CHAPTER III

CONSTITUTIONAL DEVELOPMENT OF THE HILL AREAS OF NORTH EAST INDIA.
INTRODUCTION:

British rule was generally welcome in the Plains. Indeed, it came as a great relief to the people at a time when they had been subjected to untold misery and suffering by the Burmese invaders. But the British had to fight every inch of their ground in the Hills. In fact, as described in the preceding chapter, the British would rather have the more fierce tribes alone if the latter would but abstain from committing outrages on their subjects. The tribals on their part consider raids of plunder and head-hunting expeditions as much as assertion of their traditional rights as an article of faith dearest to their hearts. In these circumstances, no amount of conciliation and negotiation could be of any avail. Even military expeditions were often a failure. A policy of active interference and increasing political control, hazardous and expensive though it might be, became the only course left open to the British to bring the contumacious tribes to give up their acts of contumacy.

But political control was by no means a guarantee of securing permanent peace in the Hills. It was one thing to get the refractory tribes to give up their raids and quite another to rule them and regulate their affairs. The British thought that the system of civil administration adopted for the Plains was not suitable to the Hills. A simpler, more direct and paternalistic kind of administration was needed. Taxes which were desirable in the Plains should not be imposed in the Hills. For instance, land tax which constituted the principal source of revenue in the Plain areas was not quite applicable in the hill areas where land was
seldom under permanent cultivation. The elaborate codes of civil and criminal justice applicable to the plain areas were quite beyond the comprehension of the unsophisticated hillmen. They should have a simpler and more direct kind of administration of justice in which their own laws and customs were applicable. It was with this end in view that the British had always maintained a distinction between the Hills and Plains and dealt with the administration of the former with a more direct kind of executive responsibility.

THE INNER LINE REGULATION:

The first act of the British government is segregating the Hill tracts of North East India from the plains of the Brahmaputra Valley was the Inner Line Regulation promulgated by the executive government in pursuance of the power of summary legislation conferred upon it by the Statute 32 and 33 vic, chapter 3 of 1872-73. The Regulation was made use of to demarcate the limits of the administered areas all along the northern, eastern and south-eastern confines of the Brahmaputra valley. Beyond these limits - that is to say, the limits of the Inner Line - lived the hill tribes with whom the British sought to maintain a policy of minimum interference. Therefore, any British subject or foreign resident seeking to go beyond the Inner Line for trade or any other purpose must obtain a pass or licence from the nearest Deputy Commissioner who might, while issuing the pass, lay down such conditions as he deemed necessary. General rules regarding trade, acquisition of land beyond the Inner Line and other matters were also laid down. The main motive behind the proclamation
of the Inner Line Regulation was to prevent the recurrence of disturbances resulting from unrestricted trade and trafficking hitherto prevailing between the frontier tribes and the plains traders and speculators.

THE SCHEDULED DISTRICTS ACT, 1874:

The chief commissionership of Assam\(^1\) which included the plains districts of the Brahmaputra and Surma Valleys as well as the Hill tracts was also declared a "Scheduled District" under the Scheduled Districts Act XIV of 1874. The Scheduled Districts Act together with the laws Local Extent Act XV of 1874 empowered the executive government to declare by notification in the Gazette what laws were in force in such districts and to extend to them any enactments in force elsewhere which it might deem necessary to bring into operation. A series of notifications issued under these Acts placed the plains of Assam in much the same legal position as other parts of India.

THE FRONTIER TRACTS REGULATION II OF 1880:

As it was not desirable to burden the inhabitants of the Hill tracts of Assam with elaborate procedure codes and such other enactments in force in the Plains districts, they (the hillmen) had been exempted from the same through the Frontier Tracts Regulation II of 1880. A simpler and a more direct kind of administration was devised. The Deputy Commissioner exercised the combined powers of a Judge as well as a District Magistrate. The village authorities could deal with petty village disputes in the manner of their own customs and practices.

\(^1\) The chief commissionership of Assam came into effect from 6th February, 1874. On 12th September the same year Sylhet was also added to the Assam chief commissionership.
THE GOVERNMENT OF INDIA ACT, 1915:

Assam, with its Hill tracts differing widely from the Plains, and the Plains valleys of the Brahmaputra and Surma sharply divergent from each other, presented an extraordinary situation which in turn called for such extraordinary measures as the power of summary legislation granted to the executive in 1872-73 (under Statute 52 and 53 Vic, Chapter 3). A more significant recognition of the power of legislation through what was called 'Regulations', was effected by the Government of India Act, 1915.

Sec. 71 of the Government of India Act, 1915 lays down:

a. The Local Government of any part of British India to which this section for the time being applied may propose to the Governor-General in Council, the draft of any Regulation for the peace and good government of that part with the reasons for proposing the Regulation.

b. Thereupon, the Governor-General in Council may take any such draft and reasons into consideration and when only such draft has been approved by the Governor-General in Council, and assented to by the Governor-General, it shall be published in the Gazette of India and in the local official gazette, if any, and shall thereupon have the like force of law and be subject to like disallowance as if it were an Act of the Governor-General in Council.

c. The Governor-General shall send to the Secretary of State in Council an authentic copy of every Regulation to which he has assented to under this section.

d. The Secretary of State may by Resolution in Council apply this section to any part of British India as from a date to be fixed in the Resolution and withdraw the application of this section from any part to which it has been applied.
MONTAGUE-CHELMSFORD REPORT:

The scheme of Reforms envisaged by the Montague-Chelmsford Report excluded the typically backward tracts of Assam from the jurisdiction of its (proposed) legislative council. This meant that the backward tracts in question should continue to be governed by Regulations made by the Governor-General in council under the provisions of section 71 of the Government of India Act, 1915.

EVIDENCE BEFORE THE FUNCTIONS COMMITTEE:

Sir Archdale Earle, a former chief Commissioner of Assam submitted that all the hill districts where ordinary laws were not in force should be excluded from the Reforms scheme and treated as before. Reid and Barnes, holding senior posts in the Provincial government had generally concurred with the views of Sir Archdale. Reid was, however, of the opinion that the Garo Hills, Mikir Hills and North Cachar Hills might be brought under the Reformed Council.

Sir Beatson Bell, the Chief Commissioner of Assam expressed the view that there were more reasons for the exclusion of the Hill areas than their inclusion under the Reforms scheme. The backwardness of the Hill tracts apart, the Hill people generally and their chiefs wherever they enjoyed the right to rulership as in the Khasi Hills, were not in favour of any kind of political union with the Plains. Sir Beatson was, however, of the opinion that there was no harm in giving the Reformed Council an extended jurisdiction over the Hill districts. The

safeguards under section 14 of the Government of India Act 1915 and the Regulation II of 1880 would enable the government to prevent the application of any undesirable law in the Hill areas. Hence there was no question of the legislative council encroaching on the special responsibility of the executive government in regard to the administration of the backward tracts. On the other hand, it was necessary for the Reformed Council to be endowed with the formal power of legislation over both the Plains and the Hills. The deficit in the Hills budget had always been made good from the revenues of the Plains. Should the Hills be totally excluded from the jurisdiction of the Reformed Council, the deficit in their expenditure would have to be met by other arrangement. But so long as the Plains supplied monies for the Hills, the representatives of the former should have a voice concerning their use. The existing practice had also been to permit members to put questions as well as participate in the budget discussion over matters pertaining to the administration of the Hill areas. Thus, Sir Beatson Bell recommended in effect that the whole province of Assam could safely be placed in the hands of the Governor in council provided that the Governor exercised the special power of control over legislation as and when he deemed it necessary.

There was an inconsistency in the argument of Beatson Bell for while he conceded the right of the Reformed Council to legislate for the whole province, he would not assign any real authority to it. His recommendation was, therefore, not quite acceptable to the Functions Committee. "In our view", wrote the committee, "if these special methods of
control are necessary it is better not to make a pretence of bringing
the (Hill) tracts within the scope of the Reforms scheme. We have not
been able to find any satisfactory via media between the inclusion and
exclusion. .......we recommend therefore, that the tracts in question
should be excluded from the jurisdiction of the Reformed Provincial
Government." The committee opined further that if the backward tracts
were so excluded from the jurisdiction of the Provincial Council, the
Government of India should retain a direct responsibility for the
administration of subjects like forests and excise. In fact, the admi-
nistration of the excluded areas as a whole should be regarded as an
All India subject.

The Government of India had generally agreed with the prin-
ciple of exclusion as suggested by the Functions Committee. It had,
however, pointed out certain practical difficulties in the implementa-
tion of the said principle. First, a decision was yet to be taken
whether the Governor in council or the Governor himself should be res-
ponsible for the administration of the excluded areas. In case the
Governor in council were responsible, the administration of the said
areas could only be treated as a reserved subject. Second, even the
administration of the transferred subjects would present an anomalous
situation. A transferred subject was to be administered by a Minister
responsible to the legislature. But when applied to the excluded areas,
it should be treated as a reserved subject and hence administered by an

5. No.7 of 1919, Home India, 5.6.1919, White Despatch on Indian
Constitutional Reforms.
Executive Councillor. Since transferred subjects belonged to transferred departments, the officers of the latter should be normally responsible to the Ministers concerned. But in regard to the administration of the excluded areas, they should be subject to the directions of another master - the Executive Councillor. Thus, for instance, the Director of Public Instruction should be obeying both the Minister and the Executive Councillor who might be in charge of the same subject where it applied to the excluded areas. Again, even where officers were specially posted in the excluded areas to administer subjects which otherwise belonged to the transferred departments, they must be drawn ultimately from the cadres under the ministers. Third, a similar complication was likely to arise in regard to the budget procedure also. All receipts and expenditures regarding the transferred subjects would have to be divided further and reallocated interns of areas excluded and included. The receipts and expenditure of the former would require to be separated from the general budget and included in the reserved budget. This meant a thorough revision and reorientation in the existing budget procedure.

The Government of India had, therefore, thought that total exclusion of the Hill areas was neither possible nor desirable. If followed rigidly, it would result in much avoidable confusion and friction in administration. On the other hand, it would permanently debar the Hill areas from the benefit of the new reforms. In the circumstances, the Government suggested that the backward areas should be divided into two classes, namely those areas which might be wholly excluded and those other areas in which the scheme might be introduced with modification.
The areas wholly excluded would remain under the control of the Governor in-council. Legislation in regard to them would be effected solely by Regulation. The partially excluded areas could be administered by the Governor with the assistance of the Reformed Council.  

The Chief Commissioner of Assam recommended that the backward tracts with the exception of the Khasi and Jaintia Hills should be excluded.  

EVIDENCE BEFORE THE JOINT SELECT COMMITTEE:

The Government of India Bill, 1919 was referred to a Joint Select Committee. The witnesses who appeared before it expressed different views.

Sir Archdale Earle, a former chief commissioner of Assam expressed the view that the frontier districts should be wholly excluded from the Reforms Scheme. Other districts should be treated as backward tracts and they might be subjected to the control of the legislative council with certain reservations.  

6. Ibid.
7. The Khasi and Jaintia Hills occupied a peculiar position. They consisted partly of Indian States with varying degrees of independence (through their sanads) on the Paramount Power and partly of British territory. The Shillong Cantonment was a British enclave and part of the Hill station was also British, but not other areas though municipal law was applied to the whole territory including the British portion of Shillong. The Khasis and Jaintias expressed a desire for representation in the legislative council. But the chiefs and their subjects were not in favour of their inclusion in the Reformed Council.
Nabin Chandra Bardoloi said that if the Hill districts were excluded from the Reforms Scheme, the Government of Assam should not be compelled to meet the deficit in the Hill budget. If, on the other hand, they were included in Assam, they ought to come under the control of the Assam legislature.\(^9\)

In a note handed over to the Joint Select Committee, Chandra-nath Sarma said that Hill districts of frontier importance such as the Lushai Hills, Garo Hills and Naga Hills should be the primary concern of the Government of India. The Governor acting as the Agent of the Governor General could administer the Hill areas. The entire cost of their administration should, however, be borne by the Central Government. If, on the other hand, Assam was to be saddled with the cost of administering the Hill districts, it would be, as Sarma said "a grievous wrong done to the people of Assam."\(^10\)

Similar views were expressed by Nabin Chandra Bardoloi and Prasanna Kumar Barua in a statement supplied to the Joint Select Committee. They said: "The exclusion of the hill districts from Assam would make Assam richer by Rs.14 lakhs, an amount which would be more than sufficient to meet any deficit in the budget." They went further to say that the Hill people "are as much non-Assamese as the Bhutiyas are non-Bengalis." They also contended that "almost all the Hill Districts are the frontier Districts, of more or less imperial importance, and if the people there are to be civilised, they ought to be the concern of the

\(^9\) Ibid., Evidence by N.C. Bardoloi. Prasanna Kumar Barua had also appeared before the committee but had not expressed any view, p. 585.

