Elections to the Second Council were held in the month of November 1923 from 16 to 27. The Swarajist party contested almost all the seats and their candidates received support from the local congress and Khilafat organisations everywhere. Tarunram Phookan was elected to the Indian Legislative Assembly unopposed. Out of the 39 elective seats of the Assam Legislative Council only 13 members of the previous Council could retain their seats. Two notable defeats were those of Nilmani Phookan (Dibrugarh rural) and Sibaprasad Barua (Jorhat non-Muslims). However, both of them were nominated to the Council.\(^1\) The members of the Swarajist party elected to the council were as follows: Rohini Kanta Hatibarua (Jorhat), Kamala Kanta Das (Barpeta), Kamakhyaram Barua (Gauhati), Jogesh Chandra Gohain (Dibrugarh), Sarveswar Barua (North Lakhimpur), Jonaram Bora (Nowgong), and Faiznur Ali (Dibrugarh). Although from North Sylhet, Basanta Kumar Das was elected on Swarajist party ticket, no branch of the Swarajya party existed then at Sylhet.\(^2\) As many as 79 candidates contested for 29 out of 39 seats. Of the remaining 10 seats, 4 Indians and 6 Europeans were returned unopposed.\(^3\) Out of 1,97,457 registered voters, 83,320 (42\%) exercised their franchise.\(^4\) The

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1. The Servant, Calcutta, 1st December 1923.
4. Ibid.
higher percentage of polling was due to the organised canvassing under taken by the Swarajya party.

The Swarajya party failed to secure absolute majority in the council. They therefore carried on negotiation with the independents. Phookan arranged a meeting of his party on 17th February 1924 and invited all the Independent Councillors to attend it. The meeting took place in the residence of N.C. Bordoloi and was attended by 10 councillors. With a view to wrecking the constitution and attacking the Government inside the council the meeting decided to form the Assam Nationalist party with the members of the Swarajya party and Independents. Saadullah, who was elected as an Independent candidate with the support of the Swarajya party, subsequently joined the Government as Minister. Nevertheless, twenty councillors - Independent and Swarajists, signed the pledge to work for the Assam Nationalist party and elected Faiznur Ali, Brojendranarayan Chowdhary and Kamakhya Ram Barua, as leader, deputy leader and and secretary respectively. Taraprasad Chaliha, Khirode Chandra Deb and Abdul Hamid were appointed whips of the party.

The newly elected Council met on 24th March 1924, which had for the first time in its history, an organised Nationalist party as the main opposition, comprising half of the 39 elected members with a Swarajist as its leader.

6. APAI Kamrup 27 Feb, 1924.
The party won its first victory when Gopendralal Das Choudhury was elected on March 1924 as Deputy President, defeating Sivaprasad Barua a nominated member put up by the official block.

The first Act of the second Council viz. the Assam Deputy Presidents' salary (Amendment) Acts 1924 reduced the salary of this office to Re.1/- per annum. Under the Act of 1922 the salary stood at Rs.2,500/- per year; under the amending Bill of 1924, the proposal was to cut down the figure to Rs.1,000/- but in the Council, the Deputy President, elected on the previous day, himself offered to work without salary as his duties were not of a very exacting nature and the nominal sum of Re.1/- was therefore fixed.

Act II of 1924 fixed the salary of the President to be elected in 1925 at Rs.500/- per month. 9

Act I of 1925 made some minor amendments in the Municipal Act of 1923 in consequence of a certain ruling of the Calcutta High Court.

