Chapter IV

Constitutional position

Exordium: When we look back at the constitutional mosaic of the North Eastern Frontier of India as it presented itself in the year 1872, we find a diversified picture. The administrative systems introduced by the British in this region were so diversified that unless a person has an intimate insight into them, it would be difficult to describe the whole picture. In the plains, the British had succeeded in introducing a more or less uniform system of administration. But in the Hill areas, though at a glance, the system of administration introduced by the British appears to be similar; but on closer scrutiny, we find that the administrative system introduced by them differed from one hill area to another and from one place to another at varying degrees. On the whole, there was minimum interference by the British in the powers and functions of traditional functionaries. From this, it follows that there was minimum administration. This difference of administration was the result of the following reasons:-

In the first place, the British probably thought that the complicated procedure introduced in the administrative set-up of the plains was most unsuitable for the people of the Hill areas.

Secondly, the British found that the traditional administration was simple and direct, as such, there was no necessity of making the system cumbersome.

Thirdly, the British found that their main revenue in the plains was from land tax. But this was not the case with the Hill areas. If land tax would be introduced, the income accrued therefrom would not meet the cost of collection.
Therefore, generally and not universally, land tax was not introduced in the Hill areas, though in a number of areas poll tax, house tax, and hoe tax were levied.

Fourthly, the British also thought that it would not be expedient for them to look into the maintenance of law and order in the rural areas of the Hill districts. Therefore, in most cases, rural policing and maintenance of law and order were left in the hands of local traditional functionaries.

Lastly, the British administrators openly declared that there was fundamental racial differences between the people of the Hill areas and the people of the plain areas. As Dr. Hutton pointed out: "The hillman of Assam differs as greatly in race, language, religion and culture from the Bengali of the plains as the Englishman does from a Turk. This is no exaggeration." 'But this difference is also true in the case of difference between the Hill men and the people of the Brahmputra valley.

**Inner Line Regulation:** By the year 1872, by and large, the whole of the North Eastern Frontier region was brought under the control of the British. While the British Government was interested in keeping the people of the Hill areas isolated from those of the plains, during 1872-73, they felt it necessary that more stringent measures should be taken immediately to control the commercial relations of the British subjects of the plains with the Hill people of the Frontier. In some areas, the activities of speculators had brought about some serious complications. The Government, therefore finally came to the conclusion that it should lay down certain special rules by taking up special powers. The Jt. Governor
of Bengal then framed a Regulation to be known as the Inner Line Regulation. This proposal was approved in toto by the Governor-General-in-Council. According to this Regulation, the Lt.Governor was empowered to prescribe a line which was to be called the "Inner Line" in each of the Hill areas. No British subjects would be permitted to cross beyond this line without a valid licence or pass. Certain classes of foreign residents in British India were made subject to this Regulation. A permit, licence or pass might be issued, subject to such condition and limitations as might appear necessary at a certain area or a certain period of time. Further, Rules were also framed to regulate trade transactions. The Government was also given the power to control the rights of outsiders over the possession of land beyond this line. It was also provided that Government should lay down certain rules for the preservation of elephants for the their capture.

Assam was separated from Bengal and formed into a Chief Commissioner's province in 1874 with Shillong as the capital and Colonel Keating as its first Chief Commissioner. But unlike the other provinces, the whole of Assam as constituted in 1874 was declared to be a Scheduled District under the Scheduled Districts Act, 1874 where legislation could also be issued by means of Regulations. This position continued till the introduction of the Montague - Chelmsford Reforms.

It was argued by the British that Assam should be treated, in a special way for a number of reasons: First, the larger portion of the area was covered with Hills inhabited by primitive and backward tribes. Secondly, the area, population and revenue, of Assam were very small. Thirdly, there were a number of religious, geographical, social and political differences between the people
of the Brahmaputra and the people of the Surma valleys. An experienced Officer had even suggested that there should be separate administrations between the two valleys. This was because neither the Hindus of the Assam valley nor the Muslims of the Surma valley would give way to one another even if it affected the interest of the entire region.

Assam remained a separate Chief Commissioner's province for about thirty years or so. In 1905, the Partition of Bengal was decided upon. A new province of Eastern Bengal and Assam was formed and the last Chief Commissioner of Assam, Sir J.P. Fuller became the first Lt. Governor of the new province. The Government took it for granted that the Hill Districts of Assam would also form a part of this new province.

The new arrangement lasted till 1912 when Assam was once again constituted into a Chief Commissioner's province. It was only in 1921 that it was converted into a Governor's province. The Hill districts had to sail along with the rest of the province.

It must be remembered that as early as 1880, under the Assam Frontier Tract Regulation, 1880, it was provided that the local administration in the Hill tracts, with the sanction of the Governor-General-in-Council could direct specifically that any enactment in force in any tract, to which the regulation had been applied, should cease to be in force therein. Further, section 14 of the Assam General Clauses Act, 1915, authorised the exclusion of the operation of the Acts passed by the Assam Legislative Council unless specifically extended under the Scheduled Districts Act, 1874.

A new development took place in the wake of the Submission of the Montague - Chelmsford Report in 1917. This report made a
specific recommendation that "the typically backward tracts should be excluded from the scope of the Reformed Council". In other words, the Reformed Council should not have any jurisdiction over a territory which was wholly excluded from the new scheme. No question should be put, no discussion should take place, no motion should be moved and no legislation should be enacted in the Reformed Legislative Council affecting the areas which were entirely excluded. Legislation for these areas should be in the form of Regulations to be made by the Governor-General-in-Council, as envisaged in section 71 of the Government of India Act, 1915.

This recommendation of the Montague - Chelmsford Report was referred to some senior officers of the Government of Assam for their opinion. Reid and Barnes, two top officers of the provincial Government gave their strong opinion in favour of the recommendations, i.e., that the frontier areas should be excluded from the new scheme as before. In a separate note, however, Reid made a mild suggestion that the Garo Hills, the Mikir Hills and the North Cachar Hills might be included in the reformed scheme. Sir Beatson Bell, the then Chief Commissioner of Assam expressly opined that the introduction of general reforms into the hill tracts was out of question.

Beatson Bell was more specific when he gave his opinion about the Khasi and Jaintia Hills. He admitted that the standard of education in this district was comparatively high, but education alone should not be taken as the sole criterion to decide whether this district should be excluded from or included in the Reformed Council. According to him, the people of this district did not show or express their desire for political union either with the Brahmaputra valley or with the Surma valley. Apart from that, a very large
proportion of the people were subjects of the Indian Chiefs - the Syiens and other native rulers. The people of other hill tracts, according to Bell had not attained the minimum standard of development and education, and hence, they were obviously unfit to be included in the new set-up.

On the other hand, however, Beatson Bell was not in favour of the total exclusion of all the hill Tracts. Possibly, he was keeping in mind the question of the position of Shillong in the new scheme. He pointed out that even if the new Reformed Council should have the power to legislate for these areas, yet the executive power could be exercised only to a limited extent. The executive power was limited by section 14 of the Government of India Act, 1915. This section provided that unless and until extended under the Scheduled Districts Act or otherwise, no Act of the Assam Legislative Council, in the absence of special provisions to the contrary, would come into force in the hill areas. Therefore, according to Bell, there was no real danger in the existence of the legislative power.

Secondly, Regulation 2 of 1880 had already empowered the Chief Commissioner to withdraw any enactment in force in the hill areas, with the prior sanction of the Governor-General-in-Council. Therefore, whatever law the new Legislative Council might enact, such laws might be withdrawn by the Chief Commissioner if found unsuitable for the hill tracts. Therefore, the Council would have a mere nominal legislative power over the areas concerned.

Thirdly, Bell also pointed out that, by and large, the Hill areas were financed by the Plains. A new complication would arise if the Hill areas would be totally excluded from the reformed Council. Some sort of new arrangement would have to be evolved to meet the deficit in the Budget of the hill areas. Moreover, the
people of the plain districts would have enough of justification to object if the deficit Budget of the hill areas be met from the Budget of the plain districts. There was a full justification for the representatives of the plain districts to have a voice in the expenditure of their money.

Lastly, Beatson Bell argued that even in the existing arrangement, members of the Legislative Council had the right to put questions, to discuss expenditure during Budget discussion regarding the administration and expenditure in the Hill areas. Finally, Bell suggested that the whole province of Assam including the hill tracts could be placed under the Governor-in-Council and that the existing special methods of control over legislation be maintained.

