



REPORT
OF THE
COMMISSION OF INQUIRY
ON
COMMUNAL DISTURBANCES

JAINPUR AND SUCHETPUR
(DISTRICT GORAKHPUR—U.P.)

(September 24—25, 1967)

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Errata to the Report of the Commission of
Inquiry on Communal Disturbances Jainpur-
Suchetpur (September 24-25, 1967).

	<u>For</u>	<u>Read</u>
Page (i) line 1	(iii)	(ii)
Page 7 Chapter II Heading	SCOPE	MODE
Page 36 Para 5.8 Line 19	incient	incident
Page 41 Para 6.7 Line 8	submitted	- (to be deleted)
Page 46 at the end below New Delhi	Jun	June,
Page 55 against exhibit No.10	hamlet	hamlets

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LIST OF ABBREVIATIONS USED IN THE REPORT

A.D.M.	Additional District Magistrate.
a.m.	<i>ante meridiem</i> , before noon.
A.P.	Armed Police.
A.P.P.	Assistant Public Prosecutor.
C.O.	Circle Officer.
Cr.P.C.	Criminal Procedure Code.
D.I.G.	Deputy Inspector General of Police.
D.M.	District Magistrate.
D.S.P.	Deputy Superintendent of Police.
F.I.R.	First Information Report.
H.M.S.	Hindu Mahasabha.
I.P.C.	Indian Penal Code.
L.I.U.	Local Intelligence Unit.
M.L.A.	Member, Legislative Assembly.
M.P.	Member of Parliament.
P.A.C.	Provincial Armed Constabulary.
p.m.	<i>post meridiem</i> , after noon.
P.S.	Police Station.
P.W.	Prosecution Witness.
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.
U.P.	Uttar Pradesh.

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

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

Chairman

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

Members

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

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

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

(ii) The Commission shall make a report to the 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 Commissions of Inquiry Act, 1952 (60 of 1952), should be made applicable to the Commission, the Central Government hereby directs, in exercise of the powers conferred by sub-section (1), of the said section 5, that all the provisions of sub-section (2), sub-section (3), sub-section (4) and sub-section (5) of that section shall apply to the Commission.

SCHEDULE

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

1.3 The time for submitting the final report was later extended by Government to 31st October, 1968 and thereafter to 31st October, 1969.

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

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

NOTIFICATION

"WHEREAS by the Ministry of Home Affairs Notification No. 19/47/67-Poll.I(A), dated the 1st November, 1967, the Central Government has appointed a Commission of Inquiry to inquire into the

communal disturbances that have occurred in the country since the first day of August, 1967:

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

- (i) the causes and course of the communal disturbances that occurred in Jainpur and Suchetpur (District Gorakhpur—U.P.) on 24th and 25th September, 1967;
- (ii) whether there have been other communal disturbances in recent years in Jainpur and Suchetpur (District Gorakhpur—U.P.);
- (iii) whether there was any tension between the communities immediately preceding the disturbances of September 24-25, 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:—

Northern India Patrika, Allahabad	29th December, 1967.
National Herald, Lucknow	27th December, 1967.
Pioneer, Lucknow	27th December, 1967.
Aj, Varanasi	29th December, 1967.
Bharat, Allahabad	27th December, 1967.
Hindi Dainik, Gorakhpur	29th December, 1967.
Tarun Bharat, Lucknow	27th December, 1967.
Nav Jeevan, Lucknow	28th December, 1967.
Swatantra Bharat, Lucknow	29th December, 1967.
Quami Awaz, Lucknow	28th December, 1967.
Paigham, Kanpur	28th December, 1967.
Siasat Jadid, Kanpur	31st December, 1967.

1.7 The Government of Uttar Pradesh 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 Uttar Pradesh in recent years;
- (ii) whether Jainpur and Suchetpur 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 Jainpur and Suchetpur;
- (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 notification dated the 19th December, 1967, 24 affidavits and statements were received. Of these 12 affidavits were from State Government officers and the rest were from the members of the public and organisations. The affidavits and statements from the public and organisations were received within the time allowed. Affidavits from 10 of the officers were received on 19th February, 1968 and those from the other two were received on 11th March, 1968. The State Government's statement of the incidents also reached the Commission on 11th March, 1968. A list of persons and organisations who furnished affidavits and statements will be found in Annexure I.

1.10 The State Government was requested to furnish to the Commission the names of organisations, groups or individuals who could be addressed separately and asked to furnish information on the disturbances. The State Government informed the Commission that there is no recognised organisation or group functioning in District Gorakhpur which could be approached by the Commission for eliciting information regarding the disturbances and that, as far as the individuals are concerned, the persons who were victims/witnesses of the incidents are illiterate or semi-illiterate who cannot be expected to answer any questionnaire intelligently. The State Government however, expressed its willingness to furnish to the Commission a list of victims/witnesses. Such a list was forwarded by the State Government in April, 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 17th August, 1968 and thereafter up to the end of November, 1968 the Commission was busy with the recording of oral evidence relating to the communal disturbances which occurred in Srinagar and Jammu in August, 1967, and which the Government of Jammu and Kashmir has referred to the Commission for inquiry. The Commission could, therefore, take up on hand the inquiry relating to the Jainpur-Suchetpur disturbances only in December, 1968.

1.13 All oral evidence was recorded at Lucknow. In all 12 witnesses were examined. The names of witnesses examined and 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 V.

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

CHAPTER II

SCOPE OF INQUIRY

2.1 Twelve sworn statements were filed by Government officials with respect to the incidents or the steps taken by them. The General Secretary of the Majlis-e-Mushawarat, U.P., Shri Iqbal Husain Khan, Advocate of Rampur, gave the background of the causes which created a mentality and a surcharged atmosphere leading to frequent communal riots and mainly quoted from certain books. The other nine non-officials, all Muslims, submitted statements supported with affidavits. Two Muslims of Gorakhpur submitted mere statements unsupported by affidavits. As already stated, the State Government informed the Commission that the victims/witnesses of the incidents are illiterate or semi-illiterate who cannot be expected to answer any questionnaire intelligently. The Commission got the statements of the eye-witnesses and the Doctors examined in the preliminary enquiries before the Committing Magistrate in cases arising out of F.I.R. cases Nos. 103/67 and 104/67 regarding incidents in villages Jainpur and Suchetpur respectively. The accused have been committed to the Court of Session. The two cases are pending. It was, therefore, decided to confine the examination of witnesses to the officials to clarify the statements made by them. The actual list of witnesses examined is at Annexure II.

2.2 Annexure IV gives the list of persons who were summoned to give evidence but did not appear.

2.3 Rule 5 of the Central Commission 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.”

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

“If, at any stage of the inquiry the Commission—

- (a) considers it necessary to inquire into the conduct of any person; or

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

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

2.5 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.

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

CHAPTER III

SCOPE OF INQUIRY

3.1 The Commission decided not to record any evidence about the actual incidents which took place on the 24th and 25th September as the details of the main incidents were more or less clear from the affidavits filed and the documents summoned. The evidence, in its opinion was sufficient to give it a clear picture of how the disturbances started between members of the different communities on the 24th and 25th September. The Commission did not concern itself with the actual culprits taking part in the incidents. That is left for the investigating agency and for the courts. It recorded evidence to clarify the matters arising out of the affidavits of the officers about the action taken by them previous to the commencement of the disturbances and in dealing with them.

PART II
CHAPTER I
EVENTS PRIOR TO THE INCIDENT OF
24TH SEPTEMBER, 1967

1.1 In the district of Gorakhpur, there is a tract of land at a distance of twelve miles from Gorakhpur which was covered by forests at one time and the tract is still known by the name Jungle. There are four Jungles; Jungle Dumri, which has been sub-divided between No. I and No. II, Jungle Zainul-abadin *alias* Jainpur, Jungle Maghi and Jungle Sekhni. In due course of time, portions of the Jungle were cleared and the land utilised for agricultural purposes. This naturally led to the coming into existence of abadis. Thus, Jungle Dumri covering an area of about six square miles now has got thirty hamlets; Jungle Jainpur has got thirty-six hamlets and covers about six square miles in area; Jungle Sekhni has an area of about five square miles and has got five hamlets and Jungle Maghi covers an area of four or five square miles and has got three hamlets.

1.2 The terrain of this tract is not level and is of different types. There are a number of rivulets and streams running between the various hamlets. The distances between any two hamlets may be small but by regular road for vehicular traffic the distances are fairly large, as the road has to take a circuitous course.

1.3 The dispute between the Hindus and Muslims of Tola Mahuwawa pertaining to village Jainpur related to the nature of two plots No. 407 of 1.74 acres and No. 408 of 0.25 acre. The Muslims claimed this land as graveyard and the Hindus as their cremation ground.

1.4 The land in dispute admittedly belongs to the Zamindars who had set it apart for public use. According to the Muslim case, it was given to the Muslims for use as graveyard and the Hindus of the village cremated their dead in Chilwa Tank while according to the Hindus, the land was given to them for use as cremation ground and the Muslims buried their dead in another plot, a few furlongs away.

1.5 In the village records, however, the land in suit was recorded as 'Banjar' till the year 1956. The Khatauni of 1363 Fasli, corresponding to 1st July, 1955 to 30th June, 1956, recorded it as 'Qabristan.' The written statement filed by the District Magistrate of Gorakhpur before Shri Mutsaddi Lal, a Member of the Board of Revenue, Uttar Pradesh, who was appointed to inquire into these disturbances by the U.P. Government notes:

"When the Consolidation of Holding Operations were undertaken in the village the record of 1363 Fasli was treated

as the basic record. Both these plots have been shown as 'Qabristan'. In the Khatauni of 1363/Fasli there is an entry that under the orders of the S.D.O. dated 22-2-1956 the plots referred to above were recorded as 'Qabristan' against Khata No. 845. This entry, it may be mentioned here, is not attested by any officer or official which may be an omission. According to the entries in 'Chhittha'—Partial in CH Form 2A in which Partial is made by the Consolidator both the plots have been shown as 'Qabristan'."

1.6 No dispute, however, arose between the Muslims and Hindus of this village till 1966 when a dispute arose and developed to such an extent as to lead to an attack by the Muslims on the Hindus who had gone to cremate a dead woman on this land on the 24th September, 1967, even when an order in their favour had been made in the proceedings under section 145 Cr. P. C. and a civil suit for the decision of the right of the Muslims to use the land as graveyard was pending in the court. It seems to be more probable for the dispute to have arisen in 1966 in view of the changed entry in the record in favour of the graveyard than on account of unjustifiably cutting a branch of a tree by the Hindus for use as fire-wood in the Bhandara arrangements on or about the 22nd December, 1966 as alleged in the first application about the dispute to the authorities.

1.7 The first indication of a dispute was given to the authorities by an application addressed to the District Magistrate, Gorakhpur and, according to the noting on the application, presented to the Additional District Magistrate on the 24th December, 1966. The Additional District Magistrate sent it to the Station Officer, Police Station Gulariha Bazar, with the order—

"S. O. Gulariha,

Please visit the spot at once and report. Please ensure that no breach of peace takes place."

1.8 The application did not pass through the Sub-Divisional Magistrate of Gorakhpur in whose jurisdiction Tola Mahuwawa lay. In this application which purported to be on behalf of Mohd. Khalil, Mohd. Salim and three others, it was alleged that a graveyard of the Muslims existed in these plots for a hundred years, that in the Tola there were thirty-five Muslim houses and hundred Hindu houses, that the relations between the two parties had always been cordial and never any quarrel took place between them and that on the 22nd December, 1966, a dispute arose on account of the Hindus desiring to use a fallen branch of a tree on one of these plots as firewood to prepare meals in connection with the Bhandara which was to be held on the 22nd December, 1966 and using it despite the protest of the Muslims. It further said that the Muslims took the incident and the action of the Hindus quietly but all Hindus got provoked and they cremated or buried one Hindu on the 23rd of December, 1966 and showed their determination to fight in case of protest. It further alleged that the Muslims were afraid that the dispute might not take the colour of a communal dispute on account

of the false propaganda of the Hindu leaders mentioned in the application, viz., Ram Narain, Somai and Paras. They apprehended grave danger from the gathering of people said to be called on the 28th of December, 1966, on which date the Muslims were asked to remain indoors. It was prayed in the application that realising the gravity of the situation immediate necessary action be taken for the protection of life and property of Muslims and for peace.

1.9 On receipt of this application the Station Officer of the Thana deputed Hira Singh, Head Constable, for making inquiries on the spot. Hira Singh visited the spot on the 28th December and submitted his report (Exhibit 13). Hira Singh found on the spot Hindus and no Muslims. Among the Hindus were Shri Madhukar Dighe of the Socialist Party, Bawa Naumi Dar and Shri Keshab Singh of the Hindu Mahasabha. The Muslims did not appear as their leader Mohd. Salim was ill. The people present wanted a week's time to settle the dispute on the recovery of Mohd. Salim. The leaders inspected the spot and went away.

