



REPORT
OF THE
COMMISSION OF INQUIRY
ON
COMMUNAL DISTURBANCES
SURSAND
(CT MUZAFFARPUR—BIHAR)
(OCTOBER 13—15, 1967)

1969

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LIST OF ABBREVIATIONS USED IN THE REPORT

A.C.I.O.	.	.	.	Assistant Central Intelligence Officer.
a.m.	.	.	.	<i>ante meridiem</i> , before noon.
A.S.I.	.	.	.	Assistant Sub-Inspector.
B.D.O.	.	.	.	Block Development Officer.
B.M.P.	.	.	.	Bihar Military Police,
C.D.	.	.	.	Crime Directory.
C.I.	.	.	.	Circle Inspector.
C.I.D.	.	.	.	Criminal Investigation Department.
C.P.I.	.	.	.	Communist Party of India.
C.I.O.	.	.	.	Central Intelligence Officer.
Cr. P.C.	.	.	.	Criminal Procedure Code
D.I.G.	.	.	.	Deputy Inspector General.
D.M.	.	.	.	District Magistrate.
Dy. C.I.O.	.	.	.	Deputy Central Intelligence Officer.
Dy. S.P./D.S.P.	.	.	.	Deputy Superintendent of Police.
F.I.R.	.	.	.	First Information Report.
ft.	.	.	.	Foot/Feet.
Govt.	.	.	.	Government.
G.R.P.S.	.	.	.	Government Railway Police Station
I.G./I.G.P.	.	.	.	Inspector General of Police.
M.L.A.	.	.	.	Member, Legislative Assembly.
o/c	.	.	.	Officer-in-charge.
p.m.	.	.	.	<i>post meridiem</i> , after noon.
P.O.	.	.	.	Police Officer, place of occurrence.
P.S.	.	.	.	Police Station.
P.S.P.	.	.	.	Praja Socialist Party.
P.W.D.	.	.	.	Public Works Department.
r/o	.	.	.	Resident of.
R.S.S.	.	.	.	Rashtriya Swayam Sevak Sangh.
S.B.P.	.	.	.	Special Branch Police.

(iii)

S.D.M.	.	.	.	Sub-Divisional Magistrate.
S.D.O.	.	.	.	Sub-Divisional Officer.
S.H.O./S.O.	.	.	.	Station House Officer/Station Officer.
S.I.	.	.	.	Sub-Inspector.
S.O.	.	.	.	Statutory Order.
s/o	.	.	.	son of.
S.P.	.	.	.	Superintendent of Police.
S.S.P.	.	.	.	Samyukta Socialist Party.
V.L.W.	.	.	.	Village Level Worker.
w/o	.	.	.	wife of.

PART I
CHAPTER I
INTRODUCTORY

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

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

NOTIFICATION

S.O. 3900.—Whereas the Central Government is of opinion that it is necessary to appoint a Commission of Inquiry for the purpose of making an inquiry into a definite matter of public importance, to wit, the communal disturbances that have occurred in the country since the first day of August, 1967:

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

Chairman

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

Members

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

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

(a) to inquire into the causes and course of the major communal disturbances since the first day of August, 1967 at the places and on or between the dates specified in the schedule to this notification;

(b) to inquire into the adequacy of the administrative measures taken to prevent and deal with the said disturbances;

(c) to recommend measures which may be adopted for preventing the recurrence of such disturbances; and

(d) to consider such other matters relating to communal disturbances as the Commission may think fit.

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

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

SCHEDULE

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

1.3 The time for submitting the final report was later extended by Government to 28th February, 1970.

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

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

NOTIFICATION

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

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

- (i) the causes and course of the communal disturbances that occurred in Sursand (District Muzaffarpur—Bihar) between 13th and 15th October, 1967;
 - (ii) whether there have been other communal disturbances in recent years in Sursand (District Muzaffarpur—Bihar);
 - (iii) whether there was any tension between the communities immediately preceding the disturbances of 13th to 15th October, 1967; if so, whether any information was sent to the authorities or any attempt made locally to resolve the tension;
 - (iv) whether there is any organisation or group in the locality which has fomented communal tension or directly or indirectly created provocative situations;
 - (v) are there any places of worship, properties, customary festivals or processions in the locality that tend to create friction between the communities;
 - (vi) has there been any attempt in the local press to raise communal issues in a manner that might create communal tension;
 - (vii) were the administrative measures taken to prevent and deal with the said disturbances adequate;
 - (viii) was medical aid for the injured timely and adequate;
 - (ix) what, in the estimate of the person furnishing the statement, was the extent of casualties and loss of property;
 - (x) what, in the opinion of the person furnishing the statement, are the measures that could be adopted to prevent the recurrence of such disturbances.
2. Every statement furnished to the Commission should be accompanied by an affidavit in respect of the facts set out in the statement and sworn by the person furnishing the statement.

3. Every person furnishing a statement shall also furnish to the Commission along with the statement a list of documents, if any, on which he proposes to rely and forward to the Commission wherever possible the original or true copies of such documents as may be in his possession or power and shall state the name and address of the person from whom the remaining documents may be obtained.
4. The statements should reach the Office of the Commission, Reserve Bank Building, Second Floor, Parliament Street, New Delhi—1, by the 31st January, 1968.”

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

Indian Nation, Patna	26th December, 1967.
Searchlight, Patna	28th December, 1967.
New Republic, Ranchi	6th January, 1968.
Pradeep, Patna	28th December, 1967.
Vishwamitra, Patna	27th December, 1967.
Sathi, Patna	28th December, 1967.
Sada-e-Aam, Patna	29th December, 1967.

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

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

1.8 The last date for receiving statements was subsequently extended to 15th February, 1968, on requests received from several persons and organisations.

1.9 In response to the notification dated the 19th December, 1967, 77 affidavits were received. Of these 15 affidavits were from State Government officers, 58 from the members of the public and four from organisations. Out of the 58 affidavits from the public, 30 were from Hindus and the rest from Muslims. Out of the 28 affidavits

from Muslims, 27 were received by the Commission along with the affidavit of Shri Mohammed Ali, Secretary of the Sursand Muslim Committee, Sitamarhi. The other three organisations which furnished affidavits are: the Muzaffarpur District Council of the Communist Party of India, the Bihar State Jamiatul-Ulma-e-Hind, Patna and the Citizens Council, Sursand. A list of persons and organisations who furnished affidavits will be found at Annexure I.

1.10 All the affidavits from the members of the public and organisations were received before the prescribed date *viz.*, the 15th February, 1968. The affidavits from the officers were received on 20th July 1968. The State Government's statement of the incidents reached the Commission on 23rd February 1968.

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

1.12 The Commission submitted its Report on the Ranchi-Hatia disturbances to the Government on the 17th August, 1968. Thereafter the Commission was busy with the inquiry into (i) the communal disturbances, which occurred in Srinagar and Jammu in August, 1967 and which the Government of Jammu and Kashmir had referred to the Commission and (ii) the communal disturbances which occurred in Jainpur-Suchetpur (District Gorakhpur, U.P.) on 24th-25th September, 1967. The Report on Jainpur-Suchetpur incidents was submitted to Government on 3rd June 1969 and the Report on the incidents in Jammu and Kashmir was submitted to the Government of Jammu and Kashmir on 13th June 1969. The recording of oral evidence relating to the Sursand disturbances was taken up in April, 1969.

1.13 All oral evidence was recorded at Muzaffarpur. In all 31 witnesses were examined of whom 18 were Government officials and the rest were non-officials. The names of the witnesses examined and the dates on which they were examined are given in Annexure II.

1.14 A list of documents exhibited in the course of oral evidence is at Annexure III.

1.15 List of documents summoned by the Commission for perusal is at Annexure IV.

1.16 We would like to express our appreciation and gratitude to the Bihar Government and its officers for their full cooperation and making available all the material the Commission considered necessary for its consideration.

CHAPTER II

MODE OF INQUIRY

2.1 Fifteen sworn statements were filed by Government officials with respect to the incidents or the steps taken by them. The Secretary of the Sursand Muslim Relief Committee, Sitamarh Shri Mohammed Ali, Advocate, gave the background of the cause and also forwarded the affidavits of 27 other Muslims, who were mostly victims of the riots. Shri Raj Kant Mishra of Sursand, an Executive Member of the Muzaffarpur District Council of the Communist Party of India submitted a sworn statement on behalf of his party giving a general account of the incidents and the causes, according to him, for the recurrent communal riots. Maulana Faruqu Hussaini, General Secretary, Bihar State Jamiatul-ulma-e-Hind Patna, sent a statement on the disturbances. At the request of the Commission, Shri Raj Kant Mishra furnished to the Commission a list of six witnesses who, he said, would support the entire written statement submitted by him. Out of these, four persons were summoned for oral evidence.

2.2 While the recording of the oral evidence was in progress at Muzaffarpur a letter was received by the Commission from Shri M. P. N. Sinha, Ex-M.P., MLA, Hajipur, on 16th April 1969 expressing his wish to tender evidence about the disturbances before the Commission, and requesting to be informed of the date on which he could be heard. No affidavit had been received from him by the Commission. He was, therefore, requested to furnish a written statement with an affidavit and relevant document to enable the Commission to consider his request. No statement was received from him.

2.3 Of the Government officials summoned, the Commission could not record the evidence of Shri B. Chatterji, then Circle Inspector of Police, as he was reported to be on leave at the time of the inquiry and the local authorities could not find him and produce him before the Commission. Shri L. Dayal, then Secretary to the Government of Bihar, Political (Special) Department, could not be examined as he had gone abroad. Annexure V gives the list of persons who were summoned to give evidence but did not appear.

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

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

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

(b) may address the court; and

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

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

If, at any stage of the inquiry the Commission—

(a) consider it necessary to enquire into the conduct of any person; or

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

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

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

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

CHAPTER III

SCOPE OF INQUIRY

3.1 We decided not to record evidence about every incident which took place during the disturbances or to record evidence about any incident in great detail. We recorded the evidence which in our opinion was sufficient to give us a clear picture of how the disturbance started, how they spread in various localities and between members of different communities on the 13th and the 15th of October. We did not concern ourselves with the actual culprits taking part in the incidents. That is left for the investigating agency and for the courts. Similarly, we recorded evidence about the action taken by the public authorities previous to the commencement of the disturbances and in dealing with them as a whole.

PART II
CHAPTER I
GENERAL

1.1 Sursand is a village about 17 miles from Sitamarhi, the headquarters of a sub-division in the district of Muzaffarpur, in Bihar. Its population is about 12,000, out of which about 1,400 are Muslims.

1.2 There had been communal troubles at various places in Muzaffarpur district, but not in village Sursand itself, prior to the communal trouble of October, 1967.

1.3 Communal relations had been good and there had been no ostensible tension between the two communities. Some earlier incidents have been referred to, which could have caused annoyance to the parties but do not appear to have led to any serious deterioration in their relations. After the events of October, 1967, such incidents are being given an importance which they did not have at the time when they actually occurred.

1.4 There is a pond at Sursand. It is alleged that the Muslims used its southern bank for ablution and prayer. They shifted from that bank on the installation of the moorti of Shiv and began to use the eastern bank of the pond. For similar reasons they again shifted to the northern bank of the pond. The R.S.S. occupied the northern bank and commenced their lathi parade there. On the intervention of the district authorities on the representation of the Muslims, the R.S.S. were removed from there. The Muslims built an Idgah at a distance of a few bighas to the north of the bank of the pond and there has been no dispute since. Some trouble also arose about the route to the graveyard. It led to a criminal case against the Muslims, who were ultimately acquitted. There has been no dispute about it after the decision of the case.

1.5 The Muslims mainly occupy separate localities in the village. They are Khas Patti, Pakar Tola, Lichi Bagh, Tola Gopalpur and Tola Dakhinwari. Dakhinwari Tola is about three furlongs south of the road dividing the village abadi into two. The road is from Sitamarhi to Sirkhandi Bhitha and generally described by witnesses as a pitch road.

1.6 The other Muslim tolas are in the northern portion of the village abadi. Khas Patti lies south of Gudri Bazar and practically extends up to the pitch road. Pakar Tola is further east of Khas Patti and has Dosadh Tola on the east. Lichi Bagh is further north of these two tolas and has a big tank to its south-east. South of the

tank, too, is a Muslim abadi, possibly also called Lichi Bagh. Tola Gopalpur is about a mile away to the east of the main village abadi. There are several scattered Muslim houses in the abadi.

1.7 The Vijaya Dashami festival is celebrated in the village for five days. The programme for the occasion consists of different items of entertainment. The idol of Durga is installed in the premises of the Garibnath Asthan. On the last day it is taken out in procession for immersion.

1.8 The route of the procession is a fairly long one, but is drawn up under a licence and the authorities see to it that the procession goes along the prescribed route. The procession starts from the temple, proceeds to the Mahabir Asthan, which is on the north of the Police Station; returns from there along the Sursand Bazar, again passing in front of the thana; goes up to the entrance to the Muslim mohalla Khas Patti near Gudri Bazar; and then turns to the west and, on reaching the road from the Bus Stand to the Thana, proceeds southwards up to the crossing of the road with the pitch road and then proceeds eastwards and goes to the compound of Rameshwar Pratap Sahi, which is at some distance to the north of the Gandhi Chowk on the pitch road. It returns from that compound, along the same route, up to the road from the Bus Stand to the Thana and then goes along that road up to the tank, where the immersion ceremony takes place.

1.9 It appears from the entries in the village records for the various years (C.D. Part III, Volume II) that the route turns westward from Gudri Bazar corner in order to avoid the Muslim mohalla Khas Patti. Particular care is taken that the procession does take a turn to the west from that particular corner and does not pass through the Muslim mohalla. The other end of the mohalla is on the pitch road and the procession passes by that junction.

1.10 The entry in the 1959 records shows that Bazar road, which passes from Mahabir Asthan through Halwari Patti, passes by the local Maktab to further south up to P.W.D. road. The Durga procession follows this road upto the shop of Ram Chhabila Ram, whence it takes a western bend about 50 yards north of the local Maktab. Some miscreants attempted at the time of Durga Puja to pass by Maktab leaving the usual prescribed route. These attempts were foiled. But this is the worst spot, where communal clash may occur at any time, if the police is not vigilant.

1.11 The entry in the 1960 records shows that one section of armed force, with P.O. as incharge, was posted as Reserve at Sursand during the Durga Puja festival.

1.12 The entry in the 1962 records shows that a procession of Goddess Durgaji was taken out, according to the prescribed route and it passed off peacefully. The image of Goddess Durgaji was immersed in the tank, which is adjacent to the Garibnath Temple. Due to the past experiences, a Peace Committee had been formed at Sursand. The Muslims were found very particular that the procession should not pass beyond the prescribed route.

1.13 The entry for 1965 in the village records shows that half a section of armed force, under a Magistrate, was stationed at Sursand Police Station as a reserve force. It further noted:

“This year extra vigilance had to be kept due to a massive PAK aggression in Kashmir and communal flare up in East Pakistan where once again exodus of helpless minorities has begun.”

1.14. No entry appears to have been made in 1966.

1.15 It further appears that leaflets, with respect to the Durga Puja celebrations, used to be distributed on behalf of the committee managing the celebrations. Copies of the leaflet distributed in 1962, 1963, 1966 and 1967 have been collected.

1.16 The leaflet for 1962 is a plain one merely describing the various arrangements. The programme included the staging of the drama ‘BAGAWAT’ one night, and the drama ‘INSAF’ on another night. An appeal was made to all to come and worship.

1.17 Contents of the leaflet issued in 1963 are given below except the programme:

“Salutations to Goddess Durga:

Laying our lives at the feet of Mother Durga
We pray for granting us the boon
Your glory may remain immortal
Whether we live or not.

There will be unique Durga Puja celebration in Sursand from 24th October 1963 to 27th October 1963.

Brothers and Sisters,

Like past years, this year also the great festival of Vijayadashami with its full might and glory has come to ignite flames of courage and pride among the entire Hindu State. At the time of afflicted condition of the State, it is the call of the Mother Goddess Bhagavati, the destroyer of enemies, to awaken unity and feelings for Hinduism amongst the entire Hindu society. This spirit will destroy the enemies of the land of Hindus as it destroyed demon Mahisasura. On this great occasion a very big and grand idol of Mother Durgaji is being prepared. We have also arranged many other attractive programmes to encourage the sense of consciousness and bravery among the people. Music, dance and drama programmes as under will continue for three days which will be very attractive part of the programme.”

1.18 The dramas staged that year were ‘HAIDRABAD’, ‘BIR CHHATRASAL’ and ‘HAMARI AZADI’. It may be mentioned here that the Chinese aggression took place on the north-eastern frontier of the country in October/November 1962 and, probably, that had something to do with the change in the language of that leaflet.

1.19 The 1966 festival followed the Indo-Pakistan conflict of 1965. The contents of the leaflet issued in 1966, except the programme, are given below:

“Salutations to Goddess Durga:

A grand and attractive programme of Shri Durga Puja will be held on the occasion of Vijayadashami celebrations from 20th October to 23rd October in Sursand.

Brothers,

Like past years, this year also the yearly celebration of all-powerful Mother Durga has come with its universal grandeur. Today the Hindu State is surrounded by hardships on all the sides. Her existence is in péril because of the danger she is facing from foreign States. In this hour of crisis we call all the brothers to come in maximum numbers with weapons to worship (the divine) energy (personified as Durga).

On this occasion as usual various kinds of attractive programme have been arranged.

Your co-operation is the sign of the success of the programme.”

1.20 The contents of the leaflet issued in 1967 are as follows:

‘JAI DURGE! MOTHER DURGE!

Sisters and Brothers,

Like past years, this year too the great dynamic and glorious festival of Vijayadashami making Hindu Society conscious and brave and bestowing strength to defeat the wicked, singular and deceitful States, has arrived in its full glory. It is the call of the time that we, the sons of the Aryans, carrying different kinds of weapons in our hands and displaying our strength in a peaceful but united way demonstrate our national spirit. This is the victorious festival of true Vijaya Dashami.

PROGRAMME

- | | |
|----------|---|
| 9-10-67 | Monday—at 5 P.M. ‘Bel Nimantran’ from 8-30 P.M. Drama ‘Daku Sultan’. |
| 10-10-67 | Tuesday—at 10 A.M. Todi, at 8-00 P.M. ‘Netradan Puja’, from 8-30 P.M. Drama ‘Gaddar’. |
| 11-10-67 | Wednesday—Dance in day, from 8-00 P.M. Qawwali competition. |
| 12-10-67 | Thursday—Dance in day, from 8-00 P.M. Qawwali competition. |
| 13-10-67 | Friday—Dance in day, Kirtan and Wrestling at noon, idol immersion procession will start at 3-00 P.M., from 8-00 P.M. Qawwali competition. |

NOTE—Qawwali parties—1. Bachhatara, Calcutta.
2. Alimam Qawwali Party, Darbhanga,
will present programmes from Hindi religious
films.”

1.21 Of the various communal incidents which had taken place before October, 1967, in Bihar as well as in other parts of the country, the riots at Ranchi in August that year were the worst. Special precautions were, therefore, taken by the authorities on the occasion of other festivals.

1.22 The District Magistrate, Muzaffarpur, issued a detailed Dasehara order on the 2nd October, 1967 and said that, because of the serious communal disturbances in Ranchi and the students trouble in Sitamarhi in August, 1967, there was need to exercise greater vigilance. He directed that communal-minded persons, anti-social elements and potential trouble-makers must be kept under close watch and preventive action under the law taken effectively and swiftly so that the trouble was nipped in the bud. Para 4 of this order, *inter alia*, states:

“In places where there is apprehension of trouble, the veteran goondas should be arrested sufficiently in advance. It is important that the Magistrates and Police Officers who are on deputation should have a thorough grasp of the places with bad communal history of their areas where communal incidents have happened recently or previously and the places where trouble is apprehended.”

1.23 Para 6 states:

“It shall be the duty of the Police Officers on deputation to keep Magistrates deputed with armed force, informed of all matters concerning law and order in their respective areas.”

1.24 Para 13 states:

“The organisation of intelligence on a comprehensive basis is all the more necessary in view of the attempts to instal images surreptitiously at some places. Efforts should be made to collect prompt intelligence in areas where there had been oppositions in the past to a particular route or where the route passes by the mosque or a Muslim locality. The rural police and the Gram Panchayat functionaries will have to play an important part in carrying to the nearest police station intelligence regarding possible trouble or actual clashes. The Officer-In-Charge of the Police Station should ensure that there is no failure in this regard. The Karamcharies, V.L.Ws. and Panchayat Sevaks posted in the rural areas should be utilised towards collection of intelligence.”

1.25 Para 14 states:

“It should be borne in mind and made clear to all concerned that in the event of any incipient trouble, Government expect prompt and resolute action to maintain law and order. The

Magistrate in-charge of armed force should not hesitate to take action where trouble is apprehended even if the spot is not within his defined jurisdiction, i.e., preventive steps must be taken by any of the Magistrates to whose notice any brewing trouble is reported, without consideration of jurisdiction."

1.26 Shri S. N. Jha, Block Development Officer, Sursand, was deputed to Sursand Police Station Reserve.

1.27 The Superintendent of Police also passed the Dasehara order on the 2nd October, 1967. He repeated some of the salient instructions in the District Magistrate's order. Para II, *inter alia* states:

"VIGILANCE AND COLLECTION OF INTELLIGENCE:

The organisation of intelligence on a comprehensive basis is absolutely necessary. Action should therefore be taken to devise a system of collection of intelligence promptly and accurately. This type of intelligence can be obtained by utilising:

- (i) Rural Police for interior areas.
- (ii) Plain clothes constables from Town Areas.
- (iii) Mukhiya and other Grampanchayat functionaries.
- (iv) Social organisations and Trusted Civilians in Muffasil and Town Areas.

Officers-in-charge of the P.Ss., therefore will reorganise their intelligence system with immediate effect and keep themselves posted about an hour to hour development till the festival is peacefully over. Vigilance is dependant upon correct intelligence. Full vigilance will be maintained over those places where tension has previously existed or where it is likely to arise according to intelligence reports."

1.28 In para III, clause (i), it is stated:

"It is essential for the Police Officers and Magistrates to be fully aware of the special features and the problems of the places where they are deputed."

1.29 Clause (iii) of Para III reads:

"All rabid communal elements, mischief-mongers and goondas of respective P.Ss. should be carefully watched from now and if there is possibility of their indulging in likely subversive activities then full use of sections 151 and 107 Cr.P.C. is to be made. It is safer and easier to arrest and detain a few persons before the trouble arises than to arrest hundreds after the damage has been done."

1.30 Clause (v) of this para directed that effective steps be taken to counter baseless rumours which might lead to communal tension.

1.31 Clause (vi) of this para reads:

"It has been observed in the past that Police Officers and Magistrates on deputation with the Armed Force hesitate to move out of the places of their deputation although information

about serious tension or trouble reach them from nearby vicinities. It must be borne in mind that those who are found shirking their responsibility in this manner shall be dealt with deterrently. Officers on deputation must move out to even places not reported to be within their orbit of inspection and vigilance, if the same are well within their reaching distance and their arrival is likely to arrest further deterioration of the situation there."

1.32 Clause (vii) reads:

"In cases of apprehension of trouble or tension, I expect the seniormost officer to move out. The practice of sending junior officers earlier on such occasions must not be resorted to."

1.33 Clause (xi) *inter alia* states:

"Where opposition in the past has taken place to a particular route and where the route passes by a mosque or a Muslim locality, greatest attention will have to be paid towards prompt collection of intelligence in order to avoid tension, trouble or actual clashes in the Areas."

1.34 Half a section of armed force was deputed to Police Station, Sursand and was placed under the charge of Sub-Inspector, M. P. Singh, Station Officer, Sursand.

1.35 An order issued by the Sub-Divisional Officer, Sitamarhi on the 6th October, 1967, to all Magistrates on Dasahara deputation, emphasised the importance of collecting intelligence and of not allowing rumours to spread and said:

"Any informations of the kind that are likely to create any trouble should both in crude form as well as after proper scrutiny be immediately transmitted to me by quickest possible means and firm action should immediately be taken as provided under the rules and specifically mentioned in the Dasahara Order, 1967, of the District Magistrate."

1.36 Block Development Officer, Sursand, deputed to Police Station, Sursand, was deputed under the orders of the Sub-Divisional Officer, Sitamarhi, to village Nawahi and Shri P. B. Lal, Magistrate, was deputed at Sursand on 12th October 1967. Shri P. B. Lal reached Sursand at 5 p.m. that day. He was informed by the Block Development Officer that everything was calm, and there was nothing to worry about. He was informed by the Station Officer, Sursand, that steps were to be taken to see that the procession did not pass through the Muslim mohalla.

1.37 No disturbing information reached the Magistrate Shri P. B. Lal or the Station Officer till the rioting started on the evening of the 13th October. Such lack of intelligence about the possibility of trouble indicates very faulty implementation of the directives contained in para 13 of the District Magistrate's order and paras II and III (xi) of the Superintendent of Police's Order.

CHAPTER II

EVENTS ON THE 13TH OCTOBER, 1967

2.1. The Durga procession started from Garibnath Temple at about 3 p.m. on the 13th October, 1967. It was accompanied by a police party, consisting of 4 lathi constables, one dafadar and 17 chowkidars. The idol was carried on a cart. A number of persons were in front of the cart and a much larger number of people followed the cart. A number of processionists, both in the front as well as at the rear, were armed with spears, lathis, etc. The Magistrate and the Station Officer, Sursand, and the armed force of half a section saw to the passing of the procession from the turning near the entrance to the Muslim mohalla and, after the procession had passed westward from that turning, returned to the police station at about 5.30 p.m. At 5.45 p.m., Dafadar Ram Ratan Pandey reported to the police station of trouble having started near Kala Mandir, where the other entrance to the Muslim mohalla is. By the time the Magistrate and the Station Officer and the police reached that spot, a few houses had been set on fire in the Muslim mohalla and a lot of brickbatting had taken place between the processionist and the Muslims. These officers, however, succeeded in controlling the situation in about an hour.

2.2 The fact, that the idol of Durga and the other idols on the cart were stoned, is beyond dispute. The Station Officer and the Block Development Officer, Shri S. N. Jha, inspected the idols that night and prepared the report of inspection. Exhibit 2 is a copy of the extract of a report of the damages to the idols. The details of damages are:—

- (1) The thumb of the left lower hand of Shri Ganeshji was broken.
- (2) The upper right elbow of Ganeshji was separated and three finers were broken.
- (3) The clay of the Sari of Durgaji had been removed which appeared to have been caused due to brickbatting.
- (4) The fore right claws of the lion broken.
- (5) The left hand of Mahisasura broken from elbow.
- (6) The clay on the chest of Mahisasura also broken and removed.
- (7) The left hand of Kartikji broken at two places.
- (8) The feather of peacock of Kartikji broken.
- (9) Four petals of the lotus of Saraswatiji broken.
- (10) The clay of the left hand of Saraswatiji removed.
- (11) The left part of the throne of Ganeshji broken

2.3 According to the statement of Sub-Inspector Shri Mathura Prasad Singh, 23 pieces of brickbats and two pieces of broken tiles were found on the planks supporting the murtis.

2.4 It has come in evidence that the back of the idols on the cart was of plain wooden board. This should mean that the brickbats, which struck the various idols, fell on them from the front. Sub-Inspector Shri Mathura Prasad Singh describes the murtis on the cart thus:—

“The Murti of Devi was in a standing posture. The Murtis are laid on the plank of wooden platform by the artist at the spot. Backside of the platforms was circular. Its maximum height would be seven or eight feet. All the Murtis were so made that their entire backs were covered by the wooden planks at the back. All the marks of hits noticed by me were consequently on the front portion of the various Murtis.”

2.5 Different versions of how the trouble started at this place have been mentioned in the written statements filed before the Commission. The Hindu witnesses have stated in their written statements that when the cart carrying the idol of Durga reached in front of the lane leading to the Muslim mohalla of Khas Patti from the Pitch Road, brickbats were thrown at the idol by the Muslims standing there. The cart carrying the idol moved on and thereafter exchange of brickbats between the processionists and the Muslims there took place; and this further developed into attacks with lathis and spears.

2.6 Of the 27 affidavits filed by Muslims, on the basis of which the factual statements in the memorandum furnished on behalf of the Sursand Muslims Relief Committee were made, only four, viz., by Shri Abdul Hakim, Mohd. Omar Nadaf, Smt. Sahidan and Shri Sharifur Rahman, have stated about the incident of the 13th October. The other persons stated about the event of the 15th October. These four affidavits do not mention how the idol of Durga was stoned. Smt. Sahidan in her affidavit dated the 19th January, 1968 simply said that, when the procession reached Kalamandir, some people began to throw stones, stored in an accompanying truck, “on our mohalla; some stone hit us resulting in injuries.” In her statement on the 14th October, 1967 to the police, on the basis of which the first information report was recorded, she stated that, at the sign of one person on the cart carrying the idols, the players entered the Muslim Toli, that, at the same time, a truck with brickbats arrived and that people on the truck began to throw stones towards the Muslim mohalla. The other two, viz., Mohd. Omar Nadaf and Shri Sharifur Rahman, stated that, when the other truck with some Marwaris arrived near Kalamandir, they spread rumour that some Muslims had thrown stones on Devi's procession, that the idol had been struck down and defaced and that then the people from the truck turned towards their mohalla and ran after the Muslims and beat them. Shri Abdul Hakim in his affidavit stated practically what Shri Sharifur Rahman and Mohd. Omar Nadaf had stated. In his report to the Thana on the 19th October, 1967, Shri Abdul Hakim stated to have been informed by someone at his house that, when

the idol had gone past the other entrance of the Muslim mohalla, some armed processionists entered the mohalla and threw stones and brickbats. This shows that he was not present at the start of the incident.

2.7 Sarvashri Shariful Rahman and Abdul Hakim have been examined as witnesses. Shri Abdul Hakim stated that he was informed by two persons that processionists were entering the mohalla and were brickbatting the houses. According to his own statement, Shri Sharifur Rahman had a shop of readymade clothes near the Kalamandir and at a distance of about ten feet from the Pitch Road. The cart carrying the idol of Durga was followed by a motor truck, people on which were shouting "Jai Durge, Jai Durge". He describes the incident thus:—

"The cart carrying the Durga had gone about 24 ft. east of the junction when shouts were raised that the idol had been stoned. At that time the truck was between the Kalamandir and the junction. The processionists on the Pitch Road then started throwing brickbats at our houses and ourselves from the passages. The processionists came inside the passage to reach my shop. On the arrival of these people I fled away and these persons looted my shop."

2.8 Of the Muslim witnesses examined Shri Dilu Khan deposed to have been present at the turning near Gudri Bazar and that, when the procession had passed that turning, he went to the entrance to the mohalla near the Kalamandir but, when the truck reached Kalamandir, he went away. He thus did not see the starting of the incident at Kalamandir. According to him, the procession had 1000 people ahead of the cart carrying the idol of Durga, about 1000 people followed the cart, then there was a truck on which were the singing parties and some Jan Sangh and Congress Party people. The truck was again followed by thousands of people.

2.9 Shri Sultan Ahmed, who has a house on the Pitch Road, at some distance east of the junction of the lane to the Muslim mohalla and the Pitch Road, has deposed that, at about 5.30 p.m., the tyre cart with the Murti reached in front of his house. The procession and the Murti proceeded further. Five or ten minutes later he heard the passers-by saying that brickbatting was going on near Kalamandir. Kalamandir was not visible from his house. Shortly thereafter his house was attacked.

