Non-cooperation activities in Dharwar District.

10. On the other hand there is ample evidence to show that ever since the holding of the Karnatak Conference political activity in the District has run at white heat. After the Nagpur Congress 9 National schools were started;

remotest villages in the district have now been overhauled by the Congress propaganda; *Begar* system has been attacked; Charakas have been introduced on a large scale; Rs. 38,000 were collected for the Tilak Swaraj Fund, and 25,000 members have been enrolled; 10 pleaders suspended practice, and have been devoting all their energies and abilities to promote and push on the Congress propaganda.

Liquor picketing in Dharwar District.

11. Picketing near liquor shops, begun spontaneously by the people, was taken up vigorously by the Khilafat and the Congress Committees and the personal visit of the Collector to the liquor shop may be taken as proof of its success. When the movement began with the people, there was a certain amount of violence in the shape of the drinkers being made to ride donkeys, faces being besmeared with tar. By the advice of Moulana Mahomad Ali the Khilafat took up the matter in hand. They formed Jamats in Mobullas to whom were reported the cases of those who drank. They only fined such people. As it was found that the shops could not be picketed the whole time by honorary pickets, the paid volunteers were appointed with strict instructions to avoid all violence and use only persuasion, entreaties and to simply note down the names of the drinkers being reported the Jamats. In the month of April, the Congress workers also joined the movement. As this movement began to be effective, the liquor contractors began to make all manner of false reports to the Police, to abuse and illtreat volunteers and in the end violently assaulted Mr. Guttal a pleader while picketing. Although the Police were indifferent before, since the arrival of the present D. S. P., Mr. Marston at the end of end of April 1921 there began a series of prosecutions against volunteers at several places in the district, for robbery. One of such cases against two volunteer was decided on 1st of July 1921 (Exh. 103 A) who were sentenced to six months rigorous imprisonment, because they caught the D. S. P.'s Bhangi drunk and recovered with his consent from him annas 13 as fine which was credited in the Khilafat accounts. The attitude of the trying Magistrate becomes vividly clear from the following extract:—

“...The alleged eye-witnesses of the drama that was played in front of Mr. Ankaligi's house are:—

Defence witness No. 2	Mr. Ankaligi,
“ “ 5	“ Herlekar,
“ “ 6	Dr. Kirloskar,
“ “ 7	Mr. Shamrao Deshpande,
“ “ 9	“ Babaji Nagappa

Of these the first three are men of position in the town, but they are also men dabbling in politics. Mr. Ankaligi is a pleader who has suspended his practice since the day on which Mr. Gandhi arrived in Dharwar last October

He is also a member of the District Congress Committee and one of the arbitrators selected by the Khilafat Committee to decide cases of Khilafat members who do not desire to step into the ordinary Courts of law. Both Mr. Herlekar and Dr. Kirloskar admit that they attended political and Khilafat meetings. Mr. Herlekar appeared with a Gandhi cap on, when he gave his evidence. It is therefore patent that however respectable these witnesses may be they are interested in the Khilafat cause and that their evidence in this case is on that account not beyond suspicion....” It should be noted “that on some of the days of hearing, the D. S. P. and Dy. S. P. were also present” (Exh. 103 A)

Strained relations between District authorities and local leaders.

12. Under these circumstances, the relations between the District authorities and the public leaders would naturally be strained. The vernacular press of Dharwar did not escape Mr. Painter's attention. A paper called *Karmaveer* was reported to Government and on 30th June the Collector conveyed to the editors thereof at a personal interview the warning received from Government. It is alleged that at the end of the interview the Collector frankly told Mr. Kabbur that “ he would be glad to see him in jail for one year.” Mr. Kabbur being an under-trial prisoner his evidence was not available to us. Some witnesses assert that immediately after the interview they heard Mr. Kabbur say this. (Vide Exhs. 26, 91 and others.) They are all respectable witnesses, and the knowledge of the facts stated by them would naturally come to them as Mr. Kabbur's friends and colleagues at the Bar. We therefore thought it proper to write to the Collector to give him an opportunity to meet the allegation made against him. We have had neither an acknowledgment nor a reply to that letter. In the Government communique the fact that he threatened them with imprisonment is denied but not the exact statement imputed to him by the witnesses. Therefore we are constrained to believe them and infer that the interviewes were not *persona grata* with him.

The points for determination.

13. Bearing these matters in mind we have to determine whether the firing by the Police, that took place at the market toddy and liquor shops on the night of the 1st of July resulting in injuries to 39 persons and death to three others, was ordered under reasonable and justifiable circumstances. In order to pronounce our opinion on this point we have to determine :—

- (1) Under what circumstances did the crowd collect before the liquor and toddy shops and their neighbourhood?
- (2) What was the approximate number of those who were acting in common and were not present there merely as sight-seers at the time firing took place?
- (3) What was the object aimed at by those who were acting in common?

- (4) What was done by those acting in common prior to the opening of fire by the Police?
- (5) Was any attempt made by the Police to disperse the crowd by means other than shooting?
- (6) Was any warning given that unless the crowd dispersed within a given time, it would be fired upon with buckshot?
- (7) Was the firing directed only against points where danger was expected? if not, what was the justification for firing in other directions? Did the firing cease immediately the occasion for it disappeared? If not, was the continuation of the fire justifiable?
- (8) Was the firing on the party which brought the Kitson light to the liquor shop justifiable?

The Police and Popular versions stated.

14. As to the first and second points we don't propose here to go minutely into the evidence of the witnesses who depose to various incidents when examined before the Committing Magistrate or of those examined before us. We give the general result of the evidence and determine its value. On this point, there is on behalf of the Police a large number of witnesses who assert that a crowd of 2 to 3 thousand people had assembled between 6 P. M. and 8 P. M. with the object of burning the liquor and toddy shops, destroying the Police Katchery and killing the Sub-Inspector and Mamlatdar, and reproducing Malegaon. On the other hand, the witnesses produced before us state that between 6 P. M. and 8 P. M. picketing as usual was going on before the shops, that some 50 to 100 youngsters took part in shouting "Gandhi Maharajki Jai" whenever any person came drunk out of the liquor shop, and that such person was pursued up to about the main road by them. But besides the youngsters, there were spectators whose number continued to increase as night came on.

15. On comparison of these two sets of evidence it appears quite clear that whilst the Police witnesses made no distinction between mere sight-seers and those actively participating in picketing, and therefore say generally that the whole crowd amounted to 2 to 3 thousand, a trustworthy witness like Mr. Sabnis (Exh. 36, Exh. 75 on the Committing Magistrate's record) says "Most of the crowd appeared to be sight-seers like myself but 2 to 3 hundred people in front of the liquor shop seemed to be of hostile spirit and were making a demonstration by shouts. The door of the liquor shop was closed...When I went just in front of the liquor shop, I heard a sound of a stone having fallen on its roof and did not see the people or the Police molesting each other physically." Then this gentleman, when examined before us as (Exh, 36) stated;—