\(^10\) Ibid., p. 127, Appendix 2.
Government of India instead of being a burden on Assam financially and a bar to Assam in its political progress."

The Government of India Act, 1919 authorised the Governor-General in-Council to declare any territory in British India to be a backward area. Accordingly, on January 3, 1921, the Governor-General in-Council declared that the Garo Hills, the British portion of the Khasi and Jaintia Hills other than the Shillong Municipality and the Cantonment, the Mikir Hills in the Nowgong and Sibsagar District, the North Cachar Hills in the Cachar District, the Naga Hills, the Lushai Hills, the Sadiya Frontier Tract, the Balipara Frontier Tract and the Lakhimpur Frontier Tract as backward tracts.

It was also provided that all laws, provincial or Indian, enacted solely in respect of the Hill tracts would apply only as directed by the Governor-in-Council and with such modifications as the latter might make. The special powers of the executive government under the Frontier Tract Regulation II of 1880 and the Scheduled District Act as reiterated by the Assam General Clauses Act, 1915 were also retained.

Further, the instrument of instructions issued under the act of 1919 enjoined the Governor to make due provision for the advancement and social welfare of the tribal areas committed to his charge. Accordingly, the Governor made the rule that all proposals affecting a backward tract, directly or indirectly, including the proposals for any appointment

11. Ibid., p. 130.
involving any function in a backward tract, postings and leave of officers etc. shall be submitted to his consideration.

Again, whenever the Governor happened to deal with any case affecting a backward tract or tracts directly or indirectly he should, if the case related to a reserved subject, consider the opinion of the Member in charge and also the opinion of other members or if the case related to a transferred subject, consider the opinion of the Minister in charge and then pass such order as he believed to be in the interest of the backward tract or tracts concerned.

Thus, while the popular Ministers had direct responsibility for the administration of the plain areas, they had practically no responsibility in regard to the administration of the backward tracts. In fact, they disavowed any kind of responsibility in the administration of the latter. The executive government which had the sole responsibility for the administration of the tribal areas favoured a policy of minimum interference consistent with the maintenance of peace and order in these areas.

ATTITUDE OF THE LEGISLATIVE COUNCIL TOWARDS THE HILL AREAS:

By and large, members of the Legislative Council were indifferent to the problems of the Hill areas. There were in all 48 questions raised about the administration of the Hill areas. Most of these were asked by two members who belonged to the Hill areas.

Some members grumbled at the financial burden the Hill areas imposed on the Plains. The deficit in the former's budget had been met
from the revenues of the latter. Therefore, the demand was often made that the cost of the administration of the tribal areas should be borne by the Central Government.

Many members favoured the separation of the Hills from the Plains. One member said: "Before long Assam Valley will have to see its own way to disjoin itself from the Hill districts." Another member observed that the Hill districts with the exception of the British portion of the Khasi Hills might be administered by His Excellency, the Governor as the Agent of the Government of India. A third member declared: "If I read the signs and portents correctly I feel almost sure that the Hill districts will be separated sooner or later and I hope within five or six years the Hills will be separated from the Plains...."

The Planters' lobby was generally opposed to the inclusion of the Hill areas in the province of Assam. "One of the principal disadvantages" said Lt. Col. Smiles, "which this province is suffering from is the burden of the Hill districts. Every one here knows that the Plain districts are being definitely bled for the sake of Hills. The Hills should be definitely separated from the Plains districts of Assam." Nabin Chandra Bardolei who followed Smiles did not oppose the latter's plea for separation.

There were, however, a few members who opposed the plea for the separation of the Hill areas. Thus Brindabam Chandra Goswami said that the backward tracts should not be excluded from Assam, nor should they be administered by the Governor-General through the agency of the

Governor. They should continue to be governed by the Governor with the help of the Cabinet as at present but in cases in which the vital interests of the inhabitants of these tracts were at stake, the Governor could override the Cabinet. 15

REPRESENTATION OF THE HILL AREAS IN THE LEGISLATURE:

Before 1920, the Hill areas were not represented in the legislature. Since 1920, the Hill areas came to be represented. At first a Garo was nominated to represent the Hill areas. 16 But he was found to be unsuccessful as a legislator. Since 1924 a Welsh Missionary represented these areas. But his experience was limited to the Khasi and Jaintia Hills. Rev. J.J.M. Nichols Roy, a Khasi who came to be elected from the Shillong Constituency since 1920 was proved to be a successful legislator. In 1927 he was appointed Minister for Local Self-Government.

EVIDENCE BEFORE THE SIMON COMMISSION: EXCLUSION VERSUS INCLUSION:

The political status of the Hill areas became once again an issue hotly debated before the Simon Commission. There were official and non-official views. The non-officials were again sharply divided among themselves. There were some who favoured inclusion of the Hill areas in Assam and others who opposed such inclusion. There were also a few who


favoured the inclusion of one or more Hill districts in Assam and exclusion of the rest.

The submissions of a few important non-officials might be taken into account as under. Promode Chandra Dutta: He argued: "Is it fair that 50,000 square miles of territory should be kept as a close preserve of about a million people while six and half millions should be concentrated in 27,000 square miles?... we had always looked forward to the material advantages which the vastness of the hill territories and its mineral wealth would afford in the fulness of time to the common benefit of the hills and plains. We never expected that the Hills would be taken away from us" Mr. Dutta said further that the dismembered province would never occupy a position of parity with other provinces in the country. He was, therefore, opposed to the exclusion of the Hill areas. Tanak Lal Barua: He dubbed the proposal of P.C. Dutta as being devoid of practical politics. He suggested in turn that the province of Assam should be geographically compact and hence the hill areas intervening between the Assam Valley and Surma Valley, namely the Khasi and Jaintia Hills, the Garo Hills and the Mikir Hills should be included in it and not excluded. But the Lushai Hills, part of North Cachar Hills and Naga Hills should be excluded. In making this suggestion, Mr. Barua was obviously guided by economic considerations. He thought that the valuable forest and mineral wealth of the Khasi and Jaintia Hills Section could be immensely useful for the development of the province of Assam as a whole.

18. Ibid., Mr.K.L. Barua was Minister for Local Self-Government in 1930.
L. Gatphob and others: In a memorandum to the Government of Assam, Mr. Gatphob and others belonging to the Khasi and Jaintia Hills made a plea that the Khasi and Jaintia Hills district should no longer be classed as a backward tract. From the point of view of literacy, female education, and even knowledge of democratic institutions, the Khasi and Jaintia Hills district was no less progressive than any other Plains district of Assam. Therefore, the government of Assam should earmark at least two seats for the representation of Khasi and Jaintia Hills in the provincial legislative council.

Rev. Nichols Roy: He suggested that the British portion of the Khasi and Jaintia Hill should be detached from the rest of the Hill district and included among the Plains districts with the same political rights that the latter might be granted. The restrictions on the legislative council to legislate for the Hill district of Khais and Jaintias as of other Hill districts might be given up, if that were necessary for the said hill tract to be admitted among the Plains districts of Assam.

Nichols Roy argued that the Khasi and Jaintia Hills should no longer be branded as a backward tract, for it had shown appreciable progress in many respects. First, the district had registered in 1920 a literacy rate of 7.64 per cent which was second highest in the whole of Assam. Second, it had a female education of 2.52 per cent which was the highest in the region. Third, the Khasis had experience in running democratic institutions from times immemorial. Fourth, the Khasis had long standing trade relations with the Plains people and as such had a greater

rapport with the latter than with other hillmen. Although geographically close to the Garos, the Khasis had no affinities with the Garos. Psychologically, they had greater affinities with the plains people for like the latter they had been quicker to experience social change and advancement. Fifth, the Plains districts were not homogeneous in themselves. Therefore, the admission of the Khasi Hills district would not materially affect the character of the new province. Finally, the argument that the Khasi and Jaintia Hills district being a deficit district should not be included in the province of Assam was not a valid argument. Though a deficit district, Sylhet was for long a part of Assam. 20

RECOMMENDATIONS OF THE GOVERNMENT OF ASSAM:

In a memorandum submitted to the Simon Commission, the Government of Assam recommended that with the exception of the Shillong Municipal area, the typically backward tracts should be excluded from the province of Assam and likewise from the scheme of the proposed reforms for obvious reasons.

First, the backward areas had nothing in common with the rest of Assam. The people of the Plains feared that their own political growth and material advancement was being impeded as a result of their uncommon alliance with the Hill people. The representatives of the Plains people resented the financial burden the Hills had been on their slender resources.

20. Ibid., p. 122.
Second, even if the Hill tracts were to be admitted to the new scheme of reforms, they could not expect to have an effective representation in the legislative council for years to come. Hence, they should be allowed to develop in their own ways instead of being exposed to influences of a radical nature that the new reforms might entail.

Third, the Hill areas should be administered by British officers whom the inhabitants preferred as opposed to their Indian counterparts.

As to the arrangements for the administration of the backward tracts so excluded, the Government of Assam suggested that the Governor-in-Council should continue to administer them as before. The cost of their administration should, however, be borne by the Central Government. A very valid reason was adduced to this effect. Most of the Hill tracts being on the frontier assumed a great strategic importance. The Government of Assam prophesied: "Though for the moment the North East Frontier may not be a serious menace to the peace of the rest of India, there was time, not long age, when attention was directed to that frontier, and the time may soon come when the frontier will become no less, if not more important for the defence of India than the North West Frontier, the administration of which is a charge on the central revenues". The prophecy remains singularly valid today as it certainly was then.

The Government of Assam was of the opinion that the Khasi and Jaintia Hills district in general merited the special treatment and protection which the Hill districts as a whole received. The Shillong Municipal area should, however, be brought within the scheme of reforms for
the following reasons. First, Shillong had been the headquarters of the Government of Assam. Second, the legislative council was situated there. Third, Shillong had a cosmopolitan population. 21

In a supplementary memorandum to the Simon Commission, the Government of Assam modified its stand on the Khasi and Jaintia Hills and said: "It seems to be that it is desirable to give the residents in the British villages throughout the Khasi and Jaintia Hills the franchise allowing one constituency for the Jowai sub-division and another for those in the Shillong sub-division including the municipality. This is a different proposal from that made in the Government Memorandum. It would allow the Khasis residing in the British villages in the Sedar sub-division to vote in the constituency which at present is confined only to the Shillong Municipality............." The Governor of Assam had, however, added: "But I would still keep the district as it is the case at present against exploitation or too rapid development by providing that no law or regulation should apply to it except with the express consent of the Governor." 22

The general feeling among the Khasis was said to be one of positive expectation to be included under the Reforms Scheme. 23 In the opinion, however, of a missionary who lived in the Khasi Hills for more

22. Ibid., p. 559.
than forty years, the Khasis would stand to lose more than gain any
advantage by being included under the Reforms. 24

VIEWS OF THE NON-OFFICIALS:

The Indian Tea Association doubted the practicability of giving
representation to the Hill districts within a reasonable time and there­
fore, suggested that they should continue to be administered by the Deputy
Commissioner under the direct control of the Governor. 25

Promode Chandra Dutta said different things at different times.
At one time he said that the Hill districts should be handed over to the
Government of India to be administered by the Government of Bengal. 26
Later on he opposed the separation of the Hill districts of Assam. He
argued: "If we (the inhabitants of Assam) are not to have any part or
lot in the administration of the backward tracts, why should we be made
to pay for them. If the backward tracts are to continue as parts of Assam,
you should be brought under reforms." Dutta's argument ran into an in­
consistency when he said that if Assam was transferred to Bengal, the
Hill districts should be constituted into a separate unit to be adminis­

general feeling is that whatever may be in store politically for
these Hills in the future, no great changes should be considered
at this stage.....If I were asked my opinion I would say, 'Let
us alone for the present.' If the present position were continued
for a further period, it would I believe, benefit a great number
of people. Otherwise they would be uprooted. In the Shillong town
itself the Khasis have been pushed out and have to go year by year
further afield to get land for cultivation. The same would happen
in due course throughout the district. If a system of private pro­
perly were introduced.....foreigners in large numbers would obtain
a permanent footing throughout the hills."

