In 1905 a large portion of Bengal was added to the province of Assam and a new province styled as East Bengal and Assam was created. It was placed under a Lieutenant Governor. He was aided by a Legislative Council wherein Assam was represented by four members including one European belonging to planting community. The sessions of the Council were held at Dacca which is now included in Bangla Desh.

There was a wide-spread public agitation against the creation of this new province and although it was pronounced as a settled fact, it was unsettled in 1912. The old province of Assam was reconstituted and placed under a Chief Commissioner. The Chief Commissioner was assisted by a Legislative Council. The functions of the parliamentary Government were thus laid in 1912. The Legislative Council consisted of partly elected and partly nominated members with an official majority. The Mahammadans were given separate representation and weightage.

The strength of the Council was twenty five including the Chief Commissioner. He was the President of the Council. Of these eleven were elected and fourteen were nominated.

2. Ibid.
Of the nominated members, ten were officials and four non-officials. Of the eleven elected seats two were reserved for Muslims, three for planter's community and six were general seats. The Council had the right to discuss and to move resolutions on the Budget. It could also discuss matters of general interest, but the resolutions were to be expressed as recommendations to the Government.

**Legislative Council 1921-36**

Assam was constituted into a Governor's Province on January 3, 1921. The strength of the Council was increased to 53. Of the 53 members, 39 were elected, 2 were Executive Councillors, 5 nominated officials and 7 nominated non-officials. Of the 39 elective seats, 20 were general seats, 12 seats were reserved for Muslims, 1 for labour, 1 for Backward Tracts and 5 for the planting and commerce.

The normal life of the Council was fixed at three years but it could be dissolved earlier by the Governor. In case of dissolution a new Council had to be elected within six months from the date of dissolution.

The Governor though not a member of the Provincial Legislature was an integral part of it. He alone could summon, prorogue or dissolve the Provincial Legislature. When he opened or prorogued the legislature, he surveyed the general situation in the province and gave an idea of what the Government proposed to do or what it had done. His speech, however,

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was not a part of the proceedings of the House, but by convention the addresses of the Governor were printed along with the proceedings. There was neither precedent nor rule to criticise the address by the members of the Legislature.  

Under the Government of India Act, 1919, the Governor himself prepared the speech in his discretion. A critical study of the addresses shows that between the year 1921-36, the Governor addressed the Assam Legislative Council personally thirty two times and when he could not personally deliver the address he sent a message. It was obligatory on the part of the members to listen to his address.

Rules for the conduct of business of the Assam Legislature: Under Dyarchy

Under the Government of India Act, 1919, the Governor of Assam made the Assam Legislative Council Rules under which he appointed in his discretion the Legislative Department Secretary and his staff who held offices during the pleasure of the Governor. He allotted, in his discretion the number of days for the transaction of business of non-official members in the Council and might alter such allotment of business from time to time. There were restrictions upon the Council in regard to asking such questions: that no questions or resolutions affecting the relations of His Majesty's Government, or of Government of India, or of the Governor or Governor in Council, with any foreign state could be asked or moved, or no questions or resolutions on any matter affecting the relations of any of such authorities with any Prince or Chief

under the suzerainty of His Majesty, or relating to the affairs of any such Prince or Chief and any matter which was under adjudication by a Court of Law having jurisdiction in any part of His Majesty's Dominions could be asked by or moved in the Council. If any doubt arose whether any question or resolution was or was not fallen within such restrictions, the Governor alone could decide and his decision was final. The Governor could even order the publication of any Bill in the Gazette in a manner as he thought necessary without introducing it in the Legislative Council. Then there was no necessity of its republication. Any Bill which required the previous sanction of the competent authority the period of notice of a motion for leave to introduce such a Bill upon a transferred subject would be fifteen days, and upon a reserved subject would be one month or a further period not exceeding in all two months as directed by the Governor. However, if the Governor certified that a Bill or any clause of a Bill or any amendment to a Bill affected the safety and tranquility of a Province or any part thereof, and directed that no proceedings or no further proceedings could be taken thereon then no action could be taken by the Council in connection with the subject matter of certificate. The Governor might within the period of notice disallow any resolution or any part of a resolution on the ground that it could not be moved without detriment to the public interest or it related to matter which was not primarily the concern of the local Government; even the Governor on these grounds might disallow any motion for adjournment of the business of the Council for
purpose of discussing a definite matter of urgent public importance consented by the President of the Council, and then the Council could do nothing. The day for the presentation of the Budget was appointed by the Governor, the day and time for discussion of the Budget were allotted by the Governor. Not more than twelve days were allotted by the Governor for discussion of the demands of the Government by the Council out of which not more than two days were allotted by the Governor to the discussion of any one demand by the Council. No motion for appropriation could be moved except on recommendation of the Governor. The Committee on Public Accounts consisted of such number of members as directed by the Governor but, of course, not less than two-thirds were to be elected by the non-official members of the Council while the rest were nominated by the Governor.  

Moreover, the Governor made the Standing Orders for conduct of business and the procedure to be followed in the Legislative Council. The Governor by notification determined the date, hour and place of the meeting of the Council. He could alter them also. The Governor had the power to withhold the approval of the election of the Deputy President of the Council and such circumstances or for any other reason if a vacancy in the office of the Deputy President occurred during the life of a Council, then a member whose election had not been approved by the Governor, must not be proposed as a candidate for the office of the Deputy President during the

6. Political B, February 1922, Nos 233-239, Assam Legislative Council Rules, Rule No 5, 6, 8, 18, 19, 21-23, 25, 28-30 and 33.
continuance of the Council. Subject to discretion of the Governor the Council had ordinarily to sit at 11 A.M. and at times when Government business had precedence the Governor might arrange that business in such order as he thought fit. When a Bill passed by the Council was returned by the Governor to the Council for consideration, the point or points referred for reconsideration must be put before the Council by the President and must be discussed and voted upon in the same manner as amendments to a Bill. When the Governor under Section 72D(2)(a) and (b) of the Government of India Act, 1919, restored the demands refused or reduced by the Council, the Finance Member, as soon as possible, had to lay a statement, together with a certificate of the Governor, before the Council; but the Council had no right to move a motion in regard to that action of the Governor. The communication from the Council to the Governor must be made through the President by formal address, after motion made and carried in the Council. The admission of the visitors, Press representatives and officials during the sittings of the Council had to be regulated in accordance with orders made by the President with approval of the Governor.7

Thus under Dyarchy the Governor of Assam was endowed with wide power of control upon the Assam Legislative Council. It has, however, been found that the approvals of the elections of the Deputy Presidents and of the President were never withheld by the Governor. The relations between the elected

President and the Governor in Assam were always good. In the beginning the Assam Legislative Council met at the Government House, Shillong but with the inauguration of its own building at Shillong on March 1, 1923 the Council met in the new building.

