

**REPORT
of
The Non-Official Judicial Inquiry Commission
on**

**THE HOLOCAUST OF ASSAM
BEFORE, DURING AND AFTER ELECTION,
1983**

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**ASOM RAJYIK FREEDOM FIGHTERS' ASSOCIATION
GUWAHATI : ASSAM**

REPORT OF THE NON-OFFICIAL JUDICIAL INQUIRY COMMISSION ON THE
HOLOCAUST OF ASSAM, BEFORE, DURING AND AFTER ELECTION, 1983

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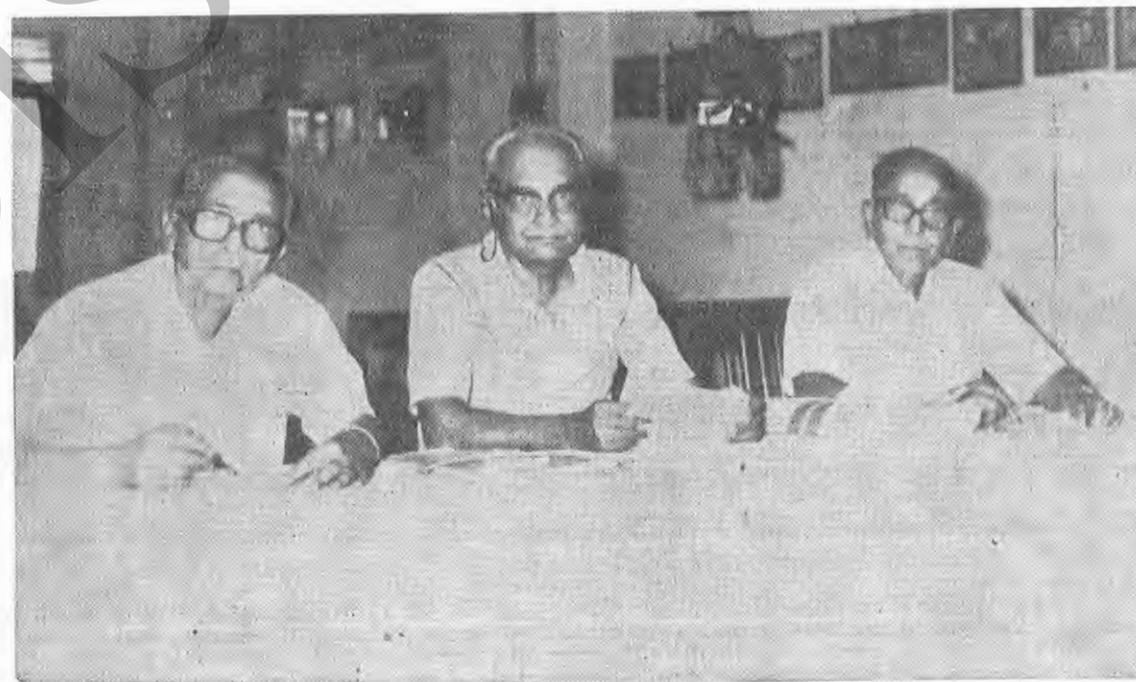
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FOREWORD

This Report is the result of intense labour put in by the Mehta Commission, appointed by the Assam Rajyik Freedom Fighters' Association, in the wake of unbelievable police atrocities committed on the people of Assam and unprecedented violence and group clashes in the State. Such outburst of violence and group-rivalries, on the present scale, was unknown in the history of Assam, which is known for its good relation amongst different communities and whose people are proverbially of peaceful nature. The holocaust that took place before and immediately after the election held in February, 1983, therefore, shook the people of the State to the depth of their heart and it created a general feeling of surprise and consternation in the whole country and, indeed, the international media of communication could neglect it no longer. How is it that the process for a "free and fair election", as the Government of India is never tired of terming it, could lead to more than 3000 deaths and many more thousands wounded? How could it be free and how fair was it?

There was a persistent demand made by people of Assam and most of the Opposition parties of India on the Government of India, to hold a judicial inquiry into these massacres. But all that was done, was to hold a belated administrative inquiry by a retired Chief Secretary of the U.P. Government. Nobody in Assam, who was affected by these atrocities and murders on a mass-scale, co-operated with this sham inquiry and even so, the Report of this inquiry has not seen the light of the day as yet.

If is against this back-drop, that the Assam Rajyik Freedom Fighters' Association, a non-party and non-electioneering organisation of erstwhile freedom fighters devoted to constructive works and civil rights and freedoms of the people as enshrined in our Constitution, in its general meeting held on 26th and 27th November, 1983, at Mangaldoi, decided to constitute a non-official judicial inquiry commission in this regard. The purpose of this "high-powered non-official judicial inquiry," was, "to bring out the solid facts, circumstances and causes of these murders, rapes, arsons, destruction and devastation and general atrocities, in the absence of which the blame for the same could be laid wrongly on the "Assamese people." It was decided that to make the inquiry quick and effective, the period of inquiry should be limited to four months only i.e. from January 1, 1984 to April 30, 1984. An

advisory committee for advice and co-ordination was also set up with Shri M. C. Pathak, a retired Chief Justice of Guwahati High Court, as Chairman and Shri Biman Chandra Bora, a retired I.A.S. officer, as Secretary, and three other eminent lawyers, as members : Shri D.K. Kakati, Advocate was appointed Law Consultant of the Association.

It was decided by the Association that an eminent jurist preferably from outside Assam, should be approached to undertake this enquiry. This would ensure absolute impartiality and carry greater conviction with the public at large. After much scouting, the choice fell on Shri T. U. Mehta, retired Chief Justice of Himachal Pradesh High Court and he was approached with hope and earnestness. The Association has great pleasure in announcing, with feelings of deep gratitude, that Shri Mehta accepted this onerous task as a labour of love.

Although it was originally proposed that the inquiry should be done by a One-man Commission, it was modified principally at the suggestion of Justice Mehta himself, that it would be of great advantage, if two local residents of Assam, enjoying public confidence and having reputation of impartiality—not necessarily jurists, be included in the Commission. This suggestion was readily agreed to and Shri Ganesh Chandra Phookan I.A.S., retired Finance Commissioner and Secretary to the Government of Assam, and Professor Raihan Shah, a retired professor of English Literature, Cotton College, Guwahati, were included as the other two members of the Commission.

It will, perhaps be appropriate to recount very briefly the long and larger background which led the Government of India and Administration of Assam, to rush through the February election of 1983. The origin of the problem lies in a rather slow and silent invasion of Assam by a large number of land hungry illiterate peasants from what was then a neighbouring province of Bengal.

The entire Bengal then being a part and parcel of India, it was legally difficult to stop this immigration process—it being merely a case of migration of Indians from one part of the country to another. Moreover, the Muslim League Ministry in Assam headed by Sir Muhammad Saadulla advanced the spacious argument that the migration of East-Bengal Muslims into Assam would help to boost up the Grow more Food campaign. Actually, this movement of a huge number of people, was a clandestine move to convert Assam into a Muslim-majority province. This inference finds support from the Lahore Resolution of 1940, of the All-India Muslim League, which had openly demanded inclusion of Assam in Pakistan, along with the Muslim-majority Bengal. When Lord Wavell, the then Viceroy of India was told by Sir Saadulla that immigration of East Bengal Muslims to Assam would help grow more food, the military Viceroy could not help observing, with sarcasm, that the idea behind this plan was “not to grow more food but to grow more Muslims” (Wavell’s Diary).

The Hindus of Bengal on the other hand, encouraged this process under the

fond hope that in course of time, the Assamese would become a small minority, which would be absorbed painlessly into the larger Bengali fold and form a solid Bengali block in Eastern India.

After India attained freedom in 1947, the eastern half of Bengal became the eastern wing of Pakistan. Pakistan put direct and indirect pressure on the Hindus to leave Pakistan. This ultimately resulted in great riots there and Bengali Hindus too began to flock to Assam and Tripura. The pressure of this extra population has been so great on these states of North-Eastern India, that Tripura has already become a Bengali-majority state, where Tripuris, the original inhabitants, are being gradually wiped out or absorbed. Assam is facing this grim prospect and, therefore, is resisting it with its back to the wall. Government of India, asked the neighbouring states, to regard these Hindu immigrants, as "Refugees", and rehabilitate them. This increase in Pakistani Hindu population has encouraged further Muslim immigration from East Pakistan (now Bangladesh) and there is a virtual competition between Bengali Hindus and Muslims in the matter of immigration into Assam. The matter has been made worse by the fact that the border area between Assam and Bangladesh is inhabited by Muslims whose ethnic, linguistic and cultural affinities make them almost indistinguishable from their neighbours on the other side of the border. Bangladesh is encouraging migration of their citizens into Assam and they become intolerant even at the suggestion of putting a mere barbed wire fence on the Indian side of the border.

It is not as though the voice of protest against this unchecked immigration and infiltration has been raised only now. Government of India's attention has been drawn to this problem from time to time. In 1950, a legislation, Illegal Immigrants (Expulsion from Assam) Act was enacted in the teeth of opposition from the Muslim section of these immigrants and their supporters who had objected that only the Muslim immigrants from East Pakistan will have to bear the brunt of this Act and the non-Muslim immigrants will be accommodated as "refugees". The Act, however, remained ineffective for want of adequate armed police help from the Centre, as Assam Government was very deficient in this respect and it was not possible for them to detect the huge number of foreigners entrenched in wide and almost exclusive area of Char (riverine) lands and forest reserves of the State. The Central Government did not only not comply with the request of the State Government in this respect but also abolished it after six years or so at the instance of interested people. On July 10, 1962 Prime Minister Nehru, in reply to a representation made by Assam Congress members in Parliament had written to say: "You refer to Pakistani infiltration. This is perfectly true. But this infiltration from Bengal to Assam has been taking place from a very long time past. Therefore, we should not look upon it as essentially a political move. Nevertheless, it is true that this infiltration should be stopped. . . . Probably it will be difficult now to deal with illegal immigrants who came before 1962, we might therefore, fix 1952 as the date of our enquiry." Nothing, however, was done to act upon this assurance. When in November, 1962, the Chinese invaded Assam,

the Pakistani immigrants were found so inimical to India that they flew Pakistani and white flags in their localities to demonstrate friendship and amity to the invaders.

In 1963, the question of influx of immigrant Muslims from Pakistan was raised again in the Assam Assembly and Indian Parliament which led Shri Gulzarilal Nanda, the then Home Minister of India to visit Assam in March 1964. Elaborate memoranda were submitted before him by the people and organisations including the Assam Provincial Congress Committee and the Assam Assembly Congress Party on this problem and remedy sought for.

The memorandum submitted on March 19, 1964 to the Home Minister by the Assam Assembly Congress Party said :—

“There has been purposeful encouragement to Pakistani nationals for increasing the Muslim population in this State. Pakistan is avowedly an Islamic State with the ideology basically different from that of ours, has been and will continue to try to include the contiguous Muslim-majority areas of Assam in Pakistan under the plea of liberating the Muslims even by recourse to arms. Assam being the contiguous State of Pakistan cannot be indifferent and oblivious to this potential danger.” It stated further :

“There has been large-scale infiltration of Pakistani nationals and they have been staying here illegally without being detected. Detection and deportation of these unauthorised Pakistani infiltrants has become a stupendous problem. Assam has a very large number of immigrant Muslim Population who migrated into Assam from areas which are now in Pakistan. The influx has been continuing and this has endangered the security of the State. The present infiltrants get mixed up with the immigrants who had come to this State earlier in lakhs from the areas now Pakistan and common habitants of new infiltrants with natural ties of religion, language, customs and habits and common economic interests and ethnology : People coming from the other side of the border can easily cross it and become unidentifiable with the people living on our side of the border and spread over to the other parts of the state in large numbers. A target date should be fixed within which the illegal infiltrants are to be deported and all possible and necessary measures should be taken for completing the task within the stipulated period. The Policy in this regard should be firm and clear.....”

Home Minister Nanda was satisfied about large-scale infiltration of Pakistani into the State. He had visited some places of tension and held personal enquiries into some incidents perpetrated by these people on those places and found them to be true. He had suggested and ordered some remedial measures. Police was given some substantial power to detect and prosecute foreign infiltrants and some Tribunals were constituted for their trial and deportation. The State Government of the unwary and generous Chief Minister Chaliha was obliged to take some measures for detection and

deportation of these foreigners and at once a hue and cry was raised against him by interested parties, though those measures were very mild and absolutely inadequate for the gigantic problem and the then Chief Secretary of the State Government Shri A.N. Kidwai (from U.P.) had himself admitted it and told Press representatives that at the present rate deportation of foreign infiltrants, it will take the Government about thirty years to get rid of the lakhs of these immigrants in the State.

In the Second Indo-Pakistani War of 1965 the immigration of a sudden and fresh wave of lakhs of Pakistani Hindus into this State took place aggravating the problem still further. An Assam member of Parliament Shri P.C. Barooah having drawn the attention of the Central Government to this problem of so-called refugees in Assam, the then Foreign Minister Sardar Swaran Singh, had, on April 4, 1965 gave out the assurance that no migrant from East Pakistan after March 31, 1965 shall be recognised and registered as refugees. But this assurance was also not acted upon.

Srimati Gandhi who succeeded Prime Minister Lal Bahadur Shastri developed a cold foot about these measures. The Tribunals were terminated and accommodation of Pakistani "refugees" and infiltration of other Pakistanis continued as before.

In 1969 split in the party in power i.e. Congress, brought about in Assam the infiltrant element of the Congress Party (both Muslim and non-Muslim) which was banking on the votes of these aliens for its success in the Assembly election, to the ascendancy. The migration of many more lakhs of Pakistanis during the Bangladesh War of 1971 strengthened their position still further.

The continued influx of these foreigners and the overt and covert means by which their names were included in the voters' list, have already so strengthened their position in the Legislature in Assam that they can successfully threaten the stability of any government that is not prepared to toe their line. Unless these immigrants are detected, their names are removed from the Electoral rolls and they are deported, any government, elected on the present electoral rolls (i.e. of 1979), like the present government of Assam, represent to a large extent, the foreigners' interest only.

When, therefore, the Central Government wanted to force their way by holding Parliamentary election in 1980, on the basis of the defective electoral rolls of 1979, the All-Assam Students' Union, the All-Assam Gana Sangram Parishad and in fact the entire Assam, rose like one man and successfully stopped election in twelve out of fourteen constituencies. Even the Meghalaya people joined this boycott of election.

The only two seats which could be filled in belonged to Cachar, a Bengali-speaking district of Assam. In spite of this powerful and successful non-violent resistance shown by the people of Assam, the Government of India learnt nothing. Lure of power goaded the Central Government and the party in power, to apply brute force again and somehow complete the process of the illegal election of February, 1983. But in spite of 3000 deaths and many more thousands of people wounded leaving a trail of arson, destruction of properties worth crores of rupees, and last but not the least, infliction of deep wounds in the mind of the people, the election drew only about 16 P.C. of votes, almost all of these cast by foreigners and this despite the wanton application of batons and bullets, rifles and machine guns of more than 270 companies of para-military forces imported from outside Assam.

Such was the magnitude of the problem that the Mehta Commission was called upon to prove, examine and analyse judicially, to find out its real causes. The catastrophe engulfed the entire Assam except the Cachar district. It involved every town and every village. It affected the rich and the poor, the Hindu and Muslims alike. It was an astounding feat of the Mehta Commission that in spite of a very short time at their disposal, they took pains to visit almost all the sites of major incidents, scattered throughout the State, despite inclement weather and difficulties of communication.

The Commission was formally inaugurated on 19th February, 1984. It was decided in the same meeting that memoranda from different organisations and individuals would be received till April 20, 1984 (later extended to May 7th) and that the first meeting of the Commission would be held in Kumar Bhaskar Natya Mandir, Guwahati on April 21, 1984. It was expected that the Commission would submit its report on June 1984, but the date had to be extended to August 31, 1984. The Assam Rajyik Freedom fighters' Association record its profound gratitude to the public, both organisations and individuals, for their tremendous response and co-operation, extended to the Commission in their difficult tasks. They are too numerous to mention separately. But we cannot avoid mentioning, with appreciation, the All-Assam Students' Union, the All-Assam Gana Sangram Parishad (with their constituent units), the All-Assam Karmachari Parishad, the All-Assam Lawyers' Association and Guwahati Lawyers' Association, and the Kamrup Natya Samiti, but for whose active help and co-operation the Assam Rajyik Freedom Fighters' Association could not have even undertaken this venture.

The Report of the Commission was submitted on August 20, 1984. Within this short period of 4 months, the Commission has visited numerous places—mostly in rural

areas, gathered evidence, examined hundreds of witnesses, gazed through more than 5000 memoranda and has brought to bear careful scrutiny on them. It has shown great powers of comprehension and speed by completing this document within such a short time. By any standard, it is a remarkable feat.

Our cordial thanks are due to Shri T.U. Mehta, who, inspite of a heavy schedule and great demand on his time as a Senior Counsel in the Supreme Court could make time to undertake this arduous task. It could not have been possible but for his great love for Assam and its suffering people as well as his love for democratic principles which he holds dear. Our thanks are equally due to his other two colleagues—Shri Ganesh Chandra Phukan and Professor Raihan Shah who did not spare themselves in sharing the heavy burden of the Commission, inspite of age. We cannot conclude this foreword without recalling the selfless service of Shri Biman Chandra Bora, Secretary of the Commission and his successor Shri Robindra Nath Nabis, who had to take over the duty of the Secretary from Shri Bora, at a very critical stage of the Commission's work, owing to the latter's indifferent health.

The Report of the Commission will speak for itself. We release this great and illuminating document to the people of the country and the world-at-large for their assessment.

GUWAHATI : 3
January 26, 1985

Harendra Nath Barua
President,
For Assam Rajyik Freedom Fighters'
Association, Guwahati.

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District Officers taking shelter of instructions from above failed to perform their statutory duties to preserve law and order-civil services in Assam did not achieve even a minimum level of standard of civil service as envisaged in the Constitution, a little inclination to some awareness of their statutory duties would have saved the lives of thousands of persons and property worth crores of rupees.					
	12.2		(ii) Promises to revise electoral rolls ignored.		
Who was responsible at the top ? Those in power at the Centre, Election Commission, politicians who wanted to capture power by hook or crook, Governor, his advisers bureaucrats at the State's Secretariat.					
	12.3	179	(iii) Failure of talks followed by terror and draconian measures providing grave and sudden provocation to people.		
			(iv) Excuse of Constitutional compulsion a mere eye-wash.		
			(v) Election Commission failed to play a constructive role.		
			(vi) Power captured with repression.		
			(vii) Provocative speeches of politicians flared up group violence.		
			(viii) Negligence of law and order.		
			(ix) Armed forces and police disregard for law and order.		
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CHAPTER—I

APPOINTMENT OF AND REFERENCE TO THE COMMISSION

1.1 : The Assam Rajyik Freedom Fighters' Association, in its general meeting held on 26th and 27th November, 1983 at Mangaldoi passed a resolution for appointing a Commission of Inquiry to enquire into and report on the incidents that took place during the disturbances that occurred before, during and after the last general election in Assam and more particularly during the period from 1st January, 1983 to 30th April, 1983 in the whole of the State of Assam. It was particularly resolved that the incidents which took place during the above period should be examined with reference to the following points:—

- (1) Circumstances leading to the disturbances,
- (2) Causes, nature and extent of disturbances,
- (3) Whether adequate measures were taken by the authorities to maintain law and order.
- (4) Whether the disturbances were pre-meditated and pre-planned; if so, persons or groups of persons or authorities found responsible for the same.
- (5) The nature and extent of damage to the properties.
- (6) Any other circumstances which the commission may think necessary or may appear to the Commission relevant.

1.2 : The Commission was required to follow the relevant provisions of the Commission of Inquiry Act, 1952 as far as practicable.

1.3 : The Commission appointed later consists of the following members—

- (1) Shri T.U. Mehta, Retd. Chief Justice, High Court of Himachal Pradesh.
- (2) Shri G.C. Phukan, I.A.S. Retd. Financial Commissioner, Govt. of Assam
- (3) Shri Raihan Shah, Retd. Professor, Cotton College, Gauhati.

1.4 : The first meeting of the Commission was held at Gauhati on 19th Feb '84. The Commission then framed a questionnaire to be issued, published and circulated amongst all the members of the public, public institutions, the Govt. departments and others. At Appendix-A is the model questionnaire which was proposed to be circulated. This questionnaire was given a very wide publicity by the office of the Commission in local newspapers and as many as 50,000 copies of the questionnaire have been distributed all over the state as well as outside the state of Assam. The date of filing memoranda in response to the questionnaire was initially fixed up to 7th of May, but was subsequently extended from time to time. The Commission has liberally accepted memoranda even subsequent to this during its tour to different affected areas. In response to this questionnaire, as many as about six thousand memoranda have been received from different individuals, organisations and associations, many of them signed by several persons jointly. The Government of Assam and Government departments and officers

were also invited to respond to the questionnaire, but no response has been available from these sources. In fact, the Government of Assam is found to have issued a circular to all Government servants and employees of Public Sector Undertakings that "No Government Department, office, or Government servant should submit any memorandum, documents, Government records etc." to this Commission and that no Government servant should appear before it. At Annexure-B is a copy of the said Government circular. Political parties have also been invited to respond to this questionnaire. But all of them have not responded at the party level. AASU and AAGSP, who have vigorously led the campaign for identifying the foreigners and deporting them as well as for correcting the electoral rolls which contain their names, have also been invited to respond to the questionnaire and they have done so.

In the meanwhile, on 20th April, 1984 the Commission held its meeting at Gauhati for the purpose of deciding the procedure to be adopted during the course of the Inquiry. All political parties, associations and individuals were invited to give suggestions with regard to the procedure to be

adopted by the Commission. Accordingly, the procedure was determined by the Commission in its sitting at Gauri Sadan in presence of parties and individual persons. At Annexure-C is the copy of the procedure which was agreed upon and decided by the Commission.

1.5 : At the same sitting the Commission also fixed its sittings at Gauhati and at other places in Assam which were proposed to be locally inspected. The Commission proposed to start its sittings at Gauhati from 14th of May onwards. At Annexure-D is the work schedule according to which the Commission actually worked at Gauhati and other places.

1.6 : The Commission actually started its sitting at the Bhaskar Natya Mandir from 14th May onwards and started recording evidence produced by the parties with the help of Advocates. The Commission also held 36 sittings at various places in the interior. During the course of these sittings the Commission examined some memorialists and received the evidence which was offered during the course of Inquiry. The Commission has examined in all about 600 witnesses.

CHAPTER—II

GENESIS

2.1 : The record which is with the Commission is full of facts which supply necessary background explaining the events which occurred between 1st of January, 1983 and 30th of April, 1983. The Commission has tried its best to focus its attention only on the points of reference as referred to it. However, these points of reference cannot be adequately enquired into and explained without reference to the necessary background which has generated some of the most violent convulsions in the history of Assam having their permanent social and political repercussions for all time to come. In fact one of the points of reference is to enquire into the "circumstances leading to the disturbances." Therefore, a reference to the background mentioned here is unavoidable and squarely falls within the terms of reference.

2.2 : The task of this Commission, as we understand, is not to act as a mere chronicler of different events but to find out the real causes and nature of the violent disturbances which, as shall be seen subsequently, have resulted in virtual blood-bath, loss of thousands of innocent lives, permanent physical injury to thousands, and loss of property rendering millions of people destitute and homeless. This violence has resulted not merely in colossal loss of life and property, but has also sown the seeds of permanent hatred and group animosity in the social life of the people who have otherwise proved to be cultured, peace-loving, patriotic, assimilative and secular in their attitude.

2.3 : The root cause of every social, economic and political trouble in Assam is admittedly the influx of immigrants into this land which started right from the British period. The Commission does not propose to go deep into the various problems created by this influx of immigrants, which is described by Assamese intelligentsia as "a silent invasion" of their homeland, but the Commission cannot avoid making a reference to some broad facts constituting minimum background and explaining the violence which took place during the relevant period.

2.4 : The problem of East Bengal migrants in the State of Assam is obviously very old. The 1891 census reported that there were 45 thousand East Bengal migrants from the districts of Mymensingh and Rangpur in Assam out of the total of 510 thousand migrants in the state, 83 percents of whom worked in the tea gardens. However, the major influx of Bengali Muslims seems to have begun after the year 1900. The 1931 Census Superintendent wrote, in a statement which is frequently quoted by the Assamese, that the above referred migration was "likely to alter permanently the whole future of Assam and to destroy, more surely than did the Burmese invaders of 1820, the whole structure of Assamese culture and civilization." The Census reported that the East Bengali settlers had moved up the Brahmaputra valley and formed 14 percent of the population of Nowgong district and were rapidly taking up waste lands in Kamrup. Mr. C.S Mullan,

the Superintendent of Census Operation, Assam, 1931, observed :

“Probably the most important event in the province during the last 25 years, an event, moreover, which seems likely to alter permanently the whole future of Assam and to destroy the whole structure of Assamese culture and civilization, has been the invasion by a vast horde of land-hungry immigrants, mostly Muslims, from the districts of East Bengal, and, in particular, from Mymensingh.....”

This movement of Bengali Muslims into Assam continued throughout the following decade. In 1951 the Census Commissioner Mr R B. Vaghaiwalla observed as under :—

“I have personally seen hundreds of persons coming by trains during the first months I held charge of Goalpara district. I have the same experience as the Deputy Commissioner in Cachar during 1948-49 when hundreds of Muslim immigrants regularly travelled by the hill section railway from Badarpur to Lumding, in order to go to Assam Valley for settlement.”

The 1951 Census Report further states : “Out of a total number of 8, 33, 288 persons born in Pakistan and censused in Assam 2,74,455 are refugees, and 5,88,833 are non-refugee immigrants from Pakistan. A small element of Hindus, especially of the Namsudra class, also forms part of the land-hungry immigrants ; yet an overwhelming majority of over 90 percent, if not more, consists of Muslims alone.”

2.5 : In 1961 the Muslims of Goalpara constituted 43.3 percent of the population, 41.2 percent in Nowgong, 39.2 percent in Cachar and 29.3 percent in Kamrup. (The figures are taken from Myron Weiner's book titled “Sons of the Soil”)

2.6 : Mr Myron Weiner in his above-referred book observes at page 79 as under :—

“Assam has been the fastest growing area in the sub-continent for the past seventy years. Its population has grown more than fourfold ; from 3.3 million in 1901 to nearly 15 million in 1971, as compared with an increase of 130 percent for India as a whole.”

2.7 : At this stage it will be interesting to note the percentage variation of population of India and Assam as follows :—

Years	Assam	India
1901—71	16.8	5.7
1911—21	20.2	0.3
1921—31	20.1	11.0
1931—41	20.5	14.2
1941—51	20.1	13.3
1951—61	35.0	21.6
1961—71	34.75	24.6

These figures clearly show the phenomenal rise of population of Assam after partition of the country and during the post-independence period. In 1951-61 and 1961-71 decades the growth rate was the highest in Assam as compared to other States in India. This abnormal increase is not due to the Assamese producing more children. The Sibsagar District, the only district virtually free from immigration pressure, had a growth rate of only 24.43% in the 1951-61 decade and 21.81% in the following decade. These rates compare favourably to the all India increase.

2.8 : The fact about the above-referred influx of immigrants into Assam from East Bengal cannot be over-emphasised in view of even the official recognition of it at the Government level. As early as 1950 the statement of objects and reasons for the illegal Immigrants (Expulsion from Assam) Act of 1950 noted as under :

"During the last few months a serious situation has arisen from the immigration of a very large number of East Bengal residents into Assam. Such large migration is disturbing the economy of the province besides giving rise to a serious law and order problem."

On September 29, 1950 Sardar Vallabhbhai Patel wrote to Prime Minister Jawaharlal as under :

"The report that 15 to 20 p. c. of the incoming Muslims are new immigrants is rather disquieting. As it is, Assam's hands are full with refugees on one hand and earthquake and flood victims on the other. To add to all this, the burden of dealing with this new incoming Muslims would not only be most irksome but undesirable."

In August, 1963 the Ministry of Information and Broadcasting, Government of India issued a booklet on this question which gives the following table showing statistical picture of the growth of Muslim population in Assam, West Bengal and Tripura in the census decade 1951-61.

(figures in .000)

State	Muslim population 1951	Muslim population 1961	Percentage increase.
Assam	1996	2765	39
West Bengal	5118	6985	38
Tripura	137	230	68

The said official pamphlet further states as under :

"There is only one scientific explanation for this phenomenon—there was obviously a flow of Muslim population from East Pakistan to Tripura, Assam and West Bengal in the Indo-Pakistan Census decade 1951-61."

29 : In 1965 the Intelligence Bureau (Ministry of Home Affairs) prepared a text of the "Prevention of Infiltration from Pakistan Scheme" (shortly known as P.I.P. Scheme). Speaking about the problem of illegal immigration into Assam the text states as under :

"The number of illegal immigrants into Assam from Pakistan over the course of 12 years was very conservatively estimated at about 250 thousand. Local unofficial estimates however put this figure even higher. The fact that such a large number of immigrants succeeded in illegally crossing the frontier and settling down unnoticed would prove that the measures so far taken have not been effective. Indeed very large pockets in Nowgong, Darrang, Goalpara, North Lakhimpur district are inhabited almost entirely by Muslims, a large proportion of whom are new immigrants."

The pockets of the districts named above have been the principal places of violent disturbances with which this Commission is concerned. The said text further states as under :

"In several past instances it has been seen that while they have come for their making a living in this country, their sympathies lie entirely with Pakistan. This can be illustrated by the attitude of immigrants in Darrang district during the time of the Chinese invasion in November, 1962 and Morajhar area of Nowgong district. Means, therefore, will have to be adopted to detect and remove these illegal immigrants who have already settled in Assam."

The above-referred text of the Intelligence Bureau provides a very safe clue to the reaction of the Assamese people to the pro-

blem of illegal migration of foreigners into their homeland. These facts also explain the root causes which led to the eruption of unprecedented violence after the declaration of elections to State Legislative Assembly in the month of February, 1983.

2.10 : Obviously, the acuteness of the problem is not confined merely to the demographic picture of population in Assam. Because such unprecedented influx of illegal immigrants would necessarily result in economic, social and political problems which would contribute greatly to the generation of conflicting interests. As rightly observed by Mr. Myron Weiner in his above-referred book "Sons of the Soil"—

"The presence of these migrants has shaken the foundations of Assamese social structure and created solidarity among the Assamese even while generating cleavages between the indigenous Assamese and the indigenous tribals. It has influenced the educational, social, and economic aspirations of countless Assamese, determined their central political concerns, and become a decisive factor in the periodic restructuring of the State's boundaries. Migration to Assam has also given rise to powerful assimilationist and nativist sentiments and backlash separatist agitations, to massive conflicts over language, education, and employment policy, and to political cleavages that have not only led to the intervention of India's Central Government and the use of the Indian Army, but have also affected Assam's relationship to neighbouring Bangladesh, formerly East Bengal, and hence India's relationship to Pakistan. In short, migration has been a force for social cultural, economic, and political change in Assam." (page 81).

In the same book at page 83 the learned author further observes as under :

"The Assamese often think of themselves as a 'forgotten' and 'neglected' state within the Indian union, and as a neglected people in danger of being overwhelmed by migrant peoples and absorbed by neighbouring States."

2.11 : Evidence shows that large chunks of fertile land of Brahmaputra Valley were allowed to be settled over by East Pakistani Muslims under the pretext of Grow More Food plan by the then communal-minded Muslim rulers, and even thereafter, the silent invasion was allowed to continue. The following table shows how this influx has caused undue pressure on habitable land area in Assam.

Table showing population pressure on land

Year	Population	Habitable land in Sq.Km.	Density per Sq.Km
1961	1,08,37,000	35,3546	306.5
1971	1,46,25,000	37,810	368.8
1981	2,04,40,000	40,540	504.1

This table clearly brings out the nature of population pressure on land since 1971 which is obviously the result of illegal immigration. The slight increase in habitable land areas in 1961-1981 is accounted for by the opening of large chunks of reserve forests and grazing reserves for rehabilitation of refugees from the neighbouring areas. An assessment as regards the encroachment in the State's dwindling forest reserves made in 1980-81 seems to have revealed that by then, about 700 Sq. Kms. of reserve forests had already been encroached upon. This has again resulted in more economic problems. Evidence shows that the immigrants who were in search of land and who were more tough in their struggle for existence could successfully deprive the tribals in certain

areas of their agricultural land by methods fair or foul. As Shekhar Gupta records in his book "Assam : A Valley Divided" ;

"From the char lands the immigrants expanded horizontally, rapidly devouring land owned by primitive and gullible tribes. Amongst the worst hit were Lalungs of Nowgong who, decades later, vented their fury on Mymensinghians around Nellie, an extension of Nowgong Charlands" (P. 102)

The author further note :

"With the virtual acquiescence of the indigenous leadership the British went ahead with colonisation concentrating on Nowgong district and Mangaldai Sub-division which, during the February 1983 poll, accounted for three-fourths of the nearly 7000 dead in ethnic violence. The reasons for the outburst are thus not far to seek"

Here, it would not be out of place to make a short reference to what is known as the "line system" which was reviewed as early as 1938 by Hockenull Committee. The "line system" was known as such because lines were drawn by the Government authorities on maps of different localities to indicate boundaries beyond which immigrants were not allowed to settle. This was done obviously in the interest of indigenous population, particularly of tribal people. The Hockenull Committee found, even in those days of 1938, the startling increase of immigrant Muslims in Kamrup, Darrang and Nowgong Districts which have been the main trouble spots in the riots during the period with which this Commission is concerned. The 'line system', however, never worked successfully, and was ultimately abolished. Speaking on a resolution for abolishing the same, the Revenue Member Mr. Scott said :

"As I have already pointed out, their (immigrants) economic and racial advantages are such that without some control they are very likely to drive away the indigenous inhabitants completely off the map.

We are afraid that wherever a free immigration of these new-comers from Mymensingh is allowed similar result will follow and the indigenous inhabitants will be forced back into the hills and corners."

The effect of immigration on tribal population was highlighted by the Report of the Assam Disturbances Enquiry Commission under the Indo-Pak agreement as under :

"The Muslim immigrants created such a problem that the formation of Tribal Belts became necessary to give the tribes protection from such immigration. In fact, the tribal grievance against immigrant Muslims has been rising for a long time because of encroachment by Muslim immigrants on the grazing grounds. That the tribals were in great danger is beyond dispute."

It is thus apparent that the immigration of foreigners in Assam has created some grave economic and social problems, and the generation of group animosity.

2.12 : The above facts contain the germs of the socio-economic problems faced by the Assamese Society. Though these problems extended for a number of years, and there was a simmering discontent between various ethnic and social groups, they did not find any major outlet till the elections to the State Legislative Assembly were declared in the month of February 1983, after a very bitter but non-violent struggle conducted by the All Assam Students Union and All Assam Gana Sangram Parishad (AASU & AAGSP

respectively), right from the year 1979, and after prolonged negotiations between the Government of India and the leaders of the movement against the foreigners which were finally unilaterally terminated by the Union Government on 5th January, 1983.

2.13 : This Commission is not concerned either with the facts and details relating to the above-referred movement led by AASU and AAGSP during the above period nor with the merits of the same. However, since the period of violence with which this Commission is concerned has a special background in the events which occurred from the year 1979 to the declaration of election on February 6, 1983, it would not be out of place to state briefly some main events which took place during this period.

2.14 : The State Legislative Assembly in Assam has 126 seats. When election to the State Legislative Assembly took place in 1978, the present ruling party, namely Congress (I), could secure only 9 seats out of 126 seats. It is not necessary for us to go into the history of the formation of various Governments at state level, but it would be sufficient to mention that the present ruling party, that is, Congress (I), formed the Governments, after some defections, for the first time under the leadership of Mrs. Anwara Taimur on 6-12-1980, on revocation of President's rule which was imposed on the fall of Hazarika Ministry, But her Government did not last long and it was followed by the reimposition of President's rule, and then the formation of Government by Sri Kesheb Chandra Gogoi on 13-1-1982. But even his Government fell on 18-3-1982 and on his recommendation, the then Governor dissolved the Assembly. President's rule was imposed in Assam on 19th March, 1982. Under the Constitutional

provisions election to the new Assembly were required to be held within one year from that date, that is before 19th March, 1983.

2.15 : In the meanwhile, a very important event occurred in the year 1979 when one Mr. Hiralal Patwari, who was a Member of the Lok Sabha representing the Mangaldoi constituency, died on 28th March, 1979. On account of his unfortunate death, bye election to his seat in the Lok Sabha became necessary. The Election Commission ordered a summary revision of electoral rolls on March 28, 1979. According to Election Commission's Report of 1983, more than 40,000 objections were filed during the period fixed for filing claims and objections. However, before the process could be completed, a large number of representations signed by Congress (I) Leaders like Saryshri Y.B. Chavan, Stephen, D. K. Borooah, S. C. Sinha were received against the manner in which the objections were filed and were being processed. The Election Commission thereupon directed that Electoral Registration Officer should keep in abeyance the cases of objections not so far disposed of and that the appeals of those whose names had been ordered to be deleted on defective forms, should be heard. Finally even this process does not appear to have been completed. Thus the work of revision of electoral rolls remained incomplete even in 1979. The Commission's Report of 1983 does not give the exact number of objections which were upheld, but according to one estimate which is being referred to in various books and articles on the subject, at the time of scrutiny of the electoral rolls for that constituency, the Election Commission received as many as 70 thousand objections against the enlistment of voters who were alleged to be foreigners and as such not entitled to vote. A summary

investigation was made and it was found that these objections were justified to the extent of 45 thousand voters in the constituency. This defect was noticed in the electoral rolls of 1979. However, the rolls could not be corrected by the Commission, and before the bye-election could take place, the Janata Government which was in power at the Centre fell, and there was President's Rule at the Centre. Since the new Loka Sabha was to be elected, the above-referred bye-election in Mangaldoi constituency could never take place. However, the extensive defects noted in the electoral rolls of that constituency as of the year 1979, opened the eyes of public leaders in Assam. They obviously thought about similar defects in the electoral rolls of the other constituencies in Assam resulting from illegal immigration of foreigners, who had successfully enrolled themselves as voters, and who formed safe vote-banks for the political party which could manage to utilise them.

2.16 : In this connection some statistical figures regarding abnormal increase of voters in the rolls should be noticed. In 1952 when electoral rolls were first prepared for the first general elections in the country, they showed the total number of Assamese voters as 36,64,441. In 1970 they increased to 5,7,01,805 thus giving the increase of 20,37,364 voters during 18 years. In 1979 total number of voters on rolls was 85,37,497. Thus during nine years (from 1970 to 1979) the increase was of 28,35,692 voters. This rate of increase was thus more than double of the previous rate. Figures of the year 1977 show that during a short period of only eight months from March, 1977 to November, 1977 there was increase of 7,33,102 voters (72,62,543 in the Rolls of November, 1977). This

abnormal increase of voters can be ascribed only to the enrolment of foreigners.

2.17 : That the politicians have developed a vested interest in this illegal enrollment of foreigners is clear from the following observations of the then Chief Election Commissioner, Shri Shakhddhar, at the conference of Chief Electoral Officers held at Ootakammund during 24th to 26th October, 1978 :

"Another factor in this regard is the demand made by the political parties for inclusion in the electoral rolls the names of the migrants who are not Indian citizens without even questioning and properly determining their citizenship. This is a serious state of affairs."

These observations need no comments about the patriotism of the political parties insisting on such blatantly illegal request.

The reason for such a request, however, becomes clear if it is borne in mind that in 1979 when a bye-election in Mangaldai Loka Sabha Constituency was contemplated on the death of Shri Patwari, and when revision of the rolls was ordered, as many as 14,406 voters were actually removed from the rolls from the area of Assembly constituency (Dalgaon constituency) which had returned Mrs. Anwara Taimur in the Assembly elections of 1978 by a margin of 9206 votes. It is obvious that above-referred 14,406 illegally enrolled voters could have made the difference of 9206 votes by which Mrs. Taimur scored over her rival.

Earlier, on 2-11-1978 Shri Vajpayee, the Union Minister for External Affairs made the following statement in Parliament :

"It has come to the notice of the Election Commission from time to time that large-scale inclusion of foreign

nationals in the electoral rolls, especially in north-eastern region has been taking place."

"The Election Commission have also issued instructions to Electoral Officers of the States/Union territories concerned that if it is found that a large number of foreigners have managed to get their names registered in the electoral rolls, recourse should be had to the provisions of sec. 22 of Representation of Peoples Act 1950 for getting the names of such persons deleted from the electoral rolls on the ground that they are not Indian Citizens."

According to the Assamese leaders there are about 40 lakhs of foreign illegal immigrants and out of them, 18 lakhs have successfully registered themselves as voters. These leaders, therefore, insisted that all these foreigners who migrated into Assam illegally after 1951, should be treated as foreigners, their names should be struck off the electoral rolls, and they should be deported from Assam.

2.18 : Since Loka Sabha was dissolved after the fall of Janata Government at the Centre, fresh elections for the Loka Sabha were in the offing. Assam had to elect 14 seats in Loka Sabha, but the AASU and AAGSP leaders in Assam resisted the elections without the scrutiny of the defective Rolls. Since the Governments at Centre as well as the State levels insisted to carry out the elections without intensive revision of Rolls, the State witnessed a very impressive Satyagrah and the boycott of the Loka Sabha elections with the result that elections could be held only for two out of fourteen Lok Sabha seats, remaining twelve seats continued to remain vacant. The two said seats were of Cachar district fully populated by Bengalis.

Thus as early as the beginning of the year 1980, people had made it clear that popular elections in Assam were not possible without first settling the question of foreigners and without suitably correcting the electoral rolls in the light of the said solution.

2.19 : After the Congress (I) came into power in the centre in 1980 it decided to start negotiations with movement leaders on the foreigners issue in Assam. The All-Assam Students Union which was a party to these negotiations has filed its memorandum before this Commission along with certain annexures. From this record it is clear that the first round of discussion took place at a meeting held as between the representatives of AASU, the Prime Minister and the Home Minister in between 2nd and 5th February, 1980. As a result of this meeting the Chief Secretary to the Government of Assam routed a communication to AASU summing up the nature of discussion at the above-referred first round of meetings. It is found therefrom that during the discussions the AASU delegation put forward the following demands :—

1. Foreign nationals must be detected and deported from our country.
2. (a) Names of foreign nationals must be removed from the concerned electoral roll before holding any election in Assam.
(b) Inclusion of foreign nationals' names in the electoral roll in future must be made impossible with the help of an adequate and strong election machinery.
3. Border of India with neighbouring countries must be fully protected to effectively check infiltration.
4. Indian voters residing in Assam must be issued identity cards with photographs affixed.
5. Necessary Constitutional safeguards

should be provided to the people of the north-eastern region for the next 15/20 years by making Constitutional provisions for the protection of the identity of the indigenous people of this region.

6. The Government of Assam should be free to reject any certificate issued by the district authorities of West Bengal and Tripura.

7. The authority to grant citizenship certificate delegated to the State Governments should be withdrawn by the Central Government immediately from all State Governments, so that those foreigners who were detected and deported from Assam did not come back to Assam with citizenship certificates issued by other States."

The Chief Secretary to the Government of Assam in this letter proceeded to state as under conveying the reactions of the Central Government to the above demands :

"There was broad agreement in principle in respect of demands No. 1,2,3,4 and 5. However, it was appreciated that every care will have to be taken that Indian nationals are not harassed in any way. The Home Minister told the delegation that possible efforts will be made to set in motion necessary machinery with a view to deal with the problem effectively and speedily."

It is evident from the above official letter of the Chief Secretary that in the first round of discussion the Central Government agreed that the name of foreign nationals must be removed from the electoral roll before holding any election in Assam.

2.20 : The talks thereafter proceeded and it is found that upto 4th January, 1983 when the last round of talks took place, there were about 25 meetings between the Central Government and the movement leaders of

Assam. It is further found that in the month of January, 1982 even members of all the All-India opposition parties were invited to join the talks with a view to find out some solution. It is an agreed position that during the course of these talks the Government of India definitely agreed to treat the year 1971 as the cut-off year which should be taken as the year from which the foreign nationals entering Assam should be deported and their names should be deleted from the electoral rolls. It appears to be an undisputed position that neither the Central Government nor the Assam Government took any steps to identify the foreigners as from the cut-off year 1971 and to correct the electoral rolls accordingly. It is, however, found that in the tripartite talks which began in January, 1982, the Government and the opposition parties agreed that foreigners should be detected on the basis of Constitution and the relevant laws as existed on that date including the Citizenship Act. of 1955, Foreigners Act 1946 and Passports Act. 1967. It seems to have been further agreed that in doing so all relevant documents including the National Register of citizens 1951, the Electoral Rolls including those of 1952 and land records made under the Assam Land and Revenue Regulation shall be made use of. (Vide P.151 of Shri I. S. Murty's book on "Assam: The difficult years").

2.21 : As noted above, these talks ultimately failed with the last round on January 4th, 1983. However, during this period the mass upsurge against the existence of foreigners in their midst continued in the public life of Assam. AASU and AAGSP which were the two organisations leading the movement continued to agitate the question on huge mass scale. It is not necessary for this Commission to deal with the details of this movement except for showing the background for the ultimate blood-bath which occurred during

the relevant period from 1st January, 1983 to 30th April, 1983. The intensity of this upsurge should, however, be noted by quoting the following excerpts from Sri Sekhar Gupta's above-referred book "Assam: a Valley divided". The author sums up the position obtaining in the first half of the year 1980 in the following words:—

"Those were the heady days of mass upsurge. The oil supplies were blocked. Lakhs and lakhs of people came out on Gauhati streets to the call of "Olai Aha" (come outside), even as the Government declared a curfew on April 18th, 1980.

The curfew had to be withdrawn and the Government never recovered from the defeat. The people prepared for the last battle of Saraighat. Such was the enthusiasm that women from elitist families in Gauhati baked huge cakes with AASU slogans iced on them and made a bee-line for the Gauhati University hostels from where the agitators operate." (P. 41)

Speaking about the huge rally which was proposed to be held in Gauhati on November 10th, 1983 by the leaders of the movement which rally was sought to be prevented by the Government, the author records as under:—

"November 11 was watershed. AASU announced vigorous resumption of the agitation, refused to go for the next round of talks scheduled for November 18, and the Government came down on them more heavily than before."

"It began with a 36 hour bandh on November 19 and has continued thereafter. Almost on every day of this new spell of agitational activity there were clashes and police firing—the most disturbed districts were Nowgong and Darrang. The Bandhs and road blockade programmes blew into full-fledged civil disobedience by mid December with a call for ticket-

less travel. The agitational activity intensified further as the year ended."

Further he records :

"If the reign of terror was meant to finish the agitation it failed. People talked of the atrocities by the Burmese occupation armies in the first two decades of the 19th century and the agitational activities continued, peaking with a 'peoples' Curfew' on the Republic Day. The agitators said they would arrest anyone without AASU, AAGSP's curfew Pass and confine him for the rest of the day in 'Peoples' Jail.' In spite of heavy bandobast the Government could not prevent them from taking into 'custody' at least 60 persons in Gauhati alone."

Even making allowance for some exaggerations in the description of the agitation given above, it is evident that just on the period with which this Commission is concerned, the sentiment of the people of Assam on the issue of foreigners and their enlistment as voters ran very high and that the position was, on all counts, extremely sensitive. It was under these circumstances that the last round of talks ultimately failed at Delhi on 5th January, 1983. Evidence recorded before us shows that great hopes were created for the success of these talks. To put it in the words of Shri Bishwa Goswami, M. P.—

"On 4/5 January, 1983 both the parties were expected to give final opinion on Ravindra formula. But when talks started, the Home Minister Mr. Sethi put forward a new formula which was out right rejected. The Home Minister brought out a typed paper from his pocket to announce failure of the talks suggesting that he anticipated failure and came prepared to announce it" (Vide Ex. 530).

It is found that after the failure of the talks when the movement leaders returned from Delhi to Gauhati air-port, they were arrested and detained under the National Security Act. Immediately section 144, Cr. P.C. was clamped. It was officially declared on 6th January, 1983 that election to the Assam Assembly will be held in the month of February, because it was constitutionally not possible to continue President's rule beyond 19th March, 1983. Election Commission felt that there was no time for the revision of Electoral rolls and hence the unamended rolls of 1979 should be utilised. Immediately on the arrest of the movement

leaders at the air-port, people of Assam reacted very sharply by unprecedented demonstration, and the decision of the concerned authorities to hold elections on the basis of disputed rolls added fuel to the fire. The events which followed reveal a very tragic and saddening story of repression, police firings, murders, loot, arson and carnage unprecedented in the history of independent India. The question is whether in view of the above-narrated background, the decision of the authorities to hold elections without correcting the electoral rolls was, in any manner, responsible for the sad events which followed.

CHAPTER—III

PREPARATION FOR THE ELECTION OF FEBRUARY 1983.

3.1 : The allegation of the movement leaders and some of the opposition parties is that though the Central Government was conducting negotiations with the movement leaders and others right from the year 1980 upto the month of January 1983, the Government was fully aware of the necessity of election at the end of President's rule on 19th March 1983 in Assam and was also making necessary preparations for the same without amending the electoral rolls so that the party in power, that is Congress (I) party, would get the enblock support of the foreigners, whose names were already included in the electoral rolls, and who were not expected to vote for any opposition party which was in favour of the expulsion of foreigners. In view of this allegation of the movement leaders and some of the opposition parties, it would be necessary to relate shortly some evidence which this Commission has been able to collect on this point.

3.2 : Before advertng to this evidence it will be necessary to note that according to Sec. 21 (2) of Representation of People's Act 1950 the electoral rolls are expected to be revised with regard to every constituency before an election in that constituency actually takes place. Under section 21 (3), the Election Commission is further empowered to direct a special revision of the rolls at any time i. e. even if no general or by-election is contemplated.

3.3 : The electoral rolls in the country were intensively revised in 1975 by house

to house enumeration. These rolls were summarily revised in 1976. For the general elections to Loka Sabha in March 1977, the electoral rolls were merely updated by inviting objections and claims. So far as Assam is concerned, there were 85,197 claims, of which 66,577 i.e. 81.6 p.c. were admitted. There were 6,729 objections of which 6119 i.e. 90.7 p.c. were admitted (vide App. I of Assam: the Difficult years).

In his order dated 7-1-1983 directing that no general revision of electoral rolls under Sec. 21(2) of Representation of people Act 1950 shall be undertaken, the Chief Election Commission has noted with regard to the State of Assam that "Annual revision of the electoral rolls as per practice obtaining in the rest of the country could not however, be undertaken in 1980, 1981, or 1982 due to adverse law and order situation prevailing in the State. "(emphasis supplied). We have already noted above that these rolls of 1979 were found seriously defective so far as Mangaldoi constituency of Lok Sabha was concerned and that according to one estimate these rolls contained about 45 thousand spurious voters out of 70 thousand such voters whose right to vote was challenged. The Govt. of Assam made an enquiry in respect of 6 Loka Sabha Immigrant-Froen constituencies and found over 5, 87000 foreign voters by November 1979. Moreover, from 1979 to the month of February 1983 when the elections to the Assam

Assembly were to be held, many citizens of India might have come of age to entitle them to get registered as voters. As a matter of fact, as already noted above, in the year 1977, the percentage of admitted claims and objections was found to be very high. It was therefore, evident to all concerned as early as the month of March 1982, when the President's rule was imposed on Assam, that before the next elections which were likely to be held before the end of the President's rule in March 1983, it was imperative to revise the electoral rolls of Assam. Everybody including the Government authorities and the Election Commission knew that President's rule in Assam could not be extended beyond 19th March 1983 unless the Constitution was amended, and therefore, before the President's rule ended, elections to the Assembly must be arranged. In view of the fact that the electoral rolls of one of the important Lok Sabha constituencies of Assam, were found highly defective, it was obviously the duty of the Government as well as the Election Commission to see that before the deadline for the new election to Assam Assembly approached, the electoral rolls were set right.

In this connection, it would not be out of place to note that on 30th April, 1982, Mr. N.R. Laskar, Minister of State assured Lok Sabha that elections would be held in Assam in next nine or ten months. On May 3rd, 1982, the Union Law Minister informed Rajya Sabha that fresh elections in Assam would be held after the revision of the electoral rolls and that for the purpose, action would have to be initiated soon. He also said that the exact number of foreigners would be known only after the preparation of new rolls. In the month of June, 1982, Shri Laskar said that the electoral rolls in Assam

would be revised for holding Assembly election in the State before March next. (P.165 Assam: the Difficult years).

3.4 : During the course of the inquiry by this Commission the statement of Sri Prafulla Kumar Mahanta, President of AASU has been recorded on 18-5-1984. During the course of his statement he has produced a letter addressed by Sri Ganesan, Secretary, Election Commission of India on 10th June, 1982 to himself and three others. Contents of this letter make abundantly clear the course of action which the Election Commission intended to follow as regards revision of electoral rolls before fresh elections to the State Assembly. The letter reads as under :—

“Subject : General Election—Assam.

Sir,

I am directed to refer to your letter dated 9-6-82/4-6-82 and to say that the Legislative Assembly of Assam has been dissolved and the State is now under President's rule. The question of holding general elections to the Legislative Assembly of Assam would arise only if and when it is indicated to the Commission by the Central Government that the Commission might proceed with the holding of elections and that the Centre would revoke the President's rule.

In that event, the Commission will first have to revise the electoral rolls in the State with reference to the 1st January of the year in which the revision will be taken up and then hold election (emphasis supplied).

The electoral rolls of 1979 would be taken up as the basis and they will be published as a draft roll. Adequate time will be given to raise objections to any entry in the electoral rolls. As and when

objections are filed on any of the grounds mentioned in law including the ground of one of citizenship, they will be disposed of in accordance with the provisions of the law.

As regards the question of disposal of objections and applications under section 22 of the Representation of the People Act, 1950 by the Electoral Registration Officer is concerned, I am to say that those objections seeking deletion in the electoral rolls as finally published would be disposed of in accordance with the provisions of law.

As regards holding of elections to the 12 vacancies in the House of People from Assam, the above observation hold good."

This letter clearly shows that the Election Commission never wanted to conduct the elections without revision of the electoral rolls in Assam. It was also clear as much to the Commission as to others, that under Constitutional provisions, as they stood at the relevant time, it was not possible to avoid elections before March, 1983.

3.5 : It is found that in the month of May, 1982 Sri S.L. Sakdhar, the then Chief Election Commissioner had been to Shillong to preside over the meeting of the State Chief Electoral officers. Sri Sekhar Gupta records in his above referred book "Assam—a Valley Divided" as under with regard to the interview which he took from Sri Sakdhar:

In a long-winded interview he repeatedly told me on record that any elections held without the revision of the electoral rolls will be improper. He scotched all fear of a sudden, imposed elections and completely ruled out holding election in just a few "easy" constituencies in order to fulfil the Constitutional requirement of

holding elections within a year of the dissolution of the Assembly. He even said, "I will not be a party to tricking the people of Assam". The following day he said similar things to the Assam Tribune correspondent, and the Gauhati Press went to town with the story." (Page 55).

Mr. T. S. Murty in his book "Assam—the Difficult Years" records in this connection as under:—

"On 28th May, Mr. S.L. Sakdhar was in Shillong. According to him the Election Commission could revise the electoral rolls on its own so that elections could be held in Assam within 6 months if the current negotiations fail to bring about a solution to the problem. The Commission could not be ordered by the Government to hold the elections on the basis of the existing rolls or after a cursory revision of them, as was feared in Assam. The problem of revision was not difficult to solve if it was free from political overtones. Mr. Sakdhar also said that prolonging the status quo was in the interest of none of the sides involved in the agitation.... On the question of holding Assembly elections in a few constituencies only to complete the quorum, the C.E.C. said 'this will be election only in name. I will not be a party to tricking the people of Assam. Let there be no fears about it.'"

During his above-referred stay at Shillong Shri Shakhdar is found to have given interview to Shri Kiran Roy, representative of the Assam Daily "Assam Tribune." Shri Roy is examined by the Commission and during his statement he has produced the transcription of his tape recorded interview with

Shri Shakdhar. Some of the questions put to Shri Shakdhar and answers given by him are as under :—

Ques.—I draw your attention to the last para of the press note where Election Commission had advised that the scrutiny of the electoral rolls should be taken up after the 1980 General election was over with reference to the question of citizenship of any elector in a systematic manner having regard to the provision of section 22 of the RPA, 1950. What progress has been made in this direction in the last and a half years? How many deletions have been made as a result of these operations?

Ans.—I do not think there is any progress since the Loka Sabha election was not held. We have not done any work on Electoral rolls. In fact there is no Chief Election Officer in Assam at present. There was one who was transferred. Then another was appointed. He was also transferred without my knowledge. The Government has violated our standing instructions. No direction has been given by us. By the time negotiations on foreign national issue had started I wrote to the Assam Government but they did not reply to my letter. They should not have done it. I wrote to Mr. Gogoi (K.C.Gogoi), when he became the Chief Minister, but he also did not reply. The President's administration does not write to us. I did not very much pursue the matter because there is no work about election to be done. We have no knowledge about the Government's reported initiative to hold election in Assam. However, the Government cannot hold election, it can only suggest. Then the rest of the work

has to be done by the Election Commission.

Ques.—Are you sure that before expiry of the term of President's rule in Assam, your all formalities will be completed?

Ans.—Of course, we will see that they are completed. But there must be people's co-operation.

Ques.—But the Centre is trying to implement the formula of 'Detection, deletion and election'.

Ans.—We must be first told that there is normalcy in the State. Normalcy means that the people will co-operate in the election. Secondly, the Government of India must say that it is interested to terminate the President's rule. These two are first requisites. Then our preparing rolls comes. The Rolls must be upto-date. We go step by step. But we need the co-operation of the people. Majority people must cooperate.

Ques.—But if majority people do not cooperate, what you will do? Are you going to hold election in select constituencies?

Ans.—In fact I am answering to your hypothetical question. You see the stage is not yet set for any action. We have not thought in details. Then of course we will have to consult the political parties, we will consult the people of Assam through their representatives and evolve some procedure. But if the people do not like to co-operate, that is entirely a different matter. Detailed working must be allowed by the people."

In order to be assured, the Commission took care to send the above excerpts of the statement of Sri Sakdher to him for his own comments. The Commission has received no response from him.

3.6— One Sri Indrajit Barua has filed some documents before this Commission. One of these documents is the copy of the note submitted to the Prime Minister by Sri R.V. Subramaniam, the then Adviser to the Governor of Assam in the month of May 1982. A copy of these notes has been sent by this Commission to Mr. Subramaniam with a request to let the Commission know whether such notes were submitted by him to the Prime Minister and if so whether he had any comments to offer. The Commission also informed him that if nothing was heard from him within 10 days of the receipt of the request of the Commission, the Commission shall be at liberty to presume that such notes were in fact put by him to the Prime Minister. In fact Mr. Subramaniam has not preferred to respond to this request of the Commission. The Commission finds that a copy of these notes has already been submitted by Sri Indrajit Barua to the High Court of at Gauhati along with his application under Article 226 of the Constitution of India. In view of lack of response from Sri Subrahmaniam the Commission has no reason to disbelieve the authenticity of the notes. These notes make some interesting disclosures and therefore a copy of the notes is annexed to this report as Annexure E & E (1) Reference to these notes shows that on the question of revision of electoral rolls of 1979, the State Government of Assam sent a message to the Election Commission to the effect that "after a careful consideration of all aspects it was of considered view that in the context of prevailing situation in the State, revision of electoral rolls should not be undertaken at present."

With regard to the difficulties which could be anticipated when elections for the Assembly were ordered, the notes, inter alia state as under :—

"7. The agitationists on foreigners' issue have demanded that no election should be held to the Assembly or Parliament before the deletion of foreigners' names from the electoral rolls. The AASU and AAGSP have warned that they would resist the holding of elections before an understanding on foreigners issue is received. Besides boycotting the elections they may exploit every opportunity to scuttle the election process right from the beginning.

