CHAPTER IX

SUMMARY AND CONCLUSIONS.
A study of the District Councils stretching over a period of two decades must necessarily lead to certain conclusions. In the preceding chapters, an attempt has been made to discuss the philosophical foundations of the District Councils, their constitutional structure, powers and functions, external relations and so forth. The present chapter attempts to make a summary of the working of the District Councils and is of the nature of a running commentary stating the important facts, pointing out the defects, offering suggestions for improvement and arriving at certain broad conclusions.

COMPOSITION OF THE DISTRICT COUNCILS:

The composition of the District Councils was not satisfactory. The nominated element gave rise to many a serious anomaly. The provision for the nomination of members was intended to secure representation of certain special interests like minorities, social workers and women. This was clearly endorsed by the Chief Minister of Assam in his inaugural address to the Garo Hills District Council. He said that the purpose for reserving a few seats for nomination was to accord "representation to those important interests...... which have failed to obtain adequate representation through election." ¹ In practice, however, the provision for nomination was seldom observed as it was intended. Although the Governor made the nominations, the actual choice of the candidates belonged to the Minister for Tribal Affairs. The latter had often exercised his choice in favour of the party in power in the State Legislature. In the beginning when the nominations to the District Councils could be of the order of one-fourth of their total

¹. Speech by the C.M. of Assam quoted by the Patakar Commission in their report, paragraph 287, p. 118.
membership, the State Government had a good opportunity to influence the power equations in a given District Council through a convenient exercise of its privilege of nomination.

The District Councils for their part demanded that the State Government should make the nominations on their advice. On this issue there was once a long drawn out controversy between the C.E.M. of the Garo Hills District Council and the C.M. of Assam. The District Council, Khasi and Jaintia Hills went so far as to do away with the nominated element altogether.

Another unfortunate consequence of the unprincipled policy of nominations was that the candidates who were nominated were subsequently elected to such high offices as Chairman and even the C.E.M. of the District Council. Such a practice, to say the least, is undemocratic. Nominated members should as a rule be prevented from holding elective offices.

In view of the above circumstances, it may be suggested that the nominated element should be abolished altogether. The question arises: how to secure the representation of the minorities? The District Councils may be authorised to coopt a certain number of members whenever necessary. Cooption has all the advantages of nomination minus its disadvantages.

DOUBLE MEMBERSHIP:

In the beginning, a member of the Executive Committee of the District Council was not permitted to be a member simultaneously of the legislative Assembly or of Parliament, for membership of the former was considered to be an office of profit and thereby attracted the disquali-
fication under the Representation of the Peoples Act. Some Executive Members of the District Councils including Capt. Sangma the C.E.M. of the Garo Hills District Council aspired to become members of the State Legislature. Capt. Sangma argued that for ensuring cooperation and understanding between the District Councils and the State Government, members of the former, particularly the Executive members should be permitted to seek membership of the State Legislature. A request to this effect was made to the Home Minister, Government of India. At the instance of the latter, the Representation of the Peoples Act was amended in 1956 and the erstwhile bar against double membership was removed. At present, members of the District Council and of its Executive Committee could be elected to the Legislative Assembly and could even be appointed as Ministers.

Double membership of the kind described above is undesirable for obvious reasons. First, if a member of the District Council is also an M.L.A. he could draw salary and allowances in both the capacities. Second, members of the District Council who are also M.L.A.s may be a small group numerically but they exercise a relatively greater influence over the affairs of the District Council than all other members of the Council put together. Thus the principle of a majority participating in the process of decision making is vitiated. Third, the Minister for Tribal Affairs in the State Cabinet may be unduly influenced by the M.L.A.s who were also members of the District Council and the misdeeds, if any, of the District Council may be perpetuated with impunity. Finally, if a member of the District Council is appointed a minister in the State Cabinet, he is likely to have a tremendous influence over the former.
Double membership should, therefore, be done away with. The law which disqualifies an M.L.A. from being an M.P. simultaneously or a member of one House of Parliament to become simultaneously a member of the other House should be applicable to the members of the District Councils as well. The Garo National Council has of late, resolved not to permit its members to hold two elective offices simultaneously. The disqualification which originally existed in the Representation of the Peoples Act against holding double membership should be restored.

QUALIFICATIONS OF MEMBERS:

The qualifications and disqualifications for the membership of the District Councils were elaborately laid down. But they were not adequate. To ensure a healthy and more effective representation in the District Councils, a few more qualifications and disqualifications might be suggested. First, candidates aspiring for the membership of a District Council should be residents of the district concerned. Otherwise, they would not be in a position to represent the people of the district as effectively as one might desire. Second, candidates who did not pay their dues to the government or the District Council or any local authority within the Autonomous district should be disqualified from the membership of the District Council. The same disqualification should also apply to those who defaulted in the repayment of loans obtained from the government or any cooperative society sponsored by the government. Third, members of the District Councils should not be allowed to obtain any interest in any contract undertaken by the District Councils in the normal course of their administra-
tion. Any member who obtains an interest in a subsisting contract should be excluded from membership. Fourth, members who might be unseated by the government for any reason should be disqualified from seeking a re-election to the District Council for a period of five years. Fifth, legal practitioners who might appear on behalf of the District Council or against should be excluded from its membership for the period of such involvement. Finally, members who failed to attend three consecutive sessions of the District Council should be liable for automatic removal. The District Council might, however, restore a person to his membership for valid reasons.

ELECTIONS TO THE DISTRICT COUNCILS:

The term of the District Councils has been fixed at five years. General elections to the District Councils should, therefore, be held at regular intervals of five years. The first general election to the District Councils was held in 1952. The second general election was also held according to schedule in 1957. The Mikir and the North Cachar Hills District Councils maintained the Schedule by having their third and fourth general elections held in 1962 and 1967 respectively. The Mizo District Council had its third general election held according to schedule in 1962 but its fourth general election was not held till 1970. The District Councils, Khasi and Jaintia Hills and Garo Hills broke away from the schedule since their second general elections. The District Council, Khasi and Jaintia Hills had its third general election held in 1965, that is three years behind schedule. It's fourth general election was held in
1972, that is two years behind schedule. Likewise, the third general election to the Garo Hills District Council was held in 1964, that is two years behind schedule, and its fourth general election was held in 1971, that is three years behind schedule. Wherever the general elections were held behind schedule, the life of the District Councils concerned was extended. Extension of the life of a District Council for such long periods as two years or three years was undesirable. While the life of a District Council may be extended, it should be done only under extraordinary circumstances. Frequent extensions in the life of the District Councils without sufficient cause derogates with the democratic functioning of the District Councils.

Irregularity in the holding of general elections to some of the District Councils apart, the actual conduct of elections was above board. The election machinery was fairly efficient. Neither in the delimitation of constituencies, nor in the preparation of the electoral roll was there any manipulation. There were no cases of impersonation affecting the results of election. There was no gerrymandering. In short, the tribal people should be given credit for having taken to their election freely and sportively.

In any given election, unopposed seats were fewer than the seats contested. There were straight contests as well as multipronged contests. There were candidates who won by an overwhelming majority of votes polled and others who were elected by a minority vote. Among the candidates who were defeated, there were always a few who lost their security deposits. Further, the number of candidates who were elected for the first time was usually greater than the number of candidates who
might be elected for a second or third term. There were quite a few independent candidates. But the number of independent candidates who were elected, was always nominal. There were a number of regional parties with varying degrees of success and longevity. Four of them emerged fairly strong and long standing. They were the G.N.C., the M.U, the APHLC and the EITU. By and large general elections to the District Councils exhibited all the characteristic features of the general elections elsewhere in the country.

LEGISLATION BY THE DISTRICT COUNCILS:

The District Councils have been entrusted with the legislative, executive, judicial and financial functions. The actual exercise of the legislative function may now be examined.

Since land is for most tribals the sole means of their livelihood, preservation of land including prevention of its possible expropriation by people from outside the Hill areas has been one of the major tasks undertaken by the District Councils. Accordingly, all but the North Cachar Hills District Council have enacted laws providing for their control over transfers of land between tribals and non-tribals and also among the non-tribals themselves. These Acts which contain almost identical provisions lay down that no land shall be sold, mortgaged, leased, bartered, gifted or otherwise transferred by a tribal to a non-tribal or by a non-tribal to another non-tribal except with the previous permission of the District Council concerned. Lest a District Council may not seem arbitrary in the exercise of this power, it is provided that where a
District Council refuses permission for a land transaction, it shall record the reasons for the same. Under these circumstances, if a non-tribal is in illegal possession of land, he may be ejected from the same within three months after due notice being served on him by the C.E.M. The Garo Hills Land Transfer Act has a further provision for appeal from the orders of the District Council for ejectment. The appeal may lie either to the Chief Executive Member or a district revenue tribunal to be appointed by the District Council.