Legislation Under Dyarchy:

(1) Bills:

Legislation under Dyarchy was not great. This was because of the attitude of the Governor. He thought that Assam should go slow in amending the laws which served the province well in the past. Nevertheless, the second Legislative Council passed not less than fifteen Bills. The Governor generally assented to them. In 1933 there were 34 Assam Acts and 24 Bengal and Eastern Bengal and Assam Acts in force in Assam during dyarchy. All the thirty four Assam Acts were passed by the Assam Legislative Council during the year 1921-32 under the Government of India Act, 1919. This shows that the Governor gave his assent to all bills passed by the Assam Legislative Council during dyarchy.

8. ALCP, 10-11-1926, p.990
9. Ibid, 30-3-1921, p. 27; 27.4.1921, pp.423-424; 27.9.1922, p.817; 14.3.1923, pp. 2-3 & 6 (with the introduction of the Reforms Act, the Assam Legislative Council used to meet at Council Chamber at Government House, Shillong. On the initiative of the Governor Sir W.S. Marris the Assam Legislative Council passed a resolution in April 1921 for the provision of a new building of its own. The foundation stone of the building was laid by Sir Morris himself at Shillong but the new Council Chamber was declared open in a ceremony by Governor Sir J.H. Kerr on March 1, 1923.)
10.ALCF, p. 697.
11.Ibid, 3.5.1933, pp 272-274.
However, the Assam Legislative Council passed the "Assam Land Revenue — assessment Bill" 1930, on the 13 September 1930 inspite of opposition from the Government. When the Bill was sent to the Governor for his assent, he returned it to the Legislative Council together with his remarks under Section 811(1) of the Government of India Act, 1919 for reconsideration.

Resolution: Under Dyarchy:

Under the Government of India Act, 1919, the Legislative Council had the right to move and pass resolutions upon any provincial subject. But the resolutions, by nature, were recommendatory and therefore there could be no question of any resolution being vetoed by the Governor. As early as in 1921 this was made clear in connection with a resolution recommending the Governor in Council to appoint a Retrenchment Committee. The Governor pointed out that under rule 24 of the Assam Legislative Council Rules (para 79 of the Manual of Business and Procedure) a resolution was only a recommendation to Government and therefore, without definite acceptance by it, it remained inoperative. However, His Excellency, the Governor appointed such a Committee.\(^\text{12}\) Thus the giving effect of the resolutions depended upon the will of the Governor. It may however be pointed out that the resolutions upon the transferred subject were binding upon the Government while they were mere recommendations in the case of reserved subjects.

\(^\text{12}\) Finance A, December 1922, Nos. 1-18.
During the tenure of the first Assam Legislative Council 151 resolutions had been moved out of which 81 were withdrawn, thirty three had been negatived by the Council and thirty seven were carried. Out of 37 passed by the Council the Government gave effect in full to twenty one, in six cases the resolutions were partly complied with, in eight cases the Government found it impossible to take action owing to want of funds, and in two cases Government declined to carry them out on administrative grounds. One of these two resolutions related to the fixing of 'Kist' dates in the Assam valley while the other related to the recruitment from the Bar of the members of the Judicial Branch, a matter which was not in the hands of the Assam Government but in the hands of the Government of Bengal.  

During the tenure of the Second Council 125 resolutions were moved though here also a good number of resolutions were withdrawn and negatived by the Council. Thus the Council attempted a several times to pass resolutions. The effect of these resolutions in the Assembly that with the improvement of the financial position of the Province the Transferred Departments during 1923-25 received a sum of over Rs.15,00,000/- for non-recurring expenditure while the Reserved Departments had only about Rs.10,00,000/. However the ultimate achievement of the resolutions in the Council was limited. Nevertheless, resolutions that were passed had

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15. Ibid, p.989.
certain definite influence upon the Government which the Governor could not ignore. The Governor gave effect to the resolutions passed by them as far as practicable. He said "it will be my business to do, all that I can to work amiably with you, to respect your dignity and to give effect to your wishes as far as is possible, having regard to the responsibilities imposed upon me by Parliament and by the Instrument of Instructions." Even the discussions on resolutions influence the Government and the Governor. For instance, the Government and the Governor adopted a policy of restricting the issue of opium to registered consumers owing to the insistence in the Legislature. But certain resolutions like the establishment of full responsible government in Assam, the transfer of Sylhet and Cachar to the administration of Bengal, the establishment of Provincial Autonomy in Assam, were beyond the jurisdiction of the Governor and therefore were forwarded for the consideration of the Government of India.

It may, however, be pointed out that though the resolutions on the transferred subjects were binding upon the Government, sometimes such resolutions were rejected by the Governor on the plea of the legality. The Governor was always against the reduction of the ministers' salary from Rs.3,500/- per month. Yet the Governor was compelled to accept the reduction of the Ministers' salary. But in 1931,

17. Ibid 10.11.26, p.991, and 5.4.1933, p.6.
the Retrenchment Committee of Assam suggested that the pay of the Ministers in Assam should be reduced from Rs.3,500/- per month to Rs.2,000/- per month from September 1, 1931. But the Council in its March Session of 1931 voted the Ministers' salary at Rs.3,500/- p.m. and therefore the Governor ruled that the decision of the Council would stand as the Retrenchment Committee had no right to override the definite decision of the Legislative Council. However, a resolution was moved in October 1931 session of the Assam Legislative Council that in view of the financial crisis of the Province the salary of the Ministers should be Rs.2,000/- each per mensem from such date as the law permitted and the salary be fixed at this rate at least from April 1932. Provision be made accordingly in the budget for the year 1932-33.18 The resolution was, however, defeated by 32 to 10 votes.