"I recollect having seen Basappa that evening (1st July 1921) at my office at about 7 P. M. He looked frightened and so I asked him what the matter was. He told me that there was a row in front of the market liquor shop, as a police constable, who had got drunk, spat upon the faces of the people in front of the liquor shop and poured toddy on them; that the constable had hidden himself in the liquor shop and that the people being enraged were trying to get at him." He also said that one of the persons who had taken drink had been most roughly handled by the people... "I went with a friend of mine named A. Gaffar to the liquor shop.... We went directly in front of the liquor shop. He had to push through a crowd to get there... The crowd consisted of all kinds of people Hindu, Muslim, traders, and Bazar people including people like Government servants and teachers. Most of them appeared to be sight-seers. I saw about 20 armed constables who were lined up along the gutters. The crowd filled the space in front of the liquor shop. The liquor shop was closed at the time. When I entered the road which passes by the liquor shop I saw groups of about 10 men each standing in circles here and there talking amongst themselves. All these groups with the exception of the one in front of the shop appeared to be of sight-seers. The group in front of the shop was about 2 to 3 hundred. They were demonstrating by angry shouting, I did not care to catch the words of the shouting. As there was a regular babel of cries I was unable to carefully mark the expressions used. I enquired from one of the smaller groups why people were shouting, I was told that the crowd was trying to get at the constable who was hiding inside. The Police were quiet & no attempt to disperse the crowd was made. They were passive lookers on. I did not apprehend from what I saw and heard any harm to myself or any one else. I took out a cigar and began to smoke. There was no altercation, no one was attempting to get into the shop by force and the Police attempting to keep them out. None of the Public was molested by any one. I smoked for about 5 minutes and then went by the road to the Police Thana, Then I loitered there for some minutes...I did not hear any vocal incitement to violence, By this I mean no words inciting to violence were heard by me. Just a minute before I left, the Police left the liquor shop and proceeded to the Thana... As I was turning back homeward and had come to the corner of the Thana I saw a blaze. I saw that the tatti of the verandah was on fire. The tatti was on the edge of the verandah. I saw one of the persons in front of the shop throwing something out of a bottle. I presume it was kerosine oil as the blaze increased. As it was dark I cannot say who set the tatti on fire. Whistles began to be blown by the Police; armed constables from the Thana came running to the shop and extinguished the fire. This took only a minute. The tatti was burning only for a couple of minutes before being put out. This time the number of constables was larger...It was not conveyed to my brains by the shouts of the Police that I and others were ordered to disperse. I did not see any physical

collusion between the Police and the people on the 2nd occasion. I saw no attempt on the part of the crowd to occasion damage to property or person after fire had been put out. After this the Police formed into a double line and carried something from the liquor shop to the Police Thana for safety. I did not see what it was. Then after the constables went to the Police Thana there was prolonged blowing of whistles. I could understand that there was some communication between those blowing at the Thana and those at the shop-side. When the Police carried away something mentioned above, the shouts of the people and Police increased. I got nervous and left the place.....Just a minute after I left, I heard firing.....I heard no warning in distinct words being given to people to disperse, or otherwise they would be fired upon." We make no apology for giving this, rather a long extract, as he is the most important witness in the case and his evidence covers all the issues and is corroborated by the evidence recorded by us.

16. From the foregoing we come to the conclusion that though there may have been a crowd of thousand or even more present, the portion, independent of the mere sight-seers, amounted to between 2 and 3 hundred.

17. The fact that Mr. Sabnis had heard nothing on the occasion which could convey to him that violence was intended or did not see any incitement shows that whatever may have been the object, it certainly was not to burn the liquor shop or Thana, or to kill the Police Sub-Inspector or cause injury to any person or damage to property. All the evidence that has been adduced before us goes to show that at about 5-30 p. m. picketing was going on and that besides the volunteers there was a band of youngsters who probably hooted and jeered at those who came out of the shop after having had [a drink, that towards the evening the numbers about the liquor shop began to increase, and that a large crowd really gathered only after armed constables had been placed to guard the liquor shop and the Police whistles were blown and bells were rung after a blaze had been seen at the liquor shop, with the result that a much larger crowd of sightseers was attracted to the place. It is also clear from Mr Sabnis' evidence as well as those who had gone to the spot earlier than him (Exhs. 47, 84 and others) that the crowd in front of the liquor shop had been irritated on account of the fact that one Police constable who had got drunk behaved mischievously by throwing toddy, bits of earthen pots and some stones from behind the liquor shop. (Ex 47 and others). We feel pretty certain that it was by reason of the knowledge of this incident that the Police did not take any serious notice of the conduct of the crowd. Had the crowd been pelting the Police guard with stones as alleged, they, during those two hours, would certainly have made an effort to arrest some of the leaders.

18. Although the Police at the liquor shop remained quiescent between 6 P. M. and 8 P. M. we find that from about 6 o'clock the Police officers began

to make alarming reports alleging stone throwing, violence and arson, as appears from the evidence of Shankar (Exh, 31 C. M.) and that by about 8 o'clock they collected on the spot nearly 100 armed constables, not to speak of many unarmed constables in uniform and those in plain dress who were already mixed up with the crowd. It is alleged that the information was sent to the D. M. and D. S. P. How exaggerated was the report would be clear from the evidence of them both. The D. S. P. stated "At 8-10 p. m. I received a message through a cycle orderly asking me to come at once as there was a very serious riot going on in the town and the *whole town was in flames.*" (Exh. 102 C. M.) The Collector received this information in this alarming form through the D. S. P. (Exh. 96 C. M).

19. It is to be noted that the firing took place at about 8-20 P. M. according to Mr. Patwardhan who looked at his wrist watch the moment he heard the report of firing (Exh. 79 of our record). If so, it was clear that the Police were spreading rumours about the town being aflame even before any attempt to set fire to the tatti had been made. Similarly whilst there was really no stone throwing on the police, a report was falsely made to that effect. Had stones been flung and commenced to be flung from something like 6-30 P. M. to 8 P. M. it is impossible to conceive, looking to the size and weight and number of those exhibited in Court that any of the Police constables standing before the liquor shop, and the people standing round about the shop would have escaped serious injury. A table showing the size and weight and quantity of stones exhibited will be found in Appendix II. It distinctly appears that though in reality there was no pelting of stones of the violent character spoken to by most of the witnesses for the prosecution, the Police were laying a foundation for a story in which violent pelting with big stones and arson were to form its principal exciting incidents.

20. At this place we may refer once for all to the panchanamas prepared some time after the fairing. Two men, Venkatesh Dinkar Tiwari and his brother Sitaram were made to act as panchas in four matters namely, regarding (i) the corpse of a man and the body of a living boy, (ii) one other corpse, the condition of the liquor shop, the injury to Shivlingapa (See Exhs. 99 A, 99 B, 99 C, 99 D. Committing Magistrate's file) The panchanama (Exh. 99 A) is signed by Venkaji Annaji Kulkarni and the said two brothers. Then it seems some discussion took place as to what was to be written in the panchanama regarding the condition of the liquor shop. The witness Venkatesh Tiwari (Exh. 121 on our file) did not agree to the description dictated by the Sub-Inspector Shivalingpa. It was said that the toddy and liquor shop was burnt; the witness challenged the statement. Then it was said that the tatti was burnt; the witness questioned the correctness of the statement by saying that he saw no tatti having been burnt but that some rags were lying in the