The mid-term elections in 1980 could not be conducted because of the opposition of the Government employees. The Karmachari Parishad have been actively supporting all the programmes of the agitators. Due to stringent measures taken by the administration—such as pay cut, award of break in service, disciplinary action etc. the Karmachari Parishad have been persuading the agitators not to launch any programmes that may take the Karmacharis off their duties making them liable for disciplinary action. With a view to retain support of the Karmacharis, the agitation leaders have, in recent days, refrained from chalking out programmes that may involve the Karmacharis directly. But it will not be correct to conclude that the Karmacharis will, by and large, co-operate with Government fully in the election processes. Karmacharis have always remained emotionally involved in the agitation. They have always derived some encouragement from courts which have been issuing stay orders on Government measures, such as, pay cuts. It is also to be recognised that the employees are susceptible to the pressure of their families, friends and cohorts in the community who might threaten to boycott them or cause them physical harm unless they fall in line with the agitationists."

Then in para 9 of the same note he suggests alternatives in regard to revision of electoral rolls and recommends that alternative of summary revision of electoral rolls will be preferable. As far law and order situation, he states in the note that it could be kept reasonably under control during the period of election subject to the availability of necessary additional force, and in para 15 he suggests that the total requirement of force in the state for election purposes comes to about 57 battalions and that since 16 battalions could be available from the State he could need roughly 40 additional battalions which could be drawn from C. R. P. and Armed forces of other States.

3.7 : It is found that one Sri S.L. Khosla was appointed as the Chief Electoral Officer, Assam at the relevant time. On September 29, 1982 this officer is found to have submitted a note to Sri R. V. Subrahmaniam, the then Adviser to the Governor. A copy of this note, which is produced by Sri Indrajit Barua was sent to this officer also with a view to elicit his reactions. He was also given to understand that if his reactions were not obtained by the Commission within 10 days of the receipt of the note by him, the Commission would be at liberty to presume that such a note was submitted by him before the Adviser. The Commission has received no response even from this officer. A copy of this note is attached to this report as Annexure E (1).

Even this note visualises the revision of electoral rolls to be completed by the end of December, 1982. In para 6.2 of the note it is observed as under :—

‘In summary revision the rolls of 1979 with necessary additions, deletions and corrections on the basis of information already available with Election Registration Officer (E. R. O.) will be published in

draft at the respective polling booths and a person will be put in charge for the purpose of receiving claims and objection. Thereafter, the claims and objections will be enquired into by the designated officer and forwarded to E. R. O. or the A. E. R. O. with his remarks. After incorporating the changes, supplements will be got cyclostyled or copies prepared otherwise and they will be attached to the original rolls. These rolls with amendments will be published finally at the office of the E.R.O. and the A.E.R.O. The rolls are printed in the local language.”

This note also gives some estimate of objections which were expected to be received against the electoral rolls. Para 6.9 of this note states as under in this regard :—

“6.9 Estimates on objections that might be received vary from 1 lakh to 10 lakhs. Based on 2 lacs objections, there may be on an average 7 thousand objections per constituency (we assume 100 constituencies for this purpose leaving safe constituencies out). This would require to be disposed of in one month. In other words, about 280 objections should be disposed of per day. Assuming one officer disposes of 50 objections per day, we require a minimum of 6 officers per constituency. In total 600 officers will be required to be in position. They will have to be identified and then notified with the approval of the Election Commission. In case the bodies are not available from within the State, these will have to be obtained from outside. Knowledge of local language is necessary for efficient functioning.”

Then in para 10.2 the note says :—

“It appears that the Government has decided to hold the elections before March

1983. It may take sometime to receive instructions on revision of electoral rolls." As for requirement of police force the note assesses it at 92 battalions and the financial implications thereof have been estimated at 12.11 crores. Even this note of Sri Khosla makes it clear that even before 29th September, 1982, the Government had made up their mind to hold the elections and that the Election authorities were contemplating the revision of electoral rolls before the fresh elections were held.

3.8 : With a view to show that the Government was already contemplating election without the revision of electoral rolls, and consequent adverse reaction of the public of Assam, the AASU has produced before us a copy of wireless message dated 21st December, 1982, which reads as under :—

"WT Message—21.12.82.

From Assam Dispur
to all Depcoms.

No. PLA 1670/82 dated 21-12-1982 (.)

As you are aware due to election preparations it may be required to arrange temporary construction of jails depending on the expected temporary increase of UTPs (undertrial prisoners) in connection with election preparations (.) Please submit requirement of your fund and additional staff and further facilities regarding the possibility of construction of temporary jails your headquarter and sub-divisions whenever required (.) You may write to indicate the necessary budgetary provision for the creation of additional capacity in the jails (.) Please submit your requirements of fund etc. immediately so as to enable the Government to take necessary action (.) You may consult the Superintendent of jail in this regard and submit your proposals by return signal through cipher direct to Sri S. Monoharan, I.A.S., Joint

Secretary, Home and Political Departments (.) Matter most urgent.)"

This message is of 21st December, 1982 i.e. of 15 days before the tripartite talks for settlement actually broke down on 5-1-1983.

This shows that even while the Government was engaged in tripartite negotiations for peaceful settlement of Assam problem, it was also preparing for elections as well as the steps necessary to meet the possible resistance if elections were required to be imposed without correcting the rolls.

The above facts thus make it clear that the Governments at State as well as Central levels were actually intending to hold elections before March 1983 and were preparing for the same ever since the month of May 1982, but without preparing for the revision of electoral rolls. Here we again recall the assurances given on the floor of the Parliament by Shri Laskar and the Law Minister on different dates which are already referred to in para 3.3 above.

3.9 : But this is not all. There is unimpeachable evidence to show that the Government was fully conscious of the fact that in case the elections were held without correcting the electoral rolls the people of Assam would vehemently oppose the same and serious law and order situation would arise. Therefore, apart from preparations for making more accommodation for sending to jail those who wanted to resist the elections, the Government of Assam also prepared to assume more powers under the various draconian laws which existed in the State or enacted for the purpose. We shall shortly refer to these laws and the extra-ordinary powers acquired thereunder.

3.10 : One such draconian law enacted soon after the elections were announced, is

the Assam Executive Magistrates (Temporary Powers) Act 1983 (Act 1 of 1983). This Act makes serious inroads on the wholesome provisions of Criminal Procedure Code and invests the Executive Magistrates of the State with the powers of Judicial Magistrates exclusively to take cognizance of, try and dispose of cases relating to the Indian Penal Code, or any other law for the time being in force punishable with 6 months imprisonment, as well as other offences against public tranquility and contempts of lawful authority of public servants. A copy of this Act is annexed with this report as Annexure-G for easy reference.

Provision of the Act show that the constitutional concept of separation of executive from judiciary was done away with and judicial powers were vested in the executive officers who are under direct control of the Government.

That such extra-ordinary powers can be assumed by the Government only under extra-ordinary circumstances is abundantly clear by reference to the description of the Act which is in following terms :

"An Act to confer, in view extra-ordinary circumstances prevailing in the State of Assam, certain powers under the Code of Cr. Procedure 1973, on Executive Magistrates in that State for a temporary period," (emphasis supplied)

This extra-ordinary legislation received the assent of the President on 28-1-1983 which means that the legislation was made ready soon after the elections were declared. This again shows that the Government was fully conscious of the fact that situation in Assam was not at all congenial to free and fair elections in view of the "extra-ordinary circumstances" prevailing there, and therefore it was necessary to assume extra-ordinary powers to deal with the situation which included

the possibility of sending extra-ordinary number of persons to jail.

3.11 : On 9th February 1983, the Government of Assam issued a notification through Gazette Extra-ordinary declaring offences punishable under Sections 186, 189, 190, 228, 298, 505, 506 and 507, I.P.C. as "cognizable" offences, "in the interest of maintenance of public order in the State."

On the same day the offences under Sec. 188 and 506 were made "non-bailable" offences "in the interest of maintenance of public order in the State."

Both the notifications were to remain in force in the whole State of Assam.

Both these Notifications gave power to the police to take notice of the offences which are otherwise so minor that under ordinary circumstances the police could not take cognizance thereof. Again these minor offences were made "non-bailable" to enable the police to confine the people in custody and to terrorise them. Factual reference to police excesses will show how grossly and indiscriminately the power acquired by the police under these notifications has been misused.

3.12 : Judiciary having thus been put out of way, the press was now required to be tamed. The Govt. therefore was swift to issue a Gazette-Extra-ordinary on 7th January 1983, i.e. immediately after the declaration of election, making a declaration contemplated by Sub-Section (1) of Sec. 2 of Assam Special Powers (Press) Act, 1960 (Assam Act III of 1961). Declaration under Sec. 2 (1) of the above Act can be made for the "purpose of preventing and combating activities affecting or likely to affect public order. "For ready reference a copy of this Act is annexed with this report as Annx.H. The relevant portion of the declaration is in the following terms.

"Whereas the Government of Assam is satisfied that on account of occurrence of several violent incidents throughout the State of Assam during the current agitation over the foreign nationals issue and by publication of false and tendentious news items by the Printing presses, a situation exists whereby maintenance of communal harmony is threatened and by the reason thereof it has become necessary to use special powers and the provisions of the Assam Special Powers (Press) Act 1960 (Assam Act III of 1960) for the purpose of preventing the combating activities affecting or likely to affect public order ;"

Having made this declaration, by the same order Director of Information and Public Relations Assam was appointed as authority to exercise powers under cl. (a) of Sub-Sec. (2) of Sec. 2 and Sub-Sec. (3) of Sec. 2 of the above Act. Thus during the period of elections when liberty of press is most vital to free and fair exercise of franchise, power was assumed to gag the press.

3.13 : The State of Assam enjoys the privilege of one more enactment investing extra-ordinary powers in the authorities. This enactment is called Assam Disturbed Areas Act 1955 (Act XIX of 1955). A copy of the Act is annexed with this report as Annx-I. Under Section 3 of the Act, the State Government can declare any part of Assam a "disturbed area".

Section 4 of the Act gives drastic powers of killing people even by indiscriminate firing for contravention of "any law or order" prohibiting assembly of five or more persons etc. in the following terms :

"4. Power to fire upon persons contravening certain orders—

Any Magistrate or Police Officer not below the rank of Sub-inspector or Havi-

ldar in case of the armed branch of the police or any officer of the Assam Rifles not below the rank of Havildar, may, **if in his opinion, it is necessary so to do for the maintenance of public order, after giving such warning, if any, as he may consider necessary, fire upon or otherwise use force even to the point of causing death against any person who is acting in contravention of any law or order for the time being in force in a disturbed area, prohibiting the assembly of five or more persons or the carrying of weapons or things capable of being used as weapon or fire arms, ammunitions and explosive substances."**

Under this section a small officer of the police and armed forces is given widest possible discretion to kill those who, during the period of election, committed the "offence" of contravening an order prohibiting an assembly of five persons or carrying of arms. As will be seen subsequently this power has been liberally and wantonly exercised for killing many innocent persons of Assam, without giving any warning. Under section 5 he can destroy any property utilised as a hideout by "absconder wanted for any offence."

3.14 : The consequence of declaring a particular region a "disturbed area" is much graver and sinister when a declaration under section 3 of the Armed forces (Assam and Manipur) Special Powers Act 1958 (Act 28 of 1958) is made by the Governor. Such a declaration can be made when the Governor is of opinion that whole or any part of Assam is, in a "disturbed or dangerous condition."

On such a declaration the armed forces acquire special powers which are destructive of all normal civil and constitutional rights of a citizen. Section 4 of the Act describes the Special Powers which Armed Forces acquire under the Act. They are :

- (a) Killing without any formality except the formality of warning as the officer himself "may consider necessary";
- (b) Destroying any property utilised inter-alia by "absconder wanted for any offence".
- (c) Arrest without warrant any person against whom a reasonable suspicion of having committed a cognizable offence exists.
- (d) Entry and search without warrant, with force, if necessary, to recover any person or property.

3.15 : It is found that the State Government has issued Notifications on 26-11-1981 and then on 25-5-1982, 25-11-1982 and 25-5-1983 (each Notification remained in force of six months and made up a continuous period from 26-11-1981 to 26-11-1983) under section 3 of Assam Disturbed Areas Act 1955 after declaring that "a situation of disorder and disturbance of peace and tranquillity", in the areas mentioned in the schedule, existed and that the Governor was satisfied that in order to make better provisions for the suppression of disorder and for maintenance of public order it was necessary to declare these areas as disturbed areas. Schedules attached to the above referred Notification from time to time show that all the Reserved Forest areas of Assam which constitute about 33 p. c. of the total area of the State were covered by this declaration of "Disorder and disturbance of peace and tranquillity". So this is one more admission of the Government showing how far free and fair elections were possible in this area.

Again, under section 3 of the above-referred Armed Forces (Special Powers) Act 1958 Gazette Extra-Ordinary Notifications were issued on 2-3-1983 7-3-1983 and 6-4-1983 15-3-1983 with a declaration that in different areas mentioned in

different schedules "such a disturbed and dangerous condition" prevail that the use of Armed Forces in aid of civil power was necessary. The schedules attached to above-referred Notifications show that practically the whole of Assam was covered.

However, before the month of March, 1983, (when the above-referred Notifications were issued), the State Government became armed with drastic powers under Armed Forces (Special Powers) Act 1958 with regard to oil pipelines and oil installations by making the above-referred declaration of "disturbed and dangerous condition." This was done on 16-1-1983 i. e. a few days after the elections were declared to be held.

3.16—Similarly on that very day i.e. 16-1-1983 powers were assumed under Section 8F of Assam Maintenance of Public Order Act 1947 for "Protected Areas". For the purpose of enforcing orders under the Act officers of C.R.P.F. and B.S.F. were empowered in the following terms :

"For the purpose enforcing this order and in exercise of powers conferred by Section 8F (3) and 8F (4) of Assam Maintenance of Public Order Act 1947 the Government of Assam hereby authorise all officers of CRPF and B.S.F. and any armed police of the States deployed in Assam, not below the rank of Havildar and all commissioned officers, non-commissioned officers, and any other officers of equivalent rank in the Armed Forces deployed on duty the areas mentioned in the Schedule below, to exercise powers of search, detection and removal of persons, vehicles, vessels, animals or articles found in the said areas under clauses 3 and 4 of Sec. 8F of the said Act."

We are making specific reference to this power because, as will be seen from what follows,

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the C.R.P.F. and B.S.F. officers and their men have played havoc with the freedom, privacy and honour of citizens in Assam with a view to help the election candidates and to break the moral of laymen, by showing barbaric brutality unknown in any democratic set up in the world. For ready reference the copies of both these Acts are attached alongwith this report as Annexures J.&K. It is obvious that oil pipe lines run through almost all the South bank Districts of Assam upto Gauhati and thencefrom through the Northern districts of the State and elections were to be conducted in these areas also, which, which, according to the opinion of the Governor formed after "careful consideration of all facts and circumstances," were in a "dangerous condition".

Thus all the above Notifications under various laws and the declarations contained therein make it clear that the Govt. knew very well that the situation in Assam was dangerous and not in the least congenial to fair and free elections. They further show that the Government also knew that if, however, elections were imposed on people without revising the electoral rolls as repeatedly promised, people would bitterly resent it and therefore drastic powers would be necessary to cow down the resentful people.

3.17 : It was, however, not just enough that power was acquired to meet the apprehended situation, because the main work was to arrange the election machinery. Printers were not available in Assam to print ballot papers for the unrevised electoral rolls. Government servants, servants of Govt. sponsored corporations, employees of the local bodies, Bank employees, School teachers and College professors-none was ready to perform election duties. People were not willing to vote and the candidates who wanted to

contest the election had no courage to face people and even to go out to fix posters for their canvassing. They required tight security. Since AASU and AAGSP as well as the non-communist opposition parties had boycotted the elections, they were likely to counter-canvass and people were likely to obstruct the election process which required elaborate security arrangements and for which the police force of the State was not sufficient. All this entailed aid of various types from outside the State.

3.18 : Ballot Papers were got printed at Delhi. As an incentive for poll duties the Government announced one month's pay as honorarium to its employees. It was also announced that if one was killed on election duty, a compensation of Rupees 1,00,000-00 would be paid to a gazetted officer and of Rs. 50,000,00 to a non-gazetted one. Election duty was made an essential service so as to invite penalty.

However, the Government apprehended, and rightly, that inspite of inducements and threat of penalty, the Assamese employees would not perform election duties. They, therefore, thought of recruiting election personnel from outside the State. Polling officers were thus recruited from outside the State. But they obviously did not know Assamese language which is so much essential for discharging poll duties as Rolls are printed in Assamese. As will be seen hereafter during the course of discussion on the question of police excesses, local employees were forcibly detained for poll duties and the intervention of High Court had to be sought in the matter but the orders passed by the High Court were openly flouted, and they were allowed to go only on 15th February when the first round of election was already over on 14th February, This only shows the extent

to which the "efficient" administration in Assam was ready to go to complete the process of election.

For carrying out the elections "fairly and freely" and in a "democratic" manner the Government of Assam found it necessary to call for para military forces on a huge scale. Half of the C. R. P. Force, the total strength of which in the whole of the country is 64 Battalions, descended in Assam. About 64 Battalions of para military force drawn from various States in India and Assam Police Battalion in addition to regular police force of Assam were brought into service. Forces from outside the State were air lifted. It is estimated that there were about 1,15,000 and more armed Personnel which roughly comes to one armed man per 157 citizens, and if the population of Cachar and immigrant Muslims who supported the election is kept out of way, the proportion would be alarming.

Voters lists were not made available either to the public or to the political parties. Names of the candidates who contested the election were kept secret and these candidates submitted their nominations under police escort. To enable the aspiring candidate to file their nominations secretly, many lower level officers posted in semi urban areas were

designated as Asst. Returning Officers to enable them to accept such nominations.

As stated earlier, Section 144 Cr.P.C. was continuously in force and meetings could not be held without permission of concerned authorities.

Press censorship was also imposed.

Thus the Government made all necessary preparations for carrying out the elections at any cost and for that purposes fully armed themselves with necessary power to curb the ordinary judicial process, the liberty of press and the freedom of people to protest even in a peaceful and non-violent manner.

3.19 : It is in view of the above referred facts that it is now necessary to consider whether it was prudent and necessary to hold elections in February 1983 in Assam and whether the Government's dogmatic insistence to go on with the elections at any cost was primarily responsible for the ultimate violent, holocaust which resulted in about 5000 dead, thousands permanently injured and maimed, hundreds rendered orphans and widows, unprecedented destruction of properties and, above all the unforgettable and unhealable scars of hatred, scorn and resentment in a society which is temperamentally and traditionally accomodative and friendly.

CHAPTER—IV

ELECTION—MAIN AND IMMEDIATE CAUSE OF VIOLENCE

4.1 : In context of the facts stated above we find it difficult to avoid the conclusion that in the months of January and February 1983 the situation in Assam was not at all congenial for holding a truly free and fair election, and that the Government—State as well as Central—knew it and the Election Commission ought to have known it. We also cannot avoid the conclusion that the party in power at the Centre ordered elections only with the sole object of capturing power and was determined to go through the process by availing of the services of a tame bureaucracy and obliging police. The Election Commission could have played a very constructive role in safeguarding the lives of hundreds and in preserving age-long amity of the Assamese Society but unfortunately, it also could not rise to the occasion and sought an alibi under the cover of so-called Constitutional compulsion. The result was the unprecedented Police atrocities and group violence of unimaginable scale. The discussion which follows fortifies these conclusions.

4.2 : In our opinion, the proper appreciation of the above-narrated facts reveal very clearly the following broad aspects of the matter :

(1) That the Central Government, the State Government and the Election Commission were fully aware of the fact that the elections to the Legislative Assembly and the Loka Sabha seats in Assam were necessary at an appropriate time before March, 1983.

(2) That as the electoral rolls were not updated or revised ever since the year 1979 onwards and were also found highly defective, it was unavoidably necessary to revise them before these elections took place in March, 1983.

(3) That the sentiments and the feelings of the people of Assam with regard to the foreign nationals issue was so strong and acute that any election without revision of electoral rolls was bound to meet with very stiff resistance from the people.

(4) That AASU and AAGSP who had led the long-drawn-up struggle against the foreign nationals in Assam had proved a definite popularity with the people and were totally averse to holding any election before the rolls were revised.

(5) That experience of 1980 clearly showed that in case of Loka Sabha elections in that year, 12 out of 14 Loka Sabha seats could not be filled in on account of peoples' agitation boycotting that poll successfully on the question of defective electoral rolls.

(6) That if elections to the Legislative Assembly and Loka Sabha were imposed against the expressed will of people the same would be definitely resisted, and therefore, grave law and order situation was likely to arise in Assam Valley more particularly in an atmosphere surcharged with latent animosities.

(7) That for conducting the poll the authorities were not to get any help or co-operation from the people of Assam, and

therefore, thousands of civil and military personnel were required to be imported into Assam to carry out the elections at a cost of crores of rupees.

It is in the background of these proved aspects of the situation that we have to assess the causes of the extra-ordinary violence and bloodshed which followed in the month of February, 1983, the month in which the elections took place.

4.3 : We would like to note here that we are not oblivious of the argument that before final shape to the electoral rolls could be given, some sort of working compromise with the movement leaders was necessary and that such a compromise could not be arrived at up to the beginning of the month of January, 1983, at which stage there was no scope for revising the electoral rolls. No such contention would, in our opinion, hold water for the simple reason that it is obvious that right from the beginning of the negotiations with the leaders of Assam, the Government had taken the stand that the cut-off year for deciding the foreigners' issue should be taken as the year 1971. If this is so, the question which arises to be considered is what prevented the Government and the Election Commission from correcting the electoral rolls taking 1971 as the cut-off year for the foreigners who got themselves enrolled as voters. Apart from the inability of the parties concerned to settle the issues as to foreign nationals, the most irritating factor which has been the immediate cause of the violence and bloodshed which followed was the fact that though the authorities were knowing that according to the Constitutional provisions elections would be unavoidable before March, 1983, no action was taken to revise the electoral rolls and elections were imposed on the people of Assam on the

basis of defective rolls. Apparently the defect in question consisted in the incorporation of the names of those who being foreigners were not entitled to be enrolled as voters and the number of such voters ran into lakhs. We have got in our record the statement made by Sri Hiranya Kumar Bhattacharjee who has served the Government of Assam as Deputy Inspector General of Police. It transpires from his statement that according to the official claims three lakhs of foreigners are already deported. However, even the names of those deported foreigners who have been enrolled as voters are not deleted from the electoral rolls. Obviously, such a situation clearly smacks fishy. The allegation of the movement leaders is that these foreigners who have been enrolled as voters, constitute safe vote-banks for the political parties who can muster their confidence. It is contended that obviously the political parties which want expulsion of these foreigners cannot expect to get any vote from these voters, but the party which has uptill now resisted their expulsion would obviously be favourite of these voters and therefore realising the situation that the movement leaders had repeatedly declared that they were to boycott any election before the foreigners issue was settled, the party in power decided to go in for election without revising the electoral rolls solely for the purpose of saddling their candidates on the seats of power, at any cost. It is alleged that it was this selfish political consideration which dominated the Government machinery and threw the people of Assam in the cauldron of unprecedented violence, hatred and blood-bath.

4.4 : Looking to the evidence before us we cannot help expressing our broad agreement with the proposition that the elections which were imposed on the people of Assam

in the month of February, 1983 were inspired by political motives and in spite of the knowledge that they were bound to generate sharp and violent reactions from the people of Assam. This knowledge is written large in the preparations made even during the course of tripartite negotiations for increasing the number of jails (vide para 3.9) and the acquisition of wide and extraordinary powers almost simultaneously with the declaration that the election would be held. It is quite obvious that the action of the Central Government leaders in abruptly putting an end to the hopeful negotiations, and simultaneous declaration of election without revision of rolls coupled with large-scale assumption of draconian powers to be exercised through police rule, arrest of movement leaders even before they could set their feet on the airport, and immediate show of force through indiscriminate firings, wholesale arrests and detentions, and virtual madness with which electoral process was pushed through, provided undisputably grave provocation and insult to the people of Assam.

Shri Ajit Sharma, aged 62 years, is an old Socialist and a respected political and social worker. Till recently he was a Member of Parliament in the Rajya Sabha. He explains the situation on eve of elections as under :

"When Union Government arbitrarily ended the negotiations at Delhi with AASU and AAGSP on 5th January, unilaterally announced elections on 6th January, and put under arrest all leaders of the movement at Borjhar Airport on their way back from Delhi, it revealed its evil intentions so long harboured against the people of Assam and at once imposed

a situation of confrontation between the Government and the people of Assam.

Throwing to the winds all earlier announcements and commitments on the floor of Parliament to the effect that no elections would be held in Assam without revising electoral rolls and eliminating all names of foreigners from these rolls, the Union Government announced elections on the basis of the unrevised rolls of 1979. The Election Commission played a subservient role to the Government and started the process of election. The Governor and his Principal Adviser, the Chief Secretary and the Chief-Electoral Officer of Assam acted as political agents of the Union Government and carried on a conspiracy to hold elections in the face of warning given by almost all other senior officers of the Assam Government."

Another old political worker Dr. Purna Narayan Sinha, an ex-Member of Parliament and President of Tezpur District Janata Party summarises the reactions of people as under :

"The State Government officials, teachers, community and employees of public sector undertakings refused to identify with election and the general people including Indian Immigrants too openly declared that they would take no part in election. But some people who depended upon their ethnic communities in addition to Congress (Indirs) which counted for support amongst religious minorities and others whose votes could be purchased, were in the field"

President, working President, Secretary and one Shri B.K. Saikia of Nowgaon District Freedom Fighters' Association say :

"We are absolutely without any doubt that had not the Government of India

abruptly ended the tripartite negotiations held during the first week of January, 1983, announced general elections in Assam on the basis of uncorrected 1979 electoral roll, arrested the movement leaders and perpetrated repressive measures in a wide scale with the only view of holding election with the help of police and para military forces, fostered divisions among different sections of people of Assam on religious, linguistic and ethnic basis by Government and party in power and created bitterness, mistrust and mutual hatred among them, there would not have taken place the happenings now under inquiry by your commission."

Yet another political and social worker of repute is Shri Bishwa Goswami aged 62 years who is a sitting M.P. being a member of Rajys Sabha. We find ourselves in complete agreement with his reading of the situation as under :

"According to my knowledge, the riots in Assam are neither linguistic nor ethnic. The violence could have been prevented had there been no election. Even at that, the violence could have been checked much earlier had the Government taken adequate steps. My reading is that the Government decided on election even knowing that all conditions were against holding of election, on the belief that opposition parties would not participate, some movement leaders may participate, and it would be easy to capture power and to crush the Assam movement. However, the Non-Communist opposition parties made it clear prior to election that they will not participate in election on the basis of defective election roll, and before foreign nationals issue is solved."

Shri Nibaran Chandra Bora (P.W.79) of Dibrugarh District, aged 64 years was the President of Purvanchal Loka Parishad and was also one of the members of the team which negotiated the solution of foreigners' issue with the Government of India till April, 1982. He says that with the sudden breaking down of the negotiations there was general despair and the programme of going round to educate people that election was only an eyewash was undertaken. According to this witness the real conflict was on the issue of citizens vs. non citizens because in the area of his district which mainly consists of tea labour (Indian immigrants from other Indian States) which is pre-Congress, there was no voting.

Shri Bansilal Soni, aged 54 years, is the Secretary of N.E. States Co-ordination Council of Bhartiya Janata Party and also a member of its National Executive. He says that before the announcement of elections in January 1983 the situation in Assam was entirely peaceful, that is to say, there was no bickering between various groups—linguistic, ethnic or otherwise.

The witness further states that just before the elections were declared, tripartite talks were going on and there was a great hope for settlement. However, suddenly, the Home Minister, on behalf of the Government declared, taking everybody by surprise, that the talks had failed. Thereafter the leaders of the agitation were arrested the moment they got down from the plane, and taken to unknown destination.

The witness has kept a regular diary of the events from 4-1-1983 to 15-4-1983 copy of which is found at Ex. 209/4. He recollects from his diary that when elections were officially notified on 12-1-1983 midnight people were shocked, because before that there

were many representations and appeals to the Government not to hold elections, without solving foreigners' issue. According to the witness there were also warnings that if elections were so held there would be blood bath.

Witness no. 13 to Shri Hironmoy Choudhury @ Ronoo Choudhury, a Radical Humanist, aged 71 years, and a resident of Calcutta and Assam. He is managing Noanudy Tea Estate at Kalaigaon in Darrang District, Assam. He is a political thinker and a respected intellectual who can assess sociopolitical problems without being influenced by political considerations. Since last twelve years he is working as the Secretary of M. N. Roy Memorial Committee of West Bengal. In his memorandum found at Ex. 13/I he has candidly expressed his views for and against the Government as well as the Assam Movement against foreigners. His opinion about the main cause of these disturbances thus gathers greater credentials. He has expressed it in the following words :

"If one single cause is to be ascertained for the disturbances which resulted in the loss of thousands of human lives and destruction of properties worth crores of rupees, it was an unwise decision combined with unfair process of declaring election in Assam in the month of February, 1983, by the Central Government. I call it unwise because at that time nowhere in Assam, excepting Cachar, the situation was in any way favourable for holding any election. The tension amongst different communities, groups and parties was at its peak, while the law and order situation was at its breaking point inspite of the presence of a good number of battalions of C. R. P. and other para-military forces. I call it unfair because the Central

Government abruptly closed the last dialogue in Delhi with the leaders of the movement and allowed them to return to Gauhati. But immediately on their arrival at Gauhati airport they were arrested. Keeping all the leaders of the movement inside prison bars the fateful declaration for holding election in Assam was issued by the Central Government—what else can be called unwise, unfair and undemocratic. Moreover, the inflammatory and irresponsible speeches and statements of some prominent political leaders of All-India fame dragged the situation from bad to worse."

.. .. .

 "5. The immediate cause of disturbance was the declaration of election in Assam in the month of February, 1983. With that declaration many parts of Assam, including that of ours, went in flames. Year before the cruel declaration, it was visible to all rational and intelligent people that the Central Government was planning for an election in Assam and the extremists inside the movement were planning to unmake the same by all means, including violence. Long before the election the major part of Assam became disturbed areas and incidents of violent activities on one side and repressions of police and C. R. P. F. on the other side became a daily feature for the people of Assam. The very presence of C. R. P. F. and other para-military forces always used to bring annoyance and irritation amongst the Assamese and specially the leaders of the movement and their followers. The real cause of this unhappy relation was that the Government was utilising these forces to suppress the movement....."

But Shri Choudhury is not alone in holding

these views. Another non-political organisations have also expressed similar views. One such organisation is Gandhi Peace Foundation Centre, Assam. It's Secretary Shri Rabikanta Handique says in his memorandum Ex. 66 (12) as under on this point :

"4. The violent incidents happened in this area in February, 1983, were all of political nature. The foreigners' expulsion issue on which AASU and AAGSP organised agitation was wrongly interpreted by and misunderstood as if it was against all outsiders living in Assam and it was also propagated that if the outsiders voted for Congress (I) they will not go out and not be expelled from Assam. In this way communal tension was sought to be raised and created conflict.

5. Immediate cause was election on the issue of expulsion of foreigners. The official function of 15th August, 1982 was boycotted by AASU which appealed to people to abstain from attending such functions. The Congress (I) members under the leadership of Shri Debajit Choudhury with the help of police observed it and hoisted national flag and this created bitterness and tension in the area.

On the declaration of election of the members of Legislative Assembly, the AASU and AAGSP appealed to boycott the election and members of Congress (I) were determined to go through the election by all means. All sorts of mischievous propoganda were made by the supporters of Congress (I) among the immigrants to the effect that if they voted for Congress (I) nobody will be able to drive them out and they will get Indian citizenship. The people who were determined not to allow election to be held burnt some L. P. Schools which were to be used as

election centre before the election and attempted to destroy some bridges and blocked roads by felling big trees." Yet another such non-political body, namely Civil Liberties Association, Jorhat, observes as under in its memorandum Ex. 66 (I) :

"(3) The State as a whole barring Cachar District was very much disturbed due to non-solution of the Foreigners problem in Assam and for holding election.

(4) The Government clamped down Section 144 Cr. P.C. and enforced Assam Disturbed Areas Act 1983, the Assam Armed Forces Special Powers Act, 1958 and the entire district was in a state of seige by the police, CRPF and B.S.F. and other para military forces, who occupied all the educational institutions and public places. Free movement of people and expression of public voice were made impossible. The cars, buses, trucks and other vehicles were forcibly taken by police in the name of maintaining law and order."

This was the condition under which the elections which were supposed to be free and fair were to start.

Morigaon Bar Association which is another non-political professional body says as under in its memorandum Ex. 53 (I) :

"7. There was no record of any communal disharmony in this sub-division among the people belonging to different communities living here and they lived with due respect to each other in their day to day life. There are no instances of any alien movement launched by the people of Assam.

8. That on the decision of Government to hold illegal election in the month of January, 1983, the indigenous people attempted to persuade the immigrant religious minority community of the

sub-division not to take part in this election forcibly imposed on the people of Assam. As a matter of fact the divisive forces acted, and thereby divided the people and drifted the religious minority immigrants to take part in the said illegal election giving no weight on the maintenance of amity, integrity and brotherhood among the different sections of the people by the vested interest in this part of the State."

We find that even the reactions of sober and responsible social workers not associated with any political party are also the same.

Mrs. Anwara Mansur, an Assamese Muslim aged 61 years residing at Nowgaon town (Witness No. 27), says as under in her memo. found at Ex. 27/I.

"In conclusion, I would like to state that the whole idea of holding election was ill-conceived and it has left a deep scar in the entire Brahmaputra valley. The main cause of the whole drama is the Central Government's imposition of the election on the people of Assam (Brahmaputra valley) who have been opposing such election until the foreigners' issue was solved. The situation greatly deteriorated due to highly inflammable speeches of the Central leaders at the places of alien minorities. It is very unlikely that true peace and tranquility would return to this region until and unless there is a permanent solution to the Foreigners' problem."

We fully agree with Mrs. Mansur who touches the pulse of the problem when she feels that the greatest damage done by the elections of February, 1983 is the creation of "deep scars" in the hearts of people who lived in peace and amity for decades together.

Shri Jogesh Chandra Das, aged 72 years

is a social worker involved in many social activities in Nowgaon district. In his memo. Ext. 30/I he says as under :—

"In election campaign, the Congress (I) leaders came to the immigrant Muslims and they were made to understand that if they would not vote for Congress or would not bring Congress to power, then they would not be able to stay in Assam, and they would be driven out of Assam. The Govt. would give protection to them and they need not fear from the movement people. They became fired when they heard the campaign speeches of Central Railway Minister, Abdul Gani Khan Choudhury at Singimari, Hojai etc."

There are numerous other organisations, associations and individuals from all over Assam expressing the same view. It is however not possible or necessary to make specific references to all of them. We have referred to the above statements as they sum up the totality of the feelings of the Assamese which the Governments at the State and Central levels ought to have known, and were actually knowing, before the elections were notified.

4.5 : So far as Election Commission is concerned, it undoubtedly knew about the conditions in Assam. It knew that for 1980 Loka Sabha elections resistance of people against elections conducted on the basis of unrevised rolls which included the names of foreigners was so great that it became difficult to obtain nominations from the candidates and that 12 out of 14 seats remained vacant. The Commission was closely following the course of events in Assam and had to face many uncomfortable questions from political leaders, organisations and journalists with the result that the Chief Election

Commissioner had repeatedly to assure the revision of Rolls before the next elections.

We have before us, a copy of the report of the Commission on the General Election to Legislative Assembly of Assam in 1983. The Commission knew that the resentment of the people against elections without revision of rolls was such that none from Assam would undertake the job of printing ballot papers. Says the Commission :—

"In the conditions then prevailing in the State of Assam, it was fairly clear to the Chief Electoral Officer and the Commission that printing of ballot papers within the State would be extremely difficult on account of direct or indirect non-co-operation of the Government employees and likely sabotage that was apprehended." Speaking about the police and security forces the Commission notes :

"The total requirement of police and security forces for election duty was assessed at 270 companies. This requirement was by any standard abnormal, but in context of extra-ordinary situation prevailing at the time in the State the question of pruning down of this demand did not arise"

It is beyond dispute that voters lists were not supplied to political parties, no meeting of recognised political parties was called prior to election as is customary, no time schedule was announced for inclusion or deletion of names in voters list, time schedule and venue for filing nominations, scrutiny and withdrawal of the same were kept as closely-guarded secret, and candidates could file nominations under security protection only. All these facts and circumstances were sufficient to convince even a layman that the atmosphere in Assam was not conducive to free and fair elections. The Election Commission, of course, knew

more than a layman. It, however, contends at page '39 of its report that "The Chief Secretary and the Inspector General of Police assured that adequate steps have been and would be taken for peaceful poll."

The "adequate steps" which were taken was imposition of Sec. 144 Cr. P.C. throughout the State, investing Executive Magistrates with the powers of judicial magistrates, making some bailable and non-cognizable offences non-bailable and cognizable and assuming draconian police powers superceding all norms of a civilized and democratic society. And all these "adequate steps" were for ensuring "free and fair" elections in the State. The Chief Secretary and Inspector General of police of the state believed this as they wanted to please their masters. But the poignant irony of the situation is that even the Election Commission, which has an independent and irremovable position under the Constitution of the "largest democracy" of the world, also believed in the efficacy of these "adequate steps." Perhaps, the Commission knew it better because it is the premier constitutional organ which is vitally interested in "free and fair" elections which undoubtedly includes Assam. Evidence shows that the Election commission knew the following facts even before the first round of elections took place on 14th February :

(1) That the resistance of the people to elections was so much that at almost all places in Brahmaputra valley the police had to open fire which took the toll of more than 25 lives.

(2) That section 144, Cr. P, C, was enforced throughout Assam and curfew was required to be clamped at various places, thus curtailing the freedom of speech, movement and association.

(3) That an unusual step of curtailing

the powers of judicial magistrates and vesting the said powers in the Executive Magistrates was required to be taken.

(4) That polling staff was not available and it was required to be airlifted from outside the state, and that it was not possible even to print ballot papers in Assam.

(5) That the press was required to be gagged and various draconian measures were required to be passed to control people from resisting the poll on the ground that abnormal conditions prevailed.

(6) That voters lists were not available to people as in normal conditions, and

(7) The unusual number of para military forces were imported into Assam for election purposes and that its own office of Gauhati was required to be heavily protected by barbed wire fencing and security forces round the clock.

It is difficult to understand that was more facts were required to know whether elections in such an atmosphere could be free and fair elections. However, Curiously the Election Commission found some good magic in the words of the Chief Secretary that "adequate steps" were taken to see that the elections would be fair and free."

4.6: However, presuming that the Election Commission was naive enough to be taken in by the assurances given to it by the two august members of Assam bureaucracy, and that it had no means to verify these assurances, we have got evidence on record to show that its attention was specifically drawn to the danger of holding elections in Assam at that stage without revising the rolls.

It is found that on 12th February, 1983 by which time much blood of the Assamese had flown due to thoughtless police firings and tension was running high due to inflammatory speeches of politicians, a strong

delegation of Gauhati citizens, which included Shri M.C. Pathak, the retired Chief Justice of Gauhati High Court, Dr. M.N. Goswami, an ex-Vice Chancellor and other prominent and respectable persons, waited upon the Commission and had discussion with Dy. Election Commissioner and Commissioner's Secretary to impress upon the Commission the inadvisability of proceeding with the election. The meeting took place at Dispur in Chief Electoral Officer's Office. Mr. Ajit Sharma, M.P. was also one of the members of the delegation. It warned the Commission that if the elections were not stopped, it would cost innumerable lives. Reports of daily killings were shown for the previous week and the Commission was warned that if the advice of the delegation was ignored, the Government could succeed only in killing 1000 or more people in the State. The advice was not heeded and the total casualty of dead came to much more than 3000. But let us know what the Election Commission has to say about this. The Commission is silent in its report about this meeting. It however admits that under its orders, the Dy. Election Commissioner and one of its Secretaries visited the State between the afternoon of 12th February and 14th February, '83. It may be noted that 12th February is the same date on which the above delegation waited on the Deputy Election Commissioner and the Secretary at the office of the Chief Election Officer at Dispur (Gauhati). The Commission makes the following note about this visit :

The officers could not of course make rounds of various places before the poll or on the first day of poll date i.e. 14th February, 1983, because of lack of communication facilities and other difficulties caused by Bundhs and agitations. In

the limited period, the places visited were only Gauhati and some places near about Gauhati. Though there was no visible electioneering activities on usual scale, the officers and people who met them had given impression that the election would go off those places without affecting much the smooth poll. The one or two persons whom they met near Gauhati, especially tribals, were asserting that inspite of threats given to tribal community they would exercise their vote. In a few polling stations in Dispur town visited by these officers on 14th February, 1983, the polling was very dull. In many polling stations in the area which is predominantly occupied by Bengalis, there were signs of moderate polling. Of course, a fair assessment of situation, which was possible only if the polling was observed in different areas of the State, by different sets of officers which in fact was not done. One of the handicaps in our electoral system is that the Commission has to depend entirely, on the State machinery" (emphasis supplied).

The argument is clumsily crude and laborious, and but for the fact that it implies some unsavoury implications regarding the attitude of one of the most important constitutional organs of the State, we would have dismissed it summarily with a silent smile. If the officers of the Commission were handicapped by lack of "communication facilities" for moving in the State, that situation itself was a sufficient proof of how much fair and free the election was going to be. We have evidence to show that the B. J. P. leaders Messers Vajpayee and Jaswantsingh, the Janata leader Mr. Fernandes, and some members of Parliament from Assam were moving throughout Assam with their colleagues

at the same time when these officers of the Commission visited Gauhati, much to the dislike of various officers of the Government. However these big officers of the Commission were handicapped by Bundhs, agitations and lack of communications and could not go beyond "some places" near about Gauhati." Which are these "some places" one does not know, who are the "officers and people" who met these representatives of the Commission, one does not know, who were "One or two persons" "especially tribals" whether they were Lalungs or Boros, Garos or Khasis, one does not know, who was giving "threats to tribal community" one does not know, and why polling was not observed in different areas of the State by different sets of officers, one again does not know. The facts stated in the observations quoted above do constitute a master-piece in vagueness... But that apart, it is difficult to comprehend why these highly placed officers of the Commission allowed themselves to be impressed by some "one or two" tribals who are not identified and who seem to have been picked up in a street, while they refused to take any note of the views expressed and advice given by the citizens' delegation which consisted of a retired Chief Justice of Gauhati High Court, an ex-Vice Chancellor, a sitting Member of Parliament and other gentlemen of Gauhati. It is undoubtedly amusing to find the Commission throwing the blame on the State machinery, for want of "fair assessment" of the situation. Whoever be blame-worthy, the fact remains that on Commission's own admission, a fair assessment of situation could not be made by it on 12th or 14th of February and that it was not prepared to be guided by the advice tendered by a weighty and responsible delegation of Gauhati citizens.

But what about the observers of the Commission. How they were discharging their

duty is explained by the Commission itself in its report in the following words :

"The Commission appointed five senior officers as Commission's observers. In the difficult conditions prevailing in the State in regard to communications these observers could not make any contribution which was normally expected of them. Their subsequent report to the Commission which was just about pithy, did not give any insight into the real problem of law and order and whether it had any impact on polling. (emphasis supplied)

We do not think any comments are required about these observations.

But earlier, on 25th January, 1983, the Election Commission wrote to Shri Ajit Sharma, M.P. as under :

"It is true that situation in Assam is not absolutely ideal for holding election inasmuch as the main political problem relating to "foreigners" has not been solved and some groups have decided to boycott the poll. However, constitutional compulsions make it incumbent for the Commission to hold elections before the dead line."

We shall touch the question of "constitutional compulsions" in a Seperate Chapter, for at this stage we are concerned only with the fact that even according to the Election Commission the situation in Assam was not "absolutely" ideal for holding election. Shorn of linguistic sophistication, we would like to put it bluntly that it was not in the least ideal for holding election if by "election" we mean "free and fair" election.

The Election Commission has powers to stop election at any time if it finds (elections) inadvisable to proceed further. The elections were in three rounds i. e. on 14th, 17th and 20th, February. Before the third round arrived

there was sufficient evidence of police violence and unprecedented group conflicts. The Commission had sent observers whose duty was to report to the Commission about this. Even otherwise, there was plenty of coverage about this even in national papers, most of which are otherwise apathetic towards Assam news. Before the third round of poll, which was to begin on 20th February, the Commission knew that on 14th February poll could not be completed either wholly or partially in 18 out of 61 seats for which poll was ordered. Similarly on the second round of 17th February poll could not be completed wholly or partly in 16 out of 37 constituencies for which the poll was arranged. Thus before the third round of 20th February poll could not be completed for various reasons in as many as 34 constituencies. Before 20th February police firing had taken toll of many innocent lives and group carnage of unprecedented nature as in Gohpur, Chamaria, Nellie, and in Darrang and Sonitpur Districts had already taken place. Under the circumstances there was no justification for complete attempting to the third round on 20th February when even the so-called constitutional compulsion also ceased to exist. However, the Commission adjourned the poll only in nine Assembly constituencies out of 24 fixed for the third round. This adjourned poll for 9 constituencies could never take place.

Even if the third round of poll was wholly adjourned in time, much of the blood-shed could have been saved. But the Commission pleads total ignorance about the real situation and puts the blame squarely on the officers of the State Government as under :

"The Commissioner was continuing with the process of election only on account of assurances given by the State at various stages that they were in a position to

carry out peacefully the process of election. Even after this first round, the State Government did not intimate that they are not in a position to continue the second and third round of polling."

The Commission then proceeds to say :

"In spite of repeated references, both oral and written, they (Chief Electoral Officer and State Government) gave an indication that the poll could be taken peacefully. It was rather unfortunate that the daily report on law and order was not sent to the Commission either by the Chief Electoral Officer or by the State Government, even though there are standing instructions of the Commission to this effect."

Obviously, the Commission thinks that it was kept in dark by the Chief Electoral Officer and the Chief Secretary as well as the Advisers of the Governor. It is however, strange that the Commission was dependent only on the reports received from the interested persons and could not obtain any information through other sources not even from news papers. At any rate we do not know what steps were taken against the officers who failed to do their duty towards the Commission.

4.7 : In this connection it would be interesting to take notice of the questions in Rajya Sabha on 3rd May, 1982 put by Shri Ajit Sharma and the answers given to them by the Law Minister Shri Kaushal :

Rajya Sabha 3 May, 1982

Oral answers to questions

Preparation of voters' lists in Assam

104 SHRI AJIT KUMAR SHARMA

Will the Minister of Law, Justice and Company Affairs be pleased to state :

(a) By when the revision of the electoral rolls in Assam is going to be completed

by removing all the names of foreigners from it :

(b) What is the estimated number of foreigners already included in the voters' lists in the State : and

(c) By when the elections to the Lok Sabha and the Assembly seats are likely to be completed and what are the impediments, if any, in holding these elections ?

THE MINISTER OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI JAGANNATH KAUSHAL)

(a) to (c) Election to the Assam Assembly and the remaining Loka Sabha seats will be held after the revision of electoral rolls. For this purpose, action will have to be initiated soon. It will also be ensured that the names of foreigners are not included. Until the process of revision of electoral roll is completed it is not possible to know the number of foreigners who might have managed to get their names included in the electoral rolls.

SHRI AJIT KUMAR SHARMA : Sir, the answer given by the Minister does not indicate any firm decision on the part of the Government to hold elections in the State nor does it give a correct answer to the question. It is only a kind of avoiding the answer, to the real question. Now, Sir, the Minister does not seem to be aware of the constitutional compulsions of the situation. Since the Assembly has been dissolved in Assam, the latest time by which the election must be held is March, 1983. And if that election has to be held the electoral rolls must be ready latest by December, 1982, and the process of revising electoral rolls must be started now. But on neither of these points the Minister has anything.

I would like to have from the Hon'ble Minister a firm commitment of the Government whether they are going to hold elections latest in March, 1983 in Assam by correcting the electoral rolls and removing all the names of foreigners from these rolls. Or, is the Government thinking of imposing elections on Assam even without correcting the voters' lists?

SHRI JAGANNATH KAUSHAL :.....

...So far as the question of the revision of the electoral roll is concerned, the House knows that the situation in Assam is not yet normal. The talks are going on between the leaders of the agitation and the Government as well as Members of the Opposition parties.....unless the situation is normal, the process of revision of the electoral rolls cannot be adequately performed. And that is our problem. But we can assure the House that the moment the situation permits starting the process of election, we will not delay it even a minute longer.

The above debate shows that the Minister has agreed that the action to revise the roll "will have to be initiated soon" and that it would be "ensured" that the names of foreigners were not included therein. To the question relating to Constitutional compulsion, the Minister says: before the date of that compulsion the rolls could not be revised as "the situation in Assam is not yet normal." If for want of normal situation even revision of rolls could not be undertaken, it is difficult to understand how election could have been undertaken in that situation.

The argument comes to this:—

- (a) Rolls must be revised so as to ensure that "names of foreigners are not included therein", and this should be "initiated soon."
- b) It however cannot be initiated as situa-

tion in Assam is not "normal." Therefore time passes on without revision waiting for the situation to become "normal".

- (c) As the time passed on, the deadline date of March 1983 arrives, and now we are faced with a "constitutional compulsion."
- (d) A difficult situation indeed! No way out of this in surmountable compulsion. So election is a must, Revision or no revision of rolls, normalcy or abnormalcy of the situation, loss of innocent human lives, destruction of property, unsettlement of harmony of a peaceful society, imposition of heartless police rule and brainless bureaucratic set up, destruction of basic rights—all this is irrelevant because there is a constitutional compulsion."

This is the logic of the Law Minister, and through him of the Government. The Election Commission also seem to have been dazzled by the brilliance of this logic unfortunate though it may be for the common man of Assam. After all, compulsion is compulsion, and when it is a constitutional one, there is no way out!!

This compulsion for the Government and Election Commission lead to a counter compulsion for people, the vast majority of whom did not want election before the rolls were revised. Their reaction to the Government stand hardened and they became more determined to counter the Government move by all possible means. Extremists of them destroyed many wooden bridges connecting different villages in a bid to stall the elections; others took out processions and tried to put obstacles to every attempt of the Government to go ahead with elections, without caring for imposition of Section 144, Cr. P. C. and the

bullets of armed Constabulary. Civil authorities and para military forces concentrated all their force for carrying out election, and met the challenge of group agitations, rarely with lathis, but mostly with bullets. Any youngman believed to be a student was hounded out and chased in streets as well as in his home and detained and tortured sometimes till he died while in custody. Houses were broken open and ransacked even during nights to find out the wanted persons. Resistance even by oral protests was silenced by lathi blows and arrests. Women young and old were no exceptions. Some of these details will be dealt with in a separate chapter. Here it will be sufficient to note that in spite of this massive provocation, except two or three acts of murder of individuals such as a Congress-I candidate Satya Narain Ram (Sootea constituency) and a police officer near Sipajhar, and destruction of connecting bridges, the people had refrained from indulging in any large-scale mass violence 4.8: The way in which the poll propaganda started clearly shows that those who wanted to contest the elections did so by playing upon petty group rivalries and antagonism inherent in the Assamese society due to land encroachments which have continued for decades. We have voluminous evidence to show that group conflict came to surface from the 11th February onwards only after the politicians started their inflammatory speeches and played upon the violent instincts of the group on which they put reliance for votes. Only two major instances of this type would suffice.

(a) On 8-2-1983 Mr. Abdul Ghani Khan Choudhuri, himself a Bangali Muslim, and a Cabinet rank Minister in the Union Cabinet, gave a public speech at the place called "Nil Bagan, an area inhabited predominantly

by immigrant Muslims, against whom the agitation was going on, and who formed the safest vote-Bank for the Congress-I party in power. Evidence produced before us shows that he gave a highly inflammatory speech in this meeting. Witness No. 232 Shri Kandarpa Saikia, a student, who is the President of Nowgaon District Students' Union, has produced before us a tape record of this speech which was delivered in Bengali language. Appendix-T is the English translation of the same. It contains the following inflammatory portions:

".....I have come to tell you that when you are in danger you shall have to take blood for blood. If one person of you is killed you must have courage to kill two Hindus....."

You get ready to shed blood. You shall have to give blood for blood.....

Witness No. 262 Shri Jatin Bharali was one of the members of the public who heard the public meeting addressed by Shri Choudhuri on 10th February, 1983 at Moirabari. He deposes as under:

"Mr. Ghanikhan Choudhuri was excited. He stated that if Hindus killed one Muslim, the Muslims should retaliate by killing three. He said Government would support you".

Another witness Shri Tapan Deka (Witness No. 540) who is the Secretary of All Assam Gana Sangram Parishad has produced another tape recording of Shri Choudhuri's speech at Hojai in Nowgaon District in "earlier half" of February, 1983. Shri Deka claims familiarity with the Voice of Shri Choudhuri as he has heard him at a public meeting at Maligaon.

Though there is sufficient evidence in record to show that Shri Choudhuri has

given such inflammatory speeches, the Commission, in fairness to Shri Choudhuri requested him to send his reactions to the offending portions. Unfortunately, however, he has not preferred to respond to the same.

The Commission has on its record the statements given by three members of Rajya Sabha with regard to the debates which took place in the House about such inflammatory speeches said to have been made by the Minister on eve of elections in February 1983. It should be noted here that all these three members of Rajya Sabha are representing the State of Assam and were, therefore, keenly interested in knowing whether Mr. Choudhuri had uttered such objectionable words.

Mr. Dinesh Goswami (witness No. 77) was an independent M.P. sitting in Rajya Sabha. He has stated before us as under:

"In the first part of March 1983 I was given a recorded tape purporting to be a speech of Mr. Ghani Khan Choudhuri, Railway Minister delivered in Nowgaon. I recognise his voice as I have heard him in Parliament. I was satisfied that the tape was of his voice. The most provocative part of his speech in Bengali was "Ora Ek Jan Marle, amra Tin Jan Marbo" i.e. "if they kill one, we kill three". I gave notice to the Rajya Sabha Secretariat that I was going to make allegations against the Railway Minister that he made provocative speech, and I requested the Secretariat to inform him so that he may remain present. Normally, such advance notice is not necessary. During the discussion, I particularly quoted this part of his speech. The Secretariat informed me that Mr. Choudhuri was informed. He however, did not remain present when the debate took place. The Home Minister who replied

to the debate could not categorically say that the Railway Minister did not make such a speech."

Mr. Biswa Goswami (Witness No. 530) is a sitting M. P. and a member of Rajya Sabha. Speaking about the debate on Railway budget in the Rajya Sabha, he refers to Mr. Choudhuri's inflammatory speeches as under :

"In Rajya Sabha when Assam was to be discussed Mr. Ghani Khan was present but when Assam discussion started he left the House. Several members demanded that he should be present as direct allegations were to be made against him for inflammatory speeches. The Deputy Chairman told the House that the Minister would reply during his reply on Railway budget as he was not well on that day. It was alleged by me and other M.P.s. that Mr. Choudhuri said. "If they (Assamese people) kill one of you, you kill two". When Mr. Choudhuri replied on Railway budget, he did not refer to this allegation. When some members demanded that he should assert or deny whether he made such speech, he kept silent, and on further pressure by members he said, "no democrat can believe in violence." On demand of members that it is no reply, the Deputy Chairman passed over the matter and Mr. Choudhuri did not reply specifically."

Mr. Ajit Kumar Sharma (Witness No. 536) was also a member of Rajya Sabha at the relevant time. He states as under in this regard :

"Earlier by the end of February or in the beginning of March during budget sessions there was discussion in Rajya Sabha regarding Mr. Ghanikhan Choudhuri's inflammatory speeches during the course of elections in Assam. I was present during this debate. Several members

of Rajya Sabha charged that during election campaign at Maligaon and other areas, he gave inflammatory speeches, asked minority community to retaliate by killing two as against one. Mr. Ghanikhan was initially present during this debate. Then when he began to leave the house, there was demand from the members that he should give a reply but he left the house. The Home Minister was to reply but he avoided on this point. When pressed by members the only thing he (Mr. Choudhuri) had said was that no body who believes in democracy can say such things ; but when further pressed for a clear reply he said nothing and "left."

In view of the fact Shri Choudhuri has not preferred to contradict the allegations about the objectionable speeches attributed to him, either in response to our letter or in response to the debate in Parliament, and in view of other positive evidence on record about his inflammatory utterances, we have no hesitation in holding that he did make such inflammatory speeches which, as will be presently seen, had an electric effect on the persons for whom such speeches were meant. He assured his followers that they would be protected in their venture. Evidence recorded by us shows that the assurance has worked and has made his followers bold to lead an armed attack en mass on the villages inhabited by opposite group. This led to a chain of violent actions and reactions resulting in massacre at Chamaria, (inhabited by Assamese Hindus) numerous villages of Darrang, (inhabited by Assamese Hindus), practically all villages of Nowgong District (inhabited by Assamese Tribal-Lalungs) and Nellie villages as well as village Borbori (inhabited by immigrant Muslims), not to speak of many other parts of Assam where also a similar situation arose.

(b) Another place of carnage, perhaps similar to Nellie area is Gohpur area where the Assamese were butchered en mass and their villages destroyed by Boro tribals. Like Nowgaon, Darrang and Sonitpur areas, the Gohpur area was also simmering with group contradictions and bitterness on account of tribal encroachments in Reserve forest area and the resistance to it by Assamese non-tribals. Many tribal Boros were evicted. The Plain Tribals' Council of Assam (P. T. C. A.) is a political body desirous to carve out for plain Tribals a separate State called "Udayachal" with the railway line as its southern boundary and Arunachal State (previously known as NEFA) as its Northern boundary. This organisation (PTCA) was contesting February election.

Mr. Shekhar Gupta has well summarised the genesis of the Gohpur carnage in his book as under :

In the course of those four momentous days in mid-February, Bodo-Kachari tribals and "indigenous" Assamese plainmen killed each other, burnt houses and granneries, and went into an unprecedented frenzy of fratricide. After the elections the leaders of Plains Tribals Council of Assam, a rather mercurial and even intriguing organisation, had once again begun talking of Udayachal, the imaginary autonomous State of plains tribals on the northern fringes of the State, with enclaves all over. The election, and the agitators' desperate attempts to block it, only served to further deepen the tribal and non-tribal rift among the indigenous Assamese society, and even though there is no denying that politicians from both groups exploited the situation, they were only working on emotions which already existed. The election served the cause of the tribal revivalists and, significantly, Ujani Asom Rajya

Parished, widely acknowledged to be a revivalistic organisation of the Ahoms seeking to restore the Shan tribe's past glory by carving an autonomous State out of upper Assam, joined hands with the Congress-I and succeeded in getting two of its candidates elected to the Assembly." (emphasis supplied).

The above observations which are emphasised are true not only with reference to Gohpur area but also with reference to almost all the areas in Assam where group violence broke out.

Evidence relating to Gohpur area shows that on 12th February, 1983 a large number of Boro tribals accompanied by Adivasi ex-tea labourers armed with bows and arrows, dao, spears attacked East Ghagra Basti, Monabari, Borigaon, Sonapur, Mazgaon, Kheranibari, Nalbori and other villages all numbering about 35 over a stretch of 15 miles east to west, North of N.F. Railway, killing more than 150 persons, burning houses and rendering 2500 families homeless leaving the dead uncared for. This continued upto 14th February when a C.R.P. personnel came and clashed with a group of armed tribals. That time C.R.P.F. fired 19 rounds and injured a number of tribals, one of whom was one Madan Musahari (aged 30 yrs.) who died at Civil Hospital Tezpur leaving a dying declaration that P.T.C.A. leaders had asked him to drive out non-tribals from Gohpur reserve forest and enjoy it with the Adivasi ex-tea labourers.

We have got on our record the statement of Shri Dimbeshwar Saikia of Borigaon village (Gohpur) at Ext. 139. The witness was the President of the Panchayat of his village. On hearing about the carnage at other villages said to have been committed by Boro Tribals he repeatedly approached the Police for help.