The Governor could disallow any resolution or any part of a resolution on the ground that it could not be moved without detriment to the public interest or on the ground that it related to matter which was not primarily the concern of the Local Government.19

The Budget: Under Dyarchy:

Restoration of demands for grants upon the Reserved Subjects:

The Budget of the Province was placed before the Council in full detail. Subject to the Governor's power of

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18. ALCP, 16.11.1931, p.1051.
restoration in exceptional circumstances, no expenditure could be incurred by the Government without the consent of the Legislature save in respect of certain items which were withheld by Acts of Parliament from the vote of the Council and which in Assam amounted to less than 25 percent of total provincial expenditure.\textsuperscript{20}

The entire budget both of the reserved and the transferred sides minus some items as non-votable in the reserved side was placed before the Council.\textsuperscript{21} The important departments were reserved subjects and therefore to avoid any administrative difficulty the Governor was empowered to certify upon the reserved subjects if the council disagreed with the Government proposals. As early as in 1922 when the Council reduced the demand made by the Government upon the additional armed police, the Governor said that he had the power to restore the demand asked for but he was not immediately going to that as most of the essential demands were granted by the council; but, if necessary, he would not hesitate to exercise his power i.e. restoration of the demands by certification.\textsuperscript{22} The serious differences between the Governor and the Legislature, however, started in 1924 after the general election when the Nationalist Party with the support of the Swarajists became powerful in the Assam Legislative Council. The Council made reductions amounting in the aggregate to something like Rs.3\textfrac{1}{2} lakhs.\textsuperscript{23} These reductions

\textsuperscript{20} ALCP, 29-8-1923, p.697.
\textsuperscript{21} Ibid, 1.4.1925, p.765.
\textsuperscript{22} Ibid, 19.4.1922, pp 578-79.
\textsuperscript{23} Ibid, 23.4.1924, p.530.
were spread-over nine heads and though in several cases the Governor was prepared to accept them without questions, he was not prepared to accept reduction of the provision for resettlement operation and the reduction of the demands under the Police and Excise heads.\textsuperscript{24} The Governor certified in 1924 under Section 72D(2)(a) of the Government of India Act 1919, that the expenditure provided for by the demand of Rs.1,52,656. For operations in connection with the resettlement of the districts of Kamrup and Sibsagar, under the head "5-Land Revenue" was essential to discharge his responsibility for the subject; while he under Section 72D(2)(b) of the same Act, certified that (I) Rs.14,541 which was an amount payable to the Raja of Tripura, being the amount of mesne profits decreed by the High Court of Judicature at Fort William in Bengal and (II) Rs.6,000/- which was an amount payable to Md. Haidar of Nairpul, Sylhet, being the amount of mesne profits of the bills decreed by the civil Court in Suit No.107 of 1921, were that claims arose at a time when the Council was not sitting and it was not possible to submit them to its vote. Had this course, in the opinion of the Governor, had not been taken in the latter two cases the Government would have been faced with interest claims owing to delay in payment.\textsuperscript{25} In fact the amount had to be paid by the Government before the meeting of the Council and as said by the Governor himself after the Assam Legislative Council reduced the amount in August 1923 that: "I differ from the majority

\textsuperscript{24} Ibid.
\textsuperscript{25} ALCP, dt. 26.3.1924, p.88.
of this council with regret but without the slightest hesitation or doubt ......... the provision for re-settlement operation ......... is essential to the discharge of my responsibility........" The Nationalist group said "the Government of Assam headed by Sir John Kerr is in great danger ...... the power of certification is there to nullify their victories ; that is still a greater danger which has been admitted by the Government of Sir John Kerr in the report" submitted to the Reforms Enquiry Committee. 27

However, the Governor realised that the power of certification if employed too often would be a source of danger to British Rule. Therefore, the Government managed the legislative work with the help of official block, nominated non-official, elected Europeans and Muhammadans. 28 Nevertheless, the Governor had to certify two more demands rejected by the Council. 29 Again as an emergency measure the Governor authorised the Government to purchase a new Second Engine for the Jorhat Provincial Railway to prevent dislocation of traffic in 1924-25, 30 and Rs.16,207 to purchase and repair two bungalows at Halflong for the residence and office of the Superintendent, Railway Police in 1926-27. 31 The reasons given by the Governor for the purchase of these two bungalows were not convincing. The Governor did not hesitate to restore the demands reduced by the Council, or sometimes the Governor made an early authorisation of the demands without giving

27. Ibid, 1.4.1925, p.764, Address of the Governor.
31. Ibid. 6.4.1927, p.372.
any opportunity to the Council to discuss the matter. Moreover, on many occasions the Council made nominal reductions, for instance in 1928 the provision of Rs.18,37,845 under 22 General Administration (Revision of Salary of ministerial and menial establishments) was reduced by Re.1 only,\(^{32}\) which did not affect the Government and as such Governor did not concern himself with such reductions.

As regards the transferred departments, however, the Governor exercised this power in times of emergency. For instance, the Governor was always against the reduction of the salaries of the Ministers in Assam on the ground that competent ministers would not be available at a lower salary than that of Rs.3,500/-. But a considerable section of the Assam Legislative Council thought that the salary for a minister was unjustified considering the financial stringency of the Province. In 1924 the Council succeeded in reducing the salary of the Ministers from Rs.3,500/- to Rs.1,500/- and the Governor accepted it.\(^{33}\)

**Allocation of Finance between the Reserved and Transferred Department**

The Governor in consultation with the Finance Department was the final authority to allocate revenues to the Reserved and the Transferred Departments. In Assam the expenditure under the head Police in 1922-23 was Rs.24,71,000/- (the year 1922-23 was taken because in 1921-22 Police and Assam Rifles