The District Councils have cogent reasons for imposing a control over transfers of land in the manner described above. The reasons are:

first, to check transfer of land belonging to tribals into non-tribal hands and thereby protect the interests of the tribals;

second, to give priority to the tribal people in acquiring land;

third, to give preference to non-tribal permanent residents over other non-tribals in the acquisition of land;

fourth, to guard against tribal land passing into the hands of the rapacious money-lenders; and

fifth and final, to ensure that land does not pass into the hands of those who have no genuine need for it.

Restrictions on land transactions of the type imposed by the District Councils are neither new nor peculiar to the Hill districts of North East India. "Such restrictions existed even during the pre-independence days when generally speaking non-tribals could not buy tribal lands without the permission of the Deputy Commissioner..... The purpose of such restrictions is to provide a certain measure of protection to the "back-
ward people, who on account of their primitive conditions are incapable of safeguarding their interests."

Another subject on which all the District Councils have passed laws is land revenue. The laws passed by the Khasi and the Garo Hills District Councils provide that any person who holds land for ten years continuously and pays the revenue due to the State Government or is in possession of any land under a lease granted by the State Government for a period of ten years becomes automatically a land holder. In the Mizo Hills, a law has been enacted to the effect that all land shall be taken over by the District or the Regional Council as the case may be in respect of its jurisdiction. The Chiefs in whom ownership of land was hitherto vested shall, however, be paid compensation. Land revenue shall now be realised by the District or the Regional Council as the case may be.

The Mizo District Council is the only one among the various District Councils to enact a law on agricultural land. Under the law so enacted, the Executive Committee may allot any vacant land for purpose of cultivation by the issue of a patta. No person shall occupy or hold any land unless allotted and patta obtained in accordance with the provisions of the Act. The patta holder has a heretable and transferable right in the land allotted to him. The Executive Committee may impose reasonable restrictions on patta holders.

Besides enacting a law on agricultural land, the Mizo District Council has also passed a law on the allotment of land for the construction of houses. Under this law, village councils have been authorised to allot land for the construction of houses.

All but the Mikir Hills District Council have enacted laws on the development of fisheries. But in doing so they have more or less adopted the law in force in the State of Assam. Under this law any person who seeks to destroy fish either by dynamite or poisoning is liable to punishment.

While framing certain regulations relating to grazing, the Mikir Hills and the Garo Hills District Councils have adopted the provisions of similar regulations in force in the State of Assam. Other District Councils have not passed any regulations on grazing.

Management and Control of markets has been another subject on which the Mikir Hills, the Mizo Hills, the Khasi Hills and the Jaintia Hills District Councils have framed regulations. Under these, the District Councils have the power to control and regulate all markets. No person shall establish a market without the previous permission of the District Council. The Executive Committee has been authorised to abolish or close any market at any time in public interest.

While all the District Councils have made use of the power to make regulations for the control of trading by non-tribals, only two of them, namely the Mikir Hills and the Mizo Hills District Councils have made use of a similar power to control money-lending. Regulations for the control of trading provide that no non-tribal shall carry on wholesale or retail trade without a licence from the Executive Committee of the District Council. But such a licence shall not be refused to a person who has been carrying on trade before the framing of the regulations. 3

3. Proviso to sub-paragraph (2) of paragraph 16 of the Sixth Schedule. This has been conceived mainly as a safeguard against the arbitrary exercise of the licensing power vested in the District Councils.
The Executive Committee shall also charge a fee for the grant of a licence for purpose of trading by non-tribals. The non-tribals have occasionally raised a voice saying that these regulations are an infringement of their fundamental rights and that the fees levied by the District Councils for issue of licences have been exorbitant.

So long as the District Councils are committed to the protection of the interests of the tribals, control over trading and money-lending is indispensable. Further, there is no evidence to suggest that a District Council has refused to grant a licence for trading by a non-tribal who has applied for the same.

Codification of social customs and usages is another important task entrusted to the District Council. The fact that the tribal customs are varied and complex makes it all the more necessary to bring about their codification. Not all the customs and usages are healthy and desirable. They ought, therefore, to be eliminated. Customs which are healthy and desirable should be preserved and made uniformly applicable. Codification is intended to bring about clarity and uniform applicability of all desirable social customs and usages. Many a District Council has not attempted the task of codification of customs and usages of the tribes and groups within its jurisdiction. The few that attempted, namely the Garo and the Mizo District Councils and the Pawi-Lakher Regional Council, have not yet completed the task. The Mizo District Council has abolished such undesirable social customs as Sachhiah, Thirdengsa, Khuaichhiah, and

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4. The Pataskar Commission discussed this issue and came to the conclusion that the District Councils should be in a position to control and regulate trading and money-lending by all those who might be engaged in such professions and not the non-tribals alone.
Chi-Khurchhiah. Further, fathang (dues payable to a chief) was also reduced.
In the Garo Hills, penalties like 'Dai' and a fine imposed on the Mahari were abolished.

All the District Councils have either framed regulations or enacted laws prescribing the salaries of their political officers. The salaries fixed by the various District Councils are as follows:

<table>
<thead>
<tr>
<th>District Council</th>
<th>G.E.M.</th>
<th>E.M.</th>
<th>Chairman</th>
<th>Dy. Chairman</th>
<th>Member</th>
</tr>
</thead>
<tbody>
<tr>
<td>Khasi Hills</td>
<td>600-50</td>
<td>400-50</td>
<td>400-50</td>
<td>275</td>
<td>250</td>
</tr>
<tr>
<td>Jaintia Hills</td>
<td>600-50</td>
<td>400-50</td>
<td>400-30</td>
<td>275</td>
<td>250</td>
</tr>
<tr>
<td>Garo Hills</td>
<td>500</td>
<td>300</td>
<td>250</td>
<td>250</td>
<td>200</td>
</tr>
<tr>
<td>North Cachar Hills</td>
<td>900</td>
<td>700</td>
<td>400</td>
<td>400</td>
<td>200</td>
</tr>
<tr>
<td>Mikir Hills</td>
<td>900</td>
<td>700</td>
<td>400</td>
<td>400</td>
<td>300</td>
</tr>
</tbody>
</table>

Thus there is no uniformity in the salaries prescribed by the District Councils. While the salaries fixed by the Garo Hills District Council are the lowest, those offered by the North Cachar and the Mikir Hills District Councils are the highest. The Khasi and Jaintia Hills District Councils have prescribed moderate salaries. The North Cachar and the Mikir Hills District Councils have fixed Rs. 900 and Rs. 700 as the salaries of the G.E.M. and E.M. respectively. This is exorbitant by any standard. It is, therefore, suggested that the State Government concerned should prescribe the salaries of the political officers of the District Councils on a reasonable assessment of the kind of responsibilities entrusted to them.

All but the Mizo Hills District Council have enacted laws on Christian marriage. In doing so, they have adopted more or less the
provisions of the Indian Christian Marriage Act, 1872. Uniformity in Christian marriages has been achieved. With the same object in view, the District Councils should have undertaken legislation on other marriages as well.

The Garo and the Mizo Hills District Councils and the Pawi-Lather Regional Council have enacted laws for introduction of self-government in the villages. Members of the Village Councils and all such elective bodies shall be elected on the basis of adult franchise.

As already hinted, the District Councils have not been over confident or unduly jealous about the exercise of the legislative powers given to them. Wherever necessary they have adopted with minor changes and modifications laws prevailing in the State of Assam and the rest of the country. To cite a few more examples, all the District Councils have taken advantage of the legislation prevailing in the plain areas of Assam while enacting their own laws on the establishment of the town committees in the semi urban areas in the Hill districts. The Mikir Hills District Council has also adopted the Town and Country Planning Act of Assam. The Assam Embankment and Drainage Act has been adopted by both the Mikir Hills and the Garo Hills District Councils. Likewise, the laws on fisheries, grazing etc. prevailing in Assam have been adopted by many a District Council. This is a healthy tendency for it promotes uniformity in the framing of laws. At the same time, it brings about a more harmonious relationship between the State Government and the District Councils.