2.10 Shri Mohammed Hanif deposed that an attempt was made by some processionists to enter the Muslim mohalla near the Gudri Bazar. However, when the procession passed the crossing, he went away to offer prayers and, when he returned to his house in Khas Pattai, he noticed stones being thrown from the truck on the Pitch Road and Muslim women and children running back. Some of the processionists thereafter entered the house of Shri Sharifur Rahman, looted his property and set fire to three houses.

2.11 It would appear, therefore, that none of the Muslim witnesses accounts for the brickbatting of the idol of Durgaji and the damage caused to it.

2.12 The written statement, filed on behalf of the Muzaffarpur District Council of the C.P.I. describes the incident thus:

"On the 13th October, 1967, the Immersion Procession commenced its march. Thousands of fully armed people, some of whom were absolute strangers, marched through the village. The procession included a truck bearing the registration in the name of the sister-in-law of Dwarka Laat. The truck carried some excited youngmen and load of brickbats spread at the bottom. The procession attempted to leave the main road and turn towards the thick Muslim locality through a narrow lane. The policemen on duty prohibited the procession from that, which led to a tension. Suddenly, someone threw a piece of stone from the truck at the idol and damaged it. Immediately a rumour was spread that the Muslims had damaged the Idol. There were a handful of Muslims at a little distance witnessing the procession. Persistent stones were thrown at them as well as at the Muslim houses. Two Muslim houses were set on fire. In the meantime, the police arrived and a lathi-charge was resorted to disperse the rioting mob."

2.13 Of the witnesses summoned, on the basis of the list supplied by Rajani Kant Misra of the persons who would support the version in the written statement, Shri Jogendra Prasad Thakur of village Baghari, which is about three or four miles from Sursand; Shri Bindhyachal Prasad of Uttarbari Tola; Shri Hemnath Jha of Bhitha Bazar; Shri Srutideo Mishra of Jankinagar (Hanuman Nagar), about three miles east of Sursand; and Shri Raj Kant Misra were examined.

2.14 Shri Raj Kant Misra, who has filed a written statement, does not depose about the origin of the incident.

2.15 Shri Srutideo Mishra desposes to have seen the procession arriving near the Kalamandir. According to him, the processionists at the head tried to enter the lane leading to the Muslim mohalla and had an altercation with the police constable and chowkidar, who stopped them. The cart carrying the Murti was about 100 haths behind and it was immediately followed by a truck and there were processionists behind the truck. He states to have noticed some person on that truck throwing a stone at the cart carrying the 'Pratima'. He also noticed that the persons on the truck and the armed persons, who would be about 50 or 100 and who were in front of the cart carrying the idol, shouted that the Muslims had thrown stones at the idol and broken it and that thereafter continuous brickbating started from the truck.

2.16 According to him the idol was about 2½ ft. high. While admitting that the stones thrown from the back of the Murti would hit it at the back, he stated that the position of the Murti at the time was that it had also taken a slight turn towards the north following the procession, which had attempted to enter the lane on the north, and that the stones might have hit the side, which, at the time, would be towards the west. How could the cart turn towards the north when people ahead of it had been stopped by the police at the entrance of the lane?

2.17 Shri Jogendra Prasad Thakur joined the procession from the Bus Stand. According to him, there were 50 or 60 persons ahead of the cart carrying the idol. These persons were armed. About 5,000 processionists were behind the truck. They were unarmed. His version of the incident is practically the same as of Shri Srutideo Mishra.

2.18 Shri Bindhyachal Prasad also deposed about a truck just following the cart carrying the idol. He was, however, behind all the processionists and, when he reached Kalamandir, he could only notice people running away. He, however, stated that the cart was at the time just in front of the Kalamandir and the truck was at the mouth of the lane.

2.19 Shri Hemnath Jha, resident of village Bhitha, four miles east of Sursand, deposes that the cart carrying the idol was at the head of the procession, that 50 armed persons followed the cart and that then followed a motor truck on which there were 40 or 50 people. The truck was followed by thousands of processionists. He joined the processionists behind the truck. He states:—

“When the procession reached near the Kalamandir, the cart with the Murti attempted to turn in the lane northwards. A constable and some chowkidars at the turning stopped them. That led to some altercation between the Police force and the armed people behind the cart. Then somebody from the truck threw a stone at the Murti. Upon this I heard shouts that Muslims had thrown stones at the Murti. I joined the procession at a distance of 5 or 6 steps from the truck; at the time the stone was thrown I was near Kalamandir. Fifty or sixty persons entered the lane on the north and set fire to a house. Anticipating further trouble I then went away to my village.”

2.20 He has further stated that he did not notice the pelting of stones from the north side, as he was on the south of the road and he also did not notice any person standing near the police to watch the procession.

2.21 Coming to the official witnesses, Daffadar Ram Ratan Pandey is the only witness who could say how the incident started at Kalamandir. He along with two constables and two chowkidars was escorting the cart carrying the idol. The other police force consisting of chowkidars was moving along with the procession. According to him 400 or 500 persons headed the procession, then followed the cart carrying the idol and then 2,500 or 3,000 people followed. Some of the processionists in front of the cart and in the rear carried arms. He stated that a truck with persons playing music followed these processionists from the turning at the Pitch Road, i.e., from near the Bus Stand. He describes the start of the incident thus:—

“When the cart reached in front of the lane from the north near the Kalamandir, a stone was thrown at the ‘Murti’ and it struck it. I was then on the north of the cart. Two or three other brickbats followed from the north. Dwarkalat’s nephew

was sitting with the 'Murti'. A stone hit him. He then shouted. I then saw about 25 Muslims in the lane. The cart stopped for a while. Then we got the cart moving further. The people in the lane then began to throw stones to the north. When the efforts of the policemen and chowkidars failed, the cart was sent away and I rushed to the Thana."

2.22 The brickbatting from the north must have been from the persons in the lane and they would be the Muslims of the mohalla.

2.23 He reported at 5.50 p.m. at the Police Station, according to Entry No. 216 in the Station Diary, that stones were hurled at the Durga idol and that led to the riots between the Hindus and Muslims and that there was a possibility of bloodshed. On this report, Magistrate Shri P. B. Lal and the Station Officer Shri M. P. Singh proceeded, with the armed force at their disposal, to the spot.

2.24 Shri P. B. Lal, Magistrate, stated in his report dated the 13th October, 1968 to S.D.O.:—

"As to the genesis of the trouble, I was told that some brickbats had hit the image of Goddess Durga thrown by Muslims while it was carried in procession. This infuriated the Hindu processionists which resulted in the aforesaid incidents."

2.25 Shri Bhabtosh Chatterjee, Inspector of Police, stated in his affidavit dated the 8th July, 1968:—

"From enquiry, it was learnt that the procession was proceeding peacefully and when it reached a point where a village lane coming from the north of the village meets the main road, some mischief-mongers pelted brickbats and stones at the idol of Durga causing damage to it. The brickbats were reportedly hurled from the house of one Jalid Mian which stands just at the junction of the main road and the aforesaid village line."

It appears from para. 20 of Annexure 'B' dated 8.12.67 to S.P.'s affidavit, that such a statement was made by Shri Chatterjee in his report to him.

2.26 Shri Mathura Prasad Singh, Station Officer, Sursand, has stated in para 11 of his affidavit:—

"The Police sepoy and chowkidars accompanying procession stated that the stones were thrown first on the murti from Muslim mohalla, then there was stone throwing from the both sides and the idol was sufficiently damaged. When Muslims realised that the Hindu mob has become agitated, they directed their people to set fire to their own decayed huts to save themselves."

Shri P. B. Lal and the Station Officer entered the mohalla from the northern entrance near the Gudri Bazar corner.

2.27 According to Shri P. B. Lal, they found a crowd of about 200 Muslims inside the lane at the end of the mohalla and a mob of Hindus on the Pitch Road. He warned the people to disperse and

then ordered a lathi charge. The crowd went into the houses on either side of the road. When they reached the Pitch Road, Chowkidars were making lathi charge on the mob there and this mob then divided into two; one party went towards the east and the other towards the west. Shri P. B. Lal followed the party which went to the west and got the crowd dispersed near the Bus Stand. Learning of some gathering of people in the bazar, he proceeded towards the bazar and found brickbatting in progress there. He ordered a lathi charge and the crowd dispersed.

2.28 When he returned to the Muslim mohalla he found that two huts belonging to a person had been burnt near the junction.

2.29 Station Officer Shri Mathura Prasad Singh deposes to have gone to the Muslim mohalla with the Magistrate after the report by Daffadar Ram Ratan Pandey and states :—

“When I reached that portion of the road which runs east to west in this mohalla, I found 20—25 Muslims there throwing brickbats towards the Pitch Road over the houses between this road and the Pitch Road. Seeing us these people went inside their houses. When we reached the place where the road turns southwards, I noticed the cart on the Pitch Road and some persons who had entered the lane from the Pitch Road up to a distance of about 7-8 yards, throwing brickbats at the houses. There were none throwing brickbats from the north on the mob. The Hindu crowd beside the Pitch Road would number about 100—200. On rushing at the mob with lathi in my hand, the mob dispersed partly towards the west and partly towards the east side on the Pitch Road.”

2.30 The road running east to west in the mohalla is about 55 yards from the Pitch Road. There are houses in between the two roads. It seems impossible that Muslims were throwing brickbats towards the Pitch Road over these house. The brickbatting on the Hindus on the Pitch Road or on those who had entered the Muslim mohalla, if any, must have been from the lane running north-south or from the tops of the houses. The statement that the Muslims were throwing brickbats from the north over the houses on the mob is clearly wrong. Further, this statement of his did not fit in with the statement in para. 9 of his written statement submitted to the Commission wherein he stated :—

“I along with a magistrate, Shri P. B. Lal, and 4 Reserved Armed Force reached the spot where brickbatting was proceeding between the two groups. The two groups were armed with weapons and two or three houses had been set on fire. In that state of affairs I with the armed force put my life in danger, reached between the two mobs where brickbatting was in progress from both sides.”

2.31 When confronted with this statement, he simply stated that by this statement he meant what he had already deposed.

2.32 He then chased the mob going eastward towards Shri Sultan Ahmed's house and after dispersing it, returned to the Thana, dispersing some other mob which he found on the way. He extinguished the burning corner of Shri Sultan Ahmed's house.

2.33 On the basis of the foregoing evidence, we consider it probable that the idol was first brickbatted by the Muslims from the lane joining the Pitch Road. We have already indicated that a brickbat thrown from behind the cart carrying the idol would not ordinarily strike the front of the idol. The attempt of certain witnesses, to account for the possibility of the idol being hit with a brickbat thrown from behind, on account of the cart being turned towards the lane, does not appeal to us. The cart proceeded on.

2.34 The presence of the truck just behind the cart carrying the idol is very much open to question. Witnesses are not consistent about the truck just following the cart carrying the idol. Some witnesses state about the truck following the processionists who were behind the cart.

2.35 Shri M. Sahay, Circle Inspector, Sursand, did not notice any truck with the procession. He has deposed that he went out of his house on the Pitch Road at 5 p.m., saw the cart carrying the idol in front of his house, and noticed the idol broken in some parts and brickbattering in progress near Kalamadir, 150 yds. from his house. He left for the Thana in about ten minutes and did not notice any truck with the procession.

2.36 Shri Abdul Hakim in his statement does not mention the presence of a truck in the procession when he saw it pass from the Gudri Bazar corner. He also does not mention having seen the truck standing on the Pitch Road when he went to the spot on hearing of the trouble.

2.37 The written statement on behalf of the Communist Party of India stated that the truck bore the registration in the name of the sister of Shri Dwarka Lal Mohd. Omar Nadaf stated in his written statement that he had seen a truck of Shri Sita Ram Agarwal on which some people were standing. The two statements about the ownership of the truck do not appear to be consistent.

2.38 Daffadar Ram Ratan Pandey does mention about the presence of the truck in the procession from the Bus Stand onward, but, according to him, the truck did not actually follow the cart carrying the idol but was behind the processionists who followed the cart.

2.39 The whole case for starting the trouble by some Hindu throwing a brickbat at the idol would depend on the question whether the Hindus had preplanned the incident. If it had not been preplanned, such an attempt by a Hindu would not have been likely. The statement of Shri Hemnath Jha, a member of the C.P.I. tends to support this view. He states:—

“A Hindu having faith in the Devi would not throw stones at the Devi. Only those who do not have any faith can do so.

Even a Hindu having faith in the Devi may stone at the Devi with the object of creating trouble with the Muslims or anyone else. I did not notice any other person on the truck trying to hold the hand of the person throwing stone at the Murti. May be all the persons in the truck had no faith in the Devi."

2.40 It is not to be supposed that all or any of the persons in the truck had no faith in the Devi. His statement "The stone, according to my idea, was actually aimed at the Murti" is consistent with its being aimed from the front as such aim could not be possible from a person on the truck behind the cart carrying the idol of Durgaji.

2.41 The preplan theory is sought to be supported by the contents of the leaflet distributed in connection with the Durga Puja celebration in 1967. We have already quoted from the various leaflets issued in the years 1962, 1963, 1966 and 1967. We do not find anything in the leaflet distributed in 1967 from which it could be inferred that an invitation was being extended to the Hindus of that locality to muster strong in order to attack the Muslims of Sursand. If that had been the intent of the contents of the leaflet, and if that had been understood by the Muslims of sursand, a complaint about the distribution of such a leaflet and about the apprehension of a breach of peace would have been made to the local authorities. No such complaint was ever made, though the leaflet have been distributed and was bound to have been distributed several days ahead of the actual celebration. The celebrations themselves started on the 9th October. The incident took place on the 13th October. People had been asked to come in maximum numbers with weapons in 1966 as well.

2.42 Apart from this consideration, there is some inherent indication in the leaflet itself which would show that it did not contemplate anything against the Muslims on the occasion. We notice that the arrangements had been made for a Qawwali competition on the 11th, 12th and 13th October and that the Qawwali parties included Bachchatarra Party from Calcutta and Alimam Qawwali Party from Darbhanga. Apparently the second party at least is a Muslim party. Further, the Qawwali programme on these days was from 8 p.m. It was therefore after the immersion ceremony on the 13th. It could not be in the contemplation of the organisers or the Secretary issuing the notice that there would be communal trouble during the immersion procession as a result of which the Qawwali programme could not have been gone through.

2.43 Some witnesses have, however, now deposed that they apprehended trouble from the distribution of the leaflet and that they conveyed their apprehension to the authorities; we do not accept their statements.

2.44 Shri Dillu Khan deposed :—

"We learnt of its distribution about 2 or 3 days before the day of the procession. Abdul Hakim and Dr. Hanif our leaders went to see Shri Mathura Prasad Singh, Sub-Inspector, and told him that such a procession would be taken out for

the first time and that we apprehended trouble. Shri Mathura Prasad Singh told them that they should not worry and that he would make all necessary arrangements. We then got satisfied."

2.45 Dr. Hanif in his affidavit does not state anything about the leaflet or of his speaking to the Station Officer regarding any apprehension from its contents. Mohd. Hanif Thekadar, examined as a witness, does not state anything about the leaflet in his affidavit, but has deposed :—

"On the Satmi or Ashtami I received the notice. I went to the Station Officer, told him about it and expressed my apprehension. The Sub-Inspector told me not to worry."

2.46 Syed Abdul Hakim has deposed :—

"Formerly they used to arrange for Kirtan and singing of songs only. In 1966 for the first time they performed some drama instead of Ram Lila. In 1967 they staged dramas 'Sultana Daku' and 'Ghaddar' and also arranged a Qawwali.

I got a leaflet about two days before the 13th October and learnt that it had been distributed from a few days earlier. I had heard about the previous distribution earlier than the receipt of the leaflet by me.

I advised the Muslims not to join the Qawwali as I apprehended some trouble due to the contents of that leaflet. The leaflet asked the people to come armed and to show their unity or something like that and also gave the programme. No leaflet was issued in any previous year. I do not know about the issue and distribution of leaflets for Durga Puja in the previous years. The only disturbing expression in the leaflet distributed in 1967 was the request to the people to come armed in large numbers.

The day I received the leaflet I went to the B.D.O. and to the Station Officer, Police Station, showed them the leaflet and asked them what the purpose could be of asking the people to come armed in large numbers in the Durga procession. I also spoke to Lakshman Mehta and 2 or 4 other local people. Their names I do not recollect. The B.D.O. and the Station Officer told me that the leaflet meant nothing and we should live without any worry."

2.47 He is wrong about the dramas being staged for the first time in 1966. The programmes of 1962 and 1963 also mentioned about the staging of the dramas. He is again wrong when he stated that no leaflet was issued in any previous year. According to him, the only disturbing expression in the leaflet of 1967 was the request to the people to come armed in large numbers. Such a request was made in the leaflet issued in 1966 as well. According to his statement, he expressed his apprehension to the Station Officer and the B.D.O. indirectly by simply enquiring from them what the purpose could be of asking the people to come armed in large numbers in the Durga Puja procession and felt satisfied by their statement that this meant 'nothing'.

2.48 In his affidavit, however, Shri Abdul Hakim stated :—

“Earlier pamphlets were printed in Sarvodai Press, Sitamarhi, and the same were distributed in the locality, inviting the rioters to join the procession of “Dasehra Murti” to be held on 13th October 1967 (immersion of Shri Durgaji ke Murti) well armed with deadly weapons. This I came to learn later from a copy of the aforesaid pamphlet itself.”

2.49 Sub-Inspector, Shri Mathura Prasad Singh deposed :—

“No Muslim reported to me against the leaflet stating that on the basis of its contents the Muslims were apprehensive of trouble during the festival.”

2.50 Shri Sultan Ahmed deposed :—

“The Durga procession started in the village about seven or ten years ago. Every year at the Durga festival there is apprehension of trouble. This year the apprehension was greater as a leaflet had been distributed asking people to come armed. I heard about the distribution of the leaflet about three days before the 13th of October. In the past years I did not come to learn about the distribution of any leaflet. I did not take any action in connection with the apprehended danger.”

2.51 Shri Sultan Ahmed's inaction does not fit in with the alleged apprehension on account of the contents of the leaflet asking the people to come armed.

2.52 The affidavit filed on behalf of the Muslim victims of Sursand through Sursand Muslim Relief Committee also stated in para. 7 :—

“In 1967 the procession of Dasahra Murti was scheduled to be held on 13th October 1967 and a procession was organised for that occasion. As it appeared later, pamphlets were got printed and published by Shri Gauri Shankar Agarwal and others of Jan Sangh in Sarvodai Press, Sitamarhi and the same were openly distributed in thousands in the locality inviting and inciting the Hindus of the locality to join the forthcoming procession of Dasahra Murti in large numbers duly armed with deadly weapons. This we came to learn later by looking into and perusing the contents of a copy of the aforesaid pamphlet itself. This came to our hands later.”

2.53 According to this statement, presumably based on the statements of the Muslims, they were ignorant of the leaflet till after the event. Shri Mohd. Ali has deposed “The Muslim came to know about the leaflet after the riots.” It follows that no Muslim could have felt any apprehension of trouble from the Hindus and could not have expressed such apprehension to the local officers.

2.54 Further, Rahman Kawari states that the Muslims did not have any such apprehension. His statement is :—

“There was no apprehension of any trouble on the day of the procession. After the matter quietened down we had no apprehension of any further trouble.”

2.55 He has further deposed :—

“I learnt of the distribution of the leaflet in connection with the Dusserah festival in villages other than Sursand about two days before the procession was taken out. We Muslims did not get perturbed on knowing about the distribution of the leaflet.”

2.56 It is alleged in the written statement filed by Jamiat-ul-Ulema that the staging of the dramas “Daku Sultana” and Ghaddar” on the 9th and 10th October very well served the purpose of rousing anti-Muslim feelings and hatred against the Muslims amongst the members of the majority community. The written statement filed by the Muzaffarpur District Council of the Communist Party of India states :—

“The leaflet promised dramas, qawwali, pooja and armed procession, a strange combination. The local authority was either negligent or conniving. Under the auspices of this Pooja Committee, Daku Sultana was staged on the 9th October, 1967. There was appreciable tension caused during the show which was marred. A police diary was made the following day of this incident, but no enquiry was made. Thus the sponsors ensured that they could get away perhaps with a lot more. The following day, ‘Ghaddar’ was staged. The drama was written to show a Muslim as a traitor and against the national integrity of India. The Hindu gathering was being gradually fed with poison.”

No witness has deposed so or stated so in the affidavit.

2.57 On the other hand, it appears that no drama was staged on the 9th and 10th October. Para. 4 of Annexure B dated 8th December 1967 to S.P.’s affidavit states :—

“In pursuance of the programme publicised on 9th October 1967 a drama “SULTANA DAKU” was to be staged at Sursand but due to certain adjustment in the programmes there was some difference between the members of the Management. As a result, some people threw acid on the screen. This made the management to suspend further programme both on the 9th and 10th of October. On 11th October 1968 only “Qawwali” was performed. On 12th October 1967, another drama “Ghaddar” was staged.”

2.58 The affidavit by A.S.I. Mohd. Ghaus states :—

“On 9th October 1967 a rumour was heard that the Drama Pardah constructed in front of the idol of Goddess Durga was destroyed by throwing some liquid acid on the pardah by some Hindu students of Sursand as they were not allowed to stage drama this year by the Marwari students due to some extra programme.”

2.59. Para. 5 of District Magistrate’s report dated the 23rd December, 1967 states :—

“But probably as a result of these differences acid was thrown on the screen in the evening of 9th October 1967.”....

"It is said that the screen was damaged and as a result there was no performance on the 9th and 10th of October, 1967".

2.60 It, therefore, appears that the statements in the two written statements are just based on the contents of the leaflet and not on actual staging of the dramas.

2.61 Sarvashri Abdul Hakim and Mohd. Hanif have deposed that the persons at the head of the procession tried to enter the Muslim mohalla at its entrance from the bazar side and that the armed police did not let them enter the mohalla. There is nothing in the written statement of Shri Abdul Hakim about it. Shri Mohd. Hanif has not stated anything about the 13th October incident in his written statement. His statement before the Commission is:—

"At about 4 p.m. on the 13th October, I was at the Madrassa when the procession started. The Sub-Inspector of Police arrived there. When the procession arrived there, the front processionists wanted to enter the Muslim mohalla. Police tried to stop them. After some time when the processionists failed to enter the Muslim mohalla, they proceeded westward. After the processionists went the Sub-Inspector told me and Hakim that he did not expect that attempt of the processionists to enter the Muslim mohalla and that he was now aware of it. We told him that he had already seen with his own eyes."

2.62 The written statements on behalf of Muslim victims do not mention any such attempt of the processionists. The written statement by Jamiat-ul-Ulema-e-Hind, Bihar State Office, mentions:—

"The procession wanted to pass through the Juma Masjid Mohalla. The Muslims requested police to guarantee their safety in case of this event. However, the police got the procession to take the old established route of the road. The procession had also with it a truck full of brickbats and stone pieces. Slogans were being lustily shouted against Muslims and abuses."

2.63 This appears to be highly coloured version. No other written statement mentions about the attempt to pass through the Muslim mohalla. No witness speaks of Muslims asking for guarantee of safety in case of the procession passing through the mohalla. No other written statement mentions this. Nor does any Muslim witness or other written statement mention the shouting of anti-Muslim slogans.

2.64 Shri Dillu Khan has not said anything about such an attempt of the processionists to enter the Muslim mohalla. We are not prepared to accept these statements tending to show that the processionists were bent upon some mischief.

2.65 Magistrate Shri P. B. Lal has deposed:—

"Some of these processionists in the rear also had lathis and spears. The processionists did not attempt to proceed by the Muslim mohalla after they had done few minutes' lathi play

and the processionists were asked to proceed on and they proceeded on peacefully."

2.66 Station Officer Shri M. P. Singh has stated in his written statement :—

"I consulted the Magistrate, P. B. Lal, and went to Gudari, from where a road leads to Muslim mohalla. The procession has no licence to pass through this way and there is a mention in the Crime Directory in Part III to keep a special watch at this place. The procession passed from there very peacefully and there was no tension."

2.67 In fact, if such an attempt had been made that would have put the Magistrate and the Station Officer on guard and should have guided them to accompany the procession to see that it passes peacefully by the other end of the Muslim mohalla. The return of the Magistrate and the Station Officer with the armed force to the police station after the procession had turned west from this place is a very good indication of the fact that there was nothing suggestive of any evil intention on the part of the processionists.

2.68 The number of persons injured and the nature of injuries on their persons alleged to have been received in this incident also point to the non-preparedness of the Hindus for such trouble.

2.69 According to the injury reports received, twenty Hindus were examined at the Hospital on the 13th, 14th and on the morning of the 15th October, 1967. Some of those examined on the 14th actually visited the hospital on the 13th evening. Of these twenty persons, five had incised wounds and three had punctured wounds. Shri Lachmeshwar Jha had one incised wound 2" × ½" scalp on the back of the right side of the head. Shri Nageshwar Raut had two incised wounds. Shri Dukha had one incised wound. Shri Chitaradeo had one incised wound. Shri Yogendra Mandal had one incised wound and several lathi injuries. All these five persons were examined on the 14th October, but the first four had been to the hospital on the 13th evening. Besides Shri Nathuni Sah had one punctured wound with incised edge on back of the head. Shri Ram Deo Panjiar had an incised punctured wound which bled profusely. He was considered to be a serious case and was removed to Muzaffarpur Hospital that very night. Shri Mohan Sah examined at 8 a.m. on the 15th October had a punctured incised wound on the front of left side chest. He was taken to the hospital on the 14th October at 7-30 p.m. when the injury was about 24 hours old according to the doctor.

2.70 On the other hand twelve Muslims were examined on the 13th and 14th October, 1967. One of them Shri Sultan Khan of village Banauli arrested in connection with the riot, was examined on the 13th October. He had two contusions 4½" × ½" and 1¾" × ½" × 2" across back of left side of chest, deep abrasion on the right side of forehead and swelling of left side shoulder and abrasion on middle of skin of right leg. Out of these twelve persons, six had lacerated or contused wounds, five persons had swellings and abrasion and one a contusion.

2.71 Three police people also got injured on the 13th October. Two of them, Shri Shiv Nath Singh and Shri Bangali Singh, received injuries when an accused was said to have been rescued from their custody. The third, constable Ram Narain Chaturvedi, received two incised wounds, probably during the rioting.

2.72 It is really surprising that out of a number of processionists, armed with spears, none appears to have used them against the Muslims during the riot, while the Muslims could cause injuries with sharp-edged and sharp-pointed weapons on so many Hindus. If this can lead to any conclusion, it can only be that some Muslims were prepared to create trouble at the other end of the mohalla and had armed themselves with these weapons with the deliberate intention of using them in case of any trouble developing.

2.73 It may be mentioned here that one of the Hindus, injured was a resident of Nepal and that among the injured were two persons of village Banauli, two of village Birpur, one of village Itari and Shri Ram Deo Panjiar of village Sahsram.

2.74 Lastly we may just refer to the views of both the Superintendent of Police and the D.M. who have rejected the version of the idol being stoned by a Hindu on the truck following the cart carrying the idol. The S.P. is of opinion that the stone was thrown by some agent provocateur. The D.M. is of the view that some rabid communal Muslims were responsible for creating the incident.

2.75 The Superintendent of Police in his report dated the 8th December, 1967, submitted to the Deputy Inspector General of Police (Annexure 'B' to his affidavit) refers to the three versions of the incident of the 13th October, 1967, in para. 83, he has stated :—

“One version indicates that the trouble was planned and there was a truck load of brickbats accompanying the procession and according to a set plan brickbats were thrown from this truck which hit the image and later two houses of Muslims were set on fire and fire was lit in a corner of the roof of the house of Sultan Ahmed. The Muslims at this stage had also resisted and there was exchange of brickbats and riot resulting in injuries on both sides and the police and other Government servants.”

2.76 The second version is referred to in para. 84. It reads :—

“The second version is that the Muslims had planned to disturb the procession and had collected at the head of the lane opening on the main road and they had started brickbatting the image which had ultimately resulted in brickbatting from both sides and the rioting and in retaliation three of the Muslim houses were set on fire.”

2.77 And the third version is mentioned in para. 85 which is :—

“The third version is that some agent-provocateur who has not been located and who could be of either community fully knowing the resultant events did some mischief and the subsequent events took place as they always did.”

2.78 With respect to the first version, he simply refers to its being published in English newspapers by certain political parties. He rejects the second version and states in para 87:

"The second view that the Muslims had inspired and planned mischief is against commonsense as the Muslims are fully aware of the consequences of such activities on their part. Knowing that in a population of 13,183 they constituted only 2,165 any such act on their part would result in a known and definite serious danger to their lives and property. Being fully aware of the outcome they would not combine and conspire or plan such an act injuring the sentiments of the Hindus resulting in their sure annihilation. They can do so only if they all went mad and suffered from a suicide mania. This version is thus not at all convincing and has to be rejected."

2.79 He is inclined to accept the third version as he stated in para. 88 :—

"Obviously this mischief was created by some mischief-monger or agent-provocateur who has not been located so far. Efforts are being made to find him out."

2.80 The District Magistrate stated in his affidavit that he has referred to the causes of the disturbance in his report to the Secretary to the Government, Political (Special) Department, Bihar, Patna, sent with his letter No. 1388/C dated 23rd December 1967. As regards the incident of the 13th October, he has considered three aforesaid possibilities which could have led to the incident. He rejected two of them, namely, that the trouble was planned by the organisers of the procession and that agent provocateurs started the trouble by throwing brickbats and held the third possibility to be creditworthy, namely, the possibility of the Muslims starting the trouble by throwing brickbats at the idol and on the procession at the mouth of the lane where the Muslims were collected. In this connection he has stated in para. 31 of his reports :—

"I feel that the last version is more creditworthy. I feel that some rabid communal elements among Muslims were responsible for creating this incident. It is generally said that Muslims who are in minority are not likely to create any trouble as they must be fully aware of the consequences of such activities on their part. But the rabid communal elements do not care for the consequences and it has been seen and observed in a large number of cases with regard to communal incidents that first mischief is done by some Muslim irresponsible elements. It is observed that even if it is known that cow slaughter arouses feelings and sentiments of Hindus still cow slaughter is resorted to by the Muslims in the interior villages, as well as at other places."

We are surprised at the view expressed by the Superintendent of Police that the mere knowledge of the possibilities of the consequences of an action would always keep back the Muslim community from planning a disturbance. Communities, whether majority or minority, can plan such disturbances due to emotional feelings developing into something like fanaticism on account of certain incidents alleged to hurt their religious sentiments.

2.81 Communities sometimes fail to control their hot-heads. A few misguided and fanatical individuals act in a subversive manner and disturb communal peace, as a result of which their community also gets involved in the fracas and the upsurge of emotion blinds them to the possible consequences of their actions.

2.82 The written statement of the Hindu witnesses generally allege that the incident of the 13th October was provoked by the pro-Pakistan and pro-Chinese elements. This appears to be just a surmise.

2.83. The events of the 13th October led to the institution of six first information reports.

2.84 The first F.I.R., case No. 8 of 14th October, was lodged by Kheneru Thakur of Maruahi, P.S. Jaleshwar of Nepal against Mir Abdul Hakim and 29 others about his being beaten by the accused persons. A charge sheet has been submitted to the court in this case.

2.85 Case No. 9 was instituted on the statement of Sahidan Bibi about the burning and looting of her house. Case No. 10 was registered on the report of Sheo Nath Singh, Constable, against two persons for having rescued a person they were taking in custody to the police station. Case No. 29 was registered on the 20th October 1967 on the report of Jitani Sanyasin against some Muslims. Final reports have been accepted in these three cases.