\(^{32}\) Ibid, 25.4.1928, p.377.
\(^{33}\) Ibid, 23.4.1924, p.530.
were combined under a single head), - the provision for Police in the Budget in 1930-31 was ₹27,70,000; an increase of 12 percent. Under General Administration the expenditure in 1921-22 was ₹25,46,000; the provision in the budget 1930-31 was ₹28,95,000; the increase was 13 per cent. The above two cases might be taken as typical Reserved Department with major expenditures. Let us take the Transferred Departments;

Under Public Health the expenditure in 1921-22 was ₹6,51,000/-; the provision in the budget 1930-31 was ₹7,81,000; an increase of 20 percent. Under Medical the expenditure in 1921-22 was ₹10,03,000/-; the provision in the budget in 1930-31 was ₹14,50,000; an increase of 44 per cent. Under Education the expenditure in 1921-22 was ₹22,97,000/-; the provision in the budget 1930-31 was ₹34,60,000/- an increase of ₹51 per cent. Under Medical, including Veterinary and Co-operative, the actuals of 1921-22 were ₹4,77,000; the provision in 1930-31 was ₹9,05,000/-; an increase of 89 percent. Under Industries the actuals for 1921-22 were ₹89,000/-, the provision in 1930-31 was ₹7,25,000/-; an increase of 152 percent. 34

From the above it is clear that the allotment for the transferred departments increased between the years 1921-22 and 1930-31. But considering the allotment to each department no transferred department, except Education, was provided with higher allotment than the reserved departments nor there were equal allotments between the two halves. The

34. ALCP, 16.4.1930, p.228.
Finance Member himself admitted about the greater provision for the Reserved Departments than to the Transferred Departments that: "No attempt was made when the allocation of Transferred and Reserved Departments was made to divide the functions of the Government in such a way that the expenditure would be fifty fifty. As a matter of fact, the commitments of the Reserved Departments, at the time allocation was made, were much higher than commitments of the Transferred Departments. Therefore, though with the improvement of the financial position of the Province the allotment to the transferred departments increased the actual allotment to each of the transferred departments, except Education, was less than that of the reserved departments. The allotment was ultimately decided by the Governor. The Governor was in favour of greater allocation of revenues to the Reserved Departments than to the Transferred Departments. So the Reserved Departments had a stable financial allocation but not the Transferred Departments.

ELECTIONS

Introduction:

Elections are as old as the ancient Civilization of Greece, though the method of voting has undergone a series of changes with the passage of time. The method of voting differed from time to time. Spartans recorded their votes with a shout and sometimes by clashing of spears on

shields. The Athenians voted by show of hands used pebble when the secrecy of ballot required. In ancient Rome wax-coated slips of wood served as ballot papers.

The year 1856 was a landmark in the history of voting, when the principle of secret ballot was introduced in the State of South Australia. This method is described as 'Australian Ballot'. Within the next two or three decades several countries followed suit and the method of secret ballot came to be more or less universal in practice. In France also as far back as fifty years candidates circulated the ballot even outside the polling booths and the voter merely folded the paper and gave it to the presiding official who after having checked his identity placed the envelope in the urn.

In Switzerland, Spain, Argentina, Australia, New Zealand, Holland and Belgium there is compulsory voting. Of these Belgium has enforced the law more stringently than others.

History of Elections in Assam:

The Act of 1909 for the first time recognised the principle of indirect election. The Act recognised certain bodies and associations to recommend certain candidates who were generally accepted by the Government. In Assam, the Local Boards and Municipal Boards, the planting community, the Landholders and the Muhammadans elected their respective representatives to the Legislative Council. Out of 25 members of the Council 11 were indirectly elected and 14 were nominated. Since 1920 direct elections were held.
Qualifications and Disqualifications of Candidates:

As regards qualifications of candidates, no person was eligible to contest unless his name was registered in the voters' list. Further, the candidate must be a male and must have attained the age of twenty five years. In 1924 an attempt was made to remove the sex disqualifications but of no avail. It was in 1937 women were permitted to contest elections.

Thirdly, the candidates must be British subjects. Subjects of the Indian States were disqualified. But the subjects of the Indian States who were retired, pensioned or discharged officers, non-commissioned officers or soldiers of the Assam Rifles, subjects of the Manipur and Khasi States were entitled to contest elections.

The Electoral Rule 1920 disqualified an undischarged insolvent and also discharged insolvent unless he had obtained from the court a certificate that his insolvency was caused by misfortune and not by any misconduct on his part. Persons who were convicted for corrupt practices and for criminal offences were disqualified. A legal practitioner suspended or dismissed by any competent court and a person of unsound mind were also debarred from standing as a candidate.

The minimum age prescribed for the candidates seeking

36. Representation of People's Act, Sec. 62.
39. Assam Electoral Rules, 1920, Part-II.
election to the Upper House was thirty years. In other respects, the Act of 1935 adopted the same disqualifications or qualifications as prescribed in the Electoral Rules under the Act of 1919.

**Delimitation of Constituencies - 1920-36:**

Under the Act of 1909, there were no territorial constituencies as it was felt that territorial representation was unsuitable under the existing circumstances.

Under the Act of 1919, territorial constituencies were introduced. There were General constituencies, and Special constituencies for Planting and Commerce and Industry. The territorial constituencies were divided first into Muhammadan and non-Muhammadan which were further subdivided into Rural and Urban. 39 Out of 39 constituencies, 12 were Muhammadans, 5 Planting, one General Urban, one Commerce and Industry and twenty were non-Muhammadan constituencies. The Commerce and Industry constituency was non-territorial.

**Election Machinery:**

From 1921 to 1952 the preparation, the publication and the revision of electoral rolls were entrusted to an official agency. The District Magistrate, the Sub-divisional Magistrate and the Commissioners of Division, Secretary to the Government in the Legislative Department controlled the election administration. Election petitions questioning

the validity of any elections had to be submitted to the Governor or to an officer appointed by him in his behalf. The Governor appointed an Election Commission consisting of three persons. One of the three was the President. The Commission disposed of all election petitions.

Rights and Privileges of the Members under the Act 1919:

Under the Act 1909, the members were not entitled to a salary, not even for travelling allowance. The only privilege the members had was to put question, move resolution and divide. The legislature was more or less an advisory body.

