HEAD OF THE PROVINCE

Mode of appointment, tenure, salary etc.

(I) Term of Office:

"In all the provinces the head of the Government would be known as Governor." A Governor was appointed for a term of five years by His Majesty by Warrant under the Government of India Act, 1919 but the Act did not mention about the tenure of office of Governor. The five years' tenure was conventionally decided. The tenure of office of the Governor-General and his four Councillors of Fort William under the Regulating Act of 1773 was five years.

In the newly created five provinces including Assam, a senior member of the Indian Civil Service was appointed Governor. The Governorship of three provinces was regarded as a prize post.

We shall now consider the term of office of the Governor. Sir William Sinclair Marris, K.C.S.I., K.C.I.E., I.C.S. was the first Governor of Assam. He held office from 3 March 1921 (forenoon) to 10 October 1922 (afternoon) when he resigned. Thus he held office for 1 year 7 months and 7 days.

2. Sec. 46(2) of the Govt. of India Act, 1919 (9 & 10 Geo. V.C. 101).
5. Sec. 46(2) of the 1919 Act.
The Second Governor Sir John Henry Kerr, K.C.I.E., C.S.I., I.C.S. held office for 4 years 8 months 18 days from 10.10.22 (afternoon) to 28.6.1927 (forenoon). 7

The third Governor Sir Egbert Laurie Lucas Hammond, K.C.S.I., C.B.E., I.C.S. held office for 4 years 10 months 12 days from 28.6.1927 (forenoon) to 10.5.1932 (afternoon) when resigned. 8

The fourth Governor Sir Michael Keane, K.C.S.I., C.I.E., I.C.S. held office for 4 years 9 months 23 days with effect from 11.5.1932 (forenoon) to 3.3.1937 (afternoon) when he resigned. 9

The fifth Governor Sir Robert Niel Reid, K.C.S.I., K.C.I.E., I.C.S. held the office for 5 years 2 months from 4.3.1937 (forenoon) to 3.5.1942. 10 So Sir Robert Niel Reid was the last Governor of Assam under the 1919 Act and the first Governor under the 1935 Act.

There were three acting Governors during dyarchy who acted in the absence of the Governors. Sir Nicholas Doddful Beatson Bell, K.C.S.I., K.C.I.E., I.C.S. who the first acting Governor who held office from 3.1.1921 (forenoon) to 3.3.1921 (forenoon). 11 Sir William James Reid, K.C.I.E., C.S.I., I.C.S. was the second

Acting Governor to officiate twice - (1) from 10.4.1925 (afternoon) to 6.8.1925 (forenoon) and (ii) from 11.8.1925 (afternoon) to 8.12.1925 (afternoon). Sir Abraham James Laine, K.C.I.E., I.C.S. was the third Acting Governor holding office from 19.6.1935 (afternoon) to 10.10.1935 (afternoon).

The above analysis shows that under the Government of India Act, 1919 no Governor completed the entire five years term of office.

(II) Salary:

There was no uniform salary for the Governors. Different Governors received different amount of salary. The Governor of the United provinces received a salary of Rs.10,000/- per month equivalent to the Governors of Bengal, Madras and Bombay each; the Governor of Punjab, Bihar and Orissa received Rs.8,333 1/3 per month; the Governor of the Central Provinces received Rs.6,000/- per months; but the Governor of Assam received Rs.5,500/- plus a sum of Rs.500/- as the sumptuary allowance per month, which was the sumptuary allowance of the Chief Commissioner of Assam. The Governor of Assam was entitled to receive £1,200 for equipment and voyage on his appointment from England to Assam. Therefore the salaries

14. Apptt. B., May 1921, Nos. 247-256; Finance A, October 1922, Nos 3-19; and Second Schedule (Official Salaries etc.) substituted by the 1919 Act. To be read with Sec. 85, 86 & 87 of the Act.
and allowances of the Governors were fixed and could not be altered by any Indian Legislature.

(III) Establishment:

The Governor had one private Secretary with a Secretariat establishment and one Aide-de-Camp, but the Aide-de-Camp in Assam was appointed for the first time in June 28, 1927 under the Governorship of Sir E.L.L. Hammond.

(IV) The title "His Excellency":

The title "His Excellency" was used exclusively by the Governors of the Presidencies whose status was always higher than that of others. But under the Act of 1919 irrespective of the size and population of the province he was addressed as "His Excellency." Moreover, all the Governors were entitled to 17 guns salute on occasions like (1) assumption or relinquishing office, whether temporary or permanent, (2) public arrival at, or departure from, a military station, and on formal ceremonial occasions, such as arriving at or leaving a Durbar, or when paying a visit to a Ruling Chief, and (3) on occasions of private arrival at or departure from military station. Salutes for the members of Governor-General's Council and members of Governors' Councils were abolished in 1920.

(V) The Oath:

On the assumption of office the Governor had to take an oath to be administered by the senior judge in the province in the presence of leading officials and non-officials of rank and status. The oath had a special significance. The Governor had at first to swear or solemnly affirm to bear faithfulness and true allegiance to "His Majesty, His Heirs and Successors." Further the Governor must swear that he would be loyal to the British Government and protect British interests.

(VI) Removal, Resignation and absence from India:

Under the Government of India Act, 1915, subject to the provisions of the Act or Acts, a Governor might be suspended, removed or sent to England by the Governor-General in Council and might be subjected to such further pains and penalties as were provided by law in that behalf if he disobeyed any order of the Governor-General in Council. 20 A Governor could resign his office in writing addressed to the Secretary of State (or to the Chief Secretary in the case of a Presidency). All these provisions were omitted by the Part III of the Government of India Act 1919 but a Governor could depart from India intending to return to Europe in which case, except on special duty or on medical leave, his office, would become vacant. 21 Out of the five Governors


21. Archbold, W.A.J : Op cit., pp 250 & 312, Sec. 87(2) of the 1915 Act as repeated by Sch.II of the 1916 (amendment Act); and Sec. 87 of the 1919 Act.
during the Reform period three resigned from office. ??