25. Simon Commission Report, Vol. 17, p. 8 (Representation by the
Indian Tea Association.
26. Ibid., p. 15.
tered by the Governor of Bengal as the Agent of the Government of India. If Assam was not transferred to Bengal, the Hill districts should not be separated.27

Muhammad Saadulla said that the Hill people excepting the Khasis had remained more or less semi-civilised, rather aboriginal and hence they should not be yoked with the Plains people. Saadulla went on to suggest: "In my view the Hills should not be brought within the next constitutional advance but they should be administered by the Governor acting as an Agent to the Governor-General in Council and the cost of administration should be borne entirely by the Central Government."28

The Naga Club, Kohima, submitted a memorandum to the Simon Commission saying "......that our Hills may be withdrawn from the reformed scheme and placed outside the reforms but directly under the British Government......"29

Thus, non-official opinion was generally opposed to the admission of the Hill areas into the scheme of reforms.

OFFICIAL VIEW: NOTE BY DR. J.H. HUTTON:

Dr. Hutton who was Deputy Commissioner, Naga Hills was also an eminent social anthropologist. Having spent many long years in the Hill districts, particularly the Naga Hills, Dr. Hutton obtained a first

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27. Ibid., p.21 (Answer to a question put by Lord Burnham).
28. Ibid., - Saadulla's view was not contradicted by any politician from the Plains.
29. Quoted in the Memorandum to the SRC by the State Government, 1951, p. 15.
hand knowledge of the Hill people and their problems. In a special note prepared for the Government of Assam, Dr. Hutton had expressed himself to be categorically opposed to the inclusion of the Hill areas into the scheme of reforms. According to him, the Hill people would most surely suffer if they should be joined with the people of an irreconcilable culture in a sort of unnatural union which would ultimately harm both the parties. Hutton gave many a valid reason in support of his contention.

First, the inhabitants of the Assam and Surma Valleys belonged predominantly to either Hindu or Muslim Culture. Even the admixture of the people of the Shan or Bodo origin did not materially affect the culture of the Plains. The Hill tribes were more or less isolated and untouched by the culture of the Plains. The Garo Hills people were no doubt racially connected with the Koch, Rabha and Kachari tribes of the plains. But the rest of the Hill tribes had little in common with their counterparts in the Plains. The Lushais belonged to the Kuki family of the Western and Northern Burma; the Syntangs and Khasis were associated with the Hill tracts of Indo-China and Yunnan; the Nagas combined elements of both of these with an Indonesian stock closely connected with the baran peoples of Malaya, Borneo, Phillippine Islands and the Indian Archipelago, generally having cultural and racial connections with the islands of the Pacific. None of these tribes were Indian at all except in the barest geographical sense in that they were included within the political boundaries of the Indian Empire. These people made no secret of their antipathy to the people of the Plains.
Second, historically the Hills and Plains had always remained hostile to each other. The Ahoms succeeded in subduing the Mikirs but not the Nagas. The Nagas, the Lushais, the Khasis and the Garos kept raiding the Plains systematically until the British occupied their Hills. If the Hills and Plains were joined together under the Reforms, the interests of the former would suffer as their population remained impecunious, unlettered, rural and much too simple to compete with the Plains men in legal and political finesse.

Third, distinctions of caste which characterised the Plains society were unknown among the tribals. The latter had also given their ladies a considerable degree of equality.

Fourth, animism which the tribals practiced differed as much from Hinduism as the latter differed from Islam. Hinduism was very orthodox. However, while it might embrace the tribals, it would not admit them to the higher social strata. Moreover, the animist practice of eating beef and pork would be intolerable to both Hinduism and Islam. It would be unjust, therefore, to place the animists under the control of those who abominated their practices. The animists had their own moral code which was no less exacting than that of any revealed religion. The religion of the tribals ought to be respected for it suited the tribals better. Further, the animists of the Hills were never subject to Hinduism or Islam nor did they ever display any enthusiasm for those aspects of Hinduism which had elsewhere appealed to animistic tribes.

Fifth, the social problems of the Hills were entirely different from those of the plains. There was no commercial prostitution until it
was grafted by foreigners, no child marriage, no taboo on widows, no purdah and no caste.

Sixth, the political development of the Plains kept a faster pace than social change. In the Hills, political development was slow. Hence, any attempt to fuse the two would result in the Hill people acquiring the baser elements of the Plains civilisation without quite giving up their own evils. In other words, they would have the worse of both the worlds.

Seventh, the tribal languages belonging mostly to the Tibeto-Burmese group had nothing in common with the Indo-Aryan languages such as Assamese, Bengali or Hindusthani.

Eighth, the administrative system of the Plains was based upon certain standardised and codified laws applicable throughout the country. But such laws were unknown to the tribals and unsuitable to their conditions. For instance, the land revenue laws which applied to the Plains could never be introduced in the Hills.

The theory of state ownership of land was long familiar with the people of the Plains. The British had, therefore, no difficulty in reemphasising it. But such a theory was alien to the tribal way of ownership of land. Among the tribals, land was owned by the individual, the clan and the village. No outsider could, therefore, lay any claim on the land possessed by the tribals. The British tried to assert their right to the so called waste land among the tribals. But they could never really enforce such a right. Moreover, the practice of jhum cultivation prevalent among the tribals required them to change the plots of land under
cultivation from time to time. Though often a laborious and expensive process, it was the only way by which the tribal farmer could eke out a living. If in these circumstances, the tribals had been subjected to a legislative council in which they could hardly expect to have any voice themselves, their interests were more likely to be jeopardised than secured.

Ninth, the policing of the Hills was a matter which the tribal people themselves had to enforce with occasional help obtained from the Deputy Commissioner. The civil police which existed in the Plains could never be employed in the Hills.

Tenth, the elaborate procedure codes which characterised the system of administration of justice in the Plains could not be enforced in the Hills. In the latter, justice was administered according to local customs and practices.

Eleventh, the tribals were politically immature. They differed from each other and did not know how to organise their common interests. They scarcely had a common basis for the election of representatives. They produced no leaders. In these circumstances, their representation in the legislative council could only be farcical.

Hutton saw no logic in the argument that if the Hill areas were excluded from the Plains, the status of the latter would be undermined. After all the Hill areas were represented by a single nominated member. Therefore, it mattered little if the strength of the legislative council were reduced by a single member. If, on the other hand, the Hill areas were to be given a fair deal, there should be at least one representative
The legislative council would not agree to this with equanimity. Even if it agreed, there would be the difficulty of getting suitable representatives from the Hill tribes. And if suitable representatives were available, they would be in a minority against the combined opposition of the Hindu and Muslim members of the legislative council. They would be at a perpetual disadvantage in a council dominated by the Plains representatives. In the ultimate analysis, the Hills representatives, should they be admitted at all, would remain an incongruous and ineffective element in the Legislative Council.

There were certain Hill tracts belonging to the Lushais and Nagas which had not yet been surveyed by the British. In a few cases, they had not even been visited by the latter. Such areas could hardly ever be represented.

Twelfth, political organisation among the tribals varied from direct democracy similar to that of the Greek city state to feudal aristocracy and monarchy. But in all of these, the tribal populace enjoyed self-determination of a higher or lesser degree. Hence, there was no need for an alien kind of self-determination and polity to be grafted to the Hills.

Thirteenth, if the tribes were too rapidly exposed to the external civilisation, it might ultimately threaten their very existence. Already some tribes were showing a disturbing decrease in population.

Fourteenth, the Hill areas were not so much a financial burden on the British Government as it was often thought of. If the expense on Assam Rifles was excluded, the Hill districts would be generally paying
for themselves. The existing system of internal administration was extraordinarily cheap. The patriarchal polity in force entailed minimum expenditure on police and justice. But if a more complicated system of administration was introduced, it would become a serious burden.

Fifteenth, the Hill areas stood where they were in 1919. On this score alone, they should be excluded from the scope of the new reforms. The rate of progress among the Hills was going to be much slower than what it might be in the Plains for many generations to come. The legislative council, dominated as it was by the Plains representatives, was unlikely to remedy this situation.

Therefore, Hutton said that in the interests of the Plains districts, and more so in the interests of the Hill areas, the latter should be withdrawn from the Reformed constitution altogether. Hutton thought that this was not a retrograde step at all. The Hill areas would benefit more from the organisation of local Darbars than a remote kind of representation in the legislative council. The former would be very real for the unsophisticated hillmen, for it would promote rather than discourage their local institutions. The only system of government with which the tribals knew was local government and therefore, any arrangement which encouraged the latter would surely benefit them. On the other hand, representation in a legislative council of which they knew little, and which remained far away from them would result in a feeling of deprivation rather than benefaction.

Hutton said further that the British sought to control the Hills with a view to protecting the Plains. But in the process, they had no
moral right to relegate the Hills as an unnecessary appendage of the Plains. The solution of the problem lay in creating a Hill Province.

Hutton warned that history was full of examples of lamentable results following from an enforced combination of alien peoples under a single political organisation. The Hill people should, therefore, be excluded from the Reforms scheme. To include them against their will would be to expose them to the danger of exploitation at the hands of self-seeking individuals dominating the legislative councils. A glaring example of such exploitation was to be noticed in the affairs of the Manipuri state. The Hill tribes dependent on the latter were subjected to such hardship and privation that it became necessary to post a European officer permanently in their midst. What the Manipuri rulers did, the Plains people might as well do to the Hillmen, if the latter were brought under the control of the former. The tribal customs, ways of life and all that the tribals cherished best would be interfered with. A stage might be set for the latter to revolt. The Kuki rebellion of 1913 was a pointer to what might follow if the tribals were unduly exploited. It cost the central government twenty lakhs of rupees to disarm the rebels and restore law and order.

Thus Hutton was firmly of the view that the Hill districts should be totally excluded from the administration of the Plains. The former should have a separate budget of their own. The deficit in the Hill budget should be met from Imperial revenues as the security of the frontiers was of all India importance. In view of the fact that the territory of Assam was being protected from the raids of Hillmen, the Govern-
Hutton conceded that the Jaintia Hills might be included in Assam. The reasons were, first, the Sytengs of Jowai were familiar in some ways with the principle of election as the Dolois among them were chosen by limited election from certain families. Second, they had an administration somewhat similar to that of the Plains. Third, civil police was more frequently employed in the Jowai sub-division than anywhere else. Finally, the people of the Jaintia Hills were richer, better educated, and enjoyed a higher standard of comfort than those of other Hill districts. Several of Jaintia inhabitants had also paid income tax.30

N.E. PARRY, SUPERINTENDENT OF THE LUSHAI HILLS:

Parry, like Hutton was opposed to the inclusion of the Hill areas in Assam. Parry advocated the exclusion of the Lushai Hills on the ground that the Lushais had nothing in common with either the Bengalis or Assamese. The latter who belonged to the Plains held the Lushais in contempt and the Lushais had frequently raided the villages of the former. In these circumstances, any kind of a Union between the Hills and Plains would be unnatural. It would be like a marriage of an ill-assorted couple containing the seeds of divorce within itself and therefore, stood self-condemned for ever.