It was in 1920, that the legislators were endowed with certain privileges. For instance, the members were not liable to any proceedings in any court by reason of his speech or vote in the council but not in the committees of the Legislature. The Council could publish the report of the proceedings. The debates published under the authority of the House carried immunity from proceedings in any court. But the House had no privilege to be the exclusive judge of its proceedings. Again the Act of 1919, created privileges but did not clearly confer the power to publish its breaches. Inspite of this, the Council did not hesitate to take action against those who committed a breach of privilege of the House.

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42. For example, in the September-October Session, 1936, Raibahadur Nilmbar Dutta made a speech. His speech was wrongly reported in the 'Amrit Bazár Patrika', a Calcutta English Daily. The member concerned took an exception to the incorrect report and brought the matter to the notice of the House. The President warned the reporter of the Paper.
Qualifications and Disqualifications of the Electors:

Under the Act of 1909:

The elective principle was introduced for the first time under the Act of 1909, but it was indirect except in the case of Planters' representatives, Muslims and Land Holders.

The members of the Local Boards and Municipal Boards, big land holders and Muhammadans of standing and top-ranking officers of the tea gardens (Managers and Superintendents and Medical Officers) alone had the right to vote.

Under the Act of 1919:

Under the Act of 1919, franchise was widened. The Electoral Rules of 1920 disqualified women, minors and men of unsound mind to vote. The Legislative Council was, however empowered to recommend the removal of the sex disqualifications. Such a resolution had to be approved by the Governor. In 1924, a resolution recommending the enfranchisement of women was passed in the Assam Legislative Council. Accordingly, the Assam Electoral Sex Disqualification Regulation, 1924, enfranchised women.

The qualifications prescribed for voters were as follows. Only those who paid yearly a municipal tax of not

43. The Assam Legislative Council Manual (1920), p. 120.
45. The Assam Electoral Sex Disqualification Regulations, 1924, Notification No. 630L, dt. the 28 Nov. 1924.
less than Rs.3/- or who occupied a house whose rental value was Rs.36/- or who was assessed to income tax or agricultural tax or who paid land revenue of not less than Rs.15/- per annum or who in the case of rural areas of the district of Sylhet, Cachar and Goalpara, paid a Chowkidari tax of not less than Re.1/- under the Village Chowkidari Act 1870, were eligible to vote.

Although the Mont-Ford Report had condemned the communal electorate unequivocally, it was retained.

It may be said that in the districts of Sylhet, Cachar and Goalpara the qualification of a vast majority of electors was payment of Chowkidari tax. In the Sylhet Municipality as well as in some other municipalities there was no tax upon holding but personal tax was levied and it was based upon assessee's circumstances and property. Out of 33 constituencies in the whole of Assam (excluding the Planting and Commerce and Industry), it was only in 13 constituencies that the franchise qualification was not based upon payment of Chowkidari tax but chiefly upon payment of land revenue or local rate.

Franchise under the Act of 1919 was not without defects. There was disparity in the operation of the franchise qualifications in urban as compared with rural areas. For instance, in all the constituencies of the Province, the percentage of enfranchised population was as high as 15 percent in an urban area and as low as 1.9 percent in rural area.46

46. Assam Governments' Memorandum to the Franchise Committee, 1932, p.14.
The system of franchise, in some cases, debarred a good number of comparatively poor but educated men and women. In a joint family, comprising several members, only the head of the family was enfranchised. Therefore the electorate was extremely small and the general mass of population had no control over the administration. Besides, the communal electorates greatly strengthened the differences and animosities between the several sections of the people. The adaption of property qualification gave prominence and sometimes a monopoly of the right to vote to propertied classes of the population. The agricultural population was practically excluded from the right to vote.

Before the introduction of the provincial Autonomy, the Government thought of widening franchise. Accordingly a franchise Committee was appointed for Assam. The Committee considered the proposals submitted to it by the public. Muslims favoured the retention of communal electorates. The Hindus, in general, opposed it. However, every one suggested that the right to vote should be liberalised. It may be stated here that the question of Adult Franchise was raised by some Indian politicians during the Round Table Conferences but it was opposed by the Franchise Sub-Committee known as the Lothian Committee which wrote -

"The Indian villager is like the peasant all over the world, a fairly shrewd person. Illiteracy, however, inevitably restricts the range of the individuals knowledge and his power of access to knowledge. The breaking down of illiteracy in India is only a matter of time and in proportion as it takes place, the electoral problem will be simplified. But for the present it would be unwise to ignore the impediment which illiteracy creates to the successful working of democracy based upon Adult Franchise".
The Franchise Committee therefore recommended the immediate increase of the electorate so as to enfranchise between 10 per cent and 25 percent of the population.

Although it was a settled fact that adult franchise would not be introduced, some prominent persons who submitted replies to the Franchise Committee of the State strongly urged the Committee to consider the proposal of Universal adult franchise for Assam.

As regards women franchise different views were expressed. One suggested that all women above the age of 21 should be given the right to vote. It was argued that by that age most women would have children. Bringing up of children is a tremendous responsibility. Therefore, women at the age of 21 would have mental maturity and would exercise the right to vote judiciously. Another suggested that proficiency in weaving, spinning or sewing or the like should be the basis of women franchise. A third suggested that literacy qualification. Out of 101 persons and organisations who submitted replies to the questionnaire of the Assam Franchise Committee only one was against women suffrage. He thought that women franchise was a fashion rather than a need as it had never seemed any useful purpose.

Under the Act of 1919, the franchise qualifications were entirely based on property.

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47. Replies to questionnaires of the Franchise Committee 1932, p.104.
49. Ibid, p. 61
Registration of Electors:

All eligible persons had to be registered and only those whose names were registered were qualified to vote. The rolls were prepared separately for each constituency. They had to be published before finalising with a view to inviting claims for entering names omitted or objections to entries made. The rolls when finally published, remained in operation, though periodically revised till another roll is prepared. Provision was made for the amendment or correction of the entries in the rolls.