gutter. It was said that heaps of stones which had been thrown were lying on the road ; the witness again disagreed saying that the stones on the road were those he found there every day. It was said the door was broken and thrown ; whereas the doors of both the shops were there. It was said that a post had been removed ; but as a matter of fact, no post had been removed. The witness, no doubt said that there was a hole in the tatti but he was unable to find any marks of its being burnt. The witness did not see a single stone lying in the verandah. He said that it was not true that the tatti had been reduced to pieces as the result of fire. He further added that no door had been removed from its hinges ; that the clock was going on at that time ; that nothing had been broken, not even the dial ; and that the cash was in the till and not scattered about ; that there was no dhotar which had been burnt but that a white rag a cubit long which was picked up by a boy from the gutter was found to be a bit burnt : that no damage had been done to the tiles. When the Collector, D. S. P. and A. S. P. found the witness raising objections they told the constable to omit his name from the panchanamas. This accounts for the omission of this witness's name from the other panchanamas. The witness also says that at the time the panchanama (Exh. 99 D.) was prepared, it was said that the blood was flowing out of the wound over the left eye-brow of Shivalingpa causing stains on his dress. But he said that he saw neither blood flowing nor any stains on the dress. He states that his brother objected to sign the panchanama but as the Sub-Inspector frowned at him he signed the panchanama. This witness is in the employ of the S. M. Railway in the Audit Department getting Rs. 80 a month. Dr. Kirloskar (Exh. 25 before us) fully corroborates the absence of any bleeding from Shivalingappa's eye-brow or stains of his dress. He also says that he saw no stones scattered about the road. We are not able to square the fact of Mr. D'Sylva's having collected such big mass of stones with the absence of any marks of injury anywhere on the walls or other objects in the shop. Nor do we understand the object of the hot haste with which the stones were collected in the dead of the night, & the omission of essential details as to where the stones were collected from, the size, weight and quantity thereof, the approaches to the liquor shop being closed for 2 days (vide Exhs. 31, 47, 54, 60, 62, 63, 82, 84, and 114). No reason is given why the stones were not collected in the presence of the panchas. Exh. 145 is a snapshot photo taken at 5 P. M. on 2nd of July; it certainly does not show such great damage to the tiles as the prosecution witnesses and panchanama try to make out. It may also be pointed out here that the clock could not have been damaged in reality upto the time of the panchanama as the hands indicated 2 minutes past 11, when the clock was before the Sessions Judge, for which no explanation has upto the moment appeared before the Sessions Court. It is to be remembered that the panchanama went on only till some time past 10 P. M. It is alleged that the shop had been looted but the facts

that Rs. 10-2-9 were found in the till and that the jacket containing the watch was untouched disprove any attempt at looting. If any cash was missing there is nothing to connect its loss with the crowd. We regard therefore the pancha-nama and the other evidence brought forward to prove the damage to the shops with the greatest suspicion possible. It seems to us that the evidence has been created simply in order to afford some kind of defence for the firing that took place.

21. We may note at this place that it is extremely suspicious that a most serious riot had been going on for something like two hours without any news about it having been conveyed to the D. S. P. or the D. M. or any other Magistrate till just about the time when the firing took place. Either no information was sent because in reality nothing serious had taken place or a deliberate attempt was made with some sinister object in view to keep the higher officials in the dark about these serious happenings. On a consideration of the aforesaid evidence we come to the conclusion that none of the circumstances alleged by the Police to prove violence on the part of the crowd and looting had been proved. We have grave suspicion that it is faked evidence got up to justify Shivalingapa's ordering fire on the crowd.

Findings on points 3 & 4. Considerations of evidence adduced to prove the presence of leaders at the riot.

22. In regard to points 3 & 4 we are of opinion that the evidence given before us goes to show that a part of the crowd assembled there for the purpose of picketing, and that the other much larger part consisted of sight-seers; that at no time before the firing was there any intention on the part of that section of the people which was actually picketing to commit violence of any kind against person or property that the number of such active portion of the crowd which got interested in picketing never exceeded 300; that the whole crowd could not have assembled with any common intention is apparent from the fact that it did not consist of persons interested either in the Khilaphat or Congress movements. (so that they could be expected to show resentment on account of the conviction of the two volunteers,) but Muslims, Hindus, traders, Government servants, teachers and such others. It might be argued that with the presence of so many of the popular leaders (alleged to have been present) by itself shows there was some common object to bring them together on that common occasion. As against this, it may be noted that a notice had been issued that very morning announcing a public meeting under the auspices of the Khilaphat and Congress committees, in accordance with which, as a matter of fact, this meeting was held on the Khilaphat ground. It lasted from 6-30 p. m. At that meeting a large number Hindu and Muslim leaders who were interested in the Khilaphat and Congress movements was present and some were taking active part in the meeting. On this point we feel no hesitation in believing

the statement of witnesses like Mr. Joshi the President, Mr. Hukkerikar the Secretary of the District Congress Committee and such others as were present in the meeting and the evidence of gentlemen belonging to liberal professions & honourable walks of life, who assert the presence of all the leaders and other people who are now under trial in the Sessions Court, excepting the two volunteers, either at the meeting or elsewhere at the time when the alleged riot was in progress (see appendix III). As against the evidence consisting of five doctors (four of whom are medical graduates), three Government pensioners of whom Mr. (Rao Bahadur till he renounced the title in obedience to Congress Mandate) Joshi is one, 17 pleaders, 10 traders, three bankers, four college students, 15 youths below the age of 16, the rest agriculturists and landlords, there is the police evidence which consists in all of about 100 witnesses of whom 24 belong to the Police department, 31 are Lingayats, 10 liquor contractors and their servants, 10 Government servants and 19 of other description. The witnesses examined before us are such that they would carry weight in any Court of law which was not obsessed with the idea that a nationalist as such was untrustworthy.

23. We have further to remark that there can be little doubt that attempts have been made to get up evidence against the accused and this has been clearly established by the fact that Mr. Krishnarao Mudvedkar (who was kept in custody as under-trial prisoner for 23 days) was ultimately found from police records themselves to have been holding a Kirtan at Halyal 21 miles away at the time of the alleged rioting in Dharwar. When he applied for bail the application was refused on the express ground that there were 19 witnesses against him. This leads to the presumption that the witnesses against him were tutored, and if so, there is no guarantee about the veracity of other witnesses who have come forward to implicate those accused persons who are proved by respectable and honourable witnesses to be away from the scene of the rioting. We also find that three witnesses (Exhs. 45, 46 & 80) have been produced before the committing Magistrate to implicate 16 of the accused against whom the Magistrate has relied, amongst others, on these witnesses, notwithstanding the fact that they implicated Mr. Vinayakrao Joshi in the riot, one of them going so far as to say that "Rao Bahadur Joshi said, 'Come what may, attack the Police'," after the Kitson light was placed on the ground, although Mr. Joshi was away, after the dissolution of the meeting at Dr. Shirhatti's dispensary. Evidence of such character is not difficult for a police officer who finds himself in such a quandary as Shivalingappa found himself in, after the firing. Mr. Shivalingappa does not appear to be a person of such high character that we could not suppose him to be capable of doing such things as the four judgments filed before us go to show (see exhs. 137 to 140 before us). Not only does the credibility of evidence given before us outweigh

that given on behalf of the prosecution but it receives further confirmation from the very fact that most of the accused are men of such character and position, and have so behaved themselves in the past that in the absence of most convincing evidence it is incredible that they would play the part of hooligans as assigned to them.

24. It is worth noting that while the two accused who were admittedly present on the scene were wounded not a single accused on whose behalf the evidence of alibi has been given, has received any injury. We are unable to see herein a mere lucky accident as the police would naturally be expected to fire on leaders who were exciting the crowd.

A general finding on points 1—4.

25. The foregoing facts merely establish that although nothing more serious than picketing was going on, the behaviour of one police constable had created at the most a certain amount of excitement amongst some of those who were near the two shops.

Finding on point 5.