Parry said further that the Hill tribes were so backward educationally that they were not quite fit for council rule. But the Lushais

were by then educationally well-advanced. Parry thought, however, that among the Lushais education was but a superficial exercise; underneath, they remained as savage as ever. They were unstable and erratic. They had absolutely no understanding about abstract political ideas and institutions. Therefore, Parry said that the Lushais were not ready for political advance, nor were they likely to be ready in the near future. There was none among them who might be competent to sit in the legislative council. 31

To the question whether it was fair to deprive the Hills of the blessings of self-government, Parry's answer was that the Hills were far ahead of the Plains in the matter of self-government. Each village managed its own affairs. All disputes were settled by the village chief and the council of elders. Appeal to the British Courts was hardly ever made. 32

By way of a solution to the problems of the Hill area, Parry made two alternative suggestions. Under the first, all the Hill areas might be grouped together to form a division which might be headed by a commissioner who worked directly under the Governor of Assam and the latter in turn be subjected to the control of the Governor-General in Council. This Hill division should have an entirely separate budget. Its revenues should be supplemented by an annual grant from the Imperial Government so that the deficit, if any, in its budget could be adequately covered.

In the alternative, Parry suggested that the Hill areas be constituted into a separate province called the North Eastern Frontier Hill Province with its headquarters located in Kohima. The new province

31. Ibid., p. 118.
32. Ibid., p. 120.
might be headed by a chief commissioner who might be assisted by two secretaries and a number of Deputy Commissioners but no commissioner.

Parry concluded by saying: "I suggest that either of these alternatives would be better than condemning the hills and the plains to an unnatural union in which the hills districts would merely act as a drag or the progress of the plains districts and the latter would exercise a detrimental influence on the development of the hills. The second alternative would in many ways be far better as it would group together a large number of tribes with a more or less common origin and would ensure uniformity of administration for the Hill tribes of the North Eastern Frontier."³⁵

Some of the members of the Assam legislative council expressed views similar to those stated by the officials referred to above. Thus Lt. Col. W.D. Smiles said: "One of the principal disadvantages which this province is suffering from is the burden of the hill districts. Every one of us here knows that the plain districts are being definitely bled for the sake of the hills. They should be definitely separated from the Plain districts of Assam."³⁴ Nabin Chandra Bardoloi who spoke after Smiles did not contradict the views of the latter.³⁵

EVIDENCE OF G.E. SOAMES:

In his submission before the Simon Commission Soames said that the present Union between the Hills and Plains was an artificial creation

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³⁵ See the Proceedings of First and Second Round Table Conference. The representative from Assam did not protest against the recommendations of the Simon Commission. See also A.L.C.P. 1928-3- April 1928, p. 258.

³⁴ Ibid., p. 122.

³⁵ ALCP. 1928-3- April 1928, p. 258.
and it was not liked by either of the parties. Therefore, Soames suggested that the Hills and Plains should be allowed to develop in their own individual lines.  

No member of the Assam Provincial Committee protested against what Soames said. 

As already noted, the Government of Assam recommended that all the Hill tracts with the exception of the Shillong Municipality be excluded from the Reforms scheme. While forwarding this recommendation to the Simon Commission, the Government of Assam observed that these Hill tracts had "nothing in common with the rest of the Province. There is no sympathy on either side and the Union is an artificial one resented by both the parts."

RECOMMENDATIONS OF THE SIMON COMMISSION I

The recommendations of the Simon Commission were similar to those envisaged by the Provincial Government. The commission laid down that the typically backward tracts such as those of Assam except perhaps the Khasi and Jaintia Hills should be excluded. The excluded areas should be classified further into excluded and partially excluded areas. The latter appeared to be more developed than the former but not so developed as to be directly participating in the reformed constitution. The commission did not state specifically as to which of the backward tracts should

56. Ibid., Vol. 15, p. 314.
be earmarked as totally excluded areas and which others be treated as partially excluded areas.

The Commission was clearly of the view that the backward tracts in general should be the responsibility of the Central Government which should make adequate provision for their development. The Central Government could administer these areas through the agency of the Governor.

A somewhat complicated procedure was suggested for the administration of the partially excluded areas. While these areas were to be represented on the provincial legislative council, the laws of the latter should not apply to them automatically. The Governor acting as the agent of the Central Government should decide as to which of the provincial laws might be applied to the areas partially excluded. Again, the extent to which the Governor might act in consultation with the ministers was to be regulated by rules made presumably by the Central Authority. Further, while these areas might be subjected to provincial taxation, the revenues raised within them should be spent upon them. Any additional funds that were needed should be provided by the Central Government.

Why did the Simon Commission recommend the total exclusion of the backward tracts? The reasons as stated by the commission were, first, to secure an efficient and congenial administration for the Hill people; second, to prevent their economic subjugation by the more sophisticated people of the Plains; third, to see that the Hill people would not again become a nuisance that they were in the past to the peace of the Plains;
and finally, to prepare them gradually to the adoption of some form of parliamentary government.

The Commission noted further that the typically backward tract was also a deficit area. No provincial legislature was likely to possess either the will or the means to devote special attention to the requirements of such areas. Moreover, Assam was too poor a province to be burdened with the administration of vast expanses of Hill tracts. Hence these tracts should be entrusted to the care of the Central Government.

The commission found another reason for the Central Government to take over the responsibility of the Hill tracts. It argued that so long as Dyarchy existed, the Governor could be entrusted with the administration of these tracts. But with the abolition of Dyarchy and adoption of Provincial autonomy the question would naturally arise as to whether these tracts should be handed over to the ministers responsible to the legislature, or kept completely away from their control. "We have no doubt whatever", said the commission, "that for the really backward tracts such as those of Assam the alternative of complete exclusion should be adopted." At the same time, the commission recommended that in order to avoid unnecessary expenditure and other disadvantages, the Central Government should use the agency of the Governor to administer these tracts. 58

Finally, the Commission suggested a change in the usage "backward tracts" to denote the Hill areas. A more colourless expression namely "excluded areas" should be used. 59

59. Ibid., p. 129.
The recommendations of the Simon Commission were not quite palatable to the anthropologists who wanted to keep the backward tribes permanently isolated so that they remained for ever Zoological specimens.

THE REACTION OF THE GOVERNMENT OF ASSAM TO THE RECOMMENDATIONS OF THE SIMON COMMISSION:

The recommendations of the Simon Commission were referred to Dr. Hutton for his views. Hutton’s views were finally accepted by the Government of Assam.

The Government of Assam did not agree with the contention of the Simon Commission that the Hill people should be provided with an efficient administration and be prepared ultimately for some form of parliamentary government. The Government of Assam said that the Hill people desired neither parliamentary government nor an administration which was not their own. Their sole demand was to be left alone. This was certainly a kind of self-determination though it might not be cherished by all those who could be benignly disposed to them. The solution to the problem of the Hill areas should, therefore, be found not merely in their exclusion from the Plains but also in according them the right to develop in their own fashion and determine their own future. The time was not yet opportune to assume that the Hill areas would ultimately favour either parliamentary institutions or union with the Plains. It all depended on the progress of education the inhabitants might ultimately receive or respond to.

The Government of Assam had generally agreed with the suggestion of the Simon Commission that the Hill areas should be excluded and that
the deficit in the Hill budget should be made good from out of the Central revenues. The Government of Assam noted further that the administration of the Hill districts should be entrusted to the European officers and not to their Indian counterparts for the latter were often regarded by the hillmen as their hereditary foes.

The Government of Assam did not agree with the proposal for the partial exclusion of certain of the Hill areas. They strongly recommended the total exclusion of Naga Hills, the Lushai Hills, the North Cachar Hills, and all the Frontier tracts to be administered by the Governor on behalf of the Governor General in Council.

The Government of Assam thought that if partial exclusion was at all feasible, it might be applied prima facie to the Khasi and Jaintia Hills and the Garo Hills. But the Governor and the finance member did not agree for such application. This would mean, as they said, a breach of faith with the agreements entered into with the Khali chiefs. The Garo Hills might not present a problem of this kind. But they could not be considered in isolation with the Khasi and Jaintia Hills with which they ran contiguous. Thus the Governor and finance member would have all but the Shillong constituency excluded. The judicial member of the council and the ministers generally were in favour of retaining the Khasi and Jaintia Hills and the Garo Hills as partially excluded areas.

As to the recommendation of the Simon Commission that the backward tracts be represented on the federal Assembly and administered by the Governor General in Council, the Government of Assam said that it would be difficult to put it in practice. The Hill areas had hardly any
qualified men to be nominated to the federal Assembly. Again, there was no need for the Governor General in council to be collectively responsible for the administration of these areas. The Government of Assam was, however not quite averse to the proposal for the transfer of the Hills administration to the centre, for that would mean that the centre would bear the cost of the said administration. 40

As to the future of the hill areas, the Government of Assam observed: "Our aim should not be to retain aboriginal areas as picturesque survival but to secure their development by absorbing them into the rest of the community. The process of assimilation has been going on and to put an obstacle in its way would be a retrograde step." 41

THE VIEWS OF THE GOVERNMENT OF INDIA:

The Government of India did not fully agree with the views expressed by the Assam government. They were opposed to the idea of total exclusion even of the Naga Hills, the Lushai Hills, the North Cachar Hills and the three frontier tracts. They favoured some sort of partial exclusion which they thought might avoid the disadvantages of total exclusion and at the same time secure to these areas better prospects of progress and development. Broadly speaking, the Government of India recommended that the administration of the excluded areas should be vested in the Governor but means must be provided whereby the Provincial Government and

41. J.P. Mills - Assam Census Report, Vol. I, 1931. Appendix H. The Under Secretary of State supported the stand of the Government of Assam and said, "If we have to choose between assimilation and segregation, we go on as before with assimilation."
the provincial legislature were associated with the Governor without prejudice to his personal responsibilities. 42

THE VIEWS OF THE SECRETARY OF STATE FOR INDIA:

The Secretary of State agreed with the views of the Provincial Government rather than with those of the Government of India. He said what justification was there in subjecting the Hill tracts to the control of the provincial legislature which consisted of persons who had no knowledge of these backward tracts and who could hardly appreciate their needs. Again, how could the ministers responsible to the provincial legislature be given charge of areas which neither they nor the provincial legislature really represented? The Secretary of State urged that these facts must be recognised without compromise and equivocation and as such in relation to these tracts of Assam, the jurisdiction of the Provincial Government and of the ministers should be entirely excluded.

INDIA COMMITTEE:

India Committee as constituted by the Royal Empire society generally agreed with the recommendations of the Simon Commission. The committee observed: "It is clearly impossible to place the administration of these areas under the control of the legislature in which they are not represented and which can not be expected to display any interest in them." The committee went on to say: "It is necessary therefore to entrust the backward tracts to the care of the Central Government.

which must use the Provincial Governors as agents for their administration. The Commission's scheme, however, obviously requires further definition before it can be applied to particular localities. It is impossible to go into the details here but we wish to emphasise the importance of finance...... In future the funds required for the administration of these tracts as well as for their development, where necessary, will have to be provided from the central revenues." The India Committee recommended further that each backward tract should be entrusted to the Governor under a mandate which should specify not merely the policies which the Central Government would desire to see followed in regard to it but also the terms of the financial settlement which would for a definite period of years provide funds adequate to secure efficient administration and orderly advancement.43

EXCLUDED AND PARTIALLY EXCLUDED AREAS:

What is an Excluded area? How does it differ from a Partially excluded area? What are the arrangements for the administration of Excluded and Partially excluded areas? Excluded areas were those backward tracts where an advanced form of government was considered both undesirable and inapplicable. Hence these areas would be administered by the Governor himself. The ministers would have no constitutional right to advise the Governor in connection with their administration.

Neither the central nor the provincial legislature shall have power to make laws applicable to an Excluded area but the Governor in

43. Report of the India Committee-1930, p.25. The Chairman of the Committee was Sir John Ker, a former Governor of Assam.
Council might direct that any Act of the provincial legislature shall apply to the said area subject to such exceptions and modifications as the Governor might decide.

Proposals for expenditure in such an area would not be submitted to the vote of either the Imperial or Provincial legislature. No question might be asked about the said area and no subject relating to it might be discussed in the Central Assembly or (except with the sanction of the Governor) in the provincial legislature.

In the case of Partially excluded areas, the legislature was not barred from discussing their affairs. The Provincial Government had full discretion to apply or not to apply new enactments to the said areas. The Governor might direct that any Act of the provincial legislature shall not apply or shall apply to a Partially excluded area subject to such exceptions and modifications as the Governor might decide.