(VII) Leave and Temporary vacancy:

A Governor was entitled to leave of absence for a period not exceeding four months and not more than once during his tenure of office but the Secretary of State could extend the period of leave, the reasons of which were to be laid before both Houses of Parliament by the Secretary of state in a minute under his signature. Under such circumstances of leave of absence a Governor was entitled to leave allowance but here also there was no uniformity. Each Governor, other than the Governors of Central Provinces and Assam was entitled to leave allowance of Rs.4,000/- per month but the Governors of Central Provinces and Assam were entitled to Rs.3,000/- and Rs.2,750/- per month respectively. 23

In case of temporary vacancy of the office of the Governor for any reason the same procedure of appointment was observed 24 i.e. by Warrant under Royal Sign Manual of appointment. If no successor was on the spot to fill up the vacancy, then the Vice-President in whose absence the Senior member of the Governor's Executive Council, in his absence the Chief Secretary of the province would hold and execute the office of the Governor under the 1919 Act until a successor arrived. 25

25. Sec. 91(1), Ibid.
Every such acting Governor would enjoy the same benefit like the permanent Governor for such acting period.26

Thus the Governor of Assam in comparison with the other Governors received the lowest amount of salary, sumptu­ary allowance and leave allowances under the 1919 Act.

(VIII) Dress - Uniform:

The Governors of Provinces including Assam, other than Madras, Bombay and Bengal, had to wear Full and Levee Dress, Uniform of second class but after June 27, 1927 all the Governors including Assam had to wear Full and Levee Dress Uniform of First Class. For 'Hot Weather Uniform' a Governor had to wear Patrol Coat - white cotton drill, stand and fall collar fastened with one hook and eye; five gilt medium buttons down front, two patch breast pockets with box plait, one inch wide in centre and pointed flaps with small gilt button in each; sleeves plain with pointed cuffs 5 inches high at point and \(2\frac{1}{2}\) inches behind with four cords twisted of gold wire Lancer shoulder trap cords on each shoulder and four gilt mounted buttons on cuffs with Royal Arms with supporters - overall being white cotton drill overalls with black leather foot straps. The helmet, boots, spurs, forage cap, sword and sword belt should be worn as undress but the belt was to be worn under the coat. The uniform was to be worn in substitution either for the full dress or undress uniform during such periods of year as the

26. Sec. 91(2), Ibid.
local Government may prescribe. When the uniform was worn as full dress, medals and decorations should be worn and when it was worn as undress, ribbons only would be worn.\textsuperscript{27}

The Dress (Uniform) was to be worn to maintain the status and dignity of the Governor identifying him as the representative of the Crown (of Great Britain) in an Indian Province through whom the subjects had to pay acknowledgement to the King Emperor of Great Britain, Ireland and the British Dominions.

The Government of India Act. 1919

(I) The Executive Councillors:

The Government of India Act 1919 divided the provincial subject into "reserved" and "transferred", under the system of Government known as "Dyarchy" to be administered by Governor in Council and the Governor acting with a Minister or Ministers respectively.\textsuperscript{28} The members of the Governor's Executive Council were also appointed by His Majesty by Warrant under Royal Sign Manual for a five years term, though here also the Act was silent about the tenure of the Executive Councillors.\textsuperscript{29} The Act fixed the maximum number of Councillors at 4,\textsuperscript{30} but most of the provinces had only 2 or 3 such members.\textsuperscript{31} They were paid a salary fixed by the Act and in

\textsuperscript{27} Apptt. A, September 1923, Nos 1-4, as substituted by the Chief Secretary to the Govt. of Assam dt. 27.6.1927.
\textsuperscript{28} Sec. 1(1) of the 1919 Act; Archbold, W.A.J.:: op cit., p.175 (Nos 24 & 25-29 of the Montague Chalmsford Rep.).
\textsuperscript{29} Sec. 47(1) of the 1919 Act.
\textsuperscript{30} Ibid.
\textsuperscript{31} Assam had two such members, and Sir William James Reid, C.S.I., I.C.S. and Abdul Majid, C.I.E., took charge of their offices on January 3, 1921 as the first Executive Council Members of the Governor of Assam. Apptt. B., March 1921, Nos 137-161 and Admin. Dept. for the year 1921-22.
the case of Assam a member of the Executive Council was paid a salary of Rs.3,500/- per month which was not subject to the vote of the Legislature. They were also entitled to leave for the same period as in the case of the Governor. During such period of leave of absence they were entitled to leave Allowance at the rate of Rs.1,750/- per month. They were ex-officio members of the Provincial Legislature but were not responsible to it. The Montague Chelmsford Report laid down that the Executive Council should have two members, one of whom should be an European and the other an Indian. The Indian member should be an elected member of the Provincial Legislative Council. The Functions Committee suggested that there should be two English members and an equal member of non-official Indians in the Executive Council. But the rules laid down that there should be at least one civilian of twelve years' standing. The strength of the Council was two. The Governor with the advice of the Executive Councillors administered the 'Reserved' subjects.

(II) Governor's relation with the Executive Council:

The Governor presided over the meetings of the Executive Council where questions were to be divided by a majority of votes in case of differences of opinion and the

34. Sec. 72A of the 1919 Act.
36. Sec. 46(1) of the 1919 Act.
Governor as presiding officer enjoyed a second or casting vote. He could, however, override the majority decisions of the Executive Council; if in his opinion "the safety, tranquility or interest of the province or any part thereof" were "essentially affected", or where his special responsibilities were involved. In every such case the Governor and the members of the Executive Council present had to write down the grounds of their note of dissent, and the order of the Governor must be signed by the Governor and by those members present in the Council meeting. The Governor could make rules and orders for the more convenient transaction of business in his Executive Council. He appointed the senior member of his Executive Council as the Vice-President of the Council to preside over the meetings in his absence. Thus so far as the position of the Governor vis-à-vis the 'reserved' subjects was concerned he was the indisputable master.

Formation of Government

Before 1921 the Head of the Province was not assisted either by an Executive Council or by a Council of Ministers. When Dyarchy was introduced in 1921, the Government consisted of two parts; the reserved and the transferred. The Reserved Half was administered by an Executive Council, consisting of two members. Of the two one was a distinguished politician and the second a distinguished civil servant. The Joint Select Committee on the Government of India Bill, 1919, insisted that if there were two members in the Executive Council there should be two non-officials in the Council of Ministers.

37. Sec. 50(1) and 51, Ibid.
38. Sec. 50(2), Ibid.
39. Sec. 50(3), Ibid.
40. Sec. 48 and 51 of the 1919 Act.
Thus the Government of Assam consisted of two Executive Councillors and two Ministers.41

In 1922, the Government of India suggested to the Government of Assam the reduction in the strength of the Executive Council. They thought that the strength of the Government of Assam was in excess of the real requirements of the Province. A Resolution was moved in the Assam Legislative Council that the strength of the Executive Council should be reduced to one. The Government of Assam admitted that its strength was no doubt in excess but pointed out that if the strength of the Executive Council was reduced, the number of Ministers also should be reduced. But the reduction in the number of Ministers would be unpopular. Further it would be difficult to secure the representation of both the valleys, the Brahmaputra and Surma, a consideration to which public opinion attached some importance. Therefore, the Governor did not agree to reduce the number of Ministers.