26. As to point 5 the question is whether the crowd as well as the sight-seers could have been dispersed by means other than firing. We think that there was nothing to justify the police in believing that it could not have been done by employing the ordinary methods. In this connection we have to note that according to Shankar (Exh. 31 C. M.) the men at the Thana and the police lines behind the thana numbering some 20 or 25 were reinforced from the Head quarters and the total number at the time of the firing reached the figure of about 100 men, not counting such unarmed constables as were in the thana itself or in the crowd. A force of this dimension would easily have coped with a crowd of 3 to 4 hundred people without the use of arms, especially noting the fact that it is neither the case for the prosecution nor the defence that any portion of the crowd either before the liquor shop or elsewhere was armed.

27. In this connection we might further mention the fact that the crowd which had commenced to assemble from 5 o'clock at the earliest was at no time asked by the police to disperse and no serious steps were taken to enforce such an order, if made. On that day the unusual precaution of stationing armed police guard before the shop had been taken. Mr. Sabnis found the police guard at the shop when he went there. If the police had in reality apprehended any violence they would not have kept quiet till 8 o'clock. We would have found some arrests made on the spot of leaders who are alleged to have been indulging in hooliganism. We find that the crowd before the brandy shop dispersed quietly on being told to do so and we see no reason for supposing that the crowd before the liquor shop would have acted otherwise

had it been peacefully brought home to them that the police really required it to break up and go away. To us it appears that as the police themselves were not in any way attacked, they remained passive and indifferent.

28. As to the circumstances under which the order to fire was given, the important evidence is that of Shivalingapa himself (ex. 94). He says "Hanmant Inspector took the accused away to the jail under escort; the crowd followed them putting flowers over them and shouting. I went half way and heard people crying that they should not spare the Mamlatdar. I returned to the Mamlatdar's Court. I left there two constables and a head constable for bandobast and returned to my office, the city police station. I went to investigate another offence in Haveripeth after that. I returned to my office. There Maneckji's man came to me and told me that stones were thrown on Maneckji's bungalow and his servant assaulted and I should come. I went to Maneckji's bungalow. Stones were lying in Maneckji's compound. He showed them to me. He also told me that his man was beaten and sent to hospital for treatment and that note to this effect had been sent to the D. S. P. He told me that there were many people who went away shouting and I asked him to file a complaint. He said he was afraid and "think of the people against whom I shall have to proceed." I then went to tell all this to the D. S. P. He was not in his bungalow then. Then after a little the D. S. P. came and I told him all the facts. Then I returned. It was then about 7 P. M. when I left the bungalow. I came to my house. I heard the great noise from the direction of the liquor shop. A cycle orderly came to me. He told me that the agitators were creating a disturbance and that the clerk has sent him for me. He also told me that people were looting and beating the police. Then I sent the orderly to bring the D. S. P. I dressed and went to the office. After I went to the office I saw Mr. Merwanji Karaka."

(" Question. Is he not the complainant in this case ?

Answer.....Complainant. ")

He gave me a written complaint. I registered it.

Then the 2nd sub-inspector came. He told me that rioters were throwing stones on tiles and were setting fire to the shop and that it was impossible for the police to stay there as they were being beaten and the disturbance was increasing. Kalya walikar told me that agitators were talking about setting fire to the police station and to my house. Then I told the clerk to send for the D. M. I taking 10 to 16 armed constables went to the place of disturbance. I pushed the rioters back and made my way through them, There were many people inside the liquor shop and many were standing outside. I told them to disperse and not to make disturbance. I told them this 2 or 3 times and pushed them, They did not obey. They shouted " The sub-inspector who

got the volunteers convicted is come. Burn. Do an incident like Malegaon. Beat him. The sub inspector is in our hands today. Don't let him go. Burn him along with the liquor shop and his katchery." Then they threw stones and tiles on me. I then warned them that if they did not disperse at once, I should fire. Two or three times I warned them. They said. "The sub-inspector has no power to order fire without permission of Magistrate." Stones were thrown. One stone hit a constable who fell as if dead. I thought that he was dead. The police carried him back to the police station. A stone hit me on the left temple. Another stone hit me. Some stones hit the constables. The people were shouting "Burn him. Do not spare him today" Then I ordered fire. Thinking that I and the Police and the police station and bungalows and market would not be spared, I ordered fire. Constables fired in the air because the people pressed close all round. Then people shouted "It is blank fire. Don't spare him; take his life." I moved about 10 paces and the crowd came upon us. Again I ordered fire. The fire hit the people who scattered in all directions backwards. I came and stood near the police katchery by the cross roads. Within ten minutes some ten people came with Kitson light. They placed the lamp down and seeing the dead bodies cried "There are corpses; now don't spare them; let him kill as many as he likes go on: enter katchery; burn him; burn the katchery and bungalows." They again threw stones at me. I again ordered fire. When they came upon me I told them not to do so. They replied "We don't care for our life. They put down the Kitson light (in an undertone). Then I ordered fire again.

By Court.....The people who brought Kitson light put it down near the dead bodies and come towards us. They would kill the police today. The Kitson light was left where it was first placed and the people ran away after firing."

29. From this statement it appears that he came to his house at about 7 o'clock and from there he heard a noise in the direction of the liquor shop; a cyclist informed him that the agitators were creating the disturbance and that the clerk wanted him as the people were looting, and beating the police. If there be any truth in this statement, it is difficult to imagine why instead of proceeding at once to the place where the trouble was brewing, all he did was to send an orderly to the D. S. P. and then dress and go to his office and then take Karaka's complaint, and register it. It was only when he was again told that stones were being thrown and shops were being burnt and that it was impossible for the police to stay there, that he took 10 to 16 armed constables to the place of disturbance. He was able to push his way through the crowd and tell people to disperse, Had the crowd been in a mood to do any such harm as the deposition of Shivalingapa would make it appear, he could not have remained alive for a moment. The people through whom he passed would not have suffered him to pass along without giving effect to

their alleged threats. We totally disbelieve the allegation that the people shouted "the sub-inspector who got the volunteers convicted has come; burn, do an incident like Malegaon: beat him; the sub-inspector is in our hands today; don't let him go: burn him along with the liquor shop and the katchery;" Then he says he warned them two or three times that if they did not disperse he would fire. It was after he and other constables were hit by the stones and the people continued shouting "Burn him, do not spare him today," that he ordered fire, thinking, he says, that "I and the Police station and the bungalow and market would not be spared I ordered fire."

30. We have already shown above that the crowd had not assembled with any sinister motive and that it had occasioned no hurt worth mentioning to any one between 6 P. M. and 8 P. M. and therefore we cannot accept either Shivlingappa's or any other prosecution witness' story about the cries and the attack on the Police. From the evidence we find that out of the large Police force 9 constables who went to the Civil Hospital on the night in question, were supposed to have been injured by the stones pelted by the mob. As a matter of fact out of these four bore no mark of injury whatever; of the other the Sub-assistant surgeon of the Civil Hospital who examined them does not say that their injuries were such as could be caused by the stones thrown at them. In no case was the injury more than a mere abrasion of the skin. In the case of Babli (Exh. No. 43 C. M.) another constable alleged to have been knocked unconscious by the stone hitting on the chest, all we can say is that there is nothing in the case to prove that the slight swelling of the right chest was occasioned by a stone. Even supposing it was, it is impossible to say whether the stone was one thrown from one amongst the crowd or from behind the liquor shop. Supposing he was hit by a stone thrown by some one in the crowd there is nothing to show that the stone was of a size which could inflict on him any very serious injury. We have not been able to get his case. It is significant that although his case is certainly more important than that of any one else, it has not been exhibited like those of others in the Magistrate's Court. In the medical certificate it is shown that he had some swelling supposed to have been caused by being struck by a blunt substance. We are unable to believe that his injury was in any way serious. He swears that he remained unconscious till 6 A. M. next day on that account, although the medical certificate says that he became conscious half an hour after admission (see Exh. 43 Babli, and Ex. 95 A Medical certificate C, M.)