The views expressed by Beatson Bell were so self-contradictory and inconsistent, and as such, his recommendation was not agreed to by the Southborough Committee which was the Functions Committee at that time. In 1912, the Committee expressed its findings thus: "In our view, if these special methods of control are necessary it is better not to make a pretence of bringing the tracts within the scope of the Reforms Scheme. We have not been able to find any satisfactory via media between the inclusion and the exclusion..... We recommend, therefore, that the tracts in question should be excluded from the jurisdiction of the Reformed Provincial Government. If our recommendation is accepted they (the excluded tracts) will be administered by the Governor himself as proposed in para 102 of the Joint Report". Further, the Functions Committee recommended that since the Hill tracts would
not come within the purview of the Reformed Scheme, certain subjects should not be transferred to the Provincial Government. Take for instance, the greater part of the forests was in the excluded areas. Road communication between the Burma valley and the Brahmaputra valley was through the Khasi and Jaintia Hills. The manufacture of intoxicating alcohol was the common feature of the area. Thus subjects like Forest, Public Works Department and Excise should not be transferred to the Provincial Government, but should be treated as 'reserved subjects'.

Lastly, the Functions Committee made a strong recommendation that the excluded areas should be treated as the concern of the Government of India. The Government of India also agreed with this recommendation because it thought that the Hill tracts should receive special treatment. On these two issues, opinions were unanimous. From this, it follows that the administration of the excluded areas should be carried on either by the Governor-General-in-Council or by the Governor by means of Regulations to be made under section 7 of the Government of India Act, 1915. It follows also that the Budget provision for these areas should be made separately, the deficit should be met by the Government of India and it should not be subject to the passing of Demands for Grants or scrutiny by the Legislative Council.

While the Government of India had accepted in principle that the entire responsibility for the administration of the tribal areas should lie with the Government of India, yet it pointed out some inherent difficulties involved in the proposal of the Southborough Committee. In the first place, it was pointed out, that there would be difficulties in administering transferred
subjects which would not be administered by the ministers who were to be responsible to the Legislative Council, but by the Executive Council. Take for instance, for the administration of education in the plains, the Director of Public Instruction should act under a minister whereas for the Excluded areas he would act under a Member of the Executive Council. The officers in charge of the transferred subjects would have to serve two supreme masters and authorities. This was because of the fact that the proposal of the Southborough Committee contained the plan that the officers for the administration of the excluded areas should be drawn from the Cadres of officers who were serving under the ministers. Secondly, there would be budgetary complications. It would require an extraordinary financial expert to device ways and means how to prepare separate Budgets for the transferred subjects in the excluded areas and that the receipts and expenditures to be included in the reserved budget. Lastly, the Government of India pointed out that there were some areas which were not backward and as such their total exclusion was not desirable.

The Government of India, therefore recommended that the original proposal should be modified. The backward tracts should be divided into two categories; viz., Excluded areas and partially Excluded areas. The areas which should be treated as wholly excluded would remain under the direct control of the Governor, and that legislation for these areas should be effected by means of Regulations as envisaged under section 7 of the Government of India Act, 1915; whereas the Partially Excluded areas should be
administered by the Governor, acting upon the advice of the Council of Ministers.

The Chief Commissioner of Assam who was not ready to exclude the Khasi and Jaintia Hills from the Reformed Council was in full agreement with the recommendation of the Government of India. He was, of course, ready to exclude all other Hill tracts because they were still backward. It must be recalled that the Khasi and Jaintia Hills had a number of peculiarities. It consisted of the twenty-five Khasi States which were in subsidiary alliance with the Paramount power; the British territories of Jaintia Hills and the 31 British villages under Sirdars, the military enclave known as the Shillong Cantonment, the three wards of the Shillong Municipality which had become the British enclave, and the other wards within the Shillong Municipality falling with the Hylliem State. The Syiens, Lyndchts and other rulers of these States were against the inclusion of the Khasi and Jaintia Hills in the Reformed Council, but the people of the British areas expressed their desire that the Khasi and Jaintia Hills should be represented in the Legislative Council.

When the Government of India Bill, 1932 was introduced an amendment was moved that it should be referred to a Joint Select Committee for eliciting public opinion and for making final recommendation. The Joint Select Committee was elected to examine the Bill containing the recommendation of the Government of India in fuller details. The witnesses who appeared before the Committee expressed two different divergent views, but those views had already been expressed by others on previous occasions. Sir Archdale Barle, a former Chief Commissioner of Assam held the view that certain Hill
districts should be excluded entirely from the scheme, but some other should not be excluded, but they might be treated as backward tracts. These areas should come within the purview of the Legislative Council, subject to certain reservation.

Another view was expressed by Habin Chandra Bardoloi. Hypothetically, he said that all the Hill areas were to be excluded from the scheme. The Government of Assam was not bound and should not be compelled to meet the deficit in the Budget for the Hill areas. But, if they were to remain in Assam, they should come under the control of the Assam Legislative Council. Another important witness who appeared before the Committee expressed in the most unambiguous language, thus: "It would be a grievous wrong done to the people of Assam to saddle them with the cost of administering the hill districts with which they were not very much concerned." He said that since the Lushai Hills, the Naga Hills and the Garo Hills had frontier importance, they should be the concern of the Central Government and the entire cost of administering these areas should be borne by the Centre and that they should be administered by the Governor as the Agent of the Governor-General.

When the Government of India Bill, 1919 became an Act, we find that under section 52A of the said Act, the Governor-General-in-Council was empowered to declare any territory in British India as a backward area. Acting upon this provision, the Governor-General-in-Council made a declaration on 3rd January, 1921, that the Garo Hills, the British portion of the Khasi and Jaintia Hills other than the Shillong Municipality and the Shillong Cantonment, the Mikir Hills, Nowgong and Sibsagar districts, the North-Cachar
Hills in Cachar district, the Naga Hills, the Lushai Hills, the Sadiya Frontier Tract, the Balipara Frontier Tract and the Lakhimpore Frontier Tract as "backward tracts". It was also provided in the text of the declaration that all laws, provincial or Central, intended for these tracts would be applied only when and how it was directed by the Governor-General-in-Council and with such modifications as might be made by him. Although the Governor was authorised to apply the laws passed by the provincial legislature to these tracts, with or without modifications, as he might think fit, yet there were still a number of other safeguards for the application or the withdrawal of those laws. The Provisions of the Assam Frontier Tract Regulations, 1880 and section 14 of the Assam General Clauses Act, 1915 still gave the Governor a great amount of discretionary powers.

According to the Instrument of Instructions the Governor was expected to see that due provisions were made for the welfare and advancement of the Hill areas. In pursuance of these instructions, a rule was framed by the Governor which required that all proposals affecting the backward area, all appointments, postings or transfer of officers in the said area should be submitted to the Governor. In all these cases, the Governor should take into consideration the opinion of a Member-in-charge in the case of a reserved subject and that of a Minister-in-charge in the case of a transferred subject and then he might pass any order, which according to his belief would be in the interest of those backward areas. Thus, a Minister, was not responsible to the legislature in matters relating
to the administration of backward tracts. ¹

**Attitude of the Members inside the Legislative Council**

Let us now examine the attitude of the members of the Legislative Council towards this issue. Many members representing the plain districts complained that the plain districts had to meet the deficit of the backward tracts. Sometimes, the Legislative Council demanded that the entire cost of the administration of the Hill areas, particularly on the Assam Rifles should be borne by the Government of India. "The Council equally is unable to appreciate the various difficulties in the administration of the Backward Tracts, and probably shares the misunderstanding of the constitutional position referred to, except for disapprobation of the fact that the plains have to meet the deficit of the frontier." Some members went to the extent of demanding the separation of the hills from the plains. On one occasion, an Assamese Responsivist expressed himself thus on the floor of the house: "Sir, .......... the hill districts with the exception of the British portion of the Khasi Hills might be administered by His Excellency the Governor, as the agent of the Government of India, and the whole expenditure also may be borne by the Government of India". On this statement, a Sylhet Swarajist remarked: "If I read the signs and portents of the time correctly, I feel almost sure that the hill districts will have

¹(a) Report on Constitutional Reforms, 1917, Para 199.
(b) See 71 Government of India Act, 1915.
(c) Government of India Bill, 1917.
(e) No.7 of 1919, Home, Government of India, 5.5.1919.
(f) North Despatch, Government of India, Indian Constitutional Reforms.
(g) Debates, House of Commons, 1919.
to be separated sooner or later and I hope within five or six years, the hills will be separated from the plains and when this is done, the case of Cachar will be a clear case". At this juncture an Assamese Swarajist replied thus: "Before long Assam valley will have to see its own way to disjoin itself from the Hills districts".