As regards the Executive Council, the Governor was prepared to abandon the principle of equality in members between the two sides of the Government and would have only one Councillor but pointed out certain difficulties in the way. Rule 36 of the Statutory Devolution Rules required that the Finance Department of the Local Government should be under the control of the Finance Member of the Executive.

Council and Finance could not be assigned to the Governor himself because Finance Member must be present in the Legislative Council from which body the Governor was excluded. Section 47(2) of the Government of India Act, 1919, contemplated the appointment of a senior officer of the Indian Civil Service and indeed for sometime to come he must be an European Member of that Service because the technical experience required in dealing with the question of Provincial Finance, would not be forthcoming for sometime from any other quarter. Further, questions of importance to the Tea Industry were likely to present themselves which ought to be dealt with by a council in which practical experience of the working of the tea gardens acquired in the post of district officer or commissioner was possessed either by the Governor or by his Executive Councillor. The change would in fact result in the reduction of the Indian Member of the entire government. On that ground that an Indian Member would have no share in the administration of the Reserved subjects, there would be criticism. Thus, the Government of Assam under Dyarchy had two Executive Councillors and two Ministers.

The members of the Executive Council were appointed by His Majesty by Warrant under the Royal Sign Manual for a term of five years. The Act fixed the maximum strength at four. They were paid a salary of Rs.3,500/- per month. It was not subject to the vote of the Legislative Council. The Executive Councillors were also entitled to leave for the same period as in the case of the Governor, with a leave
allowance of Rs.1750/- per month. They were ex-officio Members of the Legislative Council though they were not responsible to it for their official acts. The senior member of the Executive Council was appointed as the Vice-President of the Council.

The first two Executive Councillors were Abdul Mazid and William James Reid both of them were civil servants. They were appointed on 3 January 1921. On 13 April 1923 Abdul Mazid went on leave for six months. Kutbuddin Ahmed, a member of the Legislative Council from Nowgong was appointed as a temporary member of the Executive Council. He assumed charge on 12 April 1923. There was no prohibition to the appointment of a member of the Legislative Council as a member of the Executive Council. But Kutbuddin resigned the membership of the Legislative Council prior to his appointment as a member of the Executive Council. Kutbuddin took the oath of office on 16 April 1923. Abdul Mazid returned after the expiry of his leave only to resign his office on 29 February 1924. Kutbuddin was appointed again temporarily. He assumed office on 1 March and on 13 March he was made a permanent Member of the Executive Council. Kutbuddin according to Nabin Chandra Bardolei an Ajatasatru, a person who had no enemy, very much respected for his catholicity of outlook, transparent honesty and lovable nature and belief in God. On 10 April 1925 William James Reid a member of the Executive Council was appointed Governor of Assam when John Kerr the Governor of Assam was appointed
acting Governor of Bengal. In the place of Reid, H.C. Barnes was appointed a temporary member of the Executive Council. Kutbuddin was appointed Vice-President of Executive Council in the place of Reid. Reid retired. He was succeeded by A.W. Botham. Kutbuddin completed his term of office and resigned on 1 April 1929. He was succeeded by Muhammad Saadulla who was then a Minister. William A. Botham became the Vice-President of the Executive Council vice Kutbuddin. Saadulla resigned after completing his term on 31 March 1934. He was succeeded by Promode Chandra Dutta. A.J. Laine was appointed Vice-President. It may be noted that Laine succeeded after the retirement of W.A. Botham in 1931. Promode Chandra Dutta was a minister for two terms and he was selected because no Hindu from the Surma valley was selected since the introduction of Reforms. Sir Michael Keane the Governor went on leave on 19.6.1935. The senior member of the Executive Council A.J. Laine was appointed Acting Governor in the vacancy caused by the Appointment of Laine as acting Governor, Walter Laurence Scott was appointed a member of the Executive Council and P.C. Dutta was appointed Vice-President. Laine while he was acting as Governor completed his term as a member of the Executive Council Scott who was appointed temporarily was made permanent. When Keane returned from his leave Laine retired after 35 years distinguished service in North East India. Thus on the eve of Provincial Autonomy, there were two Executive Councillors, P.C. Dutta and W.L. Scott.
From the above it is clear that one of the members of the Executive Council was always a senior European I.C.S. officer. The second was a non-official. Of the four non-official members of the Executive Council three were Muslims and one Hindu. All the three Muslims were from the Assam valley and the lone Hindu from the Surma Valley. All the members were men of experience.

(III) The Ministers:

The Governor appointed Ministers who held office during his pleasure from among the members who were not members of his Executive Council and officials but elected members of the Provincial Legislature. He could appoint persons who were not members of the legislature. But such persons must get themselves elected within six months from the date of his appointment as Minister. Thus there was a provision to appoint non-member of the Provincial Legislature for a maximum period of six months only. Moreover the Governor should not retain a Minister in office in whom the Legislative Council expressed want of confidence. Only those members of the legislature could be considered by the Governor for appointment as Minister who enjoyed the confidence of the Legislative Council and be capable of leading it, even though Ministers, according to the Act, held office during his pleasure. It was not obligatory that the Governor should appoint a Minister from the majority party of the

42. Sec. 52(1), Ibid., & Keith, A.B.: op cit., p.249.
43. Sec. 52(2) of the 1919 Act.
44. A vote of no confidence was passed by the Assam Legislative Council on March 1927, 1929 against Minister, Rev J.J.M. Nichols Roy. Apptt. A.June 1929, Nos 11-36.
Legislature. The Governor could appoint any one as a Minister but he must be able to command the confidence of the majority in the Legislature.

The Ministers were to enjoy the same status as regards salary as those of the Executive Councillors. Their salary could however, be reduced or increased by the Legislature. The Act did not place any limitations on the number of Ministers to be appointed. In some provinces there were three Ministers and in other two irrespective of the size of the Executive Council. In Assam there were two Ministers. It was proposed to reduce the number of Executive Councillors to one. But the Governor of Assam did not agree to it as it would affect the number of Ministers too. It is necessary to maintain equality in numbers between the Executive Councillors and Ministers. Each Minister was paid a salary of Rs.3,500/- per month fixed by the Governor subject to the approval of the Legislature. The Assam Legislative Council reduced Ministers' salary to Rs.1,500/- in 1924-25, but the salaries were again increased to the maximum of Rs.3,500/- per mensem in 1926-27. The Governor administered the 'transferred' subjects with the advice of the Ministers. The Joint Select Committee said that in the case of transferred subjects the control from above, i.e., Governor-General in Council, and thus of the Secretary of State be restricted.

