

**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.

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

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### 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.

Another point involved in the amendment is as regards the age. On this matter I would draw the attention of the House to the recommendation of the Federal Court and the Chief Justices of the High Courts in India. They state:

“It is essential that a difference of three to five years should be maintained between the retiring age of the High Court judge and that of the Supreme Court judge. The age limit for retirement should be raised to 65 for High Court judges and to 68 years for Supreme Court judges.”

They go to the extent of recommending that the age should be fixed for retirement at 65. We know cases in which retired High Court judges are very energetic and have held very responsible positions in life after retirement. When that is so, I do not see any reason why they should be compelled to retire at an earlier age. Therefore, I would request honourable Members to pay sufficient consideration to the recommendations made by the Federal Court and the Chief Justices of the various High Courts who put the age limit as high as 65, while my amendment only raises it to 63. I do not want to add anything more to what I have said.

The Assembly then adjourned till Eight of the Clock on Tuesday, the 7th June 1949.

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