

FACULTY OF JURIDICAL SCIENCES

COURSE: B.A.LL.B. II Semester

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Lecture-42



The Indian Councils Act, 1861

The Indian Councils Act 1861 was an act of the British Parliament that made significant changes in the Governor-General's Council.

Provisions of the Indian Councils Act 1861

- For the executive functions of the Council, a fifth member was added. Now there were five members for home, military, law, revenue and finance. (A sixth member for public works was added in 1874.)
- Lord Canning, who was the Governor-General and Viceroy at the time, introduced the portfolio system. In this system, each member was assigned a portfolio of a particular department.
- For legislative purposes, the Governor-General's Council was enlarged. Now, there were to be between 6 and 12 additional members (nominated by the Governor-General).
- They were appointed for a period of 2 years. Out of these, at least half of the additional members were to be non-official (British or Indian).
- Their functions were confined to legislative measures.
- Lord Canning nominated three Indians to the Council in 1862 namely, the Raja of Benares, the Maharaja of Patiala and Sir Dinkar Rao.
- Any bill related to public revenue or debt, military, religion or foreign affairs could not be passed without the Governor-General's assent.
- The Viceroy had the power to overrule the council if necessary.
- The Governor-General also had the power to promulgate ordinances without the council's concurrence during emergencies.
- The Secretary of State for India in Britain could also dissolve any act passed by the Governor-General's Council.
- This Act restored the legislative powers of the Governor-in-Councils of the Presidencies of Madras and Bombay (which was taken away by the Charter Act of 1833).
- The legislative council of Calcutta had extensive power to pass laws for the whole of British India.

- There was provision made for the formation of legislative councils in other provinces. New provinces could also be created for legislative purposes and Lieutenant Governors be appointed for them. Legislative councils were formed in other provinces in Bengal in 1862, North-West Frontier Province in 1886 and Punjab and Burma in 1897.

Assessment of the Indian Councils Act 1861

- The legislative council had limited role. It was chiefly advisory. No discussion on finance was permitted.
- Even though Indians were nominated, there was no statutory provision for the inclusion of Indians in it.
- It allowed for the decentralisation of administration with the vesting of legislative power to the presidencies of Bombay and Madras.
- The power of ordinance given to the governor-general gave him absolute powers.