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45. Sec. 52(1) of the 1919 Act, and Apptt. B, May 1921, Nos. 247-256.
52. Sec. 52(3) of the 1919 Act.
within the narrowest possible limit." Thus the Governor had to administer the Province with two Executive Councillors who were not responsible to the Legislature and two Ministers responsible to the Legislature.

(IV) Governor's relation with the Ministers:

The Governor was the President of the Council of Ministers. The Montague-Chelmsford Report contemplated that "the actual decision on a transferred subject would be taken, after a general discussion, by the Governor with his Ministers." Thus the Report did not contemplate that the "Governor should occupy the position of a constitutional Governor who is bound to accept the decision of his Ministers." The Report clearly said that "we do not think that he (Governor) should accept without hesitation and discussion proposals which are clearly seen to be the result of inexperience." The Instrument of Instructions and the Act laid down that the Governor should act on the advice of his Ministers, unless he saw sufficient reason to dissent from their opinion and so he could also override them and do what he deemed fit. In case the Governor refused to accept the advice of his Ministers, the latter had to resign. In the last resort the Governor could dismiss the individual Ministers with whose views he did not agree or who had lost the confidence of the Legislature. Thus in the case of the transferred subjects

55. Ibid., p.176.
56. Ibid.
the Governor was not a constitutional head. Further, the Governor could takeover the administration of a transferred subject in an emergency. He had also had the power of making all appointments in the transferred departments. 58

The Instrument of Instructions issued to the Governor contained directions as to the manner in which he was to deal with his popular Ministers. 59 It directed him to have due regard to the Ministers' relations with the Legislative Council and to the wishes of the people of the province as expressed by their representatives in considering whether or not, to accept their advice. He could override the advice if such a course was demanded by considerations of safety and tranquility of the province, advancement and social welfare of backward people or minorities, the rights and privileges of the public services, for preventing religious or racial conflicts, compliance of all the orders of the Secretary of State and the Governor-General, safeguarding the legitimate interests of the Europeans and Anglo Indians, and prevention of unfair discrimination in matters affecting European commercial interests - which were regarded as the special responsibilities of the Governor. 60

Formation of Ministry under Dyarchy

Section 92 of the Government of India Act, 1919, fixed the strength of the Council of Ministers at two. The


60. Ibid.
Governor had no power to increase the number of Ministers. The Ministers were selected from among the members of the Legislative Council by the Governor but he had to see that the persons selected by him commanded the confidence of the House. Further he had to see that the both valleys, Brahmaputra and Surma and both the major communities, the Hindus and Muslims were represented. Perhaps the acting Governor found no difficulty in the selection of the first batch of two Ministers. He selected a Hindu from the Brahmaputra valley Ghanasyam Barua and a Muslim Syed Abdul Mazid from the Surma Valley. Both of them assumed office on 3 January 1921. In September 1923 Abdul Mazid died. In his place, Promode Chandra Dutta, a Bengali Hindu from the Surma valley was appointed as a Minister. While both the valleys were represented in the Ministry, both the principal communities were not represented. It was mainly a Hindu one. But the Governor thought that since a Muslim was selected from the Surma valley in the first instance, the second chance must go to a Hindu from the same valley. Such an arrangement would satisfy both communal and regional considerations. However the fact remains that the Ministry was a Hindu Ministry. In April 1923, Ghanasyam Barua died but the vacancy was not filled up in view of the proximity of the second general election to the Legislative Council. The action of the Governor in not filling up the vacancy was the subject of criticism. It was contended that a single minister would not be able to represent adequately the various communities and localities in the Province. But the main reason was that a single Minister was in charge of five departments. He was
He was a Bengali Hindu from the Surma Valley. The Hindus of Assam Valley had no affection for a Sylhet Hindu Bengali. The Muslims in general did not relish this arrangements. Governor Kerr defended this arrangement on the ground that the immediate filling up of the vacancy would create complications. Perhaps he was searching a suitable Muslim to fill up the vacancy.

After the second general election to the Legislative Council the Governor tried to form the Ministry which would be acceptable to the Legislative Council. But he was in a position of a cook who was called upon to make a pudding out of half a dozen excellent ingredients but was allowed to see two of them. In such circumstances, the ministry formed by him might not be acceptable to all. Promode Chandra Dutta who was the lone Minister, was advised to resign just before the publication of the result of the general election and was again appointed Minister on the same day to be in charge of all the transferred departments. Three months after his appointment Saadulla was appointed Minister. Saadulla was selected on the ground that his predecessor was a Hindu. Promode Chandra Dutta was continued on the ground that his predecessor was a Muslim. Apart from this fact, the Governor was impressed with the personality of Dutta. The second Ministry came to office on 10 March 1924. It was by and large not only representative but capable. But they had to face a strong opposition of the Nationalist party. A combination of the Swaraj Party and other miscellaneous groups in the legislature. On several occasions Governmental measures were defeated and or seriously amended and the salaries
reduced. There were frequent divisions in some of which the Government was badly beaten. The Government did not resign and no no-confidence motion was moved against the Ministry.

The third general election to the Legislative Council was held in November 1926. In the formation of the Ministry the Governor seems to have experienced some difficulties. If Promode Chandra Dutta had been elected perhaps the Governor would have continued the existing council of Ministers. For, the Governor was so much impressed with the abilities of Dutta that he referred to them on two occasions in the Legislative Council. The Governor continued Saadulla for a second term on the ground that he was elected by a large majority of voters. Further he was able to enlist the support of the Muslim members of the Legislative Council from both the valleys. Again, the Governor followed the Imperial policy of divide and rule. Saadulla was a convenient instrument to counteract the growing nationalism of the Hindus.

Since Saadulla was a Muslim from the Assam Valley, the Governor searched for a Hindu from the Surma Valley. But all the Hindu members from the Surma Valley were in the Swaraj Party. The Swaraj Party was not prepared to accept office under the existing circumstances. The Independent party of the Surma Valley consisted entirely of Muslims. This group further consisted of more than one qualified for the post of Minister. Again, if a Muslim was selected from the Surma Valley the entire ministry would be an all Muslim Ministry. This would bring into existence bitter criticism not only
in the Assam valley but also in the neighbouring Provinces. It might generate Hindu-Muslim conflict which was a fortunately absent in the Assam valley. Therefore it would be political blunder to have all Muslim Ministry. To get over this delicate situation the Governor selected J.J.M. Nichols Roy. He belonged to the Surma Valley and thereby satisfied the regional consideration. Further, he was a tribal. So far no tribal was selected as a Minister. Again, the Christian Missions had their own interests to be protected. They played a notable part in the Hill Areas of North East India in the field of education and medicine and in civilising the barbarous tribes. They had a powerful lobby in the capital. The Christian lobby might have exercised powerful influence in the selection of Nichols Roy as a Minister. Added to this, Nichols Roy had another advantage. He took active part in the deliberations of the Legislative Council. Above all Mrs. Nichols Roy was an American lady and must have had easy access to the British Governor. A handsome and attractive wife is always an asset to her husband in politics. Nichols Roy joined duty on 16 February 1927.