It is evident, therefore, that the Legislative Council had no interest towards the administration of the Backward Tracts. It is strange to note that during the period 1920 to 1927, only forty-eight questions relating to the hill areas were put on the floor of the House. But the majority of these questions were asked by two Members who resided in the hill areas.

It must be noted that in spite of the fact that there were members who were in favour of separation of the hill areas from the plains, there were some other members who were opposed to such proposal. It is curious indeed to note that the Planter Members should go all out for separation. One of such members, Lt. Col. Smiles said: "One of the principal disadvantages which the province is suffering from is the burden of the hill districts. Everyone here knows that the plain districts are being definitely bled for the sake of hills. The Hills should be definitely separated from the plains districts of Assam". This view was also shared by Nabin Chandra Bardoloi who spoke immediately after Lt. Col. Smiles. But, on the other hand, Brindaban Chandra Goswami opposed Smiles' proposal. He said that the hill areas should never be excluded from the province of Assam and that the Governor should administer these areas as the agent of the Governor-General. Since the backward

2. (a) A.L.C.P. 1928. p.258.
(b) Ibid 1930 p.1053.
(c) Memorandum, Government of Assam 1927 to the Simon Commission.
tracts were still unfit to participate in the reformed constitution, they should continue to be governed as such, by the Governor who should act on the advice of the Cabinet. But the Governor should have the power to override the Cabinet in cases where the vital interests of these tracts were at stake. Thus, the declaration of the areas constituting the Backward Tracts was received by the Legislative Council with a mixed feeling.

Representation of the Hill areas in the Assam Legislative Council:

According to the provisions of the Government of India Act, 1919, there was no provision for delimitation of Constituencies in the Backward Tract. The only constituency in the Hill Areas was the Shillong Urban Constituency. It must be noted, however, that for the first time it was provided that, except Shillong, the whole area was to be represented by the nominated members. It must also be recalled that before 1920, there was no representation of the Hill Areas in the Assam Legislative Council. But it was in 1921 that the Government nominated a John Taskar, Janggin Sangma-Taskar. But Janggin Sangma proved himself incapable of carrying his duties as a member of the House that he preferred to resign rather than to remain as an unsuccessful member. Since 1924, a Welsh Missionary was nominated to represent the hill tracts as member of the Legislative Council. But since his experience was mostly confined to Khai and Jaintia Hills he could not present the case of hill areas in a proper perspective. In 1921, Rev. J.J.H. Nichols-Roy, a prominent Khari leader was elected from the Shillong Constituency as an independent candidate. Rev. Nichols-Roy had the privilege of moving the first Private Member's resolution in the Council. The Resolution was to register the names of all opium consumers, and to

give each a pass with a ration which should be reduced every year so that in ten years, rationing would be abolished, save for medical purpose. All the elected members supported the resolution, but it was opposed by most nominated members and the Government block. It was also he who introduced a Private Member's Bill to prohibit smoking of opium altogether. This Bill was passed by the Council but the Governor reserved his assent. In 1926, Rev. Nichols-Roy joined the Congress and aligned himself with the Responsivist Group which advocated acceptance of responsibility in the Government and working from inside towards self-Government. In 1927, he was offered Ministership by the Governor, Sir John Kerr. But Nichols-Roy agreed only if the Governor would give assent to the Bill. The Governor gave assent to the Bill and Rev. Nichols-Roy became Minister for Medical and Excise.

The Hill Areas and the Simon Commission

An event of outstanding importance in the constitutional history of the hill areas of North-Eastern India was the great debate and thorough discussion that took place from 1928 to 1930. During these two years, the Indian Statutory Commission headed by Sir John Simon was trying to find out the most suitable formula to determine the future constitutional position of the hill areas. Different opinions were expressed by officials, non-officials and Government alike.

Views of non-officials: A close study of the various views expressed by non-official show that there were two opinions on the score. There were those who advocated for the inclusion of the hill areas in the Reformed Legislative Council, and there were also strong advocates who came with their valid agreements to
exclude certain hill areas from the reformed council. Let us now
take only a few examples of those who expressed the two represent­
tative views. Promode Chandra Dutta put a question most categorically
thus: "is it fair that 50,000 square miles of territory should be
kept as a close preserve for about a million people while six and
half millions should be concentrated in 27,000 square miles?" Then •
he continued: "We had always looked forward to the material advantages
which the vastness of the hill territories and its mineral wealth
would afford in the fullness of time, to the common benefit of the
hills and plains". According to him, if the hill areas be detached
completely from the plains, Assam would never be the same again. It
would never occupy a position of parity with the rest of the provinces
in India. Therefore, Dutta strongly pleaded for the inclusion of the
Hill areas.

But on various other occasions, Promode Dutta expressed
contradictory views. At first he said that the hill areas should not
be separated from Assam. On another occasion he suggested that the
hill districts should be administered by the Governor of Bengal and
that the areas be handed over to the Central Government. At another
time he asserted that the Khasis would not have been what they were
had it not been for their contact with the Bengalis and Assamese.
Then again, he expressed his views thus: "If the inhabitants of Assam
are not to have any part or lot in the administration of the backward
tracts why should we be made to pay for them. If the backward tracts
are to continue as parts of Assam they should be brought under
reforms". Finally, he contradicted himself in the following manner:
"If Assam was transferred to Bengal the Hill districts should be
constituted into a separate unit to be administered by the Governor
of Bengal as the Agent of the Government of India. If Assam was not
transferred to Bengal, the Hill districts should not be separated."

On the other side, Kanak Lal Barua strongly criticised the views expressed by Dutta. According to him, Dutta's proposal was not a practical solution to the whole issue. He was of the opinion that Assam province should be a compact one. Only those hill areas which were lying in between the Assam valley and the Surma valley should be included. In other words, he pleaded for the inclusion of the Khasi and Jaintia Hills, the Garo Hills and the Mikir Hills. The Lushai Hills, the Naga Hills and part of the North-Cachar Hills should not form part of Assam. Perhaps Barua had in his mind the benefits that the people of Assam might get from the exploitation of the mineral and forest resources of the Khasi and Jaintia, Garo and Mikir Hills.

There was one view expressed by Muhammad Saadullo which were not contradicted or refuted by any leader from Assam. According to him, excepting the Khasis, the people of the hill districts were rather aborigines rather than semi-civilized and had nothing in common with the people of the plains. Therefore, he suggested thus: "In my view the Hills should not be brought within the next constitutional advance but they should be administered by the Governor acting as an Agent to the Governor-General-in-Council and the cost of administration should be borne entirely by the Central Government".

The Indian Tea Association argued before the Simon Commission that there were no hope of bringing the hill tracts under the reformed Council and therefore they should continue to be administered under the direct control of the Governor.

The Naga Club of Kohima expressed the view that the people
of Naga Hills regretted that the proposal for inclusion of their district was brought without their knowledge. In other words, by implication this club was against the inclusion of the hill tracts in the reformed Council. In their memorandum that they submitted to the Simon Commission, the Club concluded thus: "We never ask for any reforms and we do not wish for any reforms".

On behalf of the people of the British portion of Khasi and Jaintia Hills, Rev. L. Gatphoh and many others submitted a memorial to the provincial Government urging the Government not to class Khasi and Jaintia Hills as a backward district. According to them, this district stood second in the percentage of literacy in the whole province and it occupied the first place in female education, it stood first in the evolution of democratic process, because from time immemorial even the Sirdars and Doloi's were elected and as such the people had a full understanding of the true working of democracy. Further, Rev. Gatphoh pointed out that the social systems of the people was unique. The people lived in a casteless and classless society where women were also equal with men in social status. The social system compared favourably with those of the western countries. Rev. Gatphoh demanded that one seat for the Khasi Hills and one seat for Jaintia Hills should be allotted in the Assam Legislative Council.

It was a rare coincidence of history that Rev. L.Gatphoh who came from Jaintia Hills, a British portion of Khasi and Jaintia Hills and Rev. J.J.K.Tichols-Roy who hailed from the Khasi State of Shella should advocate the inclusion of the whole of the British portion of the Khasi and Jaintia Hills in the province of Assam. Rev. Tichols-Roy strongly argued that Khasi and Jaintia Hills was
an advanced district like any other district of Assam and as such it should be granted the same political rights.

