

people and to some extent of the rights of the Government of India and the Units as such. To a large extent it would be concerned in my judgment with the rights of the people themselves in which the government of the day can hardly have any interest at all. Consequently the opportunity for the executive to influence the judiciary is very small and it seems to me that purely for a theoretical reason to disqualify people from holding other offices is to carry the thing too far. We must remember that the provisions that we are making for our judiciary are not, from the point of view of the persons holding the office, of a very satisfactory character. We are asking them to quit office at sixty while in England a person now can hold office up to seventy years. It must also be remembered that in the United States practically an office in the Supreme Court is a life tenure, so that the question of a person seeking another office after retirement can very seldom arise either in the United States or in Great Britain.

Similarly, in the United States, so far as pension is concerned, the pension of a Supreme Court Judge is the same as his salary: there is no distinction whatsoever between the two. In England also pension, so far as I understand, is something like seventy or eighty per cent. of the salary which the Judges get. Our rules, as I said, regarding retirement impose a burden upon a man inasmuch as they require him to retire at sixty. Our rules of pension are again so stringent that we provide practically a very meagre pension. Having regard to these circumstances I think the amendment proposed by Prof. K. T. Shah is both unnecessary for the purpose he has in mind, namely of securing separation of the judiciary from the executive, and also from the point of view that it places too many burdens on the members who accept a post in the judiciary.

Shri H. V. Kamath : May I say that this amendment applies not to retired Judges but to Judges serving on the bench at the moment?

The Honourable Dr. B. R. Ambedkar : If I may say so, the amendment seems to be very confused. It says that it shall apply to a person who has served “for a period of five years continuously”. That means if the President appointed a Judge for less than five years he would not be subject to this, which would defeat the very purpose that Prof. K. T. Shah has in mind. It would perfectly be open to the President in any particular case to appoint a Judge for a short period of less than five years and reward him by any post such as that of Ambassador or Consul or Trade Commissioner, etc. The whole thing seems to me quite ill-conceived.

Mr. President : The question is:

“That the following new article 193-A after article 193 be added:

‘193-A. No one who has been a Judge of the Supreme Court, or of the Federal Court or of any High Court for a period of 5 years continuously shall be appointed to any executive office under the Government of India or the Government of any State in the Union, including the office of an Ambassador, Minister, Plenipotentiary, High Commissioner, Trade Commissioner, Consul, as well as of a Minister in the Government of India or under the Government of any State in the Union.’ ”

The amendment was negatived.

Article 194

Mr. President : The question is:

“That article 194 stand part of the Constitution.”

The motion was adopted.

Article 194 was added to the Constitution.