

Prof. K.T. Shah (Bihar: General): Yes, Sir.

Mr. President : Have we not discussed this question in relation to the Supreme Court?

Prof. K.T. Shah : It has been discussed, I know.

Mr. President : It is any use going over the same ground?

Prof. K.T. Shah : In that case I shall not move it.

(Amendment 2562 was not moved.)

Article 192

(Amendment Nos. 2578 to 2580 were not moved.)

Mr. President : Amendment No. 2581 is in Dr. Ambedkar's name. This has to be formally moved.

The Honourable Dr. B. R. Ambedkar : Sir, I formally move:

"That in the proviso to article 192, the words beginning with 'together with any' and ending with 'of this Chapter' be deleted, and after the words 'fix' the words 'from time to time' be inserted."

Sir, I move:

"That with reference to amendment No. 2581, of the List of Amendments, for article 192, the following new articles be substituted:—

'192. Every High Court shall be a court of record and shall have all the powers of such a court including High Courts to be courts the power to punish for contempt of itself.'

'192-A. Every High Court shall consist of a Chief Justice and such other judges as the President may from Constitution of high Courts time to time deem it necessary to appoint:

Provided that the judges so appointed shall at no time exceed in number such maximum as the President may, from time to time, by order fix in relation to that to that Court.' "

(Amendment No. 2582 was not moved.)

Prof. Shibban Lal Saksena : Sir, I only wish to draw attention to one fact. Article 192 says:

"Every High Court shall be court of record and shall consist of a Chief Justice and such other judges as the President may from time to time deem it necessary to appoint."

and in the proviso it was said:

"Provided that the judges so appointed together with any additional judges appointed by the President in accordance with the following provisions of this Chapter shall at no time exceed in number such maximum as the President may by order fix in relation to that court."

My only objection to the use of the word "President" in this clause is that this the function of the Supreme Court. If the court feels that justice cannot be dispensed unless a certain number of judges are in the court. It is their province to recommend this. I therefore think that the President should fix the number on the advice of the Supreme Court Chief Justice or in consultation with him, so that the Supreme Court may have the initiative in advising the President as to what is the number of judges required for each High Court, That should I think be provided for.

Mr. President : The question is:

“That with reference to amendment No. 2581, of the List of Amendments, for article 192, the following new articles be substituted:—

192. Every High Court shall be a court of record and shall have all the powers of such a court including High Court to be courts the power to punish for contempt of itself.

‘192A. Every High Court shall consist of a Chief Justice and such other judges as the President may from time to time deem it necessary to appoint:

Provided that the judges so appointed shall at no time exceed in number such maximum as the President may, from time to time, by order fix in relation to that Court.’ ”

The amendment was adopted.

Mr. President : The question is:

“That article 192, as amended, stand part of the Constitution.”

The motion was adopted.

Article 192, as amended, and 192-A were added to the Constitution.

Mr. President : Hon. Shri G.S. Gupta’s amendment relates to the language question which we shall not take up now.

Article 193

(Amendment No. 2584 was not moved.)

Mr. B. Pocker Sahib (Madras: Muslim): Sir, I beg to moved:

“That for clause (1) of article 193, the following be substituted:—

‘(1) Every Judge of a High Court shall be appointed by the President by a warrant under his hand and seal on the recommendation of the Chief Justice of the High Court concerned after consultation with the Governor of the State concerned and with the concurrence of the Chief Justice of India and shall hold office until he attains the age of sixty-three years.’ ”

There are two points involved in this amendment. Even in connection with the articles dealing with the appointment of Supreme Court judges I have made a reference to the recommendations in the memorandum of the Federal Court and the Chief Justices of the provincial High Courts. There fore I do not propose to deal with those points to which I had already referred. I would request the Members of this House to consider the points mentioned in the memorandum of the Federal Court and the Chief Justices of all the High Court in India. It is very valuable document and therefore proper weight should be attached to that by the House. I do not want to repeat those arguments to which I have referred on the previous occasion.

The important difference between my amendment and the article as it stands is that the amendment requires that the main recommendation must be from the Chief Justice of the High Court concerned after consultation with the Governor of the Province and the concurrence of the Chief Justice of India is insisted on. It is very necessary that the recommendation should be that of the Chief Justice of the High Court concerned and the Governor is only to be consulted. The concurrence of the Chief Justice of India is insisted on in my amendment which is an important thing. I do not want to repeat the arguments which I mentioned in connection with the appointment of the judges of the Supreme Court. The reason for the amendment is that in the matter of appointments to the High Courts there should be only consultation with the Governor and the Ministry should not have any real part in these appointments and they should be above political considerations.