The third Ministry was not popular. It had to face a series of no-confidence motions. It may be noted that there were no no-confidence against the ministries from 1921 to 1926, because no provision was made for them in the Rules framed for the conduct of business in the House. The Reformed Enquiry Committee, popularly known as the Muddiman Committee recommended that provision should be made for moving no confidence motions in the Ministries. Accordingly provision
was made for no confidence motions. If a no confidence motion had been moved before 27 October 1926, the President would have disallowed it. Taking advantage of this provision a motion of no confidence was moved, for the first time, by Munawwar Ali and Bepin Chandra Ghosh on 26 February 1927 - while moving the motion Munawwar Ali said that the Ministry had no programme, no policy, and no principle; that it adopted anti-national attitude; that Saadulla did not command the confidence of the 75 per cent of the Muslims of the Surma valley. The motion was defeated by 27 to 22 votes. Of the 27 members that voted against the motion, seven were officials, six were European Planters and some nominated members. Thus a majority of the elected members supported the motion.

A second no confidence motion was moved against Nichols Roy on 3 April 1928, on flimsy grounds. The motion was defeated by 27 to 21 votes. Curiously enough the very next day after the defeat of the no confidence motion, the budget demands moved by Nichols Roy were defeated.

Six months before the end of the term of the Legislative Council, on the last day of the Session (27.3.1929) when all the Planter Members and some Independents had left Shillong and the Legislative Council would not meet again until after the election, the redoubtable Munawwar Ali moved a motion of no confidence for a third time against Nichols Roy on the ground that he was responsible for the supersession of the Dibrugarh Municipal Board, that he did not implement the policies approved by the legislature, that the demands
made by him for the administration of the departments in his charge were rejected, that a censure motion was passed against him and that he voted against the resolution for the extension of the jurisdiction of the Calcutta High Court to the tribal areas and so on. The motion was carried by 17 votes to 14. Nichols Roy did not resign for two months. It is strange that the Governor did not ask for his resignation. The Governor General enquired whether Nichols Roy had resigned. The Governor informed the Governor-General that he would resign just before the election. But the Governor-General insisted that a minister against whom a motion of no confidence was passed should not remain in office. Ultimately Nichols Roy was compelled to resign.

The fourth general election to the legislative Council was held in November 1929. In the selection of his ministers the Governor did not experience any difficulty. Saadulla was appointed a Member of the Executive Council. Nichols Roy was dropped because he evoked the hostility of a majority of the elected members of the council. In the place of Saadulla, Karaklal Barua, a Hindu, and a retired civil servant was appointed. In the place of Nichols Roy Abdul Hamid, a Muslim from the Surma Valley, a former President of the Legislative Council for two terms was appointed. Thus the ministry was a representative one. It remained in office for the longest term, more than six years. One remarkable feature of this ministry was that it faced no no-confidence motion. However, attempts were made very frequently to reduce the salary of the ministers.
The Devolution Rules laid down that the salary of the Ministers shall be fixed by the Governor, subject to the approval of the Legislature. The Governor fixed the salary of the Minister at ₹3,500/- per month, subject to the vote of the legislature. In 1921, the purchasing power of the rupee was tremendously high than at present which is not even 10 percent of 1921. In 1999 the Ministers are paid ₹1,500/-. The consideration that the salary of ₹3,500/- per month was too high induced the legislature to suggest a reduction in the salary of the Ministers. When the Nationalist Party met in Shillong on the eve of the first Council meeting Ministers' salary was the first subject to be discussed. The party decided that ₹1,500/- per month would be adequate. Accordingly, Kshirode Chandra Das moved a motion that the salary of the Ministers be reduced to ₹1,500/-. It was carried by a narrow majority of 24 to 23 votes. All the 24 that voted for the motion were elected members. Of the 23 that voted against the motion, nine were ex-officio members, four were nominated members, six European non-officials (Planters) and four elected members. The Controller of Accounts paid ₹1,500/- and ordered the recovery of the excess amount drawn by the Ministers.

In September 1924, two motions were moved in the Council to increase the salary of the Ministers to ₹3,500/-. But the supplementary budget which provided the increased salary was rejected by 25 to 24 votes. In the 1925-26 budget ₹3,500/- was again provided as the salary of the Ministers.
There were private discussions among the members of the Legislature on the subject. The European group was prepared to support the Nationalist Party provided they agreed to a salary of ₹2,100/-. The Nationalist Party accepted the proposal. But some of the members of the Nationalist Party defected and voted for a salary of ₹3,500/-. Out of the 12 elected Muslim members of the Nationalist Party, as many as nine voted for the increase of salary.

In March 1927, three motions were tabled in the Legislative Council by Nabin Chandra Bardoloi, Bishnu Charan Borah and Basant Kumar Das for the reduction of the salary of the Ministers. All of them were defeated by 35 votes to 14. This time all the Muslim members, all the European members and all the ex-officio members voted against the motions. All those that voted for the motions were Hindus belonging to the Swaraj Party.

Another attempt was made in 1929 by Rohini Kumar Choudhury for the reduction of the salary of the Ministers to ₹1,500/-. The motion was defeated by 30 votes to 17. All the 17 that voted for the motion were Hindus.

In 1930, Brindaban Chandra Goswami moved another motion suggesting the fixation of the salary of the Ministers at ₹2,000/-. Not only Goswami several others tabled similar motion only to be defeated.

In 1937, when Provincial Autonomy was introduced the Governor fixed the salary of the Ministers at ₹2,800/-
for the Chief Minister and Rs.1,800/- for others subject to the vote of the Legislature. The Legislature might vary the salary of the ministers.