31. We have already shown that the injury which Shivlingappa is said to have received was so trifling that neither Dr. Kirloskar nor the witness Exh. 12 was able to notice any injury on his eyebrow, and that the alleged blood-stained dress also was not produced. It might well be therefore that the injury found on his face at 1 A. M. was really caused not during the alleged

riot but much later. Supposing that he was slightly injured, still that by itself, in the absence of any attack on the Police on himself by any part of the crowd, would not be sufficient to justify firing. The fact that the firing took place immediately after he was hit would go to show that he ordered firing really as a punishment for the assault on himself, not under the necessity occasioned by the doing of an unlawful assembly. There having been in reality no imminent danger either to himself or to his costables, no question of self defence could arise in this case.

32. One of the reasons alleged in justification for firing was the setting fire to *tatti* with the intention, it is alleged, of burning down the liquor shop. On the one side it is alleged that the accused No. 20 Abdulrahiman and some others set fire to the *tatti* three times and that the Police put out the fire three times. It is to be noted that in the shop there were several persons including three armed Policemen within closed doors. Outside the shop from early in the afternoon there were armed Policemen who stood on the edge of the gutter between the *tatti* and the mainroad. We are unable to understand how any one could have gone from the crowd through the Police guard and attempted to set fire. On the other hand we have the evidence of Mr. Sabnis that when he was standing near the Police station he saw a man standing on the road pouring some liquid from a bottle which caused the blaze. He further says that immediately a posse of Policemen ran up from the station. Then the whistling followed. Next came the conveying of something mysterious between two rows of Policemen. Then the fire was opened, one round following the other in quick succession. Most of the witnesses before us who went there like Mr. Sabnis entirely corroborate him. Curiously enough long before the alleged attempt the Police had been promulgating the news that the town was ablaze, and we therefore cannot help feeling a strong suspicion that the incendiary was a policeman. We have already shown that without there being any occasion for the employment of a great force, Shankar the Head Clerk, (Exh. 31) had begun at 6-30 P. M. to collect an armed force over and above what he himself possessed at the Thana. Within one hour and a half he seemed to have collected over a hundred men and after these have been collected the incident of the fire is noted, and very shortly after the fire takes place. Lastly it is most extraordinary that the *tatti* should be set fire to in the very presence of the Police and that too armed without any attempt to arrest the persons who are alleged to have attempted arson. Taking this fact with present condition of the *tatti* we are disposed to believe the witnesses who deposed before us that the blaze was caused by some liquid flung on the *tatti* by the police. Complainant insinuates that the *tatti* was very much bigger than it is now. We saw during our inspection the mark of the nail used for tying the upper end of the *tatti*. That exactly corresponds with the height of the

shorter *tatti*. So also while the Police witnesses attribute the setting on fire of the *tatti* to Abdul Rahman and say that he used a small piece of cloth to kindle the fire we find a Dhotar produced as the one used for that purpose. For all these reasons we conclude that there is no positive evidence on record to prove that the *tatti* was attempted to be burnt by any member of the crowd but there is evidence that it was an act of the police. And even if some persons in the active crowd did attempt to set fire to the *tatti* it could not justify shooting as the fire had already been put out. The Police could have safeguarded any future attempt.

33. After careful consideration of the evidence before us, we think it fails to prove that Shivlingappa's order to fire was occasioned by any real necessity.

Finding on point 6.

34. In regard to point No. 6 the evidence is conflicting. On the one side it is asserted that warning was given before firing and on the other this is denied. We do believe that he must have asked people to disperse; but we doubt that he warned them of the firing. This doubt is considerably strengthened by the evidence given before us that it was he who shot first in the air, so as to mislead the people that the firing was a sham which he ought to have known was forbidden by law. Whatever he did before the first firing, it was not alleged even by the Police witnesses that any sort of warning was given before the second firing. (See ex. C. M. 33, 34, 35, 36, and 38)

35. Moreover the Sub-Inspector did not give time to disperse. The crowd mostly consisted of boys & people of diverse classes such as gather at the evening Bazar of every big town. It is inconceivable that they would not have taken to their heels if they had realized the danger that was ahead. No officer can be justified in ordering a crowd to disperse and then fire at the next moment without waiting to see whether the crowd would disperse peaceably or not. Had the warning really reached the crowd we would not have found Policemen in plain dress or the two Municipal officers remaining there to be shot as has been proved by a Police witness. (Exh. No 78 and Mr. Joshi (Exh. No. 114) and the two Municipal employees, Exh. 47 and 48.)

Point 7 Considered

36. As to point 7, according to Mr. Sabnis the people were standing at or near the entrance to the Thana at one end and the toddy shop at the other. In other places there was a sprinkling of groups of about 10 men each. We find that the people who were standing at a considerable distance from the liquor shop were hurt. It has never been alleged that the people between the Thana and the cross-road in any way obstructed or showed any signs of hosti-

lity towards the Police. Similar was the case with those standing on the open ground. So that if firing was necessary to cause a dispersal of the mob in front of the liquor shop, there certainly was no justification for firing in directions other than that of the liquor shop. And yet the evidence of the wounded persons and of others shows that the firing was not confined to one direction.

37. The prosecution admit that 42 were shot out of whom three died. Of the remaining 39,27 have been examined either before us or before the local Congress Committee and 5 before the Magistrate. (Total 32) The statement annexed (see Appendix No, IV) contains an analysis of the caste and other details of the 24 shot near about the liquor shop; 2 on the Arur lane, 10 on the market road, 3 near the latrines on the Jakani bhavi road. Such firing was totally unjustifiable even though the firing towards the liquor shop may have been.

38. Witnesses have stated that a squad standing on the raised varandah of the Thana also fired. This is corroborated by the large number of men shot on the market road. The Arur road runs north to south between the Police station and the liquor shop. No shot could possibly have gone that side unless the gun was purposely turned in that direction. The witness Exh. 23 says when he was shot he was standing at point 2 beyond the Joshi's house where Mr. Sabnis sought shelter thinking it a safe place to go. This evidence shows that Mr. Sabnis owed his escape to sheer good luck. One witness deposed that he counted 50 shots on that occasion. To scare away an unarmed rabble consisting of boys and peaceful Government servants and traders and according to the Police, some Brahmins, one tenth of the number would have been more than enough. We wanted to know the actual number of rounds fired by the Police and so wrote to the District Superintendent of Police to supply us with the information. He had not the courtesy to supply us with information or to even acknowledge receipt of our letter. The excessive shooting seems to support the contention, that the object was not maintenance of public peace but the teaching of a severe lesson to the people.

Point 8 considered.

39. As to point 8 the evidence on our record clearly indicates that the people had gone there for succouring the wounded. We disbelieve Shivalingappa's assertion that he warned the people not to push forward or else he would open fire. Dr. Shirhatti and other witnesses examined before us state positively that on questioning Chavangouda and another Municipal clerk (both Lingayats) as to where they had received the wound they were told that it was near Kitson light when they had accompanied it to succour the wounded. The evidence of these witnesses is corroborated by the direct testimony of eye-witnesses who depose having seen these two lingayat witnesses near the Kitson light. (Exh.