2.86 Case No. 35 was registered on the 22nd October on the statement of Narsingh Sah against Mir Hakim and others. The case has been challaned. The allegation in the F.I.R. in brief is that, a number of Muslims, variously armed, began to throw stones on the idol of Durgaji, which was disfigured and damaged. On the objection of Hindus, they used their weapons and beat the people. One of the persons injured was Ram Deo Panjiar. He was said to have been attacked by Sheikh Mansur and Sultan Momin. This case is still under trial.

2.87 The sixth case about the incident on the 13th is case No. 39. Final report had been submitted in the case. It was registered on the 23rd October. The report was filed by Smt. Banarsi w/o Lakhan Sah and was about the attack by the Muslim crowd on the procession and the killing of her husband during the attack.

2.88 As the question of the origin of the incident of the 13th October 1967 will be a point for consideration in case No. 35, it may be considered advisable not to publish this report till the case is finally disposed of by the court.

2.89 The charge sheet in case No. 35 was submitted finally to the court on the 31st January, 1968. It was reported to us, during the hearing in the month of April, 1969, that no evidence had been recorded in the case by then. This aroused our curiosity and we sent for a copy of the order sheet. We find that the charge sheet was sent on 31st January 1968 from the police station to the court of the

Sub-Divisional Magistrate. The charge sheet was noticed by the court on the 12th February 1968. The case was transferred to the Munsif Magistrate on the 29th July, 1968.

2.90 It is a matter to be considered whether the charge sheet submitted to the court of the Sub-Divisional Magistrate should not be immediately passed on for further proceedings or trial to the Munsif Magistrate. We understand that in Bihar there is separation of judiciary from the executive. The trial of the cases charge-sheeted have to take place before the Judicial Magistrate. The delay in the submission of the case to the Judicial Magistrate for trial would then be saved. The Judicial Magistrate would exercise his discretion with respect to matters which may be dealt with by the S.D.M. during this period. We may mention that we have got a copy of the order sheet in four other cases and find substantial intervals existing between the submission of the charge sheet and the transfer of the case to the Munsif Magistrate for his disposal.

2.91 The proceedings before the Munsif Magistrate from 30th July 1968 up to the 25th April 1969 leaves much to be desired for a speedy trial of a case and particularly of such a case. Eleven of the accused presented themselves on the 17th August 1968, the first date, and the 12th accused appeared on the 7th September 1968. The case had been fixed for hearing on the 8th November, 27th November, 18th December, 1968; 25th January, 17th February, 13th March and 11th April 1969 for hearing on the point of charge but no actual hearing took place. No reason for this appears from the order sheet. The case was adjourned to 9th May, 1969 for the same purpose.

CHAPTER III

ACTION TAKEN AND INFORMATION COLLECTED BY THE AUTHORITIES BETWEEN THE 13TH AND 15TH OCTOBER, 1967

3.1 At about 5-30 p.m. on the 13th October, the Circle Inspector, Sursand, informed the S.D.O. Sitamarhi, about the rioting at Sursand. The message is noted in the Log Book, Control Room, Sitamarhi, having been received at 6 p.m., the time when, according to the S.D.O., he got the message. The District Magistrate, Muzaffarpur, happened to be at Sitamarhi and was present in the Control Room at the time. Both these officers proceeded to Sursand and reached there at about 7-30 p.m. They were informed by Magistrate Shri Lal, and by the Station Officer that the situation had been brought under control.

3.2 Learning that the immersion ceremony of the Durga idol had not yet taken place, the officers arranged for the immersion of the idol and that was done peacefully at about 10-30 p.m.

3.3 On making rounds of the affected mohalla, they found one kutchra house reported to be belonging to Shri Badri Dhunia, located near Arrah Machine, which is on the other side of the Pitch road and is opposite to its junction with the lane leading to the Muslim mohalla, almost completely burnt. They also found the roof of the house of Sahebjan Dhunia burnt. They found a very small portion in one corner of the shop of Sultan Ahmed burnt.

3.4 Dy. S.P., Sitamarhi, and Magistrate Shri S. K. Soni reached Sursand at about 7-45 p.m. that evening. Four lathi Constables came with the Dy. S.P.

3.5 The District Magistrate posted Magistrate Shri Lal with half a section of armed force at the northern entrance near the Gudri Bazar of the Muslim mohalla and Magistrate Shri Soni with another half a section of the armed force which had arrived at the other end of the mohalla on the Pitch road, for the protection of the Muslims residing in that mohalla from any violent reaction on the part of the Hindus against them. These officers were probably ignorant of the other Muslim abadis in the village. Shri Patankar, the District Magistrate took over charge as District Magistrate, Muzaffarpur, on the 5th May, 1967 and had no occasion to visit the village since then. He had been to the village, however, a few years earlier in his capacity as Regional Development Officer, Tirhut Division.

3.6 Sub-Divisional Officer Shri J. Das was posted to Sitamarhi as Second Officer on the 5th May 1967. Shortly thereafter he proceeded on leave and rejoined on the 1st August. He was S.D.O. in-charge Sitamarhi from the 7th September. According to Shri Das's statement, the Circle Inspector and the Officer-in-charge told them, in

answer to a question as to which were the pockets of Muslim population which were to be protected, that the two ends of the Muslim mohalla were the vulnerable points which were to be guarded for the protection of the minority community. The two armed pickets were, therefore, posted at these two vulnerable points. His statement finds support from what he had written in his report to the District Magistrate on the 13th November, 1967. There he stated in para 3:—

“After immersion we went to inspect the spots. We made categorical enquiries about the places and areas which need to be specially guarded and we were shown only one Muslim mohalla and the two static forces at two points were posted besides a third armed party for patrolling. This is the third thing which misguided us. In this connection I would like to recall to your memory that when on 14th October 1967 you along with the Commissioner, the D.I.G. and myself visited Sursand and went from place to place and inspected every spot and enquired from officials and non-officials nobody even then pointed out that there are other Muslim mohallas which require special attention and vigilance. Thus perhaps you will agree, all of us were under the impression that we had sufficiently covered and made arrangements for the protection of the Muslim population living at Sursand.”

3.7 The statement of the Dy. S.P., in this connection is:—

“On the 13th two static pickets with Magistrates were posted at two places only. They were the ends of the Muslim mohalla and were considered to be vulnerable points. The remaining Muslim abadis in the village are not so dense. The patrolling by Magistrates was done in the entire village. A jeepable road runs round the village and some roads inside the abadi are also jeepable.”

3.8 The village map showing areas where the houses were burnt and the statements of some witnesses do not give credence to the version that the other Muslim abadis were not so dense. They also indicate that the posting of the armed pickets at the two ends of Khas Patti, the Muslim mohalla, where trouble took place, was not sufficient to meet an emergency of communal trouble.

3.9 The District Magistrate asked the Dy. S.P., to round up communal and goonda elements the same night, but no actual arrests were made.

3.10 Orders of the S.D.O., Sitamarhi under section 144 Cr. P.C. banning processions, carrying of arms and assembly of five or more persons for fifteen days were promulgated in Sursand, Bela and Pupri Police Stations.

3.11 The D.M. and the S.D.O. left for Sitamarhi at about midnight.

3.12 Extra police also arrived. 1:4 armed and four lathi Constables reached there at 11-30 p.m. with Havildar Ram Singh. At 3 a.m. Naik Kapil Deo Pande along with 19 armed Constables of

B.M.P. arrived from Sitamarhi. On the 14th October, therefore, there were 31 armed Constables with four officers and eight lathi Constables in addition to the ordinary Thana force.

3.13 On the 14th October, the Commissioner and the D.I.G. of Police left Muzaffarpur for Sursand to make their own assessment of the situation. They had learnt of the incident at Sursand during the preceding night. The District Magistrate and the S.D.O., met them at Sitamarhi and informed them of the position. On the way to Sursand the District Magistrate complained of the local police not responding to his direction for arresting the communal and goonda elements the night before. It may be mentioned that no goonda was arrested prior to the disturbance on the 13th October and only one Muslim, originally arrested under section 151 of the Cr. P.C., was later made an accused in a specific case. He was probably Shri Sultan Khan who had been arrested during the incident of rioting.

3.14 Both these officers had stated that when they moved about Sursand they found the conditions to be practically normal and their conversation with people did not show any nervousness. The Commissioner has deposed:—

“I went round the Muslim mohallas. The male members were not available. They had run away for fear of arrests. Women members expressed the feeling that there should be no indiscriminate arrests. Shops were mostly open.”

3.15. The D.I.G. of Police deposed that he found normalcy of traffic etc. on the roads, that Shri Sultan Ahmed Khan, a portion of whose house had been burnt, said that he did not apprehend any further trouble and that the other Muslims also stated the same thing.

3.16 The Commissioner wanted to call the influential people to constitute a Peace Committee but the persons were not available. He, however, feeling apprehensive of the repercussion from the Hindus constituted a Peace Committee at Sitamarhi on his return from Sursand.

3.17 The Commissioner and the D.I.G. left Sursand after giving the following instructions to the local police officers and the Magistrates deputed there:—

- “(i) The officers have to be extra alert and cautious as according to the reports then available, larger number of injured persons belonged to the majority community, and, therefore, the majority might plan to take revenge.
- (ii) To make immediate arrests of persons responsible for the previous day's occurrence as well as of all the suspected trouble-makers.
- (iii) The entire area should be divided into sectors and intensive patrolling be introduced to prevent any further incident.

- (iv) We wanted to hold a meeting of the influential members of both the communities but as they were not readily available, the local officers were instructed to hold the meeting at the earliest."

The Commissioner also said that more arrests of mischievous persons be made. He specifically asked for the arrest of Shri Gauri Shankar Aggarwal who had issued the leaflet about the celebrations and was told by the Station Officer that Shri Gauri Shankar Aggarwal was a respectable person, indicating the reluctance of the local police to arrest him.

3.18 The only complaint received by the Commissioner at Sursand was from Shri Ram Deo Sharma, a member of the C.P.I. that a number of Muslims had been injured in the incident the day before but were not coming forward on account of their fear as some of them who had gone to the Thana the previous evening had been scolded away by the Thana staff. This complaint was denied instantly by the District Magistrate and the Dy. S.P., who had reached the Thana at 7-30 p.m. and were mostly there, and stated that no such incident had taken place at the Thana. The Station Officer was busy mostly outside the Police Station that night. He looked to the immersion of the idol of Durga and thereafter recorded statements. He returned to the Thana at 4 a.m. on the 14th. On the other hand, A.S.I. Mohd. Ghaus was at the Thana from 6-30 p.m. on the 13th to 2.30 a.m. on the 14th as, according to him, other officers were out. It seems hardly credible that A.S.I. Mohd. Ghaus would have treated the Muslims as alleged.

3.19 Shri Ram Deo Sharma did not tell the Commissioner about any apprehension of breach of peace.

3.20 The instruction of dividing the village into sectors was not followed. The chart of patrolling was prepared by Magistrate Sarkar in consultation with the Dy. S.P. He arranged for one patrolling party at a time and the area to be patrolled was the entire village by that party. The roster chart is as follows:—

<i>Date</i>	<i>Time</i>	<i>Name of Magistrate</i>	<i>Vehicle</i>
14-10-67	6 p.m. to 2 a.m.	Shri D. Sarkar	BRF 3832
15-10-67	2 p.m. to 10 a.m.	Shri M. Sahay	BRF 1484
15-10-67	10 a.m. to 6 p.m.	Shri S. N. Jha (BDO)	BRF 3832
15-10-67	6 p.m. to 2 a.m.	Shri D. Sarkar	BRF 1484
16-10-67	2 a.m. to 10 a.m.	Shri M. Sahay	BRF 3832

3.21 The D.I.G. of Police in this connection has deposed that he found on arrival on the 16th October that his instruction of patrolling sector-wise was not complied with. His relevant statement on the point is as follows:—

"Patrolling was done but one party patrolled the whole area. To carry out the instructions would have required 4/5 Magistrates and 16 to 20 armed people. But the area being not large

it was not necessary for these people to be on the move all the time. The whole sectors being rather small could have been covered in a shorter time giving sufficient time to relax and in a way patrolling in shorter intervals would have created better impact on the people of the locality.”

3.22 It is seen that there were five Magistrates at Sursand and quite adequate police force. There were 34 armed constables, eight lathi constables besides the Thana staff, the Dy. S.P. and the Inspector of Police. The main reason for not complying with such a salutary direction may be the ignorance of the senior Magistrate, Shri Sarkar, about the location of the Muslim mohallas. Sector-wise patrolling by a magistrate and armed police would have made up for the absence of static armed pickets for other Muslim abadis.

3.23 The instruction about making arrests was not followed. On the 14th October, nine persons, two Hindus and seven Muslims were arrested. The Station Officer when questioned in this connection said:—

“The Collector and S.D.O., ordered me to arrest the communal agitators. 7 Muslims and 2 Hindus were arrested on the 14th October during investigation of offences. 34 Hindus and 16 Muslims were arrested under Section 151 on 15th October, 1967. Most of the arrests were made after 4 or 5 p.m. when the incident of the 15th October had taken place. The mischievous persons could not be arrested as preventive measures under Section 151 on the night of the 13th October as they had fled away to Nepal. On the 15th they returned for committing the offences and the forces were also increased. It cannot, however, be said how many of them had gone to Nepal and whether Muslims too had gone to Nepal or not. Such persons could be arrested under Section 151 only in the public street.”

3.24 The statement shows that the arrests made on the 14th October were in connection with specific cases and not on account of preventive measures. To say that a person could be arrested under section 151 Cr. P.C. only in the public street betrays ignorance of the provision of the section which reads:

“Arrest to prevent such offences—A police officer knowing of a design to commit any cognizable offence may arrest, without orders from a Magistrate and without a warrant, the person so designing, if it appears to such officer that the commission of the offence cannot be otherwise prevented.”

No place from which arrest can be made has been specified. The criteria to arrest a person under this section is the police officer's knowledge that there is a design to commit a cognizable offence and that arrest is essential to prevent the actual commission of the offence. The explanation for making no arrest of mischievous persons on the 13th and 14th October because those persons had fled away to Nepal, does not stand to reason. A large number of arrests made on the 15th October under section 151 Cr. P.C. were after the

event of the 15th October. They were made between 8 and 10 p.m. The S.O. left the Thana at 8 p.m. and returned with the arrested persons at 10 p.m. according to entries Nos. 268 and 269 in the Station Diary for the 15th October, 1967. There has been a particular lethargy on the part of the police to take precautionary steps for prevention of any apprehended trouble, though stressed in the Dassehra orders and especially enjoined by the officers on the 13th and 14th October.

3.25 Statements have now been made about certain meetings taking place in Sursand at which action of the 15th October was planned and of the local officers being informed of such meetings. No such information is reported to have reached the police station or any officer on the spot.

3.26 The written statement on behalf of the Communist Party of India states:—

“A meeting was held at the residence of Shambhu Babu and another at the residence of Dwarka Laat, where it was resolved to punish the Muslims for all that had happened the previous day.

From afternoon, strangers and outsiders started stealing into the village, and gathering at the residences of Shambhu Babu, Dwarka Laat and their associates.

Yet the local authority was ignorant. Some Muslims got an inkling of what might happen any moment.”

Nothing is said in this written statement of what the Muslims did on getting an inkling about any possible trouble.

3.27 The statement made does not appear to be corroborated from the oral statements of the Communist witnesses. Shri Raj Kant Mishra who filed a written statement said that on learning on the 14th October 1967 that some meeting was being held at Shambu Babu's darbar, he deputed Shri Jogendra Thakur to go and to find out what was going on there. Shri Jogendra Thakur deposed that when he reached that place, people were coming out after the meeting was over. He does not depose as to what was discussed or decided there. Shri Bindyachal Prasad simply deposed that he saw some strangers collecting at the houses of Shambhu Babu and Shri Dwarka Lat at about 4 p.m. on the 14th October.

3.28 About the meeting at Shri Dwarka Lat's house, Shri Raj Kant Misra has deposed:—

“After 8 p.m. on the 14th October, I was called to the house of Dwarka Lat. I went there. Jogendra Thakur also accompanied us. I found 35 or 40 people sitting there. They became silent on our arrival. Dwarka Lat told me that we were asking people to remain peaceful and were thus obstructing what they wanted to do. I told him what we wanted to do and asked him why he was angry. He said that he would not say anything more then and that if we persisted in our attitude and work we would also suffer. I replied that we were doing what we considered just and proper. He was a big man and could do what he liked. Jogendra Thakur and I went to the

Thana. The time would be about 9 p.m. I told the S.I. what had happened at Dwarka Lat's house and indicated that he meant creating some trouble. The S.I. assured me that he would deal with the situation and he would see that nothing happened. Then returned from the Thana. No report was taken down of what I told the S.I."

3.29 There is no mention in the written statement about Shri Raj Kant Misra being called to the house of Shri Dwarka Lat that night.

3.30 Shri Jogendra Thakur does not depose about any such visit, in the company of Shri Raj Kant Misra, to Shri Dwarka Lat's house. The entire conversation does not appear to be real. If Shri Raj Kant Misra was called by Shri Dwarka Lat as a Hindu, he could have been more explicit in his talk with Shri Misra. Shri Dwarka Lat ought to have known that Shri Raj Kant Misra was the Thana Secretary of the Communist Party of India and as such, would not be a party to the scheme of violent action against the Muslims, which Shri Dwarka Lat was supposed to be hatching. Shri Dwarka Lat, in the circumstances, would not have called Shri Raj Kant Misra in the hope that he would succeed in persuading Shri Raj Kant Misra to desist from asking the people to live peacefully. Again, Shri Jogendra Thakur does not support him about his statement that he and Shri Raj Kant Misra went together to the Thana and the S.I. was told about the apprehended trouble from Shri Dwarka Lat.

3.31 The S.P. stated in para 32 of his report dated 8th December 1967, Annexure B of his affidavit, that a reliable intelligence agency reported to him on the morning of 16th October 1967 about the holding of a secret meeting in the house of Shri Dwarka Lat on the night of 14th October 1967.

3.32 Shri S. F. Ahmad, Superintendent of Police, has deposed:—

"On the 16th October morning the A.C.I.O. (Assistant Central Intelligence Officer) met me and told me that there was a meeting on the 14th/15th October at Dwarka Lat's house at Sursand at which the persons noted by me in the chit and also about 50 other persons were present. A few further names he mentioned as being present at that meeting and I myself noted the names on the chit. He told me that the incident of the 15th October was planned at that time.

He told me that he went to Sursand after the incident of the 15th October and he came to learn about it in the course of his enquiry."

3.33 Shri Ram Charan Ram, the A.C.I.O., does not support this statement and has deposed in this connection:—

"I reached Sursand on the 15th at 1.30 p.m. When I got down from the bus at 1.30 p.m. I heard a noise that houses had been set on fire at Dusadh Toli. I also saw smoke rising and police forces going in that direction. I proceeded to the thana where I expected to get full information about the situation

there. At the thana there were C.I.D. watchers. Members of the public also came and gave information. I conveyed the information at about 2.30 p.m. on telephone to the C.I.O. at Patna. I have no record of the information I conveyed to the C.I.O. about what I had gathered there about the happenings in Sursand that day and what was being done. I did not have any information about any meetings.

At about 9 a.m. on the 16th October I went round and got reports of the likelihood of attacks being made on buses plying between Sursand and Sitamarhi. I also got reports that over the large communal belt there may be riots at other places. It was also reported to me that if some of the prominent local people could be tackled or dealt with harshly the trouble might be nipped in the bud. We have instructions to convey information affecting law and order to the local officers. I, therefore, thought of conveying this information to the local authorities. I met the S.P., Muzaffarpur, who was camping at Sursand, at about 1.30 p.m. and conveyed to him this information. The S.P. asked me to write down the names of certain persons whom he may tackle in that connection. I did not note down the names of some persons and gave the list to the S.P. I do not recollect the number of persons I had noted down in the list. After taking that list the S.P. went out. No further discussion about other possible names to be added to the list took place. Immediately after this information was conveyed the S.P. ordered road patrolling which was started. I did not note down the names of the persons who had taken actual part in the incidents. I conveyed my informing the S.P. to the C.I.O., who happened to come to Sursand one or two days later. I followed up this verbal conversation with the C.I.O. by written reports. The report was sent to the C.I.O., Patna. The post of Dy. C.I.O. had been created a few days before the incident at Sursand and he did not have a really working office at that time."

3.34 Copy of the note said to have been given to the S.P. by the C.I.O. reads:—

Copy of Chit

- (1) Dwarka Lath
- (2) Bujhwan Khabas
- (3) Ram Bilash Chaudhary
- (4) One Kayastha whose Homeopathic shop is on the chow-raha and about 50 others.
- (5) Shankar Lath
- (6) Uma Shankar Lath
- (7) Kashi Lath
- (8) Ramnath Saragoi—(All in the pen of A.C.I.O.)
- (9) Gouri Shankar Sarbgi
- (10) Sitaram Sarbgi

- (11) Ramanand Saraf
- (12) Yougal Kishore
- (13) Nand Kishore
- (14) Indra Prakash Saraf—(Subsequently added by the A.C.I.O. in the slip which he told orally and noted down by S.P. (Sl. 9 to 14). The slip has been signed by S.P. on 16th October 1967).

The matter within brackets does not appear to have been noted in the original chit but appears to have been noted presumably by the S.P. when sending a copy to his superiors.

3.35 We tried to get from the Central Intelligence Office Patna and later from the Director, Intelligence Bureau, New Delhi, the written reports deposed to have been submitted by A.C.I.O. in this connection but have not received any. We have, however, received replies to certain queries made to the Director, Intelligence Bureau by us. These answers indicate that A.C.I.O. conveyed information about a meeting at Dwarka Lat's house on 15th October (apparently a mistake for the meeting of the 14th October) and also conveyed it to the S.P. This information on enquiry by higher officers was not found confirmed and was considered of doubtful nature.

3.36 The mention of "and about 50 others" in the note against serial No. 4 is not consistent with the statement of the A.C.I.O., Shri Ram Charan Ram:—

"The S.P. asked me to write down the names of certain persons whom he may tackle in that connection. I did note down the names of some persons and gave the list to the S.P."

However, "about 50 others" had no significance in any context. The first eight names are alleged to be in the hand writing of the A.C.I.O., and the last six names in the S.P.'s hand. The note "and about 50 others" seems to close the list of names. This would indicate that the remaining ten names had been given later.

3.37 In this state of affairs, it cannot be held positively on the evidence on record that any meeting of Hindus was held at Shri Dwarka Lat's house on the night of 14th and 15th October. We note that the A.C.I.O. Shri Ram Charan Ram either stated falsely before us about having no information about any meeting or submitted false reports to the department. We record our disapproval of such a conduct.

3.38 Shri Rahmar Kabari states to have noticed people going to Sambhu Babu's house and returning from there from 10 a.m. to 4 p.m. on the 14th October. From his earlier statement that after the matter of the 13th October quietened down, they had no apprehension of any further trouble, it follows that his noticing of going in and coming out of people from Shambhu Babu's house did not raise any apprehension of any evil design.

3.39 The written statement filed by the Bihar State Jamiat-ul-Ulma states:—

“During the day of the 14th October 67 Hindus from Sursand and neighbouring places assembled in the “Darbar” of one Shri Shambhoo Pratap Shahi alias Raja Babu and so also during the night “Darbar” was held by the said Sri Pratap Shahi. It is reported that the Officer Incharge of the local Police Station, Dafadars and Chowkidars also attended the Darbar. Meetings were held till late in the night.”

3.40 Shri Dillu Khan has stated:—

“At 4 p.m. the next day I saw a large gathering of people at Shambhu Pratap Sahi’s house and a smaller gathering at Dwarka Lat’s house. Shambhu Pratap’s house is to the east of my house and Dwarka Lat’s house is on the western side of the Bazar. I saw people going into the house of Shambhu Pratap but I cannot say how many people had collected inside the house. People from different places kept on collecting at the two houses.

Abdul Hakim and Dr. Hanif informed the S.H.O. about these gatherings of people. These leaders again went to the thana at 10 a.m. the next day. The S.D.O., the B.D.O., and S.H.O. and other officers were there. They again expressed their apprehension at the collection of people. The S.H.O. told them not to worry and that everything would be all right.”

3.41 He has further stated:—

“I do not know what was being talked about at the houses of Dwarka Lat and Shambhu Babu on that night.

The trouble on the 13th did take place despite the assurance of the Station Officer to the contrary but we got satisfied when he took speedy action to settle the disturbances on the 13th. It was, therefore, that his assurance given to Dr. Hanif on the 14th kept us satisfied.”

3.42 Shri Abdul Hakim does not despose about going to the Thana at about 10 a.m. on the 15th October and informing the various officers there about apprehension from the collection of people at the houses of Shri Shambhu Pratap Shahi and Shri Dwarka Lat. He did go to the police station but that was in connection with offering bail for the Muslims who had been arrested.

3.43 Dr. Hanif does not state anything in his written statement in this connection.

3.44 Shri Abdul Hakim has stated that it was all quiet on the 14th October. His statement is:—

“On the 14th it was all quiet. I remained at my house. No officer came to my house to enquire. I also did not give any information to any officer on the 14th. I learnt that no Muslim

left his house in the Mohalla on the 14th on account of fear. it was all quiet in the Hindu areas all along the Muslim Mohalla. No sound or noise was heard from there."

3.45 He has further stated:—

"I learnt after the incident of the 15th October that meetings were held at the houses of Shambhu Babu, Dwarka Lat and Ramanand Babu on the 14th at which they considered the question of taking revenge. I also learnt that messengers were sent for from outside including Nepal. I did not hear of these activities on the 14th October."

3.46 In his written statement, Shri Abdul Hakim said in para 19:—

"That I have reasons to believe that the said communal riot was committed during the hot wave of political activities in which the local as well as the outsider politicians have internally taken active part."

He has deposed before the Commission that the para in the written statement refers to the riots being organised by Shambhu Babu, Shri Dwarka Lat and others for whom they never voted and about which he had already deposed.

3.47 Shri Abdul Hakim's statement neither supports Shri Dillu Khan nor establishes the holding of any meeting in the houses of Shri Shambhu Pratap Sahi or Shri Dwarka Lat.

3.48 Mohd. Hanif has stated:—

"On the 14th from the morning onwards I kept on hearing from the people passing from the road that the meetings were taking place at the house of Dwarka Lat, Ramanand Marwari and Shambhuji Darbarwala. These passers-by were Hindus. Mohammedans mostly remained indoor."

3.49 Nothing is said in the written statement filed on behalf of the Muslim victims of Sursand about the meeting on the 14th October. In para 9 it refers to a meeting of the 15th October, 1967, and states:—

"That even on 15th October 1967 a meeting of several thousands of Hindus was held in the compound of Shri Shambhu Pratap Narayan Sahi and Dwarka Lat (which is adjacent to Police Station, Sursand, and which is also close to the residence of the Inspector of Police P.S., Sursand) in which the happenings of 15th October 1967 were actually preconceived and pre-planned."

3.50 This is wrong description. There appears to be no common compound of Shri Shambhu Pratap Narayan Sahi and Shri Dwarka Lat. Neither of the two compounds adjoins the police station nor is either close to the residence of the Inspector of Police which is located in the thana compound. The compound of Shri Shambhu Pratap Narayan Sahi and the house of Shri Dwarka Lat are about

half a mile and a furlong respectively from the Thana. This wrong description seems to be based on the statement in para 3 of Shri Abdul Hakim's affidavit to the effect—

“About fifteen thousand Hindu rioters of various places assembled at the residence of Shambhoo Pratap Narain Sahi, s/o Sri Rameshwar Pratap Narain Sahi which is adjacent to the P.S. and the residence of C.I. Police.”

Such a wrong description of the location of the compound of Shri Shambhu Pratap Narain Sahi appears to be with the motive to lend support to the allegation that the police officers etc. knew of the meetings and what might have been discussed there and consequently aided and abetted the rioters.

3.51 About twenty Muslim witnesses on whose written statements the consolidated written statement on behalf of the Muslim victims of Sursand has been prepared have stated either in their affidavits or in the first information reports or in the complaint filed by some of them in court, about meeting of Hindus being held in the compounds of Shri Shambhu Pratap Narain Sahi and Shri Dwarka Lat. None specifically mentions the date; but the context implies the meeting to be on the 15th October when the rioters are said to have collected there and to have moved out in three groups. No witness examined before the Commission has deposed about such a meeting on the 15th.

3.52 The various allegations, apparently not based on actual seeing or knowledge, and the evidence discussed above, do not make out any holding of meeting on the 14th or 15th October at the houses of Shri Shambhu Pratap Narain Sahi and Shri Dwarka Lat.

3.53 On the other hand, Dy. S.P. Shri Sinha who was in Sursand from the night of 13th October to about 10.30 a.m. on the 15th states that he got no information about any meeting being held in the night on the 14th October. Shri S. N. Jha, B.D.O., patrolled from 7 a.m. to 6 p.m. on the 14th October and states:—

“During the day on the 14th Bazar was open, people were moving about and it looked to be normal. I did not notice any unusual activity.”

3.54 Shri Sarkar patrolled from 6 p.m. on the 14th to 2 a.m. on the 15th and found everything calm.

3.55 Dafadar Ram Ratan Pandey has deposed:—

“I did not know of any meeting being held on the 14th October. I did not hear of the Hindus expressing their resentment against what happened on the 13th.”

3.56 Shri Virendra Prasad, Inspector, C.I.D., S.B.P., deposed that two Sub-Inspectors and three A.S.Is. were left at Sursand on the night of the 14th/15th October with direction to divide the village area into sectors, to collect intelligence and to pass it on to him and other officers. He further deposed that at 8 a.m. on the 15th October the intelligence supplied was that everything was all right.

3.57 It is too much to suppose that none of these officers could notice or learn about the alleged meeting. We, therefore, do not find it established that any meetings as alleged took place on the 14th and 15th October, 1967.

CHAPTER IV

EVENTS OF THE 15TH OCTOBER, 1967

4.1 Shri P. T. S. Sinha, Dy. S.P., Sitamarhi, remained at Sursand from 7-30 p.m. on the 13th October till 10-30 a.m. on the 15th October. By the time he left Sursand, according to him, there was no indication of any trouble taking place there that day and that is why he preferred to return to Sitamarhi to attend to other work. He deposed that on his round to the main parts of Sursand between 9-30 a.m. and 10-30 a.m.

"None of us got any information about any apprehended trouble nor found anything during our rounds. Some of the usual shops were open; children were playing on the road and life seemed to be normal."

and further—

"By the time I left there were no rumours about a Hindu being stabbed, the dharamshalla being attempted to be set on fire or about the burning of a chatti of a betel seller."

4.2 We have already referred to the statement of Shri Virendra Prasad, Inspector, C.I.D., who reached Sursand at 8 p.m. on the 14th October, to the effect that the Sub-Inspectors deputed to collect information during the night of the 14th/15th October, reported to him at 8 a.m. on the 15th October that everything was all right.

4.3 Shri Sinha, Dy. S.P., however, stated about an injured woman coming to the Thana that morning and saying that Muslims were purchasing kerosene oil and would possibly burn their own houses in order to implicate the Hindus.

4.4 Shri G. Narain, the then Superintendent of Police, Security, deposed that he reached Sursand at 9 a.m. on the 15th and went straight to the police station. He states:

"There two Hindus came; one of them said that he was injured on the 13th. The other said that there was unusual sale of kerosene oil at Sultan Ahmed's house to the Muslims and that the Muslims were powdering dry chillies in their houses. I spoke to the Dy. S.P. and the officer-in-charge that such news was disconcerting and does not indicate that the situation was normal.....