S.I. Sadhu Charan of Gohpur Police Station told him that he had no force with him and he should go elsewhere. When he pointed out that there were two dozen C.R.P force in the Thana the officer replied that they were meant for election work. The witness returned home and gave refuge to 400 to 500 persons rendered homeless. The witness then gives other accounts of carnage with which we are not presently concerned. He further says that four youngmen of his village named Premeshwar Bora, a teacher, Ganesh Barua, a cultivator, Pushpa Mahanta, a student and Sona Ram Bora an armyman on leave were done to death in presence of police at a distance of 250 yds. from them. He therefore, asked the police officers on duty whether his people could be killed in that manner in their very presence. He was told by the Additional D.S.P and S.I., who were present, that only Mr. Baputi Payang, the P.T.C.A. candidate and Koseswar Barua the Congress-I candidate of a neighbouring constituency who were contesting the elections, could save the situation. The witness returned home.

The witness says that before this, the social relations between the tribals and non-tribals were very good and that such incidents occurred because of the instigation by some tribal leaders who wanted elections. "They said, if people voted and make Congress-I successful, they might get "Udyachal" as a separate State."

The witness then refers to one P.T.C.A. leader named Samar Brahma Choudhuri, an ex-Minister of Assam who, in a fiery speech on the floor of the Assembly, thundered that if promise of Udayachal was not kept, not only Assam, but the whole of North-Eastern India will be set on fire and this will create a volcano not seen before. This gentleman had held meetings among the tribals on 7th, 8th and 9th of February.

Evidence does not show that the whole of North-Eastern India was set on fire, but does show that the houses of thousands of Assamese-tribals as well as non tribals were set on fire and a volcano not seen before was created in Gohpur area, though "Udayachal" is still a distant dream.

A booklet showing the P.T.C.A. violent incitement is produced by the above referred witness Mr. Saikia. It is at Ex.139/1 in our record.

Witness No. 142. Mohan Bhuyan tells the Commission that on 12th February when he went to Hawajan police out-post the Report about the carnage to Purva Jyoti Krisi Palm Nigam area S.I. Hazarat Ali of that outpost told him that there was "political involvement" and that further damage could be prevented if they joined hands with P.T.C.A. candidate Baputi Payeng and Congress-I candidate Koseswar Barua.

4.9 : While considering the question as to how far the elections were responsible for the violence that took place during the months of January and February, 1983, it is very important to note that the conflict of interest between different groups of the Assamese Society was in existence even during the three years preceding the elections, during the course of which the people of Assam under the leadership of AASU and AAGSP gave an unprecedented and unique fight against the "foreigners". However, in spite of such a bitter fight there was no notable incident of group violence similar to the one which occurred during the election period of February, 1983. The very persons against whom the movement was going on did not take recourse to loot, arson and killings on such a large scale to prevent the movement against them, and those who were parties to the movement never thought of resorting to such group violence to settle their scores against the

"foreigners" directly for such a long period of more than three years. Thus upto the eve of election both the sides were living in peace and amity. This is in fact the nature of evidence recorded by us. Witnesses after witnesses from both the sides have told us that before elections there was complete peace and amity between the conflicting groups. We do not propose to give here the long list of such witnesses but shall make a short reference of only a few to illustrate the point.

4.10 : Witness No. 50 is an educated Muslim teacher working in Nowgaon District. He is an M.Sc. in Mathematics. He says that on 10th February the Prime Minister visited Moriabari. Before that all communities were living in peace and amity. He further says that after inciting speeches, he and others felt that the prevailing peace was going to be disturbed as the immigrant Muslims showed an attitude of disharmony with Assamese Hindus and Muslims. The witness says that the School where he teaches is close to Moriabari (where the Prime Minister is said to have given her speech), and that after the P.M.'s meeting was over he heard people describing the said meeting and saying that the Prime Minister and other leaders told the immigrants that unless they voted for Congress-I, the Assam leaders would drive them out. The witness has given definite evidence to show that the Assamese Muslims were one with their Hindu brethren in resisting elections. They joined in Dharna on 13th February at the village Dondua to prevent election material being carried to Morigaon and had also organised relief camp for the injured. He produces photographs Ex.50/7 to 9 showing Assamese Hindus and Muslims offering joint prayers for the persons killed in police firing during the above referred Dharna.

Witness No. 221 Husein Ali, a cultivator of 70 years of age of village Tarabori of Nowgaon District also deposes in the same strain. The witness states that on 15th February immigrant Muslims fully armed having the strength of 4 to 5 thousand persons advanced towards Assamese Hindu villages but the Assamese Muslims objected and said they would not allow them to do so. The attackers thereupon diverted to other direction.

Witness 239 Mohammad Abu Shama who is aged 69 years and the President of Nowgaon Bar Association, ex-President of Nowgaon Sahitya Sabha and who is himself an Assamese Muslim, aptly describes the traditional Hindu-Muslim amity in Assam as under :

“(2) Assam is a land of proverbial communal harmony. Persons belonging to different religious, linguistic and ethnic groups have been living side by side in peace and amity for generations together as members of one society before the independence. When Assam was an independent land, the Muslims of Assam had fought and died against the attacking hordes of Muslim Emperors and the Nawabs for preserving the independence of this country. The teaching of Mahapurusha Shankardeva and the great Muslim Saint Shah Milan (Azan Fakir) strengthened the unity and brotherhood of Hindus and Muslims of Assam. The rest of India saw communal disturbances before and after independence, but all through these unfortunate days Assam remained undisturbed. We recollect with pride that after partition many Muslim families tried to leave Assam out of fear and to go to East Pakistan. Then Hindu neighbours persuaded them not to leave their hearth and home and gave them

assurance of protection of their life and property.

(3) Really speaking, though Assam movement was going on full swing since 1979 there was no communal disturbance in Assam till February, 1983. The circumstances that led to these most unfortunate and unprecedented mass violence need careful scrutiny.

(4) The most important factor contributing to this great situation is in my humble opinion, the mad pursuit of Prime Minister Indira Gandhi and her Party to install a Congress (I) Government in this state at any cost.”

This evidence negatives any contention that the riots were communal in character, and fortifies the conclusion that elections were the main and immediate cause for the same.

4.11 : Witness 219 is Thuleswar Pator who is a Lalung Tribal and is residing at village Katohjhari P. St. Morigaon, Witness 222 Shashi Nandan a cultivator of Vill. Palahjuri P. St. Lahorighat, Witness 228 Someswar Pator, a teacher of village, Sasai Maji, P. St. Lahorighat, Witness 230 Golapi Pator belonging to Lalung Tribe of village Latumari, Witness 251, Rupchand Bardoloi, a school teacher and a Lalung of Nij Silpukhuri village, Witness 252 Dinewar Sharma of the same village and many others of Nawgaon District, where scores of villages of Assamese Tribals and non-tribals were burnt to ashes and wholesale murders of hundreds of Assamese of all shades who were opposed to election took place on 13th, 14th and 15th of February, 1983, unanimously give out the story that before pre-election speeches were made on 10th to 12th February in the immigrant Muslim areas of the neighbourhood, there was complete peace and amity, people of different conflicting

groups were working for each other in socio-economic activities and even attempting to form Peace Committee, but after these pre-election speeches by leaders, the position changed and the immigrant Muslims came out in thousands on different dates and from different directions and indulged in unprecedented acts of cruelty and carnage on all Assamese Hindus, Muslims and tribals on 13th, 14th and 15th. The greatest sufferers were villages principally inhabited by Lalung Tribals.

4. 12 : The same is the story given out by the immigrant Muslims who are examined by us. The greatest carnage against immigrant Muslims took place on 18th February when within the space of 24 to 36 hours there was a mass massacre of about 990 immigrant Muslims of Nellie area and 584 immigrant Muslims of Borbori area. It is evident from the respective dates of carnage on both the sides that the carnage in the immigrant Muslim villages of Nellie and Borbori which took place on 18-2-1984 was perhaps a revengeful sequence of what happened previously on 13th, 14th and 15th to Lalung and other Assamese villages. We have discussed elsewhere that those days even though the police and civil authorities were knowing that such group fights on a very large scale was in the offing, and were repeatedly requested to send forces for preservation of peace, they closed their eyes firmly to what was evident and turned deaf ear to aforesaid requests. The result was that rule of law ceased to exist and the rowdies incited by their political counterparts on both the sides had the field open for giving vent to their barbarous instincts. Once the ball of violence is set rolling and there is no law and order machinery to stop it, a chain of action and reaction starts and it becomes difficult to control. The most inhuman carnage of Nellie and

Borbori are glaring instances on this point. But even the witnesses from this area have told the commission that the root cause of these unhappy incidents was election. We shall shortly refer to this evidence.

4. 13 : Witness No. 215 Mohmod Nurali is a student of Borbori village and is an immigrant Muslim. He says there was peace and amity in the entire area before election, More important is Witness, 254 Abdul Karim of Borbori village who appeared to be the main leader of the village community of Borbori. He has given a graphic description of the carnage to us when we went to his village and paid homage to the mass grave of 585 persons who lost their lives in a single incident. The witness says that the attackers were the Assamese Tribals and non-tribals, as well as scheduled caste people of Ahatguri area but before the incident they had no enmity with each other. The witness is, therefore, at a loss to understand the reason for this carnage but does not attribute it to any communal feelings.

4. 14 We have examined a group of witnesses of the Nellie area. Witness 211-A Sirajuddin Ahmed who is an immigrant Muslim and who is one of the worst sufferers of the carnage as his four daughters, both the parents, sister and one servant were killed by the attackers at the village Muladhari which is one of the worst hit villages of Nellie area. The witness says that till 13-2-1983 there was peace between different communities in this area. Giving composition of different communities he says that there are Assamese tribals and non-tribals including Muslims, He further states that there are two to three thousand families of Bangali Hindus and Muslims. According to the witness on 14th February which was the day of polling, immigrant

Muslims participated in the poll while others did not. Then the witness makes a vary significant statement that all people, irrespective of religious, ethnic and linguistic considerations participated in all agitations. **But election created ill feelings and violence, beatings and outting started.**

On 5th June, 1984 the Commission examined seven witnesses from different villeges of Nellie area at Nellie town. These witnesses are :-
 Witness No. 523 Nurul Islam a student of Nelle town, No. 524 Abdul Gafoor, a cultivator of village Basundhari, No. 525 Md. Abdul Matalik a cultivator of vill. Bhogduba, No. 526 Md. Hazarat Ali of vill. Borjalla, No. 527 Abdul Falau of vill. Bhogduba Habi, No. 528 Samsher All of vill. Mukoria and No. 529 Md. Abdul Haj of village Rupoli.

Out of these seven witnesses first three viz. Nurul Islam, Abdul Gafoor and Md. Abdul Mutajik have told the Commission that before this incident there was full amity and peace between the two communities and that in their opinion election was the main reason for this incident because they (the witnesses) were in favour of elections and the attackers were against the elections.

Previously on 31-5-1984 we examined five witnesses of different immigrant Muslim villages at the place called Bari Bazaar of vill. Silpukhari in the affected area of Nowgaon Dist. These witnesses are No. 246 Januruddin, No. 247 Nurul-ul-Islam No. 248 Muddus Ali, No. 249 Haji Siraj Ali Fakir and No. 250 Jabbar. Even according to them, previous to the incidents in their villages there was peace and amity between the different groups.

It should be noted that almost all the incidents in Nowgaon District have occurred during the month of February and though this District is one of the most affected by illegal immigration and contains some of the most important pocket burroughs of immigrant

Muslims there was no incident of mass violence and groupfights during the whole course of the three years of long drawn movement against foreign infiltrators.

4.15 : In this connection, very significant evidence is given by witness no. 288 Naresh Chand Dev Nath, a Bengali Hindu, 64 years old weaver of the village Gerajay Pam, P. St. Kampur of Nowgaon District. He has told us that on 15-2-1983 five to six thousand Muslim immigrants attacked his village which is inhabited by 1000 Bengali Hindu families. In our investigation, this is found to be very rare and solitary instance wherein Bengali Muslims have attacked Bengali Hindus, because both being immigrants their economic and political interests coincide, so far as Assam is concerned. In fact, we have evidence, such as Chamaria, to show that Bengali Hindus (Namsudras) have joined Bengali Muslims in attacking the Assamese Hindus. we have also got evidence to show that Bengali Hindus lead attack on Assamese Hindus and Muslims in some localities (like Fatasil) of Gauhati and that there were clashes between Bengali Hindus and Assamese Hindus at places like Kokrajhar and Goreswar. But we have got no other evidence to show that there was a conflict between Bengali Hindus and Bengali Muslims, though in their place of origin (mostly East Bengal, now Bangla Desh) such conflict must have been in plenty. The evidence furnished by Shri Naresh chandra Dev Nath, therefore, illustrates an exceptional case of a Bengali immigrant attacking another Bengali immigrant. Reason ? The reason is furnished by the witness himself who says that they were attacked because they had boycotted the election. This incident highlights the fact that it was election which was immediately responsible at every place in the month of February 1983.

4.16: On perusal of evidence we find that it is not at all justified to conclude that the group fight which took place in the month of February and March was the result of any religious or communal hatred. Assamese society is traditionally tolerant and cosmopolitan in character. It has no rigid caste system, the evil of untouchability is largely absent, anybody—Hindu, Muslim, Tribal or a Scheduled caste man can enter the “Namghar” the place of worship for Hindus—Assamese Hindus and Muslims have no segregated localities as in most of the other places in India, as very often they are found to be residing side by side sharing common well or pond. There is practically no difference in their life style or food. There has been a silent assimilation going on between different religious and ethnic groups of Assamese society principally due to the cementing influence of the saints and social reformers like Shri Shankardeb and Shri Madhabdeb. All sections of Assamese society have silently or actively supported various agitational calls given by the leaders of the movement against foreigners and during the long course of this movement there has not been any group violence of the type witnessed during the period of elections of 1983.

4.17 This does not mean that there were no inherent seeds of conflict and contradictions between various linguistic or ethnic groups. Such contradictions are bound to exist in any society, and therefore, it is the duty of the social and political leaders to act in a manner which is conducive to synthesis and which gives a healing touch to these contradictions. In our view, it is here that some political leaders have failed, for instead of giving a healing touch, they took the advantage of the inherent contradictions by giving inflammatory speeches which roused the passions

which resulted in a long chain of revenge and repression.

4.18: Analysis of events shows that soon after the election speeches of Mrs. Gandhi, Mr. A. Ghani Khan Choudhury and others, immigrant Hindus and Muslims jointly attacked the Hindu village of Chamaria, killed Ganga Devi a young college girl, aged 25 years, another young school girl, Manju Mahanta, aged 19 years, an old lady named Rajani aged 70 years and injured other males. It was an organised attack. There is a river on one side of the village. Other three sides were surrounded and exit through the river was blocked on the opposite bank of the river. A joint and well-planned action was taken by immigrant Hindus and Muslims. Villagers, mostly women and children, fled for safety by the other side of the river bank where they got shelter and protection from Assamese Muslims.

Giving the reason for the conflict witness 7 Mrs. Kuloda Bayan of Chamaria, a house wife of 36 years tells us:

“About a week before the election Shri Harendra Nath Talukdar, President and Congress-I, A.P.C.C. held a meeting at village Jaisimla. After that meeting the immigrants stopped their supply of milk and vegetable to our village. We asked them why they stopped their supplies to our village. They said, they stopped their supplies, because we did not allow them to vote. Since then the tension prevailed in the locality.”

4.19: So far as Gohpur area is concerned we have got the evidence of witness 167 Aheneswar Rabha, a tribal, aged 40 years, witness 169 Gajen Narzari, a Boro tribal aged 35 years and witness 170 Nageswar Boro, also a Boro tribal aged 40 years. All of them suffered when their villages were attacked by

non-tribal Assamese, and all the three are residing in forest reserves. All of them unanimously state before the incident they had never any quarrel with these attackers.

4.20 : Witness No. 133 Anil Kumar Goswami, a Garden Supervisor Pabhai Tea Estate, Charali says that on 18th February, 1983 about five thousand labourers of Tea Estate armed with lethal weapons attacked the staff quarters of Assamese staff with slogans "Assamese Hatao" "We want heads of Assamese" etc.

Witness gives the reason of this attack by saying that there was election on 20th February and the Assamese staff was against the election. He further says that police took no action and that earlier there was no incident of this nature.

4.21 : Witness No. 111 Hem Chandra Nath, a Government servant aged 50 years of village Borpukhari No. 2 complains of an attack to his village by Boro Tribals on 18-2-1983 and again on 20-2-83. He says in his living memory there was no such incident between the Assamese non-tribals and the tribals before this.

Witness 112, Shobharam Boro is a Boro tribal of 50 years residing at village Pukumari (P. Stn. Tezpur). He complains of an attack on his village by Assamese Hindus on 20th February, 1983. The witness says that before this the tribals and non-tribals were in very good terms and performed Ras-lila and other performances together. According to him, prior to election people of Bihaguri area came to them (village of the witness) and requested not to participate in election but they were told that it was upto them to return the ballot boxes from Bihaguri but if the boxes reached their village with police they may have to vote out of fear of police. Witness says that this trouble arose out of election.

4.22 : Witness 209 Bansilal Soni, the B.J.P. leader to whom reference is already made above, speaks about his visit to Tongla and Khairabari, where there was conflict between Bengali Hindus and Assamese Hindus. He went to the camp of Bengali Hindu refugees numbering 17,000 from 33 villages. During the scuffle in that area on the third round of election there were casualties on both the sides but casualties of Bengali Hindus were about 118 killed and 250 missing. These refugees told the witness that before election they were at peace with local people i.e. Assamese and Boros, but as a result of elections, the trouble started.

4.23 : Witness 589 Shri Golap Borbora was the Chief Minister of Assam from 12-3-1978 to 3-9-1979 and is at present the President of Janata Party in Assam. The witness is also the Working President of N.F. Railway Mazdoor Union and claims personal knowledge of the fact that the Railway Minister Mr. Ghanikhan Choudhury had made Railway Headquarters of Maligaon as his election campaign office and enjoyed all facilities of Railway Department to visit minority pockets of Bengali Hindus and Muslims. Then he speaks about inflammatory speeches of that Minister and then says that on 7-2-1983 he himself and Shri Ravindra Varma, M.P. sent a wire to the President of India, Prime Minister and Chief Election Commissioner to stop election warning that the elections were likely to lead to holocaust, but received no response from them.

The witness further says that during his Chief Ministership and thereafter he found that there was no ill-feeling in Assam between different groups and that according to his reading, the bad situation in Assam was created by Congress-I and other parties for capturing votes and power.

The witness makes a revelation that

during elections the Raj Bhavan had become a campaign headquarter for Congress-I.

4.24 : There was a village named Karai Khowa under Police Station Lakhipur in Gowalpara District. This village was surrounded by predominantly Muslim immigrant area. It was on the bank of Brahmaputra where numerous Char islands have been trespassed upon by immigrant Muslims. The village was inhabited by Assamese Hindus. Practically the whole of the village at present stands destroyed and obliterated as the Assamese Hindus who were residing there are afraid to come back for rehabilitation.

Witness No. 569 Premeswar Das who is a teacher belongs to the above village. He says that prior to arson and brutal murder of one person named Jyotsna of his village, posters were affixed saying "Bhoto Nim Tezo Nim" (we shall take both vote and blood) and hence he requested police outpost Kharmuza to give protection which they could not get before 15-2-1983 when their village was destroyed, property including tin sheets of their houses robbed away and a youngman named Jyotsna was dragged out of the house of a Bengali Doctor and abducted away for murder.

Witness No. 579 Hilaluddin Ahmad is an immigrant Muslim of the same area. He is a teacher aged 50 years. He makes a grievance of Assamese Hindus attacking immigrant Muslims and says that six Muslims and four Hindus including Jyotsna were killed. However even according to this witness the reason for this quarrel was election as they were for election and Assamese Hindus were against election.

Same view is expressed by Witness No. 570 Listi Ram Rabha, the Headmaster of a School and an Assamese Tribal of village Satabari under the same Police Station.

4.25 : We may also make a mention of witness 219 Thuleswar Pator aged 65 years of Morigaon (Dist. Nowgaon) who makes a complaint that immigrant Muslims attacked tribal villages on 12th February. The witness is frank enough to state that on the next day they retaliated by attacking the immigrant Muslims. He however is firm in stating that he and his people were against election and immigrant Muslims were in favour and that was how the trouble started. According to him there was peace and amity prior to election.

Witness 220 Hamidur Rahman aged 45 years of village Dangoriagaon and witness 221 Husen Ali aged 70 years of village Tora are Assamese Muslims of Nowgaon Dist. both have complained about the attack by immigrant Muslims. Their statements show that they were with the rest of Assamese Hindus as well as tribals and joined with them to drive away the attackers. The evidence given by them shows that the conflict was not on religious or communal grounds.

NATURE OF DISTURBANCES

4.26 : Thus this broad survey of evidence recorded by us shows that the group fight which ensued in the months of February 1983 was between immigrant Muslims and Assamese Hindus (as in Chamaria), Assamese Tribals and Assamese Hindus (as in Gohpur). Immigrant Muslims and Assamese tribals and non-tribals (as in Nowgaon District), immigrant Muslims and Assamese tribals joined by others (as in Nellie, immigrant Hindus and Assamese Hindus (as in Kokrajhar and Goreswar area), Tea garden labour and the Assamese (as in Pobhoi Tea Estate), and Dighal Tarung in Dibrugarh District.

As to the Nature of Disturbances the disturbances were neither wholly communal;

nor wholly linguistic nor wholly ethnic. Most of the incidents were between immigrant Muslims (occasionally aided by immigrant Hindus) and Assamese, tribals and non-tribal Assamese. There were some incidents between the Boro tribals and non-tribal Assamese, and some disturbances between Bengali Hindus on one side and Assamese (both tribals and non-tribals) on the other.

They were not wholly communal. In several cases Bengali Hindus joined the immigrant Muslims in attacking Assamese areas. They did not spare Assamese Muslims also, as could be seen in Gohpur and Dhing. The Assamese Muslims, though not jumping into the fray, helped the non-Muslim Assamese whenever they could as was seen in Chamaria and Dangarih.

But in details communal considerations came into play, as temples and Maszids were also not spared. Dozens of Memoranda received by the Commission alleged that in many places the Muslim immigrants, while attacking Assamese villages, shouted the war cry of "Hate. lathi mukhe pan, Assam banaimu Pakistan" ("With rods in hand and betel leaves and nut in mouth we shall convert Assam into Pakistan".)

With the Bengali Hindus linguistic considerations count to large extent. But, as will be seen later, in the disturbances the factor which guided them was mainly something else.

The disturbances did not spring from any ethnic consideration as the main factor except in the Jahamari area (of Tezpur). In Gohpur, though the rioting was mainly between the tribal and non-tribal Assamese, the main causes lay elsewhere. These are discussed in the Paras on riotings in Gohpur. Throughout Nowgaon and Mongoldoi not only was there no tribal-non-tribal confrontation, both worked together against the

immigrant Muslims and the immigrant Hindus.

One factor stands out. The aim of the Muslims and the Bengali Hindus seems to have been to a large extent acquisition (by looting) of property and land finally, and not the destruction of human life. The Assamese, on the other hand, did not indulge in looting. Nor were they after the lands of others. They indulged in arson and killing to destroy, as was seen in Nellie and Borbori areas.

LATENT CAUSES OF DISTURBANCES

The cases of disturbances in Gohpur and Jahamari are quite different from the cases elsewhere. In case of Gohpur the several cases have been analysed while discussing about Gohpur incidents. To sum up they are social, linguistic, religious, economic and political. In case of disturbances in Jahamari area the main cause is the rumour of incident at Gohpur. Here there was no divide socially, religiously or politically. There was no electioneering for Udayachal.

As for the disturbance between the Assamese on the one hand and immigrants on the other (both Hindus and Muslims) the main cause is the Foreigners' question, as accentuated by the elections. The foreigners' question involves possession of economic resources, mainly land, the fear of the Assamese as an entity being swamped and endangered and the fear of danger to the language and the way of life of the Assamese.

The movement for the defranchisement/deportation of foreigners had been variously interpreted as anti-Bengali and anti-Muslim. Both immigrant Hindus and immigrant Muslims feared deportation/defranchisement. They considered the Assamese as a potential enemy and had pent-up feelings of enmity towards them. They felt that a deep blow

must be struck on the Assamese to silence them and put the fear of ruination in them. In that the real foreigners, i. e., those who migrated to Assam after the 1st January, 1961, who formed a very substantial number took the lead mainly to avert their displacement and defranchisement.* It is they who goaded even the old settlers to action.

In this surcharged atmosphere of enmity only an ignition was required to blow up the ammunition. And election, in the prevailing conditions, supplied that ignition. It is necessary to emphasise "in the prevailing conditions." For, one can imagine an election in normal conditions. In such an election, according to past experience in India, apart from the party-line of electioneering, religious and caste sentiments will be exploited by candidates. But that will be within great limitation. For, each candidate will seek the support of all religious and caste groups. None will offend any group while trying to exploit the feelings of one group.

But in the election in Assam in question, the Assamese were vowed not only to boycott the election but to oppose it with all means. It would not be unnatural for the pre-election elements to assume that the anti-election elements will even resort to violence. For, one prominent leader of the Assam movement publicly declared that blood would flow if election was held. It is not for the Commission to comment on the desirability of making such a pronouncement. But it had its effect. The candidates had to defend wholly on the vote of the pre-election elements, who happened to be the linguistic and religious minorities for reasons shown in the previous paras. Hence they had to cultivate and develop an attitude of positive enmity to anti-election groups. It is in this context that the electioneering speeches of persons like the

Union Railway Minister, Abdul Gani Khan Choudhury and many other Congress-I and P.T.C. candidates have to be viewed.

It could not be foretold with any degree of certainty that there would have been no disturbances had there been no election. But the fact that in the 3½ years of the Assam movement there had not been such group clashes almost warrants such a conclusion.

Rioting had been there in the past for the possession of land. But they are confined to very limited number of persons and are confined to one place. The happening of such riotings in future could not be ruled out even in the absence of election. But they will always be local events touching a limited number of individuals.

Though religious riots take place in different parts of India, Assam had been free from this virus, except for a short spell in 1951 consequent to (then) East Pakistan holocaust. Linguistic riotings did take place rather in a large scale in 1960 and in a limited scale in 1972. But they were aggravated by other intentions irrelevant to the issue. They were nowhere as extensive as in 1983.

To sum up a very important cause of the disturbances was the enmity towards the Assamese caused by the Assam movement and fanned up by electioneering in the prevailing conditions.

We therefore, conclude that election in the prevailing conditions was the main and immediate cause of group violence.

4.27 : Each place where some undesirable event has taken place had at its root some socio-economic cause of different character which could come to surface for two main reasons viz. (1) insistence of the authorities concerned to have election without revising the electoral rolls in teeth of strong opposition to it from the indigenous Assamese, thus crystalising the community into two

clear cut groups of voters and non voters and (2) the intentional apathy and indifference of administration civil and police, to take timely action to preserve law and order even when timely warning about serious breach of peace was available. This apathy and indifference emboldened the warring factions and hooligans to have free time to indulge in acts of arson, loot, plunder and murder without any fear of law enforcing authority.

WHETHER DISTURBANCES PRE-PLANNED

4.28 : The Commission did not find anything to suggest that the disturbances were pre-planned or pre-meditated for a long time. Even though Shri Samar Brahma Choudhury threatened a volcanic eruption years back, even the Boros had no pre-meditation, Only the electioneering fever and speeches inciting people prepared the minorities mentally and sub-consciously to an assault on the Assamese. The foremost actor on the stage was the Union Railway Minister, Abdul Ghani Khan Choudhury.

We shall now take up the question how far there was constitutional compulsion.

Witness No 221, Hussein Ali, a cultivator of 70 years of age of village Torabori of Nowgaon ndistrict also deposes in the same strain. The witness states that on the 15th February immigrant Muslims fully armed, having the strength of 4 to 5 thousand people, advanced towards Assamese Hindu villages but the Assamese Muslims objected and said they would not allow them to do so. The attackers, thereupon, diverted to other direction.

Witness No 239, Mohammad Abu Sama, who is aged 69 years and the President of Nowgong Bar Association, Ex-President of Nowgong Sahitya Sabha and who is himself

an Assamese Muslim, aptly describes the traditional Hindu-Muslim amity in Assam as under.

2.2 : Assam is a land of proverbial communal harmony even (sic) belonging to different religions, linguistic and ethnic groups have been living side by side in peace and amity for generations together as members of one society before the Independence. When Assam was an independant land, the Muslims of Assam have fought and died against the attacking hordes of Muslim emperors and the Nawabs for preserving the independence of this country. The teachings of Mahapurusha Shankardeva and the great Muslim Saint Shah Milan (Azan Fakir) strengthened the unity and brotherhood of Hindus and Muslims in Assam. The rest of India saw communal disturbances before and after independence, but all through these unfortunate days Assam remained undisturbed. We recollect with pride that after Partition many Muslim families tried to leave Assam out of fear and to go to East Pakistan. The Hindu neighbours persuaded them not to leave their hearth and home and gave them assurance of protection of their lives and property.

3) Really speaking, though Assam movement was going on in full swing since 1979, there was no communal disturbance in Assam till February, 1983. The circumstances that led to these unfortunate and unprecedented mass violence need careful scrutiny.

4) The most important factor contributing to this great situation is, in my humble opinion, the mad pursuit of Prime Minister Indira Gandhi and her Party to install a Congress (I) government in this state at any cost.

CHAPTER—V

CONSTITUTIONAL COMPULSION

5.1: But the moot question is could this election have been avoided? In other words how far the authorities were compelled by the constitution to hold elections in Assam before the end of President's rule in March 1983. This argument of constitutional compulsion is put forward by the Government as well as by the Election Commission. We shall first take up the case of the Government.

5.2: Article 356 of the Constitution provides for the failure of constitutional machinery in States of the Indian Union. Clause (1) thereof provides for the assumption of the functions of the Government of a State by the President if he is satisfied that a situation has arisen in which Government of the State cannot be carried on in accordance with the provisions of the Constitution. The President acting under this article issued a Proclamation on 19-3-1982 and dissolved the Legislative Assembly of Assam on the fall of Gogoi ministry. Clause (5) of Article 356 provides that unless the two conditions mentioned therein are fulfilled, such a proclamation of the President cannot be extended beyond the period of one year. These two conditions are as under:

“(a) a proclamation of Emergency is in operation, in the whole of India or, as the case may be, in the whole or any part of the State, at the time of passing such resolution, and

b) The Election Commission certifies that the continuance in force of proclamation approved under clause (3) during the period specified in such resolution is necessary on account of difficulties in holding general elections to the Legislative Assembly of the State concerned.”

In other words, to put it in simple language, President's rule in Assam could have been extended beyond 19th March, 1983 if—

(a) Proclamation of Emergency was declared for the State of Assam and

(b) Election Commission certified that on account of difficulties of holding general elections in Assam continuation of President's rule was necessary. This was one way to avoid the compulsion of holding election before the dead-line date of 19th March, 1983.

The other method to avoid the said compulsion was to amend the constitution under Article 368 of the Constitution.

Thus if the Government was really keen to avoid elections in Assam before revising the rolls, the above two ways were open to it. The first way could have been availed of by proclaiming Emergency in Assam under Article 352 of the Constitution and then passing necessary resolution in Parliament for extension of President's rule in Assam. This course of proclaiming emergency was adopted by the Congress-I Party in the past, after Mrs. Gandhi lost her election petition in Allahabad High Court, by declaring Emergency

in the whole of the country. So this method was not unknown to the party in power.

The second condition of obtaining the certificate of the Election Commission could also have presented no difficulty because the Election Commission itself says in its report that it "would not have felt any difficulty" in doing so. This is what the Commission says at page 19 of its report :

"..... In the case of Assam, in the prevailing circumstances the Commission would not have felt any difficulty in issuing the certificate required under Art. 356 provided an emergency had been imposed in the State of Assam."

Thus there was no difficulty in adopting this course of action, wherein no agreement of any of the opposition parties in parliament was necessary.

The second course of action, namely, the amendment of the constitution was also well known to the Government as in the past the Parliament has amended the Constitution many times under Article 368.

5.3 : The Government, however, seems to have opted the second course of action. For the adopting this course of action the Government required the majority of not less than two thirds of the members present and voting in the house. So far as Rajya Sabha was concerned, the Government was not sure of this majority of two thirds of the members present and voting. The Government therefore tried to take the sense of the opposition parties in the Rajya Sabha. When this was done, all non-communist opposition parties agreed to vote for the proposed amendment which was to remain limited to Assam and that too for a period of one year. On account of this agreement the Government was obtaining two-thirds of the majority in Rajya Sabha in spite of Communist opposition. Thus the second course of action was made clear.

However, at that time, the final round of tripartite talks was yet to take place on 4th Jan. 1983. Lest these talks be prejudiced, it was decided that after this round of talks was over, a bill for introducing necessary amendment be brought in the Parliament in a special Session to be called for that purpose because the current session was to end soon. We have got evidence to show that actually the proposed bill for amending the constitution was printed and shown to the members of opposition. Thus the whole matter was finalised and it was hoped that this long and acrimonious dispute would come to an end in an amicable and peaceful manner.

Even the Election Commission notes as under in its report :

"Some of the parties were reported to have agreed to support the constitutional amendment in case the talks did not succeed. The Commission, therefore, naturally expected that the talks would succeed leading to amendment of Constitution, or it would be approached for a certificate as envisaged by Article 365 (5) after the proclamation of emergency in Assam. Unfortunately this was not to be."

The Government had gone to this extent because it thought that the situation in Assam was not congenial for free and fair elections without the solution of foreigners' issue and therefore, some more time was necessary for arriving at a negotiated settlement. Such a settlement was also hopefully in sight in the back-drop of Ravindra Varma's formula certain aspects of which were required to be considered by the concerned parties.

However, suddenly, and to the astonishment of all, the Government took a somersault. They abruptly ended the tripartite talks, came prepared to do so, arrested the leaders of the movement, clamped section 144, Cr. P.C., imposed Press Censureship in Assam

and declared their intention to hold elections.

5.4 : If, for any reason, the second course of constitutional amendment was not acceptable to the Government, they could have resorted to the first course of proclaiming Emergency and obtaining the Election Commission's Certificate under Article 365 (5), which the Commission was very willing to do. But the Government did not take that course either, apparently because it had second thoughts. The movement leaders had repeatedly declared that they would boycott any poll which was taken without deleting the names of foreigners from voters list. These foreigners form a very solid vote bank for the party in power. There are very strong political pulls in their favour in the State of Assam. These political forces have successfully thwarted even the attempts of the Election Commission in the past to revise the rolls. If the elections were boycotted, as was done successfully in 1980 Lok Sabha election, so much the better—so thought the party in power at the Centre, because in that case the vote bank of foreigners could be fully utilised to capture power in the State. Experience showed that in the outgoing Assembly, the Congress-I party was in a hopeless minority and even after obtaining defections, its two Ministries could not remain in power for more than a few months. So now there was a chance to capture power comfortably because those who were against Congress-I party would not vote and those who were for that party would vote, and so the success would be smooth and sure. It appears that the party in power at the Centre knew by this time the electoral disaster which it was to face in the two important states of the South viz Andhra and Karnataka, and so found this opportunitie in Assam capture power with ease and this they decided to do without revising the rolls.

Obviously, it was this logic which prompted the party in power to make a complete volte-face. So-called "constitutional compulsion" was a mere cover because, as shown, above, there was no such compulsion and there were two ways out, provided there was a sincerity of purpose.

5.5 : We shall now refer shortly to the evidence on our record to show that the non-Communist opposition in the Parliament agreed to the amendment of the Constitution. As already noted above, three members of Parliament in the Rajya Sabha have given evidence before us. They are Witness No. 77 Shri Dinesh Goswami, Witness No. 530 Shri Biswa Goswami and Witness No. 536 Shri Aji Sharma. All of them have given statements explaining that the whole non-communist opposition in the Parliament had agreed to the amendment of the Constitution on the lines stated above. Shri Dinesh Goswami says :

There was no constitutionat compulsion to hold election. In the winter sessions 1982, towards the end of December, Pranab Mukherji, the leader of Rajya Sabha called a meeting of opposition party leaders of Rajya Sabha. I was also present. Mr. Mukharji told us that in the opinion of the Government situation in Assam was such that it was not possible to hold elections, within March 1983, and therefore, President's Rule shall have to be extended by constitutional amendment. A draft bill of amendment was shown to us in which it was incorporated that Acticle 536 (5) will not apply to Assam for one year. As the ruling party was short of two-thirds majority in the Rajya Sabha, support of opposition was sought for. All opposition except C. P. I., C.P. M., Forward Block and R. S. P. assured the Government of their support to the amend-

ment. This made up more than two-thirds majority. Then discussion ensued as to when the bill will be introduced. The next round of talks between Assam leaders and Government was to take place in first week of January 1983. So some opposition leaders suggested that it would be advisable to pass amendment after the said talks. Opposition parties assured that they would give support if the bill was introduced in a special session or during the budget session of 1983. Mr. Mukharji accepted this suggestion but suddenly election was called without introducing the bill."

The other two witnesses who were also the members of Rajya Sabha at the relevant time have deposed accordingly before us. It is not necessary to repeat the same facts from their statements.

It is thus clear that "Constitutional compulsion" if any, was already resolved if the Government really wanted to resolve the issue.

5,6 : What remains now to be considered is how far the Election Commission was bothered by this Constitutional compulsion. Before touching legal aspects of this matter. Let us first state the case which the Commission wants to make out on various aspects of this question.

On the question as to why the rolls were not revised even though there was sufficient time from 1980 to 1983, the Commission explains as under referring to the solution of the foreigner's issue :

"However, with the hope that solution will be found well before the general election due in 1983, the Commission did not consider it worthwhile to waste time in initiating steps which may have facilitated actual intensive revision of rolls later because in the absence of a solution, even the

initial steps would have been resisted." (vide P, 16 & 18)

Thereafter the Commission mentions that it, however, took two steps viz. (1) finalisation of list of polling stations and (2) polling-boothwise preparation of rolls.

The Commission thereafter proceeds to record as under :

"Naturally, the Commission hopefully awaited a green signal to undertake a thorough revision of electoral rolls after the long-awaited settlement. There were hopes even during the last round of talks which ended on the 5th January, 1983 as the leaders of certain political parties were initiating action for amendment of the Constitution and also giving out favourable reaction to a cut-off year."

5.7 : These excerpts show that the Commission was waiting for the success of the negotiations over which it had no control. The Commission was not a party to these negotiations and no body had asked it to wait for their outcome. And who was to give "green signal" to the Commission ? It was within its power to proceed with the revision without waiting for any signal. It could not forget the unequivocal assurances it had given in the past about the revision of rolls before next general elections. We have already referred to some of these assurances in the foregoing portions of this report. However we cannot resist the temptation of making reference to one more specific assurance given by it at the time of 1980 Lok Sabha election in Assam,

At the time of 1980 Lok Sabha elections in Assam a Press Note was issued through Joint Chief Electoral Officer on 18-9-1979. At that time intensive revision of Electoral rolls was going on. This necessarily involved weeding out the names of foreigners from the rolls. As said above, these foreigners

have formed a safe and dependable vote-bank to some interested politicians in Assam. Therefore, usual manoeuvres started, and the Commission issued the following instructions :

"The Commission have instructed that no person whose name was included in the electoral rolls should be eliminated on the ground of citizenship as the process of establishing whether a person is citizen or not is time-consuming and will have to be gone through very carefully in accordance with law, so that genuine Indian nationals are not eliminated."

There was a strong resentment to these instructions and the Lok Sabha elections of 1980 were successfully boycotted by people with the result that 12 out of 14 Lok Sabha seats could not be filled in.

The above instructions were ostensibly given because time at the disposal of the Commission did not permit any inquiry about citizenship. However, the very same Press note gave the following assurance which is very pertinent to the Commission's plea that it was waiting for the hopeful success of the negotiations regarding foreign nationals. This assurance is in following terms :

"The Commission has further advised to take up the scrutiny of electoral rolls after the ensuing general election was over, with reference to the question of want of citizenship of any elector included there, in a systematic manner having regard to the provisions of section 22 of Representation of Peoples Act 1950 and general instructions issued thereunder."

The "ensuing general election" referred to in the above excerpt is the Lok Sabha election of 1980 which was already over. But even after it was over, the Election Commission took no steps to revise the rolls as per above instructions.

The matter does not end there, because Assam intelligentsia is quite astute in this matter. Letters and representations were often addressed to the Commission. One such letter was dated 4th June, 1982 written by Shri H. K. Bhattacharjya to the Commission incorporating therein the points of discussion which the Commission had with the writer and others. In order to know the trend of these discussions a copy of this letter is attached with this report as Annexure-P. The letter makes some interesting revelations about intrigues of some politicians through State Government in stalling all attempts at squeezing out the names of foreigners from the rolls. In reply to this letter the Commission has again promised to revise the rolls when Centre would revoke the President's rule in Assam. It is dated 10th June, 1982 and we have already referred to it earlier in this Report. (Vide Paras 3-4)

It is thus clear that the Commission's assurances to revise the rolls by deleting the foreigners' names therefrom was never dependant on the outcome of negotiations between Assam leaders and the Government. We therefore feel strongly that the Commission's plea that it was waiting under a hope that a solution to the problem would be found during negotiations, is purely an after-thought.

5.8 : The Commission's next plea is that the intimation from the Central Government that it was proposed not to continue President's rule beyond 28th February, 1983 was received only on the 6th February and hence it became constitutionally obligatory to initiate action immediately for holding general election and constitute a new assembly before 28th February, 1983.

It is not possible to find out any direct or indirect or even implied provision

in our constitution which obliges the Commission to hold elections simply because the Government takes any decision suddenly or abruptly. Constitutional compulsion, if any, was that President's rule could not be extended beyond the period of one year unless the two conditions mentioned in Article 326 (5) were satisfied. Whether President's rule should be extended or not was the concern of the Central Government. Commission was not a party to that decision and hence it was not responsible for the consequences which would flow from that decision. As an independent statutory body functioning under the Constitution, its duty was to see whether free and fair elections were possible under the special circumstances obtaining in Assam, for there is no election if the same is not free and fair. The Commission has devoted much time in its report to show that elections do not cease to be free and fair simply because electoral rolls are not revised. It has taken much labour to show that annual revision of the rolls is not a statutory necessity if revision is omitted after recording reasons. We do not want to enter into a legal debate with a view to expose the hair-splitting fallacies indulged in by the Commission. We would, however, like to point out that the elements of freedom and fairness in an election have distinct and different connotations. If rolls are not revised and an election is pushed through, it touches the aspect of fairness and not the aspect of freedom, because an unfair election can be free. If rolls are revised properly but there is no freedom to elect, it touches the aspect of freedom. Of course, what is not free is also not fair but the contrary may not be true. What we find from the report of the Commission is that it has not considered whether the elect-

ions which were ordered by the Centre could have been free, looking to the popular resistance to it. The Commission could not have forgotten the stiff resistance successfully offered by the people to 1980 Lok Sabha elections. It could not have been oblivious to long drawn out struggle which the people of Assam offered on the foreigners' issue for long three years. It could not have missed to shut its eyes to the fact that 'peoples' resentment was so acute that even ballot papers were required to be printed outside Assam; para military force of abnormal strength was required to be air-lifted from outside Assam, and even polling staff was to be recruited from outside Assam on special incentives. It could not ignore the assumption of extra-ordinary powers by the executive to curb freedoms of speech, expression, association and movement which are more in need during elections than in ordinary times. It could not plead ignorance of the police violence killing scores of innocent persons and the eruption of mass violence before the first round of election took place, on 14th February, 1983.

5.9 : The pertinent question is : Were all these facts not sufficient to convince the Commission that the proposed elections would not be free? If people do not want elections for some reasons, good or bad, and if elections are thrust on such people, it is difficult to comprehend how these elections could be free. Freedom to elect necessarily implies freedom to persuade people not to elect. Unless both the freedoms co-exist, the election cannot be considered free. As already discussed in Chapter-III above, soon after the elections were declared, the Government of Assam assumed draconian powers and gave a free hand to police to curb all movement against election, however

peaceful it may be. The result was that those who were against elections could not lead processions, could not picket and persuade the voters not to take part in the poll, could not hold meetings and could not publish articles freely. At the same time those who were for elections could not only move freely but could also get police escort and could get any of their opponents arrested and tortured. When we shall refer to recorded evidence on the police excesses, it will be clear that on the election day it was not safe to move out of door as C. R. P. men were rowdy and challenging and beating anyone found on road or near a polling booth. People were detained for taking election duty from them forcibly and were not released inspite of High Court's order. Such was the "freedom of election sanctioned by the Election Commission. The argument of the Commission that it was guided by State Government report that adequate steps were taken to see that the poll was peaceful is too naïve to be taken seriously, because it did not require anything more than common sense to understand that looking to the past events and prevailing abnormal conditions, the proposed elections could never be free.

5.10: Section 21 of the Representation of People Act, 1950 provides that the electoral roll "shall" be revised before each general election unless otherwise directed by the Election Commission for reasons to be recorded in writing. The Commission thinks that once reasons are recorded for not revising the rolls, no grievance can be made for not revising the rolls before the general elections. It has forgotten that once the reasons are recorded, the persons affected are entitled to consider the merits of these reasons and to challenge the propriety

thereof. We do not know what reasons are actually recorded by the Commission for not revising the rolls, but from the report of the Commission it transpires that these reasons were that it was waiting for the outcome of negotiations for the solution of foreigners issue and in this wait the Government suddenly informed it on 6th January, 1983 that President's rule would not be continued beyond 28th February, 1983. There is a ring of some injured innocence in this explanation. It is difficult to believe that the Govt. took this decision and selected the date of 28th February without consulting the Commission. The Commission forgets that its own officer Shri S. L. Khosla, the Chief Electoral Officer in Assam submitted his detailed report about the election to be held before the deadline of March 1983 to the Government of Assam, a copy of which is already appended with this Report, as early as September 1982 i.e. about four months before 6th January 1983 the date on which the Commission claims to have gathered the knowledge that now elections were a must. This report of Mr. Khosla gives all the details about the procedure to be followed including the procedure for summary revision of rolls, consideration of objections and claims, number of polling booths, number of polling officers and staff and the security force as well as requisition of vehicles, houses etc. If that report is gone through minutely, it gives an unmistakable impression that much before the month of September 1982 the Government was collaborating with the Election Commission for forcing through the election before March 1983, whatever be the resistance of people against it. The position becomes more clear if the notes of Mr. Subrahmaniam a copy of which is also

appended with our Report is gone through. This Commission has sent the copies of these notes respectively to Mr. Subrahmaniam and Mr. Khosla and invited their response to them but none of them has cared to deny having submitted them.

Under the circumstances it would not be improper to conclude that the Central Govt. did not take the Election Commission by any surprise on 6th January 1983. It is reasonable to infer that at every stage the Government was careful enough to take the Election Commission into confidence for carrying out their plan to impose elections on the people of Assam without revising the rolls.

But that apart, if the Commission did not take any steps to revise the rolls for long three years inspite of repeated promises and allowed itself to be faced by this sudden and unexpected decision of the Government who is to be blamed? The Commission obviously takes the advantage of its own wrong. It has allowed itself to be taken for a ride first by the State Govt. which resisted attempts to revise the rolls on one pretext or the other, and then by the Central Govt. which being guided by petty party interests suddenly terminated the tripartite negotiations and decided to go in for elections.

5.11: Had the commission taken an independent stand and asserted its authority under Article 324 of the Constitution on the ground that considering the "difficulties" in holding elections in Assam it was not prepared to fall in line with the Government, the Government would have been forced to think of the alternatives, and would not have been able to take a somersault. The Commission could have easily taken this stand because on its own admission it was

prepared to give a certificate under Article 356 (5) (b). The Government had already taken the sense of the Opposition for amendment of the Constitution and was knowing that alternative was open to it. But if the Commission was ready to oblige them why should they let go the great political advantage which they were likely to obtain for their party men in Assam? Resistance from people and ultimate damage to the interest of the nation did not matter to them so long as power could be captured. The Government could have been forced to retreat from such selfish considerations had the Commission shown the real independence which it deserves to possess and assert under the constitution.

Checks and balances are the essential ingredients of a democratic polity. If one organ of the State falters, the other organ can act as a break, with the result that democratic norms are safeguarded. Such checks and balances are plenty in our Constitution. Article 324 of the Constitution is one such important check. It vests the sole control of elections in the Election Commission by providing that "the superintendence, direction and control of the preparation of the electoral rolls for, and conduct of all elections under the Constitution shall vest in the Election Commission." Moreover, in order to secure the independence of the Chief Election Commissioner, the Constitution provides that he can be removed from his office only in the like manner in which a Judge of the Supreme Court can be removed, and that the conditions of his service can not be varied to his disadvantage after his appointment. Thus the founding fathers of our Constitution realised the importance of an independent Commission for the functioning of free democracy in our country.

Therefore, if such vast powers of controlling electoral rolls and elections, are not utilised to check the vagaries of executive fiat and play of party politics against national interest; the very purpose of Article 324 is defeated. It is obvious that Heavens were not going to fall had the Commission taken the correct stand of not proceeding with the elections till normal conditions were restored in Assam. On the contrary, it could have forced the parties to come to an amicable solution for which the Commission was waiting for long three years with great hopes. And the most important of it all, it could have saved

the people of Assam from the most damning blood bath and Nazi-like atrocities which followed the declaration of elections. It could have also saved the Assamese society from having a near permanent disharmony in its otherwise well balanced structure. But unfortunately the Commission's thinking was an entirely different lines. The result is what we notice in the following chapters of this Report.

5.12 : In short, we are of the firm view that there was no constitutional compulsion to hold elections either for the Government or for the Election Commission,

CHAPTER—VI

KILLINGS AND FIRINGS BY POLICE

15

6.1 : As already stated above, the Government was fully conscious of the abnormal conditions prevailing in Assam when the elections were declared. They knew that the people were likely to offer stiff resistance. They, therefore, armed themselves with full powers to crush any opposition to elections. For this purpose abnormally large number of security forces were imported from outside the State. People who were against elections organised large processions committing breach of Section 144, Cr. P. C. As noted above, some extremists burnt bridges to prevent polling. To quell all this, police used bullets very freely even on peaceful mobs whose only crime was that they took out procession or gathered at a particular place.

That the police firing has been totally indiscriminate and whimsical is clear from record. The map Annexure—P to this report shows the places of police firings and the number of persons killed during these firings. The extent of areas covered and the number of casualties speak for themselves. This map does not give a complete picture as it covers only the period between 2nd and 23rd February, 1983 i. e. only 22 days. Police firings have taken further tolls during the subsequent period also. The total casualties shown by the map comes to 149 persons killed during the short span of 22 days, the days of elections. Another estimate is of 124 persons killed due to police firing from 19-1-83 to 2-2-1983., Yet another estimate based on local News paper reports for the period

from the 10th Feb' 1983 to the 20th March 1983 is of 300 persons killed in police firing (Vide-Ext 135, a book-let with "The great election hoax" issued by all Jorhat teachers Co-ordination Committee. At Annexure--W is the statement of persons injured during police firings and atrocities and undergoing treatment only at one Hospital, namely Gauhati Medical College Hospital. The total number as shown therein is 135. At Annexure—X is the statement of the injured undergoing long treatment at that Hospital. The number is 42. There are many hospitals throughout the State where such injured persons must be taking treatment. But we have not got the figures and other details of such persons. There have been many killed and injured due to police firings and atrocities subsequent to 20th, February and upto 30th April, 1983, which is the outer limit of the date for which we are supposed to enquire. However, we have not got any dependable material about all these killings and injuries. As noted above, the Government did not co-operate with us and by a circular instructed their officers and staff not to co-operate with us in any manner. On account of this handicap we have not been able to collect complete and authentic figures of the total number of those killed and wounded due to police firings during the period from 1st January, 1983 to 30th April, 1983.

6.2 : However, there is sufficient material to show that the police mostly preferred bullets to lathis to disperse the crowds and

they did it as trigger-happy brutes, without sufficient provocation, and that the administrative officers of the Government were equally callous and cruel in their attitude. In normal times a single death in police firing would invite administrative or judicial inquiry. Here during the course of election when right to speak, move, express and associate ought to be of wider extension, as many as 123 to 149 valuable lives are taken away and hundreds are injured due to police firing and even so, no judicial inquiry is ordered by the Government which claims to be people's Government in spite of repeated demands.

The President of AASU, Mr. Mohanta and its General Secretary Mr. Phukan have pithily put their case about police atrocities and killings as under :

“Killing innocent protesters became their daily habit. Between January 19 and Feb. 20, 1983 firing was resorted to in as many as 87 places, killing 124 persons and injuring hundreds others of whom some died in Hospitals. (Annexure VI). Such was the madness of the law-enforcing authorities that C.R.P.F. Jawans threw a young boy, Chitra Barua into fire when he came to extinguish the fire which broke out in a village at Sipajhar. This is, but one of the many instances of inhuman police brutalities. Atrocities continued in the same degree even after the election. At Panka, cold-blooded firing killed seven Assamese tribals. The police became so dehumanised that in their brutality they blinded one Dilip Phukan (Annexure XIV & XV). and the Officer-in-charge of thana gathered the beastly courage to slap the Principal of the College. Many such instances of police brutality perpetrated on the people through organised State violence could be cited and the number could very well run to thousands. Even in

a place like Gauhati a police or C.R.P.F. Jawan would ask a simple question to any padastrian : are you an Assamese ? If the answer is yes, the Jawan would use his batton with absolute freedom. To be born an Assamese has been a crime in the last five years.” Broadly speaking, this is the nature of evidence adduced before us by different witnesses. It is not possible to cover every incident of firing and killing. So we shall confine ourselves only to some typical incidents of killings at the hands of the police.

SIPAJHAR : MANGALDOI

6.3 : From the record available with us the earliest date of killings by police is of 2nd February, 1983 in the Mangaldoi area. Witness No. 14, Premeswar Sharma has given details in his memorandum explaining how it all happened. According to him S. D. O. Mangaldoi accompanied by 100 para-military force ransacked several villages of Sipajhar area at 11 a.m. and made wholesale arrests of all male members, including students and teachers and mercilessly beat them. Knowing this people of neighbouring villages gathered and demanded their release and also facilities to give meals to them. Requests were not heeded and firing at the mob was ordered. One Mayaram Deka was found lying injured. People gathered there. The provoked mob then damaged some police vehicles at village Bardaulguri between 1.30 p.m. to 2.30 p.m. Some people tried to damage-Sakotia bridge but fled away as Shri Sarat Kr. Kalita, S. I. of Mangaldoi Police Station, came there. Seeing the people fleeing away the said S. I. ordered shooting killing three persons two of whom were Gajen Sharma and Kanti Medhi. A dozen others were injured.

Sipajhar is a nearby village what happened there is something blood-curdling. On account of above firings the whole area was tense. People were angered and some miscreants set fire to the Block Development Office at Sipajhar. The office was burning and people had gathered in the round about area. However, four young students named Tapan Barua, aged 16 years, Práhlad Sharma, aged 20 years, Umesh Barua, aged 20 years, and Chitta Barua, aged 16 years, tried to extinguish fire with water buckets in their hands. However, the C. R. P. Force came there, tried to disperse people, caught hold of these four young men and threw them in the flames of fire and they were roasted half dead. Some people dragged them out from fire and they were taken to Hospital where all of them subsequently died of burns. Durgaram Barua, the father of one of these boys named Chitta Barua is examined by this Commission. He is witness No. 22. He is a teacher by profession and is aged 55 years. The witness says that for getting the possession of the dead bodies they had to file a writ in the High Court and it was on directions of the High Court that the bodies were given. Chitta Barua's dying declaration was recorded by three doctors on 6th February, 1983 at Gauhati Medical College Hospital where he died. A photocopy of that declaration is attached to the Memorandum filed on behalf of AASU. Chitta Barua has supported the above facts and has declared that even if the Government takes away their lives they would not allow the elections to take place. This determination of this young citizen of India truly represented the sentiments of all Assamese which the Government and the Election Commission failed to take into account.

It is found from the memorandum of

above referred witness Premeswar Sharma that on the same day at 4.30 p. m. the town S. I, Mangaldoi one Shri Promothesh Choudhary, went to Aula Chauka village with his force and ordered firing on the crowd of people who had gathered and were discussing the disturbances of Saletola village wherein one person was killed and four injured. It appears that tension mounted and the crowd became ferocious and found a victim in the person of one Circle Inspector of Mangaldoi named Ghanakanta Hentique who was left alone by his force.

Thus in the chain of incidents which followed the stories of Sipajhar and other places a crowd of people which gathered at Dalaughat was fired upon by Police which injured 32 persons. Out of these, the police picked up 3 persons one of whom was a college student named Kulen Sharma who was killed by Police. Postmortem of this Kulen Sharma was made at Gauhati Medical College Hospital.

On account of such various incidents in Mangoldoi area the situation became tense and during the course of indiscriminate firings many innocent persons lost their lives. Witness no. 190 is one Insaf Ali aged 68 years. His son Kadir Ali a young boy was doing labour work of pushing a hand cart. When firing took place at Aula Chowk he was returning home. He was hit with a bullet and died. He filed his complaint at Mangaldoi Police Station but no action was taken. He has got no compensation.

It is found that on 3rd February curfew was imposed in Mangaldoi and thereafter an announcement was made through loud speakers throughout the area that the area was handed over to Army. There was also a Flag march of the army throughout Mangaldoi town. Witnesses no. 195 and 196

Hirenkumar Das and Mrs. Parul Devi as well as the above referred Witnesses No. 14 have deposed to these facts. It is further revealed from the evidence given by witness 195 Hirenkumar Das that one Deepak Bordoloi, the President of Inter Mangaldoi Student's Union was to appear before this Commission to give evidence and produce documents to prove the Army Flag March along with numbers of vehicles used during the said March, but he was arrested by the Police on the previous day (27th May, 1984) and the said documents were seized by the Police from his possession. In view of this statement the Commission addressed a letter to the Officer-in-charge of Mangaldoi Police Station requesting him to produce these documents or copies thereof to enable this Commission to appreciate the evidence about the said Flag March. He has, however, not cared to reply. It is obvious that handing over an area to Army on the eve of elections has grave implications regarding the freedom and fairness of the elections themselves.

This is the story of killings by Police in Sipajhar-Mangaldoi area. Total casualties are estimated at 14 killed and 23 injured, within the span of two days.

TANGLA

6.4: On 5th February about seven lives were taken by the police firing in Tangla area. Casualties of Tangla town are assessed at four to five. Many were injured but actual figures are not available.

It happened like this: one Smt. Mridula Saharia was contesting the elections as Congress—I candidate. It was reported that her house was likely to be gheraoed by people to prevent her from filing her nomination. As people were gathering, the police opened firing without warning. Evidence is given

by Miss Dipali Sharma, President of Tangla Regional Students Union. She says that when she went to the place of firing and saw one Smt. Manomati Sutar lying on road severely injured on account of firing. Therefore, the witness and her friends tried to give medical aid to her but the police did not allow them and chased them away. She further says that at the other end somebody had set fire to the market and the local people were trying to extinguish the said fire. However the police and B.S.F. people were preventing them from doing so. The witness, therefore, personally requested the B.S.F. to allow those people to extinguish fire. No attention was paid to her request and on the contrary B.S.F. opened fire, without any warning of the people who had gathered there. The witness thereafter left and then curfew was imposed in the area.

BELSOR: NALBARI

6.5— On 8th February, 1983, thousands of people of Nalbari, Piplibari and other villages of Kamrup District took out a procession to submit a representation to Sub Dy. Collector. As the Procession passed by Belsor police station, the police fired from the back of the procession from the lobby of police Station and killed five persons. The detailed account of how this treacherous firing was made is given by witness no. 87 Mana Mohon Haloi. The incident is known as Belsor firing and furnishes one of the blackest spots on the fair name of Indian Democracy. This is what he says:

The witness claims personal knowledge about the whole incident as he was one of the members of the procession. According to him, the above referred procession which was anti-election started from Piplibari via

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Belsor. When it arrived near Belsor temple it was stopped by the Sub Deputy Collector with his police force. The processionists showed courtesy to him and assured him that they would do no harm and would lead peacefully. The S.D.C. then allowed the procession to proceed. After a short distance the procession came near Belsor Police Station where they were again stopped by the Police Officer and his men. The witness says that they again requested the Police Officer with folded hands to allow them to proceed and assured him that they would do no harm. The police allowed them to pass. But after about 500 processionists passed by, the police resisted. The officer who carried a revolver showed a menacing attitude.

