

### ICA1861 (INDIAN COUNCILS ACT)

1. Secretary of State for India (\*SoSforIndia) Charles Wood – “Government of India must be Despotism controlled from Home”. This stayed fundamental feature till 1947. (\*Despotism is dictatorship, home is Britain. Dictator is SoSforIndia)
2. Hallmark= Indians 1st time could be lawmakers.
3. **Reasons:** Post 1857 British wanted cooperation of elite Indians in administration as in 1857 revolt where elites stayed loyal there was limited activity. (\*two strategies for political stability via Divide & Rule = get support of leaders or of masses e.g. PS1793 vs Ryotwari1801 + Downward Filtration Theory 1835 vs Woods Dispatch1854)
4. **Features**
  - a. Viceroy's council divided into ILC and VEC/IEC (Imperial Legislative Council & Viceroy's Executive Council/Imperial Executive council) i.e. separate legislative & executive bodies, both under viceroy.
  - b. Setup PLCs (Provincial Legislative Council) & Governor's Executive Council in Provinces.
  - c. **VEC** Size=5 ordinary members= 5 ministers (\*3 nominated by SoS, 2 by Crown) + C-I-C participated as extraordinary member since 1861). From 1869 all members (i.e. ordinary members) to be nominated by Crown. In 1874 Size increased to 6 ordinary members.
  - d. @ILC: Viceroy could nominate **6-12 additional law members** to ILC of which half must be non-officials (\*\* earlier all bureaucrats). Thus

introduced **Grain** of Popular element & 1<sup>st</sup> attempt at representative character of governance as 1<sup>st</sup> time Indians could be nominated to legislative branch of state. [Tenure of 2 yrs] (\* grain= a drop or a rice grain & not biryani i.e. not proper; Popular= Indian)

- e. **1862- 3 Indians nominated to ILC** – Raja of Banaras, Maharaja of Patiala, Sir Dinkar Rao (elites).
- f. Until ICA1892, only 45 Indians nominated + mainly Zamindars & moneylenders from British Indian Association (BrlA1851), British businessmen & some Rulers of Princely States (\*565PS) nominated.[i.e. those sections who were loyal in 1857]

#### 5. Powers

- a. No discussion by ILC without prior approval of viceroy.
- b. No discussion on actions of administration.
- c. Prior approval of viceroy needed for introduction of bills.
- d. Viceroy had veto power over bills
- e. therefore ILC of ICA 1861 not a Parliament (\* No control over Executive + only nominated Indians & not elected + small size)

#### 6. Executive

- a. **Portfolio system** of 1859 was legally recognized i.e. allocation of departments(\*=ministries) to members of VEC & decision of that member to be final, subject to approval by Viceroy.
- b. Ordinance Power to Viceroy in special circumstances (life of 6 months).

## 7. In Provinces –

a. Provisions similar to ILC in PLC

b. (@Federalism)-

- i. ICA1861 began decentralization from Center to Provinces as Legislative powers of Bombay & Madras restored [\*\*centralization began in 1773 + Peaked in 1833 when legislative power of Bombay & Madras taken away + Decentralization peaked in GOI 1935 with provincial autonomy.]
- ii. New PLCs proposed for Bengal, Punjab, North West Provinces (\*NWP1836) and setup in 1862, 1886, 1887 respectively.

c. (@Centralisation)-

- i. Viceroy had power to create new provinces & appoint LG for the same + Power to frame rules & orders for conduct of business in all councils.
- ii. Non-official members in PLC to be nominated by Viceroy.
- iii. Prior approval of viceroy needed for introduction of some bills in PLCs (\*Art 304 COI1950).
- iv. No separate provincial budget (i.e. only One Central Budget for Br India-by Govt of GG at Centre)