I told the officer-in-charge to verify the news and to scotch the rumours, if untrue, and to speed up the arrests of undesirables. He showed me a list of about 65 persons to be arrested. The list was prepared earlier for the purpose. I left Sursand at 10 a.m."

4.5 It would have been better if the Dy. S.P. Shri Sinha had agreed with Shri Narain, the S.P. that the news was disconcerting, and had not formed the impression that the situation was normal and had stayed on at Sursand to deal with any eventuality.

4.6 Another factor which should have led to the same result was that the 15th October was Sunday on which day 'Hat' or market is held at Sursand and people from neighbouring villages attend the market. Their reaction to the events of the 13th October and to the news about the Muslims' purchasing kerosene oil could not be anticipated and, therefore, it was desirable to stay on in the village.

4.7 Shri G. Narain has, however, further deposed that when he returned to Muzaffarpur via Sursand about 11 a.m. he found people including women moving about freely and coming to Sursand for the 'hat' (market) which was held at Sursand and did not notice any unusual crowd or commotion from the main road to the Gandhi Chowk Bus Stand.

4.8 Shri Abdul Hakim has deposed about his moving freely in the village till about 12 O'clock and not noticing anything unusual except seeing 150 people, a larger number than usual, at about 12 O'clock at the Gandhi Maidan. Dr. Mohd. Hanif was with Shri Abdul Hakim and practically states the same in his affidavit. These statements tend to show that ostensibly there was no such activity in the village till about mid-day as to create apprehension of trouble among the people.

4.9 Station Officer Shri Mathura Prasad Singh has deposed about this complaint of unusual sale of kerosene oil by Shri Sultan Ahmed but deposes that no report was taken down in the station diary about it and that Magistrate Shri Sarkar, however, went and looked into that allegation. This would mean that no prompt investigation by the police of the information given by a Hindu was made even though Shri Narain had directed the Station Officer to verify the news and to scotch the rumours, if untrue.

4.10 Shri Sarkar, Deputy Collector, deposes to have learnt about the selling of kerosene oil by Shri Sultan Ahmed much later and enquired about it then. He learnt that oil had been sold to both Hindus and Muslims and found it so from the entries in the sale register. He, however, did not sign the register.

4.11 The sale register (Exhibit I) shows entries for the 12th and 13th October and also for the 15th October. No entry of sale on the 14th has been made though Shri Sultan Ahmed deposes that the shop remained open that day on the request of both Muslims and Hindus.

4.12 Shri Sarkar has deposed that on his way to the Thana he did not find anything abnormal and that Shri Sultan Ahmed did not tell him of any apprehension of any kind.

4.13 Another incident which took place that morning was the burning of a betel shop. Shri P. B. Lal, Sub-Deputy Collector, who was on duty with the static picket at the northern entrance of the Muslim mohalla, deposed in this connection:

"By 11 a.m. on the 15th October I got a report of the burning of a betel shop. I went there. It was a small betel shop, in Muslim mohalla at some distance from the vulnerable point where I was posted. The shop was on a small 'Chauki' and was built with gunny bags. The gunny bag was found burning. We extinguished it. There was no property there at the time. The shop-keeper too was not there. Three neighbours told us that it had been burnt due to some boys throwing a burning 'bidi'. There were a couple of boys there. They rushed inside a house. We could not arrest them. In the meantime Mohd. Ghaus, A.S.I., arrived there and took away the three neighbours for interrogation. I did not make any formal report in this connection as the A.S.I. had already taken the three persons to the Thana. I verbally told about the incident to the B.D.O. who on patrolling duty passed that way. This spot was about 15 yards from the vulnerable point where I was on duty."

4.14 Shri S. N. Jha, B.D.O., admits to having heard at about 11 a.m. about the burning of the 'Chauki' (the betel shop).

4.15 A.S.I. Shri Ghulam Ghaus denies having reached the spot and taking the three Muslims to the Thana. His statement in this connection is:

"Till 11-15 a.m. on the 15th I remained at the Thana. The departure and arrival of an officer is noted in the station diary. We cannot leave the Thana even for private work without making an entry. During the period one's absence is not shown in the diary, the officer is physically present at the Thana.

Three or four persons were brought into the Thana by chowkidars at about 11-15 p.m. The S.I. interrogated them about the burning of the chatti and let them go. I was present."

4.16 In his affidavit, A.S.I. Shri Mohd. Ghaus times the burning of the chatti incident after 10-30 a.m. He has stated:

"On 15th October 1967 at about 10-30 a.m. the D.S.P. left the thana. I was told that he had gone to Sitamarhi.

Immediately after that while I was at Thana, some Muslims were brought to the P.S. by the chowkidars. The o/c recorded statement of some of them. After some time I found that all those Muslims left the P.S."

4.17 A report of this incident is entered in the station diary, Entry No. 256, reported to be made at 12 O'clock. It is to the effect that Illahi Bux, s/o Farzand Ali, resident of Thana Sursand, along with Halim, s/o Firangi and Sheikh Vajuddin, s/o Sheikh Roudi, residents of Thana Sursand, came and reported that at about 11 a.m. that day he was at the shop of his brother Suleman, erected on a platform with gunny bags. There Abbas who is a grandson of Gaffoor, resident of Thana Sursand and another unknown Muslim, aged 11, were smoking. These boys stayed there for some time and then went

away. Smoke began to come out of that shop. The cost of the stall would be at most Rs. 2. Some boys began to extinguish the fire and raised shouts. The armed constables came there and extinguished the fire. He was sure that those boys threw bidis on the shop and that set it on fire. It appears possible that those boys did it in order to increase tension. The report was read out to them and they signed it.

4.18 The entry of this report in the Station diary appears to have been made much after the receipt of the information. The incident appears to have taken place soon after 10-30 a.m. Shortly after information reached the S.D.O., Shri J. Das, at Sitamarhi through Shri Mathura Prasad Singh, an Advocate who got a telephone message from Shri Dwarka Lat. Shri Das has disposed:

“At about 11 a.m. on the 15th Shri Mathura Prasad Singh, Advocate, telephoned me that he had just received information from Sursand that some fire incident had again taken place there. He did not tell me as to which place was set on fire. By 11-15 a.m. I had contacted Police Station, Sursand, through my Stenographer. The Stenographer told me that a betel shop made of Chatti had caught fire at Sursand due to some boys throwing a lighted ‘biri’ there and that the fire had been extinguished. So I left for Sursand at 11-30 a.m.”

4.19 He left for Sursand at 11-30 a.m. and it appears that after this telephonic conversation between Shri Das’s Stenographer and the Police Station that the entry in the general diary was made.

4.20 Dafadar Ram Ratan Pandey deposed in this connection:

“At about 10 or 11 I heard about burning of a Chatti. I reached there. Officers were already there. I brought 3 persons accused of setting fire. Two persons were handed over to A.S.I. Ghulam Ghaus. One Illahi was taken to the Thana. I accompanied the two arrested persons with A.S.I. Ghulam Ghaus. The A.S.I. released them after going some distance and after slapping them. After those persons were released, I resumed my round in the village.”

4.21 The statement of A.S.I. Shri Ghulam Ghaus cannot be preferred to the statements of Magistrate Shri P. B. Lal and Dafadar Ram Ratan Pandey. Absence of entry in the station diary about his leaving the thana has no importance, particularly as we find so many facts, admitted by even the Station Officer, are not noted in the diary. The release of the persons gave rise to rumours against the A.S.I. and perturbed the people as the statements of S.D.O. Shri Das and of Shri Jhulan Prasad Singh witness show.

4.22 Shri Das has stated in his affidavit that when proceeding to the Block Office from the thana, a young man complained to him that the Muslims had set fire to their own betel shop and the arrested Muslims had been released by the A.S.I. who was a Muslim. He has also deposed that, when he returned to the Bus Stand from the Block Office at about 1-15 p.m., 7—9 people who were running armed

with lathis, spears and 'Gandasas', on being stopped, complained what had been complained earlier by a single person, that a Muslim A.S.I. had released the people who had set fire to the Chatti.

4.23 Shri Jhulan Prasad Singh has deposed that when he reached Sursand at about 12 O'Clock on the 15th October, he met 20 or 25 Muslims and 50 or 60 Hindus at the Bus Stand and that the Hindu groups told him about the burning of a chatti shop by a Muslim boy, the arrest of three persons and their subsequent release by the A.S.I.

4.24 The statement of Magistrate Shri Soni appears to refer to this incident and the rumour. He states:

"Nothing happened on the 14th until about 10-30 a.m. on the 15th October.

I noticed for about 10 or 15 minutes on that morning that 10 or 15 persons were running here and there feeling worried. On enquiry I was told that some attempts had been made to set on fire. I was not told what was attempted to be set on fire and where. None told me whether persons attempting setting of fire had been arrested.

I sent a note about the panic among the people through an employee of the saw machine to the Station Officer."

4.25 The Station Officer, however, denies to have received the note sent by Magistrate Shri Soni about the panic.

4.26 The other incidents also took place by about the same time. At about 10-30 a.m. Shri Sarkar noticed from the verandah of the District Board Rest Shed two women running in a panicky condition and immediately thereafter he heard a noise coming from the southern side of the shed. He went out on the Pitch road and heard some people saying that houses had been burnt in Dusadh Toli by some Muslims in pursuance of their design. He quietened them saying that he would look into the matter, that the guilty would be punished and advised them not to talk that way.

4.27 He proceeded towards the police station and near the Bus Stand he was told by persons standing there that a Muslim had come to set fire to the dharamshalla near the Bus Stand. He found that some people were chasing and trying to assault the alleged Muslim on the road leading to the police station. He also rushed in the same direction shouting that the said person should not be assaulted. The said man was apprehended and was brought to the police station and handed over to the Police for necessary action.

4.28 There is no note in the station diary about the making over of any person to the police station on such a charge. Station Officer Shri Mathura Prasad Singh admits the bringing of a person by Magistrate Shri Sarkar and states that the entry could not be made at the time of his arrival because he was busy otherwise and that the arrest of Shri Noor Mohd. was noted in the station diary, under Entry No. 269, which is an absurd explanation. Entry No. 269 was made at 10 p.m. on the 15th October and states:

"I, Officer Incharge, Mathura Prasad came back to the Police Station with the following persons who were arrested under section 151. They were found aggravating the Hindu-Muslim riot. Had they not been arrested, they would have spoiled the situation more."

The names of 50 persons who were brought under arrest are mentioned in this Entry and Shri Noor Mohd.'s name is mentioned at serial No. 35.

4.29 Shri Sarkar further deposes that the Officer Incharge was at the time talking with some people in connection with the betel shop affair. Shri Sarkar must have reached the police station by 11 a.m. and, therefore, the betel shop had been burnt earlier than 11 a.m.

4.30 He further deposes that he questioned the Station Officer about the Dusadh Toli affair and he replied that there was no fire or trouble there and the situation was normal. Shri Sarkar, however, thought of patrolling. He went to patrol with A.S.I. Shri Ghulam Ghaus and an armed guard at about 11-30 a.m.

4.31 The entry in the thana diary about Magistrate Sarkar's going with A.S.I Shri Ghulam Ghaus, No. 257, is at 12 hours just after the entry in connection with the burning of the 'Chatti' and also records that he had gone for the investigation of that case. The entry seems to be wrong both about the time of their departure and about the purpose of their going with an armed force.

4.32 Shri Sarkar has stated in his affidavit that he had asked the Officer Incharge to accompany him but was told by him that there was no necessity of patrolling as the situation was normal and that he was busy otherwise. The Station Officer denied having made such a statement, before the Commission and stated that Shri Sarkar had merely asked for some police party to accompany him for patrolling.

4.33 Shri Sarkar went to the dharamshalla and did not find any sign of its being burnt. On learning that some Muslims of Chand Patti attempted to set fire to the dharamshalla, he proceeded towards Chand Patti, which is about a mile away. This visit to Chand Patti was futile both because Shri Sarkar was not investigating the alleged offence and also because he could not have expected anyone in Chand Patti to admit having gone to burn the dharamshalla. It might have been better if Shri Sarkar had gone patrolling the village. Further, from the statement of Shri Sarkar mentioned above to the effect that the Muslim who was being chased was the person who was alleged to have set fire, there could be no point in going to Chand Patti on the supposition that others were with him in setting fire.

4.34 On his way back from Chand Patti he found that certain people, villagers who wanted to come to Sursand, had stopped by the side of the road and told him that they apprehended trouble at Sursand and so were in a fix whether to proceed further or not. He

dispelled their fears and asked them to proceed on. Their apprehension must have been based on the news about the burning of the betel shop and the alleged attempt to set fire to the dharamshalla.

4.35 He then went to verify the complaint about the unusual sale of kerosene oil by Shri Sultan Ahmed and from there he proceeded towards Atta Chakki where he saw some people who ran away on seeing him and his party arrive. He also told that they had run away in view of the panic prevailing. This would be at about 12 O'clock.

4.36 The main events of the 15th October took place after 12 O'clock which are being dealt with in the next chapter.

CHAPTER V

RIOTING ON THE 15th OCTOBER, 1967

5.1 Shri S. N. Jha, B.D.O., was patrolling in the village from 10 a.m. on the 15th October according to the roster prepared by Shri Sarkar. At about 12-30 p.m., when he was patrolling near the house of Shri Sultan Ahmed on the Pitch road, a chowkidar came there chasing two persons and shouting that they were running after setting a house on fire. Shri Jha arrested those two persons and made them over to Shri Sahay, Circle Inspector, with directions to take them to the Thana. At that time some other persons came running through the same lane shouting that the houses in Dusadh Toli had been set on fire. Shri Jha proceeded to that place with the armed force. He found three houses at the initial stage of fire. This is the first incident of actual fire taking place that day.

5.2 Station diary entry No. 260 at 1-15 p.m. records the report of Gairati Baitha, Chowkidar, about the Muslims setting houses on fire in Dusadh Toli and fighting taking place between Hindus and Muslims. The report supports Dafadar Ram Ratan Pandey's statement that he, on learning of the incident from Bujhawan Chowkidar, had sent a chowkidar to the Thana to inform the Sub-Inspector about it. Dafadar and Bujhawan rushed to the spot.

5.3 The report about the making over to the two persons arrested by Shri Jha is entered in the station diary as Entry No. 261 at 1-20 p.m. The relevant portion of this report is as follows :—

“Chowkidar 2/17 Dorik Paswan s/o Beni Paswan r/o P. S. Sursand and Chowkidar Gaya Paswan brought Hussaini Mian and his son Azim to the Police Station. They reported that he (Dorik Paswan) was on duty in Sursand village along with Gaya Paswan. When he came from his house after lunch with Gaya Paswan and reached Chamaar Toli he saw that Husaini Mian and his son Azim had put the house of Chunia Mehter on fire and they were trying to run away. He also sprinkled kerosene oil on his own house and set it on fire. All the people then fled away. He (Dorik Paswan) caught these people and brought them to the Police Station. Thithat Chamaar, Rasya Halkhor, Soni Mehtar etc. are witnesses to this incident. They are the eye witnesses.”

5.4 This entry is neither consistent with the statement of Shri Jha nor with the statement of Shri Sahay, Circle Inspector, which supports Shri Jha's statement about their arrest and being taken over to the Thana. Shri Sahay took the two arrested persons to the Thana, left them there in the lock up and told the constable about it. There were only a constable and the Inspector of Police in the Thana at that time. He and the Circle Inspector returned in the jeep.

5.5 It may be that the above entry was so made as Shri Sahay had already left the police station and only the chowkidars were there when the entry was made. Whoever set fire, the fact remains that the two persons were arrested for setting fire to a house.

5.6 Shri S. N. Jha, B.D.O., describes thus what he found on reaching Dusadh Toli:—

“I found three houses at the initial stage of fire. One of the houses was in Dusadh Toli and the other two were in the Muslim mohalla very close to the first burning house. I was the first officer to reach there. The families occupying those houses were there. Neither I enquired nor those people told me as to who had set these houses on fire but they were murmuring that their houses had been set on fire. I asked those people to try to extinguish the fire. They brought *balties* and we began to extinguish the fire. When the fire was about to be extinguished completely, Shri Sarkar arrived. About 15 minutes later a man came crying and running and said that houses in Phulwari Toli, near Leechi Bagh, had been set on fire. At the direction of Shri Sarkar I, with my armed force and Dafadar and Chowkidars, who had arrived with Dafadar, proceeded towards Leechi Bagh. The distance up to Leechi Bagh would be about 10 minutes walk.”

5.7 Shri Sarkar learnt of this fire at Dusadh Toli from Shri Sahay when he happened to arrive near Sahay's house before Shri Sahay could leave with the persons arrested for the Thana. Shri Sarkar then proceeded to the spot. He describes thus what he saw on reaching Dusadh Toli:—

“B.D.O., with his force, was fighting the fire. I with my people reached there to fight the fire. I went there and I found two houses of Muslims, heap of straw in Muslim area and one Dusadh house on fire. B.D.O. and his party was extinguishing the fire and I joined the residents and the owners of the house. Other persons were there. The fire was in its initial stages in all these houses. By that time I did not find any smoke rising at any other places. The time would be between 12-30 and 12-45 p.m. and the fire was about to be extinguished. A person came, informed me that houses were on fire on the west. I directed the B.D.O. to proceed there. The Muslims told me that a Dusadh had set fire. I did not find any one at the burning house.”

Leechi Bagh is to the north-west of Dusadh Toli where Shri Sarkar had been extinguishing the fire. A.S.I., Shri Ghulam Ghaus also deposes to have noticed fire breaking out in some northern tola. So, Shri Sarkar's statement of being informed about houses on the west on fire seems to be a mistake as the direction was 'north'.

5.8 It is clear, therefore, that the first fire thus took place where the boundaries of Dusadh Toli and the adjacent Muslim mohalla, Pakar Tola meet. According to the belated statement of the Muslims, a Dusadh had set fire to their houses and according to the Chowkidar, Shri Husaini Mian and others had set fire. Dafadar

Ram Ratan Pandey has deposed that on reaching the spot, he found one Mehtar's house, a Muslim's fallen hut and one heap of straw on fire. A.S.I., Shri Ghulam Ghaus who went to the spot with Magistrate Shri Sarkar stated in the affidavit that he found B.D.O. and his force extinguishing fire in three thatched Muslim houses and heap of straw. He has stated before the Commission :—

“We found the B.D.O. with his armed force already there extinguishing the fire which had set in a few of the Muslim houses just opposite to the Choti Masjid. Of these few houses only two houses were in Chamar Tola, one of these houses was that of a Chamarin and the other was that of a Muslim.”

The statement is obviously a confused statement but shows that a Hindu house was also on fire.

5.9 The fact remains that soon after the setting of fire to the houses in this locality, houses were set on fire in other areas also. Reference to the houses in Leechi Bagh being set on fire has already been made in the statement of Shri Jha. We may now follow these events as noticed by Shri Sarkar.

5.10 After extinguishing this small fire, Shri Sarkar went to Dusadh Toli and found about 20 or 30 people there. When asked to go away, they shouted back that they would “take revenge on the Muslims” and shouted “Jai Durge”. On his chasing them, they fled away eastwards.

5.11 Shri Sarkar then noticed some houses burning on the western side, a little away from the houses that had been burnt already. These houses, according to the map, would be the houses in Pakar Tola. Shri Sarkar has, however, deposed :—

“The fire I noticed on the west was the same fire to which the B.D.O. had been sent earlier. By this time no other house in this Muslim abadi in which the first two houses had been burnt was on fire.”

5.12 A.S.I., Shri Ghulam Ghaus has stated, in his affidavit, in this connection :—

“Then we found that several other houses at a distance to the western side were burning. Shri Sarkar moved towards the west. We followed him and reached the same place where we had first extinguished the fire and found those houses again in the flame of fire.

5.13 He has deposed before the Commission :—

“On return we saw the houses from which we had extinguished the fire again on fire. The fire was now very intense and we could not extinguish it. We then proceeded northward and approached that crowd near the abadi south of Leechi Bagh.”

5.14 The statements of Shri Sahay and Circle Inspector of Police. Shri Chatterji support Shri Ghulam Ghaus's statement about houses burning when they reached there.

5.15 This would explain the fire spreading to the other house in Pakar Tola.

5.16 Shri Sarkar proceeded to those burning houses and found a gathering of about 100 Muslim men, women and children, presumably on the way. He told them to go to a place of safety or to accompany him but they preferred to go to Shri Sultan Ahmed's house. Shri Sarkar then directed the Circle Inspector to escort them. The persons whom he had found in Pakar Tola and who preferred to go to Shri Sultan Ahmed's house must have, according to Shri Sarkar, come out of their houses on account of fear that their houses might be set on fire just like the other two houses and had belongings with them. These persons were lingering near their houses and collecting their articles.

5.17 Shri Sahay had returned to Dusadh Toli where the houses were burning after leaving the two arrested persons at the police station. Police Inspector, Shri Chatterji, accompanied him from the Thana. According to Shri Sahay, when he reached there he found the houses burning. This is not consistent with Shri Sarkar's statement but supports the statement of A.S.I., Shri Ghulam Ghaus. He, however, as directed by Shri Sarkar, accompanied the Muslims collected there to the house of Shri Sultan Ahmed. After leaving those people there, he informed Magistrate, Shri Soni, who was at the southern end of the Muslim mohalla about the collection of those people at Shri Sultan Ahmed's house and asked him to keep an eye on that place by patrolling the road instead of remaining static. Magistrate Shri Soni, however, does not depose about his being requested to patrol on that road.

5.18 Coming back to Shri Sarkar, we find that he again returned to Dusadh Toli and chased 40 to 55 people shouting for revenge. Those persons fled to a compound on the west of the road going near Gandhi Chowk. Shri Sarkar and his party entered the compound and found 150 people there. Those persons fled from the gate of the compound and divided into two groups, one group went towards the east and went out of sight and the other to the south. Shri Sarkar followed the group which was going southwards towards the Gandhi Chowk, from where it ran away eastwards along the Pitch road. A.S.I., Shri Ghulam Ghaus has stated in the affidavit:—

"We chased them to the eastern side of the compound of Sri R. P. N. Sahi. At the exit gate of the said compound a greater portion of the said mob joined the other mob which came from the compound of Sri Sahi and ran towards the southern side, we chased them. While coming out of the gate of the said compound, I saw M.L.A., Sitamarhi and other Neta type his followers and also could learn that the acting S.D.O., the O/C etc. with a number of force had gone to the northern side of the gate towards the mosque."

5.19 Shri Sarkar and Shri Chatterji, Circle Inspector of Police, do not state so in their affidavits.

5.20 On reaching Gandhi Chowk, Shri Sarkar noticed some commotion further west and proceeding in that direction, he found Shri

Sultan Ahmed's house on fire. He found no Hindu mob there at the time. A female dead body lay near the gate of Shri Sultan Ahmed's compound. The time now would be about 1-45 p.m. The fire was in the initial stages and was extinguished. About 300 to 400 persons were in Shri Sultan Ahmed's house at that time.

5.21 Shri Sultan Ahmed has deposed that he did not know of the arrival of the Muslims at his house for protection as he was at his shop; that on hearing of the arrival of the rioters he closed the shop and went inside his house where he found those Muslims. For about half an hour the rioters about 800 in number, looted his shop, set it and the two sheds beside his house on fire and fled away on hearing Magistrate, Shri Sarkar's arrival. Gandhi Chowk is about half a furlong from Shri Sultan Ahmed's house. The mob might have fled away either to the west and then to the south or to the north by various lanes to avoid passing armed picket near the Saw machine

5.22 The Hindu mob setting fire to Shri Sultan Ahmed's house and causing the death of the woman appears to have gone unnoticed by the authorities. Shri Soni with an armed guard was at the Saw machine about a furlong away and ought to have observed the attack, the road according to the map, being straight, and taken some action against it.

5.23 Shortly thereafter Shri Sarkar noticed a mob to the east of Gandhi Chowk. It swelled up to about 300 people and kept on advancing slowly towards Shri Sultan Ahmed's house. When they did not listen to his warnings, and had reached within 40 or 50 yards from Shri Sarkar's party, he ordered firing. This was at 2 p.m. Two shots were fired, one person fell down as a result of the first shot. As the mob kept on advancing a second round was fired and two persons were hit. The mob then fled away. The three injured persons were sent to the hospital. The injured were Sarvashri Ram Deo Shah, Deo Narain Rawat and Hira Lal Rawat. The last two were examined by the doctor at 2-55 p.m. Shri Sarkar remained thereafter at Shri Sultan Ahmed's house with his armed force and no other incident took place there.

5.24 We may now follow Shri Jha, B.D.O., who was sent away to control the fire in Leechi Bagh. Shri Jha was accompanied by Dafadar Ram Ratan Pandey from Dusadh Toli. Shri Jha states:

"I found there that houses on both sides of the road were fully ablaze. I was getting the house adjacent to the burning houses pulled down when S.D.O., Mr. Das, arrived there. The time then would be about 1-30 or 1-45 p.m. As the fire could not be controlled S.D.O. asked me to go to the thana and telephone to the District Magistrate informing him of the situation and to send a fire-brigade and to come there."

5.25 Shri Jha proceeded to the thana by the northern passage from Leechi Bagh. He met a boy running with an iron rod wrapped with a piece of cloth soaked with oil. The boy was arrested and taken to the thana and made over there, but there is no entry about it in the station diary. It was at about 2 p.m. that he telephoned the District Magistrate, Muzaffarpur.

5.26 Shri Das, S.D.O., reached Sursand at about 12-30 p.m., went to the police station and found the Officer Incharge and the Circle Inspector to be quite at peace. Learning from them that everything was peaceful, he left the thana at about 1 p.m. for the Block Office where he was told that the B.D.O. was holding a Peace Committee meeting. He found the information wrong and returned to the Bus Stand at about 1-15 p.m. Shortly after he learnt that the Muslims had set fire to some houses in Dusadh Toli. He with the three members of the Peace Committee who had accompanied him from Sita marhi proceeded to Dusadh Toli. At Gandhi Chowk he noticed flames from the houses to the north-west. He then proceeded there. Those houses happened to be in Leechi Bagh. He had to leave the jeep on the way as there were pools of water which made it impossible for the jeep to proceed further. He found the B.D.O. and the armed force there and one or two other persons not in uniform but apparently belonging to the rural police. He did not find any other person on the spot. The B.D.O. and the armed force were pulling down the houses to stop the spread of fire. After sending the B.D.O. to the thana to inform the District Magistrate, he left Leechi Bagh feeling hopeless to extinguish the fire there. The other reason given by him for his leaving the place was that the Officer Incharge of the Police Station and the armed force had arrived there. This explanation seems to be an after-thought and does not appear to be correct as it would appear later that the Officer Incharge and the armed force proceeded southwards with the S.D.O. from the Leechi Bagh. The main reason, therefore, for the S.D.O.'s leaving Leechi Bagh earlier was the feeling of hopelessness of extinguishing the fire with no means available for the purpose. On the way southward he found another deserted locality on fire. He considered both Leechi Bagh and the other locality to be inhabited by Hindus both because the first information conveyed to him was that a Hindu house had been burnt by the Muslims and also because the Officer Incharge told him on enquiry that both were Hindu localities. Ultimately he reached the Jumma Mosque in order to protect it from a possible retaliatory attack by the Hindus.

5.27 Station Officer, Shri Mathura Prasad Singh, learning at 1-15 p.m. of the fire at Dusadh Toli, proceeded there. He states:—

“I proceeded to Dusadh Toli and found some houses burning. There was a large population of Muslims in that mohalla. All the houses burnt, excepting one of a Hindu, were of Muslims. Dusadh Toli extends on the north upto Leechi Bagh where the house of Dafadar Ram Ratan was. He was taking out the property from his house as the Leechi Bagh houses near to his were on fire.

The S.D.O. and B.D.O. had reached Dusadh Toli. The fire in that Toli spread from house to house; there was no means of checking it. There were about 150 to 200 houses in that Toli. The inmates of the houses had fled away; the houses were deserted.

The houses in Leechi Bagh caught fire independently of the houses in Dusadh Toli.”

He either appears to refer to Pakar Tola as Dusadh Toli and to mix up the place where he met S.D.O. and B.D.O. or he actually reached Leechi Bagh when he met S.D.O., B.D.O. and Dafadar Ram Ratan. Pandey. The map showing the incidents of the 15th October shows only one house of Dusadh Toli burnt.

5.28 Shri Jhulan Prasad Singh, Secretary, Sitamarhi Congress Committee, and the press representative of Searchlight and Pradeep, reached Sursand at about 12 O'clock, on the 15th October and noticed something after 1 O'clock, from Shri Dwarka Lat's house some Muslim houses on fire, in about five localities. He proceeded towards Dusadh Toli and ultimately reached Leechi Bagh *alias* Lehari Tola. The houses were still burning. He found the Dafadar there. He heard two gun fires and, 10 or 15 minutes later, he again heard another two gun fires and again after 15 or 20 minutes, we heard 11 gun fires. These gun fires which he states to have heard must be the gun fires ordered by Shri Sarkar, the two alleged gun fires from the mosque, and the gun fires ordered by S.D.O., Shri Das at the Jumma Mosque to be discussed later. What Shri Jhulan Prasad further found in Leechi Bagh, he describes thus:—

"There is a pond in Leechi Bagh. On its bank I noticed some blood marks and then found six bodies lying on the edge of the water. Two of them were dead. The other four were injured. These I found a little after 3 p.m. The tank is at about 200 yds. from where I found Dafadar standing on the Leechi Bagh. There were no other persons near the tank. At the time we proceeded a little further I heard a voice saying "Babu don't beat us." The tone was very touching. The voice was of one of the four injured persons lying there. The cry was heard when we reached the spot. Of these persons two bodies were just floating and the others were wobbling up and down. That gave the idea that they were alive. I thought of taking them out but my companions suggested not to touch them and to inform the police first. I and one another proceeded to the thana which is about 200 or 300 yards from that place. My other two companions remained there. At the thana I found one C.I.D. Inspector. I do not know his name. We then brought him to the spot. During the five or seven minutes that I was away Kishori Babu (one of the companions) tried to secure a cart but failed. The four persons who were still wobbling in the water were alive. We took the four injured persons out in the presence of the Inspector. We then secured a few cots from the unburnt houses and placed on them the injured persons and carried them to the thana. The two dead bodies were left there. These persons were then sent, in a police van, to the hospital. From the thana we again returned to the pond. Then in the Lahari's burning house I found the corpse of a young woman."

The remaining alive of the injured persons so long in the tank water seems remarkable. So is the decision of the persons not to help the wobbling persons by taking them out till the police arrived.

5.29 He also deposed that some 12 or 15 persons were given shelter in Shambhu Babu's house and about 12 such persons were found.

in the house of Shri Lachman Sah. These persons were on recovery sent to the police station at about 5 or 6 p.m.

5.30 From Leechi Bagh S.D.O., Shri Das went to Jumma Mosque and reached there between 2 p.m. and 2-30 p.m. A number of Muslims were inside the mosque and quite a substantial number who were on the open land also went inside the mosque on seeing the S.D.O. and his party arrive. He has deposed :—

“When we reached the mosque one person with Gandhi cap came from the south. The armed force personnel got hold of him. On seeing him I thought of trying to enquire from him about the position. I then intervened with the armed force and got him released. Later on I learnt that he was Hakim. The armed force was a little ahead of me and to my side. In the meantime a youngman came running from the mosque side and aimed a ‘pharsa’ blow at me....”