1.10 Thereafter the Muslims of the village appeared. The Muslims expressed that they had not come out on account of fear as the Hindu villagers had collected other Hindus. These villagers, Hindu and Muslim, expressed a desire to settle the matter themselves, they having lived peaceably for generations and wanted a week's time to settle the matter on the recovery of Mohd. Salim. They also told him that if they could not settle the matter, they would inform the police. The Head Constable mentioned these facts in his report and also gave the names of the Hindus and Muslims who were present on the spot. The people included twenty-two residents of Tola Mahuwawa, four of Tola Aktahawa and thirteen of Tola Bichampur among the Hindus and among the Muslims it included persons from Tola Mahuwawa, Tola Aktahawa and Tola Helani, the three Tolas whose Muslims were mentioned in the application as the persons using the graveyard for burying their dead.

1.11 On the 4th January, 1967, the Station Officer Mohd. Azim Ansari himself visited the spot and finding that the dispute had not been settled between the parties and that there was apprehension of the breach of the peace, reported for action under section 107 of the Cr. P.C. against twenty-two Hindus and twenty-two Muslims on the 5th of January, 1967. Along with each report for action, he enclosed copies of the report of Hira Singh, Head Constable, dated 28th December, 1966 and his own report entered at item 20 of the Diary, dated the 5th January, 1967. The Circle Officer submitted these reports to the Public Prosecutor on the 10th of January and the Public Prosecutor submitted them to the Court of the S.D.M. on the 27th January, 1967.

1.12 On the 3rd of February, 1967 the S.D.M. ordered that as the dispute was concerning land, proceedings under section 145 of the Cr.P.C. would be advisable and directed the police to proceed accordingly.

1.13 On the 9th of March the Station Officer submitted a report for action under section 145 of Cr.P.C. The two parties mentioned in

the report consisted of three Hindus, namely, Ram Narain, Somai and Paras, and five Muslims, viz., Aziz, Pir Bux, Sher Mohd., Mansur Ahmad and Khalil. On the 10th March, the S.D.M. ordered the registration of the case under section 145 of Cr.P.C. and the issue of attachment orders for the plots in suit along with the trees. The parties were summoned for the 29th March, 1967. The preliminary order under section 145 Cr.P.C. was drawn up on the 13th of March, 1967. Subsequently the Magistrate referred the matter to the Civil Court for deciding the question which of the parties was in possession of the plots in dispute at the date of the order under section 145 Cr.P.C. or had been wrongfully and forcibly dispossessed within two months prior to that date.

1.14 Prior to the decision on the reference of the case under section 145 of Cr.P.C., two non-cognisable FIRs, Nos. 210 and 211, were lodged at the Police Station, Gulariha Bazar, about an incident which took place between some Hindus and Muslims at about 7 P.M. on the 6th June, 1967. Ram Briksha lodged the first report at 9-30 P.M. on the 6th June, 1967, against four Mohammedans including Sher Mohd. under sections 323 and 506 of the I.P.C. complaining that when he was carrying bricks on his bullock-cart, the accused beat and kicked him during arguments about Sher Mohd.'s keeping sand for building houses on the road, thus obstructing the passage of bullock-carts. On 7th June, 1967, at 6-30 A.M. Sher Mohd. lodged the other report against Bhullu, father of Ram Briksha, and three other persons. In this report he said that he had kept the building material far from the path of the bullock-carts, that on being asked, he removed the sand from the passage and that some arguments took place upon this. He also alleged that the accused started abusing him and on further arguments, beat him with rods and kicked him and also beat his wife, his son and his elder brother's wife who had come to his rescue.

1.15 In both these reports, after describing the incident the reporters were supposed to have said that the accused were mischievous in character and had formed a party and that they had threatened the reporter's life and property.

1.16 How this simple incident of 6th June, 1967, was distorted and magnified giving it a communal tinge is apparent from the contents of the application Sher Mohd. filed before the Superintendent of Police Gorakhpur on 9th June, 1967. He alleged therein that Ram Narain and others were exercising undue influence and pressure in order to obtain the land in dispute about which a case under section 145 of Cr.P.C. was proceeding and that on 6th June, 1967 at about 8 P.M. Ram Narain and his party attacked him, his son, his wife and his brother's wife with lathis and spears, caused them severe hurt and damaged the house. He and other Muslims hid themselves in the house on account of fear and the other party kept the house surrounded. He alleged that he had reported the matter to the Police Station the next morning, i.e., on 7th June, 1967 but the police had not taken any action. He expressed danger to life and property and prayed for necessary action.

1.17 References to Ram Narain and his party as assailants and the other Muslims hiding themselves in the house on account of fear and 2-69 H.A.

the house being kept surrounded by the opposite party are an improvement to what was stated in the first information report. It seems that the additions were motivated at the instance of some persons at Gorakhpur. The simplicity of the villagers of the two communities referred to in the statements of the witnesses is apparent from the two FIRs so simply lodged by the two parties at the thana, of course keeping in mind the grievance that they proposed to express. These additions seem to be in line with the contents of the application dated 24th December, 1966. The application was sent to the Circle Officer who on the same day, i.e., 9th June, sent it to the Station Officer, Gulariha Bazar Police Station, with this note:—

“Please visit the spot immediately and take necessary action. Dighe, MLA, reports to me that there is apprehension of breach of peace. Report should be sent to me by tomorrow positively.”

1.18 On the 11th June, 1967, Station Officer Ansari submitted reports for action under section 107 of Cr.P.C.—one against thirteen Hindus including the three aforesaid leaders and another against eight Muslims. He again mentioned in these reports that the dispute between the Hindus and Muslims was about the land in dispute and he referred to his earlier report under section 107 Cr.P.C. and the subsequent report under section 145 Cr.P.C. and stated that the tension among the parties was continuing and that, on that account and on any pretext, the parties beat one another. He further said that there was apprehension of breach of peace from the parties and so the leaders of the parties were being prosecuted.

1.19 These reports appear to have reached the Court on the 4th of July and the S.D.M. ordered on the 5th of July the registration of a case and summoning of the opposite party on the 26th of July, 1967.

1.20 On the 25th July, 1967, the Civil Court decided the reference to it under section 146 Cr.P.C. and held that Ram Narain and others were in actual physical possession of the plots and the trees in dispute on the 13th March, 1967 and within two months prior to it and that the possession of the first party of Aziz and others over the disputed trees and land during the aforesaid period was not proved.

1.21 On receipt of this finding the S.D.M. passed an order in proceedings under section 145 Cr.P.C. on the 18th August, 1967. He agreed with the finding of the learned Munsif and ordered that the attached property be released in favour of Ram Narain and others and prohibited the other party from interfering in their peaceful possession till they got orders to the contrary from a competent court. The plots were released from attachment in favour of Ram Narain and others on the 9th September.

1.22 On 18th September, 1967, the S.D.M. discharged the parties in the two cases under section 107 Cr.P.C. mainly on the ground that the evidence in each case did not consist of any independent witness. He further said in his judgment in the case against Sher Mchd. and others that those persons had agreed to abide by the decision in the civil suit filed by them and that till its decision, they would abide by the orders already passed in the case under section 145 Cr.P.C.

1.23 It appears from the enclosures to the written statement filed by the Superintendent of Police before Shri Mutsaddi Lal, Member, Board of Revenue, that on the 17th July, 1967, Aziz and Halim filed an application before the A.D.M., Gorakhpur stating therein that a Muslim had died on 16th July, that the burial of the dead body in the graveyard was objected to by certain residents of the village, that they complained to the S.D.M. who issued orders to the Sub-Inspector, Gulariha to see that the body was peacefully buried but the Sub-Inspector stated that he would not carry out the orders. It was prayed that orders be issued to the Sub-Inspector to help the applicant to bury the dead body in the graveyard. The A.D.M. forwarded the application to the Superintendent of Police requesting him to look into this matter and ensure prompt action. The S.P. forwarded the application to the Station Officer, Gulariha to do the needful and report. The Station Officer, Gulariha submitted his report on the 18th July, 1967 stating therein that as the plots in question had been attached the police could not interfere without the order of the court and it was for this reason that he had refused to give them the help earlier and had directed them to take permission from the court where the case was pending. The Circle Officer agreed with the report, and directed the applicants to bury the dead in some other graveyard. The S.P. agreed with the action taken and ordered the application to be filed. The matter could not be put to the S.D.M. when he was examined by us as no reference to it had been made in any previous document; but it appears from the absence of any reference to the alleged order of S.D.M. in the report of the S.O. that the matter had not been brought to the S.D.M. for orders as stated in the application.

1.24 Subsequent to the decision of the civil court on the 25th of July, 1967 on the reference under section 146 of Cr.P.C. against Mohd. Khalil and others, the Muslims of Tola Mahuwawa and other Muslims of village Jainpur filed a civil suit No. 703 of 1967 in the court of the 1st Munsif, Gorakhpur, against eight Hindus including Ram Narain, Somai, two of the persons stated to be the leaders in the application dated the 24th December, 1966, Sita Kahar and Lakhan for a perpetual injunction against the defendants not to interfere with the possession and use of the plaintiffs of plots Nos. 407 and 408 and for a decree of possession in case the plaintiffs were found to be out of possession. The plaint referred to the decision of the civil court in section 146 of Cr.P.C.

1.25 On 11th August, 1967, the Munsif issued an *ad interim* injunction in the following words:—

“The defendants are meanwhile directed to maintain the *status quo* in respect of the land in suit. The character of the land in suit be not changed by the parties meanwhile. Objection may be filed by 5th October, 1967.”

1.26 Besides these proceedings in the civil court Mohd. Halim presented an application to the Station Officer, Police Station, Gulariha Bazar on the 16th August, 1967, stating therein that on the night previous the Hindus with the intention to wipe out the graveyard had removed the covering of the wooden boxes from ten graves

which were two to four months old and filled them by placing earth into them. A prayer was made for investigating the case and for taking suitable action. A note about this was made in the general diary at entry No. 14 of the 16th August, 1967 at 2-45 P.M. The Sub-Inspector made a note that for the present there would not be a breach of the peace on account of the covering up of the graves and removing the planks, that it was possible that the Hindus might have done so in order to strengthen their case and that necessary action according to the circumstances would be taken after making an inquiry, and that the application was returned.

1.27 On the 17th August Mohd. Halim presented an application addressed to the District Magistrate to the Additional District Magistrate. After stating what had been stated in the application to the S.O. dated the 16th August, it mentioned that the local police had not gone for enquiry to the spot and prayed for necessary action after inquiry and further stated:—

"Otherwise the living of the Muslims there would be difficult."

1.28 This application could not be traced in the office of the District Magistrate but its copy with copies of the orders thereon is found as an enclosure in the statement of the Superintendent of Police submitted to Shri Mutsaddi Lal.

1.29 The A.D.M. sent this application on the same date to the Superintendent of Police for necessary action. The S.P. passed it on to the Circle Officer on the 21st August and the Circle Officer passed it on to the Station Officer, Gulariha for inquiry and report on the 25th August. The S.O. Gulariha reported on it on the 28th August, 1967 to the effect that the Muslims had lost the case in the civil court and, therefore, the police could not take any action. Cases under section 107/117 Cr.P.C. were pending against both the parties. The applicant had been informed of the result of the inquiry. On 30th August, the Circle Officer ordered it to be filed:

1.30 Another identical application was, however, presented to the S.P. on the 21st August, 1967, but it reached the Police Station on the 2nd September, 1967.

1.31 On the 6th September, 1967, Mohd. Khalil filed an application before the Collector, Gorakhpur stating therein that Ram Narain and others having realised the weakness of their case in the dispute about the alleged graveyard, were trying to demolish the graves and were trying to construct some samadhis there, and that on the 4th of September, 1967, at about 7-30 A.M. or 8 A.M. Ram Narain and others went to the graveyard and began to demolish the grave of Wazir Ali and got prepared to fight on being asked to stop demolishing it. It was stated that they had already informed the civil court about this incident. It was further stated that Ram Narain had shocked their religious feelings and desecrated the graveyard and that Ram Narain and others were instigating communal feelings and were openly saying that they would take rest only after uprooting the Mohammedans from the village. It requested for action against people whose acts amounted to an offence. The Collector appears to

have passed on this application to the S.D.O. the same day and the S.D.O. who was also S.D.M. sent it on 12th September 1967 to the S.O., Gulariha Bazar for inquiry and report.