In women's constituency women alone should be the voters. But women had to be registered in other constituencies provided they had the required qualifications. Again the name of a single person could be registered in more than one constituency provided he possessed the required qualification. For example, one could be an elector in European constituency. European Planting constituency, European Commerce and Industry constituency, provided he had the necessary qualification. Again, Indian Christians were eligible to vote in an Indian Christian constituency and not in other constituencies. But an elector of a Backward Tribal or Backward Areas constituency, even if he happened to be a Christian was not included in the roll of the Indian Christian constituency.50

A woman who at the time of death of her husband was a voter continued to be a voter unless she was remarried or

otherwise disqualified. Only the first wife was included in the roll.51

No person could be included in the roll of a territorial constituency unless he had a place of residence in it.

Only those who were Superintendents or Managers, or Engineers or Medical Officers employed in Tea gardens were entitled to votes in the Planters Constituencies. In the case of commerce and Industry constituencies those who were the owners of factories, other than tea factories, in Assam were included in the electoral roll. In order to be a voter in Labour constituencies, one had to work as a permanent employee in one or more qualifying tea gardens for not less than 180 days living within the boundary of the gardens.

A recognised Nokma in the Garo Hills and a recognised village Headman in the Mikir Hills was also qualified to vote. For the Shillong and Jowai Backward Areas (Hills) constituencies assessment to House tax or the ownership of land in any British village of the Shillong sub-division outside the Municipal area and payment of land revenue of not less than Rs.2-8-0, was the qualification.52

Limitations on the right to vote:

In 1920, for the first time, it was laid down that no person could vote in more than one general constituency.53

Accordingly, a Muhammadan could only vote in a Muhammadan constituency.

52. The Assam Gazette, dt. 10.10.1945.
constituency; he could not vote in a Planting or a non-Mahammadan constituency and vice-versa. Under the Act of 1935 the same procedure was adopted.

The following Table illustrates the extent of franchise:

<table>
<thead>
<tr>
<th>Year</th>
<th>Total population</th>
<th>Electorate</th>
<th>Percentage of Electorate on Total population</th>
</tr>
</thead>
<tbody>
<tr>
<td>1920</td>
<td>6,871,570</td>
<td>2,02,440</td>
<td>2.9%</td>
</tr>
<tr>
<td></td>
<td>(Excluding the Hill districts and Frontier areas which were not represented by election)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1923</td>
<td>6,871,570</td>
<td>2,24,063</td>
<td>3.26%</td>
</tr>
<tr>
<td></td>
<td>(Excluding the Hill districts and Frontier Areas which were not represented by election)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1926</td>
<td>6,871,570</td>
<td>2,50,751</td>
<td>3.6%</td>
</tr>
<tr>
<td></td>
<td>(Excluding the Hill Districts and Frontier Areas which were not represented by election)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1937</td>
<td>61,65,612</td>
<td>8,15,341</td>
<td>13.22%</td>
</tr>
</tbody>
</table>

Principal Permanent Officers:

The Legislative Department was created in 1919. Before 1919 there was no Legal Remembrancer to tender advice to the Government on legal matters. When the Legislative Department was created, the Legal Remembrancer became the Secretary to the Department. In 1921, the Legal Remembrancer and Secretary in the Legislative Department became Secretary to the Assam Legislative Council. The first incumbent was

Mr. A. Mellor, I.C.S. He was succeeded by B.N. Rau who subsequently became the constitutional Adviser to the Indian Constituent Assembly.

The Committee System:

A Committee is a body to which a task is referred or committed by some other persons. No legislature can function effectively without the help of some committees. The principle of appointing committee is not a modern development. It is as old as Parliament itself. The Indian Legislative Council for the first time appointed a Committee in 1854. Since then the Indian Legislatures have appointed from time to time several committees for different purposes.

In Assam, the Chief Commissioner's Council constituted in 1912 did not appoint any committee. For the first time committees were appointed by the Assam Legislative Council in 1921. Accordingly two committees, namely, the Select Committee and the Public Accounts Committee were brought into existence. Apart from these two Committees, a Committee of members of the Council was appointed annually by the Government to advise them in connection with the framing of the budget. Moreover, the Council appointed Special Committees when important matters cropped up. For instance, in 1924, a Committee was appointed at the instance of the Council to

57. L.C.P. Vol.1(1854-1855), p.34.
report on the schemes for the separation of the judicial and the executive functions. In the same year, another committee consisting of fourteen members, of whom all except three were members of the Council, was appointed to advise on land revenue assessments. These special committees were not always composed of officials and members of the Council. But in general, the practice had been to appoint only official and non-official members of the Council except in such cases as obviously required the inclusion of experts who were not available in sufficient members within the Council itself. The composition of these committees had invariably been decided on by the Governor in Council in conference with his Ministers. Although within the Dyarchic period, the committee system did not develop the Committees functioned effectively.  

Relation between the Committees and the Legislature:

Normally the decisions of the committees must be submitted to the legislature for ratification or reject. Since 1921, the Assam Legislature did not reject the decisions of the Committees. By convention the Legislature has no power to amend or reject, the decisions of the Committee on subordinate Legislation, Committee on Government Assurances and Public Accounts Committee etc. As regards the decisions of other Committees, the House may accept or reject them. Generally the decisions of the Committees are accepted by the Assembly.

All the legislative committees framed their own rules and procedures in consultation with the speaker who represented the House. Moreover, the Speaker, from time to time, issued directions to the committees for the proper organisation of their work. Thus close relation between the legislature Committee and the House was maintained. It may be said that under the Act 1919, the relation between the House and its committees was very slender.

LAW MAKING

The primary function of the legislature is law making. It makes law for the government of the community.

History of Legislation:

During the period of Morley-Minto Reforms the Councils had no real power in the field of legislation. They were only debating bodies which aired certain criticisms. The legislation was initiated by the Executive Government with the prior approval of the Central Government.

Under the Act of 1919, the legislative Council was empowered to make laws for the 'peace and good Government' of the province.

The first Act passed by the Reformed Council was the Deputy President's Salary Act, 1921, which fixed the salary at Rs.2,500/- per annum.