Regulation of the practice of jhuming and other forms of shifting cultivation has been an important subject of legislation entrusted to the
District Council. Though a traditional and often the only form of cultivation known to the tribal people, jhuming is both wasteful and toilsome. It keeps the farmer continually in search of new plots of land. At times, it makes whole villages to be abandoned and new habitations formed at places where there may be plenty of virgin land to be exploited. While often the geography of the Hill areas makes it impossible to practice any other form of cultivation except jhuming, the latter can be modified wherever possible through minor irrigation and tapping of the water courses. This task has been entrusted to the District Councils but surprisingly only three District Councils - those of the Garo Hills, Mikir Hills and the Mizo Hills, and the Pawi-Lakher Regional Council have enacted legislation for the purpose of regulating jhuming. Other District Councils have not discharged this important responsibility.

Again, no District Council has enacted legislation on the use of any canal or water course for the purpose of agriculture.

Further, none but the Mizo District Council has enacted legislation on so important a social subject as inheritance of property.

Only two District Councils - those of the Khasi Hills and the Garo Hills - have exercised the power to make laws on the appointment or succession of Chiefs or headmen. The Mizo District Council has abolished the institution of the chiefs. The Khasi and the Garo Hills District Councils have retained the chiefs but regulated the procedure of their election and appointment.

The District Councils have the power, subject to the approval of the Governor, to make rules regarding their constitution and composition, the procedure and conduct of their business, appointment of officers
and staff and so on. All the District Councils have framed such rules. Some of them have amended the rules pretty frequently. The Mikir Hills District Council has amended the rules 12 times within a period of twenty years.

Management of forests other than reserved forests is another important responsibility entrusted to the District Councils. Out of an area of nearly 9,500 sq. miles covered by the forests in the Hill districts, the area under reserved and protected forests accounts for only 1,570 sq. miles. The remaining area which extends over 7,700 sq. miles constitutes unclassed state forests under the direct management of the District Councils. The fact that these forests are a major source of income of the District Councils makes it all the more important to administer them efficiently. All the District Councils and even the Fawi-Lakher Regional Council have enacted laws on the management of forests. But beyond the passing of laws, the District Councils could do little else. They have neither the technical know-how nor resources to provide for a scientific management of the forests. Further, they have allowed the forests to be extensively jhumed and deforested by shifting cultivators. Deforestation has led to rapid denudation. The damage caused by the latter has been particularly severe in the Garo-Khasi Jaintia Hills. The Pataskar Commission which discussed this problem at length observed: "We consider, therefore, that it is in the interests of the councils themselves that the management of forests is put on a sound scientific basis. Otherwise, in a comparatively short period the hill areas would be denuded of their rich forests - thereby giving rise to numerous serious problems of soil erosion, flood control etc. and the district councils would suffer a substantial drop
in their revenues.\textsuperscript{5} But for a sound, scientific management of forests as suggested by the Commission, isolated approaches as are at present made by individual District Councils should be replaced by an integrated approach through the instrumentality of the State Government. The District Councils need not be disassociated with the management of forests. They should not also be deprived of the revenues from the forests under their control. There should, however, be a centralised machinery for divising sound policy and directing long term measures involving substantial expenditure. The District Councils should be adequately represented in the process of such centralised decision making. The Pataskar Commission suggested that the Minister for Tribal Affairs should be the central authority in charge of the management of forests. He should be assisted in this task by an advisory committee consisting of the Chief Executive Members of all the District Councils.\textsuperscript{6} With the reorganisation of Assam and the formation of Meghalaya as a separate state and Mizoram as Union Territory, the recommendation of the Pataskar Commission would seem to be slightly outdated. But the basic need for the association of the State Government or that of the Union Territory as the case may be, with the administration of forests otherwise directly under the control of the District Councils remains and ought to be met if necessary through a suitable amendment of the Sixth Schedule.

\textsuperscript{5} Report of the Pataskar Commission, paragraph 296, pp. 121-22.
\textsuperscript{6} Ibid., paragraph 298, p. 122.
In order to make justice simpler, cheaper more direct and more truly native, the District Councils have been empowered to establish their own Courts and invest them with the necessary powers to deal with disputes arising between tribals. Accordingly, the District Councils, except that of the Mikir Hills, have set up different types of Courts including appellate courts in their respective areas.

The Garo Hills District Councils has set up three types of Courts: Village Courts, Subordinate District Council Court and the District Council Court. The Village Courts, over fifty in number are presided over by traditional village officials called laskars. They try both civil and petty criminal cases. While they can not award a sentence of imprisonment, they can impose a fine up to a maximum of Rs. 50. They can also award 'dal' or compensation according to local practices. Above the village courts is the Subordinate District Council Court located at Tura and presided over by a judicial officer generally on deputation from the state government. This Court has appellate jurisdiction over all disputes tried by the village Courts. It has also original jurisdiction in those classes of cases where the parties belong to different laskar areas or when any party apprehends that it might not get justice from the village court concerned. It can award punishments except those specifically mentioned in paragraph 5(i) of the Sixth Schedule. Though it can not apply the codes of Civil and Criminal procedure, it follows them in essence. The highest court, that is the District Council court is also located at Tura and is presided over by another judicial officer. It exercises all the powers of the Subordinate District Council Court and has in addition the power to hear appeals from the latter.
Appeals against the decisions of the District Council Court lie only to the High Court at Gauhati.

The Khasi and Jaintia Hills have an elaborate and somewhat complex system of administration of justice. The former Khasi Chiefs have been associated with the process. The Shillong sub-division constituting the former British Sirdarships has 31 Village Courts. Above the village courts there is a Subordinate District Council Court presided over by a magistrate of the first class. It has original jurisdiction in respect of all Civil matters but limited jurisdiction in criminal cases. It hears appeals from the 31 Village Courts belonging to the sub-division. In the areas of the former Khasi States, there are, besides the Village Courts, 25 additional Subordinate District Council Courts presided over by the Siems, lyngdohs, and Sirdars. These courts have unlimited civil but limited criminal jurisdiction. They have been invested with the powers variously of the courts of magistrate first, second or third classes. They hear appeals from the Village Courts within their respective jurisdictions. In the Jowai Sub-division, there are 19 village courts presided over by the Doleis. Appeals from the Village Courts go to the Subordinate District Council Court at Jowai. This court exercises the same powers as its counterpart in Shillong. Over and above all these courts, there is the District Council Court presided over by a judge exercising wide powers, both civil and criminal including those mentioned in paragraph 6(1) of the Sixth Schedule. Appeals from the District Court lie to the High Court at Gauhati.

The North Cachar Hills District Council has framed rules for the constitution of its own courts similar to those found in other Hill dis-
tracts. It has established a Subordinate District Council Court and a District Council Court at Haflong, its headquarters. The existing village authorities such as the mazadars and the gaonburas exercise the functions of the Village Courts. There has been a proposal for the regrouping of small villages into bigger units for purpose of establishing village courts.

In the Mizo Hills, there is a Village Court for each of the 422 Village Councils. Above the village courts, there are two Subordinate District Council Courts and two other additional Subordinate District Council Courts. The Subordinate District Council Courts are located at Aijal and Lungleh, each presided over by a magistrate of the first class. The additional Subordinate District Council Courts are situated at Lungleh and Champai. Each of them is presided over by a magistrate of the Second class. The Subordinate District Councils Courts both first class and second class hear appeals from the village courts. The District Council Court situated at Aijal is presided over by a President with the powers of a first class magistrate. He is assisted by two other judicial officers and together they sit as a bench to try cases.

The Mikir Hills District Council is the only one among the District Councils not to have established its own machinery for the administration of justice, though it has framed rules for the purpose as early as 1954.7

From the above, it is clear that the District Councils of the Khasi, Jaintia and Mizo Hills have established three types of courts, namely the Village Courts, the Subordinate District Council Courts and

the District Council Courts. The North Cachar Hills District Council has set up a Subordinate District Council Court and a District Council Court but no Village Courts. The Mikir Hills District Council does not consider it necessary to establish a court system of its own. It feels that there is no need for a separate hierarchy of courts for that would involve heavy and infructuous expenditure. The existing system of administration of justice has been found to be both convenient and effective. The Deputy Commissioner's Court is able to dispose of major cases and all other cases are settled by the traditional Village Councils to the satisfaction of all.