1.32 Mohd. Azim Ansari, Station Officer, made over charge of the Police Station Gulariha Bazar on the 10th September, 1967 to Shri K. P. Singh and he found the aforesaid applications dated the 16th August, 1967 and the 21st August, 1967 lying at the Thana undisposed of. He himself could not take up these applications and that of the 6th September till the 24th of September, 1967, as he had been busy with dacoity and robbery cases in the Sessions Court up to the 17th September and then was mostly at Gonda in connection with other Sessions cases, requiring his presence there, and returned at the Police Station at 12-30 p.m. on the 24th September when the report of the incident at Tola Mahuwawa early that morning was lodged at the Police Station by Hira Singh.

1.33 The above narration of facts indicates that the S.D.M. did not directly know of the application dated 24th December, 1966 addressed to the District Magistrate and of the application of Sher Mohd. dated the 9th June, 1967 presented to the Superintendent of Police. These, however, formed enclosures of the two reports for action under section 107 of the Cr. P.C. submitted to S.D.M. in January and June, 1967 respectively against the Hindus. The two non-cognizable F.I.R's formed an enclosure of the second report for action under section 107 of the Cr. P.C. against the Hindus. It is doubtful whether the S.D.M. had actually seen these applications. The first application formed part of a report on which he simply ordered for submission of a report under section 145 of the Cr. P.C. The other reports were not proved during the proceedings under section 107 Cr. P.C. The S.D.M. also did not know of the applications to the Superintendent of Police dated the 17th July, 1967 and the applications of the 16th August to the S.O. or of the 17th August to the District Magistrate. The S.D.M. has stated "I had no knowledge of any application being given by any Muslim of Tola Mahuwawa concerning the dispute and the strained relations between the communities there prior to getting the application of Khalil dated 6th September 1967 to 12th September 1967."

1.34 The application of Khalil dated the 6th September did go to him on the 12th of September, 1967. He does not appear to have gone through it carefully and to have it in mind when he disposed of cases under Section 107 of Cr. P.C. on the 18th of September, the recording of evidence in which cases finished on the 2nd September and the arguments finished on the 8th September, 1967.

1.35 Syed Mohd. Azim Ansari, S.O. knew of all these applications.

1.36 The D.M. did not know of any application. The A.D.M. dealt with the applications dated the 24th December, 1966, 17th July, 1967, the 17th August, 1967 and the 6th September, 1967 and just passed on the first to the S.O., the second and third to the S.P. and the fourth to S.D.O. The District Magistrates or Additional District Magistrates must send applications presented to them to S.D.Ms. for necessary action and S.D.Ms. should pass them on to Station Officers or superintendents of Police.

CHAPTER II

INCIDENTS OF THE 24TH SEPTEMBER, 1967 AND 25TH SEPTEMBER, 1967

2.1 Ram Narain and other Hindus were given the possession of the disputed land on the 9th September, 1967. The order of injunction issued by the civil court dated the 11th August, 1967, in the civil suit filed by Mohd. Khalil and other Muslims against the Hindus simply directed them to maintain the *status quo* and not to change the character of the land in suit.

2.2 In the early hours of the 24th September, 1967, one Smt. Sanichari died in Tola Mahuwawa. The Hindus took the body for cremation to the land in suit at about 10 a.m. A number of Muslims armed with weapons and shouting arrived there, fell upon them with lathis and sharp-edged weapons. The Hindus were unarmed. They were in mourning. The result was that three Hindus were killed on the spot and five others were injured. Of the three persons who died, Lakhan had eleven injuries including three incised wounds, Sita had seven injuries including five incised wounds and Ram Narain had twenty-two injuries including twelve incised wounds and one punctured wound. Of the other five injured persons, Somai had ten incised wounds and one punctured wound, Ganji had two incised wounds and Jai Kishan had one incised wound, in addition to other injuries. The injuries appear to bear out the version of the attack on the Hindu mourners by the Muslims with lathis and sharp-edged weapons. A report of this incident was lodged at the Police Station Gulariha Bazar at 12-30 p.m. the same day.

2.3 The Sub-Inspector of Police, Shri Kushal Pal Singh, Station Officer, left for the spot at 1-30 p.m. and reached there at 3 p.m. Till about midnight he remained busy looking up the injured persons, inspecting the spot and preparing the inquest reports. It may be mentioned that the report mentioned of two persons having died but he found on the spot that a third person had also died subsequent to the report.

2.4 He left the thana leaving instructions for the sending of the special report to the various officers at the headquarters. The usual special report was accordingly sent and was delivered to the Superintendent of Police at about 8 p.m. It was probably delivered at the residences of the District Magistrate and the Sub-Divisional Magistrate at about the same time but the D.M. looked it up at about 10 p.m. on return to his residence and the S.D.M. got it in his *dak* on the evening of the 25th September, 1967. However, the Superintendent of Police took immediate action on receiving the report and ordered the Deputy S.P., Shri Mushtaq Ahmad and the Cantonment Inspector of Police to proceed to the spot with two police armed guards. They reached the spot at about 10 p.m. or 10-30 p.m. on the

24th September, 1967. One of the armed guards was sent to escort the corpses up to the village Badharia and was directed to patrol the villages on his way back.

2.5 The S.P. tried to contact the District Magistrate twice by 9-30 p.m. but failed to contact him.

2.6 The Station Officer on reaching the village at 3 p.m. did not find any Muslims in the village. He and the Deputy S.P. found the Hindus of the village perturbed and agitated. The Hindus of the vicinity too were excited and apprehensive of an attack from the Muslims. They kept on expressing their apprehensions to these police officers on the spot and the police officers took the necessary step to pacify them. Two Hindus of Bishanpur Tola of village Jainpur brought two Muslims of village Suchetpur, one armed with a sharp-edged weapon and another armed with lathi, to these police officers at about 2 a.m. in the night alleging that these persons had attacked them.

2.7 Taking into consideration the excitement and anger among the people and the possibility of repercussions, these police officers sent two reports, exhibits 5 and 6, to the Superintendent of Police through the Inspector of the Cantonment. The report, exhibit 5, requested for the posting of one Company of the P.A.C. for a month in that area and the report, exhibit 6, requested for promulgation of an order under section 144 Cr. P.C. prohibiting collection of five or more people and the carrying of arms etc. These reports are:—

(I) Report of S.O. Kushal Pal Singh of Police Station Gulariha dated 24th September, 1967 to the S.P.

I am staying at the scene with a Company (police) of Sadar Police Station. Three men have been killed and five wounded upto now. There is a general excitement among the people here and in surrounding areas. I, therefore, request you to deploy at least one Company of P.A.C. in this area for a month. The accused people are now staying away from their houses. It is necessary to arrest them.

It is necessary to deploy three Platoons of P.A.C. with their headquarters, one each in villages Jainpur Badharia and Sekhni.

(II) Report of S.O. Kushal Pal Singh of Police Station Gulariha dated 24th September, 1967 (about midnight) from Camp Jainpur, to the S.P.

With reference to the case No. A.R. 103 under Sections 147/148, 149/307 I.P.C. dated 24-9-67, it is requested that the section 144 should be imposed in the radius of five miles of village Jainpur, because under the crime cited above three men of one community have been killed and five others were injured upto now. There is anger and excitement among the people. There is a fear of breach of peace. Therefore, an order should be passed banning the assembly of five or more people. Besides this, carrying

lathis, edged weapons, rifles etc. should also be banned. Collecting of brickbats, stones etc. also be declared illegal. In addition to this, spreading of false rumours and intention of revenge should also be banned.

2.8 On receipt of these reports, the S.P. contacted the District Magistrate, told him of the entire situation and arranged for the despatching of three PAC platoons to the spot. Two of the platoons were directed to rush to the spot from the Parade Ground itself and the third was to follow. The District Magistrate directed the S.D.M. at about 8 A.M. to proceed to the spot and to promulgate the order under section 144 Cr. P.C. The two PAC platoons reached Village Maghi at about 8-45 A.M. They sent one section of each platoon to the spot. They reached there at about 11 A.M. The S.D.M. also reached the spot shortly after and got reports that everything was normal and under control.

2.9 At about 12-30 P.M. information was received of the incident in Village Suchetpur. These officers then rushed towards Suchetpur and learning that the mob attacking Suchetpur had proceeded towards Razapur proceeded towards that village. They could see part of the mob fleeing from Razapur towards Chilwa Tank. They could also see people hiding in the fields. The villagers of the Village Razapur and Mandirbazar were also taking shelter inside the crops in the fields. The mob, however, escaped.

2.10 In the meantime the District Magistrate and the Superintendent of Police in charge also reached Tola Mahuwawa and incidentally learnt of some incident having taken place in Suchetpur. They proceeded there. The S.D.M., Dy. S.P. and the S.O. were at the time in pursuit of the mob fleeing towards Chilwa Tank. They found a number of persons dead in the village and decided to rush back to Gorakhpur and have further police force sent to the spot and also to make arrangements to avoid any repercussion of the events in Tola Mahuwawa on the 24th September and in village Suchetpur on 25th September taking place in any part of the district, and especially in Gorakhpur itself.

2.11 In the Suchetpur incident a large crowd estimated to be between four hundred and five hundred Hindus is said to have attacked Mohammedans of village Suchetpur at about 10 A.M. on the 25th September, beaten them and looted their property. Some of the Muslims, however, could escape to the fields and thus save themselves. In all eleven Muslims were killed and nine Muslims were injured.

2.12 As a result of the steps taken by the authorities no incident took place in the vicinity of village Mahuwawa and village Suchetpur or anywhere in the district after the incident of Suchetpur.

2.13 Minor incidents of local nature were, however, reported from a few tolas in the neighbourhood of village Mahuwawa and village Suchetpur. Most of them were said to have taken place on the morning of the 25th September, 1967 and were alleged to have been committed by local people.

2.14 The details of the other incidents, as gathered from the F.I.Rs. of the first eight cases (on Shri Mutsaddi Lal's file as part of statement of Thakur Lal Srivastava, S.I. of Police) and the statement supplied by Dy. S.P. Mushtaq Ahmad to the Commission, are as follows:—

(1) Shakur of Village Maghi reported of incidents at 8 A.M. and 12 O'clock on the 25th September, 1967. The houses of three persons were found looted in the village. He accused all his villagers. and named ten of them in his report. A charge-sheet has been submitted.

(2) Mansur Ahmad of Tola Hilani Dumri No. 2 reported that between 9 A.M. and 10 A.M. on the 25th September, 1967, two houses were looted in his village. He named nineteen persons; residents of Chanwa, Pokhri, Sakhni and Pipraha among the looters. A charge-sheet has been submitted.

(3) Habibulla reported on the 26th September, 1967, that at 3 P.M. on the 24th September, his paddy crop in Village Sakhni had been looted by one hundred and thirty people. He named seven persons (residents of Ruhawa and Pokhri) among the accused. A charge-sheet has been submitted in the case.

(4) Mohit reported that at about 9 A.M. on the 25th September, the houses of three persons in Tola Bhelinpura-Tola Jungle Sakhni, had been looted by about five hundred people. He named none among the accused and final report has been submitted in this case for want of evidence.

(5) Sher Ali reported of the looting of property from his house in Tola Ramnagar, Village Jainpur, at about 9 A.M. on the 25th September by people of Bakha Muhawawa, Chhedi Maghi and Shukwa Pauwa. One person was named among the accused. Final report has been submitted.

(6) Mohd. Shafi of Tola Aktahwa, village Jainpur, reported that at about 10 A.M. on the 25th September the paddy crops of six persons had been looted by many people. None was named as accused and the case had been closed with the final report.

(7) Noor Mohd. of Tola Razapur, Dumri No. 2, reported that at 1 P.M. on the 25th September seven or eight persons snatched away an ornament of Zait-un-Nisa, his daughter-in-law who had run away from the Tola due to the incidents of Mahuwawa and Suchetpur, near Bhatolwa. One named accused has been charge-sheeted in this case.

(8) Hosildar of Tola Kashipur, Village Sakhni, reported that at about 8 A.M. on the 25th September, his house was looted by a crowd of three hundred or four hundred persons and that he had seen this from a sugarcane field to the north of his house where he had gone on hearing noise. Four accused were named and charge-sheet had been submitted against them.

(9) Shrimati Sherullah of Village Suchetpur reported on the 29th September that at 8 a.m. on the 25th September her property had been misappropriated by eight persons named in the report. The case has been challaned.

(10) Pheku of Village Sakaldippur reported on 2nd October that at 11 A.M. on the 25th September, two houses were looted. None was named. Final report has been submitted.

(11) It was reported on 2nd October that the property of five persons was reported to have been looted in Village Tiwaripur at 12 O'clock on the 25th September. Final report has been submitted in this case.