In support of his contention, Rev. Nichols-Roy pointed out that in literacy the district occupied second in 1923 with 7.62 percent of the total population, it stood first in female education with 2.52 percent. Further, he pointed out that in the two general elections, the ladies of Shillong took active part. Again, adult franchise had been in vogue from time immemorial that even headmen and Sirdars were elected by adult male suffrage. Commercially, the Khasis had close relation more with the people of the plains than those of the hills because it is surrounded on one side by the Assam valley and on the other side by the Surma valley. It was true that there was racial differences between the Khasis and the people of the plains, but Rev. Nichols-Roy said even the people of the plains were not homogeneous as there were diversities among the hill community. Moreover, since the people of this district were more advanced than the people of other hill districts, the psychology of the Khasis would be to have closer affinity with the advanced plain districts. Lastly, Nichols-Roy pointed out that the argument that the district should be excluded imply because it was a deficit district was untenable. If this was taken as sole criterion, then Sylhet district should not form part of Assam because it was a deficit district. Accordingly, Rev. Nichols-Roy strongly pleaded for entertaining this district to the same privileges as those of the plains. He was even prepared to accept the idea that the Assam Legislative Council should have power to legislate for the district if the existing restrictions stood on the way for admission to political privileges. He suggested the
Views and Recommendations of the Government of Assam

In the memorandum submitted by the Government of Assam to the Indian Statutory Commission, it was strongly urged that excepting the Shillong Municipal areas of the Khasi and Jaintia Hills, "the backward tracts should be excluded from the province of Assam in the new constitution". Why did the Government of Assam pleaded that Shillong should be included in the province? The provincial Government pointed out three reasons thus: "Shillong is the headquarters of the Government of Assam and the legislative chamber is also situated there. Shillong, moreover has a cosmopolitan population and for that reason, the arguments which have determined the general decision of Government do not apply to the town of Shillong". The Government rejected the proposal for the inclusion of the British portion of Khasi and Jaintia Hills for a number of reasons. First, there was no reason why this district should elect representatives to interfere in the affairs of the plains in the Council, while on the other hand, the Khasis were to be protected by some special restrictions. Hence, the principle of equality could not be accepted so long the restrictions were there. Secondly, since this district was a deficit area, its inclusion might bring about strong resentment in the plains. Thirdly, in the interest of the Khasi people themselves, this district should be excluded from the province, otherwise they might be exploited and absorbed by the plains people. The exclusion of this district would enable the Khasis to maintain their own individuality.

Generally speaking, the Government of Assam was not in
favour of a mixed set-up. The Hill areas had nothing in common with the rest of the province. The recommendation explained thus: "These areas have nothing in common with the rest of the province. There is no sympathy on either side, and the union is an artificial one, resented by both parties." Secondly, the Government argued that even the Legislative Council had expressed its resentment over the financial burden for the administration of these areas. Thirdly, it was pointed out, the people of the plains harboured the fear that their own political growth and development works were being retarded by their being obliged to meet the deficit of the backward tract. Fourthly, there was no justification to make the expenditure incurred for the hill areas non-votable. Fifthly, the Government was of the view that the hill areas should be given opportunities to develop themselves and they should be protected from any form of exploitation to change their manners, customs and ways of life by other people. For sometime, their representation, if at all, would be ineffective because the number of their representatives was small. Sixthly, the Government gave a ridiculous argument that the people of the hills wanted to be administered only by the British officers and not by the Indian officers. Hence, the Government recommended that the hill areas should be administered by the Governor as the Agent of the Government of India and that the cost of the entire administration should be borne by the Government of India. Then the Government added: "For these reasons the Government of Assam is convinced that in the interests, both of the backward tracts and the rest of the province, the present artificial union should be ended".

The last and strong argument of the Government of Assam regarding the fact that the Government of India should be given the
cost of administration in the hill areas was from the strategic point of view. It was argued that the Naga Hills, the Assam Hills and the Sadiya and Sadiya Frontier Tracts were occupied with a view to protecting the frontiers and the province and the country from any invasion or foreign attack. In a prophetic language, the Government of Assam remarked: "though for a moment the North-East Frontier may not be a serious menace to the peace of the west of India, there was a time, not long ago, when the attention was directed to that frontier and the time may soon come when the frontier will become no less, if not more important for the defence of India than the North-West Frontier, the administration of which is a charge of the Central Government".

The Government of Assam at one stage went to the extent of suggesting the formation of the North-Eastern Frontier Province as suggested by Dr. Hutton and M. B. Tarry consisting of all the hill districts of Assam and the Arakan, Chittagong and Pakokku hill tracts, the Chin Hills and the area inhabited by the Rongpang Negas on both the sides of the Pakokku Hills.

It must be mentioned that while the Government of Assam did not change its stand regarding other backward tract, yet its stand on the Khasi and Jaintia Hills in particular was inconsistent. In a supplementary memorandum submitted to the Simon Commission, the Government of Assam accepted the idea that the British portion of the Khasi and Jaintia Hills might be included in the new Constitution. Who made the Government of Assam to change its mind? Was it the pressure of Rev. J. J. K. Nichols-Roy inside the Cabinet? Was it the result of a strong feeling among a section of the Khasi people that the district be included in the reformed Council? Was it the pressure of the British officers to strengthen their hold over the
Khasi States? Perhaps, Shillong - the Queen of hill stations might be the answer. It was highly illogical for the Government to plead for the inclusion of Shillong alone whereas the other British territories be left out. Hence, the Government might have thought that in the name of Reason, the whole British portion of the Khasi and Jaintia Hills should be included in the reformed Constitution.

Views of the officials: The question whether to include or to exclude the hill areas from the reformed Constitution had become so complicated that it required all the patience of a brick layer and the vision of a planner to solve it. It must be borne in mind that all the arguments advanced by the provincial Government and the Recommendation itself were, by and large, though not entirely, based on the elaborate diagnostic analysis of Dr. Hutton, an experienced administrator and an eminent social anthropologist. It was he who built up the strong wall of arguments, brick by brick against the inclusion of the hill Districts from the Province of Assam.

Dr. Hutton had vast first hand experience and knowledge about the problems of the hill districts, particularly those of Naga Hills. In a special note prepared by him for the Government of Assam, Dr. Hutton most elaborately discussed the racial, linguistic, cultural, social, political, historical, administrative and economic factors by which the Government of Assam should study before it should come to any decision. Dr. Hutton said that the interest of the people of the hill districts would not be best served by their inclusion in the Constitutional Reforms. They would rather suffer by being joined with the people of an irreconcilable culture in an artificial union which would ultimately harm both parties. His contention was based on a variety of reasons.
The people of the hill districts had racial differences with the people of the plains. While the people of the plains were, by and large, of Aryan origin, or had more of Aryan blood and were either of Hindu or Muslim culture; the people of the hill districts were either of Austro-Asiatic or Tibeto-Burman origin and had not been touched either by Hinduism or Islam.

Secondly, the hills and plains had always been hostile to one another. If they were to be joined together the hills had more to sacrifice. Their population was impecunious, unlettered, rural and simple to compete with the plains' men in legal, administrative and political finesse. Thirdly, since they had not been touched either by Hinduism or Islam, the hill people still followed their own tribal religion which Hutton wrongly described as animism. Caste system was still unknown, equality of both sexes were strictly observed. There was no child marriage, no taboo for the remarriage of widows and no commercialised prostitution as in the plains. Fourthly, linguistically, the tribals differ fundamentally from the plains. None of the Tibeto-Burman group of languages or the Mon-khmer group spoken by the hillmen had any affinity with Assamese, Bengali or Hindustani spoken in the plains.

Further, Dr. Hutton pointed out the degree of difference in the administrative system, the land tenure system, the agricultural practice, the judicial system and the like.

Hutton also pointed out the difficulty of representation of the tribes in the Legislative Council. He also said that the rate of progress in the plains was much quicker than that of the Hills. He discussed at length, the financial factors and then observed: "It is submitted, therefore, that in the interest of the plains districts, which will merely be retarded in development by being tied with the backward hills, and still more for the
interest of the hills themselves, the latter should be withdrawn from the reformed constitution altogether and that as soon as possible".

In that note, Dr. Hutton also wrote: "The hills are an unprofitable possession. They were occupied by us to protect the plains but we have no moral right to accomplish that end at the expense of the hills themselves. The question of their administration is the gradual creation of self-governing communities.... Given self determination to that extent, it would always be open to a functioning hill State to apply for amalgamation".

Impsite of his elaborate arguments for exclusion of the hills from the reformed constitution, it is not understood how Dr. Hutton would have suggested that the Jaintia Hills might be included in the Province of Assam. However, he preferred that all hill tracts should be excluded from the reformed province of Assam. In his concluding remarks, Dr. Hutton urged that: "whatever solution of the problem is ultimately adopted, the administration of the Hills should be entirely separated from that of the plains, with an entirely separate budget consisting of all the receipts from the "backward tract" plus an annual grant to cover the different between receipts and expenditure. Such a grant might reasonably be expected from the Imperial Government, as the security of the frontier is of utmost importance to the whole of India".