No. 32 and 35 on our file). Undoubtedly both of them have resiled from this position before the Committing Magistrate. We, however, are unable to give much weight to their present story for one reason, amongst others, that it is extremely unlikely that these two Municipal officers would rush into the midst an angry crowd and remain there to be fired upon. This allegation in their statement had to be made in order to give some appearance of credibility to Shivalingappa's assertion that the firing after the Kitson light was brought was rendered necessary by reason of a rush made by the crowd. The fact of their presence at the Kitson light would at once render such a story extremely improbable. We are unable to believe that men, unarmed as they were, would in the face of the tragedy that had already taken place and a threat that is alleged to have been offered by Shivlingappa, have been bold enough to make a second attempt.

40. Our conclusion is that the firing ordered by the Sub-Inspector Shivalingappa on the evening of the 1st July 1921, on the crowds assembled before the liquor shop and its neighbourhood was unjustifiable and far too drastic and excessive to meet the requirements of the situation and that the firing after the Kitson light was brought on the scene by people who came to succour the wounded was absolutely brutal and without even a semblance of a justifying necessity.

DHARWAR,)

31-8-1921)

Sd/- Abbas. S. Tyabji.

Sd/- S. S. Setlur.

Sd/- M. B. Niyogi.

16. Sheik Mohidin Allisab Darji.
Secretary, Khilaphat Committee.
17. Abdulla Hussensab Khalasi.
Chairman, Khilaphat Committee.
18. Abdulkhadar Hayatsab Attar.
Member, Khilaphat Committee.
19. Mahomedhussen Khadarmohdin Rotiwala.
Volunteer, Khilaphat Committee.
20. Abdulrahiman Abdulsalam Rotiwala.
Member, Khilaphat Committee.
21. Govind Guracharya Guttal B. A., LL. B.
Pleader.
22. Hanamantrao Ramrao Desai, B. A., LL. B.
*Inamdar, Pleader, Municipal Councillor,
and Member, District Local Board.*
23. Gopal Dhondrao Deshpande,
Inamdar, Municipal Councillor.
24. Narasing Narayan Bhise.
Congress Propogandist.
25. Shalambhat Khandbhat.
26. *Abdulkhadar Langoti.*
Volunteer, Khilaphat Committee.
27. Madarsab Hussensab Katgar.
28. Abdul Vajuddin Daroga.
Volunteer, Khilaphat Committee.
29. Budan Chandulal Chapparband.

* Prosecution against No. 15 was withdrawn and No. 26 was discharge
by the Committing Magistrate.

APPENDIX I.

Translation of the extract in Karnatak Vritta dated 14th June 1921 from the leader entitled " For idiots distruction befalls in manifold ways " EXTRACT;

On account of the change in the person of the Police Superintendent here there are clear signs that the conduct of all the persons in the Police Department seems to have changed. Our conscience refuses to believe that the Police are interested in preserving pure justice. This we say from their conduct in inducing people to drink more and more, from their open and secret assistance to liquor-contractors and from the astonishing enthusiasm which the D. S. P. shows in the case against the Khilafat volunteers. From many actions of the Police, it appears that there is a sort of licence granted by D. S. P. to the drunkards among the police constables to drink to their hearts' content and to create nuisance as they like. We can not help thinking from these circumstances and the obstinate conduct of the D. S. P. in the matter of passing of the Tangas that the principal motive underlying the whole affair is the anger due to the Tangavalas' abstaining from drink. Moreover we hear that D. S. P. plainly told the Tangavalas that there would be no delay in getting their passes if they again took to drink as before. In these days of lack of sense on the part of the beauracrats we can not disbelieve this alleged statements of D. S. P. We can not but declare therefore that our D. S. P. has been doing a meritorious act of forcing liquor down the throats of the Tangavalas and enriching the coffers of the liquor contractors by taking the money out of the pockets of the Tangavalas.

True translation.

Sd. *K. H. Mudhavedkar.*

The original of the above:—

ನಮ್ಮಲ್ಲಿಯು ಪೋಲೀಸಸಾಹೇಬರ ವ್ಯಕ್ತಿಗಳು ಬದಲಾದಂದಿನಿಂದ ಇಲ್ಲಿಯ ಇಡೀ ಪೋಲೀಸ ಖಾತೆಯ ಬಣ್ಣವೇ ಬದಲಾದಂತೆ ಸ್ಪಷ್ಟ ಲಕ್ಷಣಗಳು ಕಾಣಹತ್ತಿವೆ. ಜನರನ್ನು ಸೆರೆ ಕುಡಿಯಲಿಕ್ಕೆ ಹೆಚ್ಚು ಹೆಚ್ಚು ತಂದು ಹಚ್ಚುವ ಪ್ರಯತ್ನಗಳೂ ಕಂಟ್ರಾಟದಾರನಿಗೆ ಒಳಹೊರಗಿಂದ ಕೊಡುವ ಸಹಾಯವೂ ವಿಶಾಫತ ವ್ರಾಟೆಯರ ಮೇಲಿನ ಖಚ್ಚಿಲ್ಲದಲ್ಲಿ ಈಗಿನ ಸುಪರಿಂಟೆಂಡೆಂಟಸಾಹೇಬರು ತೋರಿಸುವ ವಿಚಿತ್ರ ಹುರುಪೂ ಇವೆಲ್ಲವುಗಳ ಮೇಲಿಂದ ನೋಡಿದರೆ ಶುದ್ಧವಾದ ನ್ಯಾಯರಕ್ಷಣೆಯ ಕಡೆಗೇ ಇವರ ಪ್ರವೃತ್ತಿ ಉರುವದೆಂದು ನಂಬುವದಕ್ಕೆ ಮನಸ್ಸು ಒಡಂಬಡುವಂತಿಲ್ಲ. ಪೋಲೀಸರೊಳಗಿನ ಶರೀ ಕುಡುಕರಿಗೆ ಯಥೇಷ್ಟವಾಗಿ ಮದ್ಯವನ್ನು ಕುಡಿದು ಬೇಕಾದಂತೆ ಗೊಂದಲ ಹಾಕುವದಕ್ಕೆ ಸುಪರಿಂಟೆಂಡೆಂಟ ಸಾಹೇಬರಿಂದ ಒಂದು ಬಗೆಯ ಲೈಸೆನ್ಸೆ ದೊರೆತಂತೆ ಇಂಥವರ ಅನೇಕ ವರ್ತನಗಳ ಮೇಲಿಂದ ಕಂಡು ಬರುತ್ತದೆ. ಈ ಎಲ್ಲ ಸಂಗತಿಗಳ ಜೊತೆಗೆ ಟಾಂಗಾದವರ ತಪಾಸಣೆಯ ವಿಷಯದಲ್ಲಿ ಪೋಲೀಸ ಸಾಹೇಬರು ತೋರುವ ದುರಾಗ್ರಹವನ್ನು ಇಟ್ಟು ವಿಚಾರ ಮಾಡಿದರೆ ಟಾಂಗಾದವರು ಸೆರೆ ಕುಡಿಯುವ ದನ್ನು ಬಿಟ್ಟಿರುವೆಂಬ ಸಿಟ್ಟೇ ಇದರಲ್ಲಿ ಮಹತ್ವವ ಮುದ್ದೆಯಾಗಿರಬೇಕೆಂದು ಭಾಸವಾಗದೆ ಹೋಗಲಾರದು. ಮೇಲಾಗಿ “ನೀವು ವೊದಲಿನಂತೆ. ಸೆರೆ ಕುಡಿಯುತ್ತಿದ್ದರೆ ನಿಮಗೆ ಲೈಸೆನ್ಸೆ ದೊರೆಯಲಿಕ್ಕೆ ತಡವಾಗಲಾರದು.” ಎಂದು ಸಾಹೇಬರೇ ಬಾಯಿಂದ ಸ್ಪಷ್ಟವಾಗಿ ಆಡಿದರೆಂದೂ ನಾವು ಕೇಳುತ್ತೇವೆ. ನಮ್ಮ ಅಧಿಕಾರ ವರ್ಗದ ವಿವೇಕ ಭ್ರಷ್ಟತೆಯ ಈಗಿನ ಕಾಲದಲ್ಲಿ ಪೋಲೀಸ ಸುಪರಿಂಟೆಂಡೆಂಟ ಸಾಹೇಬರು ಹೀಗೆ ಅಂದಿರಲಾರರೆಂಬ ಸಂಶಯವೂ ನಮ್ಮ ಮನಸ್ಸಿಗೆ ಹೊಳೆಯುವದಿಲ್ಲ. ಆದದರಿಂದ ಧಾರವಾಡದ ಬಾಡಿಗೆಯ ಟಾಂಗಾದವರ ಬಾಯಿಯೊಳಗೆ ಜುಲಾಮೆಯಿಂದ ಸೆರೆಯನ್ನು ಹಾಕಿ ಅವರ ಮೂಗು ಬಿಗಿ ಹಿಡಿದು ಅವನ್ನು ನುಂಗಿಸಿ ಅವರ ಕಿಸೆಯೊಳಗಿನ ರೊಕ್ಕವನ್ನು ತೆಗೆದು ಕಂಟ್ರಾಟದಾರನ ಗಲ್ಲೆಯೊಳಗೆ ಹಾಕುವ ಪುಣ್ಯ ಕರ್ಮವನ್ನು ನಮ್ಮ ಈಗಿನ ಸುಪರಿಂಟೆಂಡೆಂಟ ಸಾಹೇಬರು ಆರಂಭಿಸಿರುವರೆಂದು ಹೇಳದೆ ನಮಗಂತೂ ಗತ್ಯಂತರ ತೋರುವದಿಲ್ಲ!