CHAPTER III

CAUSES

3.1 The incident of Tola Mahuwawa on the 24th September 1967, undoubtedly was the result of the dispute about the two plots of land claimed by the Muslims as their graveyard and by the Hindus as their cremation ground.

3.2 The Hindus of the village have not filed any statements. The first information report lodged by Hira Singh and the statements of the two Hindu witnesses examined in the committal proceedings in the case against the Muslims about that incident account for the incident to be due to the dispute. According to them, a number of Muslims came from the village and attacked the Hindu mourners who were busy on the disputed land with the preparation for the cremation of the dead woman.

3.3 The statements of the three Muslim witnesses examined in the committal court in the proceedings in connection with the case of the incident in village Suchetpur ascribe the incident to be the reaction of the incident in Tola Mahuwawa on the 24th September. Shafi has deposed that the Hindus thought that the Muslims of village Suchetpur were concealing the Muslims of village Mahuwawa and, therefore, they had beaten and looted the Muslims of Suchetpur in order to take revenge. The same reason for the incident is given by Phullan P.W. 2 who lodged the first information report at about 12 O'clock on the 25th September, 1967.

3.4 The cause for the Suchetpur incident given in some of the affidavits filed by the Muslims is in brief that Mahant Digvijay Nath of Gorakhpur is a staunch Hindu Sabhaite, that he had been actively plotting against Muslims and creating trouble for Muslim madrassas and Muslim graveyards, that with the approach of the general election of 1967, he and his lieutenants began to poison the atmosphere in the constituency by decrying Muslims during the election campaign as 'killers of cows and Hindus' and that this pernicious propaganda of his workers created an explosive situation in the entire area, but still the Muslims remained cool and quiet. It is also said that the incident of Tola Mahuwawa on the 24th September, 1967, was taken advantage of by the Mahant and his lieutenants to arouse the Hindus of the entire area, provoking them to loot and kill the Muslim community for which a conspiracy was entered into at first at Gorakhnath Temple and then a jeep of the Mahant with his lieutenants toured the area throughout the night between 24th and 25th September, inciting the Hindus to take revenge on the Muslims of the area.

3.5 Two persons, one of village Badheria and another of village Tarkulhan stated in identical terms in their affidavits that on the 24th September, 1967, at about 2 P.M. they noticed a jeep occupied by a

man wearing loin cloth (geruwa) and four or five others pass through their respective villages towards Maghi village and that on the next day, i.e., 25th September, 1967, the same jeep occupied by the same people again passed through their respective villages at about 12 noon towards the bazar. Two other persons of village Jungle Maghi stated in their affidavits in identical terms that on the 24th September, 1967, at about 2 P.M. or 3 P.M. one jeep occupied by a man wearing loin cloth and four or five others passed through their village towards hamlet Mahuwawa. The affidavits of these two persons are absolutely in identical terms even with respect to the allegations about the looting of their respective houses in village Maghi by the mob on the morning of the 25th September, 1967. The incidents of this village are not under enquiry.

3.6 It appears to us that the incident of village Suchetpur was in retaliation of the incident of village Tola Mahuwawa a day earlier and that the mob attacking the village got assembled as a result of the efforts of some people. The statements of persons about the movements of certain people in a jeep on the 24th September implying thereby that they were inciting people to take revenge against the Muslims of Suchetpur on the 25th September are not acceptable for the simple reason that none of these persons nor any other Muslim of the locality communicated with the authorities about the movement of these people, about their inciting others and about the apprehension which naturally the Muslims must have had, if some of them had seen such suspicious movement and incitement of the people. No such statement was made by Phullan in the first information report he lodged at 12-30 P.M., soon after the incident, to the police officers in Tola Mahuwawa. He simply stated that the attack was by the Hindus in order to take revenge for the incident in Tola Mahuwawa a day earlier. None of the persons examined by the S.O. during investigation on the 25th September stated that the incident was due to instigation by some party or person. Phullan, Shafi s/o Faujdar and Inayat s/o Remmo examined as prosecution witnesses before the committing magistrate do not depose about any such movement of persons in a jeep on the 24th September.

3.7 We do not consider that the alleged propaganda during the 1967 elections by Mahant Digvijai Nath and his supporters created the explosive situation which led to the incidents in Tola Mahuwawa and village Suchetpur on 24th and 25th September, 1967 respectively. The elections took place in February, 1967 and the incidents took place long afterwards. Practically all the Government officials deny in their written statement any knowledge about the working of any communal organisation or group in the area, though branches of the communal organisations of all-India parties are said to exist at Gorakhpur. S.O., Mohd. Azim Ansari states "So far my personal knowledge goes, there was not any organization or group in the locality which had fomented the communal tension directly or indirectly." Senior S.I. L.I.U. states "These organizations can foment communal tension or directly or indirectly create provocative situation. However, these organizations are not functioning in village Suchetpur and Jainpur, Tola Mahuwawa." The Dy. S.P., however, deposed "The political parties, H.M.S. and S.S.P., fought the election from that area

and tried to keep the graveyard issue alive and the continuance of the communal tension." On the 28th December, 1966, Shri Madhukar Dighe of the Socialist Party and Bawa Naumi Dar and Shri Keshab Singh of the H.M.S. were in the village and expressed desire for the settlement of the dispute.

3.8 It was suggested by some of the official witnesses, and it may be so, that the incident of Tola Mahuwawa was exploited by some Hindus who had a private dispute and in connection with which dispute there had been some earlier incidents between the supporters of those parties. Panchawan, one of the Muslims who was killed in Suchetpur that day, was said to be a prominent worker of one of those parties both of which were Hindus. The mob which attacked Suchetpur does not appear to have taken part in the other stray incidents which took place in other Tolas in the neighbourhood, all of which except one are alleged to have taken place between 8 A.M. and 12 O'clock.

CHAPTER IV

COMMENTS ON THE ACTION TAKEN PRIOR TO 24TH SEPTEMBER, 1967

4.1 The police and the magistracy were being approached on account of the dispute of the land in suit being a graveyard or a cremation ground and of the consequent apprehension of breach of peace on account of this dispute. It is true that action was taken by the police in the first instance for proceedings under section 107 of Cr.P.C. and later for proceedings under section 145 of Cr.P.C. at the suggestion of the Sub-Divisional Magistrate, and a few months later another report had been given for action under section 107 of Cr.P.C. and proceedings were started against the parties on this occasion by the magistrate. The authorities failed to appreciate the possible results of such a dispute between members of the two communities. They seem to have treated the matter as an ordinary dispute between two individuals and thus failed to look at the matter in the light of the law and order situation.

4.2 There seems to have been little understanding of the common role which the magistracy and the police have to play in maintaining law and order. There has to be harmony between the officers of the two departments in the district.

4.3 A Sub-Divisional Magistrate is responsible for law and order in his sub-division and to achieve that object, he has to have first-hand information about the events and trends of events and of movements in the sub-division. For such information, he has to depend upon the police. The police has to inform him, in addition to its own official hierarchy, of such matters as are likely to affect law and order. This is not disputed, but it appears from the statements of the magistrates and police officers who appeared before us that even in these executive matters, there is no such contact between the magistracy and the police as is necessary for the magistrates to have a full picture of the situation and a proper understanding of the way things are moving in the sub-division.

4.4 Between the 24th December, 1966, and the 24th September, 1967, there had been several warnings about the possibility of trouble of a communal nature in Tola Mahuwawa. Unfortunately all these went unheeded. The application of the 24th December, 1966, stated that the Muslims were afraid that the dispute might not take the colour of a communal dispute on account of the false propaganda of the Hindu leaders and that necessary action be taken after realising the gravity of the situation. Apart from this direct expression in the application, the nature of dispute itself was communal and deserved immediate attention. The dispute related to the Hindus and the Muslims disposing of their dead on the land in suit either

by cremation or by burying. The occasion for exercising their right in using that land in a particular way could arise at any moment and could lead to an ugly situation. The dispute was not of an individual nature. It was between the two communities which were affected by it.

4.5 Syed Mohd. Azim Ansari, Station Officer, Gulariha Bazar, treated the matter as a routine matter and failed to realise the gravity and the importance of the dispute. He sent two constables to inquire and finding that no settlement had been arrived at between the parties, just submitted a report for action under section 107 Cr.P.C. He should have tried his best to have the dispute settled. This should not have been difficult if, as is now alleged by the authorities, he had found that a part of the land was used as graveyard and a part as cremation ground. No such active step to settle the dispute at the initial stage appears to have been taken by the S.O. who has now suggested in his written statement that the police ought to be alert and try to settle the dispute between the communities amicably.

4.6 The report he submitted on the 5th of January for action under section 107 of the Cr. P.C. had a leisurely journey up to the court of the Sub-Divisional Magistrate. It reached the court on the 3rd of February, when the Sub-Divisional Magistrate passed orders. No mention was made in the report that there existed some imminent danger and that the parties be bound under sub-section (3) of section 117 of the Cr. P.C. pending hearing of the case. If the report had reached the S.D.M. promptly and with the request for interim action, the S.D.M.'s attention would have been immediately drawn to the importance of the matter and the gravity of the situation.

4.7 The S.D.M. on his part too took the application as a routine application for action under section 107 of the Cr. P.C. and finding that the dispute related to land, ordered action to be taken under section 145 in preference to section 107. He has tried to justify his action by referring to cases. Suffice it to say, that no case lays down that when a dispute about land is likely to cause breach of the peace, no action can be taken under section 107 of the Cr. P.C. On the other hand sub-section (10) of section 145 of the Cr. P.C. itself lays down that nothing in that section should be deemed to be in derogation of the powers of the magistrate to proceed under section 107. Proceedings under section 145 and section 107 of the Cr. P.C. could be taken simultaneously. Proceedings under section 145 safeguards a breach of peace taking place on account of a party interfering with the possession of the other party or the land itself. Proceedings under section 107 safeguards breach of the peace on account of the action of one party against the other due to ill-feelings which may arise on account of the differences of opinion about land or on other matters. However, the land was attached and no actual breach of the peace took place till the 24th of September, by which time the proceedings under section 145 of the Cr. P.C. had come to an end and proceedings under section 107 of the Cr. P.C. started in July, 1967, had also ended against the accused.

4.8 What has been said earlier about the leisurely way in which the first report for action under section 107 of the Cr. P.C. reached

the S.D.M. equally applies to the progress of the S.O.'s second report for action under section 107.

4.9 The notes on the report of S.O. dated 11th June, 1967, for action against Sher Mohd. and others show that the C.O. ordered on the 14th June that the papers be sent to court through the Public Prosecutor, that possibly the Public Prosecutor noted on the 22nd June, 1967 "submitted" and the papers were received in the court on the 4th July.

4.10 Here again, the S.O. and the C.O. failed to realise the gravity of the situation even though a complaint had been made of a meeting in pursuance of the dispute and though the C.O.'s forwarding note of the 9th June to the S.O. indicated that Shri Dighe, M.L.A. had also told him that there was apprehension of breach of the peace. No request for interim action under sub-section (3) of section 117 of the Cr. P.C. was made.

4.11 The magistrate accordingly took the proceedings in a routine manner. This would appear from the fact that on the 5th July, he ordered summoning of the opposite parties for the 26th July for the only purpose of reading the notice to them. This was not in accordance with sections 112 and 115 Cr. P.C. Further proceedings taken for preventing breach of peace should not be proceeded with in such a fashion, even though the cause list of the magistrate might be heavy. It has to be so arranged that matters of executive importance could be disposed of more promptly than regular judicial cases under the special acts which are the only regular judicial cases now done by the executive Magistrates in the State.

4.12 No interest seems to have been taken in the proceedings under section 107 of the Cr. P.C. by the prosecuting agency even though the S.O. must have known of the finding of the civil court on the 25th July, 1967, to the effect that the Hindus were in possession of the land in suit and could have anticipated the nature of the final order under section 145 of the Cr. P.C. in view of the provisions of sub-section 1(b) of section 146 of the Cr. P.C. and could also have expected that this finding against the Muslims was bound to lead to trouble in case some Hindu died and the Hindus tried to cremate the dead person on the land in suit, specially when the police could not and did not help the Muslims in their desire to bury a dead Muslim in the land in suit in July, 1967.

4.13 The section 107 cases proceeded leisurely in the court. Notices were read to the accused on the 26th July and the cases were fixed for the 3rd August for the recording of the statements of the persons proceeded against. Their statements were recorded on the 3rd August and the case was fixed for the 19th August for recording the statements of the prosecution witnesses, Nos 2, 3 and 4, which according to the police reports, would be one of the parties in the other case, the Head Constable Hira Singh and the S.O. Mohd. Azim Ansari. No summonses were issued to the two police officers according to the statement of Shri Nath Prasad, Reader of S.D.M.'s Court before Shri Mutsaddi Lal.

