

In what may be called  
the "career



In the United States, the President appoints federal judges subject to approval by the Senate.

As a result of " Senatorial Courtesy" it is customary that the selection of the District Court Judges is made by the Senators from the state where the vacancy occurs if they are members of the same political party to which the President belongs. In countries where tenure of office during good behaviour is the rule, the character of the appointment of judges may determine the course of government for years to come. For example, the appointment, to the United States Supreme Court, of John Marshall who believed in judicial supremacy, ensured a long line of decisions upholding the right of the federal government to control various matters, even after those who favoured the right of the several states to larger autonomy had gained control of the legislative and executive branches. In Continental countries there exists what may be called the " career service.

" In such countries the judicial service constitutes a branch of the general civil service and is usually entered only at its lowest levels by persons who have just completed their legal training. All the higher positions are normally filled by promotions from the lower ranks. This means judges are subject to a certain control of the political authorities who decide and determine promotions. But more important are the judicial powers that are still exercised directly by the executive department, for example, the Court Martial and the enforcement of Administrative Law. The right of granting pardon still belongs to the executive and it is the direct survival of its original judicial function. The Judiciary, too, in its turn has considerable powers of

administration and control over the executive. In all democratic countries the executive is amenable to the jurisdiction of the courts.

Its actions can be challenged and appropriate remedies sought by means of an appropriate writ, and if the exercise of authority is deemed in excess of the powers vested in it by law such an action may be nullified. The rights of courts to uphold their dignity by instituting contempt of court proceedings and punishing offenders is a great check exercised by the judiciary on the executive. Finally, the judiciary has to perform a number of functions which are, strictly speaking, executive in character, for example, granting of licences, issuing of permits, appointing of guardians and trustees, official receivers etc.