
STATEMENT OF OBJECTS AND REASONS

Article 71 of the Constitution provides that disputes arising out of the election of the President or Vice-President shall be decided by the Supreme Court. The same article provides that matters relating to their election shall be regulated by a parliamentary law. So far as the Prime Minister and the Speaker are concerned, matters relating to their election are regulated by the provisions of the Representation of the People Act, 1951. Under this Act the High Court has jurisdiction to try an election petition presented against either of them.

2. The President, the Vice-President, the Prime Minister and the Speaker are holders of high offices. The President is not answerable to a court of law for anything done, while in office, in the exercise of his powers. *Afortiori* matters relating to his election should not be brought before a court of law but should be entrusted to a forum other than a court. The same reasoning applies equally to the incumbents of the offices of Vice-President, Prime Minister and Speaker. It is accordingly proposed to provide that disputes relating to the election of the President and Vice-President shall be determined by a forum as may be determined by a parliamentary law. Similar provision is proposed to be made in the case of the election to either House of Parliament or, as the case may be, to the House of the People of a person holding the office of Prime Minister or the Speaker. It is further proposed to render pending proceedings in respect of such election under the existing law null and void. The Bill also provides that the parliamentary law creating a new forum for trial of election matters relating to the incumbents of the high offices abovementioned shall not be called in question in any court.

3. Recourse was had in the past to the Ninth Schedule whenever it was found that progressive legislation conceived in the interests of the public was imperilled by litigation. It has become necessary to have recourse to this device once again now. Between 1971 and 1973 legislation was enacted for nationalising coking coal and coal mines for conserving these resources in the interests of steel industry. These enactments have been brought before courts on the ground that they are unconstitutional. So is the case of sick textile undertakings which were nationalised in 1974. To prevent smuggling of goods and diversion of foreign exchange which affected national economy Parliament enacted legislation which again has been challenged in the Supreme Court and in High Courts. These and other important and special enactments which it is considered necessary should have the constitutional protection under article 31-B, are proposed to be included in the Ninth Schedule. Certain State legislations relating to land reform and ceiling on agricultural land holdings have already been included in the Ninth Schedule. Certain amendments made to these legislations also require protection of the provisions of article 31B.

4. The Bill seeks to give effect to the above objects.

NEW DELHI;
The 6th August, 1975.

H. R. GOKHALE.

S. L. SHAKDHER,
Secretary-General.