4.14 It does not appear from the order sheet that the S.O. and Head Constable were present in the court on that day. After recording the statements of three non-official witnesses in each case, the two cases were then ordered to be put up on the 2nd September for statements under section 342 Cr. P.C. and defence evidence.

4.15 After completing these proceedings on the 2nd September, the cases were adjourned to the 8th September for arguments and after hearing the arguments, the cases were adjourned to the 18th September for judgment. On the 18th September, the accused were discharged.

4.16 After the events of the 24th September, the police blames the S.D.M. for his conduct of the case under section 107 of the Cr. P.C. and the S.D.M. takes his stand on the legal provisions and the apathy of the police in the conduct of the cases. The S.D.M. has deposed :

"Though the maintenance of law and order is the responsibility of both the Executive Magistrate and the Police, in practice there is no personal contact between the Magistrate and the Police. The Police submits reports for necessary action and the case is registered and proceeded with. In cases under the preventive sections the SOs do not appear in court, unless summoned, to conduct proceedings as they usually appear to conduct regular criminal cases. In 107 Cr. P.C. cases usually when the cases are instituted against both the parties concerned the parties usually engage counsels and the public prosecutor does not ordinarily make his appearance. He appears, unless called to appear, when the parties do not engage any counsel and when the case proceeds against only one party. On receiving reports under preventive sections we do not try to acquaint ourselves with local conditions by visiting the place unless the parties require the court to inspect the place or there is some special report from the Police or the Tehsil which suggests local visit."

The District Magistrate seems to agree with the view of the S.D.M. In his statement to Shri Mutsaddi Lal, he has made the following observations :—

"It is unfortunate that the local police treated the cases under section 107 Cr. P.C. in the routine fashion. The S.O. and the A.P.P. never appeared before the S.D.M. to emphasize the seriousness of the situation. It is a common practice prevailing perhaps in all other districts that once the Police send up a report under section 107/117 Cr. P.C., they forget about it and think that their responsibilities are over. This fact can be ascertained from any S.D.M. anywhere in the State. In important cases at least it should be the duty of the S.O. to personally approach the S.D.M. to apprise him about the Law and Order situation and about any specific matter which may be requiring his personal attention. Since these cases under section 107 Cr. P.C. were not properly conducted by the Police and sufficient evidence to the satisfaction of the magistrate was not produced he discharged the notice. If the Police felt

that this discharge was not proper and that there was still a danger of breach of the peace, there was nothing to prevent them from submitting another report immediately for taking action under section 107 Cr. P.C. The police should have been aware of the decision of the case under section 145 Cr. P.C. They should have seen that there did exist graves on the disputed land. They should have foreseen that as a result of this unsatisfactory decision of the case the cause of dispute had not been satisfactorily settled and apprehension of breach of the peace still continued."

4.17 There seems to be agreement about the inadequacy of arrangement for conducting cases before the Executive Magistrate. The Assistant Public Prosecutor has stated before Shri Mutsaddi Lal:

"The SDM does not require my presence in the cases under Section 107 Cr.P.C. in which there is also a cross case because both the parties are represented by their counsels. And one party is a witness against the other, and the court holds the proceedings with the help of the counsels of the parties and whenever feels my presence in these cases necessary he calls me also from the court of the J.O. Sadar. The above practice is generally followed in almost all the courts of S.D.Ms."

4.18 The Sub-Divisional Magistrate expressed similar views in his statement before the Commission. He deposed:—

"There is no separate prosecuting staff for the Executive Magistrates. The same prosecuting staff has to look after the work in the courts of the Judicial Magistrates and the Executive Magistrates. Normally the staff is busy with the courts of the Judicial Magistrates. The Executive Magistrates have to wait indefinitely for securing evidence including local Act cases which they try."

4.19 The mere fact that sub-section (2) of section 117 provides that the inquiry about the truth of information lodged under chapter VIII dealing with cases under sections 106, 107, 108, 109 and 110 of the Cr.P.C. shall be made as nearly as may be practicable in the manner prescribed for conducting trials and recording of evidence in summons cases that is prescribed under section 244 of the Cr.P.C., does not absolve the magistrate from his duty to have a record of the necessary evidence for the disposal of the case. Even if the prosecution fails to adduce necessary evidence, it is open to him under section 540 of the Cr.P.C. to summon at any stage of the inquiry in the court any person as a witness if his evidence appears to him to be essential to the just decision of the case. In these cases, the magistrate ordered the summoning of the Head Constable and the S.O. as witnesses. Due to mistake of his office, no summons was issued to these witnesses. We do not know of the practice whether the production of the police witnesses would be the sole responsibility of the prosecuting department. Even if it be so, the attendance of these two police witnesses could and should have been insisted on and necessary steps taken to secure their presence.

4.20 We do not, however, mean to indicate that the police was itself not at fault in not producing these two officers as witnesses on

the date fixed for recording evidence, especially when another warning had been received by the S.O. on the 16th August about the situation in Tola Mahuwawa.

4.21 On the 16th August, a report had been made at the Police Station about the alleged digging up of the ten graves by the Hindus on the night between the 15th and 16th August. Mohd. Azim Ansari the S.O. took the matter again lightly. He simply made a note in the general diary after recording the report that the alleged conduct of the Hindus would not lead to a breach of the peace and that they might have behaved in that manner to strengthen their case. He seems to have stuck to this view on the 29th August too when he reported on an application containing identical allegations but presented to the District Magistrate on the 17th August, even though in this application it was further mentioned at the end that if proper action was not taken, the living of the Muslims there, i.e., in the Tola, would become very difficult. On the application received through the S.P., the S.O. noted that the Muslims had lost the case in the civil court and, therefore, the police could not take any action and that the result of the inquiry had been communicated to the applicant. The C.O. then ordered on the 30th August that the papers be filed. No inquiry on this application or on the report lodged at the Thana on the 16th August seems to have been made.

4.22 That no action can be taken by the police on account of the attachment of the land, seems to be of doubtful accuracy. The alleged offenders might have committed some offence for contravening the injunction order issued by the civil court on the 11th August or of the attachment order made by the magistrate in section 145 proceedings which were pending on the 15th August, but they would have also committed an offence under section 295 of the Indian Penal Code by their alleged conduct of digging up ten graves.

4.23 This complaint about the incident of the night of the 15th and 16th August should not have been so cavalierly dealt with by the police. Apart from the way of disposing of this matter, these allegations should have further warned the police of the growing intensity of the feelings of bitterness between the two communities and, therefore, should have made it take more interest in the cases still pending before the court under section 107 of the Cr.P.C.

4.24 The entire attitude as discussed above of the S.O. Mohd. Azim Ansari from December, 1966 till the 10th September, 1967, when he made over charge of the Thana to his successor Shri Kushal Pal Singh had been of complete failure to consider the complaint about the graveyard and the resulting animosity between the two communities to be of any gravity.

4.25 It may be noted here that in his statement before the Commission, he expressed the opinion that the dispute did not have any communal colour and was restricted to the members of the two communities in the village; that his assessment in December 1966 and January 1967 was not that there was apprehension of the dispute taking a communal turn, though so expressed in the application dated 24th December 1966 and that the expression "the living of the

Muslims in the village would become very difficult" was taken to be a routine expression and not an expression indicating that the dispute had taken a communal colour. If he had really grasped the nature of the dispute and its significance in the context of law and order, his whole conduct in dealing with the legal proceedings and action necessary to be taken in the interest of maintaining peace would have been very much different. Once he had recorded it as a matter of communal nature, executive instructions dealt with in the Chapter VI "Intelligence", required him to act in a different manner. We may quote the pertinent statement of the D.I.G., Intelligence, in this connection:—

"On the basis of the information about the dispute with respect to the land claimed to be graveyard by the Muslims and cremation ground by Hindus and the proceedings under Section 117 and 145 Cr.P.C. pending before the Magistrates, I am inclined to think that the matter should be taken to be of a communal nature. If this view had been taken by the local officers steps would have been taken by them for seeing that no breach of the peace takes place. It, however, so happened that the persons proceeded against in the 107 cases were discharged and the proceedings under Section 145 also finished shortly before the incident at Tola Mahuwawa."

4.26 The rural police is expected to collect intelligence about matters including communal matters and matters affecting law and order. The Station Officers have to submit weekly reports of such information to the L.I.U. Branch of the District which works under the control of the Superintendent of Police. No such report with respect to the dispute between the Hindus and Muslims of the Tola Mahuwawa about the land in suit was given to the L.I.U. and, therefore, could not reach the highest authority.

4.27 If the matter had been treated as a communal matter and special information had been communicated to the officers concerned, there might have been a better appreciation and better guidance of the various proceedings taken for the prevention of the breach of the peace.

4.28 In the prevailing atmosphere of communalism and the great importance of preventing communal disturbances, it is essential that the highest local authority should get information of every incident, however, insignificant and ordinary it may appear to be, of disputes between members of two different communities, with a definite note whether the members of the two communities in general took interest in the affair at the time or later. It should be observed what reaction the incident has. When a series of such incidents are reported, a general appreciation of the trend of communal thinking can be had and measures taken to subdue the trend and to improve the psychological position.

4.29 If the executive authorities had been noticing the trend of reports made by Muslims between the 24th December, 1966 and the 24th September, 1967, they would have marked the trend of Muslims' thought and the depth of their feeling in the matter. These

feelings might have been due to external influences as the complainants contented themselves with simply making reports on the 16th, 17th and the 21st August and the application of the 6th September and did not follow them up by lodging any formal report or complaint in the court. Further the S.P.'s following statement indicates that these applications were mere 'peshbandis':—

"No action was taken by the local police on the applications presented to them or to me for alleged digging up of graves in the disputed plot subsequent to the decision of the civil court in the case referred to it under section 145, Cr.P.C. I made enquiries from the S.H.O., Gulariha Bazar, and he explained the reasons for taking no action, i.e., that the matter was *sub judice* while proceedings under Section 145 and a regular civil suit had been filed by the Muslims. With this view I agreed but further told the S.H.O. that we have to keep ourselves informed of the local position in view of the law and order requirements. He told me that the information received by him was that the disputed plot was in tact and that the allegation about the digging up of the graves was merely to strengthen the civil suit. When I myself inspected the plot after the incident of 24th September, 1967, I found that no grave had been dug up and that the only place which had been dug up was the place dug up for the cremation of the woman who had died on 24th September 1967."

4.30 The police prosecution of the case could have been more vigorous. The S.D.M.'s order in 107 cases could have been different, and might have deterred the Muslims from taking the law in their own hands.

CHAPTER V

ACTION TAKEN BY THE AUTHORITIES AFTER THE REPORT OF THE INCIDENT IN VILLAGE TOLA MAHUWAWA ON 24TH SEPTEMBER, 1967, AND COMMENTS THEREON.

5.1 Station Officer, Gulariha Bazar, Shri Kushal Pal Singh, after recording the report of the incident at 12-30 P.M., left for the spot at 1-30 P.M. The police force at the thana at the time consisted of one Clerk-Constable and three other constables. Ten other constables were out on duty. He, therefore, sent one constable to the spot, left one constable at the thana and directed the third constable to proceed to headquarters with the special report.

5.2 The constable reached Gorakhpur with this special report addressed to the Circle Officer, Superintendent of Police, Sub-Divisional Magistrate and the District Magistrate at about 7-30 P.M. the same day. There was some delay in his leaving the police station, possibly again due to the police taking the matter as an ordinary crime.

5.3 Station Officer, Shri Kushal Pal Singh was ignorant of what had been happening in Tola Mahuwawa for the previous nine months, as he got no note about the dispute and the consequent communal situation from his predecessor Syed Mohd. Azim Ansari. Unfortunately he could not get to know his area till 24th September and could not enquire about the reports and application of the 16th August and 21st August received from the Superintendent of Police and Khalil's application of 6th September. Had he had occasion to look into these he might have assessed the position differently on 24th September, 1967.

5.4 Station Officer, Shri Kushal Pal Singh also failed to send any extra information by way of communication of an incident of a communal nature as he considered such sending of information necessary only when the communal situation tended to be grave, and as the special report (copy of F.I.R.) contained all the necessary information.

5.5 Apart from this omission, the special report of the incident was not sent as directed in para 101 of the U.P. Police Regulations. Copies of the report of the offences mentioned in that paragraph, which include offences of important cases of murder, rioting, breaches of peace between the different communities etc. are to be sent immediately in 'Red' envelope to the officers concerned. The special reports were not sent, it appears, in 'Red' envelope.