The Central Assembly or the provincial legislature when making laws solely applicable to any backward tract or part thereof must insert a provision that the law shall come into force only on such date and subject to such exceptions or modifications as might be ordered by the Governor General in Council or the Governor in Council as the case might be.

In addition to this, the Governor General in council was authorised by the Government of India Act 1919 not to apply any all India statutes of general applicability or apply with such exceptions or modifications as the Governor General might deem fit to any of the tracts. All backward tracts without exception came under this provision.
In Assam the ministers exercised authority over the transferred subjects. But the Instrument of Instructions issued to the Governor conferred on him a special responsibility to protect the backward tracts. This discretion was taken advantage of to frame rules of business under which the powers of the ministers in respect of backward tracts were greatly restricted. The Governor exercised effective control over the tribal areas which were technically within the authority of the ministers so far as transferred subjects were concerned.  

The question arises: Is there not a possibility of abuse of power by the Governor? As already noted, the Provincial legislature was not barred from discussing the affairs of the Partially excluded areas. Members could also ask questions. No previous sanction of the Governor was necessary. The Provincial legislature would continue to influence the Governor. The ministers would also have access to the Governor and thereby had an opportunity to influence him. Certain subjects like land and police were, however, excluded from the jurisdiction of the provincial legislature. Hence, they also fell outside the sphere of ministerial responsibility. Thus partial exclusion was intended to be functional and not territorial.  

The backward tracts in general were better represented in the Provincial legislature rather than in the federal legislature. One or two representatives from these areas would have practically no influence over legislation at the centre. On the other hand, the Assam legislative

45. Ibid., p. 1196.
Assembly would have nine members from the Partially excluded areas, two from the Garo Hills, one from the Jaintia Hills, one from the Miao Hills, two from Shillong and one for all the Hill areas combined.

THE INDIAN ROUND TABLE CONFERENCE:

The representative from Assam participating in the First Round Table Conference did not speak a single word about the issue whether the tribal areas should remain a part of Assam or excluded from it.\textsuperscript{46}

THE WHITE PAPER 1933:

The White Paper was generally in accord with the proposals of the Simon Commission. It also accepted the classification of the backward tracts into Excluded and Partially excluded areas. A decision on these could be effected through orders in council.

The White Paper declared further that expenditure on excluded areas should be non-votable, for the administration of these areas fell within the exclusive responsibility of the Governor. Expenditure on subjects over which the Governor General exercised a similar responsibility were non-votable.

JOINT SELECT COMMITTEE ON THE INDIAN CONSTITUTIONAL REFORMS:

The most notable among the witnesses who appeared before the Joint Select Committee was Dr. J.H. Hutton. He suggested that all Hill areas should be totally excluded for several obvious reasons. First, the

\textsuperscript{46} IRTC. 1930-31, pp. 483-86 - Speech of Chandra Dhar Barua.
Hill people were much fewer numerically and hence their representatives
in a elected body would carry no real weight. Second, their interests
would be alien, if not actually antagonistic to those of their more
civilised neighbours and would, therefore, be liable to be sacrificed to
those of the majority. Third, the aboriginals themselves, though unwilling
were often conscious of the dangers they might be subjected to, if included in the autonomous provinces and therefore, they wished for sovereignty
of their own 'self determination'. Fourth, if the backward area were not
excluded, they were most likely to be exploited by the people of the
Plains. In the North Cachar Hills in Assam, the rich rice lands had
already fallen in alien hands despite the general restriction prohibiting
the lease of lands to non-tribals. The Deputy Commissioner was too busy
to notice what was going on and the local revenue officers from the Plain
areas merely recommended leases which the Deputy Commissioner accepted.
These leases were seldom cancelled. Sometimes land was purchased from an
indebted Kachari who ultimately became a land less labourer. Fifth, neither the licensed liquor shop system, nor prohibition which prevailed in
the Plains would really benefit the tribal. Sixth, the system of administra-
tion of justice followed in the Plains was too elaborate and cumbersome to be applicable to the unsophisticated hillmen. The latter required
a summary procedure and speedy justice. Seventh, there was no need to main-
tain a regular police in the Hills as was done in the Plains. The hills
men themselves were their own police and their own courts of justice.
Above all, tribal law was a class by itself. In no case, could it be equated with the law that prevailed among the Plains.
In view of all these reasons, Hutton suggested that the Hill areas should be administered directly by the Government of India. 47

Sir Samuel Hoare agreed with the views of Dr. Hutton to the extent that the Hill areas should be excluded from the jurisdiction of the Provincial legislature. But he would not agree to the latter's suggestion to place them under the charge of the Government of India. On the other hand, he would attach them to the Province so that they might be administered with greater sympathy and understanding by the provincial Governor. 48

The proposal to exclude certain areas from the operation of the Reforms was criticised by M.R. Jayakar who pointed out that there was a feeling in India that the white paper intended to withdraw from the influence of the Indian legislature vast tracts and a large number of Indians. That feeling was intensified by the fact that the Governor could declare any area to be a backward area. Sir Samuel Hoare contended that the local legislature was not likely to be sympathetic to the Hill people. In fact, the latter had also looked upon the Indian legislature with distrust.

Again, politicians and others representing the Plains were likely to impose uniformities in administration which would do more harm than good to the hillmen. Hence, there was no other way of securing the interests of the Hill people and their land than by excluding them from the operation of the Reforms. 49

47. JSC on ICR. Vol.IIC, 1932-33, p.2367 - Evidence of Dr. Hutton.
48. Ibid., p.1200 - Evidence of Sir Samuel Hoare.
49. JSC or ICR. Vol.II B., p.1227 - Question by M.R. Jayakar and reply by Sir Samuel Hoare. Sir Samuel Hoare said: "Let me disabuse Mr. Jayakar of any idea that he may have in mind that this implies distrust of an Indian legislature. My distrust goes a good deal further than that. My anxiety is to prevent politicians, British, Indian or any one else interfering with the people where conditions are so different as to make federal principle really inapplicable to them.
RECOMMENDATIONS OF THE JOINT SELECT COMMITTEE:

The Joint Select Committee made the following recommendation.

"It is proposed that the powers of the Provincial legislature shall not extend to any part of the Province which is declared to be an excluded area or a partially excluded area. In relation to the former the Governor himself will direct and control the administration. In the case of the latter he is declared to have a special responsibility. We think, however, that a distinction might well be drawn between excluded areas and the partially excluded areas and that the application of the Acts or the framing of Regulations for Partially excluded areas is an executive act which might appropriately be performed by the Governor on the advice of his ministers, the decisions taken in each case being of course subject to the Governor's special responsibility for partially excluded areas, that is to say being subject to his right to differ from the proposals of his ministers, if he thinks fit."

THE GOVERNMENT OF INDIA BILL, 1935:

The Sixth Schedule to the Government of India Bill, 1935 provided for the excluded and partially excluded areas as follows:

Part I : Excluded Areas. North East Frontier, Sadiya, Balipara and Lakhimpur, the Naga Hills district and the Lushai Hills district.

Part II : Partially Excluded Areas. North Gachar Hills in the Gachar district, the Garo Hills district, the Mikir Hills in the Nowgong and Dassenagar districts, the British portion of the Khasi and Jaintia Hills district other than Shillong municipality and the cantonment.
These provisions raised a great deal of curiosity and criticism in the House of Commons. Col. Wedgwood Benn said that the backward tracts of India should be directly under British control. They should not be left to the control of the Provincial Governor. Provinces had a tendency to drag the backward tracts too rapidly into the fold of the competitive civilisation outside. This would spell a disaster to the unsophisticated and unlettered Hill people. Therefore, as Wedgwood concluded...

"if these people are to be saved from the hell of civilisation, the only chance they have is British protection and British control..." ⁵⁰

Mr. Cadogan who was a member of the Simon Commission moved an amendment in the Commons in committee suggesting changes in the Lists of Excluded and Partially excluded areas. The amendment as proposed by him included North Cachar Hills and Mikir Hills in the List of Excluded areas and the Garo Hills, and the British portion of the Khasi and Jaintia Hills other than Shillong in the List of Partially excluded areas. Major Attlee and Sir Reginald Craddock supported Cadogan's amendment. ⁵¹ Similar support was given by Sir Winston Churchill. ⁵²

In response to the motion for amendment by Mr. Cadogan, the Under Secretary of State Mr. Butler stated that a full enquiry would be made and that an order in council would be issued with full knowledge of Parliament before the appointed hour when Provincial autonomy would be introduced. ⁵³ Mr. Butler said further that the areas to be excluded should

⁵¹ HCD 15-5-1935 - Speech of Mr. Cadogan.
⁵² Ibid., Col. 1402 to 1407.
be few and must be selected with great care and that their total exclusion should be justified. 54

Cadogan's amendment went beyond the recommendation of the Joint Select Committee. The latter suggested that the matter of exclusion or otherwise should be dealt with by an Order in council. Therefore, the said amendment was not accepted by the Government. However, the Attorney General promised that the entire Sixth Schedule would be withdrawn and the matter would be settled afresh by an order in council. 55

The general feeling in the Commons was that a further enquiry should be made into the question of what areas under the Government of India Act should be excluded and which other areas should be partially excluded. Some Indians were, however, of the opinion that all the Hill tribes should be excluded. 56

Sir Samuel Hoare moved an amendment to Clause 91 of the Government of India Bill, 1935. According to him, the clause should read:

"Such areas as His Majesty may by an order in council declare to be excluded areas or partially excluded areas". Further the Secretary of State was called upon to lay the draft of the order which it was proposed to be recommended to His Majesty before Parliament within six months from the passing of the Act. 57

Hoare's amendment was approved. Clause 91 was amended as suggested. The House of Commons in Committee omitted the Sixth Schedule containing a list of areas classified as Excluded and Partially excluded areas.

54. Ibid., Col. 1392 - Speech of Mr. Butler.
55. Ibid., Col. 1426 - Speech of the Attorney General.
56. Ibid., Vol. 308. Col. 528 - Speech of Wing Commander James (7-2-1936) quoting Dr. Mukherjee as one in favour of exclusion of Hill tribes.
57. Ibid., 27-5-1935 - Speech of Sir Samuel Hoare.
A fuller enquiry into the question was proposed to be undertaken.

Accordingly, the Secretary of State requested the Government of India to investigate and report on the question denoted. He framed a general guide line as follows: "..... having regard to the limitations consequent upon total exclusion upon the powers of the legislature and of the ministers responsible to them, the areas to be placed in that category must be based upon such necessity and must be as limited as possible in scope consistently with the needs of the aboriginal population."

The Government of India wrote to the Provincial Government requesting them to suggest a fresh list of areas to be excluded. They were directed to be guided by strict necessity and make the list limited as far as possible.

The Government of Assam wrote to the local officers inviting their views.

The Deputy Commissioner of Goalpara replied that if any areas were to be excluded from the district, it should be the Bijni-Koira region area where the Boros predominated. He added, however, that the Boros were not so backward as to be considered for exclusion, total or partial. Their interests were not likely to be protected by exclusion. Nor would it be in the interests of the administration to exclude the Boros.