5.31 What happens later is described by him thus :—

“I ducked the ‘Pharsa’ blow by that youngman. The blow fell on Aish Narain Singh, a lathi constable. I am unable to say where the two Rural Police men were but my peon was with me when Hakim was caught. This youngman was being overpowered by the armed police and suddenly another youngman jumped at the Officer-in-Charge with a spear. The Sub-Inspector at that time was standing near a bamboo fixed on the ground in the western portion of that open ‘Parti’ land where we were. The spear blow appeared to have first hit that bamboo before the Sub-Inspector was hit, as the Sub-Inspector got a minor injury. This man was also overpowered. In being overpowered they received some injuries. After these persons had been overpowered, brickbatting started from both the roof of the mosque and from its courtyard. There was no brickbatting by the mob before this. The Muslims outside the mosque at that time were only these three, Hakim and the two assailants. I shouted to those people to desist from brickbatting as I had come there for their protection but they did not heed my statement.

During the brickbatting I asked 4 lathi constables to take the injured Aish Narain Singh to the Hospital *via* the Thana.

At the time I had one section of the armed force consisting of one Havildar and four constables and eight lathi constables. Out of these, four were sent with Aish Narain Singh. During the brickbatting some constables and I got hurt. Then a woman came from the same direction from which Hakim had come in the beginning.

She turned up 30 or 35 minutes after my arrival on the spot. She said that the youngman under custody was her boy. He wanted water and I asked her to supply the water and she came back. In the meantime there was a brickbat and the boy escaped. The B.D.O. with two sections of armed force arrived there. B.D.O. enquired if firing had taken place. I said no. In the meantime the B.D.O. and one constable was

hit by brickbats. The constable dragged me by my arm and turned my side towards the school. Immediately thereafter I heard sounds of two gun shots. Time would now be about 3 p.m. Before the sounds of these two guns I had not heard the gun fires. I noticed people collected in the gaps between the houses and in the lanes between the burning houses in the north-east. That mob also started brickbats on us after the brickbatting from the mosque started. I then declared the gathering at the mosque and the mob at the other side as unlawful and said that they will have to disperse, otherwise they would be fired. I had given this warning once before two shots were fired and then again after the shots had been fired....

The Hindu mob was at a distance of about 100 yards at the shortest and at the longest the distance would be about 200 yards from the mosque. I gave order to Havildar Mangal Ojha for firing on the mob. This order of firing I gave after 15 minutes. During the interval I kept on persuading the mob. Further I did not notice any gun fire from the mosque. I cannot say why I fixed the figure of eleven rounds. Eleven rounds were fired. At my orders one constable first fired three rounds at the roof of the mosque and the brickbatting increased. The same men fired two rounds in the courtyard wherefrom the brickbatting had increased. I then ordered this constable to fire towards the Hindu mob who started advancing towards us or the mosque. The constable fired three rounds at the Hindu mob. In the meantime brickbatting started from the two lanes on the North and the South of the mosque. Then two constables fired in that direction—one constable had shot towards one lane and the other fired towards the other lane. As a result of this firing brickbatting completely stopped from both the sides. I asked the people in the mosque to come out. Hakim also wanted to persuade them. I did not tell him to go there. He then sent his wife. She went inside the mosque. The whole mosque was got cleared in about 45 minutes. In the meantime fire broke out in the Muslim abadi."

5.32 Afterwards S.D.O., Shri Das went inside the mosque and found a dead woman lying in the southern portion of the 'dalaan' and an injured girl in the centre of the 'dalaan'. He noticed a ladder at the back of the mosque. Shri Mangal Ojha was sent up to the roof. Shri Ojha did not see any gun there but saw some lathis and bhalas and also heaps of brickbats. A heap of brickbats was also found in the courtyard of the mosque. Though a direction of preparing a recovery list was given to the Officer Incharge, no such list was prepared till the 17th October. The list prepared then notes the recovery of a spear, a bloodstained pharsa, a gandasa, an iron rod, one lathi, two bamboo pieces and brickbats from the roof of the mosque. An armed guard remained posted at the mosque during the period between the 15th and 17 October.

5.33 The doctor found one lacerated abrasion on the left side of the forehead of Shri Das, S.D.O., when he examined him at 4-30 p.m.

on the 15th October. The injury report of Shri Aish Narain Singh has not been furnished to the Commission.

5.34 The firing under S.D.O.'s orders took place at about 3-15 p.m. The timing seems to be correct as the log book of Sitamarhi Control Room records at 3-35 p.m. a message from the Reader of Circle Inspector of Police, Sursand, to the effect that 8 or 10 rounds of firing had taken place. The S.D.O. has stated that there was firing from the mosque at about 3 p.m.

5.35 The S.D.O.'s statement does not explain the injuries on Shri Hakim's wife and does not mention the presence there of Shobrati or Dillu who had injuries. He seems to be wrong in stating that he issued the written order for firing eleven rounds on the people in the mosque and the mob. None could have fixed up the number of rounds to be fired in the beginning. The order has been prepared later.

5.36 With regard to this incident at the mosque Shri S. N. Jha, B.D.O., Shri Mangal Ojha, Jamadar, Station Officer Shri Mathura Prasad Singh and Dafadar Ram Ratan Pandey have been examined. Shri Jha was at the police station when Shri Aish Narain Singh, the constable who was injured with the 'pharsa' blow aimed at the S.D.O., arrived there. On learning of the danger to the Officer In-charge and the S.D.O., at the mosque, he proceeded there with the other force at the thana. He supports the statement of the S.D.O. that the people in the mosque and to the north of the mosque were throwing brickbats at the S.D.O. and his party and said that he was trying to address the people on the mosque as the people knew him, when a piece of brickbat struck him after first striking the 'neem' tree. His injury was examined by the Medical Officer at 6-30 p.m. that day. He had one incised looking (but not sharp cutting margin) wound on left side of forehead $1/3" \times 1/4"$, bone-deep with swelling all round and bleeding. He further supports the statement about two shots fired from the mosque and subsequent order of firing by the Magistrate and also about the persons found injured and dead inside the mosque and the other things noticed inside the mosque. Thereafter he was deputed to escort the Muslims to the thana. Among the persons he escorted were Hakim, Hakim's wife and Hakim's daughter-in-law. He could not at the time notice that Hakim's wife had any injury.

5.37 Jamadar Mangal Ojha accompanied Shri Jha, B.D.O. to the spot from the thana. 5 BMP men accompanied him. He corroborates the statement of the S.D.O. and states that the S.D.O. gave him a written order to fire eleven rounds. He describes how the firing took place thus:—

"I ordered Naik Kapildeo Pandey to fire. He fired 3 rounds from the corner of a pucca house practically to the north of the mosque. This place would be about 60 or 70 feet from the north-east corner of the mosque. The shots were fired at the roof of the mosque from where the gun shots had been fired. We fired about 15 or 20 minutes after the firing from the

mosque. The firing took place sometime between 3 and 3-30 p.m. About 40 or 50 persons were visible on the roof; there may be some men behind the *gumti*. None fell down from the roof; none was hit. The people had lain on the roof.

Thereafter Naik Kapildeo Pandey fired two rounds inside the mosque from the open land to the east of the mosque. Perhaps there is a thin neem tree near the place of firing. The shots went inside the mosque through the openings in the boundary wall. The openings about 1 foot wide. Later it was found that persons in the mosque had been hit.

The Hindu mob appeared somewhat threatening, the S.D.O. asked us to fire in their direction. Naik Kapildeo Pandey then fired 3 rounds at the mob from a place east of the open land in which the official party stood at first. At this time the Hindu mob were about 80 feet from us. At least 1000 persons were visible in the mob. On firing the mob retreated. Some people in the mob were seen falling down.

In the meantime brickbattering started from the land south of the mosque. Then Lal Babu was ordered to fire at that gathering. He fired one shot from the very place from where Naik Kapildeo Pandey had fired inside the mosque. The people then ran away.

In the meantime the people who had gathered to the north of the mosque near the pucca house that side threw brickbats at my party. Ram Lal Singh then fired two rounds on that mob from the very place from where Lal Babu had fired. The neem tree is near the open land in front of the mosque and the pakar tree is near the open land where the S.D.O. and others were standing when I reached there."

5.38 Jamadar Mangal Ojha went towards the place where the Hindu crowd was and did not find any injured person there. He, however, noticed blood marks at two spots.

5.39 He also entered the mosque and found one dead body of a female, one girl wounded with gun shot and one other injured person there. The S.D.O. and the Station Officer do not state about the third injured person. Some weapons like lathis and bhalas were inside the mosque and also heaps of freshly broken bricks. He went to the roof by the ladder which was standing at the back of the mosque. There were several weapons and brickbats on the roof.

5.40 Shri Mangal Ojha had two injuries, one contusion and another swelling, when examined on the 18th October and Shri Kapildeo Pandey, the armed constable, had two abrasions and one swelling, when examined on the 18th October. The duration of the injuries in both the cases were estimated to be about 3 days. Shri Lal Babu, constable, had a lacerated wound and a swelling of 3 days duration when examined on the 18th October. Shri Ram Lal Singh, constable had scratches on the left side of the chest.

5.41 The statement of how the firing by the police took place finds some support from the report of the Ballistic Expert. The report is quoted below in full:—

The report of Ballistic Expert

“I visited the scene of firing at Sursand on 30th October 1967 with Junior Photographer Shri Umesh Chandra Pd. who took the photographs and inspected the P.O. in the village between 2 p.m. to 5 p.m. The P.O. had been shown by the Superintendent of Police, Muzaffarpur.

The P.O. in question is the Mosque situated in Sursand. I found 6 marks on the building in its front as per details given below:—

Sl. No. of Mrks.	Location	Height of the mark from floor	Dimension of the marks			Direction of fire	Remarks
			Hor	Ver	Depth		
1.	Second and Central Minas on the southern side of the mosque.	21½ Ft.	3½"	4"	1½"	Caused by a bullet travelling from north-eastern direction.	A piece of bullet splinter has been recovered from this. It has been kept in the packet marked "A" by me.
2.	In the front wall of the Mosque 4 Ft. from the southern end.	14½ Ft.	5"	4"	2½"	Caused by a bullet travelling from north-eastern direction. The bullet after hitting was deflected vertically upward.	Rifle bullet.
3.	On the front wall of the Mosque 3" north from the centre of the Central ARCH	12½ Ft.	4½"	5½"	3½"	Caused by bullet travelling from north-eastern direction.	Rifle Bullet. A piece of (Al) metal has been recovered from the hole and kept in packet marked "B".
4.	On the front wall of the Mosque—8" North from the centre of the Central Arch.	12½ Ft.	4"	4"	2"	Caused by bullet travelling from north-eastern direction with slightly greater inclination to the east.	Rifle Bullet.

Sl. No. of Mrks.	Location	Height of the mark from floor	Dimension of the marks			Direction of fire	Remarks
			Hor	Ver	Depth		
5.	On the north east corner of the 3rd brick pillar from the south end of the Mosque.	7½ Ft.	2½"	4"	1/2"	Slightly downward from west to east.	Caused by a ricochet bullet probably after a rebound from mark No. 4.
6.	Top most brick of third pillar from the south end of the Mosque. A portion of brick was found broken.	11¼ Ft.	A portion of brick (about 1/3 of the total) has been broken in the north-eastern corner.			By a bullet travelling from north-eastern direction.	Caused by rifle bullet.

The compound wall was 6 ft. high from the ground level.

I also found the following articles at the P.O:—

- (i) A piece of lead found near the entrance door of the Mosque, between pillar Nos. 1 and 4, kept in a packet marked "C" by me.
- (ii) Two pieces of lead collected within the compound of the Mosque, between pillar No. 1 and 4, kept in a packet marked "D" by me.
- (iii) Deformed splinter, collected from the inside Verandah of the Mosque in a packet marked "E" by me.

The articles recovered from mark Nos. 1 and 3 and those noted in items (i), (ii) and (iii) are contents of 303 F.A. ball bullets."

5.42 It would be seen from the report that five bullets hit the building and one of the bullets hit it twice. All the five hits were from bullets travelling from north-eastern direction. It appears that the three bullets fired from the open land hit the mosque at places denoted by 1, 3 and 4. Place No. 5 is hit by the bullet ricocheting from place No. 4. Place No. 6 seems to be hit by the bullet finally hitting place No. 1. Place No. 2 seems to be hit by the bullet of Shri Lal Babu Singh fired towards the south lane from the rear of the Pakar tree in front of the gate of the mosque.

5.43 Two persons were found injured with bullets inside the mosque. They were probably injured from the shots fired from near the Pakar tree in front of the gate of the mosque. Jamadar Mangal Ojha is wrong in considering the Pakar tree to be a 'neem' tree. The 'neem' tree is on the land where the S.D.O. and others were originally standing. The two persons who died as a result of this firing

in the mosque were the daughter of Shri Illias, aged twelve years, and daughter of Shri Polar Ansari, aged three years. The daughter of Shri Polar Ansari had a lacerated wound 1"×½" (wound of entrance) connected with another lacerated wound 3" above the left ear 2"×1" with the laceration of the brain (wound of exit). The daughter of Shri Illias had one margin charred lacerated wound on the back of the scalp. Her name is Tetari or Noorjehan as stated in the list of persons killed accompanying the written statement filed by the Jammiat-ul-Ulema. The daughter of Shri Polar Ansari is named Shamsha in their written statement.

5.44 Two male persons got injured from firearm. One was Shri Abdul Barique s/o Mohd. Ali, seven years old. He had three lacerated injuries, one on the forehead, another on the left side of the nose and the third on the left side of the cheek. Another was Shri Ahia s/o Yusaf. He had two injuries from firearm when examined on the 15th October. These two males do not appear to have been hit with rifle bullets. Their injuries seem to have been from a shot gun. The written statement filed by the Jamait-ul-Ulema-e-Hind states:—

"The S.I. fired from a shot gun which he had procured from someone and wounded several persons in the mosque including a small boy named Abdul Bari."

How the S.I. could have come into the possession of a shot gun is not clear from the evidence.

5.45 Station Officer Shri Mathura Prasad Singh more or less supports the statement of S.D.O. whom he accompanied from Leechi Bagh to the mosque. The injury he received from the spear blow was examined by the doctor at 6-40 p.m. that day and was found to be an incised wound on the right side of the forehead. The wound was from a sharp-edged pointed weapon. He adds that Hakim got surrounded by a Hindu mob, that that led to people making noise in the mosque, that Hakim was being dragged away by the mob, that he then rushed towards the mob with a revolver and succeeded in dragging Hakim back and that thereafter Shri Abdul Hakim continuously clung to him. He went to the place where the Hindu mob was fired at and did not notice any blood marks there. The Muslims collected in the open land after the incident and were surrounded by the armed force for their protection. The armed force did not aim its gun at those people. The people had been collected by about 4 or 5 p.m. He deposes that Hakim did not receive any visible injuries and that he did not see Hakim's wife assaulted though her injuries were pointed out to him at the thana and one of the injuries appeared to be a serious one. She was unable to raise her arm.

5.48 Dafadar Ram Ratan Pandey had in brief described the same sequence of events at the mosque.

5.47 Shri Bindhyachal Prasad has deposed:—

"I went out of my house to the place from where the noise was coming and found that thousands of Hindus had surrounded the Muslim area north and south of the Jamia Masjid. This was at about 2/2-30 p.m. I found the Magistrate

and armed police standing on the open land to the east of the mosque. Muslims were inside the mosque. When I reached that place some constables were beating Mohd. Hakim. His wife came from the house and she was also beaten. His son Alam came there with a lathi. He was then arrested. I then heard the people shout that a gun fire had been shot at the Magistrate from the mosque. I myself did not see the gun fire nor did I hear the sound of a bullet. I noticed the Magistrate very much excited. The Magistrate ordered firing."

He further deposed:—

"I heard two shots of fire and thinking that the matter was getting serious I went to the Office. When these shots were fired I just heard some shrieks. I did not notice anyone having been actually hit. There were no people on the roof of the mosque. The Muslims were inside it."

According to these statements, even at the time of the trouble at the mosque there was talk of a gun fire from the mosque, before the firing under the Magistrate's order, and that none on the roof was hit with the bullet as nobody was there.

5.48 The version of the incident at the mosque by the official witnesses has been seriously questioned by the Muslim witnesses. Of the 27 witnesses whose affidavits were referred to in the written statement filed by Mohd. Ali, Secretary, Sursand Muslim Relief Committee, only six witnesses speak about the incident at the mosque. The seventh witness about this incident is Shri Abdul Rauf who has filed an independent affidavit. Of these, four witnesses were orally examined by the Commission. The remaining witnesses other than those who had spoken about the incident of the 13th October stated in general terms about the Hindus attacking, looting, beating and burning the houses of Muslims and stated about the incidents in their own houses, if any.

5.49 Shri Rahman Kabari has deposed that at about 1.30 p.m. when the Hindu mob shouting 'Jai Durge' came to his Tola and attacked Muslim houses, he fled to Leechi Bagh where his son and other people were working. He advised his family to run to the mosque for shelter. He went to the house of his son, Shri Latif at Leechi Bagh. His son, Shri Latif was not there. His family had gone to the mosque. He describes the actual incident which took place near Shri Latif's house and a case about that is pending in the court. After the rioters had gone, he himself went to the mosque. There were 800 or 900 people there inside the mosque. He stayed in the mosque for about two hours, till the police called them out and made them stand in the open land. His further statement does not appear to be realistic at all and is not consistent with what the other Muslim witnesses deposed. He states:—

"When I reached the mosque there was no police outside the mosque. The police arrived there about two hours after my reaching the mosque. Just after arrival the police got all the people in the mosque out. There were about ten constables

and one second officer. When the people came out of the mosque they began to beat them with the butt ends of the guns. Among the persons beaten were Abdul Hakim, his son, his wife, Dillu Khan and Shabrati Nadaf. When the beating started we lay down one upon another. Thereafter the police fired at the mosque and at two persons who were hiding at about 4-5 gathas south of the mosque. There was none in the mosque at the time of firing. Eleven rounds were fired. After the firing other forces arrived and surrounded us.

At about dusk we heard the sound of some motor horn. The police people stepped aside with their guns. Officers from Muzaffarpur arrived and they took us to the Thana. The two persons shot south of the mosque did not receive any gun shot injury.

Three persons got gun shot injuries. They were at the time standing in the courtyard of the mosque. One was the daughter of Mir Shikar known as Ghao, the other was the son of Ansari and the third was Faqirali. These three persons appeared to have remained inside. The police fired from outside the mosque through the door. The police entered the mosque with shoes on and asked the people to come out.

None threw brickbats on the police party from the mosque and none fired at them.

Abdul Hakim was abused and beaten on his asking them to protect them as they were government servants."

5.50 It may also be mentioned that Shri Rahman Kabari did not state anything about the incident at the mosque in his affidavit. He did not state about the mosque incident in his complaint to the S. D. M. The entire statement seems to be based on what he had heard subsequently.

5.51 Shri Dillu Khan, a resident of Pakar Tola, has stated about a group of Hindus coming to his Tola, burning the houses and striking his daughter and his wife. He further states:—

"Soon after the mob arrived in Pakar Tola, the S.D.O., the B.D.O., S.H.O. and Dafadar and others arrived there from Sultan Ahmed's house. The Dafadar shouted to the mob behind to carry on their work and that the officers were with them. The officers went ahead and the mob followed behind. Between the mob arriving to my mohalla and my running away to the Jumma Masjid the interval would be about half an hour.....

I found Abdul Hakim standing outside the mosque. I told him of what happened in Pakar Tola and that the officers were with the mob. During my conversation with Abdul Hakim the group of officers who had gone to Pakar Tola arrived at the mosque from the north.....

The S.D.O. pointing out Abdul Hakim to the S.H.O. ordered him to beat Abdul Hakim whom he described as a mischievous person. Abdul Hakim was beaten and his wife came out

of the mosque to plead for him. She was also beaten; her two arms were broken. Alam, son of Abdul Hakim came and he was also beaten. Others including myself were also beaten. He then ordered firing. They fired eleven rounds at the mosque. The S.D.O. and the B.D.O. with shoes on entered the mosque and asked the people inside the mosque to come out with raised arms. The people inside the mosque would be about 400 to 500. As a result of the firing three persons died. The others were taken out and told to stand outside. They were surrounded by police people. The armed police pointed guns towards them but hearing the sound of a vehicle they lowered their guns. A few officers got down from the car and took us to the thana.....

No brickbattering took place from the mosque. No gun shot was fired from the mosque. No gun was recovered from the mosque. No Muslim in Sursand has any gun. No crowd came to attack the mosque after the arrival of officers. The only thing that happened was the burning of houses from an area south to the mosque. The southern area is known as Patti Tola. The mohalla between Gudri Bazaar and Kalamandir is known as Patti Tola."

5.52 He further deposes that the door of the mosque was open at the time of firing and that when the firing started, people inside the mosque fled to shelter.

5.53 When examined at 11 p.m. on the 15th October, Shri Dillu Khan had multiple injuries covering an area of 4"×1/3" scalp deep on the head and one lacerated wound on the back of the head.

5.54 It is to be noticed that in his affidavit he did not mention that the S.D.O. and other officers had reached his mohalla soon after it was attacked by the mob and that the Dafadar had shouted to the mob to carry on with their work and that the officers were with them. In his complaint before the S.D.M. he, however, stated that Sub-Inspector Shri Mathura Prasad, his constables, chowkidars and Dafadar also injured and looted the Muslims and that they arrested those persons who requested for protection.

5.55 With respect to the incident of the mosque, he stated in the complaint that when the police people were trying to kill the Muslims who had been gathered in front of the mosque some officers reached there in a car. It implies that the arrival of the officers on the spot led to the police not killing the Muslims.

5.56 Shri Abdul Hakim states that he returned to his house at about 1 o'clock after having been through the village and tried to dispel the fears of those Muslims who told him that many people were surrounding the Muslim mohalla and that they wanted to burn and loot, by telling them that he had just returned from the village and that everything was quiet. Shortly after he heard shouts of 'Jai Durge' from all round. All houses in Pakar Tola were burnt and people rushed towards the Jama Masjid. Shri Dillu Khan and Shri Sobrathi were among the persons who told him that armed police officers were shielding the mob and that they along with

some military officers were getting the houses burnt and looted. He stood near the 'neem' tree at the back of his house and looked towards Leechi Bagh which was being looted at the time. He then described the incident at the mosque thus:—

“Shortly after that S.D.O., armed constables, Thana Constables and Dafadar came from the Leechi Bagh side, I stepped towards them and saluted them. The Second Officer abused me and asked the military people to beat me. They struck and struck me at the back with the butt ends of their guns. Dillu Khan stated what had happened in Pakar Tola. The Second Officer said that I was responsible for setting the houses on fire. My wife came up. She requested the Second Officer why he was beating me. The Second Officer kicked her. She fell down and he ordered the constables to beat her. She was beaten and got hurt. Thereafter my son arrived. He was severely beaten.

Dillu Khan and Sobrathi were also ordered to be beaten and they were beaten and they fell down.

The S.D.O. said that the Muslims who were inside the mosque must have got guns and arms and might attack them. He then ordered the people to fire on the mosque. I told him that there were only women and children and I could get them out and he then ordered the constables to fire and attack me and took me away. I was then seized and taken to some distance. Thereafter the firing was ordered. The first person that was shot was the girl Noorjehan, she was at the roof of the mosque and then she fell down. Thereafter Shamsha and Titri who were inside the mosque were fired. A few other persons got gun shot injuries. There would be about 6 or 7 persons at the roof of the mosque. There would be about 500 persons inside the mosque. Shots were fired at the top of the mosque and through the holes of the walls from near the neem tree at the North-east corner of the parti land to the north of the School. Some shots were fired through the door of the mosque by a constable in front. Shots were fired by three or four persons. There was no male person on the roof of the mosque. There was no brickbatting from the roof of the mosque, nor was there any firing from the roof. The moment Noorjehan fell down the mosque was surrounded by the armed police. Thereafter all the officers with shoes on entered the mosque. I asked the women and others inside the mosque to come out and let the police search the mosque. They all came out. The police entered the mosque to take out a search. The women and the others collected on the open spot on which the neem tree stands.

None in the official party got injured. It is learnt that the official party got injury reports concocted by Dr. Durga Prasad, Government doctor in the Hospital.

The officers searched the mosque and found nothing there. When they came out I asked the people who were hiding in the bushes to come out. All the collected people were then

surrounded by the armed police. From the conduct of the officers and their attitude I was apprehensive of further action on their part. Shortly after, a constable came and informed of the arrival of some officers in the bazar. Thereupon the official party on the spot asked the Muslims there to proceed to the thana."

5.57 The injury report of Noorjehan, daughter of Illias, aged 12 years, does not show any injury from a fall. It only notes an injury from firearm.

5.58. Further the District Magistrate has stated:—

"There is a parapet all round the roof of the mosque. The height of the parapet is about 3 feet. Persons standing on the roof have no protection against firing. Persons standing behind the minars at the four corners will also get protection. A person standing on the roof and getting shot is not likely to fall down inside the mosque unless it is a case of the person who is standing on the parapet or leaning much over the parapet."

This shows that it was not possible for a person hit with a shot on the roof to fall down unless that person was sitting on the parapet.

5.59 His statement about the people being sent to the thana on the arrival of the constable informing the officers there about the arrival of other officers in the bazar is not consistent with the statement of Shri Dillu Khan which said that the officers who arrived there took them to the thana. This entire story of the officers arriving from outside and thus indirectly saving the lives of the Muslims from the contemplated shooting by the S.D.O. and the police officers on the spot appears to be incorrect. Shri Rahman Kabari has stated that the officers arrived from Muzaffarpur. Shri Abdul Hakim and Shri Kamal Shah have stated in their affidavits in this connection that a few higher officers of Muzaffarpur arrived. Mohd. Hanif Thekadar too has stated in his affidavit about the arrival of a few officers from Muzaffarpur. The statement made in this connection at the end of para 9 of the affidavit filed on behalf of the Muslim victims of Sursand is:—

"Later under orders of the very same Shri J. Das his Police Armed Force brought out the Muslims from inside the mosque and wanted them to stand in a row outside the mosque and they were just preparing to load their respective rifles with bullets when all of a sudden some higher officers arrived there from Muzaffarpur and thus the lives of the remaining Muslims were saved."

5.60 The first officers who arrived at Sursand from Muzaffarpur after this incident were the District Magistrate and the Superintendent of Police. They arrived there at 7-30 p.m. The persons on the spot had been taken to the thana much earlier. It is stated so by the official witnesses and is borne out from the timings noted on the injury reports of some of the persons examined in the hospital.

Shri Jogendra Prasad Thakur's statement also tends to support this. He has stated:—

"I returned to my office at about 3 p.m.

At about that time I noticed a truck coming from the north side. The truck went to the hospital. It was learnt that the injured persons had been brought there. There was no non-official there at the time. I went there and helped the hospital staff in attending to the injured persons. I remained at the hospital till about 7 p.m. that day. The truck made several trips and brought the injured to the hospital. In all 40 or 50 injured persons reached the hospital by the time I was there."

5.61 Shri Das, S.D.O., has stated that he contacted the District Magistrate between 4 p.m. and 4-30 p.m. Log Book Control Room, Sitamarhi, records a message from S.D.O. at 4-50 p.m. stating his return to the thana from the site. Shri Raj Kant Misra has deposed that he noticed Muslims being escorted to the thana when he proceeded towards the mosque, which would be after about 4 p.m. according to his statement, and also to have noticed the injured brought to the hospital shortly after 5 p.m. by some of his comrades.

5.62 Four Muslims and the S.D.O. were examined between 4.40 p.m. and 5 p.m. The four Muslims are Smt. Marian w/o Yosuf Lehari examined at 4.30 p.m., Msm. Tabizan w/o Rahim examined at 4.35 p.m., Shri Saddiq examined at 4.45 p.m. and Mohd. Samim examined at 5 p.m., Shri Das, S.D.O. was examined at 4.30 p.m. This means that the incident at the mosque was over some time before 4.30 p.m. to enable S.D.O., Shri Das to reach the hospital for the examination of his injuries. The other Muslims injured may have been the Muslims who were at the mosque.

5.63 Another set of six Muslims and two officers, viz., B.D.O. and Station Officer, were examined between 6 p.m. and 7 p.m. The six Muslims are Shri Machhia examined at 6 p.m., Shri Habib examined at 6.15 p.m., Shri Subhan examined at 6.20 p.m., Shri Hussaini examined at 6.40 p.m., Mohd. Ayub examined at 6.45 p.m. and Mohd. Hanif examined at 7 p.m. The B. D. O. was examined at 6.30 p.m. and the Station Officer at 6.40 p.m.

5.64 Mohd. Hanif, s/o Sitab Ali Thekadar, resident of Khas Patti, the main Muslim mohalla, went with his family to the Jama mosque after the Hindu mob had attacked his mohalla at about 1.30 p.m. or 1.45 p.m. on the 15th October. He states that when he noticed the S.D.O. and the Sub-Inspector coming from the north, they were being followed by a riotous mob of 4000 or 5000 strong and that when the S.D.O. and other officers took their stand to the north of Shri Abdul Hakim's house, this mob practically surrounded the mosque and began burning and looting the neighbouring houses and that it was then that Shri Abdul Hakim went to the S.D.O. and with folded hands requested for protection. This statement is not consistent with the statements of other witnesses about the mosque incident. The statement means that S.D.O. and the police were leading the mob and letting them burn and loot the Muslim houses. Anyway,

no other witness speaks about Shri Abdul Hakim's going to the S.D.O. and requesting for protection after the mob had been busy with burning and looting the houses. Nor has such a statement been made by him in his affidavit or in the first information report which he lodged. In both these documents he stated that the S.D.O. on arrival abused Shri Abdul Hakim and ordered his forces to beat him. In the first information report, he further stated that the order was to kill Sarvashri Abdul Hakim, Subrati and Dillu Khan and that these people were beaten by the riotous mob as well. He then speaks of the beating in succession of Shri Abdul Hakim's wife, his son and Subrati. No other witness speaks about the order of the S.D.O. to police to kill these persons on the spot. Mohd. Hanif further states that after the beating was over the Muslims were collected on the parti land and that the armed constables were got ready around them but nothing was done to them as a sound of the arrival of the car to the west of the mosque was heard. This is partially in consonance with what the other witnesses have deposed and which, as we have indicated, cannot be correct as the District Magistrate and the Superintendent of Police reached there at 7-15 p.m. while the S.D.O. and some of the injured persons were examined by the Medical Officer much earlier. It is also to be noted that we have not accepted Mohd. Hanif's statement about the procession attempting to pass through the Muslim mohalla on the 13th October. He did not mention in his report, or in the affidavit, about happenings on the 13th October but only deposed about them before the Commission. We find that one Shri Hanif s/o Mohd. Sitabali was examined by the doctor at 2-30 p.m. on the 14th October and had a few injuries. This indicates that he was possibly involved in that day's incident.

5.65 Shri Sikander Shah stated in his affidavit about hearing the noise of the Hindu rioters that afternoon at about 1-30 p.m., about seeing Muslims fleeing towards the big mosque and about the Hindu rioters following them and setting fire to Muslim houses. Seeing this he and his family went to the Juma Mosque. Soon after this, according to his statement, the police party fired gun shots at the mosque as a result of which Mosammat Tetri and others died then and there. He has also stated about the looting and burning of his house and the houses of his brother Shri Kamal Shah and his brother-in-law Shri Mohiruddin Shah and the killing of Mosammat Bibia, mother of his cousin Shri Kamal Shah. He lodged a report about this incident. The case has been challaned. From his statement that the Hindu mob was coming from the north and people were rushing towards the mosque, it seems that his house is in the Muslim abadi between Leechi Bagh and Jama Masjid.