N.E. Parry, the Superintendent of the Lushai Hills also suggested the separation of the hills from the plains. Although he dwelt at length only about the Lushai Hills, yet the question of other hills was also involved in his suggestions. His first suggestion was that a Hill Division might be constituted to
comprise all the backward tracts in Assam. This Division would be placed under a Commissioner who would be controlled directly by the Governor-General-in-Council. This Division would have a separate budget. In case the revenue from the receipts from these areas was not sufficient, the deficit would be met from the annual grant from the Imperial Government.

In case this proposal was not acceptable, "the second alternative is that a separate North-Eastern Frontier Hill Province should be formed to comprise as many of the backward tracts in Assam and Burma as could be conveniently included in it". He suggested that the following districts should be included in such a province - the Lushai Hills, the Chittagong Hill tracts, the North-Cachar Hills, the Naga Hills, the Garo Hills, the Khasi and Jaintia Hills, the Sadiya Frontier Tracts, the Mikir Hills, Pakoku and other hill and backward tracts in Burma which could be suitably included. The Headquarters of this province would be Kohima.

In conclusion, Parry said: "I suggest that either of these alternatives would be better than condemning the hills and the plains to an unnatural union in which the hills would merely act as a drag on the progress of the plain districts and the latter would exercise a detrimental influence on the development of the hills. The second alternative would in many ways be far better as it would group together a large number of tribes with more or less common origin and would ensure uniformity of administration for the hill tribes of the North-Eastern frontier."

Another important officer who gave evidence before the Simon Commission was G.E. Soames. According to him, the union of the hills and the plains was so unnatural, not appreciated by either party. Therefore, the Hills should be separated from the plains.
Recommendations of the Simon Commission: The full Report of the Simon Commission was published in May 1930. On the whole, the Commission accepted the views contained in the memorandum submitted by the Government of Assam. Therefore, the Simon Commission recommended that all typically backward tracts, with the exception of Khasi and Jaintia Hills should be excluded from the reformed Council. But those backward tracts should be classified into two categories, namely the excluded and the partially excluded areas. The Commission recognised the fact that certain areas were more advanced than other areas. Those areas which were at a higher stage of civilization should be treated as Partially Excluded Areas but those areas where the people were still in a lower stage of civilization should be grouped as Excluded Areas and as such there was a need for a special arrangement in the administration of such areas. It also recommended that an area which had been notified as a backward tract might not be treated as such when it ceased to be so. But the Simon Commission did not enumerate which area should be treated as Excluded Areas and which ones should be treated as Partially Excluded Areas.

The Simon Commission also recommended that the whole expenditure for the administration of the excluded areas should be the responsibility of the Central Government.

The formula for the administration of the Partially Excluded Areas as recommended by the Simon Commission appeared to be complicated in nature. The Commission recommended that these areas would continue to have their representation in the Assam Legislative Council. But, the Governor, as the Agent of the Central
Government would have the discretionary power to decide how far and what type of legislation passed by the provincial Council should be applied to those areas. Further, Rules might be framed, presumably by the Central Government to regulate the extent to which the Governor should act in consultation with the Cabinet. Apart from that, it was also recommended that the same system of taxation prevailing in the plains should apply to the partially excluded Areas also. But the revenue to be accrued therefrom should be spent for those areas. The Central Government should provide all additional funds required for the partially excluded Areas.

The Simon Commission gave some valid reasons for the total exclusion of the typically backward tracts. The scheme recommended by the Commission aimed at securing a more efficient and a congenial administration for the inhabitants of these tracts. It also aimed at preventing the more sophisticated people of the plains to exploit and subjugate the economic resources and interests of the hill people, and to see that the latter would be prevented from becoming a nuisance to the people of the plains. This scheme also aimed at preparing the people of the backward tracts for parliamentary Government. The Commission was of the opinion that the provincial Legislature was not likely to have the will or the resources to pay special attention to these areas because expenditure for them would not bring any benefit to the plain areas. Lastly, it was an undenying fact that Assam was a poor province and as such the administration of the backward tracts should be entrusted to the Central Authority.

The Commission was of the opinion that as long as the Government of India Act, 1919 was in operation, the administration
of the backward tract should continue to be controlled by the Governor as Agent to the Governor-General-in-Council. But even after the introduction of provincial Autonomy, the Commission observed: "we have no doubt whatever that the really backward tracts such as those of Assam, the alternative of complete exclusion must be adopted". The Central Government should administer these areas through the agency of the Governor.

Finally, the Simon Commission recommended that the terminology "backward area" should be changed to a more dignified nomenclature "Excluded Areas".

Reaction of the Government of Assam on the Simon Commission's recommendation:

As soon as the Government of Assam received a copy of the Simon Commission Report, it was thought it right and more reasonable to depend on Dr. J.H. Hutton for expert advice and comment. Hence the recommendations were referred to him for making a detailed study. The Government of Assam accepted the comments of Dr. Hutton.

The Government of Assam agreed with the suggestions of the Simon Commission on many points. First, the Provincial Government admitted the fact that it would not be in a position to find the additional necessary funds for meeting the deficit of the whole problem. Due to slender financial resources, there had been a tendency to neglect the needs of the backward areas. For instance the Mikir Hills and the Jowai Sub-division had always been neglected due to the fact that the Government had a tendency to listen to the more vocal claims of other areas. Secondly, the Government agreed also with the view of the Commission that if there would be any attempt to include them in the General provincial scheme it might hamper the very existence of the unsophisticated people of
the hill areas. Thirdly, the Government said that there was ample reason for the exclusion of the backward areas from the reformed constitution because the people of these areas preferred to be administered by European and Anglo-Indian officers because they used to look upon the people of the plains as their traditional foes. Fourthly, the Government said that there was a difficulty to impart education to the people inhabiting the most polyglot area in the world. There was an expectation from them that the Central Government should come forward to solve their complex problem by designing a proper type of administration specially for the purpose of bringing them up to the same level as the other neighbours. Finally, the provincial Government strongly supported the recommendation that the whole administration of the Hill areas should be the concern of the Central Government i.e., that the cost of the administration should be borne by the Central Government.

On the other hand, the Government of Assam expressed its doubt of the practicability of the Commission's recommendation that the backward areas should be represented in the provincial Council by nominated members, because it would not be possible to find out capable persons for nomination. Secondly, the Government of Assam did not agree with the Commission's observation that the people of the hill areas did not ask for self-determination except the security of their land. The Government pointed out that even before the advent of the British the tribal communities had developed their own definite system of polity. Even the British administration had tried to maintain the customary form of administration in these areas. The British had looked upon their political system and customary laws with respect and veneration. All these had been done because the Hill tribes had always demanded that they should be
left alone to develop and frame their own system of Government subject to the approval of the representative of His Majesty. This was enough proof of the hill people's expression for self-determination.

Since the Commission did not spell out in detail the name of the areas to be declared as Excluded or Partially Excluded Areas, the Government of Assam suggested that the Naga Hills, the Lushai Hills, the North-Cachar Hills, the Frontier Tracts should be totally excluded whereas the Khasi Hills and the Garo Hills might be declared as Partially Excluded Areas. Certainly, it was implied that the Government of Assam did not want the partial exclusion of any other areas.

Lastly, the Government of Assam expressed in clear terms that the future destiny of the Hill tracts would be linked up with Assam: "Our aim should be not to retain the aboriginal areas as picturesque survival but to secure them development by absorbing them with the rest of the community. The process of assimilation has been going on and to put obstacle in its way would be a retrograde step." The Under Secretary of State for India was in full agreement with this view.

Views of the Government of India: The Government of India did not agree with the Government of Assam regarding the total exclusion of the Naga Hills, the Lushai Hills, the North-Cachar Hills and the three Frontier Tracts. The Government of India expressed its opinion that even in these areas the principle of partial exclusion might be adopted to avoid the disadvantages of total exclusion and to secure to these areas better prospects for progress and development. Generally speaking, the Provincial
Government and the provincial Legislature might be associated with the Governor without prejudice to his personal responsibility regarding the administration of these areas.