The Deputy Commissioner, Kamrup did not think that any part of his district might be considered for exclusion. He referred to the Achasris who were scattered throughout the district except in the Northern

zone where they were organised rather compactly. But the Kacharis suffered no disadvantages on account of their association with their more civilised neighbours. They were capable of looking after themselves and hence they hardly needed any special protection. 59

The Deputy Commissioner, Darrang wrote that the Miris and Leflas in the Darrang district were so few in number that they did not require to be excluded. 60

The Deputy Commissioner, Nowgong suggested that the Mikir Hills in his district might be excluded. The Mikirs were weak and mild and extremely backward. True, the Mikirs might be represented in the Legislative Council by a member to be returned from their area. But it was likely that some party in the Plains set up a candidate and canvass for him. The Mikirs would be unnecessarily dragged into politics which they did not understand. In fact, they knew nothing beyond their own Mouzas and thought of none except their Mouzadar to voice their grievances. Further, they would not also be benefited by the local board for they generally remained outside its jurisdiction and the Board too was seldom known to have secured their interests. "On these grounds", wrote the Deputy Commissioner, "I think it will be to the advantage of Mikirs if the area is kept totally excluded." "As regards other tribal people" he wrote further, "they are scattered throughout the district and there is no area to be excluded or partially excluded." 61

60. Letter Ho. 15 TC of 27-8-1955.
61. Letter No. 105 of 29-8-1955
The Deputy Commissioner, Lakhimpur wrote that while the mountainous tract beyond the left bank of the Buri Dihing including a portion of the Sadiya Frontier tract which ran contiguous with it should remain a totally excluded area, the region to the west (right bank) of Buri Dihing should be included in the reformed constitution for certain obvious reasons. First, the Mouzas in this area were subjected to the jurisdiction of Dibrugarh Local Boards and were also paying local rates to the latter. Second, majority of the people lived in tea gardens so that only a third of the population remained really backward. Third, the area was developing and its continued development required closer contacts with the Plains people. Fourth, the Dihing river constituted a natural boundary between it and the hilly tract beyond. Thus the Deputy Commissioner recommended that Lakhimpur Frontier tracts minus the area west of Dihing should be declared a totally excluded area.62

The Deputy Commissioner, Garo Hills made a strong case for the exclusion of the Garo Hills as a whole from the reformed constitution. The reasons he adduced for such exclusion were: First, the Garos were almost entirely an aboriginal tribe. The Christians numbered no more than two per cent. Even these were said to be 'stomach christians' that is to say, Christians by convenience rather than by conviction. Second, the Garos were apprehensive of the fact that if they joined the Reforms, they were likely to be dominated by the few educated Christians amongst them. Third, the Garos, like all hillmen were strongly wedded to their customs and practices which had nothing in common with those of the Plains people. Again, like all hillmen, the Garos were traditionally hostile to the

Plains people whose villages they often raided in the past. Fourth, the Garos were animists. Being eaters of beef and pork, they were held in contempt by both the Hindus and Muslims. Fifth, the Garos being mostly ignorant and unlettered were often cheated by the more intelligent people of Plains in trade and commerce. Sixth, the Garo language had no affinity with the languages of the Plains people. Seventh, the interests of the Garos were unlikely to be served by a legislative council in which the Garos could have two representatives at the most. Eighth, the Garos had always received special protection and special rules governing their administration. Any change in the existing pattern of administration would be more expensive and doubtful of any positive advantage. Ninth, the Garos observed matriliney which was hardly ever practiced in the Plains. Tenth, the Garos lacked unity among themselves. They would do anything for money and would not trust each other. Seldom were they inspired by any common cause or community interest. Eleventh, as there were no municipal or local boards among the Garos, they had no experience of elections whatever. Twelfth, Garo lands were held by whole clans in villages known as Aking, a form of tenure entirely foreign to the Plains people. Thirteenth, the vast majority among the Garos did not understand the Reforms at all. The non-Christians at any rate did not desire any reforms. Several Christians were also opposed to the reforms. Only a few of them who had the prospect of their personal ambitions to be satisfied sought the reforms. Above all, the Garos had no leaders worth the name. A Garo who was earlier nominated to the legislative council took no interest in it.
In view of all these reasons, the Deputy Commissioner, Cachar Hills said that the Garos should better be totally excluded. They were not fit even for being considered for partial exclusion. However, the mouzas six, seven and eight consisting mostly of Hindus and Muslims and a sprinkling of Garos might be permitted to exercise franchise in the adjacent constituency of the Goalpara district.\textsuperscript{63}

The Deputy Commissioner, Cachar Hills wrote that the people of the North Cachar Hills were altogether backward. They had no education, no knowledge of the outside world and no idea of the legislature and its functions. Above all, they had no leaders to represent them in the legislature. Therefore, the Deputy Commissioner said that North Cachar Hills should be excluded.

The Deputy Commissioner, Khasi Hills remarked that matters had gone too far to prevent the British portion of the Khasi Hills from being included in the Reforms scheme. The Government had almost decided in favour of inclusion. There were some leaders who opposed such inclusion. But there were others like Rev. Nichols Roy who supported it and the views of the latter prevailed. Nichols Roy feared that if the Khasi Hills were excluded, the Khasis would lose many benefits such as entry into schools and colleges, employment in government service and so on. Of course, he had also a personal ambition to cherish, namely that he could play a part in the provincial politics as one representing the Khasis.

\textsuperscript{63} No. T Reforms 11, 21-8-1935.
Educated Khasis in Shillong were quite happy to exercise franchise and obtain a representation in the legislative council. They would raise an outcry if they he denied this representation. But the Khasi Siems who controlled part of Shillong were opposed to the Reforms. In fact, the original Draft Bill excluded the Siems' part of Shillong. While the Siems were expected to be happy about it, it gave rise to serious misgivings among educated Khasis in general and Nichols Roy in particular.

There were advocates for inclusion even among the interior portions of the Khasi Hills. They said that the Khasis were no longer backward. They had a fairly high percentage of literacy. Moreover they detested exercise of arbitrary powers by the Deputy Commissioner. They thought that their interests could very well be safeguarded by the Governor even as they enjoyed the benefit of Reforms.

The Deputy Commissioner realised that partial exclusion of a portion of the Khasi Hills would result in a cleft among the Khasis. Nichols Roy recognised this and he would have total exclusion of the Khasi Hills provided the Khasi states agreed to form a Union and embraced British administration. But the Siems would not unite to suffer a loss of their sovereignty.

But since total exclusion would give rise to vehement protests by the Khasi people in general, the Deputy Commissioner had no other alternative than to suggest partial exclusion. Thus he wrote: "We have nothing to offer them in exchange as there is no sign of activity to form a Khasi nation with a polity of its own."
The Deputy Commissioner, Naga Hills recommended that the Naga Hills as a whole should be excluded from the operation of the Reforms.

Likewise, the officiating Superintendent of the Lushai Hills recommended the total exclusion of the Lushai Hills district. The reasons he gave were first, the district was poor in natural wealth, communications, trade and industry. It was, in fact, the poorest in the Province. Second, the Lushais in general lived the life of frogs in a well, knew nothing about the world outside and still less understood the implications of representation in a legislative council. A certain incident which occurred in 1934 brought to light the total ignorance of the Lushais about the implications of the Reforms. At the instance of some interested politicians the Lushais staged an agitation and submitted a memorandum demanding the representation of the Lushai Hills in the legislative council. Later, an open meeting was called for to discuss the issue. Those who attended the meeting realised that they were being cheated into asking something which they did not know. The whole episode proved a farce. It spelt nothing but ignominy on the part of those who aspired for membership in the legislative council. Third, the Lushais being highly individualistic could be controlled only by a strict and stringent type of administration. A liberal administration which the Reforms promised would lead to disintegration and chaos. Above all, the intelligentsia of the district comprised of just three or four ordinary graduates. Therefore, the Superintendent of the Lushai Hills was firmly of the opinion that the Lushai Hills should be excluded from the scheme of Reforms.
DR. HUTTON'S COMMENTS:

Dr. Hutton who had since retired from the Indian Civil Service was invited to comment on the communications made by the various Deputy Commissioners over the question of exclusion or otherwise of the areas committed to their charge. Dr. Hutton was well-known as an authority on the Hill tribes of the North East Frontier.

Dr. Hutton recommended the exclusion of the Garo Hills District as suggested by its Deputy Commissioner. Hutton pointed out that the Garo Hills were in many ways more backward than even the Langi Hills which were excluded. Further, the limited representation the Garos had so far proved to be of little avail. The best known among the Garos was nominated to the existing legislative council. He made no contribution to the welfare of the Garos. He was soon disgusted with the office and resigned. Above all, if the Garo Hills were to be considered for partial exclusion as desired by some, the Zamindars who owned land within the Garo Hills would be encouraged to exploit the Garos. The legislative council was likely to support the Zamindars rather than the poor Garos. Hence, Dr. Hutton suggested the total exclusion of the Garo Hills.

As regards the Mikir Hills Dr. Hutton wrote: "That the Hill portions of the Mikir Hills Tract should be totally excluded is a view any one who knows them would agree. The Mikirs are in some ways the most backward tribe in Assam and they are totally incapable of protecting themselves against exploitation. The Deputy Commissioner, Nongpoh, found that in some villages the Mikir inhabitants were being occupied and systematically exploited by foreign money lenders and shop-keepers."
who had come and squatted there for that purpose without any authority. He was able to order the foreigners to leave the district. But he would not be able to do if it was partially excluded." As to the argument that the exclusion of the Mikir Hills would split the Assam Valley into two halves, Dr. Hutton replied that after all the Mikir Hills did not provide any communication links with the rest of Assam. The Mikir Hills might continue to be within the districts of Nowgong and Sibsagar and yet be excluded. Further no local board had ever embraced the Mikir Hills and as a consequence the Mikirs had no experience of elections or politics. Hence, in no way the Mikirs would be benefitted by their inclusion in the Reforms.

As regards the North Cachar Hills, there were interesting shifts and changes in the views of the local government and the Secretary of State. Originally, the local government recommended their exclusion. The Secretary of state would have them included. The local government agreed to the proposal of the Secretary of state. But later it reverted back to its original proposal for exclusion. Dr. Hutton had also favoured their exclusion. As regards the proposal to transfer the North Cachar subdivision to the Naga Hills, Dr. Hutton was strongly opposed to it even as the inhabitants of North Cachar Hills were. Hutton argued that the Kacha Nagas and Kukis would never agree on a common representative. Similarly the Cacharis would not agree to have common representation with the Nagas and Kukis. Dr. Hutton concluded by saying: "Further the experience of the past few years has shown that the eastern side of
the North Cachar Hills is an Alsatia for all the firebands and fly by nights who make trouble in the Manipur state or in the Naga Hills. If this corner of the province is to be kept in order, it is extremely desirable that there should be total exclusion in the North Cachar Hills as in the Naga Hills along the Manipur border and unity of administration over the two districts."

COMMENTS BY THE COMMISSIONERS OF THE ASSAM AND SURMA VALLEYS:

The Commissioner of Assam Valley referred to the views of the Deputy Commissioners of the Garo Hills and Nowgong district and said:

"I support the proposal of the Deputy Commissioner that the hill mouzas of the Garo Hills should be totally excluded. I also support the proposal of the Deputy Commissioner of the Nowgong for the total exclusion of the Mikir Hills area in his district as well as in the Sibsagar district. Both in the Garo and in the Mikir Hills the hill men inhabiting the hill mouzas were not more civilised than the inhabitants of the Naga Hills and Lushai Hills. They were liable to be exploited by the Plains people."

The Commissioner of the Surma Valley agreed with the views of the Deputy Commissioner, Cachar Hills that North Cachar Hills should be totally excluded. He noted further that if North Cachar Hills should be separated from the rest of Cachar, they might be placed under the Deputy Commissioner of the Naga Hills.

As regards the Mikir mouzas and the Angami Naga mouzas of Nowgong and Sibsagar district, the Commissioner wrote that they might be

64. Letter No. 770 B of 9-9-1935 from the Commissioner of the Assam Valley Division to the Government of Assam.
totally excluded and formed into a sub-division under a sub-deputy collector with headquarters at Dimapur or Lumding under the Deputy Commissioner of Naga Hills. He added that if the Mikir Hills were to be partially excluded, the town of Dimapur and its surroundings should better be joined with them.

The Commissioner of the Surma Valley had also recommended the exclusion of the Naga, Lushai and Garo group of Hills and also the British portion of the Khasi and Jaintia Hills minus the municipality and the Cantonment of Shillong. The Commissioner considered the plea for inclusion on grounds of higher literacy among the Khasis as ridiculous. He wrote: "The number of Khasis who had been to school was no doubt relatively large but the standard attained by all but a very few of them is well below the lower primary. The vast majority of the Khasis would like to stick to their ancestral customs and it will be a great injury to them to imperil these because of a vocal few who would betray their race for their own glorification or gain." 65

RECOMMENDATIONS OF THE GOVERNMENT OF ASSAM:

In framing its recommendations, the Government of Assam was guided mainly by the views of its local officers.