The Assam General clauses (Amendment) Act, 1922 and the Assam Court Fees (Amendment) Act, 1922, were important
measures of taxation, enhancing the rates of court and stamp fees. When the Finance Member sought the leave of the House to introduce the Bills, there was strong opposition to the measure and the motion was carried by the narrow margin of one vote. On the 18 March 1922, when the Court Fees (Amendment) Bill came up to discussion there was a noticeable change in the attitude of the Council. One of the former opponents felt it necessary to explain that when he cast his vote on the 7th February 1922 he had no time to study the budget and had not realised the critical state of the provincial finance. The motion to commit the Bill to a Select Committee was carried by 18 votes to 13. In the Select Committee there was a spirit of give and take and the Report of the Committee was described by the Finance Member as a history of mutual concessions. The result was that the Bills, when they emerged from the Committee, were passed by the Council without division.

The day after the passing of the Court and Stamp fees Acts, the Government had to put before the Council another contentious measure, the Assam Landlord and Tenant Procedure (Amendment) Bill. It was intended to meet an emergency that had arisen in the Goalpara District as a result of a 'no-rent' campaign started by the tenants. The Council decided that the Bill should be circulated for public opinion. At the September session, the Government member in-charge of the measure announced that it had encountered so much criticism that he would proceed no further with it.
The most important piece of legislation passed in 1923 was the Assam Municipal Act. The Bill was scrutinised by a large and representative Select Committee.

The first Act of the second Council was the Assam Deputy President's salary (Amendment) Act 1924. It reduced the salary of this office to Re.1/- per annum. Under the Act of 1922, the salary was fixed at Rs.2,500/- per annum. In 1924, it was proposed to reduce it to Rs.1,000/- but the Deputy President himself offered to work without any salary as his duties were not of a very exacting nature. Therefore, the salary was fixed at Re.1/-.

In 1925, in consequence of a certain ruling of the Calcutta High Court, the Assam Legislative Council passed the Assam Municipal (Amendment) Act 1925.

The Assam Primary Education Act, 1926 was a measure of first class importance.

The Assam Rural Self Government Act of 1926 was another important Act which was passed by the Council. The object of the Act was to provide a machinery which was expected to enable the villagers to undertake the management of their own affairs and develop in themselves a capacity for self-help.

The Assam Local Self Government (Amendment) Act, 1926 was another important enactment passed by the Council. The original Act was passed in 1915 and its revision was considered necessary. The Act followed the Municipal Act in increasing the number and proportion of elected members.
of the Boards 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 power of control of the Executive Officers of Government was reduced.

In Assam there was little or no protective legislation for tenants till the end of twenties. The Council passed the Assam Temporarily settled District Tenancy Act, the Goalpara Tenancy Act and the Sylhet Tenancy Act. There were measures of first rate importance. In the permanently district of Goalpara and Sylhet the relation between the Landlord and the tenant was governed by an Act of 1869. The inadequacy of that Act to meet the needs and conditions of those days were universally known and to remedy the long continued grievances of the people the Assam Council took up legislation for the purpose of defining and enlarging the status and rights of tenants and landlords. The primary purpose underlying the new legislation was to ensure fair dealing between landlords and tenants. All opportunities for oppression had been sought to be done away with by making the levy of illegal cesses punishable, abolishing the provisions for distraint of crops and enjoying the delivery of rent receipts and making their non-delivery punishable. All terms in a contract which sought to take away or restrict the more substantial right conferred on the tenants by legislation had been declared to be inoperative. Fixity of tenure had been guaranteed by provisions which laid down that no tenant could be ejected except in the execution of a decree. Before ejectment every
tenant was entitled to compensation for the improvements which he might have validly effected in his holding. The landlords right of enhancement of rent had been regulated and the right had been given to the tenant to claim reduction of rent on specified grounds. The full context of occupancy right had been defined and made substantial. It included a free right of transfer. The initial acquisition of occupancy right had been rendered more easy and its subsequent extension to other areas held under the same landlord was made automatic.

In the temporarily settled districts of Assam there was no rent law in force at all before the thirties. With the growth in population, the demand for land increased, rates of rent went up and so legislation became desirable. Provision was made much on the same lines as in the case of the permanently settled districts against oppression and unreasonable contracts.

A modified form of occupancy right was adopted and in estates held for religious purposes the privileged position of certain tenants was recognised. While improving the position of certain tenants, care was taken to see that the landlord was not unfairly affected in the exercise of his legitimate rights.

Another Act which proved of great value to the agriculturists was the Land Revenue Reassessment Act. Before this enactment land revenue was regulated by Executive order and the principles and limits of assessment were laid down by the Government. Under this Act land revenue assessment was regulated by law.
To lighten the burden of debt of the agricultural population, the Assam Money-lenders Act was passed in 1934. It gave additional powers to Court to deal with money lenders. Compound interest was forbidden. Simple interest in the case of secured loan was fixed at 12½ per cent and in the case of unsecured loans at 18½ per cent. Above all it laid down that no Court might decree on account of arrears of interest a sum greater than the principal.

Another line of approach to solve the debt problem was made with the Debt Conciliation Act. The Debt conciliation Boards which were to be set up used their influence in bringing the parties, creditor and debtor, to an amicable agreement. The provisions of the Act enabled the honest debtor to have his debt reduced to the limit set by his assets and a reasonable creditor obtained the assistance of Government in realising the agreed debt.

The attitude of the Council towards Government legislation was not unreasonable. But even towards bills coming from the reserved side of the Government the attitude of the Council was not of uncompromising hostility.

CONTROL BY THE JUDICIARY

Under the Act of 1919:

In India, prior to 1935, the judiciary had no power to examine the validity of Acts passed by the Legislature. Under the Act of 1919, Acts could not be challenged in a Court of law on the ground of their being illegal was due to the fact that there was no proper statutory demarcation
of powers between the Central and Local Legislatures.

It was clearly stated that the validity of any Act passed by the Central or Provincial Legislature was not open to question in any legal proceedings on the ground that the Act affected a Provincial subject or a Central subject as the case might be. The Acts made by the Governor also could not be challenged on the ground that it did not relate to the reserved subject.