One Ramesh Sharma, a young processionist told the police that they should spare the innocent and if they wanted to kill, let him be killed first. The Police Officer was S I. Khagendra Nath. He could not tolerate the impudence of this young man, who was taken at his word and a shot was fired at him. Ramesh was shot on his left arm. One Pratap Barman came to the help of Ramesh but he was also fired upon. He was hit at his abdomen. He fell down. Thereafter police started firing on the processionists, from the precincts of the police station. processionists dispersed. Some of them including the witness tried to come to the help of those injured in the firing but police prevented them. The witness and others were successful in carrying Pratap Barman to Chamata Dispensary. But thereafter two police vans came there. The police beat some of them and chased them away from the dispensary.

At about 2 p.m. on the same day, one Ajit, an employee of Indian Air Force on leave, was sent to Belsor police station to

make inquiry about the injured. Police, however, arrested him and put him in lock up.

This wanton firing took the lives of five persons named Birendra Narayan, Maheswar Talukdar, Pratap Barman, Shrikant Barman and Kaya Ram Das. Seventeen others were injured.

This story of police brutality will not be over till a full narration of what happened next day about the cremation of those killed in the above firing is given. This narration is given by Witness No. 77 Shri Dinesh Goswami who was a sitting Member of Parliament at that time. Let this be in the words of the witness himself.

Says Mr. Goswami :

"On 8-2-1983 we came to know that five persons died due to police firing near Nalbari at Belsor. On 9-2-1983 I left with Ramesh Chandra Choudhary, President of All Assam Lawyers' Association, Mr. B. K. Goswami, Member of Bar Council of India and Rabin Kakati, the then M.P. for Belsor.

At Nalbari we were informed that dead bodies were lying at Piplibari and the permission for their cremation was not given. I was so informed by Ramani Barman, former Minister of Assam. We went to S.D.O. Nalbari and I requested him for necessary permission (for cremation). We undertook the responsibility for maintaining peace. He agreed, after discussion, subject to the presence of police.

We reached Piplibari at 1 p.m. Earlier, postmortem was done at Nalbari. We waited for police. Three to four thousand people gathered-singing religious hymns. Till 7 p.m. no information of police came. Suddenly, Police Officer, Suchen Hazarika, Circle Inspector came with large

number of C.R.P. Personnel and asked them to take position for firing. He himself took out a pistol and like a mad man waived his pistol on all sides and shouted that he would commence firing. C.R.P. People took positions with sten guns and people began to run helter skelter. We tried to reason with the Police Officer but he abused us and assaulted Rabin Kakoti, M. P. He knew Mr. Kakoti personally. He knew me also. He continued such behaviour for 1/2 hour and ultimately permitted cremation. People left the place out of fear."

The above is the complete narration of Belsof firing and what happened thereafter. It is a depressing and sad story of a human being in form of a Police Officer turning into a wild beast thirsty for human blood and having no respect for his dead victims. And we must remember that all this was done in name of democracy, and for a "constitutional compulsion." Of course, election was more important than human lives.

PAKAMURA-JORHAT

6.6 : There have been instances when the police have opened fire on orders of election candidates. One such instance is narrated by Witness No. 66 Tileshwar Bordoloi, aged 60 years Pakamura of village Pakamura, District Jorhat. The witness is a person of status and is working as the Principal R.R. Labour Training Centre.

The witness deposes about the incident of 8th February, 1983 when the election candidate Shri Boli Hazarika was going on his election campaign along with his C. R. P. escorts. On his way he found nine persons in a field near the road. The witness says that without provocation, Mr. Hazarika asked his C. R. P. men to fire at them. The

C.R.P. men came out and fired as a result one Prabin Bhattacharji aged 25 years died on spot and another person named Bipin Bora who was injured died in Hospital. The witness claims to have reported the matter to the concerned police outpost but no action was taken.

BAMAKHATA : BARPETA

6.7 : Shri Birendra Nath Choudhary is witness No. 8 and comes from village Bamakhata under Police Station Patachar Kuchi of Barpeta. He gives the account of Police firing at his place on 10th February, 1983. He says that at 1 p.m. on that day Shri Bharat Das S.D.C. and Shri P. C. Das, D.S.P. came with a police party and C. R. P. to Kenduguri Chawk, apparently in connection with arson to Block Dev. Officer and started beating one Shri Nandi. Then suddenly the police and C.R.P. took position and started firing on all sides without any provocation. The bullets killed one teacher named Prabhat Patgiri who was at a distance of a furlong to the South of the Chowk Bullets also hit Munin Barua and Dhiren Bora who was killed on spot. Dhiren was dragged and put in a van. More than five persons who are named by the witness in his memo. were injured. Some of the injured are still not fully cured. After the postmortem of the two dead bodies, they were not handed over to their relatives. The dead body of Prabhat was cremated at Barpeta but nothing is known as to what has happened to the dead body of Dhiren. This Commission has found that it is a common story that police generally did not allow the dead bodies to be cremated by near relatives.

DANDUA : MORIGAON

6.8 : People were offering Satyagrah

and blocking roads with a view to prevent ballot boxes and other materials from being taken to polling booths. On 12th February 1983 a group of about 3000 persons thus blocked the road by sitting there at a place at village Dandua at 2.30 p.m. The idea was to prevent the election materials being carried to Morigaon. Two police vehicles came and seeing the road blocked returned back.

Next morning at 2.30 a.m. the people were still blocking the road at the same place. But this time the police came in eleven vehicles fully armed. They asked the people to disperse and started lathi charge people dispersed but collected at a little distance. Without warning police started firing and killed five on spot and injured twenty-three, twelve of whom seriously.

Evidence about this incident is given by witness No. 225 Madhav Saikia of village Lukakuchi under Morigaon police station. The witness is one of the persons injured in the firing. He has received three serious injuries which he showed to us. He is permanently disabled. He says that police took away the dead but the injured were looked after by other villagers.

Witness No. 50 Fazlul Rahman is a teacher and resident of village Dandua under Morigaon Police Station in Nowgaon District. He gives support to the above story. According to him the officer who ordered firing was one Kapil Tripathi and on his orders 39 rounds were fired. After the police went away he found Lochan Barua lying dead with bullet injury. He took his photograph which is at Ex. 50/2. According to this witness 32 persons were found lying injured in jungle and fields. They were taken to Nowgaon Civil Hospital. Prayers for the dead were offered by Assamese Hindus and Muslims jointly.

JAJORI

6.9 : The saga of the struggle offered by the people of Jajori village to the police in not going to the poll in spite of their Vendalism is unique.

It was the polling day of 14th February. None turned up for polling. Police began to take away people forcibly to the polling booth. People were hiding themselves to save them being forcibly taken to the booth. Witness No. 245 Kamaleswari Bhattacharji, wife of Banamali Sharma was doing work in her house. At 9 a.m. nine C.R.P. personnel went to her house and ordered her to go to vote. She said she would go in the afternoon. She was, however, pushed out of her house so that she could not put on her sandals—one C.R.P. Jawan then brought her sandals—some jawans followed her. She was given a ballot paper. She put the paper in one of the boxes not knowing where. When she came out C.R.P. Jawan asked her for whom she voted. She said she voted for "cow" (which was not the symbol of Cong. I). She was escorted back to her house (probably as a reward for good behaviour).

Witness No. 240 Lambodhar Saikia supports the above witness. His house was 1/2 miles from the polling Station. But his another house where his parents and other members of his family lived was near the polling station. He came to his other house and found that the members of his family were not in the main houses but were hiding themselves in round about compound (This is possible as the Assamese houses in villages are so constructed that they are surrounded by trees and bushes) to avoid being forcibly taken to booth. The witness also preferred to hide, and saw Kamaleswari the wife of Banamali Sharma being forcibly taken to booth by police.

Witness 242 Badan Chandra Bora was lying in bed as he was sick. His wife and children took to hiding to avoid being forcibly taken to booth. So he was alone. C.R.P.F. came and kicked the door of the house and broke it open and demanded of him to go to vote. He pleaded sickness. He was beaten. The C.R.P. took out a fistful of thatch and tried to set fire to his house (Assamese houses in the villages mostly are of bamboos, grass and thatched roof). The witness protested and tried to snatch away the straw. He was given a push on his mouth by butt of rifle and was also kicked. We have seen the witness and found his face permanently disfigured as his jaws and teeth are damaged. Witness says he is still under treatment as swelling persists. As he fell down the police left his house.

Witness No. 243 Smt. Tulu Bora was also being forcibly taken but she was successful in giving a slip and in running away as the C.R.P. man was going ahead.

Seeing these atrocities people of the village came out to protest. So S.I. Abdul Rahman Majumdar took out his force, surrounded the crowd and began lathi charge. People began to run out of fear. C.R.P. forces set fire to the heap of straw, kept near the cow shed of Karna Mahanta. They set fire to the houses of witness 240 Lambodar Saikia, Devali Saikia, Kiran Mahanta, Kunti Das Mahanta and Naren Mahanta. Only one pucca built house of one Karuna Mahanta was saved.

The Commission has visited these burnt houses and other places.

It is found that when people of the whole village were up against the forcible taking to booth and could not be quelled by lathi charge, the police and C.R.P. withdrew from the declared booth which was at Girls'

School and took ballot boxes and other election materials to the building of Jajori High School. Police had opened fire from their pistols, to disperse the people at the Girls School booth. This firing has damaged the tin sheet roof and shutters of doors and windows as well as walls of the School. We have inspected and seen the signs of damage.

One Chandan Singh, an Assamese Sikh youth was a convenor of Students' Volunteer corps. He was sent to Jajori to help witness No. 241 Dilip Kumar Hazarika, the President of Hathisang Students Union. This Dilip Kumar and Chandan Singh and others were trying to extinguish fire set on the villagers' houses by police. The police arrested Chandan Singh, witness Dilip Kumar and sixteen others. They were beaten up and hence fell down. Thereafter Chandan Singh and Dilip Kumar were dragged to a room in the High School. There they were severely beaten and trampled upon. Then two C.R.P. Jawans asked them to raise their hands. They did so. They then fired shots at Chandan Singh and killed him. Dilip Kumar was given a blow on his head with a rifle butt. He became unconscious. He was hospitalised for 28 days. A false charge under Arms Act was levelled against him, but there has been no prosecution.

Here is the eye witness account of how Chandan Singh was murdered in a cowardly manner. The story is corroborated by witness No. 244 Bapukon Phukan. The story illustrates how determined the people were to face the vandalism and brutality of State violence against their inherent right not to vote. The story also shows the real nature of freedom and fairness of the February elections and also of the "adequate steps" which the Chief Secretary of Assam Government pleaded to have been taken for a "peaceful poll", to convince the Election Commission.

DIGBOI

6.10: Digboi is an industrial town in Dibrugadh District of Assam. It has a mixed population of Assamese, Bangali, Biharis and Nepalis. The poll was to be taken there on 14th Feb. 1983. Witness No. 79 Nibarnn Chandra Bora, a member of the AAGSP. Executive has told this Commission that at about 11.30 a. m. on the day of the poll, there was a little tension in the town as a story was circulated that no voter had turned up at the election booth and therefore police was lifting voters to the booth from a particular pocket. This story attracted the attention of movement activists who thought of going to the booth to verify the situation. However, much before these "boys" (activists) came to the booth and while they were at the place called Itabheta, they were barricaded by the police. The police were first asked by the boys why they were being prevented to go to vote. But thereafter the police opened fire on these boys without giving any warning. One Barthakur was killed and 10 to 12 others were injured. The witness has personally seen the incident. He says that the police gave no attention to the injured.

MADHUPUR-DANGDHARA

6.11; Witness No. 69 Shri Chakeswar Saikia is the ex-Principal of Titabar College. He is now 68 years of age. Though he has not personally witnessed the actual firing he throws light on how the injured were treated after firing.

When the witness went to the place of firing on 15th February, 1983 at Madhupur he found one Dandeswar Kalita lying injured, No medical aid was given to him by police with the result that he expired.

On 16th February, 1983 when he heard about Dangdhara firing, he went there he

found eight injured persons four, of whom were serious. No medical aid was arranged for any of the injured with the result that the four, who were serious, expired.

He further states that the police ordered the people to carry the dead to the police station. They did so but when they reached the police station they were arrested.

PANKA

6.12: We shall now refer to the most atrocious of all the police firings in Assam during the relevant period. During this incident which occurred in the night between 2nd and 3rd April, 83 eight persons of a tribal village called Panka were tied in pairs with their hands behind, taken to a Nalla during the night in a Tea garden Estate, made to stand in a line, and shot at like war criminals. One of them named Kamal Hazarika managed to escape while the other seven were killed on spot. Their bodies were dumped and returned at Panka village on 4th April and at their cremation even their near relatives were not allowed to remain present. Kamal Hazarika who managed to escape gave his statement before Judicial Magistrate in a complaint filed by the widow of one of the killed persons named Bhadreswar Saikia, and supported her case in that statement. Kamal is still hiding himself for fear of police. Annexure R is the copy of the affidavit of Kamal Hazarika.

The detailed facts of the case are revealed by witness No. 275 Kamal Bora who was one of the persons arrested along with the seven who are killed. This commission visited Panka village and has recorded the statements of other five witnesses in support of Kamala's statement and has also

visited the Naja, where the seven persons were killed, and other relevant spots.

Before witness Kamal's story is reproduced it should be mentioned that, witness no. 274 Mrs. Dimbeswari Saikia, the widow of late Bhandreswar Saikia, one of the seven who were killed has given some background. According to her the day before the incident, six houses of the Assamese of Rajabari were burnt.

So on the advice of the police the village people of Panka organised a guard party and decided to keep guard at night. Accordingly on the night of 2nd April twenty villagers had gathered for patrolling duty and collected in front of the shop of one Kampiti Tamuli. Bhadrswar Saikia, the late husband of Mrs. Dimbeswari Saikia, was one of them but left them to go home for answering nature's call. While Bhadrswar was at his house somebody called him from outside. Witness Dimbeswari thereupon opened the door of her house and found 20-25 armed constables. It was about 8 p. m. at night. Along with these constables were some immigrant Muslims of a nearby village. Dimbeswari could identify them. The police arrested Dimbeswari's husband, tied his hands with his own chadar and took him towards the place where the patrolling party had assembled. Witness Kamal Bora then states that the police brought Bhadrswar to the patrolling party which was surrounded. Persons of this party were tied in pairs with their hands behind. While they were being beaten, two girls of the family of Kampiti Saikia protested but the police threatened to shoot them. The captured persons were then marched off towards the nearby Rajabari Tea Estate. On their way the police stopped near the house of late Bhadrswar Saikia

and five to six of the armed constables entered the house of Bhadrswar. Dimbeswari, the wife of Bhadrswar, tells us that the said constables demanded the licensed gun of Bhadrswar. When she refused to hand it over to them, she was threatened that she would be shot down if she did not hand it over. She, therefore, handed over the said gun and the police took it away without giving any receipt.

The captured persons were then taken away to Rajabari Tea Estate and made to sit near a tea house. On the way the police entered one Dimbeswar Saikia's house by breaking open the doors. At the place where the captured persons were made to sit, there were some 11-12 immigrant Muslims who were recognised by the witness Kamal Bora who gives their names.

Thereafter, another police party brought one Khagen Bora of village Bor Chapori. He was made to sit with them.

Witness Kamal says that a Police Officer of "higher rank" came there and he was informed about the arrest and seizure of the gun.

Out of the immigrant Muslims sitting there, one was named Mustakin Ali. He pointed out at Haren Saikia, one of the captives as the ring leader and other seven as main leaders.

These seven persons are as under :

- (1) Bhadrswar Saikia
- (2) Tikhar Barua,
- (3) Tuleswar Hazarika
- (4) Jiten Saikia
- (5) Devakant Saikia
- (6) Moniram Saikia
- (7) Kamal Hazarika ;

These seven persons and Haren Saikia, who was pointed out as the ring leader, were tied by the Police in pairs with their hands behind, and brought towards the place called 'Hathi

Mola Jan'. After about 20 minutes the witness and others heard shouts saying that one of the eight persons so tied had escaped. Soon there after, they also heard the firing of several rounds. Here the inference is that out of eight persons who were taken away one escaped and 7 were shot down by the police.

The remaining 13 persons including the witness were thereafter taken in a police vehicle to Golaghat Police Station, At that time the witness saw one Jeep coming out of the place where the above referred 7 persons were shot dead. The vehicle in which the witness and the other persons were sitting followed that Jeep. Five immigrant Muslims including the above referred Mustakin Ali were also in the same vehicle.

Witness Dimbeswari, the wife of late Bhadreshwar Saikia tells this Commission that in the next morning she heard that some of the persons arrested by police were dead. She, therefore, sent her son Lakeshwar to the police station to make an enquiry. When Lakeshwar went to the police Station he was arrested. He however, returned home at night on 3rd April.

The seven dead bodies were brought to the village by C.R.P. force on 4th of April for cremation. However, the Police allowed only 3 to 4 persons of the village to attend to the last rites. Even the son of Bhadreshwar, who was one of the persons killed by Police, was not allowed to attend the cremation.

Bhadreshwar's wife Dimbeswari thereafter filed a Criminal complaint against Mohanraj, the Superintendent of Police, T.K. Nag, the Officer-in-charge Police outpost and 12 others for committing the murder of her husband. The case was registered as No. 688/1983 in the court of Judicial Magistrate, Golaghat.

Certain statements have been recorded in that case. A copy of the complaint which is filed is produced before us as Ext 275/1. The statement given by complainant Dimbeshwari. That complaint, is at Exhibit 274/2. It is found that this complaint could not proceed for want of the State Government's sanction to prosecute the Police Officers concerned.

Out of the 8 persons who were tied for being shot down one was Kamal Hazarika. This person somehow managed to get free and escaped his death. Even this person gave his statement in the above referred complaint. A copy of this statement is at Exhibit 274/3. This Kamal Hazarika is, as said above, still concealing himself out of fear of the police. However, he has given his affidavit before the Judicial Magistrate, Gauhati on 19th April, 1983. A copy of this Affidavit is produced before us and it is found at Exhibit 66/15. A copy of that Affidavit is also appended with this Report at Annexure (R). A perusal of the same shows that it gives complete support to the story above narrated. The statements made by this deponent are very important inasmuch as as he was one of the 8 persons who were taken for being shot down.

The facts stated above, reveal the most atrocious story of the outright murder of 7 citizens of this country by mad policemen. Therefore, the matter was taken up by Shri Ajit Sharma, who was then the member of Rajya Sabha with the Government of India. Shri Sharma has produced copies of correspondence which he has made in this connection with the Home Minister Shri Sethi. By reference to this correspondence it is found that on September 1983 the Home Minister explained the above incident as under :

"3. In your letter you have referred to

alleged killing of 7 villagers near Rajabari Tea Estate by CRP personnel on April 2, 1983. The facts of the incident have been ascertained through the Director-General of CRPF and the State Government. According to the available report, the facts of the case are as follows :

"At about 22:30 hours on 2nd April, 1983 a police party consisting of the Superintendent of Police, Jorhat and S.D.P.O., Golaghat, accompanied by one platoon of CRPF while moving on foot towards Pankagaon, was suddenly attacked with lethal weapons by miscreants numbering about 500 to 600 who were hiding in nearby tea garden, Rajabari. Extremists fired several rounds and also shot several arrows at the combined police party. CRPF party took cover and returned the fire. The exchange of fire continued for about 5 to 10 minutes. After a hot chase, 12 persons were apprehended and the remaining escaped under cover of darkness. Seven dead bodies were found at the site of encounter. One SBBI gun and some fired and live cartridges were found by the side of a dead body and lethal weapons were recovered from those apprehended at the place of occurrence. After investigation, it was found that this gang was responsible for arson and murder incidents in Borgoria and No. 4 Rang Bong Camp of immigrants belonging to Bengali Hindus and minority communities under Golaghat P.S. in which 10 persons were killed, another 10 injured and 50 houses were burnt down. A magisterial enquiry has been ordered into the matter. A further report is still awaited from the State Government."

October saying that the facts explained regarding the incident were concocted as he had himself visited the village and made personal enquiry.

To this letter of Shri Sarma the Home Minister gave a reply by his letter dated 3rd March, 1984. Along with this reply he sent a copy of a Press note issued by the State Government on 9-4-1983 explaining the factual position regarding the above-referred incidents. A copy of this press note is appended herewith as Annexure "Q". Perusal of this Press-note reveals that the facts stated therein are in total contradiction with the earlier explanation given by the Home Minister in his letter dated 14th September, 1983. Reference to that explanation, which is quoted above, shows that while one platoon of C.R.P.F. was moving on foot, it was suddenly attacked by 500 to 600 miscreants who were hiding in the nearby Tea Garden. The Press note however, alleged that the police party headed by S.P. Sibsagar noticed near Panka a crowd of 500 to 600 persons shouting slogans and going towards a refugee camp and then attacked the police party with gun fire, bows and arrows. It was thereafter that the police party opened fire in self-defence. While the previous explanation says that the miscreants were hiding, the press note says something quite contrary to it. It is obvious that if 500 to 600 persons were armed with guns, bows and arrows and attacked the police party, some members of the police party must have received injuries, but that is not found to be so. Again if the police had fired in defence on a violent crowd of 500-600 persons, particularly in the darkness of the night, there would have been many more injured apart from 7 killed. But there was none. We find no reason to disbelieve the positive evidence of 6 witnesses

On receipt of this letter of Home Minister Shri Sharma wrote back to him on 21st

examined by us. From their statements it is clear that some immigrant Muslims of a nearby village identified some villagers as the persons who had attacked them. It was thereupon that the police took out 8 persons separately and shot them down as if they were criminals. Kamal Hazarika who was present throughout the incident, and who managed to run away, had no reason to make a false statement. Moreover the leader of the persons who identified the villagers was a foreigner named Mustakin, who was well-known to the police, having been deported 7 times from Assam (Vide Memorandum of Sri Dulal Chandra Barua, an Ex-Minister of Assam and Dy-Leader of Assam Janata Party), The state Govt. should have given due importance to this fact. Under the circumstances we have no hesitation in holding that the press note issued by the State Government is purely an afterthought.

At any rate when a matter is pending before a Judicial court it would be proper if the State Government gives sanction to prosecute so that truth may come out. After all the incident is serious enough to invite a judicial enquiry by a High Court Judge. But even if the State Government is afraid of a Judicial enquiry there is no reason for them not to give the necessary sanction to prosecute the officers concerned.

Shri Golap Borbora (witness No, 589) one of the Ex-Chief Ministers of Assam has produced before us a copy of the report of the inquiry made by three respected and sober national leaders of India Sarvashri S.M. Joshi, Mahan Dharia and Devdutta Dabhoikar. Shri Borbora was also personally associated with that inquiry. This report produced before us is at Ex.589 (1) This report covers this Panka incident. We find that the conclusions recorded in this report are the

same as arrived at by us. It records as under :

“Home Minister Lies :—

Before we close, we have to express our deep feeling of anguish and horror at the Statement made by the Home Minister, Shri P.C. Sethi over the killing of seven people at Rajabari Tea estate on April 2, 1983. We have personally visited the area on the spot, interviewed the eye witnesses and the concerned people and also the advocates of the Bar Associations of Golaghat and Jorhat, who have inquired into the matter. We are convinced that the police officers and C.R.P. men arrested twenty-two people of Panka Gaon near Tindi and carried them to the leafshed of Rajabari Tea Estate. Some persons of Borgoria accompanying the police officers selected eight persons out of these twenty two. Their hands were tied and those eight persons were then driven to a nearby Nala. They were made to stand in line and seven of them were brutally shot dead by police and C.R.P. Only one Kamal Hazarika from among the eight luckily managed to escape and survived. In spite of such telling facts, which ought to have been known to the Union Home Minister, it is strange and agonising that he should have deliberately made a blatant and false statement on the floor of the House and should have misled the Parliament and the whole nation. We make this statement with a full sense of responsibility and are prepared to face any consequences whatsoever.”

We find that the incident of the Panka village is a grim reminder of the fact that absolute power corrupts absolutely. We have already pointed out how the State Government have assumed powers and have enlarged the scope of the Police Raj which prevails in Assam.

GOLAGHAT

6.13 : Witness No. 280 Srikant Kalita, aged 56 years a professor of D. R. College, Golaghat tells a very saddening story about how his son was killed on 17th February by totally inhuman and barbarious behaviour of C. R. P. forces.

17th February was a polling day at Golaghat situated at a distance of 1 K. M. from the house of the witness. Tapanjyoti, 17 years old son of the witness, had gone to the house of a neighbour Mrs. Satyabhama Deka situated at a distance of 1/2 K.M. from the polling booth to take news broadcast alongwith his friend. After the broadcast was over, he found Shri Amit Borbora fleeing out of his residence being chased by C. R. P. F. Jawans. He saw Amit being shot at by Jawans. However, Amit leaped into the compound of one Smt. Manjula Borua and managed to conceal himself in the bath-room of a nearby residence.

This scared Tapanjyoti, the son of the witness. So he and his companions left the house of Smt. Satyabhama Deka by back door and went to the nearby paddy field. The CRPF Jawans chased them and fired two shots. Tapanjyoti was hit by one of the shots on the back side of his head. He fell down on spot and died after sometime. The CRPF Jawans overturned his body by kicking it with their boots and found that he was dead. Thereafter they dragged the dead body for some distance and left it in front of the residence of one Debendra Bora. The dead body was then taken near the polling station and put it into a waiting car. It was subsequently handed over to Golaghat Civil Hospital in the afternoon.

The witness has instituted a case for the murder of his son in the Sub-Division Court of Golaghat.

Witness No. 381 Bhubeshwar Saikia has also a similar story to tell about the killing of his nephew Ghanakant Saikia who was also killed in Police firing on 19th of February.

SARU PATHAR - KORIGAON - NAOJAN

6.14 : We shall now deal with some evidence about the police firing in other areas covered by Police Station Golaghat. Witness No. 282 Binod Gual who is the Secretary of Saru Pathar Regional Students Union, has stated before us that on 14th February, 1983 one Sonaram Saikia, a youngman aged 25 years came out for going to his house. As he reached Kushal Kunwar High School which was the Polling Centre, he was shot at by CRPF without any warning. The witness reached the place where he was lying on street. He was thereafter treated at Medical Hospital Dibrugarh where he was cured.

On 13th March 1983 houses of about 100 families at village Karigaon were set on fire by some immigrant Muslims. Certain persons including the witness went to that place. In the evening CRPF also went there. At that time one boy named Anil Bora aged 18 years went inside one of the burnt houses. Seeing that CRPF fired a shot at him and he expired instantaneously.

On 18th March, 1983 at 3.00 p. m. CRPF people were patrolling Naojan and Silapathar village. At that time one Manik Deka aged 19 years came in search for his missing cattle. The CRPF shot at him. He fell dead. At 5.00 p. m. on that day, one Deveswar Bora, aged 55 years, was driving poles for constructing a house. Seeing CRPF

he ran inside the house. CRPF fired at him and killed him.

Witness No. 283 Bhawanikanta Bhuyan is aged 70 years and belongs to village Dolajan. He states that his son Chandan Bhuyan who was 17 years of age was hiding himself as the Police was after him. At 6.00 p.m. on 17-2-1983 the witness learnt that his son was shot dead by police. The dead body of the boy was returned to the witness on the next day, when he saw a bullet hole in his chest.

Witness No. 284 is Pushpa Bora of village Balijan. He states that on 12th February, 1983 at 8.00 a.m. about 10,000 people were waiting to prevent Election materials going to the polling booth. At that time without any warning CRPF opened fire with the result that above referred Chandan Bhuyan, the son of the above referred witness No. 283 was hit. After he fell down, CRPF people dragged him and took him before the Congress(I) candidate, who kicked him. Thereafter he was given lathi blow and was killed. The witness says that in that incident of firing, one Ghana Saikia was also killed. The witness claims that he was present throughout the incident.

This is, in short, the story of indiscriminate Police firing in the area of Golaghat Police Station.

DOLAIGAON

6.15: The firing by the Police near Dolaigaon is described by witness No. 290 Manik Tamuli, a cultivator aged 50 years. The witness says that on 2nd March, 1983 at about 3.00 p.m. he saw some people running away towards the village Dhekiakhowa shouting that Police and Military were setting fire to villagers' houses and were arresting people. The witness was out

to collect his cattle. At a distance of about 300 feet from his house, the CRPF called him and detained him and other persons. All of them were thereafter taken near the house of one Keshav Bharali. One of the CRPF personnel set fire to that house with the match stick. The witness says that he also set fire to the houses of the other villagers.

Thereafter, the witness and others were made to stop at the bank of a tank at Kathgaon. At that time the witness saw two youngmen aged about 16 and 30 years running away from the village and going towards the jungle. Some CRPF personnel chased them. As the two youngmen entered the jungle the witness heard two rounds of rifle shots. Thereafter, the witness saw the CRPF dragging out one of these persons from jungle and throwing that man in a field. The witness and three others were called to see the dead man. The witness found that he was Rengai Bora who had bullet injuries on his person. Thereafter, the CRPF brought from the jungle another man who was Pradip Bora. He was badly injured and was still alive when he saw him. However, he expired after a few minutes.

The witness further states that thereafter, CRPF people went to the house of one Kanok Bora and brought some bamboo poles and other materials. Both the dead bodies were put on them and the witness and others were made to carry these dead bodies. Thereafter a police vehicle arrived while they were on their way. Therefore, the dead bodies together with the witness and others, who were arrested, were taken to the Police Outpost Ladoigar where they were kept in police lock-up up to 3.00 p.m. on next day without food or water. In the afternoon they taken to Jorhat Court where they were kept in

judicial custody. They were bailad out after 34 days. They were charged with murder, arson etc.

Witness No. 289 Budhram Bora, is aged 60 years, and is the father of above referred Pradip Bora who was killed in the Police firing referred to above. He says that on 2nd March, 1983 when he returned home he found his wife and daughter weeping and complaining that his son Pradip Bora was taken away by the police. He further says that on the next day at 2.00 p.m. the Police handed over the dead body of his son to him. One Manik Bora, who was one of the persons arrested by the police along with witness No. 290, informed him that he was shot dead by police.

DANGDHARA

6.16 : Witness No. 291 is Gopal Barua of village Titabor. He is the Secretary of Gram Panchayat of the village Gakhir Khowa. He furnishes details about Police firing near Dangdhara village. He says that on 16-2-1983 AASU had declared Path Bandh (Road Blockade) and pursuant to that, about 10,000 people were standing near Dangdhara village. He was one of them. After a while some personnel of BSF were found proceeding towards village Danghara. Seeing them, the demonstrators peacefully sat down on the road. Thereupon, without giving any warning the police opened fire on them. As a result of this firing 4 persons named (1) Tarnga Gogoi aged 25 years; (2) Rajiv Hazarika, aged 21 years; (3) Romen Hazarika, aged 32 years; and (4) Ata-ur-Rahman, aged 25 years, expired on the spot and other 4 persons were injured. After this firing the BSF personnel left the place without caring for the dead or the injured. The witness and other persons took the dead bodies to their houses and thereafter these dead bodies were taken to Titabor Police Station.

About 18 persons, who had accomanied the dead bodies, while taking them to the Police Station in their carts, were arrested by the police.

(This statment is corroborated by Witness No. 296 Durgewar 'Hazarika).

The Police hesitated to return the dead bodies but had to return them on intervention of Mr. Vajpayee, Member of Parliament, who had visited that place at that time. The witness says that police made no arrangement for the medical treatment of the injured.

In this connection it would be proper to refer to the statement given by witness No. 293 Nalini Nath Phukan who is an Advocate of Jorhat aged 75 years. He says that on 18th February when a huge public meeting was addressed by Mr. Vajpayee at Jorhat, some students approached him and told him that Titabor Police was not releasing the dead bodies of the persons killed in firing. After the meeting was over the witness took Mr. Vajpayee to Titabor Police Station where Mr. Vajpayee demanded to know why dead bodies were kept at the Police Station for more than 48 hours. Mr Vajpayee said to the Police that he was not prepared to leave the Police Station so long as the dead bodies were not returned to their families in a proper manner. The police thereupon gave in and returned the dead bodies.

BONAI-PUTHORIA-TEOK

6.17 : There is one more instance of police firing relating to Teok Police Station. Witnesses No. 294 Lalit Das and 298 Gopal Gogoi have given statements in this regard. Witnesses 294 Lalit Das says that at his village Bonai Puthoria Koibarta, the CRPF. was taking Ballot boxes to the Polling Station at 8,30 a.m. on 14th February. A lot of

people came out of the village out of curiosity when they heard that one Folu Puna Das was arrested. Thereupon, the Police opened fire on the crowd and shot dead one Paol Dass aged 18 years, at a place 150 yards away from the Police Station. The Police left the body unattended which was collected by the village people at 2,00 p.m. and then taken to the Police Station. In this connection complaint was filed, a copy of which is produced at Exhibit 294/1. Witness 298 Gopal Gopal deposes about the same incident. He was himself injured during the police firing. He was taken to hospital and cured on 2-8-1983. He has shown the marks of his injuries and has produced the photo copy thereof as found at Exh. 298/1 and 2.

BHATEMARA

6.18 : There are two witness No. 299-Rabin Bhattacharjee and No. 300 Jitendra Bora, who have given evidence about the firing near village Bhatemara on 18-2-1983. Witness Rabin Bhattacharjee says that he saw a Van going on for election campaign in favour of the independent candidate named Boli Hazarika. This candidate was sitting in that van alongwith armed constables. At that time his younger brother Prabin Bhattacharjee and other 20 to 25 youngboys went to request the candidate not to make any canvassing. The van was stopped. Thereafter the witness himself went to the candidate to request him not to contest the election. After a while, the candidate ordered the armed constables, who were with him, to open fire. The witness thereupon touched the feet of the Head Constable and requested him not to fire. The said constable however, kicked him on his abdomen and neck with the result that he fell down. Thereupon the police opened fire. Prabin Bhattacharjee, the brother of the witness was hit by a bullet and he fell down.

At that time one Dilip came to the rescue of his brother. The police fired upon Dilip and injured him on thigh and hand. Dilip also fell down unconscious. Later on he was taken to the tea-garden hospital.

This statement of the witness is corroborated by witness No. 300 Jitendra Bora. He says that when he found that the police was about to fire, he pleaded that there was no case for firing and that the boys would go away. On this persuasion the constables who had aimed their rifles at him, put down their rifles. However, while the witness was still talking, he heard the shots of fire. He therefore, retreated. At that time, one of the policemen thrust his bayonet on his left shoulder and broke one of his ribs. He was rendered unconscious, and regained consciousness after 5 days. He showed his injuries to us.

KHARAHAT

6.19 : The story of the death of a young boy named Akash Barua is very depressing. He was a resident of Kharahat Tea Estate. On 20th February, 1983 which was the polling day, this Akash went near the polling Station in company of witness No. 360 Suchi Nayak, aged 17 years, and 2 other boys named Shiam and Kulan. Witness Suchi Nayak tells us that when he, Akash Barua and other boys were sitting at a place near the polling station, a CRPF-Vehicle arrived at 10 a. m. Seeing the CRPF vehicle he and other boys moved a little away out of fear. However, the CRPF people chased them by creeping near the tea bushes. When they arrived near, the boys started running whereupon the CRPF opened fire on them. Akash Barua was hit by bullets on his abdomen. He pressed his abdomen with one of his hands and began to run, but he fell down after a while. Seeing this, the witness went near him

but the CRPF personnel aimed rifle at him and therefore, he also ran away.

Witness No. 359 Bishwanath Barua is the father of the above referred boy Akash Barua. He has filed a Memorandum. Exhibit 359/I alongwith the map of the place and a photograph of his injured son at Exhibit 359/2. The witness was subsequently offered the compensation of Rs. 5000/- by the Government but he refused to accept the same.

DARIKIAL-NAZIRA

6.20 : Witness No. 357 is Nandeshwar Hazarika. He says that on the day before election at his village Darikial at about 3.30 p. m. a police vehicle came and arrested one young man Jiten Dutt. Thereupon 30 youngmen of his village followed the police vehicle to find out what had happened. His son named Satyajit aged 16 years was one of them. The witness says that after a while he heard the firing of 9 rounds and, therefore, he ran to the place to see what had happened. When he reached there, he found that the dead body of his son was loaded in a police vehicle. Two days thereafter, that dead body was brought when he found bullet injuries on his forehead and chest. The witness says that he was offered compensation of Rs. 5000/- recently in the month of April, 1984, but he refused to accept the same.

RANGOLI-DALBAGAN-MORANHABI.

6.21 : On 17th February, 1983 police firing took place at the polling Station Rangoli. Witness No. 364 Prafulla Mahanta, who is a student, has told the Commission that they found on that day, which was a polling day, that a police vehicle was carrying voters to the Polling Booth. Thereupon, he and his friends numbering 25 started for the polling booth to request the voters not to vote.

When they were about 200 yds ahead of the polling booth the CRP. Forces standing near the booth opened fire on them. The witness himself was injured with the result that a bullet pierced through his thigh and the little finger of his left hand is permanently out off.

Practically a similar story is given out by witness No. 371 Hiranya Kumar Kunwar of the village Augard under the Police Station Mathurapur. He says that on 14-2-1983 at 11.00 a. m. about 3000 people gathered to stop election at Dal Bagan. He was one of them. These people were surrounded by police who opened fire of 8 rounds. One Tara Nath Handique was injured.

Of the same type is the statement given by witness no. 518 Nomal Chandra Lahar of the village Moran Habi under Police Station Sapekhati. He says that on 15-2-1983 at 2.00 p. m. about 2000 persons went in procession to appeal for the boycott of election. The procession was peaceful and none of them carried any weapon. He was a member of this procession. On their way, they found a police force on the opposite side. The said force confronted the processionists and without questioning or warning opened fire of 7 rounds. One Poheshwar Bora aged 22 years was hit on head and he fell on the ground. The witness lifted him but as police confronted him, he left the injured and retreated. Said Poheshwar Bora then died on the road. The police took away the dead body which was returned on the next day. The police did not allow many persons to attend the cremation. One Bimal Gogoi was also injured and he expired in the Police Station itself. Four other persons were also injured during the firing. The firing was ordered by Sub-Inspector called Abhiram Tai.

GHOGHARAPAR PARAKUCHI BAMAKATA

6.22 : There are three witnesses who depose about firing on anti election procession on 9-2-1983 within the limits of Ghogra Par Police Station. They are witness No. 546 Jamir Ali, whose son died in firing, witness No. 547 Barun Chandra Kalita aged 62, whose son Anil Chandra aged 22, died in the firing and Witness No. 548, Kamal Bhattacharjee aged 14 years, who was injured on the left hand. near elbow by a bullet and who is permanently maimed.

6.23 : Witness 550 Udai Chandra Deka of the village Parakuchi describes the incident of 14-2-1983 near the Polling of his village. He says that at 9.00 a. m. a police vehicle carrying a person, whose face was veiled by cloth, and 8 constables brought two ballot boxes. As per movement directions, about 500 persons including the witness were sitting at a distance of 50 yards from the polling booth. At about 11.00 a. m. police opened fire on these demonstrators without giving any warning. One Pran Krishna Pathak aged 16 years was hit by bullet and carried to hospital. However, the demonstrators persisted to demonstrate; so at 2.00 p. m. the police again opened fire without giving any warning. This firing took the toll of the lives of Mahendra Haloi, Upen Kalita, Prafulla Deka and Sidhanan Deka. The de-ad bodies of Mahendra and Sidhanan were taken to Barpeta where the witness and others requested the police to hand them over for cremation, but this permission was not given.

Witness 559 Babul Chandra Das has said that on 10-2-1983, as he was going to market of his village Bamakhata-Taloi Gaon, Police firing was going on. He was hit by a bullet which has permanently injured his right hand.

Witness 560 Lakhon Talukdar deposes about the same firing. At that time he was taking a dip in the nearby tank to catch fish. As he came out of the tank he was hit by a bullet on his right thigh. He was required to be operated with the result that his leg has been permanently shortened.

GOALPARA

6.24 : There is evidence about cross firing between Assam Constabulary and C. R. P. people at Goalpara presumably on the question whether police protection should be given to some Assamese villagers who were attacked. Witness 577 Narayan Chandra Nath and other constables belonging to Assam Police were camping there. Witness says that on 16-2-1983 a quarrel took place between Assam police and CRPF which led to a mutual exchange of fire. By reference to the Memorandum Exhibit 577/1 which is signed by this witness and 6 other constables, it is found that at about 3.30 p. m. about 15 to 20 villagers from a neighbouring village named Karai Khoi (who were probably related to or acquainted with the Assam police constables) came and informed them that the previous night on 15th February some unknown persons attacked them and set fire to their houses. The matter was thereafter conveyed to the Superintendent of police and S. D. O. Shri the Mrinal Kanti Barua who told the villagers that no help to them would be available till the elections were over. This resulted in some arguments between the said police officers and the villagers during the course of which the S. P. gave filthy abuses to the villagers who were ultimately driven away. The villagers then were narrating this to the constables. By this time some quarrel took place between the constables of Assam police and CRP men who started shooting at the

Assam constables. The constables then fled away. All the 7 memorialists of Exhibit 567/1 were thereafter dismissed from service, on the allegation that they fired on their brother policemen during the course of above referred incident. The Commission has written to the concerned officers to get their version of the story but without any response. This is one instance to show how callous the police officers were in their madness for seeing that election work was completed at any cost.

GORESWAR

6.25 : Witness No. 590 Prabhat Nath belongs to village Goreswar, On 18-2-1983 he saw several hundred persons running away and taking shelter in his village. They reported that the police and CRP. men had burnt their houses and were chasing them. Being afraid even this witness began to run away for safety. He was however, confronted by CRP. men on the other side who were firing indiscriminately. A bullet grazed from under the right ear of the witness. He was fortunately saved after treatment in hospital for 15 days.

GENERAL

6.26 : All the above instances of police firing show that starting from 2nd February upto the last day of election namely 20th February the firing by the police went on almost every day in almost every part of Assam. The evidence makes it clear that the resolve of the people to stop elections by persuasive methods of picketing and processions was as grim and determined as the resolve of the Government to push through the elections. The determination of the people was matched against the organised violence of the State expressed through human brutes who treated unarmed people with lesser respect than would ordinarily be shown even

to animals. We are ready to concede that there may be some exaggeration here and there in the stories given out by the above referred witnesses, but even after making allowance for all these possible exaggerations we find no justification for the CRP. constables throwing 4 Assamese young boys, who tried to extinguish fire at Sipajhar, in the fire itself and to roast them to death. We also do not find any justification for the ruthless firing at the back of the processionists near the police station of Belsor. The murder of Chandan Singh an Assamese Sikh youth, at Jajori is a permanent black spot on the fair name of Indian democracy. Similarly we are shocked at the manner in which 7 citizens of village Panka were tied and then shot dead in the darkness of the night; we find it extremely cruel to go creepingly near teenagers and to shoot at them when they tried to run away, as happened near Khorahat polling station. We have also noted that indiscriminate and incessant firing at the Mangaldoi area has taken toll of many innocent lives. From the above narration of facts it is clear that the greatest casualty in the police firing was of young persons of the age group of 14 to 22 years. All were promising young men, and perhaps the main hope for their respective families. Many persons have been permanently maimed, many ladies have been widowed and many families have lost their breadwinner by this atrocious firing by the police which took place in the election month of February, and even subsequent to that.

The question is whether these firings at all places were absolutely necessary. Could the police have not controlled the situation by less drastic methods such as cane charge or tear gas. It would be interesting to find out who apart from Kopildeo Tripathy whose

name as leading a firing squad is clearly revealed, had authorised these trigger-happy constables to use their bullets more freely than their canes. It would be of great interest to know how many of the policemen have been injured by the assemblies which had gathered for anti-election purpose. No civilized Government can sit silent over these firings.

The more important fact to be noticed is that during their long-drawn struggle of more than three years for the exclusion of the names of the foreigners from voters' list, the people of Assam have maintained exemplary calm and non-violent atmosphere. No public property was destroyed, no arms were accumulated in any of the religious or other places, and no harm was caused to the very persons against whom the movement was lead till the Government announced the elections. All this goes to show the nature and temperament of the people who were taking part in the movement. Their only crime was that they were trying to uphold the provisions of the Constitution and the law of the land which prevented foreigners to vote. When they lead procession, held meetings and

resorted to picketing to persuade people not to take any part in the elections, they were doing nothing more than to exercise their legitimate right which they undoubtedly had if the elections were free and fair. They have not harrassed any voter. They were not found to be carrying any weapons. Their unarmed resistance was no match for the para-military forces fully armed with stenguns and other lethal armoury which could have been better utilised against an alien enemy. Under the circumstances, these were the people who least deserved such violent treatment at the hands of the Government. The government which does not know how to control the youngsters of its people except through bullets is not the Government of the people by the people and for the people. It can well be the Government of the tyrants, by the tyrants, and for the tyrants.

But the matter did not stop at the police firings. A reign of terror was let loose in the daily life of every household. Firing would end within a few minutes. But the police excesses and administrative indifference had made the life of average Assamese in those days quite unbearable. This would be evident from the Chapter which follows.

CHAPTER—VII

POLICE EXCESSES AND WANT OF CIVIL LIBERTY

7.1 : Now we are entering into the discussions about the life of an average Assamese during the election days, when, in ordinary course, people are expected to be more free in their expression, movement and right of association. The facts which follow will show that at every moment even in the peace of one's own house, there was a real danger of a policeman's kick at the door and subsequent harassment by arrest, molestation and ransacking of one's belongings, and there was no body to take a complaint or to give any redress. Shri Debeswar Sarma, who is aged 89 years, is one of the oldest Advocates of the State. He is an ex-Minister, ex-M.P. and one of the oldest Freedom Fighters of the country. He has seen and experienced the sacrifices this nation has made for achieving freedom. With deep pain and anguish he said: "Descent people would treat even their dogs better" than the treatment given to the Assamese in those days. In his righteous indignation, he has described the police-force in Assam as "Ferocious dogs let loose on people". We find that these strong expressions are not wide off the mark, because even the High Court at Gauhati was pleased to observe, on 28th January, 1983, in a petition moved before it complaining about the barbarous behaviour of security forces as forces of occupation, as under :—

"We find sufficient force in the contention of the learned counsel for the peti-

tioners regarding the allegations made in the petition that it is in fact a kind of aggression by forces of Government against the innocent members of the public. Those who wield so much force and power in performing their duties, we feel that it is the obligation of those in charge and responsible for ensuring that the personnel perform their duties to keep them under check, control and restrain by issuing necessary appropriate and proper direction and in all contingencies, they should specifically be told to honour human dignity"

(emphasis supplied)

These observations were made much in advance of the actual rounds of election suggesting the degree of fairness and freedom under which the poll was to take place. As usual the above advice of the High Court has fallen on deaf ears as will be evident from the evidence which is hereinafter discussed. This evidence shows that those in charge of administration came down heavily on the people of Assam as if to punish them for their sin of making a demand for observance of the provisions of constitution and law regarding the foreigners. The story of day to day harassment of the Assamese as revealed by the evidence recorded by us, is the story of a dehumanised occupation force dealing with an errant and hostile population of a conquered territory.

Shri Mahanand Bora and Shri Kamakhya Das, respectively the President and General

Secretary of Freedom Fighters Association, Assam describe the situation in the following words :

“A reign of terror was unleashed on the Assamese people, the entire State and Central police force being utilised to attack them. The excesses committed by the State and Central Police beggars description. Even crimes of bribery and arson have been attributed to them. Indeed, some of their atrocities would put even our previous foreign Government to shame. As witnesses to, and participants in, the freedom movement we can aver that no lone and single pedestrian, man or woman, was so ruthlessly attacked and wounded, or honour of women inmates violated by the police or military during that movement, as has been done by our own State and Central Reserve Police in Assam during this peaceful and legitimate movement. Arson and plunder by them have also been widely alleged. Atrocities were perpetrated on numerous students, teachers, professors, traders, shopkeepers, peasants, lawyers, public servants, countless innocent people, in some places under the cover of unwarranted curfew.”

This is what those who have fought for the freedom of this country feel. They obviously wonder whether they fought for our people being ruled over, by goondas in Uniform.

As Shri Upendra Narayan Das, aged 66 years an educationist and a literature puts it in his memo :

“Even in day time, it was dangerous to come out and in the night the old and youth alike had to take shelter in open field or under the bamboo bush leaving their own hearth and hut. If the youths were not available at home the security

people committed atrocities on the old and lady members of the family. The household goods either were damaged or taken away by them.”

On consideration of evidence recorded by us we find that every word of this quotation is true.

Civil Liberties Association, Jorhat, summarises the light of an average youngman in Assam as under in its memorandum Ex.66 (I) :

(6) “Government with deployment of police and C.R.P.F. created a situation like war with unarmed citizens and barbarously assaulted the peace-loving citizens without discrimination. These forces started combing villages and suburbs in search of youngmen. They humiliated the inmates of houses, entering without permission, using abusive and filthy language, beating and arresting them whenever they went. These forces broke down doors and windows of houses and entered even bed-rooms ignoring all privacy even at night. It was not possible for any youngman to remain in their houses even at night. They had to make their abodes in the jungles and in caves and trenches dug out in distant open fields.”

The police in Assam was so much after youngmen that the Annual General Meeting of Gauhati University Court held on 28-1-1983 passed a resolution viewing “with deep concern the frequent police entry into the University campus and unauthorised forcible occupation of hostels and buildings of the University and affiliated colleges.”

(vide Ex. 43 (9))

The Assamese has not forgotten the atrocities committed by Burmese invaders in the past. Sodou Guwahati Mahila Samity, a women's organisation, recalls these atrocities in the following words in their memo. Ex. 74 (I) :

"Sir, we have heard gruesome stories of "Manar Akraman (the invasion of Assam by Burmese Army) from our grand mothers. At that time those foreign armies with local collaborators killed people, raped women and plundered the belongings of the people. In the same way, during the last election period and even now, the C. R. P. F. of our own Indian Government killed people with bullets, raped women and plundered the belongings of the indigenous people of Assam. What pains us most is the fact that the atrocities were perpetuated by the police force of a democratic country on their own sisters and brothers like occupation forces."

Shri Parag Chaliha (Witness No. 355) is aged 60 years and is the Principal of Sibsagar College which is a reputed college in North Eastern India. The witness is one of the founders of this college and an educationist of repute. He unmasks the conspiracy of the Assam administration and police in breaking the spirit of the Assamese in the following strong words :

"5. The memorialist sadly avers that nowhere else in India did ever (or would ever) a situation occur, where almost all top officials of a State administration would be so prejudiced and antagonist against the local population as was the case in Assam, under the President Rule prior to the murderous election of 1983. They had one goal to hold the election at any cost by intimidating, terrorising, killing and by subverting all cannons of law and common civility. And what must be a rare happening, systemetically planned and executed, was the disgusting fact that except perhaps for a spineless (or helpless) Director General of Police (Shri P.C. Das), all who mattered in that infamous

administration in 1982-83 were non-Assamese. With the politically biased Governor at its head, and Shri Samar Das I. G. P. as the brain, the non-Assamese and anti-Assamese officers formed a coterie whose purpose appeared to be to annihilate the Assamese, or at least to liquidate the cream of that community. The "hit list" of the Assam police in 1983 included names of all who mattered vis-a-vis Assam and Assamese. Needless to say that Shri Samar Das is one of those rank anti-Assamese keymen in the administration whose avowed objective was to see Assam disintegrating, and Governor Mebrotra's sole motive was to bring Congress (I) to power, if necessary, over a river of blood."

These are the general observations which will be found substantiated by specific instances which we shall presently discuss. At this stage, however, it will be sufficient to note that all these general observations truly summarise the feeling and the opinion of the average Assamese in Brahmaputra valley about the state of affairs prevailing in Assam during the election days. A few pages which follow will show that the greatest casualty in those days was the respect for law and this was at the hands of those who were supposed to preserve law and order.

7.2 : Witness No. 174 Shri Suren Medhi is a Senior Advocate practising at the Gauhati High Court. He is the General Secretary of Citizens' Civil Liberties Association, Assam; Secretary of High Court Bar Association, and Treasurer of All Assam Lawyers Association and Vice-President of the Assam Unit of Peoples, Union for Civil Liberties.

He says that on 2nd February, 1983, 187 members of High Court Bar Association and

Gauhati Lawyers Association went out in a procession at 10.30 a.m. for submitting a Memorandum to the Chief Election Officer through the D.C. protesting against holding of general election. The witness was one of the members of the procession. He says that in front of High Court premises the police intercepted the procession, detained them for half an hour in street, and then were told that they were arrested for violation of order under section 144, Cr.P.C. Thereafter, they were taken to Gauhati District Jail by six buses and were detained in Buses till 3.30 p. m. in front of the Jail. During that period no water or tea was served to be taken. After 3.30 p.m. they were produced before one Executive Magistrate named Smti. Nilofer Hazarika in the premises of D.C.'s Court. An F.I.R. was read out alleging that they were arrested under section 188, I.P.C. The President of the High Court Bar, Shri Chaudhary, who was one of the arrested Advocates, pleaded to the Magistrate for their release on personal bond. The Magistrate, during the course of hearing, left her seat and met her superior Deputy Commissioner, one Mr. Agnihotri, twice. She then passed an order allowing bail of Rs. 10,000/- each with one surety.

Here it should be noted that the office under section 188, IPC. is ordinarily a bailable one, but as already noted above, soon after the declaration of elections, a special amendment was carried out, and certain minor offences were converted into non-bailable and cognizable, from being bailable and non-cognizable. Moreover exclusive power to try such offences was taken away from Judicial Magistrates and vested in the Executive Magistrates, obviously to facilitate the Executive Magistrates to obtain the instructions of their bosses, just as was done by Smti

Nilofer Hazarika, even in such purely judicial matters. It is obvious that the Advocates of Assam were some of the first victims of the assumption of such draconian powers by the Executive.

The demand for the security of Rs. 10,000/- was obviously unreasonable, because those who were arrested for the minor offence were not murderers or dacoits. The Advocates, therefore, refused to furnish bail. At 5.00 p.m. they were lodged inside the Jail. During the night time some advocates approached Mr. Justice Singh of Gauhati High Court at his residence. He passed an order of the release of these Advocates on their personal bond of Rs. 1000/-. The Advocates thereafter could come out of the Jail at 1.30 P.M. on the next day.

In this connection it may be noted that the evidence given by Dinesh Goswami, who is himself an Advocate, supports the above referred facts.

Witness Surendra Nath Medhi further deposes that on 3-2-1983, 187 women, including some old ladies came out in procession in different batches to protest against the general election. They were detained by the police and Case No. 32/83 was registered against them for the same offence. They were produced before the above referred Magistrate. They were then taken to Jalukbari P.S, six miles away where there is not even the minimum toilet facility. But she refused bail. Thereafter some Advocates moved the High Court and even these ladies were released on personal bond of Rs. 1000/- each by the High Court. They were released from Jail at 11.00 p.m. at a place which is 6 miles away from the town. They were not given any escort and during their detention they were not allowed even toilet facilities.

7.3 : Witness Medhi went to Gauhati Medical Hospital and saw the young boys, who were thrown in fire and roasted alive by CRPF; one of them was Prahlad sharma. The witness found that he died on 7th February, 1983, but his dead body was not handed over to his family inspite of repeated requests. Therefore, on 9-2-1983 the witness filed Habeas Corpus Petition in High Court on behalf of one Dutt Arun Kumar Sharma for direction to hand over the dead body to the family members of deceased. At Exhibit 174/3 is a copy of that petition. On the same day High Court passed an order to hand over the dead body to his family members. At Exhibit 174/4 is a copy of that order. However, the dead body was not handed over on the plea that it was already cremated.

7.4 : The witness thereafter tells the story of a group of officers forcibly detained by police for performing election duty against their will. The witness also shows how the orders passed by the High Court in this connection were intentionally flouted and not obeyed till the election day was over. The facts are as under :

On 5th February, 1983 a large number of officers of Agriculture Department of Government of Assam were picked up from their offices and residences at Agricultural campus for doing election work against their wish. The election was to take place on 14-2-1983, that being the first round. The officers concerned pleaded that they should not be detained for election work. They were, however detained forcibly at Central School at Khanapara under Police-guard. At Exhibit 174/5 is the photocopy of the Notice issued to them appointing them for the election work.

As these officers were detained, witness filed Habeas Corpus Petition in High Court

on behalf of 21 officers. Exhibit 174/6 along with the annexures is a copy of this petition. It was filed on 11-2-1983. On the same day the High Court passed the release order as found at Exhibit 174/7 and sent a copy of that order to District Election Officer and Deputy Commissioner for compliance. An officer of the High Court accompanied the process server to serve this order. But they were not allowed to see the concerned officers by Security personnel. Therefore, a copy was sent to the officer. After half an hour some officers came back with the process server and told the process server to come next day for service. A process was also sent to be served on the officer who was in charge of the detention camp. So this time, Assistant Registrar of the High Court accompanied the process server to make service on them. Some C.R.P. Personnel received a copy of the process at the gate and took it inside. After one hour the CRP. personnel came back and asked the Assistant Registrar to come next day. Thereafter on 12-2-1983 the Assistant Registrar again went with the process server at 8.00 a.m. to the Central School where the officers of Agricultural Department were detained. This time the Assistant Registrar was told by C.R.P. personnel that one Shri Ahmed who was in charge of the Camp had gone to Sonapur 12 miles away: so he should go there and meet him. The Assistant Registrar went to Sonapur and found that all the petitioners were detained there having been brought there on the previous night. The Assistant Registrar met the Zonal Officer, Election at Sonapur and asked for the release of the detained officers showing court's order. Strangely, the Zonal Officer expressed his inability saying that unless they were directed by the High Court to release them by a fresh order, they would not be released.

Again on affidavit was filed in the High Court on 12-2-1983 for necessary orders, after stating all facts. Again on 12-2-1983 the High Court passed the order directing Zonal Officer at Sonapur and Sub-Deputy Collector at Sonapur to release the officers forthwith in compliance with the previous order. At Exhibit 174/8 is the copy of this second order.

In spite of this, on 12-2-1983, the District Election Officer and Deputy Commissioner sent a letter to the High Court stating that if the petitioners were called back, it would be impossible to hold elections. At Exhibit 174/10 is a copy of this letter. The above two officers also filed an affidavit in the pending Writ Petition as found at Exhibit 174/11. Thus the detainees were not released and the High Court's orders were flouted. The detainees were sent to different polling stations on election duty on 14th and after this duty was over they were released on 15th.

No comments are required to expose the pertinence of the Executive Officers concerned flouting the orders of the High Court. It is rather strange that they could escape contempt proceedings.

7.5: A similar story of detention of Government employees by force is revealed through the statement of Shri Dinesh Goswami. The witness had gone to Rangia before the first round of elections. He found that about 48 Government employees, some of whom were of Gazetted rank, were detained in a school. The witness met them. He was told that these persons were taken from their homes at night and were forcibly detained for election work. The witness thereupon went to Police Station, Rangia, to ascertain whether there was any charge against these detainees. He was told that there was no charge but they were kept in detention on verbal orders "from above". The

witness then filed writ petition in High Court. The High Court ordered their release, but they were not released and learning about High Court's order the officer concerned shifted them to Nalbari. The witness then went to Nalbari with a certified copy of High Court order, but he found that the detainees were again shifted to Mukalmua. They were not at all released soon but released subsequently.

In this connection we may refer to the memos. filed by some employees of different departments showing how at midnight the para-military forces accompanied by an Executive Magistrate raided their houses and forcibly and under threats took them for election duty without any prior letter of appointment and kept them under detention, without providing proper food and bedding during the night and continued to detain them illegally for taking polling duty against their wishes. Ex. 540 (c) is such a memo. filed by Shri Kamal Chandra Dutta, a Medical Store Keeper. Ex. 540 (D) is the memo. of Shri Amulya Chandra Das, a Refinery Technician. Ext. 540 (E) is the memo. of Shri K.S. Daimiari, an employee of Indian Oil Corporation. Ext. 540 (F) is the memo. of Shri Chidananda Sharma, a boiler operator. Ext. 540 (G) is the memo. of Shri Narendra Sharma, an Asstt. Engineer, Rangia P.W.D. and Ext. 540 (K) is the memo. of All Assam Bank Employees Parishad. These memoranda also contain the names of other such employees who were forcibly detained, threatened, beaten and maltreated by police for exacting election work from these unwilling employees.