5.66 No Mosammat Tetri appears to have died due to the firing at the mosque, as the *post mortem* reports do not include the case of one Mosammat Tetri having died on account of gun shot injuries. One Mosammat Tetri died on account of an incised wound $1\frac{1}{2}'' \times 3\frac{1}{4}''$ chest cavity deep on the upper part of right side of back with fracture according to the *post mortem* report. She might have been injured and killed at some other place. Shri Sikander Shah's statement that his sister's son, Md. Zakir Shah, was assaulted and

injured by a bhala at the mosque is not consistent with the statements of the other witnesses, who do not depose about anyone being injured inside the mosque with a bhala. One Shri Zakir s/o Abruddin of Hanuman Nagar was examined by the doctor on the 16th October and was found to have one incised wound and several lacerated wounds. He might have been injured somewhere else but not at the mosque. He has also stated about the rioters killing Mosammat Bibia, mother of Shri Kamal Shah and throwing her into the fire.

5.67 Shri Kamal Shah, cousin of Shri Sikandar Shah, has stated in his affidavit about the attack on his house by a Hindu mob and the killing of his mother Mosammat Bibia by a rioter. He has further stated that when he proceeded to the local Jama Masjid, he found the mob including the S.D.O. with his force getting Sarvashri Abdur Hakim, Subrati and Dillu Khan and assaulting them. They also assaulted Shri Abdul Hakim's wife and son who came out on the spot later. He also speaks of the collection of the Muslims on the parti land with a view to 'kill' them but they could be saved due to the arrival of a few higher officers. He also lodged the first information report on the 21st October and made similar statements therein. The case has been challaned and is pending trial.

5.68 Shri Abdul Ghafoor has stated in his affidavit about the sudden attack by the Hindu mob on the Muslims in the mohalla and about one rioter killing his brother Shri Abdul Razak and other rioters throwing him in the flames of the burning houses. Thereafter he ran to the Bari Masjid and found the S.D.O. and the police force there and also saw Sarvashri Dillu Khan, Subrati, Abdul Hakim's wife and his son Mazhar Alam injured and stunned there. In the first information report which Shri Abdul Ghafoor lodged on the 22nd October, he stated about the mob coming from the bazar side. He himself ran away from his mohalla and hid himself in the jungle. After the mob had gone away, he went to the mosque and saw the S.D.O. and others and some injured persons in the compound of Mohd. Hakim. He further states that in the meantime firing took place at the mosque. He does not state like other witnesses that the Muslims were collected on the parti land in order to kill them. He simply states that the Muslims remained in that compound till about the evening.

5.69 The persons injured at the mosque on account of the alleged beating by the police are Sarvashri Abdul Hakim, Subrati; Abdul Hakim's wife and his son and Dillu Khan. We have already referred to the injuries of Dillu Khan. We may also note here briefly that Subrati had two lacerated injuries on the head when examined on the 15th October. Mazhar Alam had multiple abrasions varying from the size of 3" x 1" to 2" x 1" on the right arm and fore-arm, one abrasion of 3" x 1" on the left side of the chest, swelling with bruises in the outer aspect of the left ankle, one contusion on the right upper part of the thigh, one lacerated injury on the right side of the head about 3" above the right ear and one lacerated injury on the right eyebrow. He was examined on the 15th October. Mosammat Mamum w/o Md. Hakim had five bruises on different parts of the

body, three lacerated wounds on the right arm and a fracture of the right humerus. She was examined at 9 p.m. on the 15th October. Shri Abdul Hakim did not appear to have any visible injury. His inquiries were not examined by the doctor. The District Magistrate has stated that Shri Abdul Hakim did not have any apparent injuries whom he met on the 16th October. Station Officer, Shri M. P. Singh, also states that Shri Abdul Hakim might have got some injury from slaps but did not have any apparent injury.

5.70 The other two places where incidents took place on the 15th October are Dakhinwari Tola and Gopalpur. Mosammat Motifan, Shri Kitab Ali, Shri Kalam Husain and Shri Abdul Latif, residents of Dakhinwari, have filed affidavits. Of these Mosammat Motifan stated that at about 1 p.m. on seeing a big crowd of Hindus coming towards the Tola, the people felt like running. The people of the Tola said that the mob had looted and burnt the houses of the Muslims and killed them and would do the same to them and, therefore, the people should run away. These people ran towards the Block Office which is further south of the colony. The Block Office people also told them to run away and save their lives as the mob was out of control. These people ran towards Hanuman Nagar and took shelter in rice fields on finding the mob nearing them. Shortly thereafter, seven persons threatened them with knives and took away their ornaments.

5.71 She has made the further statement that the Block officials and some other people reached there and protected her and others. She then went to Chand Patti. In the first information report which she lodged on the 23rd October she has further stated that after the looting, one person of Sursand darbar came there and provided water to the people and that shortly after another servant came there and helped them. She and others told them about the incident. It states about her and others returning from the darbar implying thereby that they were taken to the darbar by the officials. At about 9 p.m. they reached Chand Patti.

5.72. Shri Kitab Ali simply states about the attack of the people and about the theft in his shop. According to the first information report, the theft took place during the night between the 16th and 17th October. In his affidavit he has stated that some of them saved their lives by going to the police station and other hide-outs.

5.37 The statement of Mosammat Motifan about the darbar employees helping the Muslims and that of Kitab Ali about Muslims taking shelter at the police station tend to go against the general allegation by other persons making affidavits that the darbar people in collusion with the local officials had preplanned the incidents of the 15th October.

5.74 Shri Kalam Husain stated in his affidavit about the general attack by the Hindu mob and also about the theft in his shop when they were at the police station. The theft took place, according to the first information report lodged by him, on the night between the 16th and 17 October.

5.75 Shri Abdul Latif has also stated in general terms about the attack by the Hindu mob and about looting and burning of his house.

5.76 Shri P. T. S. Sinha, Dy. S. P. who had returned from Sursand that morning at about 10.30 a.m., learnt at 2.35 p.m. about the incident at Sursand. He returned to Sursand at 3.20 p.m. and heard from Magistrate Shri Sarkar at Shri Sultan Ahmed's house about the dispersal of the mob by opening fire. Advancing further, he noticed some houses on the south of the road in Dakhinwari Tola on fire. So he proceeded there but did not find anyone. He was accompanied by Circle Inspector Shri M. Sahay. Shri Sahay supports the statement of Dy. S. P. The mob which went to Dakhinwari Tola might be the mob which had attacked Shri Sultan Ahmed's house prior to the arrival of Magistrate Shri Sarkar.

5.77 Shri Hadis Kabari, resident of Gopalpur, filed an affidavit. It is alleged that at about 4 pm., a Hindu mob belonging to Sursand and Gopalpur Tola raided the houses of the Muslims, burnt them and looted their property. He also lodged a report about the incident and the case has been challaned and is pending in the court.

5.78 He has further stated in the affidavit, like others, that the whole riot at Sursand was preplanned with the knowledge and connivance of the officers, and that the officers neither protected the Muslims nor informed the higher authorities. In the report he further stated that they heard of a meeting having been held at Sursand at about 11 a.m. that day for looting, burning and killing the Muslims and that they could not report at the thana about it as Dafadar Ram Ratan Pandey used to stop people from going to the Thana or to the market at Sursand and also threatened to kill them if people went there. It may be just mentioned here that Dafadar Ram Rattan Pandey's presence at other places between 12 noon and 5 p.m. had been mentioned in other statements.

5.79 The only other mohalla of the Muslims which was burnt and about which no reference has been made so far was Khas Patti, the main Muslim mohalla south of the Jama Masjid and at the northern and southern entrances to which static pickets had been posted on the evening of the 13th October.

5.80 Khas Patti is also known. it appears, as Tola Jama Masjid. Md. Zobiar, resident of Masjid Tola, has spoken about the looting etc. by the Hindu mob in the mohalla on the afternoon of the 15th October and has also referred to the earlier incident in the mohalla on the 13th October. In his affidavit he simply stated that the riot took place as a result of the meeting held in the compound of the house of Shri Rameshar Pratap Sahi and Shri Rama Marwari. In his first information report lodged on the 19th October, he stated that the meeting took place about two hours before the incident took place, i.e., at about 11.30 a.m.

5.81 Shri Newazi Momin, also resident of Masjid Tola, has stated in his affidavit that the huge crowd of 4000 to 5000 from village Papari, Sursand and Sitamarhi came and started from the house of

Shri Shambhu Pratap Narayan Sahi and looted Muslim houses setting them on fire. His own house was also looted. His wife was killed and thrown in the flame of a burning house. In his complaint filed in the Magistrate's court, he stated that before the date of the incident, the Hindu leaders of Sursand held a meeting at the darbar of Shri Shambhu Pratap Narayan Sahi, distributed pamphlets and collected Hindus with arms and committed this riot and that the local officers including S.D.O. had knowledge of it and they themselves took part in the rioting.

5.82 Mohd. Nayeem Shah has filed an affidavit practically similar to the one of Shri Newazi Momin. In his complaint before the S.D.M. he has described the place of incident as Tola Jama Masjid Khas Patti and has made a similar statement about the meeting at Shri Shambhu Pratap Sahi's house, distribution of pamphlet and calling the Hindus. In the complaint he has mentioned that the mob came out of Shri Shambhu Pratap Sahi's house. This he could not have seen from his house. In the complaint there is no mention of a meeting at Shri Dwarka Lat's house, as stated in the affidavit. He alleges in the affidavit that his wife was beaten and there was no trace of her, that presumably she had been murdered and that the rioters injured his brother and himself. There is no injury report about him.

5.83 We may now refer to the statements of the two magistrates who were in charge of the static pickets at the entrances of this mohalla. They are Shri P. B. Lal and Shri S. K. Soni. Shri P. B. Lal was at the northern entrance of the mohalla. He deposes that at about 3 p.m. a mob coming towards this mohalla from bazar side went away and dispersed on his warning and that similarly a second mob coming from Khadi Bazar side also dispersed on warning. The strength of the two mobs has been described in his affidavit as 250 and 200 respectively. At about 4 p.m. he noticed flames from two Muslim houses in the mohalla. He noticed several persons near those houses but they ran away on his party's approaching. The party extinguished the fire. They were the houses of Mohd. Mansoor and Bhuta. The other houses in the mohalla, according to him, got burnt on account of the fire in the houses near the mosque and no mob attempted to burn them from the side where he was posted.

5.84 Shri Soni was with the static picket at the southern end of this mohalla. He saw the first mob at about 2 p.m. to the west of the Saw machine where he was. The mob was near the bus stand. A few minutes after the dispersal of this mob, he noticed a mob of 15 people in the lane to the north of the pitch road. The people in the mob dispersed when asked to do so. Again 40 or 50 people collected in that area and he succeeded in arresting 8 of them. They were made over to the Revenue Inspector Shri M. Sahay. Shri Sahay took these persons to the thana and made them over there. The last mob he saw was at about 3.30 p.m. near the bus stand. This was also got dispersed.

5.85 It appears that the houses in the mohalla were burnt by some mob which reached there from the east and which could not

be noticed by the two Magistrates who were on the north-west and southern sides of the mohalla.

5.86 It appears from the above discussion that the various incidents in Dusadh Toli, Leechi Bagh, Pakar Tola, Khas Patti, Dakhinwari and Gopalpur took place between 12.30 and 4 p.m., that a number of persons were injured and several died.

5.87 The injury reports show that 55 persons received injuries. These include Shri Abdul Hakim, his wife, his son, Subrati and Shri Dillu Khan, who are said to have been injured at the Jama mosque. Sarvashri Abdul Barique and Ahia also were said to have received fire-arm injuries at the mosque. Two of the injured persons had fractures of the ulna bone and one of the right radius. Nine persons had incised wounds. A Muslim of village Banauli had one on the left side of the chest. Shri Idali had one incised wound besides five lacerated wounds on different parts of the body. Shri Johra had one incised wound above elbow joint. Musammat Kusmi of Tola Pakar had two incised wounds in addition to fracture of the right radius and two other injuries. Musammat Sahidan had one incised wound on the back of the head. Musammat Inar had three incised wounds besides burn injuries on the buttocks. Zakir had one incised injury on the left elbow besides six other injuries. Zalil had an incised wound besides other injuries and burns.

5.88. Nineteen persons, according to official figure, died. Two completely charred dead bodies were found in Muslim houses. Their remnants could not be sent to the police station and for post mortem.

5.89 According to the written statements on behalf of the Muslim victims of Sursand and of the Jamait-ul-Ulema, 33 Muslims died. The list supplied contains 32 names. The written statement filed on behalf of the District Council of C.P.I., Muzaffarpur, estimates the dead at about 40. Shri Raj Kant Misra, however, has deposed that he did not know of any such Mohammedan who was killed and whose body remained untraced, but there is, however, one case of Dr. Hanif's son. He is not in the village after the incident. His dead body also has not been found. According to his statement, the deaths could not have exceeded 20.

5.90 Seventeen dead bodies were sent up for post mortem examination. Of these four were unidentified bodies which had been burnt—three were of females and the sex of the fourth could not be established. Two bodies were of the girls who were injured with bullets at the mosque. Of the remaining eleven, five were of females. Sabra's body was burnt. Kitaban's body showed fractures of the scalp. Refiquan had an incised wound on the left buttock and compound fractures of both bones on the right forearm. Mosammat Hadisa had two incised injuries of 3" x 1½" Peritoneal cavity deep in the right and left lumber regions of abdomen and her both ascending and descending colons were punctured. Mosammat Tetri w/o Goun Sah had an incised wound 1½" x 3½" chest cavity deep on the upper part of right side of back. Shri Israfil Momin's body was charred and indicated a perforating injury, caused with a sharp

weapon. The doctor is of opinion that after causing the injury, the body was burnt. Shri Islam's body was also burnt. Shri Imtaaj Momin had an incised wound, peritoneal cavity deep and both his eyes were destroyed on account of being punctured. Shri Yusuf Khan's body showed that his left eye was destroyed and there were several other injuries on his body. Shri Hasan Kabari had one incised wound below and back of the right ear and another on the right buttock. He had a fracture on the left side of the mandible. Shri Jalil Mian had a perforating injury and his body had been thrown into the fire as there were numerous blisters on different parts of the body and the upper and lower extremities were charred.

5.91 The injuries on the dead persons bear out the statements of the witnesses about the persons being attacked and thrown into the burning fire. Three of the deceased persons appeared to be of Pakar Tola which is adjacent to Dusadh Tola and from where the Muslims are said to have gone to Shri Sultan Ahmed's house.

5.92 Two Hindus Sarvashri Ushwa Paswan and Lakhan Paswan were examined at about 6 p.m. on the 15th October. Shri Lakhan Paswan had swelling on back of right wrist and right knee and Shri Ushwa Paswan had two bruises on the right arm and right thigh. Shri Deo Narain Raut, Shri Hira Lal Raut and Shri Ramdeo Sah got injured due to the firing under the orders of Magistrate Shri Sarkar. Shri Rajendra Amat examined on the 24th October was found to have injuries which were about 24 hours old and, therefore, not of the incident of the 15th October. Subalia and Musmat Jitni examined on the 28th October were found to have injuries which, according to the doctor, might have been a fortnight old. Their injuries cannot be attributed to the incidents of the 15th October.

5.93 The total number of persons injured on the 15th October is 71—58 Muslims, 5 Hindus and 8 officials.

5.94 Thirty-two cases were registered in connection with the incidents on the 15th October out of which eleven cases had been challaned. The cases which had been challaned and are pending in the court are the case on the reports of Shri J. Das, S.D.O. about the incident at the Jama Masjid, the case on the report of Magistrate Shri Sarkar about the incident near Shri Sultan Ahmad's house on the Bitha Road, the case on the report of Md. Sadique on the looting of his house in Mohalla Khas Patti, the case on the report of Shri Sobhit Khatwe against Muslims alleged to have set fire to his house in Sursand Bazar, case on the report of Shri Hadis Kabari about the incident in Gopalpur, the case on the report of Shri Sikandar Shah about the incident in Mohalla Bari Masjid, the case on the report of Shri Kamal Shah about the incident in Mohalla Masjid Tola, the case on the report of Dr. Hanif about the looting etc. of the house in Leechi Bag, the case on the report of Shri Latif Ansari about the incident in Pakar Tola, the case on the report of Shri Niajuddin about the incident of Sursand Bazar and the case on the report of Motifan Bibi about the incident in Dakhirwari Tola.

5.95 In the remaining 21 cases final reports were either said to have been accepted or were pending for acceptance.

5.96 Of the 13 cases challaned for the incidents of the 13th and the 15th October, 9 cases are against 57 Hindus and 4 cases against 52 Muslims.

5.97 The total number of houses burnt was 214, out of which 205 were of Muslims and 9 were of Hindus. Most of the houses appeared to have got burnt due to the flames from adjacent houses. All the same, fires must have been set to houses at several places.

CHAPTER VI

MEDICAL TREATMENT

6.1 Shri Abdul Hakim has deposed about the improper treatment of the injured at the hospital and about the preparation of wrong injury reports. His statement in this connection is:

“The injured were not properly treated at the hospital. Some injuries also were not properly described in the injury report. The serious injury of my wife was described as ‘simple’. I complained to the Commissioner and to the Police Minister. I know that the injuries of my wife, my son and Dr. Hanif’s wife were not properly noted.....

The injury of some Muslims shot dead in the mosque was wrongly described as inflicted with some sharp-edged weapon and not with bullets.”

6.2 There could not be any evidence in support of such allegations. However, Shri Patankar, D.M., has stated that he did hear of some complaints about inadequate attention given to the patients but none of them was of any serious kind. The reason for this can be that only one doctor is posted at the Sursand hospital and that he attended to the injured till seven other doctors arrived there on the 16th October.

6.3 There is some evidence in connection with the alleged wrong preparation of the injury report of Shri Abdul Hakim’s wife.

6.4 In this connection Shri Ahmed, S.P. has stated:

“The incident about the injury report of Mst. Mamun, wife of Hakim, took place thus. On a certain date (18th) the I.G. and I went through the injury reports of the persons injured and noticed that the injury report of Hakim’s wife—which was in pencil—showed minor injuries. One of the injuries was an injury on the right side of the head just as her son Alam had—Alam had an injury on the right side of the head, according to injury report. Next morning Shri M. P. N. Sinha came and happened to speak of serious injuries of Hakim’s wife. We told him that we had seen the report and said that it did not record any serious injury. He kept quiet. I then ordered the Sub-Inspector to produce the injury report of Hakim’s wife. He then produced the injury report written this time in ink (ball pen) which showed a fracture and a larger number of injuries than we had seen before in the first injury report. With this report we went to the hospital and found that this injury report tallied with the injuries recorded in the hospital. We questioned the doctor about the other injury report but he said that this was the only report he had sent.”

6.5 Station Officer Shri M. P. Singh has explained this incident thus:

“The injury reports of the injured persons were received from the doctor by the Police Inspector Chatterji. I.G. Police asked for the report of Memun. It so happened that there were two Memun injured—one was the wife of Hakim and the other was the daughter of Dillu Khan. The injury reports were handed over to me by the Inspector. I searched the report of Memun and passed it on to the I.G. It was returned. Next day he again asked for the report of Memun, then I gave him the other report. The two reports were different. He then verified from the hospital. To my knowledge none of the reports was at any time altered.”

6.6 In his report at Annexure B to his affidavit, the S.P. has described the matter thus:

“I may mention here that in order to discredit the above version and fact, an attempt was made to minimise the injuries of Mst. Maimun, w/o Meer Hakeem. On 19th October 1967 when I.G. was making enquiries at Sursand, the injury reports of the wife of Meer Hakim and his son Md. Alam were produced which were written in faint pencil and the injury report of the wife of Meer Hakeem did not show any fracture on her arm. She was indicated to have an injury on her head. The name of her husband was not mentioned in the injury report but the name of her father was mentioned.

Next day (20th October 1967) when it was pointed out to us that Mst. Maimun had fracture on her arm, we again called for her injury report and that of Alam and to our utter surprise the injury report of the lady written in faint pencil was not produced and instead a freshly written injury report in dot pen with 8 injuries including a fracture on her hand was produced and in this injury report the name of her husband was mentioned. I pointed out to the I.G. who also agreed that this was not the injury report which we had seen the previous night. Another injury report of one Maimun, d/o Dillo Khan aged about 28 years was produced and in this only one injury was mentioned. We decided to make a physical verification and in the hospital we first found Mst. Maimun (28). She had one other injury besides the one mentioned in the injury report. The injury reports of Alam and her mother tallied with the injuries found on their persons. The fresh injury report of the old lady with 8 injuries including a fracture tallied fully on verification.

This injury report was tried to be kept back from us by the S.I. and I am asking the S.I. to explain his undesirable conduct in suppressing the real injury report earlier.”

6.7 In this note only the looking up the injury reports of Md. Alam son of Shri Meer Hakeem and of Shri Meer Hakeem's wife is mentioned. The fact that the injury report of Mamun shown to the I.G.

and S.P. on the 19th October, did not mention the name of the husband but of the father, fits in with the statement of the Sub-Inspector that he had put up the injury report of Memun, daughter of Shri Dillu Khan. Further the injury report of Shri Abdul Hakim's wife was produced before the officers on demand on the 20th October and the description of injuries in this report tallied with the injuries these officers found on Shri Abdul Hakim's wife in the hospital. There seems to be no good reason for a fresh injury report being prepared by the doctor between the two occasions when these officers looked up the injury reports.

6.8 The injury report of Memun, daughter of Shri Dillu Khan, records one lacerated wound $2'' \times \frac{1}{4}''$ in scalp deep on the back of the head. Shri Mazahar Alam, s/o Shri Abdul Hakim, according to the injury report, had one lacerated injury $2'' \times \frac{1}{4}'' \times \frac{1}{4}''$ in the right side of the head 3'' above the right ear. The injury report of Mostt. Mamun, w/o Abdul Hakim records no injury on the head. She had eight injuries, one of which was a fracture of middle of right humerus. A mistake in putting up the injury report, as suggested by the Station Officer, is possible. We, therefore, do not consider any good reason to think that the Medical Officers did not perform their duties in looking after the injured persons and in preparing the injury reports properly.

6.9 Shri Abdul Hakim has deposed and some persons have stated in their affidavits that none in the official party got injured and that it got injury reports about some officials concocted by the Doctor at the Hospital. The allegation deserves no credence.

CHAPTER VII
CAUSES FOR THE INCIDENT ON
THE 15TH OCTOBER, 1967

7.1 The magnitude of the incidents of the 15th October *prima facie* may raise the presumption that the incidents had been preplanned as a retaliation of the incidents of the 13th October.

7.2 An attempt has been made to establish that preplanning was done at the meetings held at the houses of Shri Shambhu Narain Pratap Sahi and Shri Dwarka Lat on the 14th October, during the night of the 14th/15th October and on the morning of the 15th October. It has also been alleged that persons from Sitamarhi, Pupri and other places were asked to collect and they took part in the various incidents. We have already dealt with the evidence of the holding of the alleged meetings and did not find it established therefrom that they did take place.

7.3 A suggestion has been made that the political parties were responsible for the incidents and that, therefore, the incidents had been hatched in secrecy. Dy. S.P. Shri Sinha has deposed:

“In rural areas the intelligence agency of the thana usually gets information of matters among the villagers themselves but fails to get information about any trouble which is being arranged by any political party as the organisers of such parties are clever and manage things secretly. It would follow from this that the sudden trouble on the 13th October was planned or instigated by some political party. Similarly it is possible that the trouble in Sursand on the 15th October also might have been organised by some political party.”

7.4 Dy. S.P. seems to have full confidence in the government intelligence agency and, as it had not given any information of the impending trouble either on the 13th or the 15th October, he proceeded to surmise that the political parties might have been responsible for the incidents.

7.5 A similar surmise that a political party might have been responsible for the incidents is expressed by Shri Ram Ratan Pandey who has stated:

“There are about 10 or 12 persons who create troubles. Congress, Communist Party, Jan Sangh, S.S.P. and P.S.P. are the political parties in Sursand and I think that the members of these political parties create troubles.”

7.6 In this connection we may just mention the visits of the various Ministers of the Government in Bihar and others to village Sursand and their public statements. The then Government of

Bihar was composed of several political parties and was commonly known as the United Front Government. Its member parties included S.S.P., C.P.I. and Jan Sangh.

7.7 Shri Chandra Shekhar Singh, Irrigation Minister and Shri Indradeep Singh, Revenue Minister, Bihar, made a joint statement at the Press Conference on the 19th October, 1967 stating on the occasion, as reported in the *Sangam* dated the 20th October, 1967:

“The local leaders of Jan Sangh, R.S.S. and a section of the Congress had preconceived and preplanned these disturbances.”

and stated what is more or less now stated in the written statements of the Muslim witnesses.

7.8 It further appears from this statement that Shri Rudra Pratap Sarangi, a Minister of State of the Bihar Government, made a certain statement which was considered to be wrong by these two Ministers.

7.9 Shri Nawal Kishore Sinha, M.L.A., ex-Minister and then General Secretary of Bihar Congress Central Relief Committee, went to Sursand on the 16th October and issued a statement which was published in the *Sangam* dated the 21st October, 1967. In this statement, which is said to have been made as a corrective to some statement of the Chief Minister, he stated:

“The same day (i.e., 14th October, 1967) workers of Jan Sangh and Communist Party arrived there from Muzaffarpur and they hold separate secret meetings.”

7.10 This statement implies that the trouble of the 15th October was hatched at these meetings.

7.11 Shri Ram Deo Sharma, General Secretary, Communist Party, Muzaffarpur, issued a statement to the press which was published in the *Sangam* dated the 22nd October, 1967. It is stated there:

“From what has been submitted above in the foregoing paragraphs it is abundantly clear that a section of the Jana Sangh leadership and the R.S.S. men supported financially and through the press by sections of hoarders, black-marketeers and monopolists for their own ulterior purposes organised and later guided the one-sided riots in Sursand.

In this behalf circumstances indicate that a section of the Congress leadership also had its share in planning out the brutal happenings in Sursand.”

7.12 These various statements issued by the Ministers and Congress and Communist workers simply indicate that, on information available to them, they considered the whole trouble to be due to the activities of political parties other than the ones to which the particular speaker belonged and, therefore, lead us nowhere.

7.13 Similarly, the general allegations in the written statements filed by the District Council of the Communist Party of India and

by the Jamiat-ul-Ulema about the riots being organised by the Jan Sangh and the R.S.S. do not lead to the establishment that these organisations organised the riots.

7.14 Shri Sultan Ahmed stated:

“The Hindu-Muslim relations continue to be good except on the occasion of Durga festival. The Jan Sangh has affected the relations between the two communities. They have been in the village but they are growing in number for the last few years.”

7.15 Shri Jogendra Prasad Thakur stated:

“Ordinarily the relations between the communities are good in the village. There had been no change in those relations. The incident of the 15th October was the consequence of the incident of the 13th October.

R.S.S. and Jan Sangh have got their Sakhas in the villages for the last 8 or 10 years. They have their evening programmes of exercise and of instilling in the minds of the people the feelings that they were Hindus and of Hindu culture. The people were getting the feeling of being Hindus and Muslims. Public in general is not affected by this propaganda. Only those who are members of the R.S.S. and Jan Sangh, or are their sympathisers, are affected by these programmes.”

7.16 These statements are to the effect that the activities of the R.S.S. and Jan Sangh were affecting the relations between the two communities in Sursand, but would not justify the conclusion that these parties had engineered or pre-planned the riots.

7.17 The statement of Shri Jhulan Prasad Singh, Secretary, Sitamarhi Congress Committee implies that the Communists were behind the trouble. He states that Shri Raj Kant Misra appeared to be terrified when he and others met him at the Bus Stand Chowk, that a group of about 200 persons at Gandhi Maidan got angry with Shri Raj Kant Misra, abused him and were prepared to beat him saying that all that had happened was due to him, and that he found fifty or sixty people sitting at the C.P.I. Office. All this was before the fire started in Dusadh Tola and must have reference to the earlier minor incidents that morning. This implies that the group on Gandhi Maidan considered Shri Raj Kant Misra a supporter of the Muslims. The Communists were showing sympathy with them as evidenced by the statements of the Commissioner and the D.I.G. regarding Shri Ram Deo's representation to them and inferred from the deposition of Dafadar to the effect that he found Shri Raj Kant Misra at Shri Abdul Hakim's house at about midnight on the 13th October when 200 or 300 people were there.

7.18 The Dy. S.P. has stated in his affidavit in connection with the visit of Shri Ram Deo Sharma to the Commissioner:

“...one Sri Ram Deo Sharma, a member of the local Communist Party, had come up before the Commissioner and made certain irresponsible utterances hinting remotely as if he and

others of his line of thinking were out to engender and fan such kinds of troubles in the locality; and then and there I had expressed my feeling to the Commissioner that by way of a preventive measure such persons and elements ought to be clamped down by arrest and detention in custody of the administration. Unfortunately, however, that suggestion of mine had not found favour with the Commissioner and he was pleased enough to turn it down in view of the comparative lull and calm visible all round."

Such implied suggestions are insufficient for holding that Shri Raj Kant Misra or Shri Ram Deo Sharma or the Communists were behind the incidents of the 15th October.

7.19 With regard to the cause of the incidents of the 15th October, the S.P. seems to rely on the alleged statement of the A.C.I.O. about the secret meetings being held in the house of Shri Dwarka Lat in which the disturbances of the 15th October were planned. After referring to the incidents which took place early that morning, he stated in para 34 of his report:

"As indicated earlier, it is Mr. Sarkar's report which is a clear pointer to a planned and organised maligning rumour-mongering that was being indulged in since the morning of 15th October 1967 and these systematic maligning rumours should have been and obviously were clear indicators to the intended planned incidents that were to take place and did take place subsequently."

7.20 With respect to the causes of the incidents of the 15th October, the D.M. has observed in para 36 of his report:

"The incident of 13th October 1967 had hurt the feeling of the Hindus. They possibly wanted to take revenge of this incident. But apparently on 14th October 1967 and even upto 10 a.m. of 15th October 1967 the situation was normal."

7.21 The District Magistrate has further observed in para 37 of his report:

"It is worthwhile to point out that from about 10 a.m. there was a prevalent rumour about the fire in Dusadh Toli. It was generally alleged that the Muslims had set fire to Hindu houses in Dusadh Toli. This rumour finds support from the Chatti incident in which actually 2 Muslims were caught allegedly on the charge of setting fire. But that a rumour should persist for about 2 hours about the fire and therefore ultimately should erupt precisely in the same area does indicate that there was some planning and organisation behind the incident. Probably the mohalla Dusadh Toli was particularly chosen by the planners to start the trouble because Dusadh Toli is inhabited both by Muslims and lower class Hindus. Whether this planning took place in Sursand

or elsewhere is a matter which needs further probe. In this connection I feel that most probably the planning about the incident of 15th October 1967 was done not in Sursand but somewhere in Nepal across the border. On 13th October 1967 a large number of Nepali people had perhaps come to attend the procession of Durga. They had witnessed the brickbatting on the idol and a few of Nepali persons had also received injuries in the incident. These Nepali persons who had come to witness the procession must have carried the news about the brickbatting of their villages and the sentiments of the villagers across the border must have been also aroused. It was also more safe for the planners to plan the incident across the border in order that the authorities and the local Muslims do not get any previous intimation about the planning."