APPENDIX II.

Weights of Stone and tile bags.

BAG No.	MARKS.				WEIGHT.				
					M.	lbs.	tolas.		
1	14	I. L. A. H. N.	Hanagal	Stones	...	...	6	6	16
2	N. Navalgund	Urban	...	Do	...	...	6	20	16
3	10	H. N. B. M. M.	...	Do	...	...	7	6	16
4	N. on both sides	...	...	Do	...	...	6	24	16
5	No. 5	...	...	Tiles	...	...	6	8	16
6	No. 6	N. S. G. T.	Dharwar	Do	...	...	6	16	22
7	No. 7	Do	...	Do	...	...	5	18	14

Some of the individual Stones—their weights.

No.	CIRCUMFERENCE.				WEIGHT.					
					M.	lbs.	tolas.			
	Ft.	Inch.	Ft.	Inch.						
1	3-	2	×	2-	1	...	1	18	4	
2	1-	4½	×	1-	½	flat stone	...	1	5	31
3	2-	2	×	2-	6½	...	...	1	2	22
4	2-	2	×	1-	10½	...	...	0	17	19
5	2-	1	×	0-	10¾	...	...	0	5	38½
6	1-	11½	×	1-	4	...	...	0	7	25½
7	1-	6	×	1-	6	...	...	0	8	14
8	1-	9	×	1-	6	...	...	0	8	26½
9	1-	11	×	1-	3½	...	...	0	9	22½
10	1-	8¼	×	1-	1½	...	...	0	7	22
11	2-	2	×	1-	6	...	...	0	13	9
12	1-	11	×	1-	5½	...	...	0	8	24
13	2-	3	×	0-	10½	...	...	0	5	31
14	2-	10	×	1-	9	...	...	0	21	33
15	1-	6	×	1-	7½	...	...	0	10	31
16	2-	9	×	1-	5	...	...	0	16	7
17	2-	2½	×	1-	5¼	...	...	0	10	26
18	2-	0	×	1-	11¾	...	...	0	23	35
19	2-	1½	×	1-	6¾	...	...	0	15	8½
20	1-	11	×	1-	6½	...	...	0	14	0
21	1-	10½	×	1-	6	...	...	0	8	34
22	1-	9	×	1-	6	...	...	0	7	38
23	1-	6	×	1-	6½	...	...	0	9	20
24	1-	9	×	1-	6½	...	...	0	14	30
25	1-	9¼	×	1-	1¾	...	...	0	6	37
26	1-	8½	×	1-	5½	...	...	0	15	1

APPENDIX III.

No.	Accused.	Exhs. showing that the accused were present all the time in the meeting.
1	Anant Shrinivas Dabade ..	Exs. 1, 19, 20, 26, 30, 31, 32, 38, 40, 64, 71, 73, 77, 79, 82, 83, 85, 88, 92, 93, 99, 102, 122.
3	Trimatrao Krishna Joshi ..	71, 77, 89, 88, 102, 122.
4	Annacharya Balacharya Hoskeri ..	71, 77, 88, 93, 122.
5	Madvacharya Krishnacharya Kalkeri ..	77, 88, 122.
6	Madhaw Shrinivas Kamapur ..	1, 19, 20, 30, 31, 32, 37, 64, 73, 77, 78, 79, 82, 83, 88, 92, 93, 99, 102, 122.
7	Rangnath Ramchandra Divakar ..	1, 20, 30, 31, 38, 64, 77, 78, 79, 82, 83, 88, 92, 93, 99, 102, 122.
8	Madhaw Bhimrao Kabbur ..	1, 19, 20, 30, 31, 32, 37, 64, 77, 78, 79, 82, 83, 88, 92, 93, 99, 102, 122.
11	Mahamadsaheb Abdulhamid Soudagar ..	20, 31, 37, 48, 77, 85, 88, 93, 102, 122.
13	Sultan Modin Budansab ..	1, 20, 31, 37, 48, 77, 82, 85, 88, 93, 99, 102, 122.
16	Sheikmodin Allisab Daji ..	1, 20, 31, 37, 48, 93, 102, 122.
17	Abdulla Husensab Khalasi ..	1, 20, 31, 37, 48, 64, 82, 85, 88, 93, 102, 122.
18	Mahmad Huseamohdin Rotivala ..	20, 31, 37, 48, 82, 85, 93, 102, 122.
19	Abdulrahiman Abdulsalam Rotivala ..	31, 48, 82, 85, 88, 122.
24	Narsing Narayan Bhise ..	1, 20, 31, 37, 38, 46, 71, 73, 77, 79, 82, 85, 88, 93, 102, 122.
25	Shalmabhat Khandbhat ..	31, 88, 93, 102, 122.
29	Budau Chandulal Chapparband ..	48, 82, 122.

APPENDIX III. (Contd.)

Witnesses who state that some of the accused were for some time in the street but never near the liquor shop :—

Hanmantrao Ramrao Desai (No. 21) Exhs. No. 20, 25, 30, 64, 71, 78, 90, 93, 94, 98, 102, & 108.

Witnesses who state that some of the accused were for some time at the meeting & some time near the liquor shop —

Venkajir Mudvedkar (No. 9) Exhs. No. 19, 20, 30, 31, 32, 37, 47, 54, 92, 93, 102, & 122

D. V. Kalekar (14) Exhs. No. 20, 30, 31, 47, 54, 88, 92, 93, 102, 122.

Gopal D. Deshpande (22) Exhs. Nos. 19, 20, 30, 93, 102.