These facts fully reveal what type of election they were conducting and how free and fair this election could have been when forcible work was taken from these employees who were treated as serfs and slaves.

This unique feature of the election of February, 1983 in Assam will, in our opinion, has no parallel in any democratic country of the world. It appears that, in the opinion of the Assam administrators and the local agents of the Election Commission, such atrocities and taking of forced labour must also have been an invariable part of "constitutional compulsion" with which they were faced! We, on our part, however, are under an impression that our Constitution has abolished forced labour and that our process of election and the machinery for election are meant to enhance human dignity and safeguard personal liberty of the citizens of this country. Constitutional experts of the Central Government and the Election Commission at whose behest the police was working are likely to have different ideas!

7.6 : Witness No. 180 is Satyendra Prasad Deka, an Advocate. He was General Secretary, Gauhati Lawyers Association as also the General Secretary of All Assam Lawyers Association. He tells this Commission that people heard the announcement of General elections on the All-India Radio on 6th January, 1983. In the evening of 7th January, people of his locality gathered in front of his house to discuss about the postponement of the general elections. All of a sudden a huge police force came there and started beating indiscriminately the people who had gathered there. A few of them entered the compound of his house, but the police chased them into that compound. At that time the witness was standing in the verandah of his house. He rushed to stop the police, but in return he also got some lathi blows. The witness then revealed his identity and when he told them that he was the Advocate of some CRP Service

Personnel conducting their service matters, they stopped beating him. In the meantime, some people, out of fear, entered his house. The police insisted that he should order them to get out. After much persuasion the police went back threatening to come back again. The witness thereafter tried to contact various police officers on phone but failed. Then he reported the matter to Chandmari Police Station where he resides. He was told that this was a "routine work" and they were helpless.

7.7 : Witness further deposes that on 14th January in the evening time he was going on a foot-path of Chandmari area towards Assam Tribune Press. He found some young boys going towards the same direction. All of a sudden a police van stopped and the police caught hold of two boys and started beating them. Thereupon the witness went there and persuaded the Subedar that it was "Uruka" Day and therefore the boys generally come out on this day. He pleaded not to beat them and to allow them to go. The Subedar said, "Bakwas Band Karo, Apna Rasto Lo, Varna Apna Bhi Ye Hal Hoga" (Stop prattling, take your way, otherwise you will also meet with the same fate). The police thereafter took the two boys in their van and left.

We may note here that such instances of police suddenly stopping their van and arresting young men passing by the road are many showing the safety and the nature of liberty which the pedestrian enjoyed in Assam during the election days.

7.8 : The witness thereafter describes how the Executive Magistrates behaved during those days. He says that on the eve of election in the month of January, 1983, about 60 persons were produced by police from North Gauhati Area, charging them for refusing

to do the election work. The Executive Magistrate passed an order for bail in the amount of Rs. 2000/-. The Advocates pointed out that as the persons were from North Gauhati and night was cold, they may be enlarged on personal bond, but the request was rejected. All the persons were kept bundled at Pan Bazar Police lock up for the whole night. They could not arrange for bail from North Gauhati which is at a distance of 12 miles and across Brahmaputra river where there is no ferry service after 5.00 p.m. The witness says that the detained persons were not given any food, drink or bedding during the night.

7.9 : During the course of our enquiry we have come across many instances wherein the police did not allow doctors to go for the treatment of the injured during police firing or otherwise during riots. One such instance is given by witness Mr. Deka. He says that when he and others were on their way to Pathshala they saw a Bus with Red-cross mark carrying some junior doctors who told them that they were going to Pathshala to render medical aid to those injured in police firing. They were however, stopped by S.P. Kamrup, who directed them to report back to Nalbari Police Station. These doctors were then detained at Nalbari Police Station, and subsequently released.

In this connection, it should be noted that as the police was preventing even such humanitarian work of the Doctors, the "Junior Doctors Association" moved the High Court at Gauhati in a writ application which was registered as Civil Rule No. 85 of 1983. In that matter the High Court passed the following interim order on 15-2-1983 directing the authorities concerned not to restrain the Doctors "from visiting any place or place of incidents within the State of Assam for the

sole purpose of giving medical aid and treatment to the injured and wounded persons involved in the incidents from whatever cause that may be, as a part of humanitarian service."

7.10 Witness No. 209 is Bansilal Soni, a member of National Executive of B.J.P., to whom a reference is already made above. He tells the Commission about the restrictions which were put on the public meetings organised by the opposition parties during election days. He says that on 12th January permission was given to hold a public meeting to be addressed by Mr. Atal Behari Vajpayee M.P. and the prominent leader of B.J.P. with condition that only one mike and one loudspeaker should be used in the meeting and there should be no publicity in the city through loudspeaker about the meeting. According to the witness, when Mr. Vajpayee addresses the meetings, they are so well-attended that they normally require 3 sets of mikes and about 40 loudspeakers. He further says that most of the time permission to hold such public meetings was only given an hour before the meetings were held.

One sample of the condition attached to the holding of such meetings is produced by the witness at Exhibit 209/6 wherein a condition is attached to the effect that nothing should be said in the meeting against holding of elections. Obviously the officer imposing the condition was under an impression it is nobody's right to speak against the elections when the elections are held. This is the sample which reveals the attitude and understanding of the civil servants who were functioning in the Administration during the election days of February, 1983 in Assam, and this is also the sample of "Free and Fair" elections which the Election Commission was expected to hold.

7.11: Mr. Soni tells the Commission that on 12th January he went to U.N.I. Office at Gauhati in the company of Mr. Vajpayee and Mr. Jaswant Singh, M.P. There they found that the teleprinter machine, the telephone, and other machines, as well as furniture of the said UNI Office were broken and everything was thrown away helter skelter. On enquiry the office people told them that this damage was done by CRPF on the previous day as they were reporting true stories. These facts are forwarded by witness No 44 Samujjal Bhattacharjee.

7.12 On 8th February Mr. Vajpayee and Mr. Jaswant Singh, M.P. had again visited Assam. On 9th February Mr. Soni accompanied them to Nalbari and reached there at 8.00 a.m. They wanted to visit the hospital at Nalbari, but they were prevented by police. At that time one Sub-Inspector Saikia had wielded a lathi blow on the head of Vajpayee, and but for that blow having been warded off by Mr. Jaswant Singh, Mr. Vajpayee would have been hurt. S.I. Saikia thereafter blew his whistle and brought more police force. However at the intervention of one CRP Officer, nothing untoward happened. This story is supported by 2 other witnesses viz, Witness No. 68-Surendranath Sharma and witness No. 90 Bhupen Das.

7.13: After elections were over and new Ministry took oath, the people of Assam were demonstrating against the new Assembly and the Ministry on the ground that they came through fraud in election which was not free and fair, and were no better than mere usurpers of office. On 25-3-1983 Youth wing of B.J.P. decided to demonstrate against Assam Assembly demanding its dissolution on above ground. Earlier they had informed police and others including the Chief Secretary that the demonstration would be peaceful

and non-violent. They collected at Sunderpur, Zoo road and proceeded further. At Ganeshguri-Dispur they were lathi charged by S.P, one Ashim Roy. The witness says that he used filthy language. The witness himself suffered lathi blows. One doctor Anandeswar Barthakur a leading Physician, was hit on head and severely injured. So was one Advocate Utpal Chakravarty. People were beaten and dispersed. The witness protested to the S.P. Ashim Roy who was told that if there was any infringement of Section 144, Cr. P.C. they could be prosecuted and arrested, but there was no justification for lathi charge as the procession was peaceful. The brave reply which Ashim Roy gave was, "This is Assam, here beating is necessary."

7.14: Witness No. 530 Shri Bishwa Goswami who is a sitting Member of Rajya Sabha has aptly described the position of a common man in Assam as under :

"I personally visited many places viz. Khoni Mara near Tihu, Nanatari, Bama-khata, Pathshala and Nalbari; Police and CRPF. entered houses at midnight broke open doors and indiscriminately assaulted and injured the members of the public. I saw signs of damaged houses and injured men and women; Even the old were not spared.

In Gauhati I have seen in broad daylight police and CRPF beating youngmen for no fault, even passers by and people standing were beaten."

The witness thereafter gives an instance of a daughter of a Senior I. A. S. Officer, a Maharashtrian being beaten by police on road with the result that one of her arms was broken. He also says that he saw two Deputy Secretaries of the Government on their way to office being beaten by the police. A further instance which is given by him

is that a gentleman from Haryana who was at the Railway Station at midnight and was accosted by police said in English, "I think that there is no curb on peoples' movement." The police havildar (probably scared by the word "movement") said, "Ye Movement-Wala Hai, Maro". He was beaten. The witness further states that whenever shops were closed due to Bandh, the police would come next day and ask the shopkeepers to close the shop for some more days. Then they used to lock up the shops and to take away the keys with them. Many shopkeepers were also assaulted. He further says that in Dispur area shopkeepers were greatly harassed. The police broke open the shops on the Bandh day and there are cases when shops were left open without anybody to take care. In Pathshala the shops were destroyed and in the market of Nalbari police broke open the doors of the shops and would ask any passer-by to sit in the shop. Some of these last named misbehaviors of the police narrated by the witness might be on the strength of the information which he has collected as a social worker. That, however, does not make any difference as we have on our record concrete examples of the types mentioned above, based on personal knowledge.

These are the samples of the lawlessness created by those who were entrusted with the task of preserving law and order.

7.15 : Shri Ajit Sharma has brought to our notice six cases of extreme harassment of the professors of Gurgaon College. The names of these professors are (1) Prof. Chadra Kumar Arandhara, Head of the Deptt. of Economics ; (2) Prof. Paban Chandra Buragohain, Head of the Deptt. of Chemistry, (3) Prof. Someswar Nath, Head of the Department of Zoology, (4) Prof. Amulya Prasad

Bargohain, Deptt. of Political Science, (5) Prof. Abdul Baki, Deptt. of Commerce, (6) Prof. Suren Dutt, Deptt. of Chemistry. Exht 350 (1) is the joint memo submitted by them to us. Exhibit 536/3 is the representation made by these six Professors to Shri Sharma about the police atrocities perpetrated upon them. Thereupon Shri Sharma conveyed all these facts to the Prime Minister as per his letter dated 19th January, 1984, a copy of which is annexed at Annexure- 4' of his Memorandum. Letter has been disposed of by the Home Minister by saying that all the arrests of the Professors were made in connection with duly registered cases and the general allegations made against the police about torture, search and loot "do not seem to be borne out by facts." Two of these Professors namely (1) Prof. C.K. Arandhara and (2) Prof. Someswar Nath have given their statements before us. They are witnesses No. 350 and 353. They have also filed their Memorandum. Facts which can be collected from all these materials are as under :

Mr. Saikia, the present Chief Minister of Assam was the Vice Principal of this College and contested election as a Congress (I) candidate-during February elections. There appears to be some bad blood between him and these Professors because these Professors boycotted the election and did not support the candidature of Mr. Saikia. Mr. Ajit Sharma has explained the background in his statement before us in the following words :

"At Gargaon there is a degree College. The present Chief Minister was Vice Principal of that College. Majority of teachers were not the supporters of Congress (I) and hence they did not support Mr. Saikia during February elections. After elections were over and Mr. Saikia became

Chief Minister in March 1983, he established one Police Sub-Station near his house which is in adjacent area. Particular Police officers of that Sub-Station began to harass and beat and commit atrocities on the seven Professors of that college. One Police Officer named Amrit Bargohain went to the extent of threatening Professor Someswar Nath that he would molest his wife. Prof. Nath was tied and dragged to Police Station. He was asked to undress, As he refused, the police officer forcibly tore his shirt and trouser and kept him in lock-up. All these Professors have given a Memorandum to me in writing signed by them in my presence when I visited that College. I produce this Memorandum with Original signatures at Exhibit 536/3."

If a reference is made to the above-referred Memo, and other documents which are before us, it is found that following are the allegations of atrocities specially against Professor C.K. Arandhara and professor Someswar Nath

1) Professor C.K. Arandhara was implicated by the police in a Bomb explosion case occurred in the night of 19th April, 1983 and for this the said professor was in Jail for 14 days. The said professor was arrested many times particularly on 13th January, 1982, the day of Assamese Bihu and detained for 32 hours. Again he was arrested under section 436, IPC. in the night of 8th February and was in Jail custody for 14 days. His son who is of 14 years of age was also arrested with him on the same date and was severely beaten in front of his parents and was kept in jail custody for the same period. The said professor tells us in his statement that on 8-2-1983 his house was cordoned off by the police

at night at 9.15 p.m. and at that time the policeman handled his young child and wife.

So far as prof. Someswar Nath is concerned, he was arrested on two occasions-first, on 23-1-83 under section 107 of the I.P.C and then on 14-4-83 under sections 147, 447, 188, 506 and 294, I.P.C. On the said occasion with a view to find the house of professor Nath the police officials first entered the compound of professor P. Bargohain and asked him to open his door on the threat of being shot. When professor Bargohain opened the door they asked him to show the quarter of professor Nath and pushed him by seizing his collar. On entering the house of professor Nath the police behaved in an uncivilized manner, pulled his hair, and beat him so severely that he had to undergo medical treatment for his head injury and knee joints for a long period. Wife of the professor was pushed by police officer Mr. Amrit Bargohain into a room of the quarter with bad motive but Mrs. Nath managed to escape. Then the professor was asked to run upto the police out-post. On the way he was kicked with the result that he fell down. In the lock-up he was asked to undress and the police officers forcibly tore his shirt and trousers and slapped him repeatedly. He was confined to lock-up with his ganji and Janghia alone till next morning when his wife supplied garments. The Professor had made a complaint about this ill-treatment but no action was taken. The above said professor have generally alleged against the police in their Memorandum Exhibit 536/3 as under:

"We like to draw your kind attention to the nature of atrocity and behaviour of the arresting police officials. At the time of arrest they use such savage and slang language which is never uttered by a gentleman. Moreover all such police officials

home amid tea-garden bushes after being chased by Neog's gang, who wanted only to cane the youngster and who implored upon Neog not to shoot at a fleeing small boy. Neog and his associates, S.I. Sri Pra-deep Gohain at Sibsagar, A.S.I. Sri Amrit Gohain at Nazira, became house-hold names for savagery. Thousands were arrested on concocted charges, young boys and girls badly beaten-up, women and children were never spared all the filth that civilised societies shun to utter. On a purely non-violent procession of grown-up ladies at Sibsagar coming in batches of 4 on the occasion of Satyagraha, the dirtiest slangs were uttered after all the ladies were drenched with water-hoses in a chilly February morning in 1983. Atrocities inside the police lock-up betray faithful description. The wrath to the petitioner and his family members exhibited by Neog and party was of course understandable. On 21-6-1980 a Jaliwanwala Bagh type tragedy at Sibsagar was averted through the good offices of the then S.D.O. (Sri Chatterjee) when Neog was ordering 50 B.S.F. personnel to use Submachine guns to fire upon a gathering of some 3,000 school children, who were assembling inside the Government school premises at Sibsagar and were coming out in a peaceful procession in observance of volunteers Day. A similar carnage was tactfully averted at Galeky 4 days later. Police atrocities at Sibsagar continue to this day. Only a week back, respectable ladies were subjected to indignities by police at Amuguri. The magnitude of the police excesses in this District of about 8 lacs of people can be gauged by the fact that the Legal Cell of the Parishad alone have been handling some 16/17 thousand cases

of arrests on charges ranging from Secs. 107, Cr. P.C. to 302, 306 I.P.C."

Describing his personal torments, he says "The residence of the memorialist was under constant vigil from 1979 till today. From 24-7-1979 to 28-7-1979; from 4-5-19-80 to 18-5-80; from 20-6-80 to 30-6-80 a Jeep, invariably came to his residence 4/5 times around 2 O'Clock in the morning, waited for 15/20 minutes and sped away. The reasons are obvious. The petitioner had to pass chilly nights away from home in jungles for more than 40/50 days in 1980-82-83 for fear of being tortured and even killed by the marauders. The petitioner and his wife and son were almost daily and frequently threatened and abused over the phone by ghost calls at unearthly hours and countless complaints were just filed. Being diabetic and heart and kidney patient, the memorialist had to be hospitalised at least 12 times during 1980-83 in Sibsagar Jorhat and at the A.M.C. Dibrugarh. He was arrested countless times under M.I.S.A. from 10-5-80 to 18-5-80; arrested on 16-10-80 on charge of attempt to murder; while all others were released, he was detained on 1-2-1983 in Police lock-up, having made to hear abuses hurled against him at Neog's directions. Charged next day under Section 107, Cr.P.C. a bail was ordered for Rs. 1.5. lacs even a veteran freedom fighter and renowned Tea-Planter (Sri. P.C. Barooah's) surety on bail was refused by Sri Anup Thakur, young I.A.S. who refused to hear any plea and refused Sri P.C. Barooah's surety saying that he was not satisfied. Taken to jail on 2-2-1983 where he became ill, the petitioner was removed to Jorhat C.H. where his heart condition deteriorated.

The Hospital Authorities plea for immediate improved treatment at A.M.C Dibrugarh was ignored. When the condition became critical he was transferred to A.M.C.H. under armed escort. The release Order (on Appeal) by the Sessions Judge came to the hospital on 2-3-1983 but treatment continued till the 26th March, 1983. Police was still after the memorialist for which even in such a bad state of health, the memorialist had to keep away from his residence till the Bihoo, when again Police party with armed C.R.P. men searched his residence for weapons. He was arrested on Bihoo day under N.S.A. charges being holding (imaginary) meetings at several places where he goaded others "to kill M.L.As."! Sri Hiteswar Saikia's vengeful attitude became evident. An article on this aspect of personal vendetta appeared in the Assam Tribune in late 1983. He was released by the Review Committee on 13-5-1984 but re-arrested at the jail gate on the same day on charges of missing of guns at Jalukbari! He was also arrested on concocted charges of delivering anti-Government speech at the Golden Jubilee Celebrations of J.B.College, Jorhat, where he spoke purely on Assam's cultural heritage. His youngest son Lirik was beaten up by the police on 3/4 occasions. Lirik has been staying out of home continuously since 1980-four years away from his own home for fear of being tortured and killed by police. His cousin sister was beaten up there. There was an attempt on the life of the Petitioner in a Raash Purnima function at C.M. Sri Saikia's constituency, made by one of his henchmen, a police officer named Sri Amrit Gohain; but was saved by the alertness of the village people (of Mechagarh)."

Memorandum Ext. 489/I is filed by Sri Durgadhar Bora who is another educationist being the Principal of S. P. P. College, Namti in the District Sibsagar. He also describes cordoning of his house, ransacking the same and breaking open the doors at midnight at 1 a.m. on 6-3-1983 by Nazira police. He further alleges that one Mr. R. Saikia, the brother of the present Chief Minister Shri Hiteswar Saikia, stopped the police from supplying him even with a glass of water. He says that Shri Paresh Neog, the S. D. P. O., Sibsagar, to whom reference is already made by another Principal above, used vulgar words and abusive language with regard to all Schools, Colleges and Universities. It appears to us that the contempt of this semi-literate police officer for Schools, Colleges and Universities could be understood, but what we cannot understand is the filthy language which is quoted in this Memorandum describing the degrees obtained by the Principal of this college as "Ghanta Degrees from Ghanta University". We fail to understand how to describe the "superb culture" which this S. D. P. O. must be possessing. The perversity of this officer does not stop with his tongue, because after uttering the above quoted "noble" words he dashed the witness with a big baton in his hand and shouted, "If I get a second chance I shall crucify you publicly." The memorandum further says that one of the colleagues of Shri Durgadhar Bara named Keshab Borgohain taking pity at the condition of the memorialist went to the Police Station to urge the S. D. P. O. to have some sympathy with the memorialist. The S.D.P.O. however, summoned him to O. C.'s room and made him sit down and stand up after holding his ears and then ordered one of his constables to hold him by his ear and drive him out of the Police Thana.

The above is the sample of the brutish behaviour which an uncontrolled police officer can stoop to. The agonising part of it, however, is : That this happens in a civilized society which professes to be democratic in character and the constitution of which has taken so much trouble to safeguard human dignity and value. But we find that there is one "brave" officer of the police force who can go to any extent in his misbehaviour, even with regard to the learned persons who are respected by the cultured society. We cannot help expressing our feelings that if the State Government cares to read our Report a proper enquiry should be instituted against this officer whose actions serve as a blot on the fare name of civilization itself.

7.16 : Witness No. 348 Bharati Bezbarua who is aged only 14 years has told this Commission how her family is harassed by police. She says that in search of her two brothers Deepak, aged 22 years and Samant, aged 20 years, as well as of her father the police has raided her house frequently.

On 13-4-1983 at 7 p. m. the police went to search her uncle Duleshwar, aged 50 years and not finding him, the police arrested her and her elder sister and brought them to Nazira Police Station. Both of them were beaten and thereafter produced in court at 10:00 a. m. where they were released on bail.

Again on 18-4-1983 the police went in search of her uncle, destroyed their vegetable garden and arrested her father who was beaten up. Even the witness, who is a girl of 14, was arrested along with her father. After a while she was released and her father was released after mid-night. The witness says that upto the date of her deposition she has been arrested and taken to Thana

for about 22 times. She gives the name of the police official who had beaten her as Officer-in-charge. Paban Kumar.

7.17 : It is clear from the record that the young man was always the target of police. Shri Debeswar Sarma to whom the reference is made above, gives one typical instance of his own experience. He says that one evening during election time he was sitting in front of the verandah of his house. At this time he saw one police Jeep coming on road and seeing a boy aged 16 years passing on the road the said jeep stopped. The police officers sitting in the jeep stopped that boy. Within two to three minutes a bigger vehicle carrying some C.R.P. personnel came there. About 6 C.R.P. men got down from that vehicle with sticks and started beating that boy mercilessly. The boy fell down but the beating continued. Then he was trampled upon. Mr. Sarma says that those were days when no interference was called for and therefore, he could not go to the rescue of the boy. He says that the boy was so much beaten that he could no longer cry. Thereafter he was picked up and put in the police van. The witness says that he does not know what happened thereafter to the boy.

7.18 : The experience undergone by witness No. 72 Arun Chandra Hazarika, who is aged 69 years, and who has retired as Joint Registrar, Co-operative Society, shows how dangerous it was to come out even on the day of polling at Gauhati.

14th of February was the Polling day in Gauhati. The witness had come out of his house at about 8.30 a.m. to take his usual morning walk. After he walked a little, a C.R.P. jawan halted him. He asked the witness in Hindi "Kidhar Jata Hai" (where are you going). Before the witness could reply he was given one blow. The

witness protested why he was beaten. In response he received more blows with the result he received serious injuries. He has produced a photo-copy of his injury at Exhibit 72/2. He thereafter, filed a complaint to the police but no action was taken. In fact the witness says that as it was the day of polling, AASU had declared a Janta Curfew on that day. So if people came out on that day the Government would welcome it. Even so the CRP. jawan gave beatings to this old man without rhyme or reason.

7.19 : In their barbarous behaviour the police employed by the Government of Assam was very conscious of giving equal treatment to high as well as low. This is clear from the statement of Advocate Mr. P. G. Barua who is witness No. 67. One "crime" which this witness had committed was that at the relevant time he was conducting election petition in the High Court on behalf of Indrajeet Barua against the declaration of election. Earlier he had also pointed out the defects in the nomination of Mrs. Abida, who was Congress (I) candidate for Lok Sabha.

It was probably for these "offences" that the witness was harassed by police on 10-1-1983. He states that at that time he was sitting in his varandah. Suddenly 8 CRP personnel with lathi and bayonet came with war cries and burst into his residence at about 6.30 p.m. and rushed towards him. His wife, however, dragged him inside and bolted the doors. For a while the CRPF. personnel knocked at the door and then left. The witness thereafter rang up Director General of police on phone and also informed about the incident to authorities in Delhi With his Memorandum Exh. 61/1, he has also attached the receipts of telegrams which he made in this connection on 11-1-1983, to authorities in Delhi.

7.20 : Witness No. 76 Shri Sarbeswar

Bordoloi is one of the oldest Trade Unionists of India. He is aged 71 years and is a founder of Trade Union movement in Assam. Currently he is the President of State I.N.T.-U.C. He resides at village Tarajan-Jorhat. He has got an interesting story to tell about the misbehaviour of police;

On 25-1-1983 at about 3-30 a.m. he was standing near his house. Suddenly a police van came there and stopped, as it wanted to pick up an engineering student named Ramen Bordoloi who was passing by the road on his cycle. As some children made hue and cry the witness went near the police officer, who was Sub-Inspector Harkanta Deka. The witness asked this officer whether Ramen was arrested, the officer replied in the affirmative. Then the witness asked the officer to allow the boy to keep his cycle at home. This enraged the officer who told the witness that he was interfering with his duties. The witness told him that he did not do any such thing but was merely helping him to perform his duties in a legal manner. After some arguments the police officer left without taking away the boy at that time.

About half an hour thereafter, the witness was going in a rickshaw to his office. On the way to his office the same police vehicle, which had earlier come near his house, crossed him. The same Sub-Inspector was sitting therein. He stopped his vehicle. The police thereafter picked the witness in his car and took him to the Police Station. At the police station he was told that he was under arrest. The witness asked for the grounds of arrest. No grounds were supplied. This happened at 11.00 a.m. The witness was detained at the Police Office till next day upto 3.00 p.m. without any food, drink or bedding being given to him. On that day

it was 26th January when a Bandh was declared by AASU. At 3.00 p.m. he was taken to Court. No Magistrate was found there. So he was taken to Circuit House where the Magistrate was supposed to be. The Magistrate ordered bail, but being a Bandh day, no one would come out to stand his surety, with the result that the witness remained in judicial custody upto 27th evening. From the Police report to the Magistrate the witness found that the charge against him was that he had planned to kill the Sub-Inspector after elections were over. No prosecution has taken place against the witness upto now. Witness says that at the police station the Sub-Inspector had asked him whether he belonged to Congress (I).

The above experience of Shri Bordoloi who is a very revered Trade Union worker of Assam furnishes to us a glaring example not only of the stupidity but also of the barbarity to which the police power can degrade itself if it is not properly checked. This instance also shows the **modus operandi** of the Police Department to rope in innocent persons for cooked up and false allegations and to harass them under a legal cover of those allegations. It is obvious that being enraged at the intervention of the witness, the Sub-Inspector concerned silently went back to the Police Station, made out some false First information Report against the witness, and then under the cover of a criminal complaint took revenge upon him. We have made a specific reference to this illustration only because it is typical of its kind.

7.21 : We have already referred above to the incidents which took place at village Jajori where the CRPF. people committed the murder of an Assamese Sikh youth named Chandan Singh in a room of Jajori High School. Before election took place at Jajori,

a reign of terror was let loose by CRPF. At Exhibit 240/1 is the memorandum jointly filed by the residents of Jajori wherein they have described the situation obtaining at the village right from 24th January, 1983 as under :

"The CRPF. suddenly occupied Jajori High School without prior information to the authority concerned. All the Class work of that School remained suspended till 12th May, 1983. As a result, education of the pupils of that institution was hampered for months together ; since then, the atrocities of CRPF began on the innocent people. They entered family houses at dead of night and used to ill behave with women and girls and other inmates of many families. Hues and cries of little children were all that was heard at nights. Now and then, the household materials and even poultry were either damaged or looted by the CRPF. Free movement of people was not seen in those days. People were assaulted, harassed and terrorised without any legitimate ground, The will of the CRPF. was the Law. Undue harassment and arrest were made of the innocent people. People were tortured at any place and at any time before and after election on 14th February, 1983."

We find that whatever is stated above was true not only of the Jajori village but almost of all places in Assam.

7.22 : On our record we have got three statements showing how the police behaved even in the town of Gauhati during election days. Witness no. 46 Mrs. Kamala Goswami was going about 4 or 5 days before the poll of 14th February, 1983 alongwith her son to attend an invitation. On her way she, along with her son, dropped at the house of witness no. 45 Jogendra Nath Bora. Witness No. 47 Mrs. Kamala Bora was in the

house. As Kamala Goswami entered the house of Mr. Bora certain CRPF. Jawans surrounded his house, entered it, and used filthy language against Mrs. Kamala Goswami. Her son who was with her was dragged out of the house and was beaten mercilessly. He was a student of 18 years of age. Kamala says that he was kicked and given blows and was being taken to Dispur Police Station. Seeing this, Kamala and Mrs Bora both followed them. Kamala was asked to go back but she refused. After sometime an officer in a highly drunken state came there and abused her in filthy language. That officer dragged Mrs. Bora to his vehicle alongwith the boy. After some arguments the son of Mrs. Kamala was released after cautioning Mrs. Kamala to keep him in her house. However, Mrs. Bora was taken to the Police Station where she was abused and kept standing and was allowed to leave after sometime cautioning her not to ask shopkeepers to close their shops when Bandh was declared. The police threatened that if she did not, all the members of her family would be put in trouble. The allegation of Shri Jogendra Nath Bora, the husband of Kamala Bora is that the police did all this at the instance of one Pitambar Sahu who is running a hotel as his tenant.

7.23 : Mr. Prafulla Kumar Mohanta witness No. 71 is the President of AASU ever since the year 1979. He says that during his detention after the talk with the Central Government failed the police did not allow any medical treatment to him and it was only on the orders from the High Court that his friends and relatives were allowed to see him.

7.24 : Witness No. 151 Bijaya Choudhury, a house-wife, of the village Narayanpur, tells the Commission how her young son aged 25 was mercilessly treated and tortured by

the police, and how thereby he got mentally unbalanced, and subsequently expired. At the relevant time he was working in a workshop in the Arunachal Pradesh. There he was arrested by Assam Police on 11-2-1982. The Magistrate, North Lakhimpur remanded him to police custody and his bail was also refused. Thereafter he remained in judicial custody for two months and was finally released on bail on 4-1-1983. Soon thereafter he was taken in detention under N. S. A. and then released on orders from High Court on 17-1-1983. Thereafter, he told the witness that Sub-Inspector Nabin Baniya had tortured him several times during his custody. The witness says that when her son came home she found him mentally unbalanced. He was given medical treatment in the mental hospital at Tezpur, but he expired on 18-4-1983.

Evidence of this witness shows that her son became mentally unbalanced due to police torture and subsequently died for that very reason.

7.25 : Doctor Abani Kumar Choudhury of Tangla village shows how the CRPF. was in league with the election candidates and was torturing people irrespective of their status and without rhyme or reason.

The evidence of the witness reveals that on 9-2-1983 at about 9-30 a. m. when he went to his dispensary he found that election posters of one Smti Mridula Saharia, an election candidate for Congress (I) were fixed on the doors of his dispensary in such a manner that it was not possible for him to open his dispensary without damaging these posters. The witness therefore, tore out some posters and opened his dispensary. While he was inside his dispensary Madhya Pradesh policemen who were posted on duty at the opposite house of the Congress candidate, Mridula came there and dragged him out,

By this time two policemen went inside the opposite house of Smti Mridula, presumably took some instructions, returned, and began to beat the doctor. The witness says that by this time he heard somebody shouting from Mridula's house, "Kill him, do not allow him to go". After beating the witness severely, the police took him to the police outpost beating him all the way. There he was kept in lock-up. The local doctors advised the police to take him to Tezpur hospital, but he was not taken there. Some doctors from Tezpur hospital, who were present there, came to know after sometime that the witness was not brought though sufficiently injured. They, thereupon went to the police outpost and carried the doctor to Tezpur hospital for treatment. At Exhibit 204/2 is the Medical certificate showing the injuries received by the witness. The witness has also filed F.I.R. as found at Ext. 204/3.

7.26 : Witness No. 207 Mrs. Lily Phukan is a social worker of Gauhati. On 5th February, 1983 at about 5.00 p.m. she was going to hospital alongwith some girls to enquire about the health of some patients at the hospital. On her way to the hospital a police van met them. The van stopped and 3 to 4 policemen came out and asked the witness where she and her companions were going. The witness said that they were going to hospital. She was, however, asked to go back. The witness said that it was necessary to go to the hospital. The policeman insisted that it was not necessary and ordered her to go back. She refused to obey. The policeman, being enraged, gave a lathi blow on her left knee. She fell down. The police van left without carrying her. Some pedestrians took her back home and then she was taken to hospital where she was kept as an indoor patient for about a month as

her knee joint was dislocated. There was no curfew on that day. This instance shows how an innocent pedestrian was maltreated even at Gauhati without any distinction of sex or age.

7.27 : Shri Minaram Saikia, witness No. 153 is the seniormost advocate, aged 66 years at North Lakhimpur. He was the Chairman of Local Board and Municipal Board and is one of the respected social workers of the place. He says that during the election period it was the police who took over the entire machinery of law and order and used as they pleased. He further states that on 15th February, 1983 police raided almost all houses, looted valuables of people and molested women, in Badhakara area. He further alleges that one woman named Biju Mani was also reported to have been raped by police.

On 16-2-1983 when he came out to Badhakara area in North Lakhimpur at about 9.00 a.m. he saw a group of 200 ladies complaining about the above-referred misbehaviour of the police. They asked the witness to accompany them to have an interview with the Deputy Commissioner, one Mr. Kamal Mazumdar. He asked the ladies to go to the Circuit house where the said Deputy Commissioner was camping. The witness also went there. He found one Mr. Jaffa the Commissioner of Upper Assam Division and one CRPF Commandant present at the Circuit House. The CRPF Commandant asked him why he was there. He introduced himself and said that he was an Advocate and wanted to represent the complaint of the ladies who were complaining about molestation and rape by police. The Commandant of CRPF, however, got angry and told him that he was the ring leader who had instigated the ladies and had made them set fire to the

house of four immigrants. So saying he detained the witness and asked some of his subordinates to take him to police station MR. Jaffa asked him some questions and thereupon the witness handed over the petition of the ladies to him. At that time the Deputy Commissioner, Mr. Mazumdar, came out. Thereafter Mr. Mazumdar and Mr. Jaffa had some consultation. Mr. Jaffa then returned back the representation to the witness saying that all that was written therein was wrong. He asked the witness to verify the facts. The witness told him that verification was not his business. The witness was then detained for half an hour and then let off, leaving the ladies there. What happened thereafter is narrated by witness No. 154 Mrs. Pratima Medhi.

7.28 : Witness Mrs. Pratima Medhi appears to be a bold lady. Before the polling of 14th February she was at the Baligaon. At about 4.30 a.m. she got up from her bed and heard some shouts. She then went to the place from where the shouts were heard. It was the house of one Bora. C.R.P. jawans had entered that house. They caught hold of Mrs. Lakheswari the daughter-in-law of Mrs. Bora. She was pregnant. Police attempted to molest her, but she managed to escape. The police then arrested the boy of the family and went to Mrs. Bora, and harassed her, and then went away. The witness then heard that there was some trouble at Miss Bitu Mani's house. She then went there and found Bitu Mani weeping. Her neighbours were with her. Police had left Bitu Mani's house at that time. The witness asked Bitu Mani what had happened. Bitu Mani reported that she was chased and raped by C.R.P. personnel and her property was looted and damaged. The witness has pro-

duced Memo. signed by Miss Bitumani in her presence as found at Ext. 154/1. Miss Bitu Mani was not present at North Lakhimpur when we held our sitting there and so the witness has proved her memorandum wherein she alleges rape by one Anarali and C.R.P.F personnel.

The witness says that seeing these atrocities on women, about 700 ladies of all nearby villages gathered and went to N. Lakhimpur to give representation to the Deputy Commissioner. The Deputy Commissioner, instead of giving hearing, asked them to go away and threatened them with lathicharge. The undaunted ladies insisted that he should accept their representation. The witness (Mrs. Pratima) explained to him all the facts orally but, the Deputy Commissioner was adamant in his rudeness and told the witness that if she would not go away she would be shot dead. The witness was, however, more than a match for him. She plainly asked what did it matter to her when many others had died like that. The witness then advised the ladies to go to the Hospital for treatment of those who were injured. But she and some other ladies remained at Deputy Commissioner's office. Seeing the persistence of the ladies the Deputy Commissioner called the witness, heard her story and asked who had burnt the houses of "Miyan" (an immigrant Muslim is called a "Miyan"). The witness replied she did not know that. Then the Deputy Commissioner again refused to accept the representation. The witness, however, would not give in. She demanded from him that he should give her in writing that he was not prepared to accept the representation. Then the officer had again to eat his humble pie. He accepted the same. The witness asked him to take action on the

representation. No inquiry was made on the representation, to her knowledge.

The Deputy Commissioner above referred to was one Kamal Majumdar to whom reference is made by the witness Shri Mina Ram Saikia.

7.29 : Facts stated above hardly need any comments. We are at a loss to find suitable words of condemnation for the civil servants who have no courage even to accept representations alleging the molestation and chastity of our mothers and sisters. Such are the persons entrusted with the task of preservation of law and order.

7.30 : Witness Prafulla Barua (No. 288) is the Editor of local Daily and Weekly "Janambhoomi" since 1969. He refers to three incidents of police violence witnessed by him personally at Jorhat.

The first incident is of unwarranted Lathi charge by Police on peaceful procession of students, boys and girls at Jorhat before the first round of election on 14th February, 1983.

On another incident which was also before the first round of election, he saw a procession of cyclists being beaten by C.R.P.F. One Dimbeswar Bora protested against this unwarranted beatings, but even Shri Bora was beaten. When the witness saw this he also protested. He was also surrounded and chased but one Magistrate Mr. Hasi Nur Rahman and Mr. Vasi came to his rescue and saved him.

About the third incident, he says that one Balendra Sharma, a Chowkidar, of his office and Gajendra Sharma, their machine man were forcibly taken by police and employed for removing obstructions put on road by the agitationists. He further states that one of the employees of his office named, Hiten Barpujari was beaten by C.R.P. personnel without any reason when he was

coming to office even though he showed his identity card.

The witness was arrested three times.

Witness No. 83 is Shri Kamala Saikia, a correspondent of Daily "Assam Tribune." His case shows how even press correspondents who were not very convenient to the Government were harassed by repeated arrests, detention and beatings. This witness was arrested on 1-2-1983 and 15-2-1983, not given immediate bail, confined to jail for 18 days, and beaten even while being taken to police station, though he was introduced to be a press correspondent. Till now he does not know the grounds of his arrest and harassment. The complaint filed by the witness before the Press Council is still pending.

One has only to imagine the nature of freedom when the press correspondents were terrorised in this manner.

7.31 : As already noted above, a student or a person appearing like a student, was always the first target of the police irrespective of the fact whether he committed any offence. Witness No. 236 Manas Mahanta, of Nowgaon, illustrates this in his statement.

First target of the police irrespective of the fact whether he committed any offence. Witness No. 236, Manas Mahanta of Nowgaon, illustrates this in his statement.

He says that on 6th January which was the day on which elections were announced, the students of his college were celebrating their "College Week", function at 6-30 p.m. By that time S. P. Daulatsingh Negi and D. C. Tiwari came with police force and surrounded the Hall where they were celebrating their function. The students dispersed and the function ended.

He further states that on 31st January, 1983 while he and other students were filling forms for P. U. Examination, D. I. G. one

P. C. Singh and the above, referred S. P. Daulat Singh called out all the students filling the forms and arrested him and seventeen others.

7.32 : Witness No. 361 Shri Lalit Rajkiowa is a student leader and one of the advisers of A.A.S.U. since 1979. He says that AASU had deputed groups of its members for spot inquiry of the incidents which happened in the month of February, 1983. He was a member of one such group, when his group was at Hindugaon-Lakhimpur, on 21st March at 7 a.m. the A.S.I. named Basak arrived at the house of Shri Lakhan Hazarika with 50 C.R.P. personnel and arrested him along with two others. He threatened the arrested persons that he would shoot them down if they tried to escape. They were taken to Lakhimpur Police Station. S. I. Anwar Ali then came there. He at once started rebuking and using filthy language. As the witness protested, he was given stick blows on his temple, back and chest. The witness fell down. Then the said S. I. kicked the witness on his chest and trampled upon his abdomen and private parts. The witness became unconscious. After about three hours in the police lock-up when the witness got consciousness he found that he was being medically examined at the police station. The doctor advised the removal of the witness to Lakhimpur Civil Hospital where he was admitted as an indoor patient. The witness could not urinate due to the injuries caused to him on his private parts and so cathetre was required to be used to take out urine.

On the next day, i.e. on 22nd March, the witness was arrested under N. S. A. He was kept in Hospital till 29th March during which period he was surrounded by C.R.P. men for all 24 hours. He was unable to sleep.

On 29th March despite his protests that he was not well, he was removed to Jail. His repeated applications to Deputy Commissioner were not attended to.

On 5th April, he was removed to Gauhati Jail. Though Lakhimpur doctors had prescribed further medical treatment to him he was not given any medical treatment at Gauhati. The witness therefore, applied to Chief Secretary.

While the witness was in Jail he was informed about the death of his grandfather but he was not allowed to go home for that purpose till after 25 days.

Finally on 2nd May he was released on an order from High Court. The moment he got out of Jail, he was again arrested and taken to Gauhati Sadar Police Station where he was kept for the night. Next day he was released on personal bond by Magistrate.

The witness says that from 1979, he has been arrested 52 times and at no time he was furnished with the grounds of his arrest.

What the witness has narrated is the typical story of third degree methods which the police of Assam has freely used against their political victims.

7.33 : Witnesses 368 and 369 furnish further instances of student victims of police. Witness 368 Anjan Phukan, is a student of 20 years of age. He says he was arrested more than 10 times and during the election period he was beaten for four hours at Sibsagar police station by S.D.P.O. Paresh Neog and S.I. Hlranya Bora with the result that his right hand is permanently damaged and disabled.

Witness 369, Satyendra Nath Dutta says that his son Ashok who is aged 17 years was the Secretary of Regional Gana Sangram Parishad. Once during the election period the officer-in-charge of Amguri Police Station came to his house at mid-night and surrounded

his house with his men and searched for his son. He was not found. So the officer came again, kicked and broke open the doors of his house on the rear side, rebuked his wife and daughter in filthy language and pointing his revolver demanded to know where his son Ashok was ! That was also mid-night.

The record of this Commission is replete with such mid-night calls and rowdism by police reminiscent of Nazi rule.

7.34. : Witness No. 370 is Tanu Konwar who is 56 years of age and is the Principal of Gorgaon College. Earlier Shri Hitsewar Saikia (Present C. M. of Assam) was his Vice Principal.

The witness says that on 20th February, 1983 the Officer-in-charge of Simoluguri outpost came to his house at 9.30 p.m with his police party. The witness was not at his house. The police broke open his house and beat his son, Anil Kumar, aged 23 years mercilessly. Anil Kumar is a student of Madras Indian Institute of Technology. Leaving the house of the witness open, police took away the boy to Nazira Police Station beating him on the way. The boy was released on the next day when the witness returned home and phoned.

7.35. : Witness No. 44 Samujjal Bhattacharji is a student of Engineering Institute. He was Assistant General Secretary of Gauhati Students Union. He narrates some instances of police excesses which he has personally seen. He says, on 10th January, 1983 Smt. Amuli Barua who is more than 70 years of age, came out of her house.

He saw her being beaten by police on road. He also saw police severely beating a young boy of 8 years.

On that day when he came to the office of United News of India in Gauhati, he saw a police force entering that office, ransacking the same and beating the members

of its staff, including the officer-in-charge Mr. Sharma.

On that day when he returned home at night at 9 p.m. he found even his house ransacked, his old father shaking and his brother injured. They told him that police had done it.

The witness further states that for some days before election in Gauhati, he had seen Shri Munin Sarma, who is now a Minister under the name of Munin Gautam travelling in a Matador with police escort and himself also in uniform carrying his election campaign.

On the day of polling he saw at Rabin-dra Bhavan polling station police conveying voters in vehicles without number plates. Being attracted by this he went to the polling station to see how the things were going on. A police officer of the polling station told him that unless he wanted to vote for Congress (I) candidate he should clear off.

On 26th January 1983 the witness was near Vidyapith, Collage. There he saw some persons lightly clad being brought by police with assaults on them. On inquiry from them he learnt that the police had rounded them up for no reason.

7.36 : Mrs. Niru Mahanta (Witness No. 73) is a resident of Gauhati and is also the General Secretary of a Ladies Organisation of her locality. She tells us her experience of the behaviour of police around the polling stations at Gauhati on the polling day of 14th February.

At the L.P. School polling booth she and her co-workers were pointed a sten gun by some C.R.P. officer who shouted that none should approach the polling booth and one who violated his orders would be killed.

At Social Welfare Centre they saw CRPF personnel making booth arrangements. They

also saw some persons looking like police officers in threatening mood around the booth with the result that none went to vote.

The witness further states that in April, 1983 her house was searched by police and during that search police took away her personal diary without a receipt.

Such was the nature of "free and fair" elections in Gauhati on 14th of February, 1983.

7.37 : Witness No. 147 is Rama Dutta. He deposes about similar condition of police atrocities at the polling station of Narayanpur.

There also the date of polling was 14th February. The witness and his friend, Uma Barua, went to the polling booth at 8 a.m. Witness says they had gone there in capacity of voters. However, when they reached the polling booth a batch of CRPF persons chased them, when they were returning from the booth seeing nobody there. As they were chased by CRPF people, they ran for safety. Uma Barua, the companion of the witness escaped, but the witness could not. He was caught and severely beaten with lathi blows and rifle butts. The witness became unconscious. The police possibly thought that the witness had died. So they left him. Some people carried the witness home. The witness regained consciousness after five days. One Dr. Tanu Ram Pathak treated him. As there was road blockade (Path-Bandh) the witness could not be carried to hospital.

Witness 148 Uma Barua supports the witness.

7.38 : Another witness of Narayanpur is witness no. 149 Kapur Chand Jain. On 14th Feb. he opened his shop at 8 a.m. Then he came out of his shop. Suddenly CRPF people came in a vehicle and beat him with lathis and rifle butts and left.

7.39 : Witness No. 150 Kiran Sharma of Boghur Charali, is a lecturer at M.D. College, Narayanpur. He says that on 16-2-1983

at 10 p.m. a police platoon came to his village, searched every house and beat many persons including 80 years old father of one Durga Saikia. Benu Bora was injured on his head and two persons, Samudra Saikia and Prabhin Saikia, were injured to such an extent that they were admitted at Civil Hospital, Lakhimpur. In all twenty persons were injured.

On 9th February police again visited their village as people were engaged in "Path-Bandh" programme. This time police fired and set fire to three shop, which were gutted. After they left the village people extinguished the said fire.

7.40 : Witness No. 158 Indreswar Dutta is aged 62 years and is a retired Deputy Superintendent of police and is the resident of village Gorehoga in N. Lakhimpur.

On 10-2-1983 he heard the shots of police firing at Khoga village resulting in several deaths and injuries. Police did not care for the injured, though, according to witness, the Police Manual provides that after police firing it is the duty of the police to take care of the injured. The witness arranged for the treatment of the injured but one of them died before receiving any medical aid.

Meanwhile the witness informed the O.C. Police Station, N. Lakhimpur, to pick up the dead for postmortem examination. But no action was taken. The son of the witness and others were then sent in an ambulance sent by the Civil Surgeon to bring other injured persons but they were beaten up and arrested.

The witness further says that after a few days there was police operation in the village where they looted the village people who fled and so the witness and others started a Relief Camp for three days.

7.41 : Khudu Ram Hazarika (Witness No. 163) of the village Hindugaon—N. Lakhimpur

is the General Secretary of the District Unit of Jatiyatabadi Dal.

He says that from the end of January 1983 till 14th February police raided his house 10 to 12 times during night. He however managed to escape, till 18th April when he was arrested on the charge of a bomb blast. No prosecution has yet taken place for such a false charge.

Meanwhile, on 22nd February Deputy S.P. Gupta, S.I. Bijoy Saikia, S.I. Basak and about 150 C.R.P.F. Jawans raided and surrounded his village and then encircled his house, broke open its doors and severely beat his two brothers, Lalit Hazarika and Tilak Hazarika, who were thereafter taken to Police Station and were released after six days.

7.42 : Witness No. 164 is Deo Ram Saikia aged 67 years of village Sutiakarigaon, N. Lakhimpur. He describes how his brother died due to the injuries caused to him by police.

He says that on 13-2-1983 a batch of CRPF going to Anand Rai village met his brother Sashi, aged 40 years. At mid-night on that day some people who were fleeing away out of fear of C.R.P.F. brought his brother in injured condition. On account of curfew the injured brother of the witness could not soon be taken to hospital. Thereafter he was taken to N. Lakhimpur hospital where he died of the injuries received by him.

After one month of the election the police raided his house and beat him.

7.43. : Witness No. 215 is Shri Premkanta Mahanta aged 62 years. He is a retired Supdt. of Police. He says that on 2nd February 1983 he had gone to village Halem (Sonitpur Distt.) to attend the Shraddha ceremony of one Jiban Lahan who was killed by Sub-Inspector of Police, one Tarasingh

Hazarika. On his return from Tezpur on 3rd February he, H.K. Bhattacharji Ex D. I. G. police and two or three others were arrested suddenly at 9 p. m. and without any reason by local police and taken to police station and detained there upto 2 a. m. next day. They were released without any personal bond or surety, after knowing their identity.

This incident only highlights the plight of the common man, in whose identity no status is involved but who is arrested and detained without reason. It is obvious that the witness and his colleagues were arrested without any reason because otherwise, their identity would not have made any difference. This also highlights the nature of lawlessness prevailing in Assam.

7.44 : Witness No. 516, Kanteswar Kalita of Sonari, illustrates another type of police arbitrariness.

On 17th February 1983 the witness had gone to open the door of his school which was to be the polling booth, at 5 a. m. When police found him, he was ordered to perform some polling duty and also to cast his vote. The witness was lightly dressed but was not allowed to change. Throughout the day polling duties were forcibly taken from him even though such duties could not be taken from a person who has not got an appointment authority. The witness says that since he was in the booth throughout the day he knows that only one vote was cast and that was of the candidate himself namely one Satya Tati.

This incident not only shows how arbitrary and whimsical the police could become but it also shows how polling was conducted not by any polling officers but by police and that too without caring for breach of rules.

7.45 : The Assam police has not left even the Reserve Bank employees in Gauhati.

Witness No. 537, Shri Dhireswar Sharma, is an employee of Reserve Bank and is also a member of co-ordinating committee of the Karmachari Parishads.

He says that on 8th January, 1983 i.e. soon after the elections were declared to be held, at 8 p.m. police and C.R.P.F. entered his house without informing him and suddenly began to beat him and dragged him out of his house and took him to the police station where he was confined for the whole night without supplying him any food or drink. He was set free next morning at 8 a.m. No grounds of detention were supplied to him.

It is evident from the statement of the witness that the only idea behind his harassment was to terrorise him for his membership of and activities for Karmachari Parishad. That such methods of Nazi type terrorism could be adopted in India which is governed by one of the most liberal constitutions, in the world could hardly be believed. But by now we have narrated sufficient facts to show, in the words of a police officer who told Mr. Soni of B.J.P. that "this is Assam."

7.46 : However, a more tragic story is given by yet another employee of the Reserve Bank, namely, witness No. 538 Sailendra Kumar Talukdar. He is also a member of the Executive of R.B.I. "Employees Association" Assam.

The witness tells us that on 26th January 1983 he was at his house as it was a holiday and a Janata Curfew was announced. At about 2 p.m. some C.R.P.F. personnel came to his house and without asking any question to him they began to beat him with blows. The witness says that he and his house Bengali Hindus and reside. One of the Bengali Muslim

boys told the C.R.P.F. that the witness was the leader of the Assamese of that locality and that boy was saying "Maro Maro" when he was being beaten by the C.R.P.F. people. The Inspector of C.R.P.F. told the witness that since he was the leader he should be finished. The witness lost consciousness due to the beatings given to him. After a while he was put in police van and taken to C.R.P.F. camp at Fatasil-Gauhati.

Thereafter, some of his friends went to the said camp and met the D.S.P and after some arguments he was set free at 5 p.m. In the meanwhile the C.R.P.F. people did not allow him to call his doctor and said he would be alright. After his release he went home and was treated by his doctor. He was produced a photo-copy showing marks of serious injuries on different parts of his body. That photo copy is at Annexure M-2 attached to his memo Ex 210/1.

It is evident that there was no charge against the witness and he was illegally detained. This is a typical method usually employed by Assam Police to terrorise people. But the moot question is what about the illegal beating which he received? What is the remedy or shall we say even here that "This is Assam"?

7.47 : Witness No. 541 Shrimati Bharoti Choudhury has told the Commission how even during the absence of male members, the female members of a household were being harassed at night by the police. She is the resident of Pathshala Kesri Bhitha. The police was after her husband.

She tells the Commission that before and after election the Police frequented her house at any time in search of her husband. On two occasions they broke open the doors of her house at night, destroyed the property inside the house, broke two watches, and

stole away a golden chain by snatching the same from her neck. They also damaged her radio and utensils and polluted her well water by throwing dirty water in it. On two occasions she was beaten with lathi blows. However, even after these atrocities on her the brave police of Assam have not been able to find her husband. The witness further states that about a furlong away from her house, she has got a farm. In order to catch her husband and terrorise the family, the police destroyed that farm house, let loose cattle in the farm, and damaged all her properties including water pump, thus causing a total loss of Rs. 93,000/-.

The reason for all this torture was that her husband was previously serving the State as the Inspector of Special Security, and during the Assam movement, he resigned his post. The witness names her tormentors as Circle Inspector, Chakravarty and A.S.I. Umacharan Rajkhowa.

7.48 : Witness No. 542, Joganand Choudhury of the village Sarthebari under Police Station Barpeta is a businessman. He says that in the early morning of 14th February he saw several police vehicles going up and down. Being attracted, he and two others came out to see. At that moment a vehicle loaded with CRPF arrived there. He and his colleagues were about to be surrounded by the CRPF, but in the meanwhile two of his companions ran away. The witness also tried to run away but fell down, whereupon the CRPF gave him a good deal of beatings with rifle butts. After this assault, he was put in the police van and brought to Sarthebari Police Outpost. Near the outpost he saw a higher police officer named Choudhury who ordered further assault on him. He was severally beaten, dragged inside the police outpost, and beaten again. The police offi-

cer Choudhury then charged him with setting fire to a post office and damaging a bridge and demanded from him the names of other guilty persons. Out of fear of further assault the witness claims to have given some imaginary names. Then he was put in police Lock-up as there was some commotion outside. He claims to have heard the wireless messages sent by the police showing that the police had opened fire at Parakusi.

The witness was ultimately set free at 11 00 p.m. suggesting that in fact there was no charge against him and no cause for his arrest, detention and beatings.

7.49 : Witness Ramani Barman (Witness No. 543) is an ex-Minister of Assam and he is also a social worker of Nalbari.

The witness says that on 19th January, 1983 when he was going on cycle he found doctor Bhumidhar Barman a Congress (I), candidate proceeding towards Belsor, along with C. I. Susen Hazarika and other CRPF, persons. He found that on the road the CRPF people were beating indiscriminately the passers-by.

Hearing that there was some serious trouble the witness returned towards Belsor. At that time he saw the police in Belsor Bazar indulging in the acts of vandalism throwing away the wares from shops and clearing people from the road. The next day he complained about this to D. I. G. Srivastava and S. P. as well as D. C. of the place. The D. C. did not utter a single word but said that he would explain everything subsequently.

According to the witness he saw on 3rd February a procession of ladies being beaten by police even though the said procession was peaceful and wanted to submit a Memorandum to S. D. O., one Mr. Barua.

On the same day he found C. I. Susen

Hazarika using filthy language to the ladies of another procession. The witness warned him not to use such language.

The witness joined a procession of teachers on 4th February for submitting a Memorandum. S.I. Saikia arrested 200 processionists and asked other processionists to wait for another bus. In the meanwhile another S.I. named Jugal Bora of Nalbari came there and suddenly started assault on the remaining processionists with the result that about 10 persons were severely injured.

7.50 : When the Commission visited Pathshala the Commission was given a Memorandum by a few citizens of Pathshala regarding the tracherous behaviour of the Circle Inspector of Barpeta as detailed hereafter.

The story is that two persons were found murdered and lying dead on the public road near the local college. The police was in search of the culprits. Witness No. 555, Rajendra Nath Sharma is the Principal of the Local College at Pathshala. He was informed of this on 19th February, 1983 at about 1.00 p.m. when he was in his own office. After sometime S.D.O came there and called this witness to the place of occurrence and asked him whether he knew who had committed the murders. The witness replied that he had no knowledge.

Thereafter on 20th April, 1983 C.I. Bama-charan Chakravarty approached the witness at his office as he wanted to see the Chemical Laboratory of the College. Since the key was with the Head of the Department of Chemistry and since that gentleman was absent, the police officer could not see the Laboratory.

At night at about 10.00 p.m. the witness was called by Deputy Commissioner one Mr. Agnihotri to the police station. When the witness met him the D.C. told him that he was always non-co-operative with the

Government, and asked him whether he was ever arrested or put in jail. The witness replied in the negative. The Deputy Commissioner then told him that though his appearance was good, all that would vanish if he was put in jail. Thereafter he was arrested and subsequently he was bailed out. Again on 23-4-1983 he was arrested and again bailed out. Charges were put against him under section 302 and 307,IPC. which have not been preferred uptil now, and of course, we found that the good appearance of the witness had not vanished even after his incarceration as desired by Deputy Commissioner Agnihotri.

In this connection we find from the Memorandum Ext. 555-A that on 19th April, 1983 Circle Inspector Barpeta had gone to Pathshala at about 6.00 p.m. to enquire about the two murders. It is said that as this officer had perpetrated a reign of terror against the people of Bajali area, everybody at Pathshala tried to avoid him. The officer thereupon indulged in a trick. He took his stand in front of Pathshala Post Office and, in the words of the memorandum, "like the old tiger of legend", he appealed to the passers-by that the people there were very civilized and educated and therefore everybody should condemn the murder of the two youths. The Memorandum says that this appeal caught the attention of simple people in the area. They therefore, approached him in good number to help him. When about 50 persons had gathered there, the officer suddenly ordered his CRPF people to gherao the assembly. All of them were taken to police out-post, and there all were mercilessly beaten. Even the officer was so much exhausted by beating the people that sweat poured from his forehead. It is alleged that every now and then he used to drink during these beatings

and such type of brutal scene continued from 6 p.m. to 10 p.m. when Deputy Commissioner Mr. Agnihotri came there and arrested the above referred Principal of the college and doctor Krishna Kanta Lahkar (Witness No. 552) who is aged 65 years and the Chairman of Pathshala Town Committee as well as a Medical practitioner of good repute. Even this witness was arrested on the charge of murder. According to the Memorandum among the persons who were beaten by the C.I. were the Manager of Appex Bank, Pathshala, an old vegetable seller and some tender aged boys.

It may be noted here that the charges u/s. 302 and 307, IPC. have still not been brought home against any of these respectable citizens of the town. The Commission has, however, noted that it is a very common practice of the Assam police to rope in their political victims under such fake charges for serious offences and to leave the matter at rest after their victimisation is over. The charges levelled against the respectable persons like Dr. Lahkar and Principal Sharma are typical examples of this evil practice prevailing in Assam.

7.51 : Witness No. 203 (whose name is not disclosed here) has got a novel story to tell. He is a teacher in a Bengali School at Gauhati. He says that whenever there is a call for Bandh the Assamese teachers remaining absent loose their pay while the Bengali teachers somehow manage to get it.

7.52 : There is sufficient evidence in our record to show that in order to terrorise people the CRPF and Police forces themselves set fire to the houses of various residents. Witness No. 1 Jairamidas belongs to village No. 3 Rowmari under Goreswar Police Station. He says that on 21st February, in the morning, some unknown persons

who were not the residents of his area were being led by CRPF and attacked their village and set fire to about 200 houses.

7.53 : Similarly witness, No. 39 Bhagirath Dadhara of village Latapur of Nowgaon District aged 90 years, tells this Commission that on 23rd February, 1983, S. I. Rahman came with his force and thousands of Muslim immigrants and asked these immigrants to set fire to his house which was fully gutted and his granary completely destroyed. He suffered a loss of Rs. 1 lac. In the same manner the house of his neighbour, Uma Bora, was also set on fire. He reported the incident at Rupohi police station but he was told that there was no person to investigate.