(v) Collective Responsibility:

The Montague-Chelmsford Report maintained that the actual decision on transferred subject would be taken after general discussion, by the Governor and his Ministers.61 The use of the term 'Ministers' in the plural implied the encouragement of the principle of joint or collective responsibility of the Ministers. Moreover, the Report also maintained that the Executive composed of the Councillors and the Ministers should present a united front to the outside which also implied a sort of collective responsibility. But the Report itself said that it was open to the Governor to pay special attention to the advice of the particular Member or Minister in charge of the subjects under discussion,62 which indirectly, if not directly, violated the principle of collective responsibility, if necessary. The Government of India also encouraged the responsibility of each half of the Executive.64 Though the Government of India in their first Despatch and the Joint Select Committee held the view that the Minister should act on the principle of joint responsibility, in the Instrument of Instructions and in the Devolution Rules, the term 'Minister' in singular was used.65 Thus

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62. Ibid, p. 176
63. Ibid, p.177.
it seems that the principle of joint or collective responsibility had no legal basis. It was to develop as a convention. This depended upon the Governor. But the Governor found it convenient to meet the Ministers individually and thereby undermined the principle of joint responsibility. Moreover, the Report recommended joint deliberation but not joint decision, for which the Governor could call the Ministers for joint discussion, but decision could be made, if necessary, separately. So joint or collective responsibility was a myth. The Governor was the master of the situation.

(VI) Council Secretaries:
The Governor could appoint Secretaries to assist the Executive Councillors and Ministers at his discretion. But such Secretaries were to be appointed from among the non-official members of the Legislature and they held office during the pleasure of the Governor. There was no bar to appoint nominated non-official members as Council Secretaries. Their salary was decided by the vote of the Legislative Council. But no one could remain as Secretary for more than six months if he ceased to be a member of the Legislative Council.

(VII) Governor, Joint deliberation between Executive Councillors and Ministers:
The Montague-Chelmsford Report maintained that the two halves of the Provincial executive should act as one

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67. Sec. 52(4) of the 1919 Act.
Government. The Joint Select Committee also recommended free consultation "between the two halves of the Government, viz. the Executive Council and the Ministers." Accordingly, the Act empowered the Governor to frame "rules and orders for regulating the relations between his Executive Council and his Ministers for the purpose of transaction of the business of the local Government," making him a connecting link between the two halves, the Executive Councillors and the Ministers. But if any such rules or orders made by the Governor were repugnant to the provisions of any rules made under the Act 1915 as amended by the Act of 1919 would be void up to the extent of that repugnancy. But the Montague-Chelmsford Report laid down that "there must certainly be occasions upon which the Governor will prefer to discuss a particular question with that part of the Government directly responsible. It would therefore rest with him to decide, whether to call a meeting of his whole Government or of either part of it, though he would doubtless pay special attention to the advice of the particular Member or Minister in charge of the subjects under discussion." Accordingly, Devolution Rules empowered the Governor to decide finally a matter in which there was disagreement between the Executive Councillors and the Ministers.

69. Sec. 49(2) of the 1919 Act.
70. Ibid.
There was no allotment of certain revenues to the transferred subjects. The Meston Committee was appointed to allocate revenue between the Central and Provincial Governments and the financial relations between the two halves were by and large, regulated on the recommendation of this Committee. Both the Joint Report and the Select Committee recommended annual distribution of revenue by discussion between the two halves. In case of disagreement between the two, the Governor allocated the fund. Thus, the Governor was the final authority in financial matters and nothing could happen against the will of the Governor. Finance being the reserved subject the Function Committee wished that each half of the executive should have its own resources of revenue and the Devolution Rules provided that matters like allocation of funds between the two parts of Government, proposals for levying taxes and borrowing money should be discussed by the Governor with his Councillors and Ministers. The Finance Department rendered primarily advisory functions, but no member of the Governor's Executive Council or Minister could disregard the advice of the Finance Department without referring the matter to the Governor wherein the decision was either of the Governor in Council or of the Governor and his Ministers. Ultimately it was the Governor that decided the matter.

The Governor appointed the President of the Legislative Council for the first four years. The election of the Deputy President by the Provincial Legislature from amongst the members themselves must be confirmed by him.\(^75\)

The Montague-Chelmsford Report laid down that the Governor himself should act as the President of the Legislative Council with power to appoint a Vice President.\(^76\) After four years the President must be elected by Provincial Legislature from among its members.\(^77\) Further the Governor had the power to remove a President. Thus the Governor was given some control over an elected President or the Deputy President.

The Governor could play a vital role in relation to the business of the provincial Legislature. Out of the total membership of 53 there were 14 nominated members in the Assam Legislative Council.

The Mont-Ford Report said that the nominated members would have to act according to the direction given by the Government,\(^78\) which meant the Governor. Moreover, the Governor of Assam could nominate one person with special knowledge or

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75. Sec. 72C(1) & 72C(2) of the 1919 Act.
76. Archbold, W.A. Op cit, p.177(No.32 of the Montague Chelmsford Report) - The Governor of Assam appointed Mr. J.C. Arbuthnott, a retired civilian, as the first President of the Assam Legislative Council - Anpt. R., May 1921, Nos. 247-256.
77. Sec. 72C(1) of the 1919 Act.
78. Ibid. p.178(No.35 of the Montague Report).
experience of the subject matter of the Bill, in addition to the 14 nominated members in connection with the introduction of any bill, to be the member of provincial legislature. He would have all the rights of the members of the Provincial Legislature in relation to the bill during the period for which he was appointed. So, in times of necessity the number of the nominated members in Assam could be increased to 15. The total number of members to be elected by the special electorates in Assam was six. These members were from the European constituencies belonging to the Tea-Planters who were normally the supporters of the Government. In addition the number of members to be elected by communal electorate was twelve. In Assam all these seats were Muhammadan seats. Further the preparation of the electoral rolls, fixing of the polling station and calling for nominations, all this was done under the directions of the Governor. The elections were conducted under his control; election petitions were entertained by him and he appointed Commissioners to enquire into and decide disputed cases of election.

Governor's role in the working of the Legislature

Summoning, Proroguing and dissolution of Legislature:

Under the Act of 1919, the Governor had the absolute power to fix the time date and place of the meeting of the

79. Sec. 72A(2) (B) of the 1919 Act.
sessions of the Legislature and also to prorogue it. Again
the Governor could dissolve the legislature before the expiry
of its term. He could extend the life of the council by one
year under special circumstances the cause of which was to
be notified in the provincial Gazette.\textsuperscript{82} According to law
the power of summoning, proroguing and dissolving the legis­
lature was a discretionary power. The Ministers had no voice
in this respect. But in practice, the legislature was summoned
according to the advice of the Chief Minister, who in turn
was guided by the wishes of the members of the legislature.\textsuperscript{83}

Right of Governor to address and
send messages to legislature.

The Governor had the power of addressing the legis­
lature but it was not clearly stated in the Act at what inter­val the Governor was to address the legislature. During the
period of 1921-36, the Assam Legislative Council was addressed
by the Governor once a year. The Minister had no hand in the
preparation of the Governor's address.

