

STATEMENT OF OBJECTS AND REASONS

Several amendments to the Constitution have been under consideration for a long time. The Constitution (Fifth Amendment) Bill was introduced in Lok Sabha in November, 1955, to give effect to some of them. For various reasons, the Bill could not be proceeded with, and it was allowed to lapse except the one relating to the amendment of article 3 of the Constitution. This article was amended separately by the Constitution (Fifth Amendment) Act, 1955. The present Bill contains some of the proposals included in the Constitution (Fifth Amendment) Bill and, in addition, there are a few more proposals for amendment of the Constitution. The proposals relating to articles 276, 297, 311 and 316 of the Constitution were contained in the Constitution (Fifth Amendment) Bill and they have been adopted with some minor modifications. The new proposals relate to articles 124, 128, 217, 220, 222, 224A, 226 and entry 78 of the Union List.

2. It is proposed to amend article 217 so as to raise the age of retirement of High Court Judges from sixty years to sixty-two years. When any question arises to the correct age of a Judge of the Supreme Court or of a High Court, the question has to be decided by the President. It is proposed to make the position clear by making a specific provision in articles 124 and 217. It is considered desirable in the public interest that Judges should be transferred from one High Court to another. Such transfer is expected to impose additional financial burden on the Judge who is so transferred. It is, therefore, proposed to pay him some compensatory allowance in addition to his salary. When a Judge is transferred from one High Court to another, he cannot, in view of the provisions of article 220, resume practice in any of the High Courts in which he has held office as a Judge. The provisions of article 220 therefore put a check on the proposal for the transfer of any Judge of a High Court. It is, therefore, proposed to amend article 220 so that the restriction regarding resumption of practice should apply only to the High Court from which the Judge retires, provided that he had served in that High Court for a period of at least five years immediately before retirement. Such a provision would facilitate the transfer of Judges. Under the existing article 226 of the Constitution, the only High Court which has jurisdiction with respect to the Central Government is the Punjab High Court. This involves considerable hardship to litigants from distant

places. It is, therefore, proposed to amend article 226 so that when any relief is sought against any Government, authority or person for any action taken, the High Court within whose jurisdiction the cause of action arises may also have jurisdiction to issue appropriate directions, orders or writs. The other new proposals are of a minor character.

3. The notes on clauses appended to the Bill explain the provisions thereof.

NEW DELHI;

A. K. SEN.

The 14th November, 1962.