7.22 The D.I.G. of Police seems to be of the view that the incident has been planned by the Hindus as a retaliation to the incidents of the 13th October. His statement in this connection is:

"The incident of the 15th October was a retaliation by the Hindus to the incident of the 13th October. As the quick retaliation on the 14th soon after the earlier incident did not take place and as it took place on the 15th it appears it must have been planned and there must have been previous planning and preparation. The previous planning could be inferred under such circumstances but no direct information was received before or after the incident of the 15th of such planning."

7.23 So far as the pre-planning of the disturbances of the 15th October is concerned, the Superintendent of Police relies on their being planned on the report of A.C.I.O. about a secret meeting and on the statement of Shri Sarkar. We have already held that there is no evidence of the alleged meeting having taken place and the disturbances being organised at that meeting. We shall deal with the question of the incidents mentioned in Shri Sarkar's report, and relied upon for the pre-planning and pre-organisation of the disturbances, later.

7.24 The District Magistrate's view that the pre-planning was probably done in Nepal across the border, not in Sursand, is a mere surmise based on the fact of keeping the planning secret from the local Muslims and the local authorities. There is no direct or circumstantial evidence in support of it. In fact, the circumstance that Shri G. Narain, the then Superintendent of Police, Security, went up to the check post at Bhitha at about 10 a.m. on the 15th October and returned from there at about 11 a.m., and did not notice anything unusual, indicates that there was no unusual influx of people from Nepal for the purpose of committing the disturbances at Sursand. No planning of the disturbances in Nepal is suggested by the Muslims.

7.25 The statements of the Hindu witnesses have in general indicated that the incident of the 15th October was the result of the few earlier incidents which had taken place that morning.

7.26 The incidents that took place in the morning according to the Hindu and official witnesses are:

- (i) The brisk sale of kerosene oil to Muslims and the powdering of dry chillies by the Muslims as stated by an injured Hindu at the thana between 9 a.m. and 9-30 a.m.
- (ii) the setting of fire to a betel shop of a Muslim shortly after 10-30 a.m. Some Muslims were arrested and taken to the thana. They were released. People generally spoke of the Muslim A.S.I., viz., Mohd. Ghaus, releasing those arrested persons.
- (iii) the alleged attempt by some Muslims to set fire to dharamshalla. Shri Sarkar found some Hindus pursuing an alleged culprit. The culprit was ultimately arrested and made over at the police station by Shri Sarkar. Shri Sarkar did not notice any mark of fire on the dharamshalla;
- (iv) a rumour heard by Shri Sarkar that a Dusadh's house had been set on fire in Dusadh Toli. No house in Dusadh Toli was set on fire by that time. The first house which was set on fire at Dusadh Toli was at about 12-30 p.m.

7.27 The first two incidents had some basis. Lot of kerosene oil had been sold at the shop of Shri Sultan Ahmed that morning both to Muslims and Hindus, according to his account. A betel shop of a Muslim caught fire. A report lodged at the Police Station did mention a suspicion that the fire was caused by some Muslim boys with a view to create communal disharmony. The allegation about the attempt to set fire to the dharamshalla appears to have been based on suspicion.

7.28 It may be that these reported incidents, especially the Muslim betel shop burning incident, made the Hindus nervous and apprehensive of trouble. The panic started after 10-30 a.m. and follows the betel shop incident. That it started after 10-30 a.m. and after the betel shop incident is evident from the fact that the Dy. S.P. left Sursand at about 10-30 a.m. He would not have left, as he states, if he had known of the panic in the village. By the time he left the only information which was considered disconcerting by Shri Narain, S.P., Security, was about the sale of kerosene oil to the Muslims. Dy. S. P. did not find much in this information and finding the situation peaceful, returned to Sitamarhi.

7.29 It is difficult to say that the occurrences of the 15th October were pre-planned by the Hindus as surmised by the District Magistrate, the D.I.G. of Police and the S.P. They might have been merely the result of panic caused by allegations about Muslims setting fire, apparently without substance, which spread in the town that morning. The Hindus were already hurt and angry on account of the incidents of the 13th October and were more prone to give credence to the rumours and hence an emotional outburst was not impossible, specially after the first incident of actual arson of three houses by some one—one of a Hindu and two of Muslims at about 12-30 p.m.

7.30 The first incident which actually took place that day was where Dusadh Toli adjoins Pakar Tola and consisted of setting fire to a house in Dusadh Toli and to a couple of houses of Muslims in Pakar Tola. Two Muslims were arrested by the Chowkidars as the alleged culprits who set fire, though no one appears to have seen any one setting fire to the houses. B.D.O. and Magistrate Shri Sarkar happened to reach the spot soon after and succeeded in controlling the fire. No large mobs of people going about the village were seen at the time. In this connection Magistrate, Shri Sarkar's statement may be referred to. After controlling this fire, Shri Sarkar went to Dusadh Toli and found just about 20 or 30 people there. When they were asked to go away, those people shouted 'Jai Durga' and said that they would take revenge on the Muslims. This may indicate that feelings of Hindus were hurt both on account of the incidents of the 13th October and also on account of the incidents reported to have taken place early that morning.

7.31 After dispersing these 20 or 30 people Shri Sarkar again went back towards Pakar Tola and on his return to Dusadh Toli he just finds 40 or 50 people who were shouting to take revenge. They fled towards a compound on the east and there were 100 or 150 people in that compound. They were all chased away. The maximum number of people on which Shri Sarkar ordered firing at about 2 p.m. is estimated by him to be about 300. This swelling of people to a few hundreds in the course of about an hour and a half is consistent with the people getting excited and agitated against the Muslims on account of the reports current in the morning of the 15th October. It is after the fire in Dusadh Toli that fire in Leechi Bagh took place and thereafter mobs started moving about in other localities. The mob which attacked Shri Sultan Ahmed's house is estimated by Shri Sultan Ahmed to consist of about 800 persons. The Hindu mob which was fired at under the orders of the S.D.O. around the mosque is estimated to be 1000 strong.

7.32 Shri P. B. Lal from his post of static duty at the northern end of the Khas Toli saw a mob of 250 at one time coming from the north and another time a mob of about 200 coming from the west. Shri Soni who was at the southern end of this tola with the armed picket noticed a small group of 15 or 40 people in the lane in the mohalla north of the Pitch road and at another time noticed a mob of 150 people in the west. These small groups in the western parts of the village again indicate that the persons of the area got up on finding that disturbances had taken place in some other parts of the village.

7.33 It is the burning of the houses which led to a scare among the Muslims and much loss of property. Practically all the Muslim houses got burnt. The extent of the fire again was due to the houses of the various Tolas being thatched and adjoining one another. The District Magistrate has stated in this connection:

"There were a few individual houses on the south of the Pitch road which were burnt. There were small groups of houses on the north of the road which were burnt in addition to the group of the larger *abadi* with adjacent houses which were burnt. These small groups of houses or individual

houses did not appear to me to be burnt on account of the flames of the big fire and, therefore, appeared to be cases of independent arson."

7.34 Sub-Inspector Shri Mathura Prasad Singh has also stated that the fire in Dusadh Toli spread from house to house and there was no means of checking it and that the houses at Leechi Bagh caught fire independently of the fire in the houses of Dusadh Toli. This does not, however, mean that the miscreants set fire to only one house in a particular tola.

7.35 The site plan shows that there were several localities of Muslim houses in addition to small groups of houses in various places. This setting of fire to several houses was possible because once the houses were set on fire in Dusadh Toli and Leechi Bagh, the Muslims left their houses in a scare and the mobs burnt their houses.

7.36 Now we may deal with the main rumour of the fourth of incident as stated by Shri Sarkar, i.e. the rumour of the Hindu house in Dusadh Toli being set on fire when none had been set on fire by 10-30 a.m. There was a coincidence of such alleged rumour with the actual fact of such a fire having taken place about two hours later. What Shri Sarkar had deposed in this connection is:

"I heard in the Rest House shed shouting to the effect that fire had taken place in Dusadh Toli. I then went to the Pitch Road on the South. About 8 or 10 persons were found running. They were mostly youngsters. Those people were saying that the houses had been burnt and according to them some Muslims had design behind it. I told them not to talk that way and I assured that I would look into the matter and the guilty would be punished. They were calm then."

7.37 No other witness including Magistrates Shri P.B. Lal and Shri Soni has deposed about any rumour at that time or till 12-30 p.m. of houses in Dusadh Toli being set on fire, indicating thereby that even if what Shri Sarkar had stated was absolutely correct, there was no such widespread rumour in the village. When Shri Sarkar mentioned the statement about the fire in Dusadh Toli to Sub-Inspector Shri Mathura Prasad Singh, he told him that there had been no fire there but that a betel shop had been set on fire. We would not like to give undue importance to the single statement of Shri Sarkar about hearing a shout that the houses in Dusadh Toli had been set on fire and would not, therefore, consider his statement to justify any conclusion that such a rumour was spread by the alleged conspirators to commit disturbances.

7.38 We are, therefore, of the opinion that it has not been established that there had been any preplanning or pre-organisation of the disturbances on the 15th October. In our opinion, these disturbances were caused by the rumours of the reported incidents floating in Sursand since the morning of the 15th October, which exacerbated the hurt feelings of the Hindus on account of the happenings of the 13th October and made things come to the boiling point after the first case of arson by some one involving one Hindu and two Muslim houses and led them to attack Muslims and their houses.

CHAPTER VIII

ADEQUACY OF ARRANGEMENTS FOR THE 13TH OCTOBER, 1967

8.1 The Dussehra arrangements for Sursand were on usual lines. Half a section of the armed police with a Magistrate was posted to police station Sursand in addition to the usual police force at the station. In the absence of any information about the likelihood of trouble on the occasion, the district authorities were justified in sticking to the usual arrangements, and the arrangements proved adequate in controlling within reasonable time, the disturbances which took place on the 13th October. The failure of the arrangements in preventing the occurrence was not due to any inadequate arrangements by the district authorities but was due to the lack of full appreciation of the necessity by the Magistrate and the armed police force to accompany the procession throughout. A huge procession was to pass through the village that afternoon. Ordinarily, the procession should have been accompanied by the Magistrate and the armed force throughout its course. What the Magistrate and the armed police did was that they took their stand at the entrance of the Muslim mohalla Khas Patti to see that the procession did not make an attempt to pass through that mohalla—an attempt which might have given rise to trouble. In this they succeeded. The mistake that the Magistrate, Shri P. B. Lal, committed was to return with the armed police force to the police station, once the procession started westward from near this entrance to the Muslim mohalla. This was a mistake, as trouble did take place at the southern end of the mohalla, by which also the procession had to pass.

8.2 The Magistrate's explanation for returning from that place to the police station is that he was so advised by the Station Officer. His statement is:—

“After the procession had passed, I consulted Shri Mathura Prasad Singh, the Station Officer, as to what should be done. He told me that since now the procession had passed peacefully we should go back. Sub-Inspector, my self and the armed forces returned to the Thana.”

8.3 The Magistrate himself seems to have been absolutely ignorant about the topography of the village, the route of the procession and the places en route requiring special attention. He was specially deputed to village Sursand on the 12th October, when Shri Jha, the B.D.O. was deputed to village Nawai. He himself did not study the village map with regard to the route of the procession and, according to him, this was according to what he had been doing in earlier years when deputed to such duties. Such an attitude of simply depending on the police officers' advice may possibly be traced to a defective appreciation of the instructions contained in the Dussehra orders. Para 6 of the District Magistrate's order lays it down to be the duty of the police officers on

deputation, to keep magistrates, deputed with armed force, informed of all matters concerning law and order in their respective areas. Para III (i) of S.P.'s Dussehra order, however, stated that it was essential for the police officers and the magistrates to be fully aware of the special features and the problems of the places where they are deputed. The true purport of these instructions is that the magistrates who were specially deputed on such occasions should acquaint themselves, from the sources available, with all the special features of the place and the other problems which are incidental to the occasion. A magistrate is not really to take instructions from the local police officers whose duty is simply to acquaint him with the factual position.

8.4 The Station Officer, Shri Mathura Prasad Singh, has stated in connection with his return with the Magistrate and the armed force to the police station:—

“I returned from the vulnerable point after the procession had passed. As is the practice the reserve force does not accompany the procession unless there be expectation of trouble during the course of the procession and there was no such anticipated expectation with the procession at Sursand on the 13th October. If there had been any expectation of trouble the reserve force at the Thana could have accompanied the procession.

I did not consider the junction of the Muslim mohalla with the Pitch Road by which the procession had still to pass to be a vulnerable point as the procession would not retrace its course. It could have attempted to proceed through the Muslim mohalla at the vulnerable point. I did not, therefore, consider that there was any likelihood of any trouble at that junction.”

8.5 He has stated in para 3 of his affidavit:—

“It has been stated in Part 3 of the Crime Directory of Sursand Police Station that special attention should be paid on the immersion day of Durgaji's idol particularly at the crossing of road to Muslim Tola. This practice has been that the reserve police used to be deployed in vulnerable points besides the regular police and chowkidars accompanying the idol immersion procession.”

8.6 The practice referred to in this paragraph, according to the statement of the Station Officer before the Commission, is based on what he learnt from the villagers and chowkidars. This means that there is no written record about the practice, that the armed force returns from the northern end of the Muslim mohalla, after the procession had passed that place. It is wrong for any officer to base his action in administrative matters merely on verbal information he is able to obtain from his subordinates. In case of the absence of any recorded instructions in connection with the matter, he has to judge the nature of the action to be taken according to the prevailing circumstances.

8.7 The Station Officer's personal opinion that the southern end of the Muslim mohalla was not a vulnerable point as the procession would not retrace its course, implying thereby that it would not have attempted to pass through the Muslim mohalla from that end, is not based on sound premises. It is not only the attempt of the processionists to enter the Muslim mohalla which could lead to trouble but, as happened in this case, the trouble could have arisen on account of any untoward act committed by a member of one community against a member of the other community. In this view of the matter, the armed force and the magistrate should have accompanied the procession or at least should have gone to the southern end of the Muslim mohalla and taken their stand there before the procession could reach that place. Either of such acts on the part of the magistrate and the armed police would have sufficed to prevent the trouble at the time in the Muslim mohalla.

8.8 Notwithstanding the question of past practice, the local authorities had to be much more vigilant in October 1967 and the directions under the orders of the District Magistrate and the Superintendent of Police emphasised this in view of the communal incidents which had taken place in Bihar and at other places earlier that year.

8.9 We may in this connection refer to the observation of the Superintendent of Police in his report at Annexure 'B' to his affidavit wherein he has stated in para 12:—

"It is not understood as to why the Magistrate and the Police Officer returned to the Police Station at 17-30 hours and did not accompany the procession till the final immersion. I am obtaining the explanation of the Officer Incharge for this grave dereliction of duty, especially when the attention of the Police Officers was drawn to be extra cautious this year in view of the recent communal incidents at Ranchi and Dussehra being a festival of processions. Had the Magistrate and the Police Officer accompanied the procession, most probably the trouble would not have taken place and if it did, it could have been nipped in the bud."

8.10 The S.P. has further stated before the Commission:—

"As a general rule all processions are accompanied by the force available depending on the exigencies of the situation. This year in particular special care had to be taken in view of the previous incidents at Ranchi."

8.11 The D.I.G. of Police has stated in this connection:—

"It is an unfortunate omission on the part of the magistrate and the officer in charge not to accompany the procession the whole way. They should have seen to its peaceful termination. Even in normal times too the processions are to be seen through by an officer and merely leaving it at the responsibility of the Chowkidar is not sufficient. Especially in 1967 after the Ranchi incident and strict instructions issued in this regard, it was absolutely necessary for the officers to accompany the procession from the beginning to the end."

8.12 There had been some omissions too on the part of the Station Officer in submitting relevant information to his superior officers. He failed to submit information about the distribution of the leaflet and a copy of it; and he failed to inform the higher authorities about the incident of the burning of the screen for the stage of the drama being organised by Shri Durga Pujan Utsav Samiti. It is essential that full information of the activities of the parties and of the incidents in connection with such occasions should be promptly communicated to all the higher officers. That keeps the higher officers fully informed of the situation at any place. They are then in a better position to judge about the possible effect of such events and consequently can be in a position to advise and instruct the local officers.

8.13 The B.D.O. Shri Jha also seems to have omitted to constitute a peace committee in the village. Para 5 of the District Magistrate's Dussehra order states:—

“There should be closest co-operation between the Magistrates and the Police and Peace Committee should be formed, if not already formed, to ensure peaceful passing of the festival.”

8.14 No peace committee was formed in village Sursand prior to the incident of the 13th October, or even on the 14th October. The District Magistrate has stated in this connection:—

“Instructions issued on every festival contain directions to the B.D.O. to constitute peace committees and to take their help. In practice such committees are formed by the B.D.Os only if there are any signs of tension. It appears that no such peace committee was constituted at Sursand by the B.D.O. He did not constitute it on the 14th of October either. On my direction he arranged a meeting on the 15th but the meeting did not actually take place.”

CHAPTER IX

ADEQUACY OF ARRANGEMENTS FOR THE 15TH OCTOBER, 1967

9.1 The arrangements made after the incident of the 13th October were apparently adequate to prevent any recurrence of trouble about which apprehension existed on account of the feelings of the Hindus being hurt by the stoning of the idol of Durgaji that evening. On the 15th October morning there were, as already noted, five officers with magisterial powers and armed force consisting of 34 armed constables and 8 lathi constables beside the thana staff, the Inspector of Police and the Deputy Superintendent of Police. Of this force, two magistrates, each with half a section of armed force consisting of 1—4, were on static duty at the two entrances of the Muslim mohalla. One Magistrate, the B.D.O., was patrolling the village. Shri Sarkar the senior Magistrate, was at the Rest House, having patrolled the village up to 2 a.m. the night before. Shri Sahay, the Circle Inspector, vested with magisterial powers, finished patrolling at 10 a.m. on the 15th October. The Inspector of Police, the Station Officer and the rest of the force were at the thana. The Dy. S.P. left Sursand at 10-30 a.m. when apparently it was calm though some disconcerting news had been conveyed to the police officers before 9-30 a.m. about kerosene oil being sold to Muslims by Shri Multan Ahmed. The question is, why could not such a force prevent the incident of the 15th October? The answer again is that the officers on the spot were complacent and did not fully appreciate the possibilities of such disturbances on account of some early disturbing developments that morning and consequently did not make judicious distribution of available forces in the village to nip the trouble, if any, in the bud.

9.2 If the disturbances of the 15th October were the result of some preplanning and preorganisation on the part of a section of the Hindus, the intelligence agency absolutely failed in conveying any information of an attempt to preplan and preorganise the disturbances on the 15th October. We have expressed the opinion that we did not find it established that the disturbance had been pre-planned and preorganised. The intelligence agency cannot, therefore, be blamed.

9.3 The local officers can, however, be blamed for certain omissions in carrying out the precautionary steps to forestall any apprehended trouble as a result of the incident of the 13th October. The Dussehra instructions said so, and the District Magistrate who had been to the spot on the evening of the 13th October, had directed the arrest of the persons likely to create trouble. No such arrests were made on the 13th night, or even on the 14th October, when the Commissioner and the D.I.G. of Police stressed those instructions.

In this the Station Officer had been at fault. We have already dealt with his explanation for failure to arrest such persons. A mere preparation of a list of 65 goondas to be arrested, which was shown to the Superintendent of Police, Security, Shri Narain, is not sufficient compliance with the directions.

9.4 The other omission on the part of the local officers had been really in the system of patrolling. The directions were to subdivide the village area into sectors and to patrol each sector. Such sector-wise patrolling of the entire area of the village would have been more effective in both observing things in the sector and in gathering information about the feelings and reactions of the people in the area as well as in deterring a miscreant from any evil action. To patrol the entire village, which according to the map is very extensive, by a single party, could not be effective patrolling as it proved that day.

9.5 The D.I.G. of Police has expressed the opinion that to carry out patrolling by dividing the village into four or five sectors would have required four or five magistrates and 16—20 armed constables and that patrolling the area at shorter intervals would have created a better impact on the people of the locality. The constabulary available was adequate for the purpose. Magistrates were also available for the purpose if Shri P. B. Lal and Shri S. K. Soni, who had been deputed on static duty on the night of the 13th October, had also been utilised in patrolling. D.I.G. has stated that it was not necessary for each patrolling party to be on the move all the time and that there would have been sufficient time to relax as the smaller sector could have been covered in a shorter time. Shri Sarkar could have considered the possibility of utilising their services for patrolling purposes instead of static duty or could have requested the District Magistrate to send a few more magistrates to enable him to arrange for the patrolling as advised by the Commissioner and the D.I.G. of Police on the 14th October. Such sectorwise patrolling would have also provided some protection to the other Muslim mohallas of the village. We have already noticed that Khas Patti at whose northern and southern ends the static parties were posted was only one of the Muslim mohallas and there were a few more Muslim mohallas in the village.

9.6 The return of the Dy. S.P. from Sursand at 10-30 a.m. that day was indiscreet. We have already noted about it. We may, however, add that he left Sursand after getting S.P.'s consent before 8 a.m. for his return on his reporting to the S.P. that everything was normal at Sursand. The disconcerting report about alleged sale of kerosene oil to Muslims and the apprehension of mischief from them was received after obtaining S.P.'s consent and before his leaving Sursand and should have made Dy. S.P. change his mind and stay on at Sursand.

9.7 The warning of the developments of the early morning of the 15th October, which according to us flared up the pent-up feelings of the Hindus as a result of the incident of the 13th October, went unfortunately unheeded by the local officers. The Inspector of Police did not even know about it till about 1 p.m. when Shri Sahay went to

the police station with two Muslims arrested on a charge of having set fire to a house in Dusadh Toli. The Station Officer though knowing of the reports about the selling of kerosene oil, about the burning of the betel shop and about a statement alleged to have been made in that connection by one of the Muslims brought to the police station that the shop might have been set fire to in order to create communal disharmony and about the alleged attempt to set fire to the dharamshalla, considered the situation to be normal and did not start out of the police station to look up the situation for himself and to inspire confidence in the people by dispelling the panic which did result as a result of such developments.

9.8 Shri Sarkar was not so complacent as the Station Officer and went out patrolling with an armed police party and an A.S.I. from the police station at about 11-15 a.m. He, however, did not go to Dusadh Toli where, according to the information conveyed to him, some houses had been set on fire, but preferred to go on a futile mission to village Chand Patti on being told at the dharamshalla that someone of Chand Patti was among the culprits who were attempting to set fire to the dharamshalla. Shri Sarkar had noticed that no actual fire had taken place there. One of the alleged culprits had been arrested and made over by him at the police station. Shri Sarkar does not appear to have questioned the person arrested about the allegation against him or about the reason for his being pursued and arrested. The police officers too did not appear to have done so. There was no point in his proceeding to Chand Patti to verify whether anyone from Chand Patti had committed the mischief. It is not to be expected that anybody would own it up. It was not the time to make investigation about an alleged incident. The time was to allay the panic created locally in the immediate neighbourhood of the places of the incidents according to the information available at the time. It would have been better if he had proceeded towards Dusadh Toli, found out for himself that nothing had happened there and then, if circumstances so indicated, remained in an area close to the Muslim abadis adjoining Dusadh Toli. His presence there with an armed force might have been successful in preventing the initial setting of the small fire in the three houses—one of a Hindu in Dusadh Toli and two of Muslims in the adjoining mohalla, Pakar Tola. If this small fire had not actually started at about 12-30 p.m. then it is possible that the panic created at about 10-30 a.m. would have subsided. The feelings of the Hindu flared up on hearing about the actual fire in Dusadh Toli and on seeing houses on fire in that area. This small incident in Dusadh Toli led to the attack and setting of fire to Muslim houses in Leechi Bagh, Pakar Tola and other places during the course of the next few hours.

9.9 The patrolling sectorwise might have succeeded in nipping the trouble in the bud, as already stated. This was not done and, once the feeling of the Hindus of the village had flared up, and they had started violence, it would have been very difficult with the forces available at Sursand, to prevent the various cases of arson, looting etc. The approaches to the various Muslim mohalla were many. Even the two static pickets at the two entrances of Khas Patti could

not protect the houses in that Patti from being set on fire though, according to the Magistrates, they succeeded in dispersing a few mobs which attempted to proceed to that mohalla from the north and the west. The burning of the houses could be possible by the miscreants entering this mohalla from lanes not noticeable from the static points.

9.10 The failure of the forces to prevent arson and looting in Pakar Tola and Leechi Bagh possibly created an impression among the Muslims of the area near the Jama Masjid that the forces were either incompetent to protect or were conniving at the action of the rioters. It must have been some such feeling among those people which, according to the S.D.O., led them to attack him and the police party with him on their arrival near the mosque from the side of Leechi Bagh. What actually led to the incidents at the Jama Masjid need not be pursued further especially in view of the cases pending in connection with the incidents at the mosque.

9.11 We do find that the two incidents of firing by the police under the orders of Magistrate, Shri Sarkar, and near the mosque under the orders of S.D.O. succeeded in dispersing the crowd and deterring it from regrouping. Firing on other threatening mobs might have been resorted to and proved effective but the mobs which set fire to the houses in Leechi Bagh, Pakar Tola, Khas Patti, Dakhinwari and Gopalpur were not noticed by any of the magistrates with armed forces. The forces available in the village could not have possibly covered the entire village area once the trouble had started. It may have been a different matter if the police force and the magistrates had posted themselves in the smaller sectors including some main Muslim abadis as, in that case, they could have been fairly prompt in noticing the arrival of the mob and in taking necessary action against it before it could commit much mischief.

9.12 There might have been a better distribution of forces in the village if there had not been some concentration of officers at certain places. The C.I. of police and A.S.I. need not have remained with Magistrate Shri Sarkar. They or at least one of them could have gone with some armed police to Dakhinwari area. The B.D.O. need not have remained with the S.D.O. at the mosque but could have gone with some armed force to such Muslim area which had not been affected by then, say Gopalpur Tola.

9.13 Magistrate Sarkar failed to realise the possibility of the flare up of the Hindus on account of the developments upto 11 a.m. If he had realised it, he could have thought of better distribution of the officers and forces available. It must also be noted, however, that he failed to put the S.O. in motion on his refusal to accompany him on the ground that he was busy otherwise.

9.14 Magistrate Sarkar could not have taken any steps other than the ones he took when he learnt of the fire in Dusadh Toli between 12-30 and 1 p.m. He could have, on reaching Sultan Ahmed's place, directed the Circle Inspector of Police and A.S.I. Mohd. Ghaus to leave him and patrol the Dakhinwari area or the area north of Pitch road.

9.15 Magistrate Sarkar failed to inform the S.D.O. and D.M. of the panic after 10-30 a.m. This was non-compliance of the specific directions by the S.D.O.

9.16 Circle Inspector of Police did not realise that he was the seniormost police officer on the spot and remained ignorant of what had happened in the village till about 1-15 p.m. when Sahay was leaving the station. He took no steps to post himself with the position in the village and the disposal of forces but simply went with Sahay towards Dusadh Toli.

9.17 The S.O. was grossly complacent. He did not accompany the procession. He took no notice of the warning developments early that morning. He failed to realise their significance in view of the hurt feelings of the Hindus and consequently did not inform the S.P. or S.D.O. He was even ignorant of the B.D.O. patrolling the village and informed the S.D.O. on his arrival about his holding Peace Committee meeting at his office. He also failed to prepare the recovery list on the 15th.

9.18 The working of the office at the thana has been found to be very incompetent. No entries were made in the station diary regarding the receipt of the note from Magistrate Soni, the arrival of the persons arrested by Magistrate Sarkar and by the B.D.O. and the information conveyed regarding the sale of kerosene oil to Muslims only. A belated note was made of the incident of the burning of the betel shop. The D.I.G. of Police has described the omission to be due to sheer negligence.

9.19 The S.D.O. frittered away time in going to B.D.O. on the report that he was holding a peace meeting. He neglected to have armed forces with him from the thana. He seemed to have been personally satisfied on the police report that everything was normal. The S.O. does not appear to have told him about the statements regarding selling of kerosene oil and the attempt to set fire to the dharamshalla.

9.20 The S.P. did not visit Sursand till the evening of the 15th October. He considered it necessary to stay on at Muzaffarpur in view of the immersion procession as the D.M. was out on the 13th. The Commissioner and the D.I.G. were there on the 14th and so he again preferred to stay on at Muzaffarpur. We think that he did not properly exercise his discretion. The visit of the district head of the Police force would have made the subordinate police more alert and more responsive to directions in the discharge of its duties than they were.

9.21 In conclusion, we have to express that the officers on the spot showed extreme complacency and incapacity to assess the possibility of trouble as a result of the disturbing reports which, though apparently not of great importance, deserved more consideration in the tense atmosphere prevailing at Sursand from the evening of the 13th October.

9.22 We may now refer to what has been stated in para 15 of the written statement filed on behalf of the Muslim victims of Sursand about the action taken by Shri Ramanand Tiwari, Police Minister Bihar on the spot which he visited on the morning of the 16th October, 1967. It is stated therein:

"He asked the D.M. to arrest the Dafadar Ratan Pandey forthwith, he ordered the suspension of the Officer-in-Charge P.S. Sursand, namely, Shri Mathura Prasad Singh. He ordered the compulsory retirement of Shri Chatterji, Inspector of Police Sursand Circle. He further ordered the suspension of the C.I.D. Inspector, Sitamarhi. He further recommended the immediate transfer of the delinquent Shri J. Das, Acting S.D.O., Sitamarhi. Great credit is due to the revered Police Minister, Bihar, Shri Ramanand Tiwari, in this behalf and also to Irrigation Minister Shri Chandrashekhar Singh and Revenue Minister Shri Inderdeep Singh for their moral courage and calling a spade a spade, but some Ministers unfortunately do not possess the same uprightness and moral courage with the result that the present Cabinet appeared to have some difficulties in giving full effect to the orders and recommendations of the Police Minister, Shri Ramanand Tiwari."

9.23 On an enquiry being made from the Government of Bihar in this connection, the Commission has been informed that none of these statements is correct. Dafadar Ram Ratan Pandey was subsequently arrested on the 24th October under the orders of the Superintendent of Police.

9.24 The Station Officer was not suspended at all.

9.25 The Police Minister did suggest on the 17th October to the I.G. of Police for considering the compulsory retirement of certain officers who were not fit for further service and mentioned the name of Shri Chatterji, Inspector of Police, Sursand as one of them.

9.26 The Police Minister did send a note about the nature of the information submitted by the C.I.D. Inspector and the I.G. of Police suspended the Inspector on the 23rd October. Later on he was reinstated from the 23rd May, 1968.

9.27 The Police Minister did, after consulting the Chief Secretary, Secretary, Political (Special) Department and Secretary, Political (Police) Department order the transfer of the S.D.O. As the Police Minister was not competent to order the transfer, the matter was submitted to the Chief Minister. The then Deputy Chief Minister in a separate note dated the 2nd December, 1967, indicated that the S.D.O. might not be transferred unless he had seen the relevant file. The matter was considered at the meeting of the Council of Ministers in January 1968 and the transfer was decided upon.

9.28 In this connection it may be mentioned that the Sada-e-Aam, Patna, in its issue dated the 19th October, 1967 published a news item to the effect that the S.O., Sursand had been compulsorily retired, that the C.I.D. Inspector, Sitamarhi had been suspended and that the

transfer of the Dy. S.P., Sitamarhi and the Second Officer (S.D.O.) had been ordered. The publication of the news item tends to show, if it be not pure concoction, that views about these officers and the action to be taken against them might have been expressed on the spot by the Police Minister. If so, such quick orders or expressions in public relating to administrative matters are not, and should not, usually be made. They may quite often be found to be not warranted on a full enquiry.