Views of the Secretary of State for India: The Secretary of State for India expressed his agreement with the views of the Government of Assam. "Without compromise or equivocation", the Secretary of State for India recommended that the hill tracts should be excluded from the jurisdiction of the Ministers and the provincial Legislature. He rejected the views of the Government of India inspite of the many correspondences he had exchanged on this issue. The Government of Assam also, in reciprocation, accepted the views of the Secretary of State.

Views of the Royal Empire Society: The Recommendations of the Simon Commission were also discussed by the Royal Empire Society which appointed a Committee to examine them. After a thorough discussion, the Committee remarked: "It is clearly impossible to place the administration of these tracts under the control of the Legislature in which they are not represented and which cannot be expected to display any interest in them". Then the Committee suggested thus: "It is necessary therefore, to entrust the backward tracts to the care of the Central Government, which must use the provincial Governors as Agent for the administration of these areas. The Commissioner's Scheme, however, obviously requires further definition before it can be applied to particular localities. It is impossible to go into the details here but we wish to emphasise the importance of finance ......... In future, the funds required for the administration of these tracts, as well for their development where necessary will have to be provided from the Central revenues". The Committee further suggested that each backward tract
should be entrusted to the Governor under a definite mandate from the Central Government that he should spell out not only the policies to be followed but also to specify the terms of financial settlement for a definite period of time in order to secure advancement through efficient administration.

**Excluded and Partially Excluded Areas**: Let us now examine the distinction between Excluded and Partially Excluded areas. Excluded Areas were those hill tracts where the inhabitants were still backward and where any advanced form of Government was still an impossibility. These areas were to be administered directly by the Governor-in-Council and the provincial Ministers should have no Constitutional right to advice him in regard to the administration of these areas. The Central and Provincial Legislatures should not have the power to enact any legislation for these tracts, but the Governor-in-Council should have power to direct that any provincial law might be applied to these areas subject to such modifications and exceptions as the Governor-in-Council might think fit and proper. No question should be asked, no motion should be raised and no resolution should be moved. No debate should take place in the Legislature without the prior sanction of the Governor regarding the administration of those areas. Proposals for expenditure should not be subject to the vote either of the Central Legislature or the Provincial Legislature.

Partially Excluded Areas were those hill tracts whose degree of civilization had come more or less to the same standard as those of the plain areas. While the Central Legislature and the Provincial Legislature should be given the power to make laws solely applicable to these areas, it should insert a proviso that such laws should come into force only on such date subject to any
modifications and exception as might be ordered by the Governor-General-in-Council or the Governor-in-Council as the case might be. Further, while the Provincial Government was given full power to apply or to refuse to apply any new enactment, the Governor had the power to direct that any act of the Provincial Legislature should apply or should not apply subject to such modification or exceptions as the Governor might think fit. According to the Government of India Act, 1919, the Governor-General-in-Council was authorised not to apply any all-India Statute of general application. But in case any such Statutes be applied, it should be done with such modifications or exceptions as the Governor-General might think fit for any tract. With the previous permission of the Governor, the Provincial Council should have the right to discuss about the administration of these Partially Excluded Areas.

Let us examine the actual position in Assam during the period 1921 to 1937. The Ministers were in-charge of the transferred subjects. But according to the Instrument of Instructions issued to the Governors, it was clearly stated that the Governor should have a special responsibility to frame rules for protecting the backward tracts. Thereupon, rules were framed to restrict the powers of the Ministers in the discharge of their duties in the backward tracts. Technically, the tribal areas were under the control of the Ministers so far as the transferred subjects were concerned, but in practice, the Governor exercised full control over the backward tracts even on transferred subjects.

A question may be asked: Would not the Governor abuse this power? He might not even permit a genuine and innocent question to
be put on the floor of the House. But Sir Samuel Hoare pointed out that in spite of the fact that the officers who were administering these areas were not in favour of the administration from being discussed in the House, yet generally, discussion was permitted even without the previous permission of the Governor. Apart from that, Ministers would have access to the Governor which would mean that they would be in a position to influence his mind regarding the administration of the Excluded Areas. As regards the Partially Excluded Areas, only certain subjects such as Land and Police would be excluded from the purview of Ministerial control. The Legislature would have no jurisdiction over such subjects. Thus, the partial exclusion in the Partially Excluded Areas would be rather functional rather than territorial.

Lastly, whereas the seats for the Excluded Areas in the Provincial Legislature would be filled by nomination, the seats for the Partially Excluded Areas should be filled by election. They would get their representation only in the Provincial Legislature but not in the Federal Legislature. It was argued that one or two members from the tribal areas in the Federal Legislature would not be in a position to influence any legislation. But in the Assam Legislative Council they would be able to influence policies and legislation because the number would not be very small.

The Hill Areas and the Round Table Conference:

The Simon Commission consisted of seven Members. But as all the members were British, it was boycotted by the Congressites (But not Rev. J.J.M.Nichols-Roy), the Liberals and important sections of the Muslims. In view of the difficult situation in India, Sir John Simon wrote to Prime Minister Ramsay Macdonald,
suggesting the advisability of inviting after the publication of the Report of his Commission, the representatives from India to a conference before final decisions were made. This suggestion was accepted by the British Cabinet. Therefore, the Governor General made a momentous announcement "that the natural issue of India's Constitutional progress....... is the attainment of Dominion Status" and that Round Table Conference would be held in London after the Simon Commission had reported. When the question about the constitutional arrangements regarding the hill tracts of North-Eastern India was taken up at the Round Table Conference, the representative from Assam, Chandradhar Barua, did not utter a single word. Perhaps, this was the reason why Assam was not represented at the Second and the Third Round Table Conference.

The White Paper and the Hill Areas: At the end of the Third Round Table Conference, His Majesty's Government published the White Paper on Indian Constitutional Reforms which accepted the proposal of the Statutory Commission headed by Sir John Simon. So far as the Hill Areas were concerned, the White paper accepted the Classification of the areas into Excluded and Partially Excluded Areas. Regarding expenditure to be incurred for the Excluded Areas, it should be non-votable.

The Government of India Bill, 1935: This Bill provided that the constitutional set-up for the Excluded and Partially Excluded Areas was underlined in the Sixth Schedule appended to the Bill. The Sixth Schedule included all the recommendations contained in the White Paper. According to the Sixth Schedule the two classes of Areas were divided as under:-
Part I: Excluded Areas should comprise of North-East Frontier, Sadiya, Balipara and Lakhimpore, the Naga Hills district and the Lushai Hill district.

Part II Partially Excluded Areas should comprise of North-Cachar Hills in the Cachar District, the Garo Hills district, the Mikir Hills in the Nowgong and Sibsagar districts, the British portion of the Khasi and Jaintia Hills other than Shillong Municipality and the Shillong cantonment.

The Hill Areas and the Joint Select Committee:

When the Government of India Bill, 1935 was taken up, it was referred to the Joint Select Committee for further examination on the whole question of Indian Constitutional Reform. The witnesses who appeared before the Joint Select Committee substantially supported the proposals contained in the White Paper. Once again, Dr. J.H. Hutton was the most vocal among the witnesses, that the Hill Areas should be totally excluded. First, since their population was small, their representation in the Legislative Council would also be small and as such they would not become effective. Secondly, their interests were alien to the interests of their neighbours. Thirdly, the hill people themselves were conscious of the dangers in a mixed set-up and definitely they wished self-determination for preserving their culture and way of life. Fourthly, in a mixed set-up, the hill people would be exploited by the people of the plains. Fifthly, Dr. Hutton said that if the extension of licensed liquor shop system had done harm to the people, prohibition would do them no good. Sixthly, the administration of justice in the hills was quick and cheap because lawyers were not employed. If the lawyers would be employed, the whole system of administration of justice would become cumbrous and complicated. Lastly, Dr.
Dr. Hutton suggested that the hill areas should be excluded from the Provincial Legislature and should be administered directly by the Central Government.

Sir Samuel Hoare did not agree with Dr. Hutton that the hill areas should be administered by the Government of India. According to him, the hill areas would get better advantage if they were administered by the Provincial Government. Of course, Hoare agreed with Dr. Hutton that the areas should be excluded from the control of the provincial Legislature.

On the opposite side of the picture, M.R. Jayamar argued that the feeling in the whole country was that the proposals of the White Paper would reduce the influence of the Indian Legislature over large areas. That feeling would be intensified more and more if the Governor would be authorised to declare any area as a Backward tract. But Sir, Samuel Hoare pointed out that the provincial Legislature would not take interest or rather unmindful of and indifferent to the special treatment that the people of the hill areas desired. In fact, these people had expressed their opinion that they distrusted the Indian Legislature. Since there was no means to prevent the politicians or the people of the plains from interfering with their way of life, the only alternative was the exclusion of these areas from the Reforms.