Witness No. 37, Maneswar Dadhara supports the above statement.

7.54 : Two witnesses of Dolaigaon state how police set fire to their villages and houses.

Witness No. 289, Budhu Ram Bora, says that at 1 p.m. on 2nd March, 1983 he saw 20/25 C.R.P.F. jawans and their officer fire to his farm houses wherein his paddy and agricultural products were stored. At that time he was tied by his own napkin with bullock cart. After the police left he got himself free and complained to Deputy Commissioner with no result. On his return to his village he found that houses of eleven families were burnt in the village.

Another witness is Manik Tamuli (No. 290) describing the incident of police setting the village on fire, the witness says he was taken by CRPF. in front of the house of Haren Tamuli. He then saw an elderly CRPF person setting fire to Haren's house, when they reached the house of Keshab Bora the same aged CRPF person set fire

to his house with a matchstick. He repeated the same to Golap Bora's house also.

We have already referred to witness No. 150 Kiran Sharma of Bhogpur Charali, saying that on 19-2-1983 police had set fire to three shops which were gutted.

7.55 : Witness No. 593, Arvinda Chandra Deka of Rang Mahal, has stated that on 23rd Feb., 1983, forty five C.R.P.F. Jawans led by S. I. Lakhindra Bora of Goreswar Police Station raided his village and destroyed their properties.

He further states that on 21st February, 1983 ladies and children from the village Uttar Kerpa Bhitha fled to his village complaining that police and CRPF were setting fire to their houses. The witness claims to have seen the flames of fire from near the Railway line of his village.

Witness Tileswar Bordoloi (Witness No. 66) is aged 60 years and is the Principal of a Labour Training Centre in District Jorhat. He has produced twenty-nine memoranda. One Memo. is with reference to the atrocities of C. R. P. F. personnel at Dolaigaon area by setting fire to a number of family houses of many villages with a view to find out the culprits who were suspected to have set fire to some thatched houses of some fishermen of Hatisal on 1-3-1983. According to the memorialists these thatched hutments of fishermen were destroyed intentionally by some Congress-I agents for the purpose of wrecking vengeance on the Assamese. However, apart from these allegations for which there is no evidence, we find that the C.R.P.F. allegedly led by some high officers have behaved as atrocious hoodligans in destroying the properties of more than two dozen families of different villages whose details are given in the memorandum Ex. 66 (7). The most deplorable part of the whole story is that as many as

sixteen complaints of all these incidents were filed with the Deputy Commissioner as found at Annexures I to 16 (of the Memo.) but no action is known to have been taken. This only suggests that the administration in Assam had lost all capacity and willingness to enforce law and order, and to curb violence.

It is not that the police and C. R. P. F. ruled supreme only in the rural area. Even some people of Gauhati, especially the Assamese residents of the area known as Fatasil-Ambari in Gauhati, had the taste of what C.R.P.F. could do. Witness No. 179, Shri Ajit Kumar Misra, who is the President of South Gauhati Gana Sangram Parishad has produced a Memo. at Ext. 179 (I) where he describes the incident as under :-

“On 22-2-1983 evening about 700 C.R.P.F., B.S.F. and A. P. personnel led by Police officer Shri Debabrata Choudhuri cordoned the whole area of Ambari and forcefully entered into the residences of all the people of the area and stole valuable articles. Specially the police entered the residence of Shri Girin Das and robbed Radio, tape-record, gold necklace and Rs. 3000/- from his wife. The C.R.P.F., B. S. F. and A. P. tortured the inmates, physically causing grievous injuries to some. From this torture, child, old, young, none could escape. Even 80 years old Shrimati Kadami Bala Das, officers of A. S. E. B. Shri Girin Das and Shri Upen Saud, young Reserve Bank Employee Arun Bhagabati too had to face inhuman physical torture. That police officer knowingly tortured Shri Rabin Malakar an ex-MLA. and Advocate on the street.”

We have examined individual victims of Fatasil area and referred to them elsewhere and so it is not necessary to repeat these individual instances.

7.56 : Witness No. 557, Das Ram Kalita of Konimara village, Police Station Pathshala, has described the night calls of the police.

He says that on 20th January, 1983 at night when he and his family were asleep, about 120 CRPF Jawans surrounded his village. Assam Police broke open the doors of many houses including his own. When Police searched for "the young sons" of the witness, the witness told them that his eldest was in Punjab in defence service, younger one was at Jorhat and the third one who was of 17 years was studying B. Com. at Gauhati. Then police assaulted him and dragged him out. As his wife protested, she was also beaten. Then police damaged his window panes and electric fittings and left, threatening his three daughters. The witness identified the police officers as O.C. Dhanbahadur Singh, S. P. Singh, (O/C Pathshala) and H.K. Mallick S.D.P.O. Barpeta. Beatings given to him and his wife have permanently disabled them.

When asked for the reason why the police did this, the witness says that they were inquiring from him who had set fire to Railway line sleepers.

7.57 : Witness No. 558, Sadananda Lahkar a businessman of Pathshala, tells us that on 19th January 1983 at about 6-30 p. m. he was attending to offerings of light to deity, as his wife was sick. At that time someone knocked at his door. He opened the door. S. D. P. O. Mallick came in, asked his name, and without any reason began to beat him for half an hour. Mallick thereafter entered different rooms of his house, broke the lights and went away threatening "I will see you ; Pathshala will be cooled down". The witness was required to be treated for twenty days.

On our visit to Pathshala we did not find it having been "cooled down".

7.58 : Witness No. 562, Shri Hargovinda Sarma, aged 76 years is a recipient of National award from the President of India for his scholarship in Sanskrit.

On the midnight at 3 a.m. of 9th January, 1983 when the whole family of the witness was asleep, the O. C. Pathshala entered the compound of his house with his C.R.P.F. men and kicked at the door. The witness opened the door. He was asked how "Chandan" was related to him. The witness said he was his grand-son. This Chandan was aged less than 15 years at that time. The officer then asked for Chandan. He was told that he was not in the house. The police officer then entered his room, broke open the almira containing rare books and scripts in Sanskrit, tore up these books and, as if that was not sufficient, trampled upon them. They were some rare books on astrology and religion.

Thereafter the officer broke open the room of his son Kamal, the father of Chandan. There he damaged musical instruments and photographs of great men and other property.

The witness has shown to us the photograph of the National award given to him with broken glasses.

Kishore, another grand-son of the witness was sick but even he was dragged out of his sick bed.

These acts of vandalism committed by the concerned officer during mid-night only illustrate the cultural level of the Assam police, who could show no respect either for scholarship, or for our religious and cultural heritage or for the great men whose photographs were destroyed. After all, had they not vowed to cool down Pathshala ?

7.59. Witness No. 563, Mrs. Damayanti Kakoti aged 70 years, belongs to the same

area which was required to be "cooled down".

On 15th January, 1983 the same police took away her son, Nandeswar aged 25 years. After three days the police took away her two other sons. Rajen and Premnanda aged 20 and 18 years respectively. They were beaten in presence of this old witness. After sometime these sons were bailed out. But again police searched for them and not finding them damaged her house. The witness says that as the police repeatedly visited her house and threatened her daughters, for a number of days and nights she had to keep awake to guard her daughters.

It appeared to us that the police officer, instead of cooling down the whole of Pathsala, could not cool down even this feeble old lady of 70 years even after this harassment.

7.60. Witness No. 588 Anil Charan Kakati aged 66 years of village Sundarisal, Police Station, Kamalpur, is the President of Regional Gana Sangram Parishad.

On 9th February, 1983, in his absence the police went to his house and not finding him there, damaged his property in presence of his wife.

7.61. Witness No. 4, Lokeswar Sharma of Goreswar describes the group attack on Assamese villages by the Bengalis on 21st February, 1983. Evidence shows that the C.R.P.F. actively participated in favour of the Bengalis during that attack.

The witness describes in his memo Ex. 4 (I) totally inhuman behaviour of the C.R.P.F. even while dealing with an infant of 2/3 years in the following words :

"During the turmoil some incidents happened which should be mentioned here. The C.R.P.F. put foot pressure on the belly of 2/3 years innocent boy Shri

Pradip Rajbanshi, the only son of Shri Nagen Rajbanshi, an inhabitant of village No. 3 Rowmari where he vomitted blood and his intestines were out from his belly and he died. The body was thrown into the river Barnai. When some people came forward the C.R.P.F. fired on them. Shri Dulchand Kaibarta died instantaneously leaving his wife Smt. Bhanu Kaibarta and a little daughter.

Similarly when some of the people came to put out fire, the C.R.P.F. fired and as a result Shri Prafulla Rajbangshi was killed. During the period, besides the injured, four persons were killed and one Pathik Chandra Rajbangshi recovered somehow in the Gauhati Medical College from bullet injuries."

7.62 : The witness No. 54, Dhani Borah is the president of Sootia area Village Defence Party. He has produced and proved the memo. of one Dambaru Bora as found at Ext. 54 (3). The third degree methods adopted by C.R.P.F. on arrest of Shri Dambaru Bora of village Babejia (Sonitpur District) on 17-3-1983 are unique which could be better described in his own words:

"On 17-3-1983 evening at 6-30 p.m. I went to the house of Shri Gopiram Handique of our village to hear radio news. At the time of crossing his gate 16 C. R.P.F. personnel caught hold of me and beat me with sticks. I was taken to their vehicle kept on National Highway. I was taken to batalion's Camp at Kusuntola. They tied my hands and feet, corked (gagged) my mouth. Inhuman tortures were made in various ways. They lifted me high enough and threw me down to the earth. I could not see any thing the whole night as my eyes were shut by packing (blind folded). I was not served with a drop of water."

Police was informed by Dhani Bora but no action was taken against C.R.P.F. people, though the victim was recovered from C.R. P.F. camp. The idea of taking away innocent persons, torturing them and finally releasing them after torture was to create scare in the villages so that even peaceful resistance to election could be subdued.

7.63 : Witness No. 286, Prakhyat Kumar Dowerah of Golaghat Town describes an incident which shows how the Police used to harass the near relatives of their student or young victims who were eluding arrest. The witness says in his memo. Ex.286(I) as under :

"At about 12.30 a.m. (i.e.night time) on 16-2-1983 Shri Romesh Tyle I.P.S., S.D.P.O. Golaghat came to our residence with about 30 C.R.P.F. personnel with arms and amunitions and knocked at the doors and windows of our residence and shouted to open the doors immediately or otherwise they would open fire.

I opened the door of my room. Then immediately S.D.P.O. Tyle placed his revolver in my neck and asked me about my nephew, a College student. He asked me to hand over my nephew to him immediately. He searched the whole house with C.R.P.F. personnel and broke our wooden almirah and Godrej steel almirah. One C.R.P.F. person handcuffed me and took me to a nearby rented house where three persons were bitterly assaulted. I was beaten there by S. D. P. O. Shri Romesh Tyle, injured me in my left leg ankle and. I became unconscious for a while. I was taken to 48th C.R.P.F. Camp along with Shri Butukeswar Upadhay, Prabin Neog and Shri Rajib Sharma at about 1-30 p. m."

The witness was thereafter sent to Golaghat Civil Hospital where he was required

to be treated for 20 days. The witness further states that the SDPO, Shri Tyle, and his CRPF men robbed him and his wife of their wrist watches, two stainless steel tumblers, one two-cell torch light and a cash amount of Rs. 2000/-at the time of raiding his residence.

The story speaks for itself. We are baffled to know what type of education this I.P.S. officer must have got during his training for this All-India Service.

7.64 : Ext. 459/I is the Memorandum filed on behalf of Sarvodya Ashram, Gargaon. The Memorandum says that the police encircled the house of Shri Manik Chandra Saikia at 11.00 p.m. on 8-2-1983 and demanded the opening of the door of the house. The daughter-in-law of Shri Manik Chandra refused to do so saying that no male member was in the house. The police then forcibly opened the door, entered the house and arrested the male servants named Narayan Palika and Prema Phukan. Both of them were severely beaten. They were handcuffed. Thereafter the police entered the main building of the Ashram and encircled the apartment of female workers of the Ashram. The memorandum says that the police officer was intoxicated by the consumption of liquor and was using filthy language at the inmates of the Ashram. He kicked at the doors and broke them open shouting "this is an abode of dacoits." Meanwhile Smti Sukhamai Barua who has signed the memorandum came there, but she was given a baton blow and was slashed on the ground. Filthy language was used against her and it was said by the officer that she was the leader of the dacoits. The officer thereafter entered the female apartment of the Ashram without any lady constable with him. They ransacked the suit cases, broke the glasses of the almirahs with their

batons and took away one cyclostyling machine worth about Rs. 6000/-. When he was asked to pass a receipt, he used filthy language and did not give any receipt of the same.

We have referred to this incident only to show the highly uncivilized behaviour of the police officers of the Assam force even against ladies at night.

7.65 : Shri Dandi Ram Bora of the village Shakela Pathar of Sibsagar District refers to a shocking incident wherein an independent election candidate named Shri Sundar Borgohain ordered his armed bodyguard to shoot at his adversary, one Chandra Borgohain, in the outskirts of village Navpara when he was found standing by the roadside. The bodyguard shot at the victim and killed him. One person named Subha Handique was also injured in firing and has witnessed the incident. His statement is also attached alongwith the memorandum of Dandiram found at Exhibit 494/I. The election candidate did not report the matter to the police, but the police came to know about the incident when the Secretary of Nitaipukhuri Students' Union lodged a complaint in writing at 9.00 a. m. on 22-2-1983. One does not know what has happened to this complaint.

7.66 : Shri A.K. Barpujari, an Advocate of Sibsagar, gives a graphic description of the hell-like conditions of the police lock up where he was interned for twenty hours for trumped-up charges of breach of peace under section 107, Cr.P.C. He was kept standing in a black hole type dark, small room of 10' x 8' without any window with filthy floor, walls full of spits and air dangerously stinking with latrine even urinal of the back whose shutters could not be bolted. Following is the description of the hell-like police lock-up at Sibsagar as given by this

Advocate in his memo. to this Commission. "Inside the lock-up I found it a veritable hell. There is no place even to stand as the floor was covered with all sorts of filth including spit. The lock-up is of the size of 10' x 8'. (approximately) and having only one door and no windows. The upper part of the only door is made into a window by putting iron bars but no sunlight comes into the room. The only light that is dimly available inside the lock-up is the light of the electric bulbs which burn day and night in the middle room of the police station. Without the lights of the middle room it is not known whether it is day or night inside the lock-up. In the back side of the lock-up there is a room of the size 8' x 4' (roughly) divided by a half wall to be used as a latrine in one part and to be used as an urinal on the other part. That room is pitch dark and nothing is seen inside without the help of a match-stick. There is a door in between the two rooms of the lock-up but the door remains ajar as there is no bolting system. The walls of the lock-up are also full of spit and other filth. When I first entered the lock-up I found a nauseating smell of both stool and urine combined and that smell remained till I was taken out at 1-30 p.m. of the next day. During this period of 20 hours I was not given any food nor even a glass of drinking water. My fellow mates in the lock-up had to bring tea snacks from their respective homes but as I did not like my condition to be seen by my family members I asked them not to send anything eatable as all along I was having the vomiting tendency."

The Advocate concerned has rightly move

a lot for the improvement of the lock-up without any result. The condition of the lock up described above is typical of almost all police lock-ups. The point to be noted is that once a person falls in the hands of police even for no fault on his part and is set free after some hours during which he is forced to remain in such conditions, the punishment intended to be inflicted upon him is complete without any redress.

There can be no dispute about the proposition that such inhuman conditions of lock-ups are a serious reflection of the civilized standards of the State. It is high time that our prisoners are treated as honourable citizens of this country. But all this depends upon the standard of civilization and culture achieved by our administrators themselves.

We may however observe that such inhuman conditions of the police or judicial lock-ups or even regular prisons-whensoever they are found, are in clear infringement of Article 21, of the Constitution and hence the Advocate, Shri Barpujari or any other citizen can move the High Court to make the conditions more human.

7.67: These are only a few instances picked up from the mass of evidence produced before us to show the modus operandi of the police and C.R.P.F. in Assam during the relevant period of elections when the

people were expected to exercise their franchise in free and fair atmosphere. One cannot miss the fact that whenever the houses were to be raided, the police selected only the night time. Another fact which could not be missed is that their target was a young man supposed to be a student, and failing to catch hold of their target they mercilessly harrassed the young and the old, males and females, healthy and sick whomever they can lay their hands on. To secure the arrest of a wanted man they ransacked their houses, destroyed properties, committed robberies, molested women and set fire to the houses. No atrocity was too mean for them to adopt because they wanted to "cool down" not only Pathsala as one minor officer threatened, but also the whole of Assam and to prove that "This is Assam" as some higher officer put it.

We have heard that legendary Shri Parashuram wanted to destroy all kshatriyas and maske the whole earth "Nikdhatriya" (Kshatriyal). It seem that here in Assam the police wanted to liquidate all youths and students and make the Assam society "Youthless", and in the attempt unleashed a reign of terror not only on the youths and students but also on their relations—terror the like of which we have come across only in the stories of Nazi attempt to liquidate the Jews.

CHAPTER—VIII

STATE INDIFFERENCE TO LAW AND ORDER

8.1 : One of the main causes of large scale group violence which erupted and sustained for long after the provocative speeches of some of the politicians, was the total indifference of the civil and police authorities to this group violence. We find that even though they had enough notice about the eruption of such violence, they intentionally avoided paying any attention to it either on the ground that they had not enough forces at their command, or on the ground that they had orders from above that whatever forces they had at their command, should be utilised only for election purposes. The result was that they purposefully did not take necessary steps to prevent the apprehended violence by one group against the other, and in many cases, even after the group violence started they could not control it and could not provide enough safety measures.

This calculated neglect of law and order situation and concentration of all attention on the objective of seeing that elections were carried out obviously resulted in total want of fear of law and order machinery which emboldened the rowdy elements of both the warring groups to take reprisals. Thus a chain of reprisals and counter reprisals started mainly from 12th February throughout Assam. Till then the violence which existed was the State violence, but thereafter group violence started along with State violence which created grave administrative as well as law and order situation which the

administrative and police heads at the District level were incapable to meet with. The controlling heads at the Secretariat level had lost all sense of proportion in an attempt to please their political masters and they either deluded themselves or deluded their masters at Delhi by feeding them with false information. As already noted above, the main explanation of the Chief Election Commissioner is that the State Government had kept him under an impression that all adequate steps were taken for a "peaceful poll". Everybody now knows how peaceful the said poll was. It may be recalled that even before the third round of poll the Election Commission made an inquiry about advisability of the third poll and again it was misguided (according to its version). In fact, according to the Election Commission, it had to reject the proposals for continuing with the poll of certain constituencies. The officers who were on election duty, including the Chief election officer, who are all State Government servants under the control and authority of the Governor, his advisers and the Chief Secretary, have failed in performing their duty of giving correct and unbiased information to the Chief Election Commission about the law and order situation and the possibility of a fair and free election. It is clear from the evidence before us that the whole administrative machinery of the State was geared to

the elections with fanaticism unknown in the administrative history of the country.

The result was that even though the State was practically infested with police and para-military forces disproportionate to its population, they could not maintain law and order or prevent group violence on a unprecedented scale. With a little more sense of duty and a little more respect for human life they could have saved large scale killing of innocent persons and destruction of property worth crores of rupees. But this they could not do because to them election was more important than innocent human lives and hard-earned property worth crores.

The facts which follow will show how culpably negligent they were in discharge of their statutory duties to preserve law and order and to give protection to the weak and the helpless.

We have got on our record some documents to show that the law and order problem of great magnitude were subordinated to rushing through elections at any cost. But before we deal with these documents we shall discuss some oral evidence of the persons who actually approached the concerned authorities either to prevent the apprehended violence or to take steps to give security to the victims of violence already committed.

8.2 : Witness No. 57 is Prafulla Goswami, social worker of village Rongamati under Tezpur Police Station (District-Sonitpur).

On 19th February, 1983 he heard that some disturbance was likely to take place between Assamese tribals and non-tribals at village Jahamari which is 5 k. m. away from his village. So he went there on the other side of river Gabhoru. He found ladies and children fleeing away with their belongings crossing the river. They told him about the prevailing tension. The witness also saw

flames of fire at Jahamari village. So he got one hospital van and went to Tezpur Police Station and reached there at 10 a.m. and reported the matter to D. S. P. Tilak Hazarika and O. C. Golap Kakati. The A. S. I., however, rebuked him and alleged that he must have come after setting fire, which he denied. He returned and finally the position getting worse, went to the P.S. again. Then finally the S. I., gave an excuse that the incident was on the other side of the river, and hence he had nothing to do with it.

The witness returned to the river bank at 11-30 a.m. but saw that a lot of non-tribals were coming from the other side of the river and so there must be some real trouble. So again he went to the same police station on a motor cycle. The same officers were there. They asked him why he was troubling them again as the village concerned was on the other bank of the river. He told them there was real possibility of the trouble spreading on their side of the river also. But he was told that they had no force. The witness then returned, organised volunteers and kept watch.

On the next morning (of 20th February) he went to the river bank and felt that something serious was going to happen on his side of the river also. So he again went to the same police station. He was again told that they had no force to spare. While returning he met an Army officer on leave who assured that he would contact D.C. and S.P. So they went to Tezpur again. The Army Officer phoned D.C./S.P. from the P.S. Then police agreed to come. He was directed to show an approach with bridges intact. He agreed. Then police came.

Evidence reveals that at Jahamari village, about which the witness had reported at

the police station, many houses were gutted and one old man and a woman were burnt alive in their house.

For the same village witness No. 59 Brindavan Goswami met the Deputy Commissioner, one Mr. Uma Sarania but he said that his forces were bound up with election duty and that as it was a quarrel between the people of the same area he could do nothing.

Again for the same incident witness no. 60 Dhananjay Das met the same Dy. Commissioner. To him also the same reply regarding election duty was given. Next day this witness twice requested the police at Puthimari to come for the security of the villagers of the nearby village Misamari where large scale arson had taken place. At first the police refused to go but subsequently when police went to Misamari, half of the village was burnt.

Witness No. 61 Someswar Deb Nath is the resident of Jahamari village. He also went to the same Dy. Commissioner on 22nd February to seek protection. But the same reply about election work was given to him.

8.3 : Finally in this regard we have the evidence of witness No. 64, Shri Purna Narayan Sinha, an ex-Member of Lok-Sabha.

On 10th February, 1983, this witness had been to Gohpur where he found that the situation was very tense. On 11th morning he requested the same Dy. Commissioner to move a platoon of C.R.P.F. from Ghahigaon which was only 15 k.m. from Gohpur. He pointed out that C.R.P.F. there was in good strength and had enough ammunition and vehicles of their own and they were unnecessarily put on exclusive duty of guarding S.I. Tarasingh Hazarika who had killed Jiban Lahan on the previous day by shooting at him. The Deputy Commi-

ssioner, however, did not accept his request and did nothing to protect the Gohpur area, with the result that from 12th onwards tribal attack on a very large scale started. Then he again went to the same Deputy Commissioner and stressed the need for protection but the officer gave the same reply that his orders were to carry out elections and so his forces were engaged in the election work.

The witness further states that on 16th Mr. George Fernandez came and he also met the same Dy. Commissioner on 17th alongwith the witness. At that time the officer candidly confessed that he was helpless in the matter as the Government instructions were to complete the elections and to declare the results by all means. He further revealed that only after election results were declared they were allowed to move forces for other purposes.

This Commission had invited the attention of the above referred Deputy Commissioner to the above facts and also requested him to send his reactions but without any response.

The above discussed evidence reveals very convincingly two important facts viz. (1) Those who were controlling the administration at the top had given specific instructions not to care for law and order situation till elections were carried out and results were declared and (2) The officers at the district level totally forgot that they were public servants and not the personal servants of those who were handling the affairs at the Secretariat and that they were bound to carry out their statutory duties to preserve law and order and to protect people, their real masters, from violence.

Our record shows that what Mr. Uma Sarania

did, was done by almost every officer at the District level.

8.4 : Witness No. 209, Shri Bansilal Soni of B.J.P., was going to Tezpur on 15th Feb. 1983 in a Jeep in company of one Parbati Goswami, President of Gauhati Transport Association. On his way when he crossed village Baihata a crowd of people met him and requested him "with folded hands" to make some arrangement for their police protection as they really apprehended violent attack from Chapori areas of foreign immigrants. The witness thereupon went to Sipajhar police station and informed the police and C.R.P.F. about the same. They, however, told him that they were helpless as their primary duty was election duty and that they were expected to guard polling stations and booths only. These police men were at a distance of only 6 k.m. from the place of apprehended violence. Since they could not go to protect the said villagers the result was that these villagers were actually attacked that very night.

On 16th February, 1983 the witness contacted the above-referred officer, Shri Uma Sarania, Dy. Commissioner at Tezpur on phone and requested for escort and transport for Shri Atal Behari Bajpae and Shri Bhairav Singh Shekhavat, the ex-Chief minister, Rajasthan, and Shri Gohain, as they wanted to go to Gohpur. The said Dy. Commissioner however advised the witness not to go to Gohpur for security reasons. The witness asked him whether the situation there was tense. The reply was "very very grave". The witness then enquired from him why, in that case, he was not stopping the elections. Reply was "Donot put this question to me, Sir."

On 23rd February Sarvshri L. K. Advani,

M. P., Shri Sikandar Bakht, General Secretary B.J.P. and K. K. Goel, M.P. had been to Assam. Shri Soni was also with them. They visited Thipai Camp at a distance of 6 miles from Mangaldoi. There they met the above-referred Dy. Commissioner Sarania and S. P., one Ramchandran. In their presence one Miss Juthika Barua of Thekarabari complained to Mr. Sarania that two of her elder brothers were killed by one Ramzan Ali who had taken shelter in the adjacent camp as a refugee. She also complained that the said Ramzan had threatened to kidnap her away. Hearing this, the witness Mr. Soni requested the Dy. Commissioner Shri Sarania to treat the complaint of Miss Juthika as F.I.R. and to take action against said Ramzan. Shri Sarania, however, paid no attention to it.

8.5 : Witness No. 77, Shri Dinesh Goswami gives evidence about the indifference of Boko police station towards Chamaria incident wherein the whole of that village was burnt down and three ladies were killed by Bangla Deshi Hindus and Muslims joining together. The witness had gone there in the company of witness No. 180, Shri Deka, Shri Paramananda Choudhury and Shri Habibur Rahman and other two Advocates. They also went to Boko Police Station under which Chamaria village is situated. They gave information there that other villages near Chamaria were also affected. After going to Boko Police Station they heard Mr. Ranjoo Das, D.I.G. Police, giving message on wireless that the situation was under control. Hearing this Mr. Paramananda Choudhury, Advocate, protested and said that the situation was not so and asked for protective action for these villages. On the insistence of these advocates some policeman were sent but that too was inadequate.

Evidence reveals that there was sufficient force near the thana. Shri Choudhury found that forces were actually present in the P.S. Evidently they were "reserved" for election duty.

8.6 : In this connection, we may also at this stage refer to a few other witnesses who have given evidence about Chamaria on this point.

Witness No. 7 Mrs. Kuloda Bayan, to whom we have already made reference above. She is a resident of Chamaria. She says that the police outpost at her village was established in 1980 but after the public meeting held by the Congress (I) President of the State, the personnel of the said outpost were withdrawn. Even the sets were removed stealthily at night. Only on the 19th evening one S.I. and four constables returned. But without any wireless set. It may be recalled that during the attack on the village one constable was injured who ran away and there was no defence of the village which was left at the mercy of the Bangladeshi marauders.

Witness No. 97, Nabinchandra Kalita and No. 100, Mohan Chandra Kalita filed F.I.R. giving names of some murderers but no action is still known to have been taken by the police.

Similarly witness no. 105, Banamali, who was injured during the attack had also filed F.I.R. but no action is heard to have been taken on his complaint also.

8.7 : Witness Shri Dinesh Goswami further states that returning from Boko to Gauhati he saw a C.R.P.F. battalion at Chhaygaon School which is at a distance of 11 k.m. from Boko. He therefore approached the Commandant of the Battalion, introduced himself and requested for help to protect Chamaria and neighbouring villages. The

Commandant told him that he had strict instructions to do only the election work and not to be concerned with law and order or protection of life and property. In fact, the witness says, the said officer requested him to use his position to speak to higher authorities to enable him to look after law and order also. Coming to Gauhati he gave detailed report to the Chief Secretary on phone.

8.8 : The witness had thereafter gone to Goalpara relief camp where about 1000 Assamese tribals and non-tribals had taken refuge. They told the witness that they still apprehended trouble from Bangladeshis. The witness therefore went to Deputy Commissioner, Goalpara for some protection from further trouble. The Deputy Commissioner told him that forces available at his disposal for law and order were limited, that other forces were bound up with election work as per Govt. orders, and that there were specific orders from the Government not to divert forces for law and order.

The witness subsequently raised this question in Rajya Sabha and requested the Home Minister to state if he could deny the issuance of the above referred order. The witness says that the Home Minister has not given any reply. It may be mentioned that it was President's rule in Assam in those days.

8.9 : The witness then refers to another incident showing how callous the higher officers who were responsible for controlling the District set-up could be. After hearing about Dhula incident, the witness went to Mangaldoi Civil Hospital where he found a very large number of the dead and injured. The whole atmosphere was full of panic and the police force was insufficient. Local people informed him that they were

proposing a mass cremation of the dead and that none of the relatives of the deceased would be allowed by police to remain present at the cremation. As mass cremation and absence of near relatives who have to perform last rites greatly offend Hindu religious sentiments. The witness approached Mr. K.P.S. Gill, I.G.P. who was at the Circuit House there, and requested him that at least one of the nearest relatives of the each dead person be permitted to remain present to perform the last rites. The Officer, however, flared up and in insulting as well as abusive tone and language asked him to leave Mangaldoi soon. He further ordered him to confine himself to the Police Station till his colleagues have arrived and then to go away.

This only illustrates with what view in their brain the whole police department from top to bottom was working. If one of the highest officers of the police department could behave in such rude and uncivilized manner with a member of Parliament, what could be expected from an almost uneducated constable on field duty working under strains, while dealing with a rustic villager, is only a matter of inference.

8.10 : Shri Ajit Sarma has also similar experience. He says that after Goalpara and Agia incidents, he personally visited these areas and met Deputy Commissioner, S.D.O. and other police officers in connection with these incidents. They admitted during talks with them that they had neither the police force nor time to look after the problems of law and order and that their attention was focussed only on election. They further told him that they had strict instructions from Dispur to mind the work only of election and to utilise the forces only for elections.

8.11 : The statements given by witness No. 31 Shri Aswini Kataki who is a retired D.S.P., Shri Suresh Kar, witness No. 32 (and his wife) and witness No. 116, Smt. Tanka Maya, a Nepalese woman of village Hojai show how persons were killed during those days without any clue as to who killed them and without any further police investigation in the matter. Witness Aswani Kataki returned home on 13th February, 1983 from Gauhati and found that his son Shankar was killed by somebody. Similarly Sri Paraj S/o of Sri Suresh Kr. Kar (witness No. 32) was found killed along with Shankar without any clue. Witness Tanka Maya says that on 22nd February her husband had gone out in the morning, but he did not return. She heard sound of firing. On enquiry one person named Tara Bir Sutar informed her that the dead body of her husband was taken away by the police and the villagers were not allowed to go near the dead body. She thereupon filed F.I.R. at Dhekiajuli Police Station, but has not been given any information. The Police even did not inform her that he was killed. She has never seen even the dead body. The Bharatiya Janata Party has given her 5000/- and a sewing machine as she had no means of livelihood.

The third witness of that type is witness no. 557, Smt. Bina Barua who says that her husband had gone out at 10 a.m. on 22nd February to see his sisters at the village Nowbaisa. Since then, however, he is not heard of. On 22nd February she reported to the police at the Thana about this, but no action has been taken.

8.12 : Witness No. 172, Bakul Hazarika, is a teacher of village Frasuti under P.S.

Dhekiajuli. He says that on 20th February, immigrants Hindus and Muslims of nearby villages attacked his village and destroyed everything, including the property of their religious shrine. The police was informed that very day at noon time when the gathering of the miscreants was noticed and attack was still apprehended. The witness says that the villagers sent three parties to Thelamara Police outpost which is hardly one kilometer away from their village, but the Sub Inspector-incharge of the outpost, one Mr. Medhi Singh showed his inability to provide any help on the ground that they were all bound to election duty.

8.13 : Witness Kula Ram Bora, aged 60 years is a retired pensioner of village Raja Pukhuri under Police Station Sipajhar. On 14th February he saw a big fire to the east of his house and heard shouts and screams. He could not sleep during the night, but at 8 a.m. on the next day he sent his son Paresh Bora to his farm to see what had happened. The son did not return, so he sent four persons to enquire about him. Even they could not find him. On 16th February, 1983 he lodged FIR, at the Police Station, but no investigation was made. 7 days thereafter he found a skeleton of his son near Dholpur.

8.14 : Witness 228, Soneswar Pator, a teacher of the village Saraihagi under P.S. Lahorighat says that on 13th February at 7.30 p.m. thousands of immigrant Muslims attacked near by tribal villages. The witness himself is a Lalung tribal. The miscreants were found advancing to his village. Therefore, on 14th February, the villagers sent their women and children to camps. The villagers also approached constables at Borsala election centre, but they were unable

to do anything as according to them, they were purely for election duty. Then they contacted at 3 p.m. Sub-Inspector Md. Ali at Rajabari Gaon. He also said that he was also for election and could not assist them. Thereafter in the early morning of 15th February they were attacked and their village and many villages in the nearby areas inhabited by Assamese tribals and non-tribals were destroyed.

8.15 : Witness No. 208, Mrs. Dipti Katak is a social worker of Gauhati. At the time of giving evidence before us she brought with her an orphaned child. The story about this child is that he was found along with his mother, one Mrs. Kunti, at Gauhati hospital. They were noticed by the witness who had gone to the hospital to serve the patients. Mrs Kunti had married a Lalung tribesman named Rameswar Das.

The witness found that on 9th February, 1983 the said Rameswar Das was murdered by some immigrant Muslims near Nellie where he was residing. The house of Rameswar Das was set on fire as a result of which Rameswar Das was burnt alive. His wife Mrs. Kunti was also burnt but she escaped with the child and went to Jagi Road Railway Station where seeing her burnt clothes, the Station Master supplied her with a saree. She thereafter came to Gauhati Hospital where she was admitted with the child for medical treatment. Taking pity on her the witness took the child to her house. After sometime Mrs. Kunti was discharged from hospital, stayed with the witness for a few days and went home to look after her affairs leaving the child with the witness. She never returned. Sometime thereafter the witness knew that Mrs. Kunti and several others were missing and were probably killed. Thus the child

became orphaned without any trace of his mother.

This instance shows the utter lawlessness which prevailed at the relevant time.

8.16 : Witness 233 is Pradip Chandra Bora of village Gereki, P.S. Rupohi. On 24th February the immigrant Muslims came in large number and attacked his village as well as other villages and set fire to their houses. This uprooted about 5000 families. The witness says that thereafter he went to Samaguri P.S. and met Sub-Inspector, one Dipti Kakati and S.D.O. Hemant Kumar and reported the matter. They sent some homeguards who went round and returned. At Samaguri there was an Army camp. So the witness again met the above two officers and requested them by touching their feet to assist the villagers. Their reply was that they were helpless. They advised the witness to arrange for self-protection to save the remaining unburnt houses.

8.17 : Witness No. 53 Bhabendra Prasad Katakati is an Advocate in Nowgaon district. He has produced the copies of three FIRs of three different incidents of 12-2-1983, 1-3-1983 and 2-3-1983 relating to murder. These FIRs are at Exhibit 53/2, 3 & 4. He has also produced the copies of Postmortem reports in connection with Case No. 33/83 of Jagi Road Police Station. They are at Exh. 53/5, 6 & 7. This is with relation to the death of one Shambhu Kanta Paul. **No Police action** seems to have been taken with reference to these cases.

8.18 : Witness No. 235 is Smt. Kalitara Das, a woman of 60 years of age residing under Hajoi Police Station. She came to know from one Bholu Ram of her village that her husband was killed by one Kutimian and that he had given information to the police. After sometime she went to

the Police Station and the D.C. to make enquiries but she got no information. She has also not received the dead body of her husband.

8.19 : Witness No. 569 is a teacher named Parameshwar Das of the village Karaikhowa under P.S. Lakhipur of District Goalpara. This whole village is practically destroyed by the miscreants who were immigrant Muslims. After describing the incident the witness says that he and others repeatedly requested the police to search the houses of the miscreants, but no action was taken. The witness was in possession at his house of a radio which was given to his custody for School by the Government. For its safety it was kept at his house after school hours. 15 days after the incident he saw that radio for sale at Jaipur Bazar. Police was informed about this. Outpost police seized it and referred the matter to Lakhipur P.S. but no action was taken, despite many requests of the witness. The police did not produce even the seizure list before the Judicial Magistrate, despite reported orders by the Magistrate.

8.20 : The last major instance of police apathy and negligence is supplied by the memorandum Ex. 598 filed by four persons of Dighal Tarang a tea garden, about 25 k.m. from Dumduma in Dibrugarh District. The incident which referred to in this memo. has resulted in fourteen deaths and serious injuries to 37 persons. Three persons involved in the incident are reported missing.

The memo. is filed by (1) Shri Parameswar Moran, former President of Baidiguri Gaon Panchayat, (2) Shri Giridhar Nanda, Head-master, (3) Shri Magan Talia, General Secretary Bhagjan Tea Garden Mazdur Sangha and (4) Shri Lal Bihari.

They say that Dighal Tarang area is inhabited by Tea Garden labours, other Assamese and non-Assamese all of whom lived with amity and mutual friendship for years. However, the trouble started with the first round of elections on 14th Feb. 1983. It is said that in the morning of 14th February anti-Assamese section under the leadership of one Jogadin started attacking the persons who wanted to boycott the elections and during the course of this incident Parameswar Moran was severely injured. Hearing the threats of murder, the villagers of Dighal Tarang left their houses in panic along with their families and concealed themselves in a nearby Jungle for their safety.

Next day i.e. on 15-2-1983 tension increased as a rumour was spread that the Assamese had burnt the houses and killed ex-tea garden labourers of Bhogjan and Diamuli Tea garden. As a result about three thousand persons from three Tea gardens armed with bows, arrows and spears came out with slogans like "Assamese Murdabad", "Mahendra Sahani Zindabad" and "Sachindra Das Zindabad". "This violent mob went to village Kaliapani where they did not find their victims who had taken shelter in the nearby jungle. The mob then proceeded to the jungle and there was a clash between the two groups. During the clash the guns were fired. The clash resulted in fourteen deaths and injury to 37 persons as said above.

The Memorandum further reveals that sensing of this trouble the managers of three Tea gardens viz. Dighal Tarang, Bhogjan and Diamuli had contacted the police on phone and had appraised them in the early morning about the apprehended violence but though the police and C.R.P. were near

the trouble spot they did not take any action to prevent the mob violence. To put it in the words of the memorailists :

"If the police Inspector Shri R. Saikia with some police forces with one section of C.R.P.F. took (had taken) needful action in time, such unfortunate and unimaginable of sufferings of death, arson etc. would not have taken place. The police and C.R.P.F. people were seen busy taking tea and sweets at 12 a.m. (noon) entertained by one Mahendra Sahani (Congress-I) for the slogan "Mahendra Sahani Zindabad". Had the police force with C.R.P. people arrived on the trouble spot, which was only 2 k.m. distance, in time, i.e. at 12.30 p.m. the incident which took so many lives, loss of property, burning of houses and looting could not have happened. We reported the entire facts to the senior C.R.P. Officer, the Civil S.D.O. and all other senior officers of Tinsukia. But no one cared to investigate the matter. Among the instigators were Mahendra Sahani, Sachindra Das, Jagdev Sahani, Sitaran Sahani, Padma Moran (independent candidates) and others. Complaints against their activities were duly reported to the appropriate authorities but no action was taken."

Pursuant to these allegations this Commission addressed a letter to Shri Priya Goswami who was S.P. Dibrugarh at that time inviting his attention to the above evidence showing that had he taken timely action many lives would have been saved. The Commission had invited him to state his version of the matter. He has, however, not controverted this evidence.

8.21 : We shall now take up for our discussion of some important documentary

evidence to show that at Jagi Road P.S., under which the Nellie villages, where the greatest massacre of about 1400 persons took place on 18th February, a prior information about the apprehended riots had reached, and inspite of that, not only no Police action was taken, but even the police force attached to that P.S. was diverted for election duties.

Witness No. 540, Shri Tapan Deka, who is the Secretary of All-Assam Gana Sangram Parishad, has produced before us some photo copies of the documents relating to Jagi Road Police Station. The original documents would not be available to the commission in view of the circular of the Government instructing its officers not to co-operate with the Commission.

These documents are of nine pages of Ext. 540/1. First three pages consist of the information lodged at the police station Jagi Road by as many as 86 persons who, from their names appear to be Assamese and Bengali Hindus, Muslims and tribals. All Nellie villages and other round about villages are under Jagi Road Police Station. Circle Inspector of Police for this area is at Morigaon, and the District Headquarter is at Nowgaon. The above-referred report is given under the signature of these 86 persons on 15th February describing therein the incident of 14th February in Assamese, the English translation of which is as under :

“On 14th February at day time one villager of Mukodiā village was assaulted by some Muslims of Bhogdobagaon. The same day, some villagers of Nellie undertaking Boro cultivation were driven out of their fields. At about 7-30 p.m. the Muslim villagers of Bhogdoba, Basundhari, Nellie etc. proceeded towards Hindu inhabited areas of Nellie carrying torches of

burning fire (jui) and shouting “Allah Ho Akbar.” We became alert and kept guard in our villages. As a result, they did not proceed any further. Uptil now, there is no physical confrontation, but there is a great possibility of untoward incident any time. So we pray that immediate steps should be taken in Nellie area so that peace and order be maintained.”

Endorsements of this F.I.R. show that it was taken on the register of Jagi Road Police Station as G.D.E. (General Diary Entry) No. 407 dated 15-2-1983.

On further perusal of these documents it is found that at P. 4 and 5 there is a report from Shri B.K. Chetia, O.C. Jagi Road Police Station dated 15-2-1983 to the Circle Inspector (C.I.) Morigaon in English drawing the attention of the later to the tense situation in Nellie area and to the fact that the forces at his command were not sufficient. He also requested that, therefore, more fixed pickets should be provided to him. Page 6 of these documents shows that the said O.C. also sent a wireless message to Commandant, 5th A.P. Battalion Camp at Morigaon, reporting want of force to meet rising communal tension at Amlighat, Nellie etc. Even this message is dated 15th February.

Thus immediately after receiving the information of apprehended riots, the O.C. Jagi Road appears to have taken steps to obtain more forces at his command to meet the danger.

Subsequent documents show that instead of sending further re-inforcement to the Jagi Road Police Station, the higher authorities reduced the forces already available to him and diverted them to election work.

At page No. 7 of the bunch of these documents, we find a crash wireless message from S.P. Nowgaon to O.C. Jagi Road to inform Shri P.C. Bordoloi, Dy. S.P. to make

himself available and report at Police Reserve for taking charge of Headquarter Constituency. This is dated 16-2-1983. Thus on 16th February an important officer was removed from Jagi Road for election duty for Headquarter constituency.

It is further found, by reference to Page No. 8 that on the next day i.e. on 17-2-1983 a crash message was received at 23-30 hours at Jagi Road Police Station from S.P. Nowgaon addressed to O.C. Jagi Road with a copy to I.G.P. (Inspector General Police) containing directions to withdraw B.S. F. force under O.C's jurisdiction by that night and to replace their posts by C.R.P.F. which were already stationed there. Thus the armed constabulary at the command of Jagi Road Police Station was substantially reduced. It may be recalled that 17th and 20th of February were respectively 2nd and 3rd rounds of elections.

Reference to P. 9 of the bunch of documents shows a crash wireless message from S. P. Nowgaon addressed to O. C. Jagi Road and others directing to depute one S. I., one A. S. I. and four constables for Election duty for two days from 16th February and to treat the order as emergent.

This summary of the photo copies of different documents discussed above shows that clear three days before the Nellie massacre took place, as many as 86 villagers drew the attention of Jagi Road Police Station to the apprehended danger and thereupon the officer-in-charge of that Police Station tried his best to get more forces at his command to meet with the situation.

It is necessary to recall here that, as already pointed out in other chapters of this report, trouble in Nowgaon Distt. and nearby Darrang area had already started where as a result inflammatory speeches of

politicians many Lalung and other Assamese villages were attacked and put to flames on 12th, 13th, 14th and 15th. The Police department was knowing all this, and therefore, this complaint of 86 villagers of different villages ought to have been given more serious consideration by the Police higher ups. However, instead of strengthening the hands of the O. C. Jagi Road they reduced the forces at his command, and recalled many officers for election duty. This madness for election duty subsequently resulted in the loss of about 1400 valuable lives on the very next day i.e. 18th February.

8. 22 : The photo copies which are produced before us reveal the danger apprehended by the Assamese Hindus, Muslims and tribals from immigrant Muslims (Bangla Deshi-Mians). However, in the violence which actually took place on the 18th February, the victims were immigrant Muslims themselves. But that is not the relevant point. The relevant point is that the police got information about some apprehended danger, and pursuant to that information, even the O.C. Jagi Road asked for more re-inforcements. Those were the days of tension when villages after villages were burnt by fire. Each of the sides must therefore be apprehending attack from the other side.

8. 23 : A.A.S.U. has produced before us some copies of the periodical "India today" containing some articles by Shri Arun Shourie. The issue of 15th May, 1983 contains the copies of some official correspondence in the form of wireless messages showing that the concerned authorities were knowing in advance the possibility of many of the major troubles including the Nellie trouble. In ordinary course, we would not take notice of such articles published in some magazine unless the person concerned himself gives

evidence in form of his oral statement, or written memorandum. However, the above referred issue of 15th May discloses the copies of official correspondence bearing office numbers, dates, and code words. So far as our knowledge goes, none from the Government side has upto now publicly denied the existence of such correspondence. However, to be more sure, we have addressed a letter to the Chief Secretary, Government of Assam drawing his attention specifically to this correspondence and informing him that this Commission would like to avail of this correspondence. He was invited to let the Commission know within 15 days of the receipt of the letter whether such a correspondence had taken place. He was further told that if nothing was heard from him the Commission would be at liberty to presume that such a correspondence had in fact taken place.

The Chief Secretary has not responded to the above letter of the Commission. The Commission is not guided strictly by the rules of evidence and procedure as enacted by Indian Evidence Act and the Civil Procedure Code, though so far as possible the Commission has adhered to the basic principles of natural justice embodied in both these enactments.

Considering the fact that nobody has publicly challenged the veracity of the correspondence published by Shri Shourie through "India Today", as also the fact that in spite of our specific request, the same has not been denied by the Chief Secretary, Government of Assam, we find it safe to rely upon this correspondence as published.

8.24 : The correspondence shows that as early as 10th February, 1983 the Nowgaon Police sent the following message to all O.C./D.S.P.

"W.T. Message O.E. To All O/C D.S.P. (.) Info. Dy.S.P. HO/DY SRP LMO/DFO (.)

From : DISPOL NWG (.)
No. 1930-58/DSB DT. 10-2-83 Signal from IGP.SB GHTY No. SBII (A)/62-A-83/VOL/II/191 Dated 9-2-83. In view of increasing incidents of violence and attack on minorities imperative all vulnerable minority pockets be insulated from outsiders/violence/mobs/extremists (.) Steps be taken to cover minority pockets with adequate police pickets/mobile patrolling to ensure protection (.) Pse take action accordingly (.)"

It may be noted here that exactly the same request was made by O.C. Jagi Road for more police pickets. However, no attention was given to his request and on the contrary forces at his command were reduced.

Thereafter on 13-2-1983 following message is found to have been sent :

"WT Message O.E. To : All OCS ICS Dy SP COS Info : Co of Outside Police Battalion From : SP NWG DIG (B) C/NW G No : N/1/14/2/83 Dt. 13.2.1983.

Incidents of communal violence have been reported from some parts of the District. Immediate police action on the spot of violence is required all precautions to be taken to prevent any further flare up particularly in those areas where polling is taking place on 14-2-1983 (a). Immediately SEARCHES/Raids should be organised to catch the culprits (.) Intensive mobile patrolling on the effective spots and places where communal trouble is apprehended soon after polling is over, senior officers should themselves organise and implement these arrangements tonight RPT tonight itself (.) All communal violence should be dealt with firmly (.)"
(emphasis supplied)

INQUIRY COMMISSION'S REPORT

Then on 15th February, 1983, the day on which 86 villagers of Nellie area lodged their information at Jagi Road Police Station, the Officer-in-charge of Nowgaon Police Station, one Zahiruddin Ahmed sent the following message to the Commandant 5th Battalion, with information to O.C. Jagi Road.

“To : CO 5th AP Info : O/C J/Road PS/SIDPO (M). From : O/C NWG PS (.) Dt. 16-2-83 Information received that L/night about one thousand Assamese of surrounding villages of Nellie with deadly weapons assembled at Nellie by beating of drums (.) Minority peoples are in panic and apprehending attack at any moment (.) Submission for immediate action to maintain peace (.)”

This message when read together with the information lodged by 86 villagers of Nellie area and the demand for more police force made by O.C. Jagi Road Police Station prove that the situation was highly tense and both the sides viz. the Assamese and immigrant Muslims were apprehending attack. As a matter of fact attacks on the tribal villages had already started from 12th February onwards and by 15th of February many tribal villages were gutted by fire.

The moot question which therefore arises to be considered is, why inspite of such clear evidence of group fights and violence the police force was diverted to election purpose only. We would have very much like to have a much deeper probe by going through the official record. But unfortunately the State Government has issued a specific circular to all officers not to co-operate with us. However, from the facts stated above we can draw an irresistible conclusion that the officers at the top cared nothing for the riots or the toll of human lives which they

would take because their only aim was to go through the process of elections at any cost. It was for these reasons that inspite of repeated warnings, they concentrated their attention only on elections and give instruction to the senior officers to organise only “after polling is over.”

8.25 : With a view to comply with the rules of natural justice and not to arrive at any final conclusion without hearing the other side, this Commission served the following officers with letters requesting them to submit their version of the story, drawing their attention specifically to the fact that whenever they were requested for police help for protection from some apprehended danger, their reply was that the forces at their command were only for election work and that these were the instructions received by them “from above”. These officers are—

1. Shri Uma Sarania who was D.C. Darrang.
2. Shri K. C. Majumdar who was D.C. Lakhimpur.
3. Shri Kapil Dev Tripathi who was S.D.O. Morigaon.

None of them has preferred to deny the allegations.

8.26 : We thus find that at almost every place in Assam, the police and civil authorities were quite apathetic and indifferent to the law and order situation. They could not have adopted such an attitude unless there were some specific instructions from above. We find it quite reasonable to infer that those who controlled the State administrative machinery from above had only one aim viz, to carry out the election work any how, and even at the cost of law and order problems. These authorities from above must have given specific instructions to the concerned officers to concentrate their attention only

on the election work obviously because they in their turn wanted to prove to their political masters that they could carry out their (masters') wishes quite efficiently. They, in the process, however, forgot their legal and moral responsibility to their real masters, the members of the public at whose cost and for whose benefits they were sustained and financed.

There was however one silverline in the dark sky. Despite order from above and despite

examples of superior officers, some lower level officers (S. I. s. & A. S. I s) did not forget their primary duty of protecting lives and properties of those who were in their charge. For example, action of ASI Lohit Sarma in Dhula, A. S. I. Digen Nath in Kotayani, S. I. Ranjit Singh in Lotaboa and police officers coming to aid of endangered areas in Kampur, Uttar Saukashi, Bhakeli-Kata, Knendhulimari and Gorehagi, Borangiri, Petaplam and Sologuri.

CHAPTER—IX

MYSTERIOUS HELICOPTERS AND RAZAKARS

9.1 : During the course of the evidence recorded by us we have come across evidence offered to show that whenever the villages of Assamese tribals as well as non-tribals were attacked and razed to the ground, some mysterious helicopters were seen over these villages sometimes dropping something like stick bombs on pucca buildings, which could not be destroyed by ordinary fire.

9.2 : Witness No. 233 Shri Pradip Chandra Bora has told us, after narrating the attack on several Assamese villages, that on 24-2-1983 when he saw one helicopter over the attacked area, he also saw a packet dropping from this helicopter on Randhani Chuk village. He further says that this packet fell on a brick-walled house, and the roof of this house immediately blew up. Thereafter some iron sticks were found from that house. He has produced some specimen sticks and we have received them as Article-B. They are of very regular size and of polished steel. The witness further says that the helicopter was seen roving over the villages on all days on which these villages were burning.

9.3 : Witness No. 237 is Bhupendra Kumar Saikia, a 60 years old social worker and an ex-M. L. A. He says that on or about 25th February, 1983 when he was sitting in the room of Additional S. P, Shri Gangadhar Gogoi, to report to him about the sighting of a helicopter, the said officer told him, after attending to a telephone call, that he had also received the report of a helicopter

landing at Gerugaon and had instructed his people to seize it. The witness says that after some minutes the said officer received another telephone call and thereafter he informed him that the helicopter had taken off.

9.4 : Witness No. 272, Kumud Mohanta, a business man of the village Bajia Gaon under P.S. Samoguri, describes the Muslim immigrants' attack on his village on 23-2-1983. The witness says that when fire was set on his village he and others also saw one helicopter hovering over his village.

The same type of evidence is given by witness no. 273, Bulan Chandra Nath of village Kotayani of police station Samoguri, and witness No. 19 Prafulla Saharia of village Roumari of Mangaldoi police Station.

9.5. : Thus though there is some positive evidence to show that during the time the Assamese villages were being attacked, some helicopters were found hovering over these villages. There is a shrouded mystery about the origin of these helicopters, their mission as well as their source of inspiration and we therefore, not are, in a position to come to any definite conclusion about these mysterious helicopters.

9.6 : Similar is the evidence about the appearance of some Razakars who were supposed to be some Muslim volunteers or some spies. Witness No.232, Shri Kandarpa Saikia of Senchowra village under Nowgaon

Police Station, states as under with regard to these Razakars.

He says that at 10.00 a.m. on 16-2-1983 some people saw a person in Khaki uniform loitering near the State Transport Campus of Nowgaon town. The witness and others went there and found that the people were beating him, suspecting him to be a Razakar. The witness further says that the suspected man tried to escape by jumping into Kolong river, but people caught him. Meanwhile police arrived and took charge of that man. Since he was injured, he was sent to hospital. At hospital his photograph was taken which is produced by witness no. 234, Surjit Goswami, who had taken that photograph, at Ext. 234/1.

Witness Kandarpa Saikia tells us that such Razakars were immigrant Muslims who set fire to Assamese villages and that subsequently these Razakars were reported to

have been released from police custody at Government intervention.

In this connection witness No. 236, Manas Mahanta, has stated that while he was under detention in Nowgaon special Jail, he also saw some persons looking like Razakars being brought to jail. They were found putting on something like sewn up lines of sticks wrapped round their bodies as shield and helmet on head. The witness says that they were kept in a special cell and were given better treatment than other prisoners. Witness claims this knowledge as according to him he was lodged in the Jail near the gate and could see all these facts.

9.7 : Even this evidence about Razakars government is shrouded in mystery and for want of Government co-operation we are not able to ascertain from official record who these persons were.

CHAPTER—X

MODE AND RESULT OF ELECTION

10.1: When the authorities concerned took so much pains to see that general elections in Assam were any how carried out, and the results, whatever they be, were declared, in "Constitutional compliance", it would not be out of place to consider what they achieved by holding these elections and by what methods. We shall first consider the methods adopted for conducting the election because it is apparent that all the illegalities and irregularities adopted in the conduct of election added more and more to the ridicule of the authorities and frustration even in the minds of sober thinking people. Generation of this type of attitude was no less responsible for disrespect for law and order in the State, as well as for persistent defiance of those who were and are occupying the seats of power.

10.2: Evidence which we propose to discuss in this chapter reveals that many polling booths did not start functioning in time; they were not attended by any polling officer or staff, at many places ballot papers and ballot boxes could not reach at all; at most of the places the polling booths were totally deserted and voters were being brought, sometimes forcibly, in police vehicles, and persons were restrained from going near the polling booths unless they were shown to be supporters of Congress-I and its allies.

10.3: Witness No, 71, Prafulla Mahanta,

the President of AASU, says that he visited the court campus of D. C. of Nowgaon on 28-2-1983 and found ballot papers lying strewn in the compound totally uncared for. He took a photograph thereof as found at Exh. 71/3.

Witness No. 73, Mrs. Neeru Mahanta, has pointed out that on 14-2-1983, the day on which there was polling at Gauhati, the CRPF which was guarding the polling booths was pointing out sten-guns at the visitors shouting that none should come near the booths.

Witness 147, Rama Dutta, says that when he went near the polling station at Narayanpur he and his colleagues, who had gone there in the capacity of voters, were chased by CRPF. personnel.

Witness No. 149, Kapurchand Jain of the said village, says that since his shop was situated near the polling booth he could see that there was no arrangement in the booth and neither any polling officer nor any ballot boxes arrived at that booth throughout the day.

Witness No. 150, Kiran Sharma of Bhogpur village, says that on 14-2-1983 he had visited ten polling booths like Shanker Dev M. V. School, Guru Bandh Mikir L. P. School, Bholabari L. P. School, Deotola L. P. School, Barbali and other booths between 9 a.m. and 3 p.m. and found that in none of these ten booths there was any arrange-

ment of staff, ballot boxes or any other sign of polling.

Witness No. 159, Zakaria Dhan of village Rangajan No. 2 under North Lakhimpur Police Station, says that he had visited polling booths of Rangajan, Ujjalpur Jogin tea garden, Koilamari, Chabati and others but at none of these places he found any polling booth, staff or ballot boxes on the day of polling, namely, 14-2-1983.

Witness No. 160, Dambaru Bora of North Lakhimpur, is the Vice President of District Karmachari Parishad. He says that on 5th February all Karmacharis who were assigned election duties surrendered their appointment letters and so they were all arrested. Thereafter on 10-2-1983 employees from outside the State were brought. He visited 10 polling booths from 8.00 a.m. to 12.00 noon and found that except for 2 booths none of the booths had any staff or ballot boxes.

10.4: Witness No. 194, Mangal Chandi Brahma who is a tribal leader, President of Mangaldoi District Tribal Sangh, and of Darang Sahitya Parishad and Member of Agricultural University Board of Management, gives a very interesting story of how he was approached by some officers to stand as a candidate for contesting election and what type of irregularities were committed at his polling booth.

He says that initially before the nominations were filed, Sub-Inspector Biswas of Paneri P. S. approached him and pressed him to contest election. He put him off by saying that he had not decided. Thereafter Mr. Bargohain, Officer-in-charge of Police Outpost, Horisingha, asked him to file his nomination for the reserve seat for the tribal area of Udalguri. The witness says that by this time he had decided not to contest the election.

Then he says about his polling booth that when at that booth no officer arrived, the P.T.C.A. candidate one Binoy Kumar asked the Presiding Officer why other officers and staff were not found present. He was told that the Government had not sent them. The candidate, Mr. Binoy Kumar, then told him that he could give him some tribal boys to work for the polling, and so saying, he supplied some tribal boys who were students and who were not authorised to work in the booth.

Thereafter, it was found at the end of the day that the ballot boxes of that polling booth were exchanged for the boxes of some other booths, and that the tribal boys who were engaged to do the polling work, did not know how to seal the boxes. Thereupon the boxes were sent to the other booth in an unsealed condition.

10.5: Witness No. 212-A, Shri Rathindralal Shayam of Nellia, says that on the polling day he went to Mukhuria where two booths were to be established. He however, did not find any ballot boxes there. The police force was there with polling materials but they withdrew on the same day.

We have already referred to the evidence given by Jajori witnesses to show how the C.R.P.F. people unauthorisedly entered the houses of villagers and forcibly took women to the polling booth and how people resented to this and police had to resort to lathi charge and firing. We do not propose to repeat that evidence here, but the same is found in the statements of witnesses No. 240 to 245.