5.6 Further, they did not reach the hands of the S.D.M. and the D.M. shortly after they were delivered at their places. It appears from the statements of both these officers that special reports received in their offices or at their places are just treated as routine

matters. The S.D.M. received the special report in his dak on the evening of the 25th September. He deposed—

"They (the special reports) are usually not received by the S.D.M. and are not looked up by me immediately. There is nothing on the envelope containing a Special Report to indicate the nature of the contents or its urgency. The envelopes are just ordinary ones and are addressed by designation and not by name to the officers concerned. The usual red envelopes in which such Reports used to be sent previously are no more used as they are not available. Envelopes containing the Special Reports are not even marked SPECIAL REPORT or URGENT.

"The special reports are not particularly presented to the S.D.M. by the readers for his perusal but are sent to him along with the daily dak containing various applications and letters, requiring perusal by the S.D.M. They thus reach his house along with the 'dak' which the S.D.M. reads."

5.7 The District Magistrate got the special report at his house at about 10-30 p.m. and went through it cursorily as an ordinary report of murder with rioting. In his written statement before Shri Mut-saddi Lal, he states:

"To consider this question the normal practice which prevails perhaps all over the State has to be taken into consideration. One or two Special Reports and on some days even three or four are received by the District Magistrate all the year round. These Special Reports pertain to a variety of crimes ranging from thefts (involving high amounts) and, wire cutting to murder and dacoity. These reports are usually received by the Orderlies and are placed on the table of the District Magistrate. When these reports come in the late hours of the night, the District Magistrate is not awakened to see them. The reports are, instead placed in the office and are seen by the D.M. when he sits there next morning. The District Magistrate passes on the Special Report to the Judicial Assistant after his perusal, for record. The S.P. and C.O. on the other hand, are required to visit every scene of occurrence for which a Special Report is sent. The D.M. or the S.D.M. are not expected to visit all these scenes of occurrences. They do not even take any action in respect of these Special Reports unless some fact is brought to their notice either by the S.P. or from their own sources. These Special Reports have only one value for the District Magistrate. He is kept informed of the day to day occurrence of the heinous crimes in the district. In case he finds that there is a spurt of crimes in any particular Police Circle, he can take up the matter with the S.P. and ask for a closer probe into the matter as to why the circle was going out of control. When some matter requires the immediate attention of the D.M. he has to be contacted personally either by the S.P. or by receiving a separate report from the S.O. concerned."

He did not relate this Special Report to a communal dispute and thought it to be a local dispute about some land. He expected prompt communication of any communal occurrence and did not receive any such report. His explanation for going through this special report cursorily is to be gathered from the fact that, according to him, special reports received in the ordinary course refer to murder cases which are to be promptly dealt with by the police or by the S.D.M. and para 7 of the U.P. Police Regulations provides for the Superintendent of Police contacting the District Magistrate whenever any information of some serious matter was received. He himself was ignorant of any proceedings in the court in connection with the dispute over a graveyard in this village (Tola Mahuwawa), he having taken charge of the district on 28th July 1967. His predecessor, too, would have been ignorant of such proceedings as no application addressed to D.M. was presented to him and no report of any proceedings under section 107 and 145 Cr.P.C. was sent to him.

5.8 However, the Superintendent of Police on receipt of the special report between 7-30 P.M. and 8 P.M. considered the matter to be a pretty serious affair, but he, too, neither considered it to be a communal incident nor thought that it would create reactions among the Hindus of the area as the dispute about the land between the two communities had been going on for several months and the people of the area did not appear to have taken any part in that controversy, which remained localised among the local people. Considering the affair to be a serious affair of local importance, he deputed his Deputy Superintendent of Police and an Inspector with two armed guards to the spot, with directions to see how the people in the neighbourhood were reacting to the incident. In the context of his appreciating the matter, the action taken by him was adequate, but a much more serious view of the incident could and should have been taken by him, who was the only officer in the district who had knowledge of all the reported happenings in Tola Mahuwawa on account of the dispute about the land being a graveyard or a cremation ground. If he had regularly followed the trend indicated by those proceedings, he should have considered the incident to be communal and likely to have Hindu repercussions against the Muslims of the locality. Even the facts that the incident at Tola Mahuwawa had taken place on account of a dispute about a piece of land being a graveyard or a cremation ground on an occasion of cremation of a dead Hindu and that the prevailing atmosphere in the country was conducive to communal disturbances should have led to his feeling that the serious incident which had taken place would naturally have strong reactions on the Hindus of the locality and that they might take some revengeful action against the Muslims of the area. If he had assessed the situation in this form, he would have taken the action which he ultimately took on the next morning on receipt of reports from the Deputy Superintendent of Police and the Station Officer for the posting of a Company of the P.A.C. in the area. If such a Company had been sent to the spot during the night of 24th and 25th September, it is just possible that its presence in the locality might have deterred the excited and angry Hindus, even though instigated by outsiders, from behaving in the manner they did in village Suchetpur.

5.9 The Superintendent of Police failed in his attempts to contact the District Magistrate by 9-30 p.m. on 24th September and succeeded in contacting him on the morning of the 25th September after the receipt of the two reports from the Deputy Superintendent of Police for the posting of a Company of the P.A.C. and for the promulgation of an order under section 144 of the Cr.P.C.

5.10 The S.P. and the D.M. are not at one as to what was actually discussed between the two of them but the differences in their statements are not of any consequence so far as the adequacy of arrangements to deal with the situation is concerned.

5.11 The D.M. has stated before the Commission—

“He (S.P.) told me that there was nothing serious about the matter as action had already been taken under section 145 Cr. P.C. and a Company of the P.A.C. was being sent.....I could not have asked him not to go on leave though if I had realised the seriousness of the situation, I would have suggested him and persuaded him not to go on leave.”

But the D.M. stated in his written statement to Shri Mutsaddi Lal:—

“The S.D.M. was deputed by me to the scene of occurrence even without any such request from the Police. It was done because I had felt that the situation was pregnant with danger on account of the communal nature of the dispute and that it required being carefully handled.”

5.12 These statements indicate that he assessed the position on the morning of 25th September after consultation with the S.P., that the trouble was communal and that repercussions could be expected. The arrangements made by the S.P. after consultation must have been in the light of such assessment of the situation. Any realisation of the significance of the reaction to the incident of Tola Mahuwawa on the morning of the 25th September was too late to lead to the prevention of the incident at village Suchetpur. The incident took place at about 10 a.m. and by that time no further forces could have reached the spot.

5.13 The Superintendent of Police after discussing the matter with the District Magistrate issued orders to the Station Officer, Gulariha Bazar (Exhibits 11 and 12). These are—

(I) “Reference your Special Report case regarding Qabaristan.
2. You must ensure that all the absconding accused are immediately arrested and strict steps are taken for enforcing the decrees u/s 87/88 Cr. P.C. for those who are absconding. This work must be done immediately and progress reported to me daily. Two S.Is. from P.S. Cantonment and two Probationary S.Is. from Police Lines are being sent to you to assist you in carrying out these decrees and effecting arrest of the accused. These S.Is. can be utilised by you till every thing is normal there.”

(II) “Please refer to your Special Report of the Murder case of P.S. Gulariha regarding the issue of Qabaristan.

2. Two A.P. Guards along with the Insp. Cantt. were sent to you yesterday night itself and three P.A.C. Platoons are being sent this morning. Please ensure adequate and firm action and under no circumstances the situation should be allowed to flare up."

5.14 The Superintendent of Police rang up the Commandant of the P.A.C. for detailing one Company of the P.A.C. to the spot. The matter was treated as urgent and two platoons of the P.A.C. were sent straight from the Parade Grounds where they were at the time and the third platoon was sent later. The first two platoons reached the Police Station, Gulariha Bazar, which is eight to nine miles from Gorakhpur, at about 7-45 a.m. With a constable guide, the platoons reached Maghi Village, which is about five or six miles from the Police Station, at about 9-15 a.m. and leaving the two sections of each platoon at Maghi—one section of each platoon consisting of two Head Constables and eight constables—proceeded to Tola Mahuwawa and reached there at about 10 a.m. according to Subedar Bhuvaneshwar Singh and at about 11 a.m. according to Deputy Superintendent of Police Mushtaq Ahmed. The distance between the two places by foot-path is about $2\frac{1}{2}$ furlongs.

5.15 At about 11 a.m. the Sub-Divisional Magistrate also arrived on the spot. The S.D.M. was informed by the District Magistrate at about 8 a.m. that morning about the incident at Tola Mahuwawa the day before when he had gone to the District Magistrate at 7-30 a.m. in some other connection. By this time the police officers on the spot, namely, the Deputy Superintendent of Police and the Station Officer, had no information of any of the incidents which were subsequently reported to have taken place between 8 a.m. and 11 a.m. or of any instigation to the people of the neighbourhood for taking any revenge or any movements of a mob or mobs in the area. They felt that the situation was quite normal. The Muslims of Tola Mahuwawa had left their homes. The Hindus were panicky and they were pacified throughout the night. These statements have to be accepted. Mohd Shafi, Chowkidar of Tola Mahuwawa, had fled the village and is accused in the case about the attack on Hindus on the 24th September. The chowkidars of neighbouring villages were sent with the injured and the corpses early on the night of the 24th September. No chowkidar could report the movement of the mob. No Hindu would have conveyed such information. The Muslims on seeing the mob would have naturally preferred running away for safety to informing the police in Tola Mahuwawa. The two sections of the P.A.C. were allowed to return to Gorakhpur to fetch their tentage etc. as they would have to remain in that area for some time. This is consistent with the view that everything in the area was normal.

5.16 The S.D.M. went from Maghi to Tola Mahuwawa by road between 10 a.m. and 11 a.m. and had practically to stop at every village on the way due to the bad conditions of the road on account of rains. He did not find anything abnormal on the way from Maghi to the spot and noticed the people busy with their normal avocations. Between Maghi and the spot he must have passed through villages Sekhni, Pakhrihawa, Bangla and Akhtahawa. The allegation that the S.D.M. took no notice of looting of the Muslims in the

villages he passed through does not appear to be true. He could not have ignored the fact if his attention had been drawn to it. Further, the D.M. and the S.P. in charge, too, did not notice this on their way by the same route a little later.

5.17 The District Magistrate left Gorakhpur at about 11 a.m. that day and reached the spot between 12-30 p.m. and 1 O'clock. He was accompanied by Shri R. D. Singh, Deputy Superintendent of Police, then in charge of the district on account of the S.P.s going out on casual leave. Neither of them noticed anything particular between Maghi and the spot and found everything to be normal. According to the District Magistrate, the people were working as usual and it did not strike him that any incident of looting had taken place in any of these villages earlier that day.

5.18 It was at about 12 O'clock that the news about the Suchetpur incident reached the S.D.M., Dy. S.P. and the S.O. in Tola Mahuwawa. These officers took prompt action in rushing to the spot and pursuing the rioters till they escaped. In the meantime, the D.M. and the S.P. learning of the incident at Suchetpur reached there and observing the result of the acts of the rioters, felt the necessity of having a larger force at the spot. They left for Gorakhpur and arranged for sending additional forces to the spot.

5.19 The narration of these events bears out that any additional forces sent on the morning of the 25th September after the discussion between the S.P. and the D.M. could not have prevented the incident at the village Suchetpur or any of the stray incidents which took place on the 25th September most of which were reported to have taken place by 11 a.m.

5.20 Further action taken by the authorities for maintaining law and order in the locality and in the rest of the district was successful in so far that no major incident of communal nature took place in the district after the incident of village Suchetpur.

5.21 Thirtyfive accused were sent up to court on 4th December, 1967 after investigation in the Tola Mahuwawa incident. They have been committed to Sessions Court for trial on 2nd August, 1968.

5.22 Seventyseven accused were sent up to Court on 16th February, 1968 after investigation in the Suchetpur incident. They have been committed to Sessions Court for trial on 4th September, 1968.

5.23 According to the information furnished by the State Government the estimated value of help given to the victims of the communal disturbances by way of relief and rehabilitation comes to about Rs. 6,000.

CHAPTER VI

INTELLIGENCE

6.1 Detailed instructions have been issued by Government for being informed of important occurrences in the State. Paragraph 241 of the Manual of Government Orders requires all important occurrences within the district to be reported demi-officially by District Magistrates to Government with a copy to the Commissioner. Without being exhaustive, paragraph 242 of the same Manual mentions, among the occurrences to be reported, riots which involve a serious breach of the peace, serious untoward incidents in the law and order sphere and special important events which have political or administrative importance. Paragraph 243 provides that these three cases along with some others specified therein should be reported by telegram to the State Government as reports on these cases have to be sent to the Government of India as well. Sub-para (2) allows District Officers to report occurrences of communal riots by telegram and to follow it up with a detailed and complete report by post.