Under the Act of 1919 the Governor had the power to
send messages to the Council. Through the message the Governor
could in respect of Bills or financial matters, issue directions
to the Council. If the Governor considered that the introduc­
tion or passage of a Bill or any amendment to a Bill in the

\textsuperscript{82} Sec. 72B(1), Sec. 72B(1) a,b.
\textsuperscript{83} Report on the Working of Reformed Constitution,
1927, p. 517.
council affected the safety and tranquility of the province or any part thereof, he could through certification stop the proceedings of the council with regard to the Bill or amendment. In Assam the Governor never exercised this power.

If the Council refused leave to introduce or had failed to pass in a form recommended by the Governor any Bill relating to a reserved subject by certification, the Governor himself could pass the bill for the due discharge of his responsibility.

In financial matters also, the Governor had enormous powers. The Governor could restore any demand relating to a reserved subject rejected by the council. This power was very frequently exercised by the Governor.

In case of emergency, the Governor could also authorise any amount of expenditure without the sanction of the council or for carrying on any department. This power was not frequently exercised by the Governor. Only once or twice during the period of Mont-Ford Reforms, the Governor of Assam used this power.

The legislature had the power to make laws for the peace and good government of the province on subjects included in the provincial lists, i.e. both on the 'reserved' and 'transferred' subjects. Subjects to certain limitations it had also power to repeal or alter laws made earlier on

85. Ibid, p.61.
86. ALCP, 12-3-1925, p.401.
87. Sec. 8QA(1), Ibid.
provincial subjects. But bills on certain subjects could not be introduced in the legislature without the previous consent of the Governor-General. Governor's assent was necessary for any bill passed by the legislature to become a law. The Governor could refuse to give his assent, i.e. veto or return the bill in whole or in part together with his recommendations for amendment if he so desired or he could reserve it for the approval of the Governor-General. When the bill was reserved for the consideration of the Governor General, the Governor with the consent of the Governor-General might return the bill with recommendations, if any, to the Legislative Council for its reconsideration. The Council might accept or reject such recommendations of the Governor. But must send the bill again to the Governor. If a reserved bill not assented to by the Governor-General within six months of the date of reservation it would have a natural death, unless, before the expiration of that period Governor returned the bill to the legislature for further consideration or if the council was not in session, the Governor duly notified the intention to return the bill at the commencement of the next session of the Council. Thus, while the Governor-General was given some control over provincial legislation, the Governor could play an important role whether a bill was to be

88. Sec. 80A(2), Ibid.
89. Sec. 80A(3), Ibid.
90. Sec. 81(1) and 81(2), Ibid.
91. Sec. 81A(1), Ibid.
92. Sec. 81A(2)(a), Ibid.
93. Sec. 81A(2)(b), Ibid.
94. Sec. 81A(2)(c), Ibid.
reserved or not for consideration of the Governor-General. Further, when a bill required the assent of the Governor-General he might reserve it for signification of His Majesty without which the bill could not become law.95

The Governor was required to reserve bills containing provisions affecting religion, universities, making a reserved matter transferred, providing for the construction of light railways, or tramways, or affecting land revenue, and might reserve matters affecting any matter with which he was specially charged by the Instrument of Instructions, or central matters or the interest of another province.96 Moreover, an Act of the legislature assented to by the Governor required the assent of the Governor-General to be valid. The Act would not be valid till that assent of the Governor-General was published by the Governor.97 Such assent might be withheld by the Governor-General but an Act assented to by the Governor-General again required the approval of the Crown who might disallow.98 An Act disallowed by the Crown must be notified forthwith by the Governor.99

The estimated annual expenditure and revenue of the province must be laid in the form of a statement before the Legislative Council in each year. The proposed expenditure of the provincial government was to be submitted to the vote of the Legislature in the form of demands for grants.

95. Sec. 81A(3), Ibid.
96. Ibid. (as quoted from Notification No. 313-S. Dec. 16, 1920).
97. Sec. 81(3) of the 1919 Act.
98. Sec. 43 & 82(1) of the 1919 Act.
99. Sec. 82(2), Ibid.
100. Sec. 72D(2), Ibid.
The council could assent, refuse its assent or could reduce such a demand. But in case the demand related to a reserved subject the Governor-in-Council had the power to certify such demands, if the legislature reduced the amount or did not pass them on the ground that the passage of the bill in the form recommended by him was essential for the due discharge of his responsibility for the administration of the reserved subjects and upon such certification it would become law.\footnote{101}

The Montague-Chelmsford Report suggested that a bill dealing with reserved subjects might be certified by the Governor as it was essential for the discharge of his responsibility for the peace and tranquility of the province or any part thereof or for the due discharge of his responsibility for the administration of the reserved subjects, and then the bill would be referred to a grand committee.\footnote{102}

The Joint Select Committee suggested direct responsibility for the reserved subjects of the Governor and therefore, the suggestion of the Montague-Chelmsford Report was given up as the plan might result in the government being defeated in the grand Committee.\footnote{103} Moreover, no appropriation could be proposed, save on the recommendation of the Governor.\footnote{104} A bill relating to the reserved subject, certified by the Governor, had to be sent to the Governor-General who would reserve it for the signification of His Majesty in Council. But if, in the opinion of the Governor-General, there was a state of emergency,

he could himself give his assent to the bill, subject to
the subsequent disallowance by His Majesty in Council.\textsuperscript{105}
Certified bills had to be laid before both the Houses of
Parliament of Great Britain, for at least eight days, before
they could be presented to the King for his assent\textsuperscript{106} which
meant that the ultimate responsibility upon the reserved
subjects was with the British Parliament, but not with the
Provincial Legislative Council. Thus, the Provincial Legis-
lature had no control over the administration of the reser-
vied subjects. Moreover, the Provincial Legislative Council
had no control upon (i) the contribution payable to the
Central Government by the Provincial Government; (ii) interest
and sinking fund charges on loans; (iii) salaries and pensions
of persons appointed by or with the approval of His Majesty
or by the Secretary of State in Council, and (iv) Salaries
of the Judges of the High Court and the Advocate General.
In case of any conflict the Governor was given the power to
decide whether any expenditure fell within the above catego-
ries and the decision of the Governor was final.\textsuperscript{107}

The Governor could prevent further proceedings on
any bill clause or amendment introduced or proposed to be
introduced in the Legislature, if he certified that the safety
and tranquility of the province or any part thereof or of
another province was affected.\textsuperscript{108} Moreover, where rules made

\begin{footnotes}
\item[105.] Sec. 72E(2) of the 1919 Act.
\item[106.] Sec. 72E (3) , Ibid.
\item[107.] Sec. 72D(3), Ibid.
\item[108.] Sec. 72D(4), Ibid.
\end{footnotes}
no provision for the conduct of business and the procedure to be followed in the Provincial Legislature the first standing order must be made by the Governor in Council but might be altered by the Legislative Council subject to the assent of the Governor. 109

It was provided by the Act that any Act made by the Governor must not be questioned on the ground that it did not relate to a reserved subject. 110 He had the power to stop legislation in respect of transferred subjects, notwithstanding the opinion of the Legislative Council. He could disallow any motion for the adjournment of the business of the Council to discuss a definite matter of any public importance even when it related to a transferred subject. The allocation of the revenues for the administration of the transferred subjects depended primarily on the will of the reserved half and of the Governor and not on the decision of the Legislative Council.