Suggestions for the reorganisation of the judicial process in the Hill areas fall into three categories. First, there is the suggestion to do away with the regular court altogether, to increase the powers of the District Council Courts to try all cases which may not be tried by the Subordinate Courts and to extend the jurisdiction of the District Council Courts over non-tribals also. Second, it is suggested that the existing arrangements for the administration of justice in the Hill areas should continue and the non-tribals should be free to seek justice through the regular courts. Third, it is suggested that the administration of justice should be completely taken out of the purview of the District Councils and handed over to the regular courts functioning under the administrative supervision of the High Court at Gauhati.

The Pataskar Commission which dealt with the problem at length in 1965-66 came to the conclusion that any sudden change in the existing system of administration of justice in the Hill areas would be undesirable. "The sophisticated judicial processes and modern laws would still be alien to the tribal society.... The full impact of modern judicial administra-
tion will create difficulties for the tribal people and add to the administrative complexities in these areas.... There is to our mind no harm and a good deal of advantage in allowing the tribals to continue to administer justice through their simple procedure. Accordingly we do not recommend that any change should be made in the present position."

The Pataskar Commission's recommendation for the maintenance of the status quo was based on the plea that the tribal people should get the benefit of pursuing their own standards of justice based on their age-old social customs and practices. Compared to the complex and elaborate system of administration of justice in the Plain areas, justice administered by Village Councils, Chiefs or Headmen in the villages of the Hill areas was simple, inexpensive, quick and direct. This is precisely the reason which prompted the Bardoloi Sub-Committee of the constituent Assembly of India to recommend that "the tribal councils and courts should be maintained (and) that the hill people should have full powers of administering their own social laws, codifying or modifying them." In practice, however, the District Councils have neither cared for the codification of the customary laws (except for a limited attempt being made by the Mizo and the Garo Hills District Councils) nor have the courts established by them strictly adhered to the traditional tribal methods and procedures of administration of justice. Very often, they have begun to follow the spirit if not the letter of the Civil and Criminal procedure codes obtaining in the rest of the country. In fact, the difference between the District Courts and the regular courts has become progressively a difference

in degree rather than kind. Indeed, as the Pataskar Commission admitted, "the district councils have established a hierarchy of courts very much akin to the set up in the other parts of the State." Viewed in this light, the District Council Courts appear to be an unnecessary duplication of the regular courts. The very purpose for which they were conceived and constituted has been more or less negatived.

Further, there is not enough work for the courts established by the District Councils. The Presiding officers, especially of the higher courts have not been fully employed. This is a waste which the District Councils can ill afford.

Again, it has been the sad experience of the Mizo District Council that most of the Presiding officers appointed to its courts were found wanting in education as well as training. It does not behove a judiciary to be so cramped by the inefficiency of the members of its own bench.

For these reasons, it is neither desirable nor expedient for the District Councils to continue the costly experiment of having to establish and maintain their own courts. The traditional Village Councils may yet be associated with limited judicial functions. Justice at the higher levels should, however, be entrusted to the regular courts.

REVENUE AND EXPENDITURE:

The Report of the Pataskar Commission which devotes a whole chapter to financial administration by the District Councils makes a sad comment on the record of the latter in the discharge of their revenue and expenditure responsibilities. The Report draws special attention to the following lapses and anamolies.

1. The District Councils have not fully exploited the financial resources available to them.

2. There is reluctance to impose taxes and laxity in realising them with the result that sizeable arrears have accumulated in all the District Councils.

3. Very often the District Councils have not been able to balance their receipts and expenditure.

4. The expenditure on staff and establishment is unduly heavy and there is clearly an urgent need for economy.

5. The District Councils have been able to devote only meagre funds if at all to the development programmes which have been financed mostly from out of government grants.\(^\text{11}\)

It is nearly a decade since the Pataskar Commission made their report. Yet, there is practically no improvement in the financial position of the District Councils. The anomalies and irregularities pointed out by the Pataskar Commission continue to exist even now. There is little evidence to suggest that the District Councils have learnt to exhibit a greater sense of financial self-discipline.

The District Councils in general have not made any serious effort to augment their revenues from indirect sources such as fees accruable from the distribution of jhum lands, administration of social laws relating to marriage, divorce, inheritance of property etc., implementation of the regulations for the control of trading and money-lending by non-tribals, issue of permission for transfers in land or leases and so on. Though the income from these indirect sources is not expected to be high, the fact remains that the District Councils have not been able to tap

\(^{11}\) Ibid., paragraph 217, p. 87.
whatever is available from a more efficient administration of the same.

Land revenue is one of the major sources of income of the District Council. Yet land brought under assessment for purposes of land revenue has been less than one percent in all but the Mikir and the Garo Hills districts. Strangely, lands other than those brought under permanent cultivation are usually not being assessed for purposes of land revenue. Lands under jhum cultivation are assessed indirectly either through a house tax or by realisation in kind. But even this is not done effectively. Lands under fruit or cash crops are not subjected to any assessment except in the Mikir Hills district. The performance of the Khasi and the Jaintia Hills District Council has been most unsatisfactory. The people of the Shillong Sub-division have never been assessed to any land revenue. Nor have they paid a house tax at any time. In the areas of the ex-Khasi States, the former chiefs are still levying and collecting land revenue and keeping most of it with themselves. The District Council has remained content by passing a resolution that the chiefs should pay one-eighth of their income from land tax to the council's account. But this has not been done regularly. Nor has the District Council succeeded in enforcing it.

While the people of the Khasi Hills have paid neither land revenue nor house tax, those of the Jaintia Hills had been subjected to both. The latter had naturally resented such unequal treatment. In order to remove this anomaly the Khasi and Jaintia Hills District Council decided in 1954 to levy house tax in the entire sub-division of the Khasi Hills. But as the Khasi people were opposed to the decision, it was not implemented. In 1961, house tax leviable in the Jowai sub-division (Jaintia Hills) was abolished. Thus, the attempt to impose house tax in the Khasi
Hills having proved a failure, the only way by which uniformity could be established was by abolishing the house tax in the Jaintia Hills as well. The District Council could blame none but itself for having lost a substantial source of income at both the ends.

The Garo Hills district has more paddy fields under permanent cultivation than any other Hill district. Yet its revenue from land is not as high as may be expected. It follows that many a plot of land under cultivation escaped assessment.

The collection of land revenue is no better than its assessment. The laxity in the collection of land revenue which is often the direct consequence of weak and inefficient administration has led to vast accumulation of arrears in practically all the District Councils. In the Mikir Hills district the arrears run into several lakhs and as such there is hardly any prospect of realising them.

As hinted already, the performance of the District Councils in the assessment and collection of land revenue leaves much to be desired. Even after giving an allowance for the practical difficulties involved in the assessment of land in the Hill regions, there is undoubtedly some scope for the District Councils to bring more land under assessment. The existing exemption of land under fruit or cash crops is unwarranted. All such exemptions should go and the machinery for tax collection should be energised.

Forests account for the bulk of the revenues received by the District Councils. The Khasi and the Jaintia Hills District Council had been sustained mainly from the handsome revenue it had received from its
forests. Even now the District Councils, Khaki Hills and the Jowai sub-
division have the bulk of their revenues derived from the forests. Almost
all the District Councils have allowed an indiscriminate jhuming of their
forests and as a consequence there has been widespread deforestation and
demudation. Further, individual District Councils have neither the means
nor the technical know-how to manage their forests efficiently and thereby
augment their resources. Hence, it is suggested that the State Government
concerned should undertake to manage the forests without in any way depriv­ing
the District Councils of their revenues from forests. The District
Councils should also be associated with the machinery for the management
of forests.

Markets constitute another important source of revenue of the
District Councils. There are public markets as well as markets owned by
private persons as in the Khaki Hills. The performance of the Mizoram District
Council has been the poorest so far as realising revenues from its markets
is concerned. The Garo District Council has done much better than many
others. The District Council, Khasi Hills has neglected this source rather
badly. Despite its Market Act, the chiefs appropriate most of the income
to themselves. The District Council has not been able to exercise any
control over the Siemship markets and there is no machinery by which it can
assess the actual amount derived by the Siems from their markets. Conse­quent­ly the District Council's revenue from its numerous markets has been
just about Rs. 10,000 annually. In the Jaintia Hills where control over
markets has been more effective, the annual income from the markets is of
the order of Rs. 11450 which is almost three-fourths of the total income of
the District Council (the total income being Rs. 16,809).