6.2 It is to be noticed that reports are to be submitted, in view of paragraph 241, of all important occurrences within the district and not only with respect to occurrences relating to offences of a particular kind.

6.3 In 1953, the State Government by their demi-official letter No. 2301-D/VIII-B, dated April 21/23, from the Home Department (Police-B), impressed upon the District Magistrates the necessity of keeping the government informed about incidents and occurrences which are of any significance at all from the communal point of view and having a bearing, direct or indirect, on the law and order situation. It was further stated in the letter—

“The information required should be in regard to incidents which are of some public interest or present a symptom or a tendency and not about incidents relating to ordinary crime, unless of a sensational kind like a hold-up, a daring dacoity or murder which may attract public attention, or mere individuals but where the actions of individuals are likely to create repercussions, these should be reported. For instance, an ordinary riot between two factions even though of some magnitude may not be of any significance but a riot with an agrarian or a communal background, however petty, should be considered to be a significant development and should, therefore, be reported to Government.”

6.4 The main thing to notice in this circular letter is that the District Magistrates are required to report incidents which present a symptom or a tendency and also incidents between mere individuals if they are likely to create repercussions. The District Magistrates

have naturally to depend mainly for such necessary information on the police. Instructions issued by the Police Department clearly lay down the procedure for the furnishing of the necessary information.

6.5 The Inspector General of Police, Uttar Pradesh, by his Circular demi-official letter No. 5/1962, dated 28th February, 1962, drew the attention of the Superintendents of Police to the proper attention to be paid to the collection of intelligence by the Station Officers of Police Stations, stating—

“Their (Station Officers’) indifference towards the collection of political-cum-communal intelligence appears to be, mainly due to the lack of priority and importance attached to this aspect of work of the district headquarters.”

and required the Superintendents of Police to insist on their Station Officers to feed them with regular information regarding political or communal developments in their respective jurisdiction as they had a number of channels of information including their beat staff at their disposal. It was suggested that Station Officers be made responsible for sending all the required information either in their weekly reports or otherwise. It emphasized the importance of conveying all such intelligence very promptly for its proper use by higher officers.

6.6 It was presumably in pursuance of this letter of the Inspector-General of Police that the Superintendent of Police, Gorakhpur, issued instructions to all the Station Officers under him. These instructions (Exhibit 9) state that the Station Officers would be mainly responsible for collection of intelligence in rural areas, that the information to be collected is to include information about communal matters, that such information should be incorporated in the weekly reports to be submitted to the L.I.U. and that serious view of the failure to comply with the instructions would be taken.

6.7 In practice, these directions seem to have been lost sight of by the Station Officers. Mohd Azim Ansari, Station Officer, Gulariha Bazar, states that no register containing intelligence about communal and other matters was maintained at the Thana during his time nor were any weekly reports submitted to the district officers. He even goes further and states that at the monthly crime meetings, no reference was ever made to the omission of the sending of the weekly reports submitted to the district authorities, though the Senior Sub-Inspector, L.I.U. and the Superintendent of Police deposed that at the monthly crime meetings, the Sub-Inspectors incharge of the newly created thanas including the Police Station, Gulariha Bazar, were used to be told to collect such information and send weekly reports. Station Officer Mohd Azim Ansari has further deposed that in practice such reports were only sent when there was anything particular to communicate and that the omission of the receipt of such a report was interpreted by the L.I.U. as nil report. It is possibly with a view to justifying his omission to send the report about the communal dispute in village Tola Mahuwawa on account of the land in suit that he stated that he did not consider that dispute about the land being a graveyard or cremation ground to be communal. It was a mistake on

the part of the L.I.U. Sub-Inspector not to submit a written report about the omission of such reports by the various thanas to the Superintendent of Police for necessary action.

6.8 According to the D.I.G., Intelligence, intelligence with respect to the rural areas is mainly furnished by the local Police Stations. The beat constables know their areas and have contacts with the people and have other ordinary and special sources of information—the village chowkidar and members of the village defence societies and others. The system of collecting information from rural areas has worked satisfactorily. He has, however, supported the complaint by the Deputy Superintendent of Police about the difficulties in collecting information. He stated—

“The sources from which the local thanas have to collect information are not either as effective or as useful as they used to be before for different reasons. Formerly the chowkidar and the mukhiya were the mainstay for giving information to the beat constable and were not ordinarily affected by party politics which for all practical purposes were non-existent in the villages. Now the chowkidar is more or less indifferent. He gets petty salary of Rs. 5 a month. The mukhiya class has gone. The village representative is now the pradhan and villages are affected by party politics. The pradhan may be belonging to one party or the other. To some extent the pradhan is more important than the mukhiya and may not be as communicative to the beat constable as the mukhiya used to be.”

6.9 The Deputy Superintendent of Police expressed his difficulties in these words—

“I would like to express some difficulties which I experienced in dealing with this matter. The first difficulty was about the system of intelligence. The former agency of Mukhias, Lambardars, Zamindars and Chowkidars used to give us information direct and help us in local investigation matters. Of these only Chowkidars are available but they are hardly of any use. In the new scheme of things the only person who can be of help is the Village Pradhan, but I found that the Village Pradhan could give no information about the area. At the same time the functions of the police have increased.”

6.10 The administration has to tackle these difficulties in securing information.

PART III

SUGGESTIONS

I. No major suggestions for the prevention of communal disturbances can be made as a result of the inquiry about the incidents in villages Jainpur and Suchetpur. We endorse what has been stated by the State Government in its narrative. It stated :—

“It is hardly possible to conceive fool-proof measures which can prevent, totally, the recurrence of such sporadic incidents. The answer to the problem lies in maintaining constant vigilance by the local authorities and in taking prompt and effective preventive measures in time to nip the trouble in the bud.”

The local authorities should be very vigilant in observing the developments of any dispute, however petty, between the members of the two communities so long as the communal atmosphere remains vitiated. Such disputes may relate to any matter. The criterion for selecting a dispute for watching is whether the dispute is purely of a private nature between two individuals belonging to the two communities or is of a nature which attracts or has attracted the involvement of all or most of the people of each community. If it is not taken as an individual dispute, it has to be watched for it has seeds of developing into a full-fledged communal disturbance at any time, if the dispute is not settled amicably by the parties.

II. We now make some suggestions concerning the detailed working of the agencies of law and order operating in the district for the maintenance of law and order.

1. Ample use of preventive sections of the Criminal Procedure Code should be made to curb the tendencies of the people to commit breach of peace.

2. There should be more informal contact between the police and the Sub-Divisional Magistrate so that the Sub-Divisional Magistrate should have a greater knowledge of the background of the preventive proceedings initiated by the police and to be dealt with by him judicially as a magistrate, as it is not possible to have a full background in the proceedings in the court.

3. The Police, both the Thana Police and the prosecuting agency, should take sufficient interest in the proceedings in preventive cases before a Magistrate. They should neither leave the conduct of the proceedings to the Magistrate alone nor depend on the counsel engaged by the private parties proceeded against. It is primarily the responsibility of the prosecuting agency to lead full evidence before the court and to stress all the points in favour of the prosecution.

4. There should be adequate arrangements for the appearance of Public Prosecutor in the courts of Executive Magistrates.

5. In disputes about land, leading to apprehension of breach of peace between the communities, an attempt should be made by the local authorities to settle the dispute amicably and in that connection, local visits and inquiry on the administrative side by the Sub-Divisional Magistrate can be helpful.

6. Special reports, whether copies of first-information reports with regard to offences committed or reports with respect to other occurrences, should be sent in distinctive envelopes. The envelope should be addressed to the officer concerned by name. If possible, the envelope may also indicate the nature of the occurrences or offences reported unless for some public reasons it may not be desirable to disclose the nature of the contents.

7. Officers should instruct their staff, government or private, to bring such envelopes to their notice without any delay.

8. Officers ought not to water down the significance of these special reports merely on account of their being received much more frequently and with respect to different types of matters, all of which may not ordinarily require their immediate attention. They should realise that the mere fact that provisions have been made for the sending of such special reports to those officers, signifies that the matters reported are to be treated as of a special kind and should deserve more than an ordinary or cursory attention.

9. When a special report is with respect to offences committed by a member of one community against another, an extra report emphasizing the communal nature of the incident should separately accompany it, or even may precede it, if the despatch of the special report to the various officers gets delayed, so that their pointed attention be attracted towards communal nature of the occurrences reported.

10. The Sub-Divisional Magistrate and the District Magistrate being mainly responsible for the maintenance of law and order within their jurisdiction, any application presented to other officers under local orders containing matters of communal nature should be sent by those officers to the Sub-Divisional Magistrate to ensure that he knows of the occurrence or of the apprehension of a communal occurrence. The Sub-Divisional Magistrate will keep District Magistrate informed about the matter. These officers would then be in a position to keep a vigilant eye on the various developments and would be in a better position to anticipate any disturbance of communal nature and to take necessary preventive action in good time.

11. Officers have to be particularly careful in accepting the assurances of the parties in regard to their peaceful intentions. In practice such assurances are given by only a few persons taken to be the representatives or the leaders of their community but it is not seldom that the other members of the community do not respect those assurances. The officers should make independent assessment of the position and take action according to their own assessment.

12. The directions about communication of information relating to communal occurrences should be scrupulously followed by the officers concerned.

13. The agency to collect information should be improved. The raising of the status and pay of the Chowkidar can be considered. The Sub-Inspectors themselves may contact Pradhans for information. Whatever the source of information, the Sub-Inspectors have to be careful to sift the correctness of the information as in rural environments the Chowkidar and Pradhan may not be immune from communal influences.

III. Of the various suggestions made by the witnesses, we would recommend the following :—

1. Political leaders should help to develop an outlook among the masses to view the incidents leading to riots as incidents between individuals and not as between communities.

2. Persons in authority should in their speeches impress upon the people to maintain law and order whenever suitable occasion offers itself.

3. There should be a social organisation of influential people belonging to all the communities to promote feeling of brotherhood between the communities.

4. Severe action should be taken against administrative officers who fail to take preventive measures against occurrence of communal riots and when such failure indicates negligence on their part. Similarly, severe action should be taken against any party or person found propagating hatred against any community.

5. Compensation be paid to the victims of communal riots.

6. Punitive tax should be imposed on the people of the locality where communal disturbances take place.

7. Text-books should not have such matters as preach hatred against any religion.

IV. We do not accept the following suggestions which in our opinion would not be conducive to the better administration and better relations between the communities :—

1. On receipt of information of a communal riot, a senior officer of the Home Department should proceed to the affected area and that some local M.L.A. or M.P. should, along with responsible members of the aggrieved community, accompany him.

2. A judicial enquiry should be held in every case.

3. The officer during whose regime the occurrence has taken place should be transferred and a new one posted for the inquiry. The officer should be punished under whose regime the trouble started.

4. Investigation should not be conducted by the officers who were in charge at the time of the occurrence of a communal riot.

5. The investigating and the prosecution officers should be punished if the culprits are not found guilty due to some legal lacunae.

6. Number of Muslims in the police should be increased and officers and men of both communities should be posted at every police thana or outpost. Muslims should be recruited to the police, P.A.C. and the military. Minority officers should be posted in disturbed areas.

We may mention that there is no bar against recruitment of Muslims in any of these services.

7. Issue of gun licences to the Muslims should be liberalised and licences for arms should be granted to Muslims for the protection of their life and property.

Issue of licence is in the discretion of the licensing authority and there is no provision in our knowledge which works adversely against the Muslims.

8. Communal disputes regarding cremation grounds etc. should be decided by Panchayats.

9. I.P.C. should be amended to provide for death punishment for the crime of arson.

(Sd/-) RAGHUBAR DAYAL,
Chairman.

(Sd/-) B. H. ZAIDI,
Member.

(Sd/-) M. M. PHILIP,
Member.

NEW DELHI;

Dated 3 Jun 1969.

ANNEXURES

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ANNEXURE I

LIST OF PERSONS AND ORGANISATIONS WHO
COMMUNAL DISTURBANCES THAT TOOK PLACE
PUR—U.P.) ON 24TH

FILED AFFIDAVITS/STATEMENTS ON THE
3 AND SUCHETPUR (DISTRICT GORAKH-
8 SEPTEMBER, 1967.