The Joint Select Committee strongly recommended the exclusion of the hill areas from the control of the Assam Legislature. It also accepted that the Backward tracts might be classified into Excluded and Partially Excluded Areas. It also recommended that the application of the Provincial Acts to the Partially Excluded Areas might be done by the Governor, acting on the advice of the
Minister concerned. It also observed that the Governor should have the right to differ from the advice given by the Ministers. Further, the Joint Select Committee recommended that the expenditure for the administration of the Excluded Areas should be made non-votable. Lastly, it recommended the areas to be declared as Excluded and Partially Excluded should be determined by an Order-in-Council.

Debate in the House of Commons: There was an interesting discussion on this important issue in the House of Commons. Col. expressed his opinion that the backward tracts should remain under the British control. He urged that there was a tendency on the part of the province to bring these areas into the same position as the rest of India. He pointed out that people living in these backward tracts were aborigines. They would simply be ruined if they were forcibly dragged into the competitive industrialised world. The Hill people, according to him, should be protected from any form of encroachment. Therefore, he opined that they should remain under the direct control of the British and they should not be controlled by the Governor of a province.

Col. Wedgwood further explained another danger. He said that educated Indian businessmen "want to get them as cheap labour and if these people are to be saved from the hell of civilization, the only change they have is British protection and British control and to be free from the insidious advances of the rich people in the provinces to exploit them..... It is not fair to put these tribes for hundreds of years behind the Indians today into the unrestricted hands of people whose object must be to exploit their labour..... They should be developed from themselves."
On 10th May 1935, Cadogan moved an amendment in the Committee of the Whole to extend the list of Excluded Areas so as to include North-Cachar Hills and Mikir Hills in the list. This amendment got the full-throated support of Wing Commander James, Major Attlee and Sir Reginald Craddock.

Samuel Butler, the Under Secretary of State for India made a statement on 13th May, 1935 that full enquiry would be made so that an Order-in-Council would be issued with the full knowledge of Parliament, and that would be made before the appointed hour when Provincial Autonomy would be introduced. Butler also assured the House that the number of areas to be excluded should be few and that the selection should be done with great care so that their total exclusion should be fully justified.

It must be recalled that the Joint Select Committee suggested that selection of the area should be dealt with by an Order-in-Council. But Cadogan in his amendment went beyond the recommendations of the Committee. The Attorney-General assured that the Sixth Schedule would be withdrawn so that the matter would be settled by an Order-in-Council as suggested by the Committee. Thus, the Commons was very much concerned over the question as to what areas should be declared as Excluded and what areas should be declared as Partially Excluded, and there was a feeling in the Commons that there was a need for a thorough enquiry into this particular question. Thereupon, Sir, Samuel Hoare moved an amendment to clause 91 of the Government of India Bill, 1935 as follows:

"Such areas as His Majesty may by an order-in-Council declare to be Excluded Areas or Partially Excluded Areas.

The Secretary of State shall, by the draft of the Order which it is proposed to recommend His Majesty to make under this
Schedule, before Parliament within six months from the framing of this Act".

In the sitting of the Committee of the Whole, members of all parties expressed the doubt whether the areas enumerated in the Sixth Schedule was comprehensive enough as to cover all the areas where the inhabitants wished to be excluded. The members also thought that the proposals contained in the Schedule were not sufficiently examined to meet the need of the areas, Hence the above amendment.

The amendment moved by Sir, Samuel Hoare was adopted by the Committee of the Whole. Therefore the Committee omitted the Sixth Schedule from the Government of India Bill, 1935. The Committee authorised the Government to determine the areas to be notified as Excluded and Partially Excluded areas by an Order-in-Council. But the draft Order was to be laid on the Table for approval by the House not later than six months after the passing of the Act.

The Government of India was requested to investigate into the matter afresh and then to report de novo. The Central Government then requested the Provincial Government to re-examine the case and that in the selection of Excluded Areas, it should, as far as practicable be limited. Strict necessity alone should be observed. The Government of Assam had to consult the District Officers in the matter.

Views of District Officers: The Deputy Commissioner of the Garo Hills district gave many valid reasons in favour of the exclusion of the area from the operation of the reforms. First, the Garos were almost aboriginal except about two percent who were christians! According to him, those two percent were 'Stomach Christians' who were hoping only to get some posts or some advantages. Even those
Garos who lived very close to the plain districts were practically as primitive as the Garos of the interior. Secondly, like all hillmen, the Garos were very conservative regarding their tribal customs and traditional laws and were inimical to all people of the plains. Thirdly, there was a fear among the Garos that reforms might mean control by a few educated Christians who would exploit the people for the promotion of their self interest. Fourthly, the Garos had nothing in common either with the people of the Assam Valley or the Surma Valley. Further, they had nothing in common with the Hindus or the Muslims. Since they were animists, they had no religious ties with the plains. Among the Garos, there was no caste system, no purdah system and they allowed remarriage of widows. Fifthly, the Garos had always been in constant hostility with the plains people. Sixthly, their language had no affinity with those of the plains. Sevently, the matriarchal system of the Garos was contrary to the laws of the plains. Eightly, lands were held by clans in villages known as Aking, a tenure system not found in the plains.

Further, the Deputy Commissioner pointed out some more valid arguments. First, the Garos should not be allowed to be looked down by the plains people. Though the Garos admitted that they were not intellectually equal to the plains people, yet they were honest, always cheated by the plains people in their trade with them. Moreover, the Hindus and Muslims always looked upon the Garos a little better than animals. Secondly, it was also pointed out that the reformed council would not have sympathy for the Garos who would have only two representatives. Thirdly, the new system, if introduced would be too expensive and of doubtful advantage to the Garos. Fourthly, the Deputy Commissioner also pointed out that the Garos had no
experience about elections as there had been no local board or municipality in the district. It was pointed out that one of the Garos who was nominated to the Legislative Council did not take interest either for the Garos or in the Council work. Almost all the Garos did not understand the implication of Reforms. Only a small percentage of Christians desired some sort of reform. Finally, the Deputy Commissioner recommended that the Garos were not fit even for partial exclusion. But the Mouzas six, seven and eight which were inhabited mostly by Hindus and Muslims and a few Garos might be permitted to exercise their franchise in the adjacent Constituencies of the Goalpara district.

The Deputy Commissioner, Khasi and Jaintia Hills observed that since he was not consulted before, since the Government had already decided to include Jowai Sub-division immediately after a deputation met His Excellency the Governor, Sir Laurie Hammond when he visited Jowai, and since the whole matter had become more or less a fait accompli, he would prefer to narrate only the political trend prevailing in the district. He pointed out that so far as the Jowai Sub-division was concerned, political opinion was confined to a few educated people. But their opinions were vocal, strong and influential. It was a fact that there was a protest in Jowai against the inclusion of this Sub-Division. Campaigns was vigorously conducted all over, but finally the opponents of inclusion had to give up the campaign because they could not get sufficient number of supporters. At last, the opinion of Rev. Nichols-Roy, the greatest supporter for inclusion prevailed. The people had a sincere belief in the arguments put forward by Rev. Nichols-Roy who said that exclusion would mean the exclusion of the Khasis from professional schools and colleges located in
the plains, and it would also mean exclusion from Government service. Although his arguments were not valid, yet temporarily, if not permanently, his views ultimately prevailed. The whole behavioural approach of Rev. Nichols-Roy was to enable himself to take part in Provincial politics to satisfy his political ambition. Of course, it must be admitted that such an ambition was not an unnatural ambition.

The Deputy Commissioner made a reference to Shillong also where the educated Khasis were able to secure franchise as early as 1921. They had long experience in Municipal Board elections, and as such they had welcomed the fact that they were being represented in the legislature. There would be no justification to undo what had already been done. Rev. Nichols-Roy in particular was very much agitated, when he found that the Original Bill did not include the Mylliem State area of the Shillong Municipality. Further, the Khasis were no longer backward as the percentage of literary was very high. The advocates for exclusion had gone to the extent of arguing that inclusion would mean that the people would get their freedom from the arbitrary powers of the Deputy Commissioner.

The Deputy Commissioner therefore concluded that total exclusion would arouse strong opposition and vehement protest; hence, Partial Exclusion of Khasi and Jaintia Hills was recommended by him.

Comments by Dr. Hutton: The Government of Assam referred all the letters received from the District Officers which contained their views on the subject to Dr. Hutton who had by then retired from the Indian Civil Service for his comment. Dr. Hutton agreed with the views of the Deputy Commissioner, Garo Hills. He said, it
would be farcical to include the Garo Hills in the Legislature. He, therefore suggested that the Garo Hills should be excluded.