Thus, the resolutions passed by the Legislative Council relating to the transferred subjects were binding on the Government in normal circumstances but could be rejected by the Governor. Again Governor could take over the administration of any transferred subject if he was not satisfied with its administration by the Minister. 111 The resolutions relating to the reserved subjects passed by the Provincial Legislature were mere recommendations.

In Assam, as early as in April 1921 in connection

109. Sec. 80B, Ibid.
110. Sec. 84(2), Ibid.
111. Sec. 72D(2)(b), Ibid and Sec. 52B of the 1919 Act.
with the Assam Legislative Council's resolution to appoint a Retrenchment Committee to advise what economy could be effected with regard to certain appointments such as Commissioners of Divisions, Secretaries and Under Secretaries to the Government etc. The Governor made it clear to the members of the Assam Legislative Council that "under rule 24 of the Assam Legislative Council Rules (Paragraph 79 of our Manual of Business and Procedure) a resolution shall have effect only as a recommendation to the Government." 112

(XI) Governor's power on cases of Misdemeanour:

The Governor was empowered to arrest and detain in custody any person involved or suspected to be involved in any illicit correspondence, dangerous to the peace or safety of any part of British India, with any prince, chief, landholder or other person having authority in India, or with the Commander, Governor or president of any foreign European settlement in India, or any correspondence, contrary to the rules and orders of the Secretary of State or of the Governor-General in Council or a governor in the Council. Such persons were guilty of a misdemeanour. 113 This power of the Governor was a dangerous power which could be used in connection with the non-co-operation movement. But the Governor should examine creditable witness under oath in writing before he detained a person. Further he had to deliver him within five days a copy of the charges on which he was being detained. 114 The

112. Finance A., December 1922, Nos. 1-18 (Extract from Assam Gazette dt. the 27th April 1921).
113. Sec. 126(1) of the 1919 Act.
114. Sec. 126(2), Ibid.
person charged might deliver his defence in writing with a list of witness to be examined. 115 The Governor in Council had to examine the witnesses in the presence of the person committed. 116

(XII) Governor's relation with the Backward Tracts

There were certain backward areas, generally the tracts mentioned in the schedules to the Scheduled Districts Act, 1874. 117 To facilitate better treatment to these tracts the Government of India Act 1919, authorised the Governor-General in Council to declare any territory in British India to be "backward tract". 118 In Assam there were seven backward tracts. 119 They were governed by the Governor of Assam as an agent to the Governor-General. In Assam the Governor himself reserved the power of judicial appeals from the Naga and Lushai Hills and the partially administered portion of the Frontier Tracts but others were put by the Governor under the control of a Member of his Executive Council. 120

(XIII) Governor in times of War etc.

Before 1919 the Secretary of State might direct the Governor in Council under the mark "Secret" which need not be

115. Sec. 126(3), Ibid.
116. Sec. 126(4) & 126(5), Ibid.
118. Sec. 52A(2) of the 1919 Act.
119. In Assam the districts of (1)Garo Hills (2) the Khasi and Jaintia Hills, excluding the town of Shillong including cantonment (3) the Lushai Hills (4) the Mikir Hills Tracts (5) the North Cachar Hills (6) the Sadiya, Balipara and Lakhimpur Frontier Tracts and (7) the Naga Hills District were treated as 'backward tracts'; Luthar, P.N. Op.cit. 53 fn and 57fn.
communicated to the members of any Indian Legislature.\textsuperscript{121} Under such circumstances the Governor was responsible for the successful preparation of war etc. The Government of India Act, 1919 omitted such power of the Governor.

(XIV) Governor and central subjects, regulations and ordinances:

In addition to the Provincial functions the Governor in Council might be employed by the Government of India in the performance of central functions the cost of which was to be defrayed from the central exchequer.\textsuperscript{122} The Governor in Council could propose to the Governor-General in Council the draft of any regulation for the peace and good government of any part within his jurisdiction. If the Governor-General assented to it, it would have the same force of law made by the Indian Legislature subject to the acceptance or withdrawal by the Secretary of State in Council.\textsuperscript{123}

The Governor-General might make and promulgate ordinances in cases of emergency for the peace and good government of the whole or any part of the British India operative for not more than six months having the same force of law made by the Indian legislature subject to the acceptance and withdrawal by the Secretary of State in Council.\textsuperscript{124} The Governor had to execute such ordinances within his jurisdiction and also could request the Governor-General for such ordinances if he so desired.

\textsuperscript{121} Sec. 14 of 1915 Act.
\textsuperscript{122} Ibid., p. 260, & Sec. 45A(1)(c) of the 1919 Act.
\textsuperscript{123} See. 71, Ibid.
\textsuperscript{124} Sec. 72, Ibid.
(XV) Governor in relation to the High Court and the Advocate General:

The Governor could recommend persons for appointment as Judges of the High Court, though the judges were appointed by the Crown on the recommendation of the Secretary of State under the High Court Act of 1861 as further amended by the India High Court Act, 1911. The Governor in Council could appoint any one of the judges of the High court of his province other than the High court at Calcutta as the acting Chief Justice and might appoint any person with requisite qualifications as a judge of such a High Court in temporary vacancies in the High Court of the province till the permanent incumbent arrived except in the High Court of Calcutta in which the Governor-General in Council could do so. The rules, forms and tables of fees made by the High Court in connection with its appellate jurisdiction required the previous approval of the Governor in Council, other than the High Court at Calcutta in which such authority vested with the Governor-General in Council.

Similarly Governor in Council could appoint the Advocate-General in a temporary vacancy till the permanent incumbent arrived.

Conclusion:

From the above it is clear that the Governor of Assam exercised tremendous powers.

125. Chhabra, G.S. : Op cit., p.357
126. Sec. 105 of the 1919 Act; Sada J.P. op cit., p.470.
127. Sec. 105 of the 1919 Act.
128. Sec. 107, Ibid.
129. Sec. 114(3), Ibid.