

I hope he will take them into consideration today. Now let us take up Bill for Introduction.

THE PHARMACY (AMENDMENT) BILL, 1975

THE DEPUTY MINISTER IN THE MINISTRY OF HEALTH AND FAMILY PLANNING (SHRI A. K. M. ISHAQUE): Sir, I beg to move for leave to introduce a Bill further to amend the Pharmacy Act, 1948.

The question was put and the motion was adopted.

SHRI A. K. M. ISHAQUE : Sir, I introduce the Bill.

THE CONSTITUTION (FORTIETH AMENDMENT) BILL, 1975

THE MINISTER OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI H. R. GOKHALE) : Mr. Chairman, Sir, I move:

"That the Bill further to amend the Constitution of India, as passed by the Lok Sabha, be taken into consideration."

Sir, Hon'ble Members are familiar with the provisions of article 71 of the Constitution, which relates to matters as to the election of a President or Vice-President. This article provides for two things, namely, (1) disputes arising out of their election shall be decided by the Supreme Court, and (2) that matters relating to their election be regulated by a Parliamentary law. Parliament has enacted laws on the subject. The time has now come for reviewing whether a change is needed as regards the forum for determining matters relating to their election. Hon'ble Members are aware that neither the President nor the Vice-President is answerable to courts of law for anything done in the exercise of their powers while in office. It is, therefore, appropriate that issues relating to their election should also be placed beyond the jurisdiction of courts. Accordingly, a provision has been made in the Bill to the effect that issues relating to

their election should be determined by an authority or body created by a Parliamentary law. Consistently with the provision creating a separate forum other than the Supreme Court for the resolution of disputes relating to their election, a clause has been inserted to the effect that the validity of any law creating the new forum or the decision of such forum shall not be called in question in any court of law. We now come to the offices of Prime Minister and Speaker. From the point of view of the high offices they hold, their position is in no way different. At present the validity of an election to either House of Parliament of a person holding the office of Prime Minister or Speaker is governed by the provisions of the Representation of the People Act, 1951. Under Article 329 of the Constitution, their election can be questioned by way of an election petition presented to such authority as is provided for in a Parliamentary law. Now section 80A of the Representation of the People Act, 1951, provides that the High Court has jurisdiction to try an election petition. The proposal is to amend the Constitution to provide that no election to either House of Parliament of a person holding the office of Prime Minister or Speaker shall be called in question except before such authority or body as may be provided for by a Parliamentary law. With this end in view, a special provision has been made in the new proposed article 329A for resolving disputes arising out of election to Parliament of a person holding the high office of Speaker or Prime Minister. Here again, we have made a provision that the validity of the law creating the new forum or the decision of any authority or body constituted under such a law shall not be called in question in any court.

Opportunity is being taken to include certain laws, Central as well as State, in the Ninth Schedule to give them the protection of article 31B and remove any uncertainty about their validity. As hon. Members will recall, we resorted to article 31B in the past whenever we found that the validity of progressive legislation was challenged in courts. The last Constitutional amendment was made in 1974. We