(Para 1.9 of Part I)

A—Affidavits

1. Shri Iqbal Hussain Khan, Advocate,
General Secretary,
Muslim Majlis-e-Mushawarat,
Rampur, U.P.
2. Shri Mohd. Shafi,
Hamlet Suchetpur,
Village Jungle Dumri No. 2,
P.S. Gulariha,
District Gorakhpur, U.P.
3. Shri Inayat,
Suchetpur,
Village Jungle Dumri No. 2,
P.S. Gulariha,
District Gorakhpur, U.P.
4. Shri Mohd. Yaseen,
Suchetpur,
Village Jungle Dumri No. 2,
P.S. Gulariha,
District Gorakhpur, U.P.
5. Shri Shauqat Ali,
Village Tarkulha,
P.S. Gulariha,
District Gorakhpur, U.P.
6. Shri Munir Ahmad,
Village Badharia,
P.S. Gulariha,
District Gorakhpur, U.P.
7. Shri Sakoor,
Village Jungle Maghi,
P.S. Gulariha,
District Gorakhpur, U.P.
8. Shri Gani,
Village Jungle Maghi,
P.S. Gulariha,
District Gorakhpur, U.P.
9. Shri Halcem,
Tola Mahuwawa,
Village Jainpur,
P.S. Gulariha,
District Gorakhpur, U.P.
10. Shri Lateef,
Tola Mahuwawa,
Village Jainpur,
P.S. Gulariha,
District Gorakhpur, U.P.

11. Shri Ghulam Hussain,
District Magistrate,
Gorakhpur, U.P.
12. Shri B. R. Kishore,
the then Superintendent of Police,
Gorakhpur,
(now Commandant, P.A.C.
VIII Battalion,
Bareilly).
13. Shri Hazari Lal Gupta,
Sub-Divisional Magistrate,
Sadar, Gorakhpur,
(now Deputy Collector,
Ballia).
14. Shri Mushtaq Ahmad,
Deputy Superintendent of Police,
Gorakhpur, U.P.
15. Shri Ram Avadh Tripathi,
Sub-Inspector of Police,
Gorakhpur, U.P.
16. Shri Thakur Lal Srivastava,
Sub-Inspector of Police,
Gorakhpur, U.P.
17. Shri Mohammad Azim Ansari,
Sub-Inspector of Police,
P.S. Kotwali,
Gorakhpur, U.P.
18. Shri Udai Bhan Singh,
Assistant Public Prosecutor,
Gorakhpur, U.P.
19. Shri Behari Lal Srivastava,
Inspector of Police,
In-charge P.S. Cantt.,
Gorakhpur, U.P.
20. Shri Kushal Pal Singh,
formerly Station Officer,
P.S. Gulariha,
Gorakhpur, U.P.
21. Shri Ram Dhiraj Singh,
Deputy Superintendent of Police,
Gorakhpur,
(now Security Officer,
Government Cement Factory,
Churk, Mirzapur).
22. Shri Ram Kishore Singh,
then Senior Sub-Inspector,
Local Intelligence Unit,
Gorakhpur, U.P.

B—Statements

23. Shri Mazharul Haq,
Shah Maroof,
Gorakhpur, U.P.
24. Shri Mohd. Sharif,
Basantpur,
Gorakhpur, U.P.

ANNEXURE II

NAMES OF WITNESSES EXAMINED AND DATES ON WHICH EXAMINED AT LUCKNOW,

(Paras. 1-13 and 2-1 of Part I)

<i>S. No.</i>	<i>Date</i>	<i>Name of witness</i>
1.	9-12-68 . . .	Shri Kushal Pal Singh, formerly S.H.O., Gulariha Bazar, P. S. Gorakhpur.
2.	Do. . . .	Shri Ram Kishore Singh, the then Senior Sub-Inspector, Local Intelligence Unit, Gorakhpur.
3.	Do. . . .	Shri Mohd. Azim Ansari, Sub-Inspector of Police, P. S. Kotwali, Gorakhpur, U.P.
4.	9-12-68 and 10-12-68 . . .	Shri Mushtaq Ahmed, Deputy Superintendent of Police, Gorakhpur.
5.	10-12-68 . . .	Shri Ghulam Hussain, District Magistrate, Gorakhpur.
6.	Do. . . .	Shri B. R. Kishore, the then Superintendent of Police, Gorakhpur, (now Commandant, VIII Battalion, P.A.C., Bareilly).
7.	Do. . . .	Shri V. N. Mishra, Commandant, XXVI Battalion, P.A.C. Gorakhpur.
8.	10-12-68 . . .	Shri Ram Dhiraj Singh, the then Deputy Superintendent of Police, Gorakhpur, (now Security Officer, Government Cement Factory, Churk, Mirzapur).
9.	11-12-68 . . .	Shri Hira Singh, Head Constable, (at the time posted to P. S. Gulariha).
10.	Do. . . .	Shri H. K. Kar, Deputy Inspector General of Police (Intelligence) Lucknow, U.P.
11.	Do. . . .	Subedar Bhubaneswar Singh, Platoon Commander, P.A.C. Gorakhpur.
12.	12-12-68 . . .	Shri Hazari Lal Gupta, the then Sub-Divisional Magistrate, Gorakhpur, (now Deputy Collector, Ballia).

ANNEXURE III

A. DOCUMENTS EXHIBITED IN THE COURSE OF ORAL EVIDENCE

(Para. 1-14 of Part I)

Exhibit No.	Name of witness filing the exhibit	Date	Description of exhibit
1	2	3	4
1.	Shri Kushal Pal Singh, formerly S.H.O., P. S. Gulariha Bazar, Gorakhpur.	9-12-1968	Copy of report entered at S. No. 14 in the General Diary of the Police Station on 16-8-67 at 2-45 p.m.
2.	Do.	Do.	Copy of application of Mohd. Halim dated 21-8-67 to the Superintendent of Police received from the S. P. on 30-8-67.
3.	Do.	Do.	Copy of Mohd. Khalil's application dated 6-9-67 addressed to the District Magistrate received in the Thana through the S.D.M.
4.	Do.	Do.	Copy of the Inspection report recorded by him in the case diary after inspecting the trouble spot on 24-9-67.
5.	Do.	Do.	Copy of report dated 24-9-67 from Camp Jainpur made by him for posting one company of P.A.C.
6.	Do.	Do.	Copy of report dated 24-9-67 from Camp Jainpur to S. P. for issue of order under Section 144, Cr. P. C.
7.	Do.	Do.	Copy of the plan of the various localities showing their distances.

8.	Shri Ram Kishore Singh, formerly Senior Sub-Inspector, Local Intelligence Unit, Gorakhpur.	Do.	Copy of Circular D. O. No. 5/1962, dated 28-2-1962 issued by the I.G.P., U. P. to all S.Ps.
9.	Do.	Do.	Copy of instructions issued by S. P. Gorakhpur, dated nil to all S.Os.
10.	Shri Ghulam Husain, District Magistrate, Gorakhpur	10-12-1968	Map showing the relative distances of the hamlet and localities affected on the 24th and 25th September, 1967.
11.	Shri B. R. Kishore, formerly S. P. Gorakhpur	Do.	Copy of Memo No. 1638/ST/67, dated 25-9-67 from S. P. Gorakhpur to S. O. Gulariha Bazar regarding arrest of absconding accused.
12.	Shri B. R. Kishore, formerly S. P. Gorakhpur	Do.	Copy of Memo No. 1639/ST/67, dated 25-9-67 from S. P. Gorakhpur to S. O. Gulariha Bazar to take firm action.
13.	Shri Hira Singh, Head Constable, P. S. Gulariha Bazar.	11-12-1968	Copy of the report entered by him in the General Diary at S. No. 22 on 28-12-1966.

B. LIST OF DOCUMENTS MENTIONED IN THE COURSE OF ORAL EVIDENCE AND SUPPLIED THEREAFTER.

Exhibit No.	Name of witness	Date of appearance	Description of exhibit	Date of receipt of exhibit by the Commission.
1	2	3	4	5
1.	Shri Mushtaq Ahmad, Deputy Superintendent of Police.	9-12-1968	Statement showing the particulars of cases, viz., date of incident, number of accused, their residence, stage of the trial in cases that have been charge-sheeted, the loss of property etc.	11-12-1968.

ANNEXURE IV

LIST OF PERSONS WHO WERE CALLED TO GIVE ORAL EVIDENCE BUT DID NOT APPEAR.

(Para. 2-2 of Part I)

Sl. No.	Name and address	Date on which called	Reasons for non-appearance
1.	Shri P. C. Mall, D.I.G., Gorakhpur Range (now D.I.G., Varanasi Range).	11-12-1968	Was down with influenza.

ANNEXURE V

LIST OF DOCUMENTS SUMMONED BY THE COMMISSION FOR PERUSAL.

(Para. 1.15 of Part I)

1. Original Case Diary in case Crime No. 103 u/s 147/148/149/302/307 I.P.C., P.S. Gulariha Bazar, District Gorakhpur.
2. Original Case Diary in case Crime No. 104 u/s 147/148/149/302/395/307/324 I.P.C., P. S. Gulariha Bazar, District Gorakhpur.
3. Copies of statements of witnesses in the cases referred to at 1 and 2 above.
4. Copies of statements of the accused in both the cases.
5. Copies of committal orders relating to both the cases.
6. Copy of Police General Diary Report No. 22, dated 28-12-66, made by Head Constable, Shri Hira Singh after visiting and making enquiries in Village Mahuwawa.
7. Copy of Police General Diary Report No. 26, dated 5-1-1967.
8. Copy of FIR relating to incidents, dated 24-9-67.
9. Copy of FIR relating to incidents dated 25-9-1967.
10. Original application, dated 24-12-66 submitted by Mohd. Saleem, Mohd. Khalil and three others.
11. Copy of statements in Court of Doctor in ST No. 128/68—State v. Shere and others.
12. Copy of report of the inquiry conducted by Shri M. Lal, I.C.S., Member, Board of Revenue, U. P., Lucknow, on the communal disturbances in Jainpur and Suchetpur.
13. Statements submitted by officers to Shri M. Lal and the evidence recorded.
14. Copy of non-cognisable FIR No. 210, dated June 6, 1967.
15. Copy of non-cognisable FIR No. 211, dated June 7, 1967.
16. Copy of Radiogram sent by the District Magistrate and Superintendent of Police, Gorakhpur to Chief Secretary/Home Secretary on 25-9-67.
17. Original applications of Muslims submitted to Station Officer on 16-8-67 and to the District Magistrate on 17-8-67 alleging that Hindus were digging the graves of Muslims in order to efface the sign of grave-yards.
18. Copy of report dated 5-1-67 of Station Officer, P. S. Gulariha Bazar for taking action u/s 107/117 of Cr. P. C.
19. Copy of order dated 3-2-67 of Sub-Divisional Magistrate directing proceedings u/s 145 Cr. P.C.
20. Copy of U. P. Government D. O. No. 2301-D/VIII-B, dated 21/23rd April, 1953 to all District Magistrates instructing them to keep the Government and the Commissioners informed about incidents and occurrences within the State which are of any significance from communal, political,

agrarian, economic or administrative points of view and having a bearing direct or indirect on the law and order situation and also posting them with progress made in their investigation, etc.

21. Copy of U. P. Government D. O. No. 722-D/VIII-B, dated 2nd February, 1960 asking for reports referred to in D. O. of 21/23rd April, 1953 to be sent in duplicate to the Home Secretary to the Government.
22. Copy of D. O. No. 5638-D/VIII-B-489/61, dated 28th February, 1962 inviting attention of all the District Magistrates to ensure observance of the procedure outlined in the D. O. letter of 21/23rd April, 1953.
23. Copy of application of Shri Mohd. Khalil dated 6-9-67 addressed to District Magistrate regarding demolition of the tomb of Wazir Ali by Ram Narain, Somai, Balli, Hira, Sita, Bishunath, Lakhani and Budhu received at the P. S. on 13-9-67 through S. D. M. Sadar attached to C.O. No. 4 dated 27-9-67 of case Mahuwawa murder (Cr. No. 103).
24. Copy of application of Mohd. Halim dated 21-8-1967 addressed to S. P. received at the P. S. on 2-9-1967 regarding inactivity of local Police in respect of a report lodged with S. O. Gulariha Bazar on 16-8-67 in respect of the demolition of 10 graves.
25. Application of Sher Mohd. r/o Mahuwawa, dated 9-6-67 attached to the report u/s 107 Cr. P. C. dated 11-6-67 regarding attack on the applicant, his son Syed and his wife and sister-in-law who received injuries on 6-6-67 at 8 p.m. caused by Ram Narain and others.
26. Copy of G. D. No. 14, dated 16-8-1967 at 14.45 hrs. regarding written complaint lodged by Shri Mohd. Halim in respect of the demolition of 10 graves.
27. Copy of G. D. No. 6, dated 5-1-1967 at 16-30 hrs. regarding return of S. O. from Mahuwawa confirming for action u/s 107 Cr. P. C. against both the parties.