Sir Ivor Jennings and the Malayan Constitution

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This article examines the role of the British jurist, Sir Ivor Jennings, in the drafting of the Malayan independence constitution. Jennings was part of a five-man constitutional commission appointed in 1956 and led by the Scottish lord of appeal, Lord Reid. Unlike other such commissions, but at the request of Malaya's chief minister, its members were selected from a range of Commonwealth countries. The article discusses the principles which shaped the final document as well as the process of drafting, and argues that, while the constitution was the collective effort of five distinguished lawyers, Jennings' contributions were significantly greater. His working papers on governance served as the basis for the commission's discussion and his influence is most discernible in the provisions relating to the distribution of legislative and financial powers between the federal government and the states and in the section on fundamental liberties. This article concludes that Jennings not only provided the intellectual leadership for the Reid Commission but was also the master draftsman of the new constitution.

Modern constitutions are the creation of many minds – jurists, legislators and leading intellectuals. Often a few individuals among the framers provide the intellectual leadership and constitutional expertise. James Madison, Alexander Hamilton, James Wilson and Gouverneur Morris, for example, were the principal figures at the Constitutional Convention that met in Philadelphia in the summer of 1787 to draft a new American federal constitution. In India, B.R. Ambedkar and Vallabhbhai Patel were the leading lights in the formulation of the Indian constitution by the Constituent Assembly between 1946 and 1949. Sir William Ivor Jennings similarly played a key role in the framing of the Federation of Malaya constitution in 1956–57. A Cambridge academic and lawyer, Jennings was part of a five-man constitutional commission, called the Reid Commission, comprising jurists from the Commonwealth, who prepared the draft constitution which came into force on 31 August 1957 as Malaya became independent. This article examines Jennings' role and influence in shaping the new constitution.