Witnesses who state that some of the accused were at home :—

V. D. Khar (No. 3) Exhs. Nos. 33, 34, 52, besides these many have stated that he was not at the meeting.

G. G. Khar (No. 20) Exs. Nos. 53 & 87. Besides many have stated that he was not at the meeting.

D. V. Kalekar (No. 14) in the Municipality. Exhs. 50 & 116.

Witnesses who state that accused were not in Dharwar :—

Madar Katgar (No. 25) Exhs. 89, besides some more from Betgeri.

Mulla Janglisab (No. 12) Exhs. No. 89, Besides 6 from Betgeri.

Maniyar (No. 10) Exhs. No. 95, besides 3 or 4 from Aminbhavi.

Accused arrested and discharged :—

1. K. H. Mudvedkar, Exhs. 3 and 86. (prosecution withdrawn)

2. Abdul Khadar Langoti, Exh. No. 60

Witnesses who say that the tatti was set on fire by the police :—
Exhs. Nos. 31, 47, 54, 60, 62, 63, 82, 84,

Witnesses who say that the roads were blocked :— Exhs. Nos. 29, 49, 64, 83.

State of the liquor shop before and after firing :—

Exhs. Nos. 32, 46, 64, 80, 83. Besides this a few persons examined in camera.

Prosecution witnesses who were not at Dharwar at the time of firing :—

1. Rudraya Hiremath (No. 80.) Exhs. 55 & 70

2. Sangappa (No. 84)

Witnesses stating that the shooting was without warning and justification :—

Exhs. Nos :— 19, 31, 36, 39, 37, 38, 40, 32, 33, 35, 41, 42, 43, 44, 45, 46, 47, 48, 51, 56, 57, 58, 59, 62, 63, 77, 83, 84,

APPENDIX IV.

List of wounded persons.

No.	NAMES.	Age.	Caste.	Calling.	1st or 2nd firing.	Place.	Remarks & Exhs. if any.
1	Abdul Rahiman Rotiwala	25	Mahomedan	Volunteer	1st	Liquor shop road	Accused No. 19. Examined before investigation committee by Mr. Joshi.
2	Basalingappa Kotur	50	Lingayat	Weaver	do	Market road	Not examined anywhere.
3	Gousu Naikvadi	25	Musalman	Police watchman	do	do	Examined by Mr. Joshi.
4	Moulasab Abdulkhadar	19	do	Merchant	do	do	Exh No. 51.
5	Miyakhan Khajekhan	60	do	Peon	do	Liquor road	Examined by Mr. Joshi.
6	Krishnaji Durgaji	10	Gondhli	Beggar	do	Market road	Exh. 56.
7	Hussensab Nalband	25	Musalman	Nalband	do	do	Exh. 44.
8	Abdulahiman Madarsab	14	do	Driver	2nd	Liquor shop road	Exh 69.
9	Husseinsab Golandaj	...	do	....	1st	Market road	Examined by Mr. Joshi
10	Husseinsab Mommigatti	...	do	Ekka driver	do	Arur lane	His statement produced by Mr. Joshi.
11	Raghappa Yaligar	19	Tamboli	Merchant	do	Market road	Exh. 58.
12	Abdulla Daroga	18	Musalman	Khilafat volunteer.	do	Liquor shop	Accused No. 28.
13	Rambrama Tapaskar	17	Brahmin	Merchant	do	do	Exh. 43.
14	Gaffar Fendari	14	Musalman	Tangawala	2nd	Near latrines	" 57.
15	Bhimappa Chitragar	45	Khsatriya	Carpenter	1st	Liquor shop	" 46.
16	Devendra Salunke	16	Maratha	Barber	do	Near public latrines	" 40.
17	Shankar Narayan	15	Brahmin	Servant in tea shop.	do	do	" 45.
18	Rustum Jali Jamadar	55	Musalman	Merchant	2nd	do	" 37.
19	Abdulla alias Kalia Fendari	20	do	Tangewala	do	Liquor shop	" 41.
20	Jatti Katagar	27	do	Butcher	do	do	Prosecution witness No. 59.
21	Savraj Karimsha	30	do	Fakir	do	do	Exh. 35.
22	Bhimappa Kittur	25	Maratha	Servant, tea shop.	1st	do	" 54.
23	Budansab Narti	24	Musalman	Tea vendor	2nd	do	" 59.
24	Siddappa Kurbar	25	Dhangar	Cultivator	1st	Market road	Not examined anywhere.
25	Vishvanath Aguihotri	25	Kanoj Brahmin	Const. (B. No. 359)	do	Liquor shop	Prosecution witness No. 78.

26	L. T. Patil (Chavangonda)	...	29	Lingayat	..	Sanitary Inspector.	2nd	do	..	Prosecution witness No. 47.
27	Shiddappa Gilganchi	...	24	do	..	Municipal clerk	do	do	..	" " No. 48.
28	Basappa Guttepnavar	...	40	do	..	Pleador's clerk	1st	Liquor shop (referred to by Ex. 77)	..	" " No. 54.
29	Yallappa Dodmani	...	22	Komti	..	Servant kirani shop	do	Market road	..	Exh. 42.
30	Ramu Belgaumkar	...	17	Maratha	..	College student	2nd	Liquor shop	..	" 38.
31	Hassansab	...	12	Musalman	..	Servant, tea shop	1st	do	..	" 48.
32	Shivlingaya Limbandevaramath...	...	20	Lingayat	..	Clerk	do	do	..	Cited by Prosecution but not examined as he was examined by the Investigation committee by Mr. Joshi. Examined by the Congress Committee.
33	Basappa Pattanshetti	...	26	do	..	Merchant	do	Market road	..	Not examined anywhere.
34	Murtuja	...	35	Musalman	..	Constable	do	Liquor shop	..	Not cited by Prosecution as a witness; not examined anywhere.
35	* * *	...	21	Brahmin	..	Student	do	Arur lane	..	Examined by the Congress Committee. (by the Commission in Camera)
36	Hanmant Rajaram	...	..	Maratha	..	Shop-keeper	do	Liquor shop	..	Not examined anywhere.
37	Hasansab Malangsab	...	24	Musalman	..	Compounder Govt. Civil Hospital	do	do	..	Not a prosecution witness.
38	Veerappa Vonkareppa	...	...	Lingayat	..	Weaver	do	do	..	Not examined anywhere.
39	Shivanappa	...	..	do	..	....	do	do	..	" "

LIST OF PERSONS KILLED.

- 1 LABBA.
- 2 GAUS.
- 3 MALIK.

16

MUSALMAN.

Removed to the hospital in dying state where he died late in the night.

APPENDIX IV.—(Continued.)

Statement showing the number of persons wounded according to caste.

Brahmins.	Rajputs.	Muslimans.	Marathas.	Vaishya.	Dhanagar.	Tamboli.	Gondali.	Lingayats.	Total.
3	1	18 Besides these the three killed are all Musalmans.	5	1	1	1	1	8	30

Statement showing the number of persons wounded who are accused or witnesses.

Killed.	Accused.	Prosecution witnesses.	Police wounded,	Examined by the Commission.	Total.
3	2	5	3	18 Exs. Nos. 35, 37, 38, 40, 41, 42, 43, 44, 45, 46, 48, 51, 54, 56, 57, 58, 59, 60,	31