Acts II and III of 1925 (the Assam Stamp and Court fees (amendment) Acts of 1925 may be taken together. Acts II and III of 1922, enhancing the rate of Court and Stamp fees were expected to be in force for a period of three years ending on the 30th April 1925. In September 1924 the Government made an attempt to have them placed permanently on the Statute book. Bills were prepared for the purpose and leave

9. Ibid.
to introduce them was sought. The Government member in charge
undertook, provided the Council passed the Bills, to place
at once at the disposal of the Ministers for expenditure
in the transferred departments a sum of Rupees two lakhs.
The Minister for Local Self Government made an important
contribution to the debate, analysing the financial situa-
tion of the province from the first year of the reforms and
pointing out how his departments along with other departments
of the Government, had been starved for want of money and
that even the current years estimated closing balance of
Rs.10,00,000/- might be turned into a deficit by a fall in
the precarious receipts from excise. For the moment, how-
ever, these arguments failed to convince the House. The
main arguments put forward on the other side were that the
circumstances were different from those of 1922 when there
was an estimated minus closing balance of about Rs.17,00,000,
that the province was now solvent and that if more money
were needed, it should be found by retranchment, by reduc-
tion of salaries, by taxation of tea industry and other
means. The result of the debates was that the leave to
introduce the Bills was refused. On the 7 March 1925, how-
ever, the Government came to the Council with a different
proposal. If the Bills, instead of being enacted permanently
were renewed for another term of three years, the government
would undertake to place the entire income from the enhanced
fees under the Bills during the period (estimated to be
about Rs.10,00,000/- ) at the disposal of the Ministers. In
the meantime, in the course of the general discussion of the Budget, the Minister for Local Self Government had impressed on the Council the urgent need of providing a better and more adequate supply of water in rural areas. He estimated that (twenty million) rupees were required for this purpose. This speech and the terms of the new offer made by the Members incharge of the bills had their effect and inspite of the continued opposition of the Swarajist party, the Council on the 7 March 1925 decided by a majority of 27 to 18 and 27 to 15 to renew the Bills for a further period of three years. The Council followed this up on the 11 March with a resolution recommending that the entire excess revenue derived from the bills should be devoted to watersupply in rural areas and this resolution was accepted by Government.10

The first piece of Government Legislation undertaken in 1926 was the Assam Municipal (Amendment) Act. It amended the three sections of the original Act of 1923, one amendment being for the purpose of enabling the Local Government to take back provincial roads which by an accident of drafting were vested in Municipal Boards and the other two amendments being for the purpose of preventing the double levy of fees for licensing or registration of vehicles and animals which may happen to be used within the jurisdiction of two different local authorities.11 The Act was introduced and passed at the same sitting without a division.

10. Ibid; Budget 'A', March 1936.
Act V of 1926, the Assam Primary Education Act was a measure of first class importance passed by the Council on the 7 July 1926. As early as the 13 March 1918, in the pre-Reformed Council, a private member had moved a resolution recommending that legislation should be undertaken to make the primary education free and compulsory in the province, but the government in those days had no means of ascertaining how far the country was prepared to bear new taxation for the purpose. They therefore suggested that a private member might bring in a bill. On the 24 March 1921, the mover of the resolution of 1918, who became a nominated member of the Reformed Council, brought up the subject once more. One part of his speech is worth quoting:

"The Government of India Act has been passed, the reforms have been introduced, education has now become a transferred subject. This Council and the Minister incharge of education should now once for all make up their minds and declare a considered policy in the matter of universal primary education. The whole structure of responsible self government rests on the foundation of a good and intelligent education so that the franchise given may be properly exercised. The ban of illiteracy should therefore now be removed else the whole scheme will end in failure".

The Minister in replying to the resolution referred to the enormous cost of the scheme for universal free primary education in Assam and again suggested that the responsibility of introducing legislation which might imply fresh taxation should be undertaken by a private member. This drew forth a significant protest from the mover:

"I suppose the education Department exist in the country for giving education to the people who has been placed incharge of that department."
The Minister now, I say, to justify his existence, he must make a move forward, he should be the last person to be afraid of difficulties. Face them, and with the help of the members of this Council, with the strength of public opinion at your back, there is nothing to fear - but he is afraid of the cost - mortally afraid of taxation. This should not be the attitude, I respectfully, submit to Minister incharge of Education.\textsuperscript{12}