Taxes constitute an important source of revenue of the District Councils. But the District Councils have not made a competent use of their powers of taxation. Only three District Councils—those of the Khasi Hills, the Jaintia Hills and the Mizo Hills have levied a tax on professions, trades, callings and employment.

The tax on small vehicles such as carts, boats and bicycles has been levied by the District Councils of the Garo Hills and the Mikir Hills.

The Garo Hills District Council has levied a tax on cotton trade, a tax on cattle and local rates.

The toll on persons residing within autonomous districts has been imposed only by the District Councils of the Garo Hills and the North Cachar Hills.

The North Cachar Hills District Council has levied a tax on the goods that enter the markets for sale. But it has not imposed any toll on passengers and goods carried by the ferries.

No District Council has levied any tax for the maintenance of schools, dispensaries and roads.

Of all the District Councils, only two the Garo Hills and the Mikir Hills District Councils have made relatively good efforts to augment their resources. The performance of the Khasi Hills District Council has been particularly unsatisfactory. The District Council has more revenue potentialities than most other Councils. And yet it does not seem to exert itself in developing them. The chiefs who continue to exercise the powers of levying and collecting taxes, realising revenues from markets and imposing fines in the course of administration of justice, appear like a parallel authority over which the District Council has practically no control.
While the District Councils have been slow, halting and often indifferent towards exploiting their resources fully, they have been rather extravagant about their expenditure on staff and establishment. "One of the purposes of the Sixth Schedule", as observed by the Pataskar Commission, "was to allow the tribal people to administer themselves in all matters of vital local concern and to save them from an administration that was both expensive and remote. The tendency of the Councils has on the other hand been to substitute their traditional system of administration by something far more akin to the full-fledged democratic apparatus of government elsewhere." The offices of the District Councils resemble those of the Civil Secretariat of the State Government. The Mikir Hills and the North Cachar Hills District Councils pay exorbitant salaries to the members of their political executive. The amounts paid as T.A. are often excessive. In 1970 each member of the Executive Committee of the North Cachar Hills District Council drew Rs. 654 on the average. The amount provided in the budget for T.A. alone was Rs. 33,600. Whereas the amount allocated for agricultural development in the district was just Rs. 12,880. Some of the Executive Members went to Bombay, Dimapur, Silchar and Tinsukia at public expense. In 1972-73 while a sum of Rs. 44,000 was earmarked for payment of salary a sum as high as Rs. 50,000 was allotted for payment of T.A. The District Councils in general have not shown the necessary caution and prudence in organising their expenditure. The need for economy is urgent. An unhappy result of their excessive expenditure on establishment is that they have been unable to allot sufficient funds for development from out of their own resources. They have to depend almost entirely on the grants of the

12. Ibid., paragraph 180, p. 65.
State Government for financing their development programmes. There are also instances of grants-in-aid given by the State Government for development or any other special purpose being utilized for meeting normal administrative expenditure. Such a tendency is not only unhealthy but is also highly irregular.

ACCOUNTING AND AUDIT:

The Sixth Schedule requires every District Council to maintain a District Fund to which shall be credited all moneys received by or on behalf of the Council. The District Council may, subject to the approval of the Governor, make rules for the management of the District Fund including matters pertaining to its custody, procedure for making payments of money into it and withdrawals therefrom. By an amendment of the relevant provision effected in 1969, the Governor not the District Councils - could make rules for the management of the District Fund. This is a marked improvement over the previous position under which the District Councils could make substantially different Rules, though, in fact, the rules and procedures prescribed by them were almost identical.

Now under Rules prescribed before 1969 the custody of the District Fund was vested in the government treasury. All moneys creditable to the District Fund of a District Council were therefore deposited with the treasury and the latter permitted withdrawals from the said fund by the presentation of cheques issued by the Secretary to the District Council or other competent authority. In case of the Mizo District Council, the withdrawal was by presentation of bills and not cheques. The treasury had
no control over the District Fund Accounts. It maintained the same as bank-
ing accounts in that it merely recorded the payments and withdrawals of
money without references to the head of receipt or expenditure. It follows
that the responsibility for maintaining detailed accounts rested with the
District Councils themselves. The record of the District Councils in this
respect was far from being satisfactory. No District Council had qualified
accounts personnel. Nor did the District Councils appreciate the need for
maintaining their accounts clean, up to date and above board. A certain
District Council maintained accounts on loose sheets. An important item
like the repayment of loans was not shown in the accounts of a few councils.
The District Councils in general did not maintain a clear-cut distinction
between revenue and capital receipts and expenditure.

The Accountant General of Assam pointed out to the following
irregularities in the maintenance of accounts by the District Councils.
1. There were frequent delays in the deposit of revenue collections in the
treasury.
2. There were also delays in the reconciliation of accounts with the
treasury pass book.
3. The cash book was not properly maintained.
4. Wrong utilization certificates were submitted in respect of government
grants.
5. Accounts of demand, collection and arrears were not properly maintained.
6. There was delay in the settlement of audit objections. 13

13. Ibid., paragraph 255, pp. 95-96.
These irregularities persisted even after the Accountant General pointed out to them year after year in his reports. It follows that the District Councils did not take the necessary steps to remedy the defects.

So far as the audit of accounts of the District Councils was concerned, the Sixth Schedule made no provision for the same prior to 1969. Rules, however, provided that the accounts of the District Councils be subjected to annual local audit by the Accountant General of Assam. Such an audit covered a general review of the accounts for the whole year and a detailed audit for selected months. There was no provision for internal audit by any District Council.

An evil worse than all others was that except in the case of the Mizo and the Mikir Hills District Councils, the District Fund Rules did not provide for the preparation of the annual finance accounts, appropriation accounts and audit reports and their submission to the District Councils concerned. Members of a District Council and the people in general had, therefore, no means of knowing the state of the finances of their own district. Strangely while, on the one hand, the District Councils began functioning like miniature legislative assemblies, they had, on the other hand, no opportunity to examine their own accounts. They were deprived of one of the principal means by which legislatures seek to control public expenditure.

By a suitable amendment of paragraph 7 of the Sixth Schedule effected in 1969, provision was made for the keeping of the accounts of the District Councils by the comptroller and Auditor General of India. The latter shall also determine the form of accounts in consultation with the President of India.
The comptroller and Auditor General shall not only keep the accounts of the District Councils, he shall also make an audit of the same in the manner he thinks fit. The audit reports shall be submitted to the Governor who in turn shall place them before the District Council.

The present arrangements in regard to the audit and accounts of the District councils are thus a great improvement over those which existed before 1969. And yet even now the audit reports have not been given the due consideration they deserve. There is no real check against infructuous expenditure. It may, therefore, be suggested that all those who might be responsible for infructuous expenditure should be surcharged for the same. It may also be suggested that a person who has been surcharged for amounts of Rs.1000 and more should be debarred from the membership of the District Council.

EXECUTIVE FUNCTIONS AND ADMINISTRATIVE ARRANGEMENTS:

In the beginning, the administrative functions of the District Councils extended to the establishment and management of primary schools, dispensaries, markets, cattle pounds, ferries, fisheries, roads and water ways within their respective areas. In practice, most of the work in connection with the management of primary schools was undertaken by the State Government till 1961. Between August 1961 and April 1964, however, management of government owned primary schools was transferred to the District Councils one after another. Thus although the District Councils came into existence in 1952, it was not until a decade later that they obtained a de facto control over primary education. But they did not seem to exercise this responsibility satisfactorily. For one thing they were unwilling to levy a tax for purposes of primary education, although they had the power
to do so. Further, they did not recruit competent teachers. There were occasions when illiterate persons were appointed as primary school teachers. No District Council had set up a Selection Board for recruitment of primary school teachers.

Among the local development works which received attention were rural communication and rural water supply. Even here the performance of the District Councils was not satisfactory.

The District Councils were not wanting in their financial resources if only they cared to exploit them fully. They had sufficient autonomy and the necessary authority to work for the social and economic welfare of the people committed to their charge. What is it then which prevented the District Councils to discharge their administrative responsibilities satisfactorily? The reasons are not far to seek.

First, the District Councils were unable to find suitable personnel to man the higher posts. It was impossible for them to establish separate cadres of superior administrative and supervisory staff. Even if they tried to establish such cadres, they would remain unattractive for want of promotional opportunities. The only convenient arrangement in the circumstances should be to borrow the services of trained and experienced members of the state civil service and the State Government should be willing to send them on deputation.