Commissioner's view: Mullan, the Commissioner of the Surma Valley recommended the exclusion of the Garo Hills and the British portion of the Khasi and Jaintia Hills excluding the Municipal and Cantonment areas of Shillong. He did not agree with Rev. Nicholas-Roy's argument of percentage of literacy. He said that: "the vast majority of the Khasis would like to stick to their ancestral customs and it will be a great injury to them to imperil these because of the vocal few who would betray their race for their own glorification or gain."

Recommendations of the Government of Assam: After a careful study of the views of the officers and the view of Dr. Hutton, the Government of Assam recommended as follows: First, excepting the British portion of the Shillong Municipal and the Cantonment areas, the whole British portion of the Khasi and Jaintia Hills should be a partially excluded area. So far as the Garo Hills District was concerned, divergent views had been expressed. But all of them agreed on one point and that is the need of special protection for these areas. There was no agreement whether they should be totally excluded or partially excluded. Since there was no agreement on this question, the Government of Assam recommended that they should be partially excluded. The Government of India supported the recommendation of the Government of Assam. In other words, the Government of India did not accept the amendment moved by Cadogan in the Committee of the Whole.
The Secretary of State for India on the Recommendations: The Secretary of State for India accepted the recommendations of the Government of India im toto. They were embodied in the Draft Order-in-Council and placed it before Parliament on 31st January 1936. In the discussion that followed in the House of Commons on the Draft Order-in-Council, Wing Commander James expressed his dissatisfaction with it. Gallacher raised one important pertinent point thus: "Instead of keeping the aboriginals in excluded areas and appointing all kinds of officers to protect them, all our power and wealth ought to be directed towards bringing the aboriginals into the line with the general development that is, going on in India...... I am not giving any support or encouragement to this idea of excluded areas and protection".

Gallacher received a rebuff from Lt. Col. Smiles who had resided in Assam for many years and who had been a Member of the Assam Legislative Council. Lt. Col. Smiles said that it was inhuman on the part of Gallacher to have thought that the Hill people should not be protected. He pointed out that the people of these areas were being looked down by the people of the plains. Hence, even if Gallacher's view was to be accepted "such a development....... must be slow". However, Smiles agreed that the British Portion of the Khasi Hills should be partially excluded. While agreeing with most of the recommendations, Lt. Col. Smiles did not agree that the Garo Hills district should be partially excluded. Smiles observed thus: "I see no justification for their inclusion as partially excluded areas. They are not yet fit for the rough and tumble of political life and they are in very isolated districts."

At the conclusion of the debate in the House of Commons, it was found that the recommendations of the Government of India was accepted by the House. Therefore, on 25th February, 1936 an Address
was presented to His Majesty that an Order-in-Council should be made in the same form as contained in the Draft laid before parliament earlier. The Order-in-Council was declared on 3rd March 1936. This Order-in-Council provided that (a) the Naga Hills, the Lushai Hills, the North-Cachar Hills and all the tracts constituting the present Arunachal Pradesh were excluded completely; (b) the Mikir Hills, the Garo Hills and the British portion of the Khasi and Jaintia Hills excluding the Shillong Municipal and the Shillong Cantonment areas should be partially excluded within the purview and meaning of the Government of India Act, 1935.

Further, the Order-in-Council provided that no federal Act or Provincial Act could apply to Excluded or Partially Excluded Areas unless the Governor of the Province so desired. This provision was intended to safeguard the application of any law which were opposed to the interest of these areas. The Governor was authorised to examine and to decide whether any law was suitable for these areas and what law was to be modified. Thus the Governor was given a veto power. But it was expected that, unless there were good reasons, the Governor should not exercise his veto power. Further, section 92 of the Government of India Act, 1935 empowered the Governor with additional powers to make regulations for the peace and good administration of both the Excluded and Partially Excluded Areas. Further more, in particular, it was stressed that the Governor should be responsible for the protection of the Partially Excluded Areas.

So far as financial arrangement was concerned, the expenditure for the administration of the Excluded areas was a charge upon the Revenues of the Province. The Governor had also the power to authorise expenditure on the Partially Excluded areas if and when
It was further provided that the legislature could pass any special legislation for any Partially Excluded area, but such Acts could not be applied automatically. In the case of the Excluded Areas, the legislature of Assam was not competent to pass any law or to vote any demand for Grant for these areas. The Instrument of Instructions still enjoined upon the Governor to see that the people of these areas should not suffer from fear of neglect.

The arrangement continued from 1937 to 1947. In the discharge of his special responsibilities, the Governor was assisted by a Secretary, designated as Secretary to the Governor.

General Observation: The promulgation of the Order-in-Council on 3rd March, 1936, classifying the backward tracts of the North-Eastern Region into the Excluded and Partially Excluded Areas within the meaning of the Government of India Act, 1935 surprised many and puzzled quite a few. There was however, nothing to be wondered at that. History moves at its own pace - it has its own tides and ebbs, its own surprises and puzzles. At that time, historians and political scientists were wondering whether history still had a few tricks under its elbow, or what final solution would the arrangement lead to. It was hazardous, even for the angels to make a prediction at that time. But certain emerging trends were already undeniable. The India Statute book has from very early times contained such provision, such laws to bar the application of ordinary law in the more backward area completely or partially. Those laws corresponded with the Order-in-Council by the British Crown. The machinery devised for such purpose was as follows:-

The Secretary-in-Council, by a resolution would declare that the provisions of section 1 of the Act of 1870 would apply to some
part of any British province in India. Hence, the Governor-General-in-Council drafted the Regulation for the peace and good Government for that area. This Regulation, after it was approved and assented to and duly gazetted had the same force of law as if it had been passed by the legislature.

The same trend appeared in the Government of India Act, 1919 that areas were selected with the view of excluding them from the reformed Council. The Government of India Act, 1935 provided a far more extensive territory to be excluded, though of course, there was also a provision that some wholly excluded areas might be declared as a partially excluded area and any partially excluded area might be brought under a normally administered area.

This constitutional arrangement was severely criticised by the Indian National Congress which pointed out that about 15 million Indians had been placed in a State of Semi-babarism; denied of medical facilities, education and other amenities of civilized life. These people would never be able to develop themselves, they would never become politically conscious nor learn to organise a struggle against injustice and wrongs to which they had been subjected to. At its annual Session held at Faizpur, the Indian National Congress placed on record thus: "This Congress is of opinion that the creation of the Scheduled Areas and Partially excluded areas is yet another attempt to divide the people of India into different groups with unjustifiable and discriminatory treatment and to obstruct the growth of uniform democratic institutions in the Country. The separation of these areas is intended for the exploitation of the mineral resources and forest wealth in these areas and keep the inhabitants of these areas apart from the rest of India for their easier exploitation and suppression. The Indian
National Congress therefore demanded the abolition of the excluded and partially excluded areas."

But, it must be noted that these criticisms were levelled by persons who had no deep knowledge about the areas concerned and the people inhabiting therein. It must be pointed out that even the Congress Government followed the policy of exclusion after it came to power. Even the Inner Line Regulation is still continued.

There were some other views also. The No-Party Conference, through its Conciliation Committee recommended that ultimately the Government of the Province should be responsible for the administration of these areas. This Committee devised a number of arrangements such as representation of these areas in the legislature through territorial Constituencies, the number of representatives which would be increased, the number of representative from these areas in the Cabinet which should be at least one, and that the administration of these areas should be entrusted to a Special Commissioner who should have special knowledge and sympathy for the Hill people.

The Socialist Party suggested thus: "the State should provide special facilities to the oboriginal tribes and other backward peoples for the economic and cultural advancement. It is obvious that without such facilities, real equality will never be achieved by them and legal equality assured to them by the Constitution would be of negative value."

The Indian Independence Act, 1947, provided that all provinces and all parts of the Province should be governed as nearly as might be in line with the spirit of the Government of India Act, 1935, the Orders-in-Council and other Instruments thereunder. Thus, after independence also the same system prevailed, though of course, the administration of the Excluded and Partially Excluded areas was
transferred to the Government of Assam. In 1948, the Indian Provisional Constitution Order added a proviso to section 91 authorising the Governor-General to remove any area from the list of Partially or wholly Excluded areas or to add any area to an excluded or partially excluded area.

In conclusion, the historical process had been at work for many decades. The future alone knows what further developments would be unfolded through a long chain of historical evolution fifteen, thirty, thirty-five, or thirty-seven years after.