The resolution in a slightly amended form which made it clear that compulsion was to be imposed at the discretion of local authorities was carried. A bill to give effect to this resolution was introduced in the Council by the Minister on the 8 September 1922. On the 5 March 1923 the Council decided to circulate it for opinion. The particular point on which public opinion was sought was referred to in the debate. The Act passed in certain other provinces, providing only for the introduction of compulsory education at the instance of the local authorities and for the levy of education cess, had apparently proved inadequate, but Bombay had adopted legislation which empowered the Government to require local bodies in certain cases to frame and submit schemes of compulsory education for their respective jurisdictions. Public opinion was invited on the question whether Assam should also adopt this policy. A great majority of opinions received were in favour of the principle.\textsuperscript{13} In the meantime, however the bill lapsed owing to the dissolution of the Council and a new bill had to be prepared embodying the Bombay principle. In one respect Assam would seem to have gone a step further than any

\textsuperscript{12} ALCP, March 1927.
\textsuperscript{13} Sectt. proceedings - September 1927 (Appt).
other province in India, for under the Assam measure the Government had to bear two thirds of the cost of every sanctioned schemes of compulsory education in Municipalities as well as in Local Board areas. The new bill was introduced in the Council on the 9 September 1925 and on the 22 February 1926 although the Finance Member explained to the House that the acceptance of the principle of the bill might involve additional taxation to enable the Government to meet the obligation imposed on them by the bill, the Council showed that they were prepared to face this by carrying the motion that the bill be referred to a Select Committee. The only important change made by the Committee was that before acting on the Bombay principle of requiring any local authority to submit a scheme of compulsory education, Government must obtain the sanction of the Council. The provision for the levy of an education cess by local authorities encountered little opposition. The bill as revised by the Select Committee was passed into law with certain drafting changes on the 7 July 1926. This is an illustration of a case in which the Reformed Constitution had conferred the province a legislative measure of great political value, which would not have probably been passed in the old days.

Act VI of 1926, the Assam Local Rates and Local Self Government (Amendment) Act, was another achievement

14. ALCP, March 1927.
of the Reformed constitution, although the additional annual revenue resulting from it may be less than two lakhs of rupees. By this Act the local rate on land under tea cultivation was raised to 8 annas per acre; the additional revenue thus accruing should be devoted to the improvement of road communications in the district affected. A Local Rates bill was introduced in 1923 but was ultimately withdrawn. In introducing that bill the Finance Member had permitted and amongst other things, that since 1880, in the neighbouring province of Bengal, the tea industry had been assessed to Local rates at ten annas per acre and that the Assam bill proposed 8 annas per acre. The planting community lent its support to the measure but it had to be abandoned because of opposition from other quarters. The subject however, was not forgotten, nor was the allied subject of road communication. On the 4 April 1924 a leading member representing a planters constituency moved a resolution recommending that a representation should be submitted to the Government of India urging that the export duty on tea, exported from Assam should be abolished, granting that, if this were done the planing community would voluntarily tax themselves for the benefit of communication in Assam. The resolution was adopted, on the 23 February 1926 a member of the Swarajya Party brought forward a resolution recommending that the resources of the Local Board be increased by raising the Local Rates on land under tea to eight annas per acre. In support

17. Ibid.
18. ALCP, 23 April 1924.
19. Ibid, 10 March 1926.
he referred again to the corresponding rates prevailing in Bengal and urged that the tea industry in Assam should not object to pay in 1926; what the industry in Bengal had been paying since 1880. The resolution was opposed by the planting members and the Government members remained neutral, as the proposal singled out a particular industry for enhanced taxation. The resolution was carried by 11 votes to 3, the opposition consisted entirely of the planting members present in the council. The result was seen in the July session of 1926 when the leading member of the planting community came forward with a recommendation to the Government to give effect to that resolution and to utilise the proceeds of the additional taxation towards a loan of thirty lakhs of rupees for improving communications. The first part of the proposal was carried and the result was that the Assam Local Rates and the Local Self Government (Amendment) Act were passed in September 1926. As to the second part of the proposal the Council decided to recommend a grant for the next year of a sum not exceeding 10 lakhs of rupees out of the provincial balance instead of a loan of 30 lakhs. The Act and the grant - with prospect of similar grant in future - may well be regarded as two halves of the pact which would not have come or atleast not come so early, but for the reformed system of Government. That system gave the planting Community an opportunity of educating the council on the need for communication and at the same time enabled the Council to persuade the tea