Second, while the District Councils did not favour inspection by outside authorities, they did not even develop an effective system of internal inspection of their offices.

Finally, there was no provision in the Sixth Schedule requiring the District Councils to maintain regular contacts or consultation with
the State Government. As a consequence, the District Councils tended to function more or less independently of the State Government, extremely jealous of their powers and often suspicious even of the best intentions of the State Government. The only way by which the State Government could ascertain the working of the District Councils was by the appointment of a Commission under paragraph 14 of the Sixth Schedule. This is an extreme measure which might not be resorted to except on rare occasions. The State Government had, no doubt a department of tribal areas and backward classes placed in the charge of a Cabinet Minister. But the department of tribal areas was not quite competent to achieve the coordination of the activities of the District Councils at the field level where it was most indispensable.

At the field level, the situation was even worse. The district officers had no links whatever with the administration of the District Councils. Commenting on this the States Reorganisation Commission observed: "We were surprised to know that no use was being made at present of the district officers by the District Councils and that no provision had been made in the Sixth Schedule for the maintenance of any contact between them. "An important step in the direction of providing better liaison in our opinion." the commission went on to say, "will be the appointment of a commissioner to be in charge of the administration and development of all the hill districts. We envisage that the Commissioner would act as the Governor's agent for the various purposes laid down in the Sixth Schedule and that he, with the assistance of the district officers would help the district councils in their various day-to-day problems so as to remove difficulties speedily."14

14. From the Report of the SRC quoted by the Pataskar Commission in their report, paragraph 120, p. 49.
The Pataskar Commission lent full support to the suggestion of the SRC for the appointment of a Commissioner for Hill areas. It also stressed the need for strengthening the department of Hill areas with a view to making it clearly responsible for all matters concerning the District Councils in general and for helping the latter in the administration of development programmes in particular. It was hoped that with the help of these two institutions the Commissioner for Hill areas and the Department of Hill areas - the State Government could have organised links with the administration of the District Councils. In the circumstances, the latter could be entrusted with expanded executive responsibilities including community projects, and national extension service, agriculture and minor irrigation, animal husbandry and veterinary services, cooperatives, fisheries, small scale and rural industries, sericulture and weaving, public health, social welfare, village planning, publicity and information and so on. It was thought that these new responsibilities would enable the District Councils to function with a greater sense of responsibility and zeal in realising the task of social and economic welfare of the tribal people.

In pursuance of the above recommendation of the Pataskar Commission, provision was made in the Sixth Schedule to the effect that the Governor might with the consent of a District Council entrust to it any of the welfare and developmental functions to which the executive authority of the state would extend.

Drawing support from this provision, the Government of Assam decided to transfer to the District Councils of the North Cachar and the Mikir Hills functions with regard to agriculture, animal husbandry,
public works, flood control, irrigation, soil conservation, veterinary services, fisheries, forests, Panchayatiraj and Community Development, cottage industries, roads and buildings, education from the primary to the middle school level, health and planning, planning and development. Necessary personnel and finance for the proper discharge of these functions were also made available to the District Councils concerned. Though appointed and disciplined by the State Government, officers and staff of the development departments were placed under the administrative control of the District Councils. The new arrangement came into effect from 1 June, 1950.

Dissolution, Suspension etc. of the District Councils:

The District Councils have been endowed with a fair measure of legislative, executive and judicial powers. They have also been assigned with certain independent sources of revenue, apart from the grants made by the State and the Central Governments. Further, in respect of subjects falling within the legislative competence of the District Council, the laws enacted by the State Legislature do not apply to the Autonomous Districts except in so far as they may be extended there with such exceptions and modifications as the District Councils may themselves determine. There is again a general safeguard against the application of all undesirable laws to the Autonomous districts. In view of these powers and privileges accorded to the District Councils, they assume the role "not of local authorities but something approaching the jurisdictional principalities."

The question arises: Is there a remedy against misuse or abuse of auto-

rity by the District Councils? For, autonomy may well lead to the corru-
tuation of vested interests and independence may degenerate into irrespon-
sibility.

Even where the District Councils act in good faith and seek to
fulfil the mission laid before them by the constitution, there may very be
situations making it impossible for them to function effectively. The
District Councils without exception have adopted parliamentary methods and
practices obtaining elsewhere in the country. There are political parties
and elected chairman, Deputy Chairmen and Chief Executive Members. The
Executive Committees are collectively responsible to their respective
Councils. In a given District Council, there may not be a single party
with a clear majority or there may be two parties whose strengths are evenly
balanced. In a situation like this, the District Council can not escape a
deadlock. At one time the Mizo District Council faced a similar situation.
No party had a working majority. It was, therefore, suggested that all the
members should resign and fresh elections should be held. What a strange
suggestion! Instability in a District Council may infiltrate into the
working of its Executive Committee. There may be party cliques and politi-
cal conspiracies leading to frequent motions of no confidence against
the Chief Executive Members. Every change of a C.E.M. will mean a change
of the Executive Committee. Deadlocks and constitutional crises such as
these have arisen and are likely to arise in future. The question arises:
Does the Sixth Schedule provide a remedy to deal with situations of this
kind?

The Sixth Schedule has a specific remedy against abuse of legis-
lative power by a District Council. Apart from the general rule that all
laws passed by a District Council shall be submitted to the Governor for his approval, the Governor may at any time annul or suspend any act or resolution adopted by a District Council if he considers that such an act or resolution endangers the safety of the country or is prejudicial to public order. He may also suspend the Council and assume to himself all or any of the powers vested in it to prevent the commission or continuance of such act or giving effect to such a resolution. Any order made by the Governor to this effect shall be laid down before the legislature of the state and unless revoked by it shall continue in force for a period of twelve months. If on the expiry of the said period of twelve months, the legislature once again endorses the order issued by the Governor it shall continue for a further period of twelve months unless revoked earlier by the Governor. Thus the Governor has sledge-hammer type of powers in respect of acts and resolutions passed by the District Councils. The fact, however, remains that while the Governor may suspend a District Council for reasons attracting safety and public order as envisaged in paragraph 15 of the Sixth Schedule, he can not supersede or dissolve a Council for the self same reasons.

The remedy against gross mismanagement, wanton neglect of duty or responsibility and similar lapses on the part of the District Councils has to be found in paragraph 16 of the Sixth Schedule read with paragraph 14. Under paragraph 14, the Governor may appoint a Commission at any time to enquire into and report on the administration of the Autonomous districts or any other matter pertaining to them. Under paragraph 16, the Governor may on the recommendation of the Commission appointed by him dissolve the District Council of an Autonomous district and order the holding of fresh elections immediately for its reconstitution; in the 16. Paragraph 15 of the Sixth Schedule.
alternative, he may with the prior approval of the State legislature 
assume to himself or entrust to a Commission the administration of the 
Autonomous district concerned for a period not exceeding twelve months. 
But before a District Council is dissolved and its administration is taken 
over by the Governor or any other authority appointed by him, the Council 
concerned should be given an opportunity to present its case before the 
State Legislature.

The above procedure for the dissolution of a District Council 
is both dilatory and cumbersome. First of all a Commission of enquiry 
has to be constituted. It is not clear whether any such commission may be 
appointed to enquire into the dilinquencies of individual District Councils. 
The Commission must make a case for the dissolution of a Council. The 
report of the Commission shall be placed before the State Legislature for 
its approval if the action proposed to be taken is to dissolve the Council 
as well as take over its administration. The District Council shall also 
be given an opportunity to present its view to the State Legislature. All 
these formalities take a long time to be fulfilled. Meanwhile, an erring 
District Council may perpetuate its acts of mischief with impunity. Fur­
ther, where the dissolution of a District Council is followed by fresh 
elections to reconstitute it, there can be no guarantee that the same 
members are not re-elected and do not indulge in the same acts of mis­
chief. The Sixth Schedule offers no clear remedy to deal with a situa­
tion of this nature.