CHAPTER X

INVESTIGATION OF CASES

10.1 Of the six F.I.Rs. lodged in respect of the incident of the 13th October, three reports relating to case Nos. 29, 35 and 39 were lodged on the 20th, 22nd and 23rd October respectively. Four of these reports were by Hindus and one by a Muslim. One of the reports was by a constable.

10.2 Of the thirty-two F.I.Rs. lodged with respect to the incident of the 15th October, three reports were by public servants—one by S.D.O. Shri J. Das, another by Shri Sarkar, Magistrate, and the third by Dorik, Chowkidar. Of the other reports, twenty were by Muslims and nine by Hindus.

10.3 Thus the total figures are that thirteen cases were instituted by Hindus, twenty-one by Muslims and four by Government servants. It has been noted earlier that charge sheets were submitted in thirteen cases and final report in the remaining twenty-five cases. Fifty-seven Hindus were chargesheeted in nine cases and fifty-two Muslims in four cases.

10.4 With respect to the lodging of the reports relating to the incident of the 15th October, S.O. Shri Mathura Prasad Singh has stated in para. 37 of his affidavit :—

“Then the officers were appointed in different camps to record oral evidence but mostly preferred to give written statements which they submitted later on and the S.P. himself sorted out these statements and passed orders to register cases on that basis. When peace was restored the S.P. appointed officers to investigate cases individually. Shri K. N. Sinha, Inspector of Police, came in Sursand to inquire cases from Chhapra and posted to Paro Circle for investigation, and Inspector Shri Mitra was transferred from Paro Circle to Sursand. They were appointed as Chief Investigation Officers.”

10.5 Superintendent of Police has stated in para. 91 of his report dated 8th December, 1967—Annexure B to his affidavit :—

“Investigation of the cases are going on. I am supervising all important cases. They have been supervised by Shri K. K. Chaudhary, Dy. S.P. and Enforcement Officer also who was specially deputed to remain in charge of the law and order at Sursand. Dy. S.P., Sitamarhi is looking after his other duties in the Sub-Division.”

10.6 It appears from the statement of the Superintendent of Police before the Commission that the investigations were originally controlled by the Superintendent of Police but after the receipt of the signal from the Addl. I.G., C.I.D., on the 26th January, 1968, control of all cases pending investigation and in which final forms had not been submitted was taken over by the C.I.D. The control message reads :—

“Control of communal cases of Sursand and Belsan Police Station assumed by C.I.D. under Police Manual Rule 425(.) Submission of final forms wherever orders passed will pend till final orders from this office (.) Final orders in all communal cases of Police Station Belsan will be passed by this office (.) Control orders have issued by government (.)”

10.7 The S.P. conveyed telephonic instructions to the Inspector of Police on receipt of the signal and passed an order on the 27th January that submission of final reports ordered in communal cases would pend till further orders.

10.8 Shri G. Narain, the then S.P., Security, in the Special Branch, has stated :—

“The Special Branch took over the investigation on the 25th January, 1968.

Final reports in 14 cases were submitted after the Special Branch has taken over the supervision and had sent specific instructions not to send final reports without its directions. Out of these 14 cases, at least in seven cases it is clear from the case diary that final reports were submitted after the receipt of the orders that the investigation was to be supervised by the Special Branch. Explanation of the investigating officers were obtained for acting against the orders. Final reports were, however, submitted under the orders of the Superintendent of Police.”

10.9 The D.I.G. of Police states his ignorance of the reasons which led to the taking over of the investigation by the Special Branch, C.I.D., under government orders. The Commissioner stated that the decision for such an order was taken by the government without any move from him. He has further stated :—

“Even after this the S.P. used to remain in the picture as the papers were put up to him for final orders or chargesheeting. There were some differences of opinion between the S.P. and the Special Branch. Whenever any such differences came to my notice I discussed these with the Addl. I.G. who is in charge of the Special Branch.”

10.10 The information furnished to us about the dates on which the final reports in the cases were sent from the Police Station to the court indicates that final reports have been submitted in five cases long before the 25th January, 1968 and that final reports were

sent in four cases on the 27th January and another case on the 28th January. In eight cases final reports were sent in August, 1968 and in four cases in November, 1968.

10.11 The dates of the submission of the final reports in the other three cases are not available but it appears from the list of Sursand communal cases and the present position that case No. 16 was pending for acceptance of the final report with the S.D.O., that final report was accepted by the S.D.O., in case No. 17 on the 14th February 1968 and that in case No. 18 on the 19th August, 1968.

10.12 These figures do not fit in with the statement of Shri G. Narain. We need not, however, pursue this matter further.

CHAPTER XI

REHABILITATION

11.1 Muslims were kept in two camps in Sursand after the incidents of the 15th October. One of the camps was in the premises of the police station where 656 adults and 357 children were kept. The other camp was in the house of Mohd. Sultan where 138 adults and 64 children were kept. A few families from Dakshinwari Tola had fled to nearby village Chand Patti. These consisted of 99 adults and 40 children. They returned to the village on 21st October, 1967. The third camp was set up in a bagicha opposite to Block Office on the 22nd October. The actual number of evacuees in this camp were 159 adults and 63 children. On 17th October the evacuees in the police station camp were shifted to the Idgah where shamianas were pitched. The residents of the burnt houses in Gopalpur shifted to the other houses of their community in the tola itself.

11.2 Arrangements for feeding these persons were made either by issuing rations or by providing cooked food.

11.3 The total damage suffered by the Muslims was estimated to be Rs. 1,06,906.

11.4 The government ordered for relief and rehabilitation assistance to the persons affected by the disturbances to be on the same lines as sanctioned for the riot-affected persons of Ranchi by its letter No. BRR-17/67-3814/RR dated the 18th October, 1967 to the Commissioner, Tirhut Division.

11.5 296 persons were granted rehabilitation grants to the extent of Rs. 54,098.40—Rs. 19,373.55 in the shape of blankets, Rs. 31,386.45 in cash and Rs. 3,338.40 in the shape of 12 sewing machines. It appears that 976 blankets were distributed each costing 19.85. The number supplied to each person appears to have been fixed according to the strength of his family as the number supplied to a person varies from one to 12.

11.6 195 persons were paid Rs. 90,188.53 as house repairing grant, Rs. 32,688.86 in the shape of material, Rs. 1,382.75 as cost of the removal of debries and Rs. 56,116.92 in cash.

11.7 Houses of 26 persons were constructed departmentally. The expenditure on them came to Rs. 7,435.25.

11.8 296 persons were granted 'dole' to the extent of Rs. 43,778, which represents the amount paid to the inmates of the camps to purchase essential items like soap, oil etc. upto Rs. 25/- per family during their stay in the camps.

11.9 Rs. 5,000 were granted to 297 persons at the time of their leaving the camps as ad hoc grants.

11.10 45 persons were granted Rs. 6,850 as agricultural loans.

11.11 144 school boys were distributed books.

11.12 The cost of foodstuff provided came to Rs. 29,056.27.

11.13 In addition to the above expenses, Rs. 7,725 were spent as expenditure incurred on evacuation, reception and dispersal presumably in the supply of 309 blankets and 309 ground sheets to the evacuees at the time of their joining the camps. Rs. 31,340.80 were spent on petrol.

11.14 An expenditure of Rs. 45,434.01 was also incurred on contingencies such as medicines, sanitation etc.

11.15 The total expenditure incurred in connection with the evacuees thus came to Rs. 3,20,909.26.

CHAPTER XII

RECOMMENDATIONS

12.1 The various suggestions in regard to the causes which led to the incidents at Sursand on the 13th and the 15th October, tend to indicate that the political parties are responsible for the adverse attitude adopted usually by the persons of one community towards the persons of the other community and that such adverse attitude at times leads to a flare up. The Hindus in general alleged that the incident of the 13th October was motivated by pro-Pak and pro-Chinese elements in the village. As the village is very close to the Nepal frontier, such people can freely cross the border. On the other hand, the Muslims put the blame on the activities of the R.S.S. and the Jan Sangh. The Muslims also expressed suspicion of the partial attitude of the police and the magistracy. It appears to us that apart from the motivation of securing votes by the political parties at the time of elections, the main cause for such feelings in the two communities can be traced back to the partition of the country in 1947. This aspect of the matter has been dealt with in our Ranchi Report. We have nothing to add to our general recommendations in that report for removing the mistrust between the communities by the constitution of permanent non-official organisation of all the communities for doing the necessary propaganda to allay this mistrust.

12.2 The suggestions mentioned in the various written statements for preventing communal incidents in future are in the same line as in the case of statements regarding the causes of these incidents. Suggestions on behalf of Muslims for the posting of punitive force with an impartial magistrate of integrity in charge of the affected area, of constituting a special tribunal consisting of three judges—one Hindu, one Muslim and one Christian—to try the cases arising out of the disturbances, of the posting of an impartial magistrate of integrity to hold circuit court in the affected places and of the posting of independent police officers of integrity arise out of the expressed feelings of mistrust and the alleged partiality of the Hindu officers. Suggestions from the Hindus for strengthening the cadre of the C.I.B., to keep an eye on the activities of pro-Pakistani and pro-Chinese anti-social elements, to have adequate check-posts in the border area and to watch the activities of such Muslims as may harbour Pakistani agents in India reflect their suspicion of the activities of certain sections of the Muslims.

12.3 All are, however, agreed that the rioters should be arrested and proceeded against and the persons spreading false rumours likely to fan communal passion should also be dealt with and that effective public opinion be created through platform, press and other

ways to condemn the rioters and to help in avoiding recurrence of communal troubles. These are good suggestions and are fairly covered by our Ranchi Report.

12.4 Suggestions were made for making Sitamarhi a district and for keeping sufficient armed force there to control difficult situations whenever they arise. We find that there was not any undue delay in the reaching of extra forces at Sursand from Sitamarhi, the sub-divisional headquarters and Muzaffarpur, the district headquarters.

12.5 The District Magistrate has suggested in his written statement :—

“The two communities Hindus and Muslims feel that they are situated in opposite camps with different values of life. There are always some elements who are interested in fomenting the sentiments of the people in both the communities. The two communities look at each other with suspicion. There are differences of outlook towards life and society. The gulf between the two communities needs to be admitted and measures to close this gulf should be taken. The members of each community should respect the feeling and sentiments of the other communities.”

Clarifying his written statement the District Magistrate stated in his deposition before the Commission :—

“By the statement in my affidavit that the two communities, Hindus and Muslims, feel that they are in opposite camps with different values of life, I mean the pervading of religion into the daily activities of the two communities and their social customs being different.”

We agree with the suggestion.

12.6 We have found that the leaflet issued in connection with the Vijayadashami celebration in 1967 was not objectionable in the sense of inciting the people against the Muslims but we consider it to be better discretion in the prevailing atmosphere of the country not to invite persons to come armed and join processions to show their might for whatever purpose and howsoever peacefully. We are, however, not in favour of any ban on armed processions in all circumstances as suggested by some of the witnesses.

12.7 Our brief criticism of the acts of omission and commission by public servants in the earlier parts of the report emphasises that officers in charge of law and order duty should never underrate the potential for further mischief of even ordinary incidents involving either individuals or institutions of different communities. Such incidents, if not controlled at the earliest opportunity, may develop in magnitude and lead to actual violence between the communities. They cannot be complacent in these matters. Every subordinate

officer should communicate, without delay, the occurrence of any such event to higher officers so that the matter can be viewed in correct perspective by responsible officers and necessary directions issued by them.

RAGHUBAR DAYAL,
Chairman.

B. H. ZAIDI,
Member.

M. N. PHILIP,
Member.

NEW DELHI;
Dated 19th November 1969.

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ANNEXURE I

List of persons/organisations who submitted affidavits on the communal disturbances that took place at Sursand from 13-10-67 to 15-10-67.

(Para. 1.9 of Part I)

- | S. No. | Name and Address |
|--------|---|
| 1. | Shri Jinish Tiwari,
Cultivator,
Tola Maidan,
Sursand. |
| 2. | Shri Kuldip Narain Sinha,
Cultivator,
Malahi,
Sursand. |
| 3. | Shri Jitoo Thakur,
Mistry,
Sursand. |
| 4. | Shri Rampratap Raut,
Sursand. |
| 5. | Shri Madhukant Jha,
Cultivator,
Sursand. |
| 6. | Dr. Baidya Nath Jha,
Medical Practitioner,
Sursand. |
| 7. | Shri Ram Chandra Pandey,
Cultivator,
Chandpatti,
Sursand. |
| 8. | Shri Panna Lal Prasad,
Teacher,
Sursand. |
| 9. | Shri Baliram Narain Sinha,
Cultivator,
Sursand. |
| 10. | Shri Ram Chandra Prasad,
Cultivator,
Bemawli,
Sursand. |
| 11. | Shri Brij Nandan Prasad,
Cultivator,
Sursand. |
| 12. | Shri Bishan Dayal Chaudhary,
Cultivator,
Tola Maidan,
Sursand. |
| 13. | Shri Binda Prasad Gupta,
Trader,
Sursand. |

14. Shri Ram Sagar Rai,
Cultivator,
Banauli,
Sursand.
15. Shri Vishwa Nath Prasad,
Cultivator,
Sursand.
16. Shri Ramjash Chaudhary,
Cultivator,
Sursand.
17. Shri Mithila Biheri Ray,
Cultivator,
Sursand.
18. Shri Ram Charitra Thakur,
Cultivator,
Sursand.
19. Shri Raj Kishore Thakur,
Cultivator,
Sursand.
20. Shri Lakshman Prasad Mehta,
Convenor, Citizens' Council,
Sursand.
21. Shri Surja Ram,
Trader,
Sursand.
22. Shri Lakshmi Narain Chaudhary,
Cultivator,
Sursand.
23. Shri Ram Deo Thakur,
Cultivator,
Village Hari Dularpur,
Sursand.
24. Shri Ram Yatan Das,
Sursand.
25. Shri Mahadeo Singh,
Cultivator,
Kumma,
Sursand.
26. Shri Jamuna Singh,
Cultivator,
Adalpur,
Sursand.
27. Shri Gopalji Sah,
Cultivator and Businessman
Sursand.
28. Shri Ram Nath Prasad,
Businessman,
Sursand.
29. Shri Ramashrai Tiwari,
Cultivator,
Tola Maidan,
Sursand.

30. Shri Jhulan Prasad Singh,
Cultivator, Village Rewasi,
Secretary, Congress Committee,
Sitamarhi.
31. Shri Raghunath Jha,
Cultivator,
Ambar Sheoar at Sitamarhi.
32. Shri Mohammad Ali,
Secretary,
Sursand Muslim Relief Committee,
Khilafat Bagh,
Sitamarhi.
33. Shri Raj Kant Mishra,
Member,
Muzaffarpur Council of C.P.I. and
Thana Secretary,
Sursand.
34. Shri Rahman Kabari,
Farmer,
Village Pakartoli,
Sursand.
35. Shri Muslim Ansari,
Tailor,
Pakar Toli,
Sursand.
36. Shrimati Motifan,
w/o Shri Zauje Latif Ansari,
Sursand.
37. Shri Kitab Ali,
Trader,
Sursand.
38. Shri Mohammad Hanif,
Homeopathic Practitioner,
Sursand.
39. Shri Dillu Khan,
Farmer,
Sursand.
40. Shri Mohammad Omar,
s/o Shri Nabi Jan Nadaf,
Sursand.
41. Shri Sikandar Shah,
Sursand.
42. Shri Kalam Hussain,
Farmer and Trader,
Tola Dakhinwari,
Sursand.
43. Shri Mohammad Ishaq
Farmer,
Sursand.
44. Shri Azimuddin,
Farmer,
Sursand.

45. Shri Abdul Ghafoor Momin,
Sursand.
46. Shri Abdur Rahim,
Tailor,
Pakar Tola,
Sursand.
47. Shri Niazuddin,
Farmer,
Sursand.
48. Shri Latif Ansari,
Businessman,
Sursand.
49. Shri Abdul Lateef,
Mason,
Sursand.
50. Shri Md. Zobair,
Businessman,
Sursand.
51. Syed Abdul Hakim,
Cultivator,
Sursand.
52. Shri Sharifur Rahman,
Trader,
Sursand.
53. Shri Mohammad Nayeem Shah,
Trader,
Sursand.
54. Shri Newazi Momin,
Tola Jama Masjid Sahapatti,
Sursand.
55. Shri Mohd. Habib,
Labourer,
Pakar Tola,
Sursand.
56. Shrimati Janat,
w/o Shri Yusuf Khan,
Sursand.
57. Shri Mohammad Hanif,
Sursand.
58. Shri Mohd. Hanif,
Tekadar,
Sursand.
59. Shri Hadis Kabari,
s/o Shri Newazi Kabari,
Sursand.
60. Shri Kamal Shah,
Sursand.
61. Shrimati Sahidan Joji,
w/o Shri Habib Khan,
Sursand.

- 62(i) (Maulana) Faruqul Hussaini,
General Secretary,
Bihar State Jamiatul-Ulma-e-Hind,
Baqargunj,
Patna.
- 62(ii) Maulvi Abdul Rashid,
Vice President,
Ranchi District
Jamiatu-Ulma-e-Hind,
Baqargunj,
Patna.
63. Shri N. P. Sinha,
Commissioner, Tirhut Division,
Muzaffarpur.
64. Shri S. P. Patankar,
District Magistrate,
Muzaffarpur.
65. Shri D. Sarkar,
Dy. Collector and Dy. Magistrate,
Muzaffarpur.
66. Shri J. Das,
then Dy. Collector
and Officiating S.D.O.,
Sitamarhi,
now at Patna .
67. Shri P. B. Lal,
then Sub Deputy Magistrate,
Block Development Officer,
Ar. .., Shahabad District.
68. Shri S. N. Jha,
Block Development Officer,
Sursand.
69. Shri S. K. Soni,
Addl. Land Acquisition Officer,
Muzaffarpur.
70. Shri M. Sahay,
Circle Inspector of Police,
Sursand.
71. Shri R. Lall,
Deputy Inspector General of Police
Northern Range,
Muzaffarpur.
72. Shri S. F. Ahmed,
Superintendent of Police,
Muzaffarpur.
73. Shri P. T. S. Sinha,
then Deputy Superintendent
of Police, Sitamarhi,
now Deputy Superintendent
of Police, Beguserai,
Monghyr District.
74. Shri B. Chatterjee,
Inspector of Police,
Sursand.

75. **Shri Mathura Pd. Singh,**
then Officer Incharge,
Sursand Police Station,
now Officer Incharge,
Government Railway Police Station,
Muzaffarpur.
76. **Shri Ghulam Ghaus,**
then Assistant Sub Inspector
of Police, now at Chandwa
Police Station,
District Palamau.
77. **Shri Mangal Ojha,**
Jamadar, B. M. P. VI,
Muzaffarpur.

ANNEXURE II

Names of witnesses examined and the dates on which they were examined at Muzaffarpur.

(Para. 1·13 of Part I)

S. No.	Date	Name of witness
1.	15th April, 1969	Shri Mohammed Ali, Advocate, General Secretary, Sursand Muslim Relief Committee, Sitamarhi.
2.	Do.	Shri Rahaman Kabari, Farmer, Village Pakar Tola, Sursand.
3.	Do.	Shri Dillu Khan, Farmer, Sursand.
4.	15th April, 1969 and 16th April, 1969	Syed Abdul Hakim, Cultivator, Sursand.
5.	16th April, 1969	Shri Sharifur Rahman, Trader, Sursand.
6.	Do.	Shri Mohammed Hanif, Tekadar, Sursand.
7.	17th April, 1969	Shri Sultan Ahmed, Kerosene Dealer, Sursand.
8.	Do.	Shri Srutideo Mishra, Jankinagar (Hanuman Nagar), Sursand.
9.	Do.	Shri Jogendra Prasad Thakur, Village and P.O. Baghari, P. S. Sursand.
10.	Do.	Shri Bindhyachal Prasad, Sursand.
11.	17th April, 1969	Shri Hemnath Jha, Village and P. O. Bhitth Bazar, P. S. Sursand.
12.	18th April, 1969	Shri P. B. Lal, Sub-Deputy Collector, then Sub-Deputy Magistrate, Muzaffarpur, now Block Development Officer, Arrah (Shahabad District).

<i>S. No.</i>	<i>Date.</i>	<i>Name of witness</i>
13.	18th April, 1969	Shri Mathura Prasad Singh, then Officer-in-charge, Sursand P.S., now Officer-in-Charge, G.R.P.S. Muzaffarpur.
14.	19th April, 1969	Shri Raj Kant Mishra, Member, Muzaffarpur District Council of C.P.I., and Thana Secretary, Sursand.
15.	Do	Shri Jhulan Prasad Singh, Secretary, Congress Committee, Sitamarhi.
16.	Do	Daffadar Ram Ratan Pandey, Village and P.S. Sursand.
17.	Do	Shri S. K. Soni, Addl. Land Acquisition Officer, Muzaffarpur.
18.	21st April, 1969	Shri S. Patankar, District Magistrate, Muzaffarpur.
19.	Do	Shri P. T. S. Sinha, then Deputy Superintendent of Police, Sitamarhi Sub-Division., now Deputy Superintendent of Police Beguserai Sub-Division, Monghyr District.
20.	21st April, 1969 and 22nd April, 1969	Shri Jayadeva Das, then Second Officer and officiating Sub-Divisional Officer, Sitamarhi, now at Patna.
21.	22nd April, 1969	Shri Ghulam Ghaus, then A.S.I. of Police, Sursand P.S., now at Chandwa P.S., Distt. Palamau.
22.	Do	Shri M. Sahay, Circle Inspector of Police, Sursand.
23.	23rd April, 1969	Jemadar Mangal Ojha, Jarnadar, B.M.P. VI Unit, Muzaffarpur.
24.	Do	Shri S. N. Jha, Block Development Officer, Sursand.
25.	Do	Shri G. Narayan, then Superintendent of Police, (C.I.D) (Special Branch), Patna, now Assistant Inspector General of Police, Patna.

<i>S. No.</i>	<i>Date</i>	<i>Name of witness</i>
26.	23rd April, 1969 and 24th April, 1969	Shri B. Sarkar, Deputy Collector and Deputy Magistrate, Muzaffarpur.
27.	24th April, 1969	Shri S. F. Ahmed, Superintendent of Police, Muzaffarpur.
28.	Do.	Shri R. Lall, Deputy Inspector General of Police, Northern Range, Muzaffarpur.
29.	Do.	Shri N. P. Sinha, Commissioner, Tirhut Division, Muzaffarpur.
30.	25th April, 1969	Shri Ram Charan Ram, then Asstt. Central Intelligence Officer, Muzaffarpur. now Inspector of Police, Barsoi, District Purnea.
31.	Do.	Shri Virendra Prasad, Inspector of Police, C.I.D. Special Branch, Muzaffarpur.

ANNEXURE III

Documents exhibited in the course of oral evidence

(Para. 1·14 of Part I)

<i>Exhibit No.</i>	<i>Name of the witness filing the exhibit</i>	<i>Date</i>	<i>Description of Exhibit</i>
I.	Shri Sultan Ahmed, Kerosene Dealer, Sursand.	17-4-69	Register of sale of Kerosene Oil in the shop maintained by him.
II.	Shri S. N. Jha, Block Development Officer, Sursand.	23-4-69	Copy of the Inspection note on the damage to the idol of Durga prepared by him.
III.	Shri G. Narayan, then Superintendent of Police, Special Branch, C.I.D., Patna, now Asst. I.G., Patna.	23-4-69	Copy of his report dated the 28th November 1967, on the disturbances in Sursand submitted to the Addl. I. G. of Police.

ANNEXURE IV

List of documents summoned by the Commission for preusal

(Para. 1.15 of Part I)

1. Copies of entries in the Confidential Register regarding Sursand, specially about Durga Puja and other festivals.
2. Dashara Orders, 1967 of the District Magistrate and S. P., Muzaffarpur.
3. Special instructions contained in letter No. 7C-7/67-1012C, dated the 6th of October, 1967 issued by S.D.O. Shri J. Das, Sitamarhi along with list of communal incidents in the immediate past.
4. Orders (Memo. No. 6C-5/67-1118-C, dated 21-10-67) regarding operation of the Control Room at Sub-Divisional H. Qrs.
5. Letter No. 6C-5/67-1077-C, dated 14-10-67 from the S.D.O., Sitamarhi, Shri J. Das to the D.M., Muzaffarpur.
6. Order of promulgation of Sec. 144 Cr. P.C. for 15 days.
7. F.I.R. dated 15-10-67 of Shri J. Das, S.D.O., Sitamarhi.
8. Report dated 15-10-67 sent by Shri D. Sarkar, Dy. Magistrate to the S.D.O. (FIR).
9. Report dated 13-10-67 of Shri P. B. Lal, Sub-Depury Magistrate.
10. Report dated 15-10-67 of Shri P B. Lal, Sub-Deputy Magistrate.
11. Report dated 13-10-67 of Shri S. N. Jha, B.D.O., Sursand.
12. Report dated 15-10-67 of Shri S. N. Jha, B.D.O., Sursand.
13. Report dated 15-10-67 of Shri S. K. Soni, Magistrate.
14. Report dated 15-10-67 of Shri M. Sahay, Circle Inspector.
15. Secret letter No. 6C/7/67-1248C, dated 13-11-67 from S.D.O. Sitamarhi, Shri J. Das to the D. M., Muzaffarpur.
16. Letter No. 6065/67-1196C, dated 4-11-67 from S.D.O., Sitamarhi, Shri J. Das, to D.S.P., Sitamarhi.
17. Letter No. 3/Camp-C. Imp., dated 17-10-67 from D. M. Muzaffarpur to Secretary to Government, Political (Special) Department, Bihar, Patna.
18. D.O. No. 15/C. Imp. Camp, dated, 19-10-67 from the D.M., Muzaffarpur to Shri L. Dayal, Secretary, Political (Special) Department, Bihar, Patna.
19. Signal No. 19 C/Camp, Sursand dated 20-10-67 from S. P. and D.M., Muzaffarpur to Special Section, Patna.
20. D.O. No. 977/C, dated 27-10-67 from Shri N. P. Sinha, Commissioner Tirhut Division, Muzaffarpur to Shri S. V. Sohoni, Chief Secretary, Bihar.
21. Letter No. 97C/2-6-68, dated 25-1-68 from Shri N. P. Sinha, Commissioner, Tirhut Division, Muzaffarpur to Secretary to Government of Bihar, Political (Special) Department.
22. Statement showing number of Goondas arrested, community-wise, prior to 13-10-67 then on 13-10-67, 14-10-67 and 15-10-67.

23. Written order by the S.D.M. to fire 11 rounds on 15-10-67.
24. Joint Report dated 9-11-67 by the S.D.M., Sitamarhi and Jamadar Mangal Ojha regarding firing on 15-10-67.
25. Copies of station diary entries Nos. 215—217, dated 13-10-67 and Nos. 254—257, dated 15-10-67.
26. Report of Shri B. Chatterjee, Circle Inspector, Sursand No. 165/C, dated 26-10-67 to S.P., Muzaffarpur.
27. Weekly confidential Diary of Sursand Circle for the weeks ending 1-10-67 and 9-10-67.
28. Copy of FIR in Sursand P.S. case No. 8/10/67.
29. Copy of FIR in Sursand P.S. case No. 9/10/67.
30. Copy of FIR in Sursand P.S. case No. 10/10/67.
31. Copy of FIR in Sursand P.S. case No. 29/10/67.
32. Copy of FIR in Sursand P.S. case No. 35/10/67.
33. Copy of FIR in Sursand P.S. case No. 39/10/67.
34. Copy of FIR in Sursand P.S. case No. 12/10/67.
35. Copy of FIR in Sursand P.S. case No. 13/10/67.
36. Copy of FIR in Sursand P.S. case No. 14/10/67.
37. Copy of FIR in Sursand P.S. case No. 15/10/67.
38. Copy of FIR in Sursand P.S. case No. 28/10/67.
39. Copy of FIR in Sursand P.S. case No. 30/10/67.
40. Copy of FIR in Sursand P.S. case No. 32/10/67.
41. Copy of FIR in Sursand P.S. case No. 33/10/67.
42. Copy of FIR in Sursand P.S. case No. 40/10/67.
43. List showing position as in April, 1969 of all the 38 cases arising out of the communal disturbances.
44. List of cases showing dates when Final Reports were sent from P. S. to Court.
45. List of cases showing dates of challans (charge-sheet), sent from P.S. to Court and other details.
46. *Post-mortem* reports on 17 cases.
47. Damages caused to the Durga idol on 13-10-67—Report incorporated in case diary No. 8(10)/68.
48. Report of the Ballistic Expert in Sursand P.S. case No. 14, dated 15-10-67.
49. Wireless message dated 13-10-67 from Substrate, Sitamarhi to D. M. and S. P. Muzaffarpur.
50. Copy of wireless message dated 16-10-67 from Substrate, Sitamarhi to D. M., Commissioner and S. P. Muzaffarpur, and Special Secretary, Patna.
51. Copies of order sheets in Sursand P.S. case Nos. 22(10)/67, 25(10) 67, 35(10)67 and 43(10)67.

52. Letter No. 1129/C, dated 15-11-67 from the Collector, Muzaffarpur to the Commissioner, Tirhat Division, Muzaffarpur regarding relief and rehabilitation of persons affected by Communal disturbances at Sursand.
53. Letter No. 1089/C, dated 4-12-67 from the Collector, Muzaffarpur to the Commissioner Tirhut Division, Muzaffarpur regarding relief and rehabilitation of persons affected by Communal Disturbances at Sursand.
54. Letter No. BRR-7/67/3814/RR, dated 18th October, 1967 from the Secretary to Govt., Revenue Department to the Commissioner, Tirhut Division Muzaffarpur with enclosures.
55. List of affected persons who received rehabilitation grant during the Sursand disturbances of 1967.
56. List showing payment of house repairs and building grants to people affected by Sursand disturbances.
57. List of families affected by Sursand disturbances whose houses were constructed departmentally.
58. List of affected persons who were given *ad hoc* grants.
59. List showing distribution of agriculturist's loan amongst affected persons.
60. List of Sursand affected by the disturbances who were distributed books.
61. Injury reports of persons who reported at student dispensary for treatment after incidents at Sursand in 1967.
62. List of persons injured and dead with details of injuries and cause of death.
63. List of arms and brick-bats recovered from the Mosque by Shri M. P. Singh during the disturbances.
64. Log book (Message Register) of Control Room, Sitamarhi, S.D.O's Office, Sitamarhi.
65. Message Register of Sursand P.S.
66. Crime Directory Part III of Sursand P.S.
67. Memo. No. 673/C, dated 14-10-68 from the Officer-in-charge, Sursand P.S. to the Supdt. of Police, Muzaffarpur regarding Final Report on 1968-Dashara.
68. Station Diary, Sursand Police Station.

ANNEXURE V

List of persons who were called to give oral evidence but did not appear

(Para. 2·3 of Part I)

<i>Sl. No.</i>	<i>Name of witness</i>	<i>Date on which called</i>	<i>Reasons for non-appearance</i>
1.	Shri Lakshman Prasad Mehta, Secretary, Citizens' Council, Sursand.	17-4-69 and 19-4-69.]	Summons served but did not appear.
2.	Shri B. Chatterji, then Circle Inspector of Police, Sursand.	22-4-69	He was on long leave and the State Authorities could not contact him and produce him before the Commission.
3.	Shri L. Dayal, then Secretary to the Government of Bihar, Political (Special) Department, Patna.	25-4-69	He was abroad.