As such no legislation passed by the Assam Legislative Council came under the scrutiny of the court and hence there was no judicial control.\(^60\)

Control by Public opinion:

During the period 1912-1920 public opinion was not effective. The common men was quite ignorant about the functioning of the legislative Council. The media of organising public opinion was totally absent. Therefore the Council did not feel the public opinion.

During the period 1919 to 1936 for all practical purposes public opinion did not exist in Assam. The educated people formed a very small section of the total population. A large majority of the people were interested in their own immediate material needs. The placid pathetic contentment of the masses was responsible for the absence of public opinion. Towards the end of Mont-Ford Reforms, of course

\(^60\) Assam Legislative Council Manual(1929) p.75.
there was some kind of public opinion but it was rudimentary it was easily led, misled and stampeded.\textsuperscript{61}

Practically the Council did not feel public opinion except that of the educated classes. Even among the educated classes there was little interest in the wider political issues. Communal questions excited greater interest. The members reacted and represented public opinion only in respect of communal issues like Muhammadan versus Hindus, Assamese versus Bengali, or the Assam valley versus Surma valley etc. At first, the small block of members representing the tea industry representing the views of their constituencies were guided by their wishes. The interest of these constituencies and of their members was almost always confined entirely to the questions affecting the material interest of the tea industry, but there had been a marked change in this respect towards the end of the Reforms. They realised that in mutual good will and co-operation expanded the greatest hope for the continued prosperity of the industry and of the province and the members took greater interest in matters outside the industry.\textsuperscript{62}

The party system necessary for generating public opinion was fluid and imperfect at that time. It was hampered by the division and cleavages. It was not based on ideologies.

Further, the press which is one of the media for organising public opinion was not developed. The press in

\textsuperscript{61} ALCP, 3-10-1936, Vol.XIV, No.19, pp 1655,1659.

Assam was represented by a small number of weekly newspapers. There were no daily newspapers in Assam. There were two weekly newspapers published in English. They were usually moderate in their tone and views. The Swaraj Party was supported by two or three vernacular papers in the Surma valley and by one in the Assam valley. The provincial newspapers had little influence.  

For all these reasons public opinion was not active and so it could not influence legislation. Despite this fact, sometimes, the public opinion influenced legislation. The opinions expressed by the public were mostly accepted.

Different Political Parties: Under Dyarchy:

In the first Assam Legislative Council - there were no political groups or parties other than the small European group representing the Tea Industry. All the members representing the general constituencies belonged to the moderate school of political thought. Division within that Council followed the communal lines or cleavage on which the constituencies were based.

There were some prominent members in the Council but they had no policy or programme. The small group of planter members were united together and supported the Government.

The Second Legislative Council contained an organised

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Nationalist Party which consisted of about half of the 39 elected members. This party did not contest the first elections in pursuance of the policy of non-cooperation. The leader of the Nationalist Party was a Swarajist. At first the more extreme politicians of the Council were divided into two parties; the Surma Valley Members of this School adopted the name of Nationalist while the Assam Valley members described themselves as Swarajists. These two parties sat and worked together. Ultimately both of them coalesced. The leader of the party was Faiznur Ali. This party included Hindu and Muslim members from both the valleys. It was guided by the All-India leaders of the 'Swaraj' party. This party was well organised, disciplined and strong. It was able, for a time, to overcome the communal differences between its members. But it did not last long. The communal feelings were deep rooted and ultimately the connecting link of a common political programme gave way. The first sign of the rupture appeared in the Council in 1925, when two Muhammadan members refused to follow the rest of the party in the walk-out which was dictated by the All India leaders. Eventually, frictions between the two communities came to the surface. At the general elections of 1926 the only Muhammadan who stood as a Swarajist was defeated. The result was that in the third Council, the party included no Muhammadan among its members. Besides the Swaraj Party and the small group of six members representing the Planting, Commerce and Industry, there was no

political party in the Second Council. The members of the Second Council belonging to the moderate school included representatives from both the valleys and of the main communities. It may be stated that unlike the Swarajist they had no party organisation and no common programme. They had been elected mainly on account of personal influence and popularity. They represented no party.

In the Second Council, the Nationalist or the Swaraj party was able to defeat Government proposals on several occasions. But it may be stated that the members of the party did not resort to the extreme method adopted by the party in other Legislative Councils. They never adopted destructionist methods. Faiznur Ali was the leader and Rabu Brojendra Narayan Chaudhury was the Deputy leader of the party.

The absence of any party organisation among the moderate members naturally gave the Swarajist a great advantage in the early days of the Second Council. Realising the growing importance of the Swarajists, the Moderates formed themselves into what was called the Independent Party to work concertedly in the Council. Rai Bahadur Sadananda Dowera was the leader of the party. The Independent party was formed mainly to oppose the Swarajists whose policy was the breaking up of the constitution. The policy of the Independent party was to work the reforms. But it had no organised party outside the House. But inside the Council it was able to influence the Swaraj Party to adopt a moderate attitude.

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to transfer certain "Reserved Subjects" to "Transferred Subjects" to be placed under popular Ministers.\textsuperscript{67} The motion was put to vote and adopted.

In the third and subsequent Councils also the Swaraj party was predominant.

\textbf{Nature and Role of Opposition Parties during the period 1921-36:}

In the Councils constituted under the Government of India Act 1919, the elected representatives sat in the opposition. Thus came into existence the opposition.

The Assam Legislative Council, 1921-23 consisted of only men of moderate views. Although they disliked the measures taken by the Government yet they did not oppose the Government. In the subsequent councils, however, the Swarajist, whose principle was the destruction of Dyarchy and the establishment of responsible Government, formed the main opposition.

On peculiar feature was that the opposition consisted of a number of political parties with different policies and programmes, though sometimes, they cooperated with one another in the Council.\textsuperscript{68}

\textsuperscript{67} The Council recommends to the Government that necessary steps may be taken for the inclusion of Forests, PWD, Excise and Fishery among the Transferred Subjects at an early date.

\textsuperscript{68} AL\&P, 26.3.1924, Vol.III, No.20, p.400.