In the beginning, the Sixth Schedule had no provision to deal 
with a situation caused by the breakdown of the constitutional machinery
in a District Council. The Pataskar Commission pointed out that with the adoption of parliamentary practices by the District Councils a situation of this type was not unlikely to arise. When a similar situation arises at the state level, the President has the power to dismiss the Ministry, suspend or dissolve the legislative assembly and take over the administration. Normally, the President acts on the recommendation of the Governor but under extraordinary circumstances he can act unilaterally. If the same provision should apply to the District Council, the Governor should have the power to dissolve or suspend the Council and take over its administration. But under the provisions of sub-paragraph (2) of paragraph 16 of the Sixth Schedule the Governor may, on being satisfied that a situation has arisen in which the administration of an Autonomous district can not be carried on in accordance with the provisions of the constitution assume to himself all or any of the powers and functions vested in the District Council concerned and entrust the same to any authority or person appointed by him for a period not exceeding six months at a time. The order issued by the Governor in this behalf shall be placed before the legislature of the state and unless approved by it, shall cease to operate at the expiry of thirty days from the date of its first sitting after the issue of the order. It follows that when the order suspending the powers and functions of the District Council is revoked, the old Council is revived. After its revival, where is the guarantee that the constitutional crisis which necessitated its suspension is not repeated? Therefore, the Governor should have the power to dissolve a District Council, if necessary, to resolve a constitutional crisis. But under the Sixth Schedule, the Governor can not dissolve a council except on the recommendation of a commission of enquiry appointed by him.
CHAIRMANSHIP OF THE DISTRICT COUNCILS:

The Chairmanship of the District Councils has remained a non-controversial office but none too attractive for that. In fact, ambitious politicians aspired for the offices of the C.E.M. or E.M. rather than that of Chairman or Deputy Chairman. A Deputy Chairman preferred to be appointed as an E.M. rather than being elevated to the office of the Chairman. It is also not unusual for a Chairman waiting for an opportunity to be elected the C.E.M. Sometimes, politicians who were either unemployed or unwanted were gently being disposed of with the offer of Chairmanship or Deputy Chairmanship. There was practically no contest for the office of the Chairman. No Chairman was removed by a vote of no confidence. All the Chairman except two held office for a single term. Surprisingly, no lady was elected as Chairman or Deputy Chairman. Generally, the Chairmen and the Deputy Chairmen were educated men and they conducted the proceedings of the Council impartially.

Under the existing Rules, the Chairman of a District Council is elected by a simple majority vote of members. This is not desirable. For, if there are more than two candidates contesting for the office, the successful candidate may in fact, be elected by a minority vote. In that case, he will not be in a position to command the confidence of the House. It is, therefore, suggested that the Chairman should be elected by an absolute majority vote of the members. Further, in order to see that a Chairman is not unnecessarily dragged into political controversies, there should be a check on the motions of no confidence against a particular incumbent. That is, if a motion of no confidence against a Chairman is defeated, no more of such motions be admitted for atleast six months to follow.
There is a suggestion that the State Government should have the power to remove a recalcitrant Chairman. But it is neither necessary nor desirable for the State Government to exercise this power. The Chairman of a District Council is more like the Speaker of a legislative assembly than like the Chairman of a Municipal Board. He has no executive responsibilities. There is, therefore, no scope for abuse of power. After all, if he fails to command the confidence of the District Council, the latter has the power to remove him.

POLITICAL EXECUTIVE:

The Garo Hills District Council was the only one among the District Councils to have been blessed by a political executive which was both competent and stable. The Khasi Hills District Council had experienced frequent changes in the leadership of its political executive. Rarely did a C.E.M. hold office for more than one term. Again, almost every C.E.M. had to face a motion of no confidence during sometime or other of his term. This may be attributed partly to the fact that the first three C.E.Ms were retired civil servants with no political experience.

Notable among the C.E.Ms of the various District Councils were Saprawnga of the Mizo Hills, Capt. Sangma and Mody Marak of the Garo Hills, Dhaniram Rongpi of the Mikir Hills, and G.C. Langthasa of the North Cachar Hills. All of them held office for more than one term.

The Executive Committees which functioned most efficiently were those led by Capt. Sangma in the Garo Hills and Dhaniram Rongpi in the Mikir Hills.
In some districts, the Executive Committees were handicapped by the poor quality of the members appointed. In North Cachar Hills particularly, the Executive Committee consisted of men who were often politically immature and who came to office at a very early age. In the Mikir Hills, a few wealthy families had a monopoly of most of the political offices. There were, however, inter-personal rivalries among the members of these families. The Executive Committee reflected all these traits.

The Mizo District Council and its Executive Committee did well so long as the Mizo Union was firmly in saddle. But when the Congress Party gained a majority in the fourth general elections held in 1972, things took a bad shape. The Congress was soon divided into two rival groups each trying to bring down the other. In the circumstances, neither the District Council nor the Executive Committee could function effectively.

Thus, of all the Autonomous districts, the Garo Hills alone had been blessed with a political Executive which was at once stable and efficient.

**COMMITTEE SYSTEM**

It is impossible to conceive of a modern legislature carrying on its business all by itself and constituting no committees. Indeed, the Committee system has come to be an essential part of the democratic system and an effective instrument in the hands of the legislature for a detailed consideration of the laws proposed to be made as well as for the control of administration. Even so the District Councils in general did not make an adequate use of the Committee system. The District Council, North Cachar Hills did not even try the experiment. The Garo Hills
District Council appointed a Committee for the codification of the customary laws. But it did not function effectively. The importance of the Committee system was realised to a certain extent by the Mikir Hills District Council in so far as it appointed a few important committees like the Land Settlement Advisory Board, the Construction Settlement Committee and the Karbi Text Book Committee.

Thus there is a general reluctance on the part of the District Councils to constitute committees. Further, the few committees which they appointed did not function effectively.

The failure of the Committee system among the District Councils has to be attributed partly to the fact that the councils in general were very jealous of their powers and did not like to delegate any of them to the committees which they might constitute. There are also other reasons. First, there is no restriction as to the number of committees on which a member might serve. Some influential members of the Councils managed to be included in important committees like the Land Settlement Committee and the Tender Committee. As a consequence, they were not able to attend the meetings of all the committees of which they were members regularly. It is, therefore, suggested that a member should not be appointed on more than two committees at a time. Such a restriction will enable members to attend the meetings of the committees more regularly. It will also provide an opportunity for a greater number of members to serve the committees.

Second, no District Council appointed a Committee for the purpose of coordinating the activities of various other committees. The need for a coordination committee can hardly be over emphasised. Every committee should know what other committees are doing on cognate subjects.
Absence of coordination may result in working at cross purposes and the consequent wastage of public funds.

Third, the District Councils did not seem to appreciate the need for joint committees for purposes of joint planning and joint execution of certain services which it would not be possible for individual councils to achieve. No local authority can expect to be absolutely self-reliant in the provision of all the services which it may be obliged to render. Services like protected water supply, electricity, roads, maternity and child welfare etc. can be better organised through joint efforts by two or more contiguous authorities having a common interest in them. The District Councils could have achieved a great deal more at lesser expense if only they made a liberal use of the joint committee system.

Fourth, the principle of cooption was not taken advantage of. Membership of the committees was confined to the members of the District Councils alone. Cooption is a healthy and handy device by which the reservoir of talent and experience from outside can be tapped to the advantage of the official committees. But the committees of the District Councils did not seem to realise this.

Fifth, the District Councils did not delegate adequate powers to the committees constituted by themselves. No committee can function effectively unless it has the necessary powers and facilities for the discharge of the responsibilities entrusted to it. The general rule is that a committee should have adequate powers to be able to function effectively. Its recommendations have to be considered by the parent body which may accept or reject them.
Finally, certain committees especially those appointed by the Khasi and Jaintia Hills District Council remained merely paper committees. They hardly ever made any contribution to the administration of the District Councils concerned.

A FINAL LOOK-BACK AT THE SIXTH SCHEDULE:

In retrospect, one may ask whether in the context of the vastly changed political and socio-economic structure of North East India today, and in particular, the performance of the District Councils over the years, the Sixth Schedule is still relevant and necessary. To answer this question, one must recall what the framers of the constitution wanted the Sixth Schedule to be and why they wanted whatever they wanted it to be. The Sixth Schedule was drafted almost wholly on the recommendations of the Bardoloi Sub-Committee who in turn based their observations on a careful study of the special circumstances, needs and aspirations of the people of the Hill areas of North East India on the eve of Independence.