industry to a measure of self taxation.22

The Assam Rural Self Government Act (VII of 1926) was another important Act which was passed by the second Council.23 The Minister of Local Self Government almost from the time he assumed office, had been impressed with the need of what had been called "constructive work in the villages". In particular he realised the urgent necessity of dealing with the problem of rural water supply. In the Minister's opinion the remedy could be found only in village organisation with this object he introduced the bill which was to become the Assam Rural Self Government Act. The object of this bill thus described in the statement of objects and reasons:

"The object of this bill is to provide machinery which will enable the villagers to undertake as far as may be the management of their own affairs and develop in themselves a capacity of self help. At present the villages are disorganised. The sense of cooperative life which was so distinguishing a feature of village life in olden time is extinct. The result is that organised efforts for the achievement of the common good are a thing of the past. The compelling forces of the public opinion and social ostracism are now absent. It is intended to substitute this lost authority of the State".24

The bill intended for the creation of village authorities where local condition permitted or where a local desire for such a body was expressed. The village authorities were to be corporate bodies constituted on a wholly elective basis, whose primary duties were to provide for village water supply, sanitations, communications and

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23. ALCP, Nov. 10, 1926.
24. Ibid.
Each village authority was to have its own fund which could be supplemented by a grant from the Local Boards, within whose area they were formed and from the provincial revenues. The bill provided for the creation of a provincial village development Fund to which all contributions from provincial revenues and other sources and the proceeds of any tax which the legislature might impose for the purpose would be paid and from which the Local government would make grants to several village authorities. The bill empowered village authorities to levy a rate for a specific work of public utility and when so required by the Local Government to exercise the power of a panchayat and perform the duties of a chowkidar under the chowkidari Act leaving chowkidari tax for the purpose. A village authority which by its successful performance of its primary duties had proved itself competent to discharge further powers and duties might be empowered to control village forests, manage any institution or execute or maintain any work within its area. The bill also provided for the trial of petty cases. The village authorities were to be under the control of the provincial Registrar instead of the Local Boards. The bill was introduced on the 5 March 1926 and passed into law with no important changes on the 30 September 1926, but did not come into force till the early part of the 3rd Council. Credit must be given to the Ministers, to the

25. Ibid.
26. Ibid.
27. Ibid.
28. Ibid.
Council and to the Reforms which gave birth to this Act since it was a practical and genuine attempt to improve the rural conditions of the province.

The Assam Local Self Government (Amendment) Act (VIII of 1926) was another important enactment passed by this Council. The original Act was passed in 1915 and its revision was undoubtedly necessary. The Council passed a resolution recommending the appointment of a committee to consider if any change in the law would be required. A bill in the line of the Committee's recommendations was introduced in Council on the 5 July 1926 and referred to a Select Committee. It was taken into consideration and passed on 28 September 1926. The Act followed the Municipal Act 1923 in increasing the number and proportion of elected members of the Board and in allowing Government servants to be only supernumerary members with no power to vote. The Chairman was to be elected, unless the Board requested the Government to appoint a Chairman. The Boards were given additional powers and were authorised to levy certain additional taxes while the powers of control of the executive officers of government was reduced. A resolution was passed on an earlier occasion which recommended that the principles of land revenue assessment should be brought within the perview of the legislature and be brought under closer regulation by statute. A Committee was appointed to advise on the measures necessary and a bill called

29. Ibid.
30. Ibid.
the Assam Settlement Bill was drafted and introduced. The bill was referred to a Select Committee in July 1925. It was radically altered in Committee and emerged in such a shape as to make it an impractical measure which the government could not accept. The Member incharge moved that it be referred back to the Select Committee but the motion was defeated by the casting vote of the President. 31 No further action was taken at the time and while the Government was still considering the matter, the Report of the Indian Taxation Committee was received. As this Report recommended important changes of principle in land revenue assessments, the Government decided that until the orders of the Government of India, on the Committees recommendation were received, it would be useless to proceed with the bill.