As regards the Khasi and Jaintia Hills, the Government of Assam agreed with the apprehensions expressed by the Deputy Commissioner, Khasi Hills that their total exclusion might give rise to serious misgivings.

among the educated Khasis. The Government of Assam, therefore, recommended that the British portion of the Khasi and Jaintia Hills minus the Shillong municipality and Cantonment should be placed under the category of partially excluded areas.  

As to the backward tribes in the Plains such as the Kacharis and Miris, the Government said that none favoured their exclusion, total or partial and hence they might be brought under the Reforms.

As regards the Naga Hills and the Lushai Hills, the Government of Assam agreed with the views of the officers in charge of the said districts that they should be totally excluded.

As regards the North Cachar Hills, the Government of Assam was guided by different considerations to recommend total or partial exclusion at different stages. In the beginning, the Government of Assam recommended total exclusion of the North Cachar Hills. But the Secretary of State did not agree with this as was evident from his communication to the Government of India. Later the Secretary of State admitted the difficulties pointed out by the Government of Assam and agreed with the latter's original recommendation. Meanwhile, the Government of Assam changed its view and recommended partial exclusion of the North Cachar Hills on the assumption that the latter would thereby be retained with the Cachar District instead of being transferred to the Naga Hills district to which the people of North Cachar were strongly opposed.

66. No. 3044 Fr. 9-10-1935 from the Government of Assam to the Government of India.

67. Letter No. 3^uid J (CO 1896 of I July 1932) addressed to the Government of India.

A couple of years later the Provincial government had again changed its view and recommended the total exclusion of the North Cachar Hills. The difficulty in procuring suitable representatives to be seated in the legislative council was cited as the most important reason behind the recommendation for seeking total exclusion of the North Cachar Hills. However, it was finally agreed that as soon as local conditions permitted, steps should be taken to convert North Cachar Hills into a Partially excluded area.

As regards the Garo and the Mikir Hills, the Government of Assam did not agree with the views of the Deputy Commissioner, Garo Hills and the Commissioner of the Assam Valley that they should be totally excluded. The Government of Assam said that it was now too late to attempt to upset the whole balance of the scheme for the reformed provincial legislature by transferring the Garo and the Mikir Hills from the category of Partially excluded areas to that of totally excluded areas. Thus, for instance, the new scheme as proposed by the Government of Assam allotted two of nine seats provided for the representation of the Hill tribes as a whole to the Garo Hills. If the latter were totally excluded from the scheme of reforms, there would remain surplus of two seats. How could the two seats be utilized? Thus total exclusion of Garo Hills would definitely upset the balance of the proposed inter-valley distribution of seats and constituencies. Further, total exclusion would expose the government to the accusation of having raised false hopes among the Garos.
The Government of Assam did not agree with the view of Dr. Button that partial exclusion of the Garo Hills would expose the Garos to exploitation by the Plains people. The Government of Assam said that local officials would be there to prevent and frustrate any such tendency and the presence in the local legislature of representatives from the Garo Hills elected by the headmen of the villages and the Governor's special responsibility for the good government of such areas were ample safeguards against exploitation from outside.

The Government of Assam opined further that the Garo Hills district was neither a frontier district nor one subjected to armed rebellion or acute internal dissensions. It was situated in the heart of the province and would do well to change with the rest of the Province. The Governor was there to ensure that such a change came gradually and in accordance with the capacity of the hillmen to adapt themselves to it.

The geographical position of the Mikir Hills was similar to that of the Garo Hills. The Mikir Hills were like an island in the midst of a plain country. Their future was, therefore, essentially linked with that of the settled districts of Assam surrounding them. Thus the government of Assam recommended partial exclusion of both the Garo and the Mikir Hills.

As regards the North East Frontier, Sadiya, Balipara and Lakhimpur tracts, the government of Assam recommended their total exclusion. These tracts together with the Naga and the Lushai Hills constitute frontier areas and were inhabited by aboriginal tribes. All of them should, therefore, be classified as Excluded areas.
The Government of India accepted the recommendations of the Government of Assam and incorporated the same in its report to the Secretary of State for India. The latter adopted the Report of the Government of India without any modification and accordingly prepared a Draft order in council consisting of the new and revised lists of Excluded and Partially excluded areas and laid it before the Parliament on January 31, 1936, that is within six months after the passage of the Government of India Act 1935 as stipulated.

DEBATE IN THE HOUSE OF COMMONS:

The Draft order in council was a subject of serious discussion in the House of Commons. Wing Commander James was not quite satisfied with it. He did not like the proposal to bring Mikir Hills to partial exclusion. He wanted them to be entirely excluded. But Samuel Butler, the Under Secretary of State defended the Government's proposal. Gallacher disagreed with Butler and advanced an entirely different argument. He said that instead of keeping the aboriginals in excluded areas and making all kinds of arrangements to protect them, "all our power and wealth ought to be directed towards bringing the aboriginals into line with the general development that is going on in India..... I am not giving any support or encouragement to this idea of excluded areas and protection." Lt. Col. Smiles who resided in Assam for a number of years and who was also a member of Assam legislative assembly contended that

69. HCD. Vol. 308. Col. 522 - Speech of Wing Commander James.
70. Ibid., Col. 521 - Speech of Mr. Butler.
71. Ibid., Col. 530 - Speech of Mr. Gallacher.
the Hill areas could not be developed so quickly or readily. He argues that there were fundamental differences between the Hindus of the plains and the aboriginal Hill tribes. The former looked down upon the latter and considered their practice of eating beef and pork as abominable.

Smiles was thus in agreement with the government as to the need for exclusion of all aboriginal Hill tribes. He also favoured the proposal of the Government that the British portion of the Khasi and Jaintia Hills, other than Shillong Municipality and Cantonment should be partially excluded because it was close to the Capital of Assam—Shillong and the people were getting more and more sophisticated. Further Shillong was a cosmopolitan town. Therefore, the interests of the Khasis would be looked after along with those of many others who had settled there. As to the Garo and Mikir Hills, Smiles did not see any justification in the recommendation that they should be partially excluded. Smiles said: "I can see no justification for their inclusion as partially excluded areas...They are not yet fit for the rough and tumble of political life and they are in very isolated districts."

On 25, February 1936 an address was presented to His Majesty that an order in Council be made in accordance with the Draft Order laid before the Parliament. It was agreed to and an order in council was issued on 3rd March, 1936 which declared (a) the Naga Hills, the Lushai Hills and North Cachar Hills as Excluded areas and (b) the Garo Hills, the

72. Ibid., Col. 532. 7-2-1936 - Speech of Lt. Col. Smiles.
Mikir Hills and the Khasi and Jaintia Hills as Partially excluded areas within the meaning of the Government of India Act, 1935.73

POSITION OF THE HILL AREAS UNDER THE GOVERNMENT OF INDIA ACT, 1935:

The Government of India Act, 1935 envisaged special provisions for the administration of the tribal areas. Areas hitherto known as backward tracts were reclassified as Excluded areas and Partially excluded areas. But the actual enumeration of these areas was left to be determined by an order in council which His Majesty might issue provided the draft of such an order was placed before Parliament within six months of the passing of the Act.74 No such order in council could be revoked by a subsequent order in council. But an order in council might, however, be issued at any time to,

"(a) direct that the whole or any specified part of an excluded area shall become, or become part of, a partially excluded area;

(b) direct that the whole or any specified part of a partially excluded area shall cease to be a partially excluded area or a part of such an area;

(c) alter, but only by way of rectification of boundaries, any excluded or partially excluded area;

(d) on any alteration of the boundaries of a Province, or the creation of a new Province declare any territory not previously included in any province to be, or to form part of, an excluded area or a partially excluded area."75

Thus it was open to the Home Government to recommend that an Excluded area be subsequently brought into Partially excluded areas and

73. Order No. 106 of 1936 issued on 5.3.1936 by the Privy Council.
74. Section 91 subsection (1), Government of India Act, 1935.
75. Ibid., subsection (2).
that a Partially excluded area be merged subsequently into administrative areas. The idea behind was to make a periodic assessment of the progress achieved by the Hill areas with a view to effecting a change in constitutional status, whenever necessary, of one or more of such areas.

As already noted, an order in council known as the Government of India (Excluded and Partially excluded areas) Order, 1936 was issued in March the same year and the schedules for Assam were notified as follows:

Excluded areas:
The North East Frontier (Sadiya, Balipara and Lakhimpur) Tracts
The Naga Hill District
The Lushai Hills District
The North Cachar Hills sub-division of the Cachar District

Partially Excluded areas:
The Garo Hills District
The Mikir Hills (in the Nowgong and Sibsagar Districts).
The British portion of the Khasi and Jaintia Hills District, other than Shillong Municipality and Cantonment.

The Naga Tribal Area to the East of the Naga Hills District was covered by section 311(1) of the Government of India Act as it lay along an undetermined boundary with Burma. The Government of India had also treated the Sadiya, Balipara and Lakhimpur tracts within the meaning of the said provision of the Act of 1935.

Thus in Assam, three categories of Hill areas emerged, namely the Frontier Tracts, Excluded areas and Partially Excluded areas.
A general description of each of these areas may now be in order.

THE FRONTIER TRACTS:

The Government of India considered the Balipara, Sadiya and Lakhimpur Tracts as being "essentially frontier areas inhabited by tribes in an early stage of development." \(^{76}\) Large portions of these areas remained unexplored and unadministered. Their outer boundaries were not fully settled and finally demarcated. The Balipara and Sadiya Tracts had their outer confines touching Tibet and China. In 1914 representatives from India, China and Tibet met in a tripartite convention and agreed to what is called the Mac Mohan Line as constituting the boundary between India and Tibet and India and China. Tibet had since ratified the convention. Thus a boundary exists between Tibet and India, although China had begun repudiating it both overtly and covertly ever since she had overrun Tibet. The position of the Tirap Frontier area in the Lakhimpur Tract was, however different. Its boundary with Burma was yet to be demarcated.

The local officials treated the Frontier Tracts as belonging to two categories - areas within the Inner Line which stretched along the foot of the Hills and the areas beyond. The former consisted of a mixed population and exhibited a close likeness to the administered areas, while the latter comprised tribes which remained more or less isolated and untouched by the civilisation outside. Such a treatment as this,

\(^{76}\) Recommendation of the Government of India to His Majesty’s Government on areas to be excluded or partially excluded.
though administratively convenient, was strictly not in accordance with law.

The policy of the British Government in respect of these Hill tracts was in the main establishment of increased administrative and political control in the entire region right up to the borders.

THE EXCLUDED AREAS:

The Excluded Areas comprised the Naga Hills District, the Lushai Hills District, and the North Gachar Hills sub-division. The Naga Hills District consisted of a good number of tribes collectively known as Naga but consisting of such distinct groups as Angami, Ao, Sema and Lhota. The Lushai Hills District, except for a small number of Lekhens in the extreme south contained a homogeneous population. The North Gachar Hills, on the other hand provided sanctuary for the Kachari, Naga, Kuki, Mikir and Khasi groups. Of these the Kachari constituted the largest group.

THE PARTIALLY EXCLUDED AREAS:

The British portion of the Khasi Hills District, the Son Hills District, and the Mikir Hills in the districts of Nowgong and Sibsagar were placed in the category of Partially Excluded Areas. These areas were named after the tribes inhabiting them, but there were also tribes like the Garo spreading in some of the Plains areas of Bengal and Assam.

Of the people in these areas, the Khasis were the most advanced, and the Mikirs the least. Compared to the Nagas and Lushais, the
people of these areas had closer contacts with the people of the Plains.

SUMMARY OF PROVISIONS REGARDING THE ADMINISTRATION OF THE EXCLUDED AREAS

The executive authority of the Province extended to the Excluded and Partially excluded areas. 77 But the Governor administered the Excluded areas in his discretion. 78 Whereas he had a special responsibility for securing the peace and good government in respect of Partially Excluded areas. 79

No Act of the Central or Provincial legislature applied to the Excluded or Partially excluded areas automatically. The Provincial governor was empowered not to apply any such Act or apply it with such exceptions and modifications as he deemed necessary. 80 Thus the Governor could 'filter' all legislation which might otherwise be applicable to the Hill areas.