Briefly stated, the special needs and circumstances of the Hill people as understood by the Bardoloi Sub-Committee were; first, the Hill tribes of North East India were a class by themselves. They had their roots largely in their own culture. They should not, therefore, be assimilated. They could, however, be integrated. But integration should take place through a gradual process of evolution. Second, a distinct barrier was deliberately maintained between the Hills and Plains throughout the course of the British rule. It could not, therefore, be wiped out at one shot, so to say. Third, some of the Hill tribes inhabited frontier areas of
great strategic importance and often they looked beyond the borders for racial and cultural affinity. A delicate handling of the situation was, therefore, needed. Fourth, the Hillmen in general needed protection of their scarce land and meagre wealth against unscrupulous traders and money-lenders from the Plains. Fifth, some of the social customs and indigenous institutions of the tribals should be preserved, for these constituted the very fabric of their social order. Finally, the Hill areas were pretty backward compared to the Plains. Backwardness led to greater isolation and isolation in turn bred half-baked ideas of independence among certain sections of the Hill tribes. The greatest need was, therefore, to promote political integration through an accelerated pace of economic development of the Hill areas which in turn called for the provision of liberal grants by the Central as well as the State Governments.

Thus, in short, autonomy, integration, and development constituted the major premises on which the Bardoloi Sub-Committee recommended and later the constituent Assembly accepted a special scheme of administration for the Hill areas of North East India which became finally known as the Sixth Schedule. The District Councils were conceived as the pivot of the new scheme. It has now to be seen how the scheme of the Sixth Schedule worked in practice and to what extent the District Councils fulfilled the expectations raised of them.

The main burden of the discussion in the present thesis has been to show that the Sixth Schedule did not work properly and the District Councils did not succeed in the mission in which they were engaged.

The Hill people with the exception of those belonging to the Mikir Hills and North Cachar Hills were never fully satisfied with the
Sixth Schedule. Soon they lost faith in it. Even before the Sixth Schedule was formally implemented, the leaders of the Naga Hills raised a banner of revolt against it. The Naga Hills district which had thus baled out of the Sixth Schedule could never be brought in. Being princely states, Maniour and Tripura were not even considered for inclusion in the Sixth Schedule. Part B of the Table appended to paragraph 20 of the Sixth Schedule as originally framed mentioned the frontier tracts. Paragraph 18 made it possible to bring the frontier tracts within the fold of the Sixth Schedule. But this did not happen. The frontier tracts never had a District Council. They were finally removed from the Sixth Schedule in 1971. Thus the Sixth Schedule failed to achieve even physical integration of the Hill areas of North East India. In place of one state to which it applied in 1952, there are now two states and one Union Territory. In place of five District Councils to which it was applied in 1952, there are now eight District Councils, two in Assam, three in Meghalaya and three in Mizoram.

The hope that the Sixth Schedule might pave the way for greater harmony and better appreciation of each others needs and aspirations between the Hills and Plains was also belied. The Hill leaders thought that the Sixth Schedule gave them too little, while the leaders from the Brahmaputra Valley held a different view. The extremists among the latter thought that the Sixth Schedule was an exercise in appeasement containing the seeds of a "Tribalasthan". Thus the Sixth Schedule was attacked from both Hills and Plains, though for different reasons. Such an atmosphere was hardly conducive to the goal of Hills-Plains amity.
In the Hill areas, the attack on the Sixth Schedule began in the form of a demand for its amendment. This was the direction in which Hill politics moved from 1954 till about 1960. But from 1960, the limited demand for amendment of the Sixth Schedule had been given up in favour of a more spectacular demand for the formation of a Hill State. The Hill State demand was based on the plea that the Sixth Schedule failed to provide adequate safeguards for the Hill people against domination by the majority community. But while demanding the Hill State, the Hill leaders did not demand the abolition of the Sixth Schedule. In other words, they wanted to have the best of both the worlds.

Thus the Sixth Schedule did not promote peace and amity between the Hills and Plains. There was, however, one brief moment when it did achieve a measure of success. That was when the EITU cooperated with the Chaliha ministry and Sangma was appointed the minister for Tribal Affairs in 1958. For two years to follow, the Hill State demand was relegated to the background. But the language controversy which began in 1960 chilled all hopes and sent a cold shudder into the relations between the Hill leaders and their counterparts in the Plains.

In the sphere of development, the record of the Sixth Schedule was equally unimpressive. The scheme of the Sixth Schedule did not envisage a suitable machinery for the integrated development of the Hill areas of North East India. Greater emphasis was laid on the legislative, executive and judicial powers and functions of the District Councils. Their development responsibilities were not spelt out clearly. Further, no clear provision was made for the coordination of the development functions of the District Councils by the District Officers and other field personnel of the
State Government. There was again no check against wasteful expenditure on the part of the District Councils. Development grants were often diverted to meet establishment charges. The State Government could not enforce financial discipline among the District Councils.

Thus the Sixth Schedule failed to realise the objective for which it was intended. But its failure must be attributed not so much to the inherent weaknesses in the system which it established as to the unsympathetic and often hostile attitude shown to it by certain extremist elements in both the Hills and Plains. Given the necessary faith and understanding, it would have gone a long way to promote the interests of all concerned as it did during the early years of Chaliha's Chief Ministership. But the reactionary elements in both the Hills and Plains gained an upper hand and blocked the success of the scheme.

The District Councils which constituted the pivot of the scheme of administration envisaged in the Sixth Schedule did not realise their responsibilities effectively. In the sphere of social legislation, the Councils had generally not gone beyond Christian marriages and divorces. Codification of social customs which would have gone a long way to systematize the social order among district tribes was never quite attempted by any District Council on a comprehensive basis. Most Councils were, however, anxious to enact laws prescribing high salaries and allowances for the executive members, ordinary members as well as the presiding officers. While the councils did not fully appreciate their legislative powers, they demanded additional powers.

In the sphere of administration of justice, all but the Mikir Hills District Council established courts at various levels. In practice,
only the Village Courts functioned effectively. Very often the higher courts had no work. Further, the persons who were appointed to the benches were often laymen. Even unwanted politicians were appointed as judges.

So far as welfare and development work was concerned, the performance of the District Councils was even worse. The Councils argued that they did not possess sufficient powers and authority to take an effective part in development programmes. As against this, the State Government thought that the councils did not make proper use of their powers of legislation and taxation and thereby failed to promote development. Further, their administration tended to be top heavy.

The autonomy of the District Councils which was the main basis on which they could be distinguished from local authorities, pure and simple, had also been progressively eroded. By one sweep, so to say, the amending Act 81 of 1971 deprived the District Councils in Meghalaya and Mizoram much of their legislative independence and reduced them to the status of local Boards. This is as it should be for Meghalaya and Mizoram became independent tribal units with separate legislatures of their own. Thus among the existing District Councils, only the Mikir Hills and North Cachar Hills District Councils in Assam retained their powers and functions as of old. What is more, the Government of Assam entrusted them with many new responsibilities since 1970.

Taking an overall view, there is little justification for the continuance of the Sixth Schedule and the District Councils in at least Meghalaya and Mizoram. The District Councils have become redundant for they no longer subscribe to the original intentions of the framers of the constitution. They have ceased to be relevant politically, administratively and otherwise. Their continuance would mean unnecessary duplication of
administrative machinery and wasteful public expenditure. Indeed, the Central Government's 'Proposals for the Reorganisation of the Units in the North Eastern Region' (1971) suggested the abolition of the Sixth Schedule in Meghalaya except for a limited period. But the Bill for the Reorganisation of the Areas in North East India remained silent on this point. It appears that the move to abolish the District Councils was opposed by the APHLC. The reasons are obvious. First, prominent leaders of the APHLC like Sangma were committed to the continuance of the District Councils even after their demand for statehood for the Hill areas was met. Second, for the new elite among the tribals who are also the new rich, the District Councils offer political offices of importance and influence. Third, for the new generation of educated young men and women among the tribals, the District Councils offer salaried jobs of comparative ease and comfort. Finally, unwanted politicians at the higher levels could be gently disposed of with such offices of the District Councils as Chairmanship or magistracy. Thus political and partisan interests seem to demand the continuance of the District Councils.

But to a dispassionate student of political science and public administration, the District Councils would appear to have far outlived their utility, for instead of promoting integration among the people of the different tribes, they now seem to divide them, instead of promoting general welfare, they now seem to perpetuate certain vested interests and finally instead of being instruments of healthy social change and development, they now seem to retard the same by their inaction. They are too costly an experiment for the tax payer to bear. The functions which they now discharge could easily be entrusted to local bodies of the type found
elsewhere in the country. The local bodies would have an organic relationship with the State Government. The latter could delegate as many responsibilities to the former as might be desirable and yet retain control over them and render them effectively responsible. It is, therefore, suggested that the Sixth Schedule be deleted from the constitution.