The Assam opium smoking bills, 1926 was another important piece of legislation. The object to be noticed is that: One was a Government measure on the line of the United Province's opium smoking Act and the other was a private bill. The main difference between the two was that whereas the official bill penalised only an opium smoking assembly, the other bill penalised individual smoking as well. Both the bills were ultimately passed by the Council, the Government bill on the 27 September 1926 and the non-official measure two days later. 32 The latter was expected to come into force on the 1 January 1928 and in order to prevent overlapping, a curiously worded clause was inserted at the last moment to the effect that the

32. Ibid, Nov. 1926.
official bill passed by the Council on the 27 September, if it become an Act, was to stand repealed with effect from the 1 January 1928. The situation thus created was a difficult one. The non-official bill, apart from any differences of opinion as to the expediency of prohibiting private smoking, contained certain drafting defects. Then again, although Acts had been known to be amended in other countries even before they came into force, no precise precedent could be discovered for repealing a bill almost immediately after it had been passed and before it had even received the Governor's assent. In the circumstances, His Excellency decided to withhold his assent from both the bills and Government had since introduced a new bill incorporating the principles of total prohibition of opium smoking. 33

No measure dealing with law and order or involving racial considerations or directed towards social reform or the development of resources or the improvements in the administration had been introduced during the period of first and second Council.

There had been no cases of certification, return or reservation of bills during the period of the first and second Council and the opium bills were the only cases in which His Excellency withheld his assent.

The attitude of the Council towards Government

legislation was on the whole reasonable. Most of the legislation related to the transferred subjects but even towards the bills coming from the reserved subjects of the Government the attitude of the Council was not one of uncompromising hostility. The Swarajya party declared their unflinching opposition to all proposals involving increased taxation of the people but they failed to carry the majority with them in opposing the Stamp and Court fees (amendment) Acts and they realised themselves from that attitude in accepting the principle of the Primary Education Bill.

During the period of the first and second Council the following private bills were passed into law:

(1) The Assam students and Juvenile smoking Act, 1923.

(2) The Assam President's Salary (Amendment) Act, 1926.

(3) The Assam Water Hycinth Act, 1926.

(4) The Assam Temperance Act, 1926.

The Assam students and Juvenile smoking Act sought to penalise the sale of tobacco to persons under the age of 16 and to students under the age of 18. The President's Salary (amendment) Act raised the salary of that office from Rs.500/- to Rs.1000/- per month, the Minister voting for the bill and the official members remaining neutral.\cite{34}

The Water Hycinth Act gave power to the local authorities to require owners and occupants of land to help either with material or money towards the construction of storage pounds,

\cite{34} ALCP, March 1926.
floating fences and other devices for checking the spread of water hyacinth plant. By another section, the Act empowered local bodies, when extensive operation were needed, to prepare a scheme and levy from the persons interested, contributions in men, money or personal labour towards its execution. An official amendment limiting the liability of the owner or occupier under the Act to a sum of rupees one thousand in respect of any sub-division in any one year was inserted in Select Committee, after which Government supported the measure. The Assam Temperance bill was in its original form, at least in part, a measure of compulsory prohibition applying to the entire province. In that form the Government opposed it but in the second Select Committee the promoter was so convinced of the practical difficulties of the larger problem and of the willingness of the Government to work the bill in a restricted form that he agreed to compromise. The bill was amended so as to apply in the first instance only to Municipalities and small towns and certain other clauses were recast so as to convert it into a local option measure. In this modified form the Government supported the bill and the Council passed it into law on 7 July 1926.

35. Ibid, Nov. 10, 1926.
36. Ibid, July 1926.