10.6: Witness No. 253 is Bijaykumar Barthakur, a student of Nowgaon. He says that on 23rd February, 1983 early in the morning he and his friends found two sealed Ballot Boxes near New Court compound

at Nowgaon. They were sealed with lac. They took possession of both these boxes and opened them and found some miscellaneous papers, a rubber stamp indicating a seal used for ballot papers and indodibleink.

Near these ballot Boxes, he also found some packets of unused ballot papers of "3-Autonomous District (S.T.) Constituency from Serial No. 047304 to 047399 and 18 Hawraghat (S.T.) L.A. from Sr. No. 041701 to 041799 and some others, lying in open and uncared for.

The witness says that one box and some ballot papers were given to Shri Dandawate, M.P. The remaining Box and above referred ballot papers are produced by the witness before us as Article 3-4-5.

The witness has also told us that he and his friends had also found some used ballot papers i.e. the papers used for voting. They were of constituency No. 3. Autonomous Distt. (S.T.) and of 18 Hawraghat constituency. They were however destroyed by him and his friends. There is also evidence to show that on account of destruction of connecting bridges polling booths could not be established at many place.

This evidence shows with what care the disputed elections were conducted and what credibility could be attached to such election

10.7 : Witness No. 386, Shri Golap Borbora is an ex-Chief Minister of Assam, and being a leading politician of the State he went round the polling booths of Gauhati town on the day of polling. He talks about Rabindra Bhavan Booth which was sarcastically called by people an "open booth". The witness says that the rear door of that booth facing railway quarters was opened and C.P.M. supporters and others from railway colony were smuggled to that

booth. Even people having no connection with election were rounded up by police and brought to that booth in police vehicles.

Witness No. 44, Samujjal Bhattacharjee, also deposes about polling at Rabindra Bhaban booth. He saw police carrying voters to that booth in vehicles which bore no number plates.

10.8 : It is not that Election Commission's attention was not drawn to some glaring irregularities and other important facts relating to the election. In this connection it would be interesting to make a short reference to the Correspondence which has taken place between Shri Jaswant Singh, M.P. and the Election Commission of India before and during the course of elections at Assam. On 17th January, 1983 Mr. Jaswant Singh had a meeting with the Chief Election Commissioner at which following allegations were made by Shri Jaswant Singh :

1. The Governor of Assam was receiving nominations of the Election candidates at his residence.

2. The police was collecting nomination papers from intending candidates and was filing them before the concerned Election Officers.

3. The A.I.R. at Gauhati carried an announcement in its morning Broadcast of 12th January that notification for poll was issued. This was pre-empting the Election Commission which alone was authorised to issue notification of date of election.

4. The copies of the electoral rolls were not supplied to recognised political parties.

The views of the opposition political parties were not ascertained at the time of final approval of the list of polling stations.

5. Apprehension of the use of Army by the State Administration during election.

The Election Commission replied to these allegations on 18-1-1983 without making any enquiry as a result of which Shri Jaswant Singh wrote another letter dated 24-1-1983 to the Commission. To this letter the Commission replied on 25-1-1983 that the specific complaints made in his letters were being enquired into.

Thereafter on 7-2-1983 he wrote another letter to the Election Commission about the actual conduct of Electioneering. Therein he made different complaints regarding obstruction to public meetings, polling booths, electoral roll, Radio broadcast, deployment of Army, law and order etc. A copy of this letter is appended herewith and marked as Annexure y. In reply the Election Commission said that the matter was being looked into.

Again on 17-2-1983 Mr. Jaswant Singh wrote another letter to the Commission regarding the conduct of poll and deployment of Army etc. pointing out to several irregularities which he had personally noted. Even to this letter the Election Commission said that the complaints made therein were being looked into.

Thereafter Mr. Jaswant Singh sent reminders dated 15-3-1983, 12-5-1983 and 12-3-1983, but the Election Commission still waited for the report, even though the elections were over. In short, the serious allegations made by this Member of Parliament appear to be still pending probably without any enquiry.

The whole correspondence produced by Shri Jaswant Singh reveals the callous disregard with which the Election Commission has treated serious allegations touching the validity of the election made by a responsible public figure.

10.9 : We shall now consider that has actually been achieved as a result of this election.

It may be noticed that there were in all 12280 booths to be established throughout Assam for Assembly and parliamentary elections. According to Election Commission's Hand Book, the normal strength of each booth should be of one Presiding Officer and 4-5 Polling Officers. This would mean that if elections at all the Booths are to take place on one day, 61,400 to 73,680 persons would be required for conducting the elections. However, since the elections in Assam in 1983 were phased by three rounds, number of officers in one single phase would obviously be much less than the above mentioned number. Even presuming that all the three phases could have been equally divided, though it was not so, each phase would have required about 21,000 to 24,000 persons to look after the election. Now it cannot be disputed that the State Government servants, as well as all the servants of State sponsored institution, Bank employees and teachers had completely boycotted the elections. And even though election duty was declared as an essential service, the employees concerned did not care for any adverse action contemplated by the authorities. In fact, as already noticed above, in two instances they were required to be forcibly detained many days in advance. Therefore even those State employees who were thus forced to work for elections, were totally unwilling workers who would care little for maintaining polling rules and process. In this connection the Election Commission itself records as under in its Report :

"Later, because of threatened boycott of elections by State Government servants both in lower and supervisory categories,

the Chief Electoral Officer approached the Commission for drafting personnel and essential election materials and transport vehicles from neighbouring States and the Central Government Officer outside the State. The Commission agreed to this course and asked the Chief Electoral Officer, Assam to directly approach the neighbouring States. The neighbouring States were also informed of this approach by the Chief Electoral Officer, Assam and they were instructed to give all possible assistance to the Assam Government in connection with their various requirements."

However, it is an admitted position that even some of the employees belonging to the other States resisted the requisition of their services in Assam for election purposes. At any rate 8800 persons were air-lifted from different States. This force together with the local employees who were forced to work for the poll was, by any standards, totally insufficient to carry out the poll efficiently and without infringing some Rules. This was one reason which has contributed to the late starting of poll and other irregularities at different polling stations.

10.10 : We may now consider what actually happened about the polling. In the first round of the poll, which was on 14th February, 1983, 61 seats were in contest. Out of this 61 seats, poll could be completed only in 43 seats. In 17 seats it was partly taken but could not be completed. As regards one seat (constituency) poll could not be taken at all. One constituency covered by this round was uncontested. Thus, in the first round, in 18 constituencies poll could not be completed. It was, therefore, adjourned to 18th, 19th, 20th and 21st February, 1983, when, in 17 constituencies,

the poll was completed, but could not be completed in one. Thus even during the first round of the poll the resistance of the people to the poll being taken was sufficiently in evidence, because, in as many as in 18 constituencies, the polls could not be completed at the first attempt.

The second round was on 17th February, 1983 when 36 constituencies were involved. Out of this 36 constituencies, poll was completed in 20, but could be completed only partially in 13, and could not be taken at all in 3 constituencies. Thus out of 36 constituencies, it could not be completed fully in 16 constituencies. One constituency in this round was uncontested. Out of the 16 constituencies in which it could not be fully completed, the poll was adjourned for 11 constituencies, but even on adjourned poll, only the poll in 10 constituencies could be completed, while in one it could not be done. No date of adjournment was fixed for the remaining 5 constituencies in which the poll could not be completed at the first attempt of the second round.

It is thus evident that even for the second round of poll there was very substantial resistance from the people.

The first two rounds of polling thus gave sufficient indication to the Election Commission about the inadvisability of the third round. The Commission says in its Report "in spite of repeated reference, both oral and in writing, they (Chief Election Officer and State Government) gave an indication that the poll could be taken peacefully." This shows how the Commission was misled, presuming that the Commission was otherwise totally ignorant about what was happening in Assam. At any rate, it is found that so far as the third round of 20th February is concerned, the Commission

ordered the adjournment of poll in 9 constituencies out of 24 Assembly Constituencies (2 having become uncontested). This was done by rejecting the request for a brief adjournment of poll and holding the adjourned poll on 28th February. For these 9 constituencies no date for the poll was fixed by the Commission. In the third round election to one constituency was countermanded.

10.11: It is thus evident that in 16 Assembly constituencies poll could not be taken. 4 constituencies were uncontested and in one constituency the poll was countermanded. Thus the poll could be taken only in 105 constituencies out of the total of 126 constituencies. This also affected the Parliamentary constituencies which were 12 in number. Out of these twelve, poll could be complete only in 5 constituencies, but could not be completed in 7 constituencies. In our opinion the above figures give sufficient indication of the resistance of the people to the poll, and if this resistance is appreciated alongwith the facts that about 8800 persons, who were not knowing Assamese language, were required to be recruited from outside the State, that the extraordinary strength of security forces was required to be imported from outside the State, that even the ballot papers could not be got printed inside the State, that draconian measures were required to be passed for assumption of extraordinary powers to restrain the freedom of speech, expression and movement during the course of elections, and that before the elections started, on almost every day, the police was required to open fire in almost every part of Assam till the date of elections, taking the toll of about 125 or more lives, we fail to understand what further proof was required for finding out

the real nature of the fairness and freedom of the proposed elections.

10.12: Now we shall consider briefly the actual results which were obtained through this poll, however defective it may be otherwise.

As already noted above, the poll was contested only in 105 constituencies. The following table will show the nature of the polling.

Constituency	Percentage of Polling
46 constituencies	below 20 p. c.
29 "	below 10 p. c.
21 "	below 5 p. c.
19 "	below 4 p. c.
16 "	below 3 p. c.
9 "	below 2 p. c.
4 "	below 1 p. c.
8 "	between 20 p. c. & 30 p. c.
51 "	30 p. c. & above.

This table shows that polling in 46 constituencies was abnormally low in as much as it was below 20 p.c. If we add to this 8 constituencies where polling was between 20 to 30 p.c. i.e. below 30 p.c. we get the figure of 54 constituencies. Thus in the majority of the constituencies the polling was below 30 p.c.

The average of the total polling of all constituencies comes to 32.74 p.c. which is also abnormally low because in the previous General election to the Assembly in the year 1978 the polling was 66.85 p.c. This obviously means that boycott of the poll virtually succeeded.

10.13: We shall now consider the results of different districts.

In Sibsagar district the average polling was hardly 5.65 p.c. The following is the analysis of the polling in different constituencies in this district:

Constituency	Percentage of polling	Constituency	Percentage of polling
1 constituency	22.56 p.c.	4	more than 30 p. c.
21 constitaencies	13.07 p.c.	1	26.31 p. c.
1 ,,	12.28 p.c.	1	10.47 p. c.
1 ,,	9.72 p.c.		
11 constituencies	below 5 p.c.		

There are in all 16 constituencies in this district but in one constituency no poll was taken. Therefore, out of the 15 constituencies which were contested, in 11 constituencies the polling was not even 5 p. c.

10.14 : In Lakhimpur district there are 6 constituencies out of which 3 were general and 3 were reserved for Scheduled tribes. In the general 3 constituencies the polling was as under :

Constituency	Percentage of polling
1	below 6 p. c.
1	below 5 p. c.
1	below 1 p. c.

In three reserved for Schedule Tribes the polling was as under :

Constituency	Percentage of polling
1	below 10 p. c.
2	below 1 p. c.

10.15 : In Dibrugarh district there are 12 constituencies, out of which there was no poll in 3 constituencies. In the remaining 9 the poll was as under :

Constituency	Percentage of polling
1	26.08 p. c.
2	20 p. c. to 26 p. c.
4	10 p. c. to 20 p. c.
2	below 10 p. c.

10.16 : In Darrang district there are 15 constituencies, out of which in 6 constituencies there were no poll, in one constituency there was partial poll and in one constituency the poll was countermanded and there was no contest in one constituency. This left only 6 contested constituencies for which the polling results were as under :

It may be noted here that in 7 constituencies out of 15 of this district, the poll could not be fully taken due to stiff resistance of the people. It should be further mentioned that in 2 constituencies of this district namely, Dalgaon and Odalguri, the percentage of polling was sufficiently high i. e. 66.55 and 67.00 p. c. respectively. So far as Dalgaon constituency is concerned it is included in Mangaldoi Parliamentary constituency. We have already noted in the foregoing portion of this report that in 1979 about 45 thousand illegal voters who were foreigners were actually detected in Mangaldoi constituency and that was the starting point of the whole movement against foreigners in Assam. This 45 thousand voters continued to remain in the list as resistance was offered by Congress (I) leaders to the deletion of their names from the voters list. This easily explains the higher percentage of voting, in Dalgaon constituency. So far as Odalguri constituency is concerned the high percentage of voting is likely to be on account of P. T. C. A. propaganda about Udayachal State amongst the Boro tribals.

10.17 : In Nowgaon district are 14 constituencies which were contested. In one constituency the poll was partial and therefore could not be completed. For the rest the position was as under :-

Constituency	Percentage of polling.
6	More than 30%
4	10 to 25p.c
3	less than 5 p.c.

It may be mentioned here that Nowgaon has many Bangladeshi immigrant Muslims and it was from their area that

Shri Abdul Gani Khan, the Railway Minister had started his election campaign. The 6 constituencies in which more than 30 percent of polling was obtained, are all Muslim immigrant areas, viz, Hojai, Jamunamukh, Samaguri, Dhing, Rupahihat and Lumding. Subsequent table will show that these are all the areas of high growth rate of population suggesting infiltration of foreigners. 10.18; Taking Kamrup district there are 24 constituencies out of which three were unopposed. The polling analysis of 21 constituencies which were contested is as under :

Constituency	Percentage os polling
7	more than 30 p.c.
2	20 p.c. to 30 p.c.
6	10 p.c. to 20 p.c.
2	3 p.c. to 10 p.c.
2	2 p.c. to 3 p.c.
1	1 p.c. to 2 p.c.
1	below 1 p.c.

The 7 constituencies in which more than 30 p.c. votes have been polled are dominated mostly by foreigners.

10.19: In Goalpara district there are 19 constituencies. Out of which in 3 constituencies there was no poll and in one constituency there was partial poll. For the remaining 15 constituencies the result was as under :

Constituency	Percentage of polling
14	more than 30 p.c.
1	13.42 p.c.

In 14 constituencies above referred to, the poll percentage ranged from 31.75 p.c. to 79.44 p.c. It must be noted that Goalpara district is one of the main districts in which Bangladeshi infiltration is one of the highest, on account of the easy possibility of infiltration through Brahmaputra river and its islands.

10.20: Districts which now remain are North Cachar Hills, Karbi Anglong district and Cachar district. The previous one has 5 constituencies while the latter has 15 constituencies. In both these districts the polling has been much above 30%. In the former, it ranges from 34.78 to 55.91 p.c. and in the latter it ranges from 45.71 to 75.60 p.c. Cachar district is on the border of Bangla Desh and is considered as gateway to Assam. There, the population is mainly Bengali population, speaking Bengali language and following Bengali traditions. This explains the high percentage of voting in this district.

As most of the polling personnel did not know the script in which rolls were written anybody could claim to be anybody. Due to want of people to support the election, in most polling booths even contesting condideates could put in Election Agents. As such there was none to challenge a fake or wrong vote. Secondly, the copy of the electorall roll to be obligatorily marked was hardly marked. No polling officer had the compassion or inolination to check. Whether the copy has been marked. There has been impersonation on mass scale. Thirdly, as scores of memorunda auege, policeman carried ballot boxes from place to place collecting votes. 10.21: In order to appreciate the areas dominated by the foreigners who have managed to be enrolled as voters, following table, which is taken from the Census report of 1971 will be of some help.

Table No. 1

Distribution by density and growth rate.		
1961-71		
High density and high growth rate	Low density and high growth rate.	Low density Low growth rate.
Golokganj	Gossaigaon	Behali

Bilasipara	Kokrajhar	Majuli
South Salmara	Sidli	Bokkhat
Mancachar	Lumding	Mariani
Goalpara	Baithalangso	Kaliabor
Sorbhog	Howraghat	Dergoan
Barpeta	Bokajan	Digboi
Baghbora	Diphu	
Chhaygaon	Tamulpur	Dhekiajuli
Panery	Majbat	Margherita
Udalguri		
Jamunamukh		
Hojai		

Following table shows the relation between growth rate and poll percentage :

Table No. 2

High growth rate areas	poll percentage.	Low growth rate areas	Poll percentage.
1. Golokganj	59.5	1. Bokkhat	2.56
2. Bilasipara West	68.95	2. Mariani	13.7
3. Bilasipara East	45.69	3. Dergaon	2.46
4. South Salmara	73.49	4. Behali	No. Poll.
5. Mancachar	79.44	5. Majuli	No Poll.
6. Goalpara East	31.75	6. Kaliabor	16.5

The above table no. 1 shows high growth rate areas, and as already noticed in the foregoing portion of this report, this growth rate is much higher than the average rate of Indian population thereby suggesting that this much higher growth rate can be ascribed only to the population influx from the adjoining country Bangladesh, which was previously East Pakistan. Table No. 2 shows high poll percentage in high growth rate areas and low poll percentage in low growth rate areas. This means that more foreigners who were not entitled to vote, voted during the poll, and a great number of citizens, who were really entitled to vote, boycotted the poll. The result is that those who are elected are elected mainly by the foreigners and fake votes.

10.22. We have already discussed the seriousness of foreigners issue in Assam. But so far as this Chapter is concerned, we shall quote the following example from Election Commissioner's Report on these elections, regarding the Government's responsibility with reference to the problem of foreign nationals.

"Government's Responsibility"

The seeds of the basic problem of "foreign nationals" were sown decades ago; they started germination in late seventies and became perceptibly existent ever since 1977. Therefore, all the Governments since then, whether at the State or Centre, must share the responsibility for not holding the problem by its forelocks and allowing the situation to drift. Serious efforts to find a solution started only after 1980 but prior to that, the approach to an important national issue affecting the political and economic life of a sensitive state was at best lackadaisical. As already pointed out, the problem of foreign nationals and their inclusion in the electoral rolls has been brought to the notice of the Central Government by the Election Commission even in 1978 and repeatedly thereafter. The Commission has also repeatedly pointed out the need for solution of the problem and cautioned whenever the officials of the Government met the officers of the Commission during and after the negotiations.

That the Govt. of India were fully aware of the very large number of aliens getting enrolled as voters is proved by the fact that on 20-8-75, by secret letter no. 14011/16/75-F. III, addressed to all State Govt. and Union Territories, the Ministry of Home Affairs expressed concern at aliens enrolling as voters and directed that full an d

urgent enquiry should be undertaken through the C. I. D. Branch of Police and systematic action taken to delete the names of aliens from electoral rolls. It is interesting to note in that letter there was no mention of any, 25th March, 1971. The so-called "cut off" year (of 1971) was clearly a subsequent invention. Even while negotiations were going on with the movement leader perhaps the Government could have considered taking steps unilaterally for suitable legislation and subsequent administrative action of identifying the foreign nationals on the basis of 1971 as cut-off year, the date proposed by the Govt. of India themselves. If that had been done well in time, the Election Commission would have revised the electoral rolls for deleting the names on that basis which might have helped the conduct of elections in conducive atmosphere. It would at least have defused explosive situation in the State to a large extent."

10.23 : Nothing more is required to show the unwillingness of the concerned authorities to revise the rolls and further to show that the elections were held in an atmosphere which was not "conducive". We may repeat here that there is nothing in law which would prevent the Election Commission to revise the rolls irrespective of the political solution of the problem because foreigners are not entitled to any franchise in this country.

The above analysis of poll reveals the following situation :

(a) Poll could not be completed in sixteen legislative constituencies and seven out of twelve Parliamentary constituencies.

(b) Out of 122 legislative constituencies which were contested poll could be comple-

ted only in 105 constituencies and out of these 105 the total result was as under ;

Poll percentage	Total number of constituencies.
Below 10 p.c.	30
Between 10 p.c. & 20 per cent	17
Between 20 p.c. & 30 per cent	7
Above 30 p.c.	51

Thus in the majority of the constituencies in which the poll could be completed the poll percentage was as abnormally low as below 10 p.c.

Districtwise it was fully successful in three Districts viz. (1) N. C. Hills, (2) Karbi Anglong and (3) Cachar, and partly successful in Goalpara District. Goalpara district is full of foreign immigrants which sufficiently explains its success. Cachar is a Bengali district. The impact of the Assam movement was light in the N. C. Hills and Karbi Anglong district.

Main All-India Parties which contested the poll were 1. Congress (I), 2. Congress (S), 3. Communist Party (Marxist), 4. Communist Party of India. They respectively secured 91 (including 4 uncontested), 2, 2 and 1 seats. P. T. C. A. a local party for Tribals secured 3 seats and independents got 10 seats.

Percentage of secured valid votes of the total electorate in Assam (which is 7244812) works out as under so far as the above all-India parties are concerned.

Party	Valid votes obtained	Percentage to total electorate in Assam
Congress(I)	11,94,657	16.5 p.c.
Congress (S)	1,37,685	1.9 p.c.

C. P. M.	1,16,923	1.6 p.c.
C. P. I.	58,746	0.8 p.c.

Thus presuming that the poll was free, fair and regular at every booth, Congress (I) has captured power by 16.5 p.c. of the total electorate. Other parties are practically wiped out.

These figures again show why the Congress-I which was the party in power at the Centre opted for the poll on the basis of unrevised rolls. It is however difficult to

comprehend why the other All-India parties did go against the clearly expressed will of the people. Congress-I has gained power in return. It is undoubtedly a short term gain, but at what cost? At the cost of constant police firing, want of civil liberty in the State, bloody riotings, loss of thousands of lives, loss of property worth crores and above all the creation of permanent social and political disharmony, all of which speak for themselves very eloquently and need no further comments.

CHAPTER—XI

(ATTACKS, RETALIATIONS AND GROUP CLASHES)

Sub-Chapter—A

Immigrant Muslims vs. Assamese.

11.1 : It will be seen from the foregoing chapters, by the first week of February, 1983, the atmosphere in the Assam Valley was highly surcharged and tense. But yet there was neither any organised attack by one group on another nor any retaliatory attack. From individual violence to organised violence is only a step, but it is a very wide step, more particularly in the state which had been free from such violence in its history, except for a short spell in 1951, and despite the Assam movement lasting about 3½ years by then. The reasons why organised violence broke out on and from 11th February had been discussed in the foregoing chapters. As has been stated there had been widespread violence. While it is neither possible nor necessary, to discuss all of them, some incidents are described below to show the pattern and the trend.

MALIBARI SATRA

11.2 : The first organised violence took place at Malibari 'Satra' on 11.2.83. Malibari village is inhabited by about 300 families. The contiguous Misilamari village has about 125 families. Of the about 425 families only 22 families are Assamese. The rest are Bengali Hindus. Almost continuous to these villages is the "Char" (riverine island) area, which is inhabited by thousands of immigrant Muslim families.

Malibari is a 'Satra' i.e. the seat of a religious preceptor and "Guru." Except for the four major 'Sattras' in Jorhat district, these 'Sattras' normally have a "Namghar", at big hall where villagers assemble for spiritual and social purposes, a "Manikut" at the head of the Namghar and other houses complimentary to the "Satra."

The "Manikut" is a place of sanctity and in it there is the raised platform which is the divine seat. At it is a Vaisnavite institution, there is no deity. Normally the head and 'Guru' called "Sattradhikar" lives in the Satra.

On 11.2.83 at above 11 A.M. about a dozen Bengali Hindu immigrants' leaders followed by a crowd of about two thousand immigrant Hindus and Muslims arrived at Malibari shouting "Kill the Assamese." They set fire to the houses of Kamaleswar Kalita and Hemchandra Kalita, surrounding the village. However, by the time a police force, headed by the Sub-Deputy Collector (a revenue officer like a Tahsildar), and the Officer-in-charge of Mandira Police Post arrived. Seeing this the rioters fled away.

That very night Police arrested some of the rioters. What happened to them is not known. Promising to send protective forces that very night, the S.D.C. and the Police party left. None came at night.

On the 12th the rioters returned and started looting the Assamese houses of Malibari Satra. The attack continued till the 13th. All the houses were looted and set fire to. Though the houses of the 'Satra' were not burnt, perhaps for religious fear of the immigrant Hindus, its properties were either looted or strewn about. One person was injured. The Assamese people of the village fled away.

It is clear that Malibari could have been saved had the S.D.C. and the police party taken adequate action. First they should have taken very strong action against the rioters on the run when they first arrived. The dozen ring-leaders who had been identified and named should have been taken into custody. Thirdly, security forces should have been stationed there on the 11th night. Then mass-scale looting and arson would not have taken place on the 12th and 13th. Strong action here might have, in all probability, averted the tragedy in Chamaria on the 12th.

Though the first organised violence, this attack on Malibari has received very little publicity. (Ref. Memorandum of Khogen Bayan and Hara Kanta Satradhikar and witnesses 98 and 103).

CHAMARIA :

11.3 : The first major organised violence and second in order of time, took place early in the morning of the 12th February, 1983, when several thousand immigrant Muslims, estimated at eight to ten thousand, aided by some Bengali Hindus (Namasudras) attacked the prosperous Assamese Hindu village of Chamaria, having 700 families.

A map of the Chamaria area is reproduced in Annexure—7. It will be seen that this village of 700 Assamese Hindu families was

surrounded practically on all sides by several immigrant Muslim villages, except the Bengali Namasudra village of Baralimora on the north and some Assamese Muslim villages on the South-west. Chamaria is on the northern side of the Kolohi (Kolshi) river and the Assamese Muslim villages and Baralimora were on the southern side.

On 11.2.83, from about 9 P. M. the people of Chamaria saw movement of people in the immigrant Muslim villages and many torches (Fire at an end of bamboo sticks—generally called by these immigrants as "Mosals") moving. The people became alert, more so since immigrant Muslims attacked, looted and burnt the Assamese village of Malibari Satra, about 7 KMs. from Chamaria, on 11.2.83. Meantime S. I. Keshab Das and three constables came back to the Chamaria Police Outpost, which was there since 1980 and which was abolished, with even wireless sets removed, some days earlier. At about midnight on the 11th-12th February, 1983, large shouts of "Allaho-Akbar", supplemented by shouts of "Jay Ma Kali" (Bengali Hindu war-cry) were heard. Then the invaders proceeded towards Chamaria. S. I. Keshab Das shouted to them not to advance and fired a few shots in the air. But the rioters did not stop. People of Chamaria assembled at the eastern end of the village to defend, and the small police force was there. However, the rioters attacked the Police and badly injured constable Siddheswar Mahanta. They snatched away his rifle. At this the village people fell back in the face of overwhelming numbers assisted by fire-arms.

By dawn the full-scale attack began. Houses of over 183 families were looted and properties carried away by carts brought by the attackers and collected up locally. The houses were set on fire.

In the attack the rioters killed three ladies, an elderly woman, Rajani Baishya, aged 70, and two young girls Ganga Kalita and Manju Mahanta aged 25 and 19 respectively, very likely because they could not run away like the rest of the villagers.

The women and children tried to cross the river and come to Assamese villages in the area between Chamaria and Boko P.S., 13 Kms. away. But they found that the big boat which was kept for ferrying people, cars and carts at the river bank, was sunk, as also several private boats in the area. However, the women and children walked by the north bank of the river some six Kms. and then crossed over and found shelter in the Assamese Muslim villages of Jarabari, Chingara and Barna.

At night people from Assamese villagers to the south of the river, including Assamese Muslims, came for the rescue of Chamaria. But they found the road blocked and a bridge held by armed rioters who were mainly from the Namasudra village of Baralimara.

Some persons from Chamaria started for Boko P.S. at night but were obstructed on the road by the same rioters. They took a detour by the west and reached Boko P.S. by dawn. The Boko Thana informed S. P., Kamrup (probably on wireless) and S. P. in turn informed likewise the S. D. C. I/C Law and Order at Boko, namely Shri Maheswar Das, by 7 A. M.

Shri Jatindra Ch. Nath, Principal, Jawaharlal Nehru College, Boko, met the Officer-in-charge, Boko P.S. about 7 A. M. and requested him to rush to Chamaria. But the O/C pleaded inability to leave the Thana saying it was full of arms and ammunitions and could not be left in charge of others.

The S. D. C. with a Police Force arrived at Chamaria about 10.30 A. M. and the

S. P., Kamrup followed very soon after. On their arrival the rioters retreated.

The only redeeming feature was that the "Satra" complex at Chamaria was left untouched. Whether it was due to want of time at the disposal of rioters or whether it was due to divine fear in the minds of the Namasudras cannot be known.

The Commission received over a dozen memoranda about events at Chamaria, examined 14 witnesses about these and inspected the area locally. Special mention may be made of witnesses Nos. 5-7, 97, 98, 103 and 77 and Memoranda Exts. 97 (1) and 103 (1), and memoranda of Sarvashri Jatindra Chandra Nath, Herendra Bayan, Nabin Ch. Kalita, Puspa Das, Dinesh Ch. Goswami (Ex-M. P.).

The loss caused at Chamaria could not be estimated. Evidently it will be several crores. The village was prosperous. People had their granaries, which went on burning for 2 days. Here mention may be made of the method of Assamese people storing their paddy. The paddy is cut and harvested with about 12 inches of straw, bundled up and carried home. They are stored as such in granaries, called "Gachi Bharal" (store of paddy with straw). Paddy is harvested till the 13th January. Thereafter, leisurely, the straw is separated in batches and the paddy stored in "Guti Bharal" (store-house for separated paddy). The occurrence was on 12.2.83. Assamese people after harvesting, would enjoy "Bihu" for a week starting from the 14th January. Hence they had hardly time to do the thrashing for shifting the paddy from "Gachi Bharal" to "Guti Bharal". The "Gachi Bharals" were more inflammable and added to the loss.

Whatever separated paddy was there in the store or inside house was either looted away or destroyed in fire.

The question arises whether the calamity of Chamaria could be averted wholly or partly. The Commission finds that in several directions and in several steps the authorities, mainly Police, either failed to take action or failed to take action in time or took wrong step. First, there was a full-fledged Police Post at Chamaria from 1980. It was established, apparently, as the area was danger-prone (unless it was established merely to arrest and oppress Assamese youths between the ages of 15 and 50, as was the order of the day). It was wrong action to remove the Police Post. It had wireless set. If nothing more, it could have informed S.P., Kamrup at midnight, and it is only two and a half hours drive from Gauhati to Chamaria. The withdrawal of Police Post must have been known to the rioters. It removed from their mind the only fear. It was removed stealthily at night and even W/T sets were taken away.

Evidently it was removed as men and materials were diverted to Election Duty. Clearly, for the Government of the time, election (and capturing power by Congress I) was more important than the lives and properties of the citizens.

Secondly, it was unwise of S.I. Keshab Das to fire in the air. That made the invaders feel that the fire power is not there to reckon with. Instead, had the S.I. and the three constables simultaneously fired (to kill) at the rioters, they might have retreated. In any case, they could have been held back for hours.

Thirdly, the force from Boko, either with the S.D.C. or with some S.I. should have arrived within an hour of the P.S. learning. It is clear from the evidence on record that some Armed Police Battalions were at Boko. They could have been rushed forth. If the

force was for election duty it could have been replaced by the forces the S.D.C. and the S.P. brought. The delay of about 3 hours was responsible for at least half the village being plundered and burnt.

The failure of the S.D.C. and the police force at Malibari has already been noted.

The whole Chamaria village did not have a single fire arm.

Evidently the Assamese people from south of the river (Boko side) who came to help Chamaria, but who were prevented by Bengali Hindus of Baralimara, did not take it lying down. Apparently a clash ensued. In it several Bengali houses of Baralimara were burnt; Debeswar Thakuria, an Assamese was killed and Ramesh Majumdar and Uday Das (both Assamese) injured.

(Ref. witnesses Nos. 5.7. 97-105, Mr. D. Goswami, ex-M.P. and Mr. S. Deka, Advocate).

DHULA

11.4 : The Dhula area of Mangaldoi (then a sub-division of Darrang district and now named Darrang district) is surrounded by immigrant Muslims on all sides. In the area are small villages of Dhula proper, Balabori, Paliagaon and Thekerabari or Hirapara. In all there were 130 Assamese families in these villages.

On 17.2.83 at about 11.30 A.M. several thousand Muslim immigrants attacked the area. As the attack was about starting Shri Deben Deka and Shri Ashok Sarma went to inform the Mangaldoi Police Station. The D/C sent them away asking them to Phone if attack actually starts.

The rioters looted all the houses and burnt almost all of them. In the attack 21 Assamese were killed.

The Manager of Taugoni T. E. phoned

Mangaldoi P.S. when attack actually began, S.I. Pradyut Kumar Dey simply ignored the message. But A.S.I. Lohit Sarma, with a posse of Assam Battalion constables arrived some 2/3 hours later and saved a part of the area, for seeing them the rioters left.

The Dhula tragedy is purely the result of Police negligence and putting out the neck of the people to be hacked. On 3.2.83 these immigrants attacked the Embankment & Drainage department staff posted in the area. While they managed to escape all their properties were taken away. This alone should have put the Police on alert.

Instead S.I. Pradyut Kr. Dey did not take any action when the two persons reported to him. He again ignored the message of the Manager, Tangoni T.E. It is a pure case of a Bengali officer allowing Assamese people to be looted and killed.

There is something more in the affair. About an hour earlier to the attack, Mr. K.P.S. Gill, I.P.S., one of the about a dozen Inspector Generals of Police, landed there at Dhula from a Helicopter. An hour after his Helicopter took to the air the attack in the area began. Why did he go there? He must have got scent that something is going to happen there! Otherwise there was no point in his going there spending thousands of rupees per hour from the public exchequer by Helicopter flying. Unless he had scent of something serious brewing he would not have gone there. If he did scent, what action did he take as protective and preventive measure? Absolutely none! If his landing there was accidental, and he had no scent, his failing to scent trouble even after landing tells a lot about his qualities as I.G.P.

A.S.I. Lohit Sarma, as stated earlier came and saved lives and properties. He must have come either without the approval of

the Officer-in-charge, S.I. Pradyut Kr. Dey or despite his opposition. So he got his "reward". The Government have summarily dismissed him and the six constables who accompanied him. What a justice!

There is also a human side to the event. The attackers included one Fazar. He was friendly to Hari Nath, who was endangered. So Fazar suggested that Hari Nath should take shelter with his family in Fazar's house. So Hari Nath, his wife, 4 children and three guest children left for Fazar's house. However, a group of rioters chased them. Finding no other way of escape, they dropped into a pit. The group speared and beat the father, till not life was visible and left. When people, after police came, searched for the missing persons, they found the pit and lifted up the persons. They found that the top six people, including Hari Nath and his wife dead, but three children at the bottom still alive. The three were given medical aid and latter sheltered in the orphanage, where they are living now. The orphanage is run by Government.

How can the people be blamed when they assert that the Government of the time, and naturally their servants, were interested in "teaching the Assamese a lesson" and bolstering up the minorities/foreigners?

That is not the end of the Gill affair. He found some people guarding what was left of Thekerabari (Hirapara) and got them arrested and marched off to Thana.

[Ref. evidence of witnesses No. 200, 199 and 15, 20, Memoranda Exts. 20(1) 195(1), 200(1) and Memoranda of Sarvashri Narendra Ch. Kalita, Sitaram Nath, Madhab Ch. Pathak, Anandi Ram Nath (Ext.-20(1) Rudra Kanta Deka, Madhab Ojah and Exts, 199 (1) and 200(1).]

GHORIA.

11.5 : Ghoria is a typical example of immigrant Muslim expansionism. Ghoria is a 'chpori' (alluvial high land). Since 1971 fifty Assamese families had been cultivating it. There were a few immigrant Muslims there and the Assamese employed them as farm labourers. Gradually the number of the immigrants swelled. The tide increased since 1977. They built huts.

Slowly the immigrants became the majority. Then they started theft at night and other types of oppression on the Assamese, evidently to compel them to go away so that the immigrants can occupy the lands. Finally on 14-2-77 they looted the Assamese houses and burnt them. The Assamese have not dared to go back to the area since.

HATIMORIA.

11.6 : In Hatimoria in Mangaldoi some Assamese had a farming cooperative Society and cultivated lands therein. The neighbouring Muslim immigrants wanted to drive them away and occupy the land. So they took advantage of happenings around and on 13-2-83 in a body demanded the Assamese to leave and chased away the devotees who came to pray in the Hindu temple. They captured the priest and took him away.

The next day they set fire to all the houses of the Cooperative Society and compelled the residents to flee away. [Ref. Witness No. 181 and Ext. 181(1)].

DHOLPUR/OPORIA 'CHAPORI.

11.7 : Near the Assamese village of Dholpur is the Oporia 'Chapori' (high alluvial land), which is near to the area of immigrant Muslims. The local Assamese of 50 families had a Farming Cooperative Society to grow crops in the 'Chapori' and had their farm houses there.

On 29-1-83 when the Congress I candidate for election, Md. Mahtab Ali, came to Satkhali, a village near Dholpur, some people (clearly anti-election ones) set fire to his vehicle. He then, accompanied by some Muslim immigrants, visited the immigrant areas at night.

From 1-2-83 the Muslim immigrants set cattle to eat and destroy the growing crop of the Assamese Farming Society, and had been crying "Bangladesh Zindabad" and "Assamese, go away from the area" and so on. From 9-2-83 they started looting standing crops and cattle of the society. On 13-2-83 the immigrants drove away the devotees who collected to pray in the temple. On the 14th the immigrants looted the contents of the houses of the members of the society and then burnt the houses. They also killed four persons including the priest of the temple and 11 persons got injured. (Ref. Memoranda of Sarvashri Debendra Nath, Domohu, Nath, Karna Sadhu, Kartik Nath and Smti. Sobulata Devi and witnesses No. 181, 182, 185 and 241 and their memoranda).

KORAIKHOWA, BORBHITA AND BOGNAN

11.8 : Between Mankachar, the border-point between Assam and Bangladesh, which is in the Goalpara (now Dhubri) district and Goalpara town in the Goalpara district, on the road-side there are only Koraihowa, Borbhita and Bognan as Assamese villages. The rest are all immigrant Muslim villages.

The village Koraihowa itself has about 30 families of immigrant Muslims. The immigrant houses are in between and the Assamese houses are on either side.

For a long time these Assamese villages were in danger, as the immigrants did not

want any Assamese in the line starting to about 40 miles. In 1979 the Assamese villagers petitioned the Deputy Commissioner of the district to start a Police Outpost there. The petition was enquired into by S.I. (or A.S.I.) Rohmat Ali, accidentally or deliberately. He did not recommend any Outpost. It is debatable whether his finding was free from bias as the area was a danger spot. In any case, his views prevailed and no Outpost was sanctioned.

On 14.2.83 the Muslim immigrants of the area, who number several thousand, raised war cry. The villagers got panicky. They found Police C.I., T. Gogoi returning from election duty and requested him for help. He blamed the Assamese for the movement (against foreigners) and asked them to help themselves. The people went to Goalpara and requested Police authorities for help. While the Circle Inspector gave "Dhomak" to them, the S.P. said he had no spare force.

On the same night the immigrants started attack on Borbhita. But the Assamese were able to repulse. Evidently there was a clash. The immigrants left threatening to come back the next day.

On the 15th the Muslims were reinforced by several thousand people coming from the "Char" areas across the Brahmaputra. They started attack at Karaikhowa. Some of the immigrant Muslims coming to join the main body of attackers attacked the small Police Out-Post of Khormozsa on way and killing a Constable threw his dead body into a well. (The other members of the Police Out Post fled to the hills nearby. They were afraid of returning to Goalpara town by the normal route. Ultimately Shri Nakul Kumar Das and his friend in two Motor bicycles had to bring them, through a circuitous route to Goalpara).

Altogether 16 or 17 Assamese villagers were killed and some 30 injured. Looting and arson continued till 23.2.83, with a few hours' respite on 14.2.83 when Police arrived and arrested some rioters. This arrival saved the other villages.

Karaikhowa was a rich village. While the thatched houses and some parts of pucca/semi-pucca houses got burnt, the rioters carried away even wooden posts and C.I. sheets from the houses.

In Karaikhowa there is the house of a Bengali Hindu Doctor Sudhir Chatterjee, Jyotsna removed his wife to that house, while the attack began. At night, finding the situation dangerous, she and some other stole away to another village. The man went to the Doctor's house early in the morning with his mother. The rioters chased him there too and compelled the Doctor's son to bring him out. He has not been heard of since.

Witness No. 569, Shri Parameswar Das, a teacher, had at his house a radio which the Government gave for the school purpose. It was also looted. After some days he saw the same radio being offered for sale in the weekly market. He informed Police. Police seized it. He had been moving a year to get it back (for the school) but in vain. The Magistrate had been asking the Police to report but for eight months Police has not reported. It speaks a volume about the administration in the State.

Such was the state of law and order. Then again on 21.2.83 immigrant Muslims attacked the Bazar, did some looting and injured some people. They kidnapped two Hindu boys to Balamari char, a purely Muslim immigrant area. However, Habibur Rahman, an Assamese Muslim teacher of Dolgoma, at great personal risk went there and ultimately secured their release.

The Commission visited the place and found that of the houses of Karaikhowa Assamese, only the plinths remain. The looting even of C.I. sheets and wooden parts of houses was evident.

So far the witnesses Nos. 569, 570, 574, 575 and 576 did not speak of any loss of life to Muslims. During their visit to the place the Commission found three houses of Muslims in Karaikhowa partly or fully burnt. Apparently fire from nearby burning Assamese houses affected them. But when the Commission examined witness No. 578 Hilaluddin Ahmed, he disclosed that seven Muslims also died. He said they were killed in Karaikhowa incident at night. Secondly, he said they saw persons attacking Karaikhowa Assamese houses but out of fear they did not come out at night. He also denied seeing the loot being carried, even though it must have continued for days. What is more, he said during the attack he heard shouts of "Jai Ma Kali". Clearly witnesses 574, 575, 476, 569 and 570 did not speak the whole truth. They wanted to suppress what happened at Borbitha on 14.2.83. Likewise No. 578 gave out deliberate lies to hide the fact of their participation in the riotings on the 14th and the 15th. During questioning he had to admit that in the whole area there may be hardly 10/12 houses of Bengali Hindus. They could not have formed a rioting body of this magnitude. The Assamese do not utter "Jai Ma Kali" as a war-cry. He wanted not only to suppress their part in the rioting but also wanted to import Bengali Hindus as the guilty ones.

But the circumstances and the mention of resistance on the 14th at Borbitha appearing in Ext. 574 (1) clearly show the correct picture. The Karaikhowa Muslims also were a part of the

rioters on the 14th night when they suffered seven dead (and the Assamese at least 16). These deaths were not on the 15th but on the 14th. {Ref. Witnesses Nos. 564, 570, 571, 573, 574, 575, 576 and Exts. (Memoranda) No. 564 (1), 570 (1), 571 (1), 573 (1), 574 (1), 575 (1), 576 (1)}

DHARIAIKHATI/PETUA/BORNAJULI

11.9 : These are 'Chaporis' (alluvial high lands) in Mongaldoi. It is noted elsewhere Muslim immigrants consider alluvial lands their domain. These three 'chaporis' were under occupation of Assamese. So to drive them out, the immigrants set fire to the houses and looted properties of Petua and Bornajuli on the 14th February, 1983. and of Dhariaikhati on the 15th. 19 Assamese were killed. Police was informed on the 10th, but no action taken (Ref. Memorandum by Mitiram and Anil Bora).

GOLANDI TEA ESTATE

11.10 : In the Golandi T.E. evidently in surplus land of the T.E., there were Assamese families. On 17.2.83 Muslim immigrants, in order to drive out the Assamese and occupy their land, attacked the village and burnt all the houses. One woman of the village was seriously injured. {Ref Witness Nos. 183, Exts. 183 (1) and Memorandum of Rajani Kanta Kalita}

DOSOTHANI

11.11 : On 14-4-83 at about 7-30 P. M. a lot of Muslim immigrants attacked the Assamese village of Dosotani in Mangoldoi sub division. The looting and burning of the houses of the village continued till the 15th. The villagers put up a resistance but the attackers killed 19 men of the village on the 15th and threw their dead bodies to the Brahmaputra. The village was destroyed. {Ref. evidence of witnesses No. 18 and 24 and Exb No. 18(1)}

CHOWLKHOWA CHAPORI

11.12: It is another alluvial land (Chapori) in Mangoldoi. Near it are char areas inhabited by Muslim immigrants. The Assamese started cultivation of the "Chapori". The Muslim immigrants in Assam have come to think that all the 'Char' (small riverine islands) and alluvial lands belong to them and that the local people should come nowhere near them.

So, taking advantage of the overall situation, on 14-2-83 Muslim immigrants invaded the Assamese settlement. Evidently a clash ensued. Over 20 Assamese people were killed and 30 injured. The invaders also suffered some casualty as we have found in connection with Dhula incidents that the Muslim casualties from Chowlkhowa were brought to Dhula. The settlement was destroyed and all properties including a gun looted.

(Ref. Memoranda of Basanta Deb Sarma and Bhaba Kanta Deka)

LOTABOA (NOWGONG)

11.13: Lotaboa is another village almost surrounded by immigrant Muslims. On 23-2-83 S.I. (2nd Officer) Rahman of Rupahi P.S. entered the village at the head of a C.R.P. contingent by one end. A large body of immigrant Muslims around, entered by the other and started arson on the village. When the people tried to resist the S. I. threatened them pointing rifle. So loot and arson continued unabated.

About 2 hours later S.P. Nowgong and S. I. Gogoi of Rupahi P. S. arrived. S. I. Rahman and party retreated through the field. At that moment the S. P. learned of killing of a S. I. in Kotayani and so he hurriedly left. Anyway seeing S. P. and party the attackers left.

On 24-2-83 Army patrolled the village. About 1 P. M. army retreated. Then the

same immigrant rioters came back led by some named persons armed with fire arms and grenades and completed destruction of the villages of Lataboa, Gereki, Uluoni, Gayanchuk, Panikhoachuk, Kaluagaon, Amalbori and Borongatoli. These villages house some 5000 Assamese families.

Five persons of Gereki were badly injured and one killed.

Retaliation was not wholly wanting. Sadhan Bora of Gereki saw Muslim houses near his village burning.

After Gereki was fully burnt and while Uluoni was burning S. I. Rajib Singh arrived with C. R. P. He arrested 90 rioters.

(Ref. Memoranda of Sarbashri Moneswar Pathak, Sonaram Bora, Hemoram Bora and over 50 other Memoranda of like contents and evidence of witness No. 233 and Ext 38 (1))

CHOPAI DOLGAON

11.14: On 16-2-83 Muslim immigrants tried to attack the village, but in the face of the resistance they withdrew. The 17th was election day. On the 16th the village people, all Assamese, moved away the women and children to the extent possible.

On 18-2-83 the Muslim immigrants attacked the village, looted the properties of the 50 Assamese families and set fire to their houses. The wooden parts of the houses were removed. The school house and the 'Namghar' were not spared.

About 11 people were injured.

(Ref. Memorandum of Shri Khongroi Kalita)

KUORI GAON

11.15: This Assamese village in Mangal-doi was attacked by immigrant Muslims. As usual all houses were looted and burnt.

Evidently there was resistance. The Assamese suffered 30 dead 20 injured.

(Ref. Memorandum of Bhaba Kanta Deka)

KAMPUK

On 15-2-83 a large number of Muslim immigrants attacked Assamese villages of Kamput proper. Police arrived and resisted. There was a regular clash. Police opened fire. The attackers retreated. (Ref. Ext. 260)

UTTAR SANKSARI AREA

11.17: In this area there are different villages with different religious composition. The Kachua and the Ghilani villages had a Muslim immigrants majority while Daburj and Uttar Sanksari had an Assamese majority. There were some Bengali Hindus also in Debnari.

Apparently there was a confrontation between the Assamese and the immigrants at Ghilani. However Police arrived at the spot and brought the situation under control by firing also.

But the immigrants advanced towards Sanksari and apparently another confrontation began. A second batch of Police arrived and opened fire. Two Muslims were killed and two Bengali Hindus injured.

This is a case of relief. As we find dozens of cases of Police inaction, there is a case of positive and timely Police action to avert what might have developed into a greater tragedy. (Ref. Witness No. 29)

GORUMORA

11.28: Gorumora is a sad case of villagers turning upon co-villagers on religious consideration. This village in Nowgong district has 28 families of Assamese Muslims and about 122 families of immigrant Muslims and Hindus. They lived in peace and amity. But, perhaps due to the vitriolic atmosphere all around, some 1000 Muslim immigrants of neighbouring areas collected in

the house of a Muslim in the village. After a while they jumped upon the Assamese. They stabbed and killed Bona Ram Bora. The Assamese fled away. The rinters burnt the houses of all Assamese after looting them and did not spare even the Namghari (village place of worship). As the Assamese fled they did not see whether the Bengali Hindus joined with the Muslims. But their houses were found intact.

(Ref. Ext. No. 269)

SUTAR GAON

11.19: Sutargaon is a village with 89 Assamese families about half a mile away from the large concentration of Muslim immigrants. Evidently the Muslims wanted to drive away the Assamese to occupy their lands. So from January 83 they threatened the Assamese not to go to the fields.

On 23-2-83 S. I. Rahman of Samaguri P. S. who has figured in like capacity elsewhere also, led a batch of C. R. P. constables and a large body of Muslim immigrants and set upon the village. They shouted "Allaho Akbar" and started looting of the whole village. Then they burnt the houses of all families, except 14. Pradip Bora and Reba Bora of the village were injured. (Ref. Ext. No. 37(1) and Witness No. 37)

BOROLAKHAITY/BONGAL PORA

11.20: These two villages of Assamese people in Mangaldoi became the victims of the neighbouring Muslim immigrants on 14-2-83 and 15-2-83. All the houses were looted and burnt and 19 Assamese villagers killed. (Ref. Memoranda of Abhimam Hazarika Hem Saikia and Rama Kanta Nath)

GRANLAND

11.21: A surplus land of Grandland T.E.

was settled by government with Assamese. The neighbouring Muslim immigrants have an eye on it. So, falling in line with the prevailing conditions, they attacked the settlement at about 2 P.M. on 18-2-83, looted all the houses and set fire to houses of 51 families. They threw an old woman to fire to die.

This was the final to their first attempt on 16-2-83 which could not materialise due to strict watch by the Assamese. The 17th was election day. Any way women and children were evacuated on 16/2/83.

This village is another victim of Police inaction. Soon after the incident on the 16th, people informed Police. But no action was taken. Had some action been taken the events of the 18th could not have taken place.

(Ref. Memoranda by Tilak Deka, Jagat Deka and Bhogiram Deka)

BARABHUYAN

This Assamese village under Sootea P. S. in Tezpur did not escape the eyes of the neighbouring Muslim immigrants. It was attacked, houses looted and burnt and six of the people killed.

(Ref. Memoranda of Phatik Ch. Bhuyan)

TRILOCHONA, DEOHAR & JAMBARI

These three are Assamese villages not far from Chamaria. On 13-2-83 immigrant Muslims attacked the villagers, looted the houses and burnt them. One Dhanbahadur a garkhali, who came to Bilochana to his father-in-law's house, was speared to death when he tried to escape.

Police went later and brought the dead body to Boko P. S.

(Ref. Ext. 103 (1) and witness number 100)

MALABARI

Malabari is an Assamese village

on the bank of the Kalong river on the Gahati side. On 14-2-83 a large number of Bengali Hindus and immigrant Muslims attacked the village, looted and burnt two houses of the fifty families. While the looting and arson were on two persons slipped out and reported to Khetri P. S. But Police took no action.

(Ref. Evidence of witness No. 180)

On 23-2-83 leading people of Bagia, an Assamese village in Nowgong district, convened a Peace committee. Some Muslim immigrants of the neighbouring village also came. As the meeting was proceeding, an immigrant Muslim came running and reported that at Koteyani some ten thousand Assamese are setting fire to Muslim houses. The immigrants then left the meeting.

Some persons of Bagia informed Samaguri P. S. As they returned from Police Station, they found fire already started in Bagia village. At first the number of attackers were only 500/600. By the time they reached the village the number of rioters swelled to a few thousand. One Kuddas Ali who teaches students of Bagia was firing at the villagers. Kumud Mahanta of the village took his gun also but the cartridges were old and defective and did not fire. Then another batch of attackers came by the other road to the village.

The sound of a vehicle on the wooden bridge spanning the river near the village was heard. The immigrants mistook it to be a police vehicle and retreated. However it proved to be an Assam State Electricity Board jeep.

In any case the villagers got courage and stood by for resistance should the attackers come back. A Police vehicle with

the Sub Deputy Magistrate in charge of Law and Order arrived. The S. D.M. ordered fire on 50/60 rioters armed with deadly weapons, met on the road. But somehow the Police did not obey. However rioters went away. But they kept on collecting the cattle of the villagers from the field.

Houses of 30/35 families in the village were burnt. There were 8/9 families of Bengali Hindus in the village. Their properties were also looted away but their houses were spared.

In the attack five Assamese were killed.

The village 'Namghar' was also not spared. The Commission visited the village and sat over the plinth of the burnt 'Namghar'.

(Ref. wit No. 271, 267 and 272, Ext 266(1) Memoranda of Putu Banik and 35 others)

BHUKELI KANDA

11. 26 : Bhukeli Kanda is a small Assamese village in Mangaldoi surrounded by Muslim immigrants on all sides. On 13-2-83 there was an election meeting in the area addressed by Smti Anwara Taimur and Dr. Abeed Ali. Anti-Assamese and anti Hindu speeches were delivered therein.

On 14-2-83 the immigrants first drove out the assembled devotees from the Shiva temple in the area and broke the idol. Soon after, in the evening, several thousand Muslim immigrants attacked the village, looted the houses (including the gun of Shri Shanti Ram) and set fire to the houses. They also killed 19 of the villagers and injured over 60. The rioters drove away the cattle of the village also.

They shouted "Bangladesh Zindabad", "Pakistan Zindabad" etc.

The looting continued till the 15th when

police arrived Sipajbar P. S. Police arrested 2 rioters.

(Ref. Witness no. 17 and 184 ; Ext 184(1) and Memoranda of Sarvashri Mahendra Nath Sarma, Goneswar Saikia, Kishore Kumar Newar, Gopinath Sarma and Benudhar Deka)

KARUATI

11. 27 : Immigrant Muslims of nearby 'Chars' attacked the Assamese village of Karuati on 19-2-83 and looted and destroyed the houses. The resident fled away to relief camp.

On 21-2-83 the the same miscreants stole away the standing crop of the victim villagers from the field as also cattle.

(Ref. Memoandum of Marali Hazarika)

BONNOGORI

11. 28 : This Assamese village is in Mongaldoi. On 18-2-83 several thousand muslim immigrants raided the village and looted all the houses. The burnt houses of 77 families.

(Ref. Memoranda of Tarun Deka, Jogendra Nath and Narapati Nath.)

ADABHITA, CHOKI, POLASHONI AND BORBHATI

11. 29 : On 21. 2. 83 Muslim immigrants, joined by Hindu immigrants, attacked these Assamese villages in Tezpur sub division and destroyed the houses.

As the miscreants indulged in loot and arson of individual houses prior to this mass attack, the people on 14-2-83 informed Sootea P. S. and the Sub Deputy Magistrate at Naduar Circle and again on 20-2-83. This process was repeated. But no action was taken.

(Ref. Memoranda of Cheniram Barua and Ext 121 (1) ; 124 (1) and 130(1))

11.30 : Borchola, Kahibari, Bonelo Pathar, Charaihagi, Ekcholiabari, Gorukhuti, Bhekohabari, Betabari, Bagenabari, Suga-heroa, Bhuyanbari, Doloigaon, Kendubari and Bhuyanbari pam.

From 13-2-83 to 17-2-83 immigrant Muslims carried on rampage in these 14 mixed tribal and non-tribal Assamese villages, plundering them and setting fire to houses. In the incidents 4 Assamese were killed and 3 injured in Kahibari, six Assamese villagers were killed in Bhekhabari, four villagers from Borchola and six from Charaihagi also met with death.

The invaders then proceeded to attack the Assamese segment of Dangoria gaon, which houses several families of Assamese Muslims but when they reached the outskirts of the village the Assamese Muslims resisted them. The attackers retreated.

{(Ref Memoranda of Serapat Ali, Ahmed Ali and another of Smti Manormoy Bora & 11 others of like nature as per list, of Mohendra Patar of Charaihagi and 21 other persons of the same village on same lines as per list, of Bhogiram Deka of Borchola and 59 others alike of the same place as per list, Anil Saikia and 43 others alike as per list, of Bhabani Charan Patar, Bil kish Patar, Padma Kanta Bora and 44 others alike as per list and Exts 220 (1), 221 (1) and 226 (1) Witness No. 224)

The area was a risk area. In Nov 1979 the Muslim immigrants, shouting "Allaho Akbar" was about to attack the area when a Police force, including Mr. K. P. S. Gill (then DIG) arrived and saved the situation. Police then established an outpost at Borchola. Before the election it was withdrawn. Evidently with the administration of the time, votes (and victory of Congress-I and allies) counted more than human lives and properties.

POLAHJURI

11.31: Polahjuri in Nowgong district is a mixed village of Assamese tribals and non-tribals. On 15.2.83 from morning to noon a large body of immigrant Muslims attacked, looted and burnt the village. It is alleged that a Muslim Ex-MLA led the rioters.

Nine of the villagers were killed and 30 injured. [Ref. Memoranda of Dumbor Koer and 66 others Memoranda from others on the same line as per list] Ext. 222 (1) and witnesses no 222 and 224)

NO-DULBARI, SORATBORI, DEORABARI & WABORI

11.32: Quite near a vast area of Muslim immigrants in Nowgong district are those Assamese villages named above. Of them No-Dolbari is inhabited by Lalung tribals.

On 13.2.83 Muslim immigrants attacked, looted and burnt the Assamese village of Morigaon, 6 miles away. This news made the Assamese people anxious. On 14.2.83 they assembled in the Soratbori village to discuss about safety. As discussions were in progress about 9 P.M. alarm by way of sounding "daba" (a round stationary drum) was heard. People became alert and people of No-Dolbari also came. There was a clash with the Muslim rioters, who retreated. The Assamese chased them. Meanwhile, it is stated that the Muslims set fire to their own houses in Khoopia village. Evidently it was the doing of the Assamese.

Next day came the news of the Muslim immigrants destroying Borchola village. The people kept themselves in a state of alert.

However, the advance of a very large number of Muslim immigrants made the tribal people of No-Dolbari flee houses. So the rioters looted and burnt the houses. (Ref. Memoranda of Sarvashri Umesh Katoky,

Gopal Deka, Moti Deka, Digon Deori, Khoneswar Deori and 9 others)

PIPARA & MACHUA PARA

The Muslim immigrants rioters attacking Pipara on 13.8.83 and Machua para on 2.8.83 took as heavy toll killing 60 in the first village and 11 in the latter. All houses were burnt and looted leaving several thousand Assamese homeless.

GETGUPUR

11 34 : This village in Nowgong district is inhabited by a thousand families, of which the great majority are Assamese and the rest Bengali Hindus.

On 15.2.83 about 5/6 thousand Muslim immigrants attacked the village and set fire to all the houses. Police came. Seeing Police the rioters fled away towards Madhupara (Ref. Witness No. 258)

KANDURIMARI NOWGONG

The incidents between the Muslim immigrants of the surrounding areas and the Assamese village of Kandurimari lasted 4 days.

On 15.2.83 about a thousand immigrants, drove away about 100 heads of cattle of the village from the field. When 35 villagers went to get them back the immigrants attacked them. Lohit Das who was a bit ahead of the rest was killed at the spot. The rest fled away.

On 16.2.83 about 10 P.M. several thousand of these immigrants, attacked the village and set fire to houses of 90 families out of about 180. People assembled and resisted. The attackers withdrew.

But on 18.2.83 the immigrants came in greater force and tried to attack the village. Police arrived meantime. There was exchange of fire between the attackers and the Police for about 2 hours. Then the attackers withdrew leaving five dead. (Ref Witness No. 257)

PUBPATAR GAON

11 36 : There were only seven Assamese families in a hamlet of Pubpatar gaon. On the other side are houses of several thousand Muslim immigrants.

