

## Examrace

# Making of the Making of the Constitution, Council of Ministers, Attorney General

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## Making of the Making of the Constitution

1934: Idea of Constituent Assembly Put Forward by M N Roy



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- 1935: INC officially demands constituent assembly
- 1938: JL Nehru's declaration on the constitution of India
- 1940: Nehru's demand accepted in the form of August Offer
- August Offer
  - PM: Winston Churchill
  - While rejecting INCs demand for independence of India after the war on the ground that INC is not representative of the minorities, three offers were made
  - Expansion of Viceroy's executive council with the inclusion of Indian representatives

- An advisory body with the members from British India and Indian princely states which were supposed to meet at consequent intervals was established
- Two practical steps were decided to be taken in which it was to come at an agreement with the Indians on the form which the post representatives body should take and the methods by which it should come to a conclusion.
- It further planned to draw out the principles and outlines of the Constitution itself
- Congress rejected the offer
- 1942: Cripps Mission
  - PM: Winston Churchill
  - Sec of State: Leo Amery
  - Viceroy: Linlithgow
  - On the framing of an independent constitution to be adopted after the WW II
  - Cripps proposals rejected by the ML which wanted India to be divided into two autonomous states
- 1946: Cabinet Mission
  - PM: Clement Attlee
  - Viceroy: Lord Wavell
  - Members: Pethick Lawrence (sec of state for India) , Stafford Cripps, A V Alexander
  - Simla Conference
  - May 16 plan
    - United dominion of India would be given independence
    - Muslim majority and Hindu majority provinces to be grouped
    - Central government to run foreign affairs, defence and communications while rest of the responsibility would belong to the provinces, coordinated by the two groups
  - Interim cabinet was formed. ML joined the cabinet but decided to boycott the constituent assembly
- 1946, Nov: Constituent Assembly formed under the Cabinet Mission Plan
- First meeting of CA on December 9,1946. Sacchidanada Sinha was elected the temporary President
- Dec 11,1946: Rajendra Prasad and H C Mukharjee elected as the President and VP of the assembly respectively.
- BN Rao was the constitutional advisor to the assembly

- Dec 13,1946: Objectives Resolution moved by JL Nehru
- Jan 22,1947: Objectives resolution adopted
- June 3,1947: Mountbatten plan. Partition of the country announced.
- Jan 24,1950: Final session of the CA. It however continued as a provisional body from Jan 26,1950 till the formation of the new Parliament after the first general elections in 1951 - 52

### Major Committees of CA

Committee	Chairman
Union Powers Committee	JL Nehru
Union Constitution Committee	JL Nehru
Committee for Negotiating with States	JL Nehru
Steering Committee	Rajendra Prasad
Rules of Procedure Committee	Rajendra Prasad
Provincial Constitution Committee	Sardar Patel
Committee on Fundamental Rights and Minorities. Two sub committees (FR , Minorities)	Sardar Patel (J B Kriplani, H C Mukharjee)
Drafting Committee	B R Ambedkar

*Table of Major Committees of CA*

- Drafting Committee was setup on Aug 29,1947. It had seven members
  - B R Ambedkar
  - Alladi Krishnaswamy Iyer
  - N Gopaldaswami Ayyangar
  - K M Munshi
  - TT Krishnamchari
  - N Madhava Rau
  - Syed Mohammad Saadullah
- Nov 26,1949: Constitution was adopted
- The Preamble was enacted after the entire Constitution was already enacted

### Governor

- Same person can be appointed the governor of two or more states
- Appointed by the President
- May resign by writing to the President
- Qualification
  - Citizen of India
  - 35 years of age
- Art 161: Pardon for any offence against a law relating to a matter to which the executive power of the state extends
- Constitution does not state the procedure or the grounds for the removal of the Governor

### **Council of Ministers**

- The advice tendered by the CoM cannot be enquired in a court
- Number of ministers in the CoM (including the PM) cannot exceed 15 pc of the total number of members of LS (91<sup>st</sup> amendment, 2003)
- If a person is disqualified under the 10<sup>th</sup> schedule (defection) , he cannot become a minister
- Art 75 (3) : Collective responsibility

### **Attorney General**

- Article 76
- Should be qualified to be appointed as a judge of the SC
- Right of audience in all courts in the territory of India
- Has the right to take part in the proceedings of either house, without the right to vote.

### **Parliament**

- Consists of the President, Lok Sabha and Rajya Sabha
- Six months should not intervene between consecutive sessions
- The president shall address a joint sitting of both the houses at the first session of every year and at the first session after the general elections



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- The Chairman and Speaker can vote only in case of equality of votes
- Quorum: One-tenth of the total number of members of the House
- MPs resign by addressing their resignation to the Speaker of the Chairman
- If a member is continuously absent for 60 days without permission for all the meetings of the House, his seat is declared vacant
- Article 102: grounds for disqualification.
- 5 grounds
- Decision on questions as to disqualification of members shall be referred to the President and his decision shall be final. The President, in giving his decision, shall act in accordance with the advice of the Election Commission
- Joint sitting: If passed by one house and rejected by the other, disagreement between houses on the amendments to the bill, more than six months has passed and the other house has not passed the bill
- Joint sitting does not apply to Money Bills

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