Notwithstanding the existence of any law made by the Central or Provincial legislature, the Governor could issue regulations for the peace and good government of the Excluded and Partially excluded areas.81

The administration of the Excluded areas was the personal responsibility of the Governor and as such the funds required for the administration of these areas were made non-votable. 82 For the Partially Excluded areas the Governor could authorise expenditure not approved by the provincial legislature, if he deemed it necessary to do so with a view to discharging his special responsibility in respect of these areas.

77. Section 92, Subsection (1), Government of India Act, 1935.
78. Ibid., Section 92, subsection (3).
79. Ibid., section 52, subsection (1)(e).
80. Ibid., section 92, subsection (1).
81. Ibid., section 92, subsection (2).
82. Ibid., section 78, subsection (3)(e).
The special responsibility of the Governor for securing representation in the services to the minorities covered the tribals also.  

Further, under the Instrument of Instructions the Governor was enjoined to protect the primitive tribes from fear, neglect or oppression.  

As already noted, the frontier tracts were separated from the rest of the Excluded areas and treated as having been covered by section 311(1) of the Act of 1935. The administration of these tracts was vested in the Governor but the latter exercised his powers not under the provisions applicable to the excluded areas but under the provisions of section 123(1) of the Act of 1935, that is to say as the Agent of the Governor-General. A notification to this effect was issued by the Government of India. The costs of administration of the frontier tracts were borne by the Central Government.  

The principle underlying exclusion or partial exclusion of certain areas with a view to enabling the executive government to administer such areas with a greater degree of flexibility and personal responsibility and for this purpose to entrust the said authority the power to restrict the application of laws ordinarily in force and also to make regulations for the peace and good government of the areas in question was not entirely

83. Ibid., section 52, subsection (1)(b).  
84. Notification No.I-X, dated 1 April 1937 of the Government of India in the External Affairs Department. It read : In exercise of the powers conferred by sub-section (1) of the section 123 read with sub-section (3) of section 313 of the Government of India Act, 1935, the Governor-General in council is pleased to direct the Governor of Assam to discharge as his Agent, in and in relation to the tribal areas beyond the external boundaries of the Province of Assam, all functions hitherto discharged in and in relation to the said areas by the said Governor as Agent of the Governor General in respect of the political control of the transborder tribes, the administration of the said areas and the administration of the Assam Rifles and other armed Civil forces.
new. It was appreciated and acted upon right from the time the British began absorbing such areas into their empire. The procedure followed in this regard varied from passing Resolutions in council by the Secretary of state for India under the Act of 1870 (33 Vict., c.3) to Notifications issued by the Government of India, Foreign and Political Department under such Regulations as Regulation V of 1873 and similar Notifications issued by the Local Government under the Scheduled Districts Act, 1874 and the Assam Frontier Tracts Regulations of 1880 and 1884. The Government of India Act, 1915 authorised the Local Government to propose Regulations for the peace and good government of the province or any part thereof and the Governor General in council to approve of such Regulations. The Act of 1915 as amended by the Government of India Act, 1919 empowered the Governor General in council to declare any territory of British India to be a 'Backward Tract' and thereafter, by notification, prevent the application of the constitution Act or permit its application with such modifications and exceptions as he deemed necessary. Likewise the Governor-General in council might prevent or permit the application of any law made by the Indian legislature. The Governor-General in council might also authorise the Governor in council to exercise similar powers in respect of laws passed by the Provincial legislature. The Government of India Act, 1855 extended the scope of exclusion by introducing the concept of Excluded and Partially excluded areas. Except for this, most of its other provisions regarding the administration of the tribal areas reflected the spirit as well as the policy of the British government for several decades in the past.
THE ACT OF 1935 IN OPERATION:

When the Act of 1935 came into force in 1937, the Excluded areas remained beyond the scope of the new Reforms and outside the responsibility of the Provincial Ministry and Legislature. The Governor of Assam carried on the administration of the Excluded areas partly in his discretion and partly as Agent of the Governor General. In this he was assisted by a special Secretary, called the Secretary to the Governor of Assam and a separate secretariat. In 1943 was appointed an Adviser to the Governor of Assam on the administration of the tribal areas. He enjoyed a status superior to that of the Secretary to the Governor of Assam. While the expenses relating to the office of the Secretary and the Secretariat continued to be borne by the Government of Assam, the expenditure in respect of the Adviser and a few other matters of development of the tribal areas was met by the Government of India.

THE INDIAN NATIONAL CONGRESS ON EXCLUSION AND PARTIAL EXCLUSION OF HILL AREAS:

The Indian National Congress was extremely critical of the provision for exclusion and partial exclusion of Hill areas. At its annual session held at Faizpur (1936), the congress declared:

"This congress is of opinion that the creation of the excluded areas and partially excluded areas is yet another attempt to divide the people of India into different groups with unjustifiable and discriminatory treatment and to obstruct the growth of uniform democratic institutions in the country. The separation of these areas is intended for
the exploitation of the mineral resources and forest wealth in these areas and keep the inhabitants of these areas apart from the rest of India for their easier exploitation and suppression. The congress therefore demands the abolition of excluded and partially excluded areas."

The stand taken by the Indian National Congress might appeal to one's sense of patriotism. But it was certainly not appreciative of the peculiar needs of the Hill people and of their demands. The history of the British relations with the tribal people of North East India bears ample testimony to the unhappy consequences following unregulated intercourse between the Hills and the Plains. There were frequent clashes, bickerings and bad blood between the people of the Hills and Plains. Except for a section of the Khasis, the Hill people in general favoured exclusion. They were never quite willing to form a union with the Plains people with whom they had nothing in common. Apart from the evidence of numerous British officers including that famous anthropologist J.R. Linton supporting the exclusion of the Hill areas, there is also the testimony of many an Indian member of the Provincial legislature demanding the separation of the Hills from the Plains on the ground that the former was an unnecessary burden on the latter and stood in the way of its development.

It is noteworthy that even after Independence the Government of India continued the Inner Line Regulations which the British had introduced. The policy of the present Indian government in according statehood to organised tribal groups in the region is not fundamentally different from that adopted by the British.
Thus one finds little justification in the congress altercation that the British Created Excluded and Partially excluded areas with a view to perpetuating their own economic and political ends rather than promoting the interests of the tribal people or of the people of India as a whole. Nevertheless the fact remains that the British policy towards the Hill tribes of North East India was narrow in outlook and limited in its objectives. The negative idea of preservation of the tribes and their so-called protection prevailed. The tribals became a subject of sociological and anthropological studies rather than the beneficiaries of any active schemes of development. In fact, expenditure on the Hill Districts was the lowest compared to the needs of the people and the area covered. The British claimed a special responsibility for the peace and good government of the Hill areas. But by peace they meant prevention of disturbances and in the name of good government they had in effect minimum government. On the whole, the British were content to extend political and administrative control over the tribal areas and for the rest they preferred to leave the tribals alone.

As the report of the Pataskar Commission puts it succinctly:

"The administration in these areas was confined mainly to maintaining the peace and undertaking sociological studies. Its anxiety was marked by the negative idea of preservation and protection; and, we believe, little thought was given to possible ways of stimulating progress. The general outlook was therefore in many ways static rather than dynamic. The administrative machinery was sketchy......"85 The report remarks further:

"A kind of distinct barrier was maintained between these hills and the plains during the British rule. Non-tribals were not given admittance to these areas without special permission, which was given rather freely to foreign missionaries. Such restrictions deepened the isolation of these areas from the rest of the state."\(^{86}\)

The policy of isolating the Hill tribes and keeping them untouched by civilising influences save those wrought by the Christian missionaries might be justified in the context of the formative years of the British contact with the tribals when the latter resisted all attempts at control or influence. But continuance of the self same policy during the present century amounted to a comparative neglect of the interests of hillmen and contributed to their social and economic backwardness. An ex-governor of Assam admitted that "taking a longer retrospect, there are reasons for thinking that the hills have lagged behind the plains in progress and development."\(^{87}\) The hillmen were not always so illiterate or ignorant as to be impervious to social and economic change or political development. In fact, literacy among some hill tribes was fairly high. Indeed, the Lushais had achieved the highest percentage of literacy in the entire region. In general intelligence also, the hillmen were not far behind the plains people. As the Bordoloi Committee observes with satisfaction. "We were in fact impressed by the intelligence of the Abos and Mishmi, the Sherdukpen, the Hkampti and even the Konyak of the tribal area."\(^{88}\) As to experience in self-governing institutions, the tribes had

\(^{86}\) Ibid., para 30.
\(^{87}\) Ibid., p. 14, para 31.
a fair measure of the same in so far as every village had a village coun-
cil or council of elders constituted by common consent, if not always by
election. In fact, the Hill tribes of North East India have been described
as "a block of self-governing communities." The tribal view of self-govern-
ment is, however, different from the modern concept of local self-govern-
ment in that the latter is the shaping of law and must function along with
the government at higher and even lateral levels.

Thus the tribal communities were not wanting in the basic quali-
ties necessary for self-advancement. And yet why did they lag behind? The
explanation is to be found mainly in the poor state of their economy which
turned out to be poorer for want of proper encouragement and material
support by the government. The hard life which the elements imposed on the
tribals, almost sole dependence on "Jhum" cultivation with all its hazards,
absence of irrigation facilities to try at improved methods of agriculture,
virtual non-existence of industries, lack of means of communication, poor
state of trade and commerce - added to these, the fights and feuds which
continued to prevail among certain tribes condemned the tribals in general
to lead a life of perpetual want. If the British had shown a greater con-
cern for the economic development of the Hill areas, the hillmen would
have certainly given a better record of themselves. But the British had
stuck in the main to their policy of political and administrative exclu-
sion of the Hill areas. As a result, the areas so excluded received protec-
tion but little else. The Partially excluded areas had the worst of
both the worlds. According to an ex-governor of Assam before independ-
ence, these areas had "fallen between two stools. The Ministry (none of whom
has lived in them) have had little interest in them and the Governor has not been able to administer them." The Mikir Hills were the worst affected by this anomaly. Even the Deputy Commissioners and sub-divisional officers of these Hills evidenced little interest in their development and hardly ever undertook any tours. The Mikir Hills suffered from another anomaly. They were divided between two districts - Nowgong and Sibsagar and hence became nobody's child.

COMPARATIVE POSITION OF THE HILL AREAS IN REGARD TO DEVELOPMENT

In spite of the troubles and trials which the Hill communities faced almost alone and helpless, some of them had shown appreciable progress over the years. The Khasi Hills District was the most advanced in political consciousness as well as economic development. The Khasis supplied ministers to the Provincial government. The Shillong Municipality was the only statutory local body in the Hill areas. The Khasis had, therefore, considerable experience in municipal politics. They had also participated in the provincial elections. In all this, of course, the Khasis were benefitted by the fact that the capital of the Province was situated in their midst. The Lushais had achieved remarkable progress in education and literacy. Due to the efforts mainly of Christian missionaries, their percentage of literacy rose to 13 percent in general and 30 percent among men. Among the Nagas also the demand for higher education was seen,

and there were many who received college education. The Garo Hill and the Mikir Hills were both backward. The Garos had, however, a better record of education for, like the Lushais they came early in contact with Christian missionaries. The Frontier Tracts had remained extremely backward. There was little education except in the fringes or plains portion. Regular administration was yet to be established over vast areas. Even the functioning of village councils was not impressive.

The Indian Independence Act, 1947 had generally endorsed the constitutional position of the Hill areas as had been effected by the Government of India Act, 1935. Thus it was laid down that all provinces and all parts of provinces should be governed as nearly as might be in accordance with the Government of India Act, 1935, the Orders in-Council and other Instruments made thereunder. The India (Provisional Constitution) Order, 1947 had, however, divested the Governor of a province of all discretionary powers. This meant in effect that the administration of all the Hill areas in Assam passed on to the Government of Assam. By orders of the Government of India, the agency functions hitherto exercised by the Governor of Assam had similarly been vested in the Government of Assam.

91. The India (Provisional Constitution) Order, 1947. Section 3 of it down - The following expressions shall be omitted wherever they occur namely, "in his discretion", "acting in his discretion" and "exercising his individual judgement".