The Muslim immigrants went on threatening the Assamese on 27.3.83. 5000/6000 Muslim immigrants attacked the village and burnt some houses. People ran to police. Police came and arrested some rioters.

PANPUR

11 37 : A steam ferry boat crosses over people and goods and over the Brahmaputra between Silghat on the South and Panpur on the north. Panpur lies in Sonitpur (Darrang of old) district. In the winter people, to and from the boat in Panpur, have to wade on foot through a large sand bed. Panpur is inhabited almost wholly by immigrant Muslims.

On 19.3.83 following a rumour about oppression on a Muslim family on Silghat side, the Panpur immigrants attacked the passengers who got down from the steamer and were walking on the sand. Some were injured and one killed.

Some ran back to the ferry boat which steamed off the bank to avoid attack.

Some of the injured were treated in Silghat (Ref witness No. 117 and 256)

NAHARBARI

11 38 : Naharbari area of Tezpur has a lot of immigrant Muslims and Hindu population. The Congress-I candidate for election was heard exhorting his audience to believe that he is with the minorities, come what may. Even if whole of Assam is ruined, he went on, he is with them. In this atmosphere the immigrant Muslims and Hindus attacked the Assamese of Erasuti, Teliagaon, Dagaon and Naharbari and

looted the properties and burnt the houses.

(Ref. Memoranda of Sarvashri, Nobin Sainik, Gopiram Hazarika, Rameswar Das, Nanda Deka, Someswar Das and Buddheswar Bhuyan.)

KOKRAJHAR-SALAKATI

11-39 : On 15.3.83 S.I. Kubback Ali of Kokrajhar P.S. led a crowd of immigrant Muslims shouting "Allaho Akbar" and started setting fire to the Rajbangshi houses. When people tried to resist, he ordered his C.R.P. force to fire 30 rounds. Kuhen Ray was injured and fell down. As he fell the immigrants struck him with daos and spears and he expired.

Police took away the dead body and next day threw it in a ditch near the old Thana building.

The same Police force came next morning and started action against the Rajbangshi Assamese, including killing Hemanta Ray and injuring others. Police also met on the road and arrested eight Rajbangshi B.S.F. Jawans who were on leave, despite their showing identity cards.

On 9.4.83 a group of Muslim immigrants helped by Bengali Hindus, set fire to houses of five families of Assamese people in Silakati village.

On the 5th April again the immigrant Muslim crowd under the leadership of S.I. Kubback Ali proceeded towards Bamunigaon. He shot down Prabhat Barman to death. The villagers fled away out of fear. On the 6th same immigrant crowd looted the houses of Majibari, Dumki, Bamunigaon, and Pakhiguri and set fire to the houses, residents having fled away out of panic on the 5th.

On the 6th April a crowd of Muslim immigrants attacked Ghilaguri as the people fled away. They could return under police escort only after 18 days when they found

all their properties looted and houses burnt.

Apparently there was an open clash between the immigrant Muslims and Rajbangshis in Kokrajhar Bazar on 5.4.83 in which Hemanta Ray was fatally wounded.

On 9.4.83 a mixed crowd of immigrant Hindus and Muslims set fire to houses of five Assamese families of Silakati village.

On 10.4.83, the Muslim immigrants started attack on Assamese villages of Silakati, Kothalguri, Gourangtari and Nasan Kuti and started looting. Then S.I. Kubback Ali arrived at the head of 31 B.S.F. constables and joined the attackers. In between the Muslim and the B.S.F. even paddy was

not spoiled. Loots were carried away by

tractors.

(Ref. Memoranda of President & Secretary of Bidyapur Regional Students Union, Rajani Sarma, Pradip Majumdar, Kaya Barua, Amrit Patgiri, President, Basugaon Literary Society, President, Basugaon Students' Union, President and Secretary, Salakati Students' Union and others.)

11 40 : On 17.2.83 a lot of immigrant Muslims crossed over the Brahmaputra from

Nowgong and landed in immigrant Muslims areas of Jahazduba Chapari and Chinaguri.

From there on 18.2.83 several thousand immigrant Muslims advanced towards the Assamese area of Biswanath Ghat. The S.I. of River Police tried to dissuade them from attacking. But rioters placed spear on his stomach and ordered him to keep away.

The River Police had only 'Lathis' (though it is strange that in days of such tension a Police Party is left in a river ghat without arms). But one Shri Karim Depari, an old resident of Biswanath (though not an Assamese) succeeded in sending them away.

But on 21.2.83 another batch of Muslim P.S. was informed. But police came 4/5 immigrants attacked the Assamese villages hours later. of Górehagi and burnt all the houses of (Ref. Memoranda of Chakiram Barua and the village. As the attack started Biswanath 12 others and Witness No. 134)

Sub-Chapter—B

MUSLIM IMMIGRANTS

VS.

ASSAMESE TRIBALS AND ASSAMESE MUSLIMS

11.41 : There is a vast area, spread over the Morigaon Sub-Division and the Nowgong Sub-Division of the Nowgong district where Assamese, mainly tribal, villages and Muslim Immigrant villages intercept, apart from there being solid Muslim immigrant blocks in the "Char" areas of Brahmáputra river which flows by the district.

From the 11th February, 1983, there began a series of confrontation between the Assamese tribals and immigrant Muslims in the vast area, resulting in large-scale looting (of Assamese properties), burning of houses in over 100 villages and loss of life numbering over 200 and culminating in the tragedies in Borbori and in the Nellie area.

GORJAN, BAKULGURI, BELBORI, KACHARIGAON & GHOGUA

11.42 : On 11.2.83 (soon after the meeting speech of Abdul Ghani Khan Choudhury,

the Union Railway Minister) immigrant Muslims attacked the Assamese tribal villages of Gorjan, Bakulguri, Kacharigaon, Ghogua and Belbori. They are inhabited by Lalung, Deori and Chawdung tribes. All the villages were looted and all houses therein burnt.

(Vide Memoranda of Sarvashri Jogeswar Chawdung, Dina Bordoloi, Molabor Bordoloi, Bogiram Patar, Bachia Deori, Mohiram Bordoloi, Tholbar Bordoloi, Ketep Bordoloi, Dola Bangthai, Saruman Bordoloi, Jogen Bordoloi, Cheniram Bordoloi and Smti. Chilamoi Bordoloi, Joti Chowdang and Gopali Sahani.)

BHUYANBARI & GORA

11.43 : From 12.2.83 to 17.2.83 immigrant Muslims attacked, looted and burnt the houses in the Assamese tribal villages of Bhuyanbari, and Gora.

Rojabori, Panchabori, Koholiabari.

11.44 : On 11.2.83 Muslim immigrants looted the houses of the tribal villages of Rojabori, Panchabori, and Koholiabari, all in Lahorighat area, and burnt them.

(Ref. Memoranda of Chittaranjan Patar, Jadumoni Deka, Sudhram Patar, Arun Patar and a host of others and witness 226)

HABIBORONGABARI, HEKEDANGBORI, CHARIPUNIA, SORATBORI AND MANIPUR-TOOP

The immigrant Muslims looted the houses of these villages, inhabited by Assamese tribals, and burnt them on 15.2.83.

Bhekobori, Tosabori, Hatibat, Sukdol, Kopoborajhari, Sinduguri & Bonbari.

11.46 : These tribal villages were attacked by immigrant Muslims on 15.2.83. They were likewise looted and the houses set on fire.

{Ref. on 11.45 and 11.46 above ; Memoranda of Debendra Saikia, Sitaram Patar, Jaduram Deka, Pahiram Nath (of Hatibat) and 34 other Memoranda from Hatibat—all alike as per list and witness 226.}

Assamese Muslim village of Dhing proper.

11.47 : On 13.2.83 immigrant Muslims attacked the Assamese Muslim village in Dhing proper and looted and burnt the houses.

Sologuri, Kandhulimari, Bamgaon & Bordubia.

11.48 : On 15.2.83 immigrant Muslims attacked these tribal villages in Dhing area. But a force of C. R. P. arrived timely and drove away the invaders killing five of them.

(Ref. Memoranda of Ritel Sarma Barpujari and Jiban Kalita.)

Attack saved by Assamese Muslims.

11.49 : On 13.2.83 a large crowd of immigrant Muslims came to attack Assamese tribal villages in Dangaria area. But when they

reached Dangariagaon Reserve, the Assamese Muslims confronted them. The would be rioters turned back and looted some tribal houses on way.

(Ref. Memoranda of Hamidur Rahman, Azizur Rahman, Jinder Ali, Rezzak Ali Mondal and witnesses 220 & 221.)

Bokulguri

11.50 : It was the turn of Bokulguri tribal village to suffer loot and arson at the hands of immigrant Muslims on 18.2.83.

LUTIMARI

11.51 : On 19-2-83 immigrant Muslims attacked, and raided the big village of Lutimari, looted and burnt houses of 700 families of Assamese. In the attack four of the villagers were killed and many injured.

(vide Memoranda of Bhanthiram Deori, Lokheswar Bora and others.)

Potiapam.

11.52 : The attack of the Muslim immigrants on the Assamese village of Potiapam resulted in a clash, where one person of each side died and many Assamese injured. The number of injured on the side of the attackers is not known.

(Ref. Memoranda of Dharma Kanta Barua and witness No. 260.)

Baruakata :

11.53 : Similarly a clash ensued when Muslim immigrants attacked the Assamese village of Baruakata. Sixty of the defenders were injured.

Rowmari, Itapara & Laogaon.

11.54 : On 21.2.83. the Assamese villages of Rowmari, Itapara and Laogaon attracted the invasion of Muslim immigrants. 31 families lost everything in loot and arson.

(Ref. Memorandum of Jogesh Ch. Das)

KOTAYONI

11.55 : Kotayani is another Assamese Hindu village surrounded by Muslim immigrants on all sides in the Nowgong district. The village had 57 families. The immigrants raised war cry for days. People informed Samaguri P. S. but on 4/5 occasions police said they would come and the people should have no fear. But police did not come.

On 23.2.83 at about 1 P. M. 3000/4000 Muslim immigrants started attack on the village, shouting "Allaho Akbar". Gradually their number swelled. They started burning the houses in the village.

A. S. I. Digen Nath of nearby Police Out-Post arrived with some constables and some Home guards. The rioters formed groups and attacked the police party from all sides. Digen Nath was killed on the spot and his rifle and uniform were taken away by the rioters. The rest of the police party fled.

Seeing the rioters doubly armed, the village people fled away. All houses were burnt. Next day when some villagers returned with police help they found an old lady of 70 badly hurt.

The Commission visited the village and found all the houses, including the L. P. School and the "Namghar" burnt.

(Ref. wit. Nos. 273 & 233)

BOKULARGURI

11.56 : Bokularguri is an Assamese village of 200 families. Near the village there is another village of 40/50 families of Assamese tribals. Across the Kapili river to the north are about 200 souls of immigrant Muslims.

Both on the 15th and the 16th February/83 the Muslims advanced to attack the Assamese, but were held back. Fearing the position to worsen the Assamese sent away the women

and children to the neighbouring Karbi Anglong district. At about 2 P M. about ten thousand Muslim immigrants attacked the village. Apparently there were attack and counterattack. Cheniram and Nilá of the village were killed ; Janai Kakati thrown to fire and Beepa Bora stabbed.

Binanda Ch Bora, who fled to Karbi Anglong on the 18th, found on his return on the 21st all houses of Assamese and the Muslims of the area burnt.

(Ref. wit. No. 264)

KOTHOJHARI AREA

11.57 : In Kothojhari proper in Nowgong district there are 30 families of Assamese tribals (Lalungs) and non-tribals. Near about is the tribal village of Chatagoza. Another neighbouring village is Beliguri, inhabited by Assamese tribals and non-tribals. About 2½ miles away is the Muslim immigrant area of several thousand.

As could be expected the Muslims were for election ; the Assamese opposed it. Bad blood developed.

On 12.3.83 the Muslim immigrants attacked Chatagoza village. The Assamese assembled in Beliguri village. The Assamese requested the Muslims not to attack saying any dispute could be amicably settled. But the Muslims did not agree.

The Muslims met with resistance. Nine of the Assamese villagers were killed. Many injured. The Muslims succeeded in burning 12 houses of the Assamese. The day developed to night. At night police arrived and patrolled the area. After they retreated several houses of Muslims were burnt by the Assamese.

{ Ref. wit. No. 219 and Ext. 219 (1) }

KOHUA ALI

11.58 : Kohua Ali is a big village where 500 families of Lalung tribals lived. It is

near Silpukhuri village in Nowgong district. On the same day on which Silpukhuri was ravaged, the same immigrant Muslims raided this village, looted all the properties and set fire to the houses.

(Ref. Memoranda of Maloti Bordoloi, Ganesh Bordoloi, Golap Deuri, Moneswar Patar and Satya Bordoloi).

KOPNA ATI.

11.59 : It is a village of 400 Lalung tribal families. On 14.2.83 several thousand Muslim immigrants looted the houses in the village and burnt them.

(Ref, witness No, 51)

JENGORBORI

11.60 : Jengorburi in Nowgong district is a village of Boro tribal people. On 17.2.83 several thousand immigrant Muslims attacked the village, looted it and burnt the houses.

(Ref. Memorandum of Magaram Boro and 34 other Memoranda of the same lines - as per list)

CHOTA GORJAN

11.61 : This village in Nowgong district houses Lalung and Karbi tribals. On 2.2.83 about twelve thousand Muslim immigrants attacked the village. They injured an old man of about 100 with arrows, tied his wife to post and set fire to the house. The old woman was burnt to death. The old man's eyes were taken out and his nose cut before he met with death. The rest of the villagers ran away.

All the houses in the village were burnt.
(Ref. wit. No. 218)

ROJABORI (MORIGAON)

11.62 : Rojabori in Morigaon Sub-division of Nowgong district is a small Assamese village amidst thousands and thousands of Muslim immigrants. On 13.2.83 about 7.30

P.M. several thousand of these immigrants attacked the farm area of the village. The villagers tried to resist. As a result, the attackers killed three of the village. The rest of the people fled away. Rioters then looted the houses and burnt all the houses.

This village had long been standing in danger. As early as 30-11-78 the immigrant Muslims, crying "Allaho Akbar" proceeded to attack the village. Fortunately police arrived and averted the attack-D. I. G. Mr. K. P. S. Gill also came. A police camp was started at Pohora Chapori.

Sometime later the camp was abolished. That was an unwise decision. In any case, a post should have been established there after election was announced, having regard to its past history.

{(Ref. Memoranda of Sarvashri/Shrimati Godoh Pator, Biroh Patar, Bohagi Pator, Sudhiram Pator, Akon Pator, Sadhurar Pator, Prabin Pator, Cherpai Pator, Milika Pator and Bipin Pator and Ext. 226 (1).}

BORONGANI, KASHTORI, BHUYAN BARI

11.63 : These are Assamese tribal villages in Nowgong. On 17-2-83 several thousand Muslim immigrants attacked the tribal villages of Bhuyanbari (and Bhuyanbari Pathar), looted and burnt houses and killed one Lahu Kachari. Then the rioters advanced to Borongani and Kashtori. Meantime the Assamese people gathered and prepared to resist. They were joined by the four constables of the nearby Out-Post. The rioters fell back and stood on one side of a wooden bridge, while the defenders were on the other side. The rioters set fire to their end of the bridge. One of the defenders, while trying to extinguish the fire was killed by the rioters.

Both parties were armed with fire-arms. The

leading rioters covered their heads and chests with steel plates.

Then a police force was seen advancing. The rioters fled.

{Ref. Ext. 226 (1)}

POHAPAM

11. 64 : Muslim immigrants in their thousands attacked Pohapam village in Nowgong on 18-2-83. However police arrived. There was firing by both police and attackers before the rioters retreated.

{Ref. Exts. 240 (1) and 42 (1)}

SILPUKHURI

11. 65 : It appears from 16-2-83 retaliation and counter-attack by the tribals assisted by non-tribal Assamese in some cases, began and it became free for all. In the process immigrant Muslim villages of Behaguri, Kunkunguri, Dighali-pathar, Beshuta and others also suffered full-scale arson.

One note-worthy case is that of the Silpukhuri village where there are 59 Lalung (tribal) and about 240 immigrant Muslim families, the Muslims attacked even their Lalung co-villagers, looted their properties and burnt the houses. Even witness Haji Seraj Ali Fakir, himself an immigrant Muslim, says that on 14-2-83 he saw Silpukhuri village burning and that Lalung houses were burnt. The same thing happened in Goramara.

(Reference Memoranda of Sarvashri Nasiruddin Ahmed, Kameswar Nath, Bhadreswar Nath, Tayeb Ali, Sk Nur Mahmmad, Sarukon Barua, Hamidur Rahman, Merubor Deori, Prasanta Deori, Sadar Deori (all in favour of the Lalungs) and recorded evidence of Sarvashri Rupram Bordoloi, Kurddus Ali, Hazi Seraj Ali Fakir, Abdul Jabbar, Jamiruddin and Nurul Islam.)

There was a police (Armed) Post within

2 furlongs of Silpukhuri. Villagers informed it when a few hours earlier to the attack some threats were received. Yet no help came from that post. It is not understood why it was maintained there at all at public expense.

BETAGAON/LANGLINGA/BORIGAON/ KHUSI GAON/KACHARIPARA

11. 66 : These are all Boro tribal villages in Mangaldoi. The neighbouring immigrant Muslims attacked them. All houses were looted and then burnt. One person (of Kacharipara) was killed.

(Ref. Memorandum of Ramesh Ch. Boro)

BORBORI

11. 67 : Borbori is the first organised Lalung counter attack on a large scale. Borbori village, in the Morigaon Sub-division, is a village of 207 immigrant Muslim families. On the other side of the road, in the village called Borbori No. II there are 45 families of Bengali Hindus. The villagers to all sides of the village are inhabited by Assamese tribal and non-tribal people, except the immigrant Muslim village of Unalguriati.

On the 20th January/83 some Assamese villagers came and asked them not to vote. After some discussion a meeting was held and a peace committee formed. On 13-2-83 a boy of the village was caught by some young (Assamese) men but fortunately he escaped. The villagers reported to S. D. O., Marigaon, who assured to look after their safety. But nothing was done.

On 14-2-83 some Bengali Hindus of the village told their Muslim co-villagers that they saw movement of people in the Hindu villages of the area. The people went to Morigaon, but not finding the S. D. O. met

the Congress I election candidate, Mr. Bor-doloi, who was safely lodged in the Circuit House. When reported he pleaded helplessness as all forces were busy for election only. On 16-2-83 some villagers went to Jagi Road P. S. and reported there. Police said they would look after it. On 17-2-83 at noon A. S. I. of Jagi Road P. S. with 50/60 constables came, assured the villagers and went away. He assured that over 100 Armed men would be patrolling in the area.

On 18-2-83 Abdul Karim (now dead) who had been to Beltola Rice Mill learnt from some Bengali Hindus there about impending trouble that day. People sent Samshul Huda (now late) to Amsoi Police Post. He reported back that S. I. Ghana Kanta Datta told him that Borbori is not within his area and so he could do nothing.

That very day five of the villagers who went to Ahotguri market were attacked on way by Assamese Scheduled Caste people. While Akin Ali was killed, the four others swam across the Kapili river to safety.

About noon about 4000/5000 Assamese people came from Boralimari side. They first attacked Unalguriati and set fire to houses of that village. The residents ran to Borbori for shelter. The rioters then advanced to Borbori, where the people collected on the road at the head of the village. The rioters opened gun fire. Five villagers (aged 63, 50, 60, 35 and 18) died at the spot. The villagers allege that S. I. Ghana Kanta Datta was with the rioters.

The villagers fled westwards. The rioters chased them with guns, bows and arrows, 'dao' etc. 5/6 people died in the running. In the Masjid area two old men, aged 90 and 65, were killed by gun shot.

As the people crossed Borbori II, they

found another crowd attacking from west also. The people ran helter skelter. The houses were all burnt. Even women and children were killed.

A vehicle carrying a C. R. P. force came from the west and stopped at Dharanttal bridge. The party rescued 150 people at Dharanttal ghat and 90 people down the river. Some of them were dead.

About 4.30 P. M. the C.R.P. Party came near the village. The attackers fled away.

On 19.2.83 the villagers returned to the village with police help. They found 585 people killed. The majority of them were women and children. All the houses including the Masjid and the Madrasa school were fully gutted. The cattle were stolen away.

They buried all the 585 people in a mass grave which the Commission saw.

It is evident that had the authorities been alert the tragedy could have been averted. First, on the 13th the S. D. O. took no action. Secondly on the 17th the Jagi Road force should not have left the village without making adequate arrangement for its safety. Thirdly, S. I. Ghana Kanta Datta should have taken some positive step like coming there or informing S. P. on wireless. Apparently none took the danger to the village seriously.

Allegations have been made in the memoranda submitted by Chamber of Commerce, Freedom Fighters' Association, Students' Union, Gana Sangram Parishad and Jyoti Sahitya Sabha of Morigaon that on the 18th February, the grown up males of Borbori were not in the village as they had, along with the Muslim immigrants of Nellie area, crossed over the Brahmaputra to raid the Dhula area of Mangaldoi, and

that is why, the casualties were mainly women and children and some old men.

While the fact that the death toll does not include grown-up men, even though in any such attack the grown up men face the challenge lends credence to the allegation; there is no conclusive proof to support it. In any case, it is immaterial for the purpose of the Commission.

The Commission visited the village and found all the houses burnt, including the Madrasa school and the Mosque. The Commission also saw the mass-grave of 585 people and paid homage to it.

(Ref. wit. No. 254)

NELLIE

11.68 : The worst tragedy of the clashes between Muslim immigrants and the Assamese, mainly tribals, which took place in February, 1983, happened in a group of villages which have passed on under the name of Nellie. Nellie is a vast area having Nellie as the focal point. Actually Nellie is a small and a bit developed area on the National Highway. The villages, Basundhari, Bhogduba, Dimalpar, Matir Parbat, Silbheta, Borjola, Bhogdubi Habi, Mukoni and Rupohi, where the killings took place on 5.8. K. Ms. away from Nellie is their trading Centre and out-let to urban area. Nellie area is contiguous to Mikirbheta area. The villages named above are some of the scores of villages inhabited by immigrant Muslims. In both Nellie and Mikirbheta area also scores of villages inhabited by Lalung tribals and other Assamese, including non-Lalung tribals. While Nellie area is under Jagi Road Police Station, Mikirbheta area is under the jurisdiction of Mikirbheta Police Station.

Some media and some debates in the parliament have tried to paint the Nellie inci-

dent as an isolated and distinct event. It is not. Earlier in this Sub-Chapter will be seen that starting from attack on such Lalung and Assamese villages as Ekcholiabori, Borchola, Gorukhuti, Kahibari, Panchabari & Charaihagi on the 13th February by immigrant Muslims, there had been series of such attacks on such like villages. In some places it was a one-sided affair of attacks and victimisation only. In some cases clashes ensued resulting in death to both sides. On the whole till the fateful day, the 18th February, the tribals and other Assamese came the worse.

As can be seen from the Memorandum of Jogeswar Nath and 27 others, following attacks on their villages on the 13th, from the 14th onwards women and children of these areas shifted to comparative safety in Mikirbheta area, where Relief camps were started by people.

On 15.2.83 the immigrant Muslims drove away cattle of Assamese people from the fields of Choratbori and Deorabori, which are near Jagi Road P.S. In the resistance they killed two Assamese and carried away the deadbodies. This resulted in a clash, the details of which are not there.

On the 16th people found two dead bodies of Assamese in the fields of Habi Borongabari village.

All these built up a considerable tension amongst the Lalungs and other Assamese. The final provocation came when in a place called Choka boha the immigrant Muslims killed five Assamese pedestrians including 3 grown up girls, one semi-aged man and a boy of about six.

The Lalungs, aided by some other Assamese, felt that a revenge on scale was required; and so on 11.2.83 about 8 A.M. 15/16 thousand Lalungs and some other Assamese attacked the immigrant Muslim villages of

Basundhari, Dimalpar, Matirparbat, Silbheta, Bhogduba, Borjolla, Mukoni, Bhogduba Habi and Rupohi. Almost all the houses were set fire to and there was indiscriminate killing. The witnesses, Abdul Gafoor, Md. Abdul Malik, Md. Hazrat Ali, Abdul Falam, Samsher Ali, Abdul Hai and Serajuddin Ahmed, Nos. 524-529 and 211 (a) state that total casualties were 990, the great majority of them being women and children.—70% being women and children, 20% aged people and 10% youngman. Serajuddin Ahmed is an Assamese Muslim, who had married a girl from the immigrant people of that area. On the night of occurrence his parents, elder sister and 4 daughters were in her father's house and got killed. His wife was injured.

Mr. Sonee, the B.J.P. representative in the N.E. India, says when they first visited the area after the incident the number of those killed was given out by the affected villagers as 600, and that gradually an exaggerated figure was given. Whether the villagers exaggerated the figure to 990 cannot be ascertained. But some quarters indulged in absurd exaggeration. Even in the Parliament some speakers spoke of several thousand. Eight leading Muslims of Nowgong filed a petition dated 25.3.83 to the Chief Minister of Assam alleging killing of 10,000 Muslims in the disturbances—an absurd figure. A copy of the petition is exhibited by a witness.

But whether the numbers killed is 600 or several thousand is immaterial for the Commission. The point is that a tragedy of considerable magnitude was enacted there.

Allegations have been made that on that fateful date most of the young men of the villages were away, having gone to attack Dhula in Mangaldoi but could not return due to police interference. The disproportionately low number of young men killed is offered as a proof of it. The witnesses however deny it and say that as the attackers were armed with fire arms they could not offer resistance. They fled. The young men could run away faster. So there casualties were less. The women and children naturally lagged behind and suffered more killed.

The Commission is not concerned with the veracity or otherwise of either version. It is tragic that helpless women and children suffered most.

There was no looting of property as such. Assamese people do not loot as a rule. But properties worth crores and crores of rupees were burnt.

In Chapter VIII of our Report we have dealt at great length about the Law and order. Authorities being pre-warned about serious tension in the area from the 14th onwards. It was clear as anything that anything might happen by way of law and order situation in the area. We have also shown thereon how police failed to take any action to prevent the happenings. We need not repeat them here.

Sub-Chapter—C

Tribals vs. Non-tribals (Assamese)

GOHPUR

11.69 : The incidents in Gohpur, very serious in their magnitude, had the peculiarities. The first is that it was a mini-war between two sections of the Assamese people—the Boro tribals and the non-tribals. The second is that due to police inaction, what began as an attack by Boro tribals on the 11th February, 1983, ended only on the 14th, about 6 P. M. when curfew was imposed, as a free for all.

Gohpur by itself includes quite a large area. The centre or semi-urban portion has the sanctity as the place where, in 1942, Kanaklata became the first lady freedom fighter in India to have hoisted the National Flag on the police thana building. She was shot down dead at the spot by a police Sub-Inspector who later opted for Pakistan. The place bears her statue and is a place of reverence for Indians.

The area of Gohpur concerned is on paper still, a Forest Reserve. From 1972 Boro tribals, mainly those who could no longer live in Nagaland border areas due to frequent troubles by Nagas including killing, began settling on the Reserve, felling trees and clearing the land for cultivation. Gradually the number of tribals increased. A large number of Miching tribals also entered the area. Non-tribal Assamese people were not far behind. They also encroached on a large area and established several villages. Some immigrant Muslims, Ex-tea garden labourers and some up-country people also made their homes there.

Several attempts have been made by the Forest Department in the past to remove the encroachers. But everytime from Government level such attempts have been stalled. The Boros had a suspicion that neighbouring non-tribals Assamese people prevailed upon the forest officials to ask for eviction operations.

In any case there were great divides between the Boro tribals and the non-tribal Assamese in the area. The divides were physical, social, linguistic, political and religious. The Railway line passes through dividing the areas occupied by the tribals and the non-tribals. It is a physical divide. Socially, the Assamese caste Hindus do not look upon the tribals as equals. For some years past the Boros had been asking for making Bodo an officially recognised associate language in Assam. That is the linguistic divide. From the point of religion most of these Bodos are Christians and the Christians Missionaries are and always on the dividing game. Politically, the Bodos are supporters of a separate tribal state in Assam, to be named Udayachal. They fielded election candidates on this line.

In 1981 the Boros there had the All-Assam Udayachal Conference, where large banners displayed the area as Udayachal and where fiery separationist speeches were made. They claimed that the Gohpur areas to the north of the Railway line formed part of Udayachal where Assamese non-tribals had no right to live. Even on 12.2.83 one Chekon

Teron, a Karbi tribal, informed Khagen Nath that the Boros had decided to occupy all lands to the north of the Railway line.

In such a back-drop inflammable materials and fire were rolling side by side. It was only a question as to which touches the other first.

The election, with the Assamese advocating boycott of it and the Boros anxious to see their candidate (Plains Tribal Council) win did the work. The Assamese suspected that the Boros were arming for a fight. Witness No. 142, Lakhi Prasad Boro, says, on 1.2.83 he saw Boros training people to fight. It was learnt that one Lahi Karmakar, a man from a distant area, had started a smithy in the Boro area and made lots of steel arrow-heads for the Boros. Some students went to him and had an altercation with him. What finally happened is not clear. But that enraged the Boros. Meantime a rumour spread that Assamese people had burnt houses of Boros. That decided the issue. The Boros got down to the way of war.

First, on 11.2.83 Bengabari was attacked and the houses of all the fourteen non-tribal Assamese set on fire. It is alleged that the wife and daughter of Lahiram Das were raped by the Boros. Then attack spread to Dhulabari. On 12.2.83 in Dubia area the Boros tied the inmates of nine Assamese families to posts and kidnapped and raped four girls. One person was killed. Farther on Boros attacked the villages of Jaroni, Rangajan, Naharani, Dogaon, the Parbojyoti Farming Corporation, Bengbil (where also rape is alleged) and Naharani where 26 people were killed and over 300 injured in resistance.

Thereafter, it became free for all. By the 14th Jhalukbari, Brahmajan Dani Gaon, Rohdola and other villages were attacked. All the houses were looted wherein the tea garden

and ex-tea garden labourers of the neighbourhood also joined. Half the homes in the Assamese villages were burnt.

In all over 100 Assamese were killed including a woman.

The laxity of police action so encouraged the Boros that about 150 Boros set fire to Changaigaon and killed four persons by chasing them even while a police force was seen at a distance.

Though it has not come out in the evidence, it is clear that the Assamese also retaliated, perhaps from the 13th, in the same manner. As a result several thousand Boros also had to take shelter in the refugee camps. The extent of casualty suffered by them is not known.

A large number of ex-tea garden labourers and Bengali immigrants (Muslims) joined the Boros in attacking the Assamese. Perhaps they wanted to buy the goodwill of the Boros and insure their residence in the future-Udayachal. In any case, they were immediately rewarded. The Boros scrupulously spared the houses of Bengalis, tea garden tribes and other non-Assamese.

The tragedy in Gohpur was caused by police inaction and great laxity in whatever little action was taken. When the attack began on 11-2-83 some villagers went to report to the Officer-in-Charge of Ghaghigaon Police Out-Post. The S.I. Tarasing Hazarika came only on the 13th even though the Out-Post is within a few kilometers. He with C.R.P. arrested some 30/40 rioters along with their bows and arrows, but released them less than 24 hour later along with their arms on the 14th. People naturally question why only 30/40 were arrested out of several thousand and why they were released along with arms.

On the 13th some villagers reported to the Sub-Deputy Magistrate of Gamiri. He

reported to D.C. over wireless to take security measures. That very late night a Dy. S.P. along with C.R.P. and the 2nd S.I. of Ghaghigaon O.P. arrived and waited for the night. Next day, early morning the force rounded up 30/40 Boros and brought them along with an injured Assamese to the Assamese village. After taking the arrested some distance, the force released them and took the injured to hospital.

After about 2 hours S.I. Tarasing Hazarika and a force came, but went away a little later. All requests to leave behind a force was rejected on the plea that without orders from above it cannot be done. He advised evacuation of women and children.

The Dy. S.P., a Christian tribal, showed contempt for the Assamese and even threatened to shoot them if they try to defend themselves. One Police Officer even said that everything would be O.K. if people make up with Baputi Payeng, the P.T.C. candidate for the area for election.

A holocaust as in Gohpur was already in the scheme of Plains Tribal Leaders. For instance, on 19-3-81 the then P.T.C. M.L.A. in the Assam Assembly, Shri Samar Brahma Choudhury, threatened to set not only Assam, but the entire north-eastern India, on fire and create such a situation that a volcano, never dreamt of in this region, would erupt, if the demands of the P.T.C. were not conceded (vide his speech in the Assembly published as P.T.C. publication No. 1/81).

{ Refs. Witnesses Nos. 142, 139, 144 and Exts. 139(1), 142(1), and Memoranda of Sarvashri Budheswar Kakati, Uresha Saikia, Maheram Das, Bipin Sargiary, Ghiasuddin, Puaram Kakati, Srimanta Bordoloi, Kamaleswar Saikia, Nalini Kr. Hazarika, Sarbeswar Changmai, Rabi Ram Barua, Kamaleswar Saikia-No. 2. Rupai Kakati, Bhadreswar

Kakati, Khagendra Bora and Tankeswar Bora }.

JAHAMARI AREA

11.70 : In Tezpur Sub-Division (now Sonitpur district) there are several Boro tribal Assamese villages. Though the Gabhru river passes through the area, Boro and non-Boros have villages on either side. Some were mixed villages, for instance No. 2 Borpukhuri.

Starting from election campaigning relations between Boros and other Assamese were strained. While the former wanted election and win for their candidate, the latter advocated boycott of election.

On 18.2.83 a procession of Assamese ladies came towards a Boro village to press for boycott of election. At Betabari, a Boro village, some people blocked their way, words exchanged. The processionists went back. Witness No. 6, Sonaram Debnath and Chakra Pathak came to enquire. Some Bodo boys asked them on way not to proceed adding that there was a big Boro meeting in HOZAI gaon.

A rumour spread in Boro areas that in Gohpur area lots of Boros were killed by Assamese and that Boro houses were burnt. This was enough to ignite the smouldering fire. On the 19th a large number of Boros, aided by Bengali Hindus and Muslims (as in case of Gohpur), attacked the Assamese village of Jahamari and set fire to houses of about 25 families.

Women and children and some others crossed over the river in panic and came to the other side. From the 20th onwards till the 21st it was free for all. No. 2 Bagapani, No. 2 Borpukhuri, Teliagaon, No. 2 Bahamari, Sarkara, Jahamari and Missamari all Assamese villages, and Gotonga Borpukhuri, Natun Kacharigaon, Puthimari—all Boro villages, were more or less completely

guted. In No. 2 Barpukhuri 2 persons were killed and several injured when they resisted the attack. In the mad competition to do harm to each other Jahamari was attacked again on the 20th and the remaining houses burnt.

A very large part of the damage could have been averted had the police acted quickly. There was a police Out-Post at Gayabakar, about a mile from Jahamari. It was abolished some 15 days prior to the incident, evidently to "secure" the election.

On the 19th about 9 A.M. hearing of trouble at Jahamari Profulla Goswami (Witness No. 57) went to Tezpur P.S. Though Jahamari falls within Dhekiajuli; from the eastern side of Gabru river, communication to Tezpur is easier and quicker). Dy.S.P. Tilak Hazarika and Gopal Kakati were there. But one A.S.I. shouted at him. He came back to the river bank. Seeing people gathering near the river bank he feared attack on Boro villages. So at 1.30 P.M. he went back to Tezpur P.S. He got the reply that there was no force.

On way back he met a Defence Service personnel on leave. The Defence man said he would contact the D.C./S.P. directly and so both went back to Tezpur P.S. While the witnesses waited outside for some time

police informed that a force would come provided he showed a motorable way, as bridges on roads were damaged.

Witness No. 60, Dhananjoy Das, seeing a police force near Puthimari, implored it to come to Missamari which was burning. After an initial refusal the police force went there. The D.C. and the S.P. also came there about 2 P.M.

Had Tezpur P.S. taken some quick action at 9.30. A.M., when first informed, most of the villages might have been saved. It was not that there was no force. A force did come some hours later.

Secondly, there was an Assam Police Battalion on the western side of the river. It could have been asked over wireless to come there.

Perhaps Tezpur police neglected because the area falls within Dhekiajuli P.S. But they did not inform Dhekiajuli P.S. either.

The Commission visited these villages and was happy to find old relations fully restored. (Refs. witness Nos. 66, 57, 61, 56. and memoranda of Sarvashri Mohan Das, Khagen Nath, Sabharam Nath, Punaram Saikia, Tuaram Nath, Kamal Nath, Madhab Nath, Haricharan Nath, Smti. Chandika Debi and several memoranda by Boros.)

Sub-Chapter—D

Bengali Hindus and Assamese in conflict.

DHEKIAJULI

11.71: Dhekiajuli is a small town in the then Darrang, and now Sonitpur district, having a cosmopolitan population. However, the Bengali Hindus predominate. On 1:2:83

the Netaji School building was set fire to at night. The Bengalis suspected the Assamese.

The next day the Bengalis, with lathis, daos etc. attacked some Assamese houses in two wards of the town. However, as

police arrived further clash was averted.
(Ref. evidence of Surja Prasad Barua)

NORTH LAKHIMPUR

11.72 : On 7.2.83 400/500 Hindu immigrants shouting "Jai Ma Kali" attacked the Assamese villages of Bishnupur Kalitagaon and Tekjuri and burnt the houses of seven Assamese families. Police being informed 14 rioters were arrested but next day police released 13 out of them. These 13 then burnt houses of six other Assamese families.

{Memoranda by Tanka Bora Gaonbura Ext. 622 (1), Priya Ram Kalita and Sonadhar Hazarika, Dehiram Bhuyan, Ext 623 (1) and Komol Saikia, Ext. 624 (1)}.

GORESWAR

11.73 : Goreswar is a large area to the north-east of Kamrup district and borders the Darrang (now Mangaldoi) District. After Partition several thousand Bengali Hindus from erstwhile East Pakistan settled there. As the area does not experience either flood or draught, the people are quite-well-to-do.

Apparently on the 20th February and the 21st February there was arson in and assault on the Bengali villages like Jagannathjan, Chatiapara (both in Mangaldoi), Ramgaon, Rowmari etc. (of Kamrup). As the Bengali Hindus have wilfully non-co-operated with the Commission and have neither submitted Memoranda nor offered to depose, the details are not known. But having regard to the conditions prevailing, there is little doubt that the Assamese have done the mischief.

As a retaliation first on the 21st February, Assamese villages of Kepaphita, Umamanda, No. 3 Rowmari etc. were set on fire by the Bengalis.

The police appears to have jumped upon the Assamese villages in a big way. The

Armed police, (most likely B.S.F. though many people called all Armed Police C.R.P.) appears to have been let loose. They assaulted many Assamese and killed many individuals (about 13). Looting and arson by them are also alleged. Even molestation of women in Singimari village has been alleged. S.I. Lakhindra Bora is alleged to have led armed forces in attack on Assamese villages.

{ Vide Memoranda of Sarvashri Arabinda Bora, Naren Barua, Rajen Deka, Arabinda Deka, Haricharan Deka, Sarat Patowari (Principal, Goreswar College) and Goreswar Regional Students' Union and Exhibits Nos. 2 (1), 3 (1), 1 (1) and 4 (1) and 593 (1) and oral evidence of witnesses Nos. 2-4, 590 and 593 and 595 }

TAMOLBARI—ROWMARI AREA

11.74 : In Tamolbari, Rowmari etc. area of Mangaldoi (now Darrang district) Bengali Hindus and Assamese live side by side. Due to the election fever relations got strained.

On 17.2.83 Assamese people of Tamolbari heard sounds and shouts in No. 2 Rowmari area at night. Gradually shouts of "Jai Ma Kali" "Set all to fire" (in Bengali) were heard and advancing. Then shouts of "All Assam Students' Union Zindabad" were heard. Cross sounds rent the sky. Gradually the former cries got reduced and the latter cry increased. By dawn all sounds died out.

Tamolbari Assamese sent away their women and children next day while some persons fully evacuated. On 19.2.83 a lot of Bengali Hindus, led by the Officer-in-Charge of Khairabari P.S. and C.R.P. and armed with lethal weapons set fire to the houses of the Boro village of Barigaon. When the police force went away, the Bengalis advanced to Rowmari. There the Assamese resisted. Evidently a clash ensued. The

Bengalis retreated, after injuring Kiron Saikia with 'dao'.

On 21-2-83 the Bengalis set fire to the deserted houses in No. 2 Rowmari. Then they advanced to No. 1 Rowmari. Bishnu Kakati and his two sons implored them not to do any harm but settle any dispute amicably. The first batch of Bengalis retreated but a 2nd batch arrived, killed Bishnu Kakati, and set fire to houses of 51 families of the village. Before all houses could be burnt the Assamese resisted gathering strength. The Bengalis retreated, after burning 29 houses in Tamolbari.

It is clear that retaliation followed, though nothing has come to record. (Ref. Memorandum of Jagnadhar Kakati and witness No. 16).

KHAIRABARI AREA

11.75: Khairabari is a semi-urban area. Taking Khairabari as the focal point there are a good number of villages inhabited by Assamese (both non-tribal and Boro tribals) and Bengali Hindus.

Relations between the Assamese and the Bengali were not happy since 1979. In 1979 an Assamese-backed candidate, Shri Nagen Baisya, got elected to the village Panchayat (defeating the Congress I candidate supported by the Bengalis).

In November, 1979 one Birendra Das, a Bengali, married (without consent of parents or society) a Rabha tribal girl even though he had a former wife living. A quarrel ensued. Birendra Das injured Daneswar Rabha with 'dao'. Some Bengali houses were set on fire.

In addition the Bengalis, very clever people, cheated the easy-going and uneducated tribals of their lands.

With this back-drop came the election

divide, with the Congress candidate, Smti. Mridula Saharia, exploiting the differences to get votes.

The incident of Bengali youths killing a tribal boy on 7-2-83 (referred to elsewhere) ignited the fire. The atmosphere got tense. The police officer in-charge of Khairabari P. S., far from bringing the situation to normal, acted in partisan way (apparently he was a Bengali Hindu) even though on 11-2-83 people informed thana of the situation. On 18-2-83 he came at the head of a Bengali crowd which set fire to houses of several Boro families of Borigaon (referred to elsewhere). On the 19th also he thus led a crowd which committed arson on the houses of Bhergaon (Ghoga Para).

The Assamese assembled and counter-attacked. They drove the Bengalis away, and then set fire to Bengali houses in Khairabari and Debaguri.

There was a lull on 20-2-83.

On 21-2-83 Bengalis burnt the best parts of Rowmari and Tamolbari villages (also referred to elsewhere) and killed one Assamese. The Assamese set fire to the Bengali houses in Jagannath Jhar, Ramchajhar area. (Ref. Memoranda of Mayaram Kachari and Upendra Barma in addition to several referred to elsewhere, and witness No.584)

KOKRAJHAR - SALAKATI

11.76: Kokrajhar was at the relevant time a Sub-division of the Goalpara district. Later it was made into a district. The Sub-division holds the largest number of Assamese Boro tribals. But the Kokrajhar town is a mixed area where the Assamese, including the Boros, are in a minority.

Salakati was a little known village, some 20 K. Ms. off Kokrajhar, till a few years back a thermal plant was established. The

area has both Koch-Rajbongshi Assamese and Muslim immigrants.

The great divide came with election. On 18-2-83 a crowd, led by Bengali Hindus, raided the shops of Subal Rai and Surendra Rai (both Assamese) and looted them. It was quite near the police station but police took no action. Again that very day a 4000-5000 such crowd started attack on the Assamese village of Vijaygaon. However, the timely arrival of police averted a clash.

On 4-4-83 a crowd of Bengali Hindus led by Shri Prabhat Debnath, set fire to houses of local Muslims of Kaunjabhāsa at about 2 A. M. (actually on the 5th). A rumour was spread that the Rajbongshis have set fire. On it the Muslims set fire to houses of Rajbongshis. This was the beginning of troubles in the area.

Hereafter events in Kokrajhar-Salakati Sector took more of the communal character and are dealt with in Sub-chapter A.

BISHNUPUR AREA

11.77: On 7-2-83 Bengali Hindus numbering some 500 attacked Bishnupur area of Dhemaji in North Lakhimpur District and set fire to houses of seven families of Assamese residents.

The people informed police and the S. D. O. They allege that a Magistrate and a police party came and arrested 14 Bengalis, but brought back 13 of them, the same evening and released them in the village.

It appears some incidents between the parties went on. On 14-2-83 the Bengalis

dragged three Assamese youngmen from road and killed them.

The people allege that thereafter the Bengalis kept their properties dug in the ground and set fire to their huts. Later in presence of Police and Magistrate they dug them out.

The S. D. O. and the Magistrate, both Bengali Hindus, oppressed the Assamese. (Memoranda of Bimol Saikia, Debiram Bhuyan, Gunaram Saikia and over 100 others).

RONGAJULIKHAT, JAMUGURI, MOHIAKHAT, BORONGABARI

11.78: Jamuguri is a village inhabited by Rabha tribals. Rowmari is an Assamese village. In between is the Rongajulikhat area inhabited by Bengali Hindus and it has only 6 Assamese families.

About 8-2-83 three Assamese tribal boys on the Railway line were attacked by some Bengali youngmen. One died at the spot while two others got injured and escaped. This created tension in the area. On 17-2-83, as seen and described elsewhere, a Bengali crowd led by the O/C. of Khairabari P. S. set fire to houses in Rowmari village.

On 19-2-83 the Bengalis set fire to the Assamese houses at Mohiakhat. Then they committed arson in the houses of the Rabha people of Jamuguri and Borongabari.

It is admitted that about 3 p. m. the Bengalis evacuated their families to Khalrabari. Apparently there was retaliation. (Ref. Memoranda of Jatindra Nath Saharia, Nareswar Chowdhury, Aruna Debi)

Annexure—Q

GOVERNMENT OF ASSAM

DIRECTORATE OF INFORMATION AND PUBLIC RELATION

Press Note No. 28 (PL)

PRESS NOTE

DISPUR : April 9 : Attention of the State Government has been drawn to a news item appearing in certain sections of the press to the effect that people guarding their village at Rajabari under Golaghat Police Station in the Sibsagar District, were killed in police firing. The factual position in this regard is as follows :

The Superintendent of Police, Sibsagar acting on a secret information that some extremist elements were contemplating to attack the inmates of Letekuchapari refugee camp and that violent mob armed with guns, spears, daos, bows and arrows and other lethal weapons was advancing towards the CRP camp located at Letekuchapari with a view to attacking the camp, the Superintendent of Police alongwith a contingent of CRPF rushed to Rajabari on the night of 2-4-83. At about 22.45 hrs., the police party

headed by the Superintendent of Police, Sibsagar noticed near Pan̄kha Gaon at Rajabari that a crowd of 500 to 600 persons shouting slogans was coming towards the refugee camp. On noticing the police party, the crowd started attacking the police party with gun fire and bows and arrows. The police party had to open fire in self-defence resulting in death of seven persons. Twelve persons were also arrested on the spot. Police seized one SSBL gun, four live cartridges, three empty cartridges, six big daos, spears, daggers, bows and arrows from the possession of the arrested persons. From the seizure of arms and ammunitions and lethal weapons from the members of the crowd, it is evident that it could not have been a party of villagers guarding the village. Some of the arrested persons have also confessed to their complicity in several incidents of violence.

Government expect the press to present the facts in their true perspective, discouraging violence and unlawful activities which would help in bringing peace and normalcy in the State.

Annexure—R

AFFIDAVIT

I, Sri Kamal Hazarika, aged about 25 years, son of Sri Maheswar Hazarika, by profession cultivation, resident of village Panka, P.O. Kanaighat, District Sibsagar, do hereby solemnly affirm and say as follows :—

1. That I am a permanent resident of

village Panka in Golaghat Sub-Division within the District of Sibsagar and a citizen of India.

2. That for reasons stated hereunder I am now temporarily staying at Gauhati with one of my friends and I do not dare

to go back to my village and as such I have sworn this affidavit at Gauhati.

3. That on 1-4-1983 at night seven houses belonging to local Assamese people of Rajabari Bamuntika village was set fire by Bangladeshi people. The distance between Panka village and Rajabari Bamuntika village is about 2 kilometres and the Rajabari Tea Estate is situated in between these two villages.

4. That on the following day i.e. on 2-4-1983 some villagers of Panka village went to the affected village namely Rajabari Bamuntika village to enquire about the occurrence on the previous night. There they met one Sri Talukdar, O.C. of Golaghat Police Station which is at a distance of about 20 K. M. from Rajabari Bamuntika village. When the villagers complained to the said Police Officer about the insecurity of life and property of the local people at the hands of the Bangladeshis, the said police officer asked the villagers to form peace committees and guard their village.

5. That accordingly on that very day a peace committee was formed in Panka village and in the evening about 20 villagers of that village including this deponent were sitting in the village Tin-ali with a lamp as a measure of their petrol duty. Sahid Bhadreswar Saikia (50 years) was also sitting with us but some time before arrival of C.R.P. he left for home. At about 8-30 p.m. some C.R.P. personnel led by one constable and one Police Officer of Assam Police entered the house of Sahid Bhadreswar Hazarika and arrested him and escorted him to the place where these villagers along with this deponent were sitting. This deponent came to know that the gun belonging to Sahid Bhadreswar Hazarika was taken away by C.R.P. personnel.

6. That the C.R.P. personnel were also accompanied by some masked persons. Two of them namely Mustakin Ali and Mojamil Ali were recognised by the villagers including this deponent. Mustakin Ali was deported to the then Pakistan a number of times but he managed to come back and stay in Assam.

7. That the C.R.P.F. people tied all the villagers who were sitting there with gamocha and then beaten them and took to Rajabari Tea Estate Factory. This deponent was tied initially with one Sri Bolo Saikia, aged about 14 years. Thereafter Sri Bolo Saikia was untied and Sahid Reba Saikia aged about 25 years was tied with this deponent. At about 9-30 p.m. eight persons including this deponent all tied with 'Gamocha' and 2 persons at a time were taken back to 'Hatidhara Jan, a small stream (now dried up) in between Rajabari Tea Estate and Panka village and directed to stand there.

8. That this deponent somehow managed to untie and ran away from there. He was chased by C.R.P. but he managed to escape. This deponent then heard sounds of rifle but he kept on running. He then wanted to take shelter in Borchapari village but when he found that the houses were vacant, he fled from there and crossed the Dhan-siri river and met some villagers of Borchapari village in the jungle who were taking shelter there (mostly women) out of fear from Bangladeshis. In the following morning, this deponent met on Prabhat Saikia (28) of Kamar village and went to Kamar-gaon Dispensary for treatment. From there this deponent went to Buragaon and on way he was further treated at Baghsong Dispensary near Jorhat on the same day i.e. 3-4-1983. On 4-4-1983 this deponent was

further treated by a compounder at Chungi Dispensary near Jorhat who pushed 3 penicilin in 3 days. From Buragaon this deponent went to Golaghat and after hiding from place to place and on being advised by friends and relatives this deponent has come to Gauhati and have been staying here since 13-4-1983

9. That the deponent has developed a fear psychosis and dares not to go to his village lest he might be killed by C.R.P. personnel being the only witness of the occurrence.

10. That the deponent begs to state herein that the following persons were tied and taken to Hatidhara Jan —

- 1) Sahid Mani Saikia—22 years
- 2) Sahid Jiten Saikia—22 years
- 3) Sahid Bhadreswar Saikia—50 years.
- 4) Sahid Tileswar Hazarika—22 years
- 5) Sahid Tikhar Baruah—45 years.
- 6) Sahid Haren Saikia—45 years.

7) Sahid Reba Saikia—25 years.

8) Sri Kamal Hazarika— 25 years (this Deponent,

It may be stated herein that Sahid Reba Saikia was tied with this deponent. Subsequently this deponent came to know that the above seven persons died there out of firing by C.R.P. personnel.

11. That the statements made above are true to my knowledge and belief and I sign this affidavit on this the 19th day of April, 1983.

Sd/-Sri Kamal Hazarika
Signature of Deponent

Identified by me
Sd/-Illegible
Advocate

Solemnly affirmed and declared before me by the deponent who is identified by Sri D. K. Deka, Advocate, Gauhati on this 19th day of April, 1983.

Sd/-Illegible 19-4-83
Magistrate (J) Ist Class, Gauhati.

Asom Rajyik Freedom Fighters' Association

Advisers :

Shri Debeswar Sarma— Jorhat
Shri P. C. Baruah—Sibsagar
,, Sarbeswar Bardoloi—Jorhat
,, Bijoy Ch. Bhagawati—Tezpur
,, Mahendra Hazarika—Nowgong

Members of the Executive Committee :

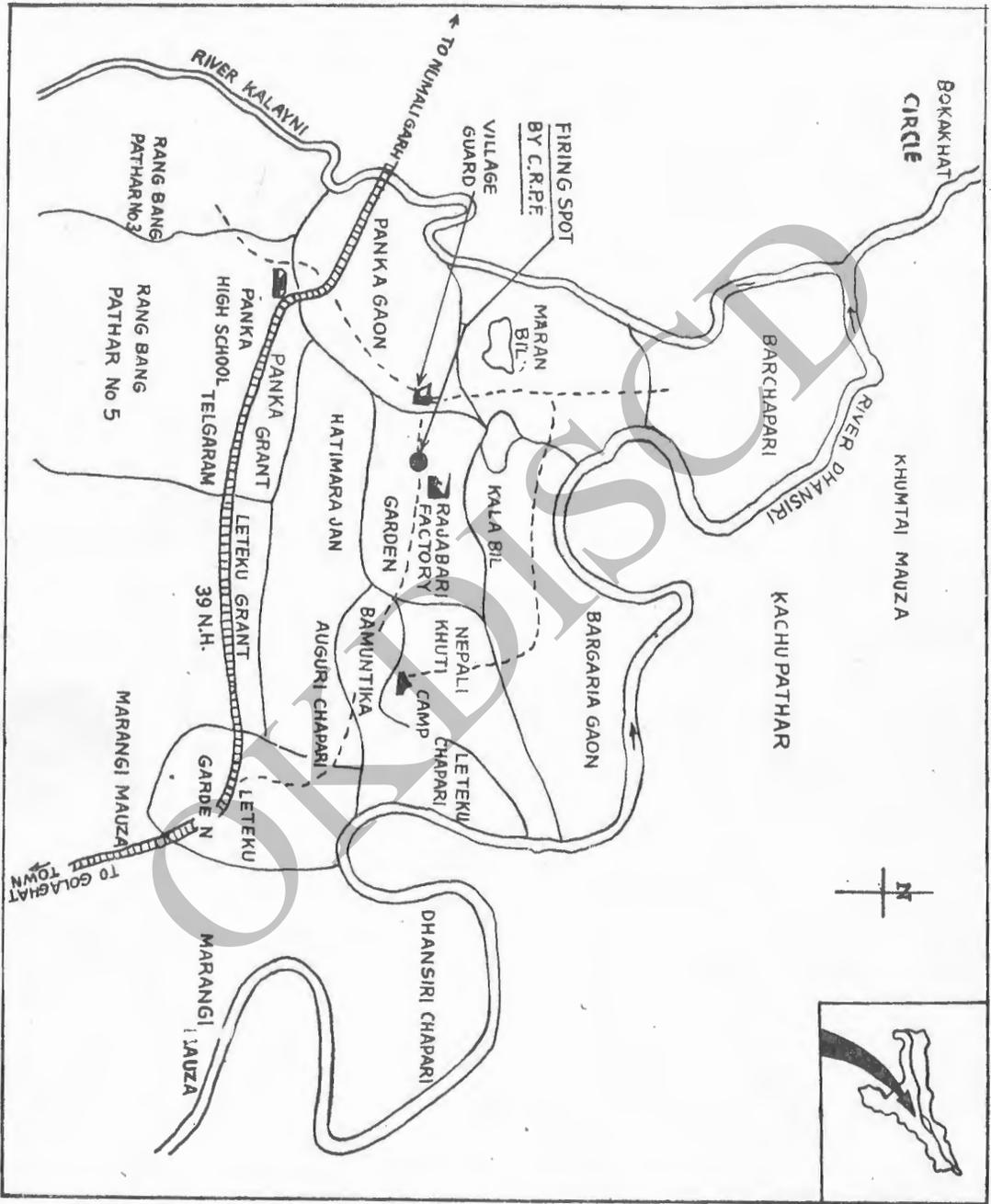
President—Shri Harendra Nath Barua
Vice President—Shri Ratna Kanta Bora
Vice President—Shri Chakreswar Saikia
Vice President—Shri Gopal Ch. Handique Barua
Treasurer—Shri Girin Choudhury
General Secretary—Shri Kamaikhya Prasad Das
Secretaries—Shri Tara Prasad Borthakur
Shri Lok Nath Bharali

Members :

Shri Biseswar Sarma
,, Rajani Chakravarty
,, Kanak Chandra Barma
,, Tikendra Rai Choudhury
,, Mahendra Borkataki
,, Robin Kakaty
,, Bharat Chandra Barua
,, Tua Kanta Goswami
,, Kanak Chandra Datta
,, Gopi Kanta Barua
,, Nagendra Nath Chutia.
,, Biswadev Sarma

N. B : Shri Mahananda Bora has lately resigned from Presidentship and Executive of the Asom Rajyik Freedom Fighters Association.

SIBSAGAR DISTRICT : VILLAGE PONKA ● ANNEXURE "S"



Annexure—T

English translation of speech of Shri Abdul Ghanikhan Choudhury, Union Railway Minister
at Nilbagan, Nowgaon.

When a friend of mine went to Delhi and reported to me I told him that I am also elected from the minority community in West Bengal. I want to tell you, they wanted blood.—blood, blood blood. To drive us out by killing us? To drive us out of the State! Meaning only minorities! Assamese, Bangali, Hindu, Muslim, Jain, Christian, Pharsi, Sikh and many communities wrested independence by driving out the British like dogs. Today, there is shouting in Assam that minorities be driven out of Assam. When we attained independence, it was not demanded that minority Bengalis be driven out. Of course now, they are in power in Assam and in India. Can they drive out the minorities?

When we attained independence, the name of the country was not given as Hindustan, the name given was India. According to the constitution all communities are living in India with equal rights. We are living according to those rights. Today in this democratic country no oppression can be made on any community, no community can be driven out. We are as much Indians as they are.

They are in power—they want to finish the minorities. Because their fear is that the minorities are trying to make the country weak. Is this possible? Is this believable? Today their attempt is to drive you out of Assam by oppressing you. Can you be driven out of Assam? Today I have come to you. I request you to believe in what I say.

(All the audience raise their hands) Correct. This is the hand. Put your vote in the Congress ballot box bearing the sign of the hand. This is also blood for blood.

In 1977 before the Lok Sabha election, Devakanta said "Indirai Bharat Varsha, Bharatvarshai Indira." In the election Indira lost. There is always win or loss in election. When Shrimati Indira Gandhi lost Barua Sahab left her. Before that he sat with minorities—read the quoran. This is that Deva Kanta Barua, But we did not forsake Indira. Now Barua Saheb pleads to finish our strength. He wants to drive you out of Assam, finish the Muslims from Assam, drive out the Bengali speaking people from Assam. Can the Bengali-speaking people be driven out of Assam? I know law: I know the constitution. People from Assam can not be driven out—I can tell this. I am not sent by Indira to assure you. Today you are in danger, your existence is in danger. So I have come here on my own initiative. I have come to tell you that when you are in danger, you shall have to take blood for blood. If one person from you is killed, you must have courage to kill two Hindus. Fight your battle. It is not material if Indira loses. I am thinking about the minorities. You will be thrown into the sea or driven out—such a thing will never be allowed to happen. I repeat I am one from the minorities. I will come and

stand by you in any danger. In a danger your people shall have to guard your people as police forces guard the endangered one. You be prepared to shed blood. It shall have to be blood for blood.

Leaders like Mahatma Gandhi and Jawharlal Nehru did not bring independence fighting alone. Lacs and lacs of youths of both sexes and belonging to Muslims, Hindus, Sikhs, Parsis and other Communities earned independence by shedding blood and embracing death. Today the minority community wants to dump the same minority Muslims in the sea. They want to finish them. This will not be allowed to be done. We will not allow it. You rest assured.

