

[Mr. Deputy-Speaker]

"That leave be granted to introduce a Bill further to amend the Code of Civil Procedure, 1908."

The motion was adopted.

SHRI NIRMAL CHANDRA JAIN:  
I introduce the Bill.

CONSTITUTION (AMENDMENT)  
BILL\*

(Amendment of Article 352)

SHRI CHITTA BASU (Barasat): I move for leave to introduce a Bill further to amend the Constitution of India.

MR. DEPUTY-SPEAKER: The question is:

"That leave be granted to introduce a Bill further to amend the Constitution of India".

The motion was adopted.

SHRI CHITTA BASU: I introduce the Bill.

15.17 hrs.

CONSTITUTION (AMENDMENT)  
BILL

(Amendment of Article 124)  
By SHRI P. K. DEO—contd.

MR. DEPUTY-SPEAKER: Now, we move on to further consideration of the motion moved by Shri P. K. Deo I think Shri Deo was on his legs.

SHRI P. K. DEO (Kalahandi): Mr. Deputy-Speaker, Sir, the other day while taking part in consideration of my Constitution (Amendment) Bill, I pointed out that though the Constitution of India provides for the procedure for appointment of the judges of the Supreme Court, the

Constitution of India lays down no procedure or guidelines regarding the appointment of the Chief Justice of the Supreme Court. It is entirely left at the discretion of the President. You all know the President under the Constitution acts on the advice of the Council of Ministers. So, for all practical purposes, the Chief Justice of the Supreme Court is appointed by the Executive of this country.

Sir, while discussing this aspect, I suggested a very simple method in this Constitution (Amendment) Bill. It says:

"Provided further that the senior most Judge of the Supreme Court shall be appointed as the Chief Justice."

'Shall be' is a mandatory provision. It further says:

"Provided further that the senior shall be appointed the Chief Justice who has not served for at least two years as a Judge of the Supreme Court".

This is a simple provision and needs an amendment to Art. 124 of our Constitution. While discussing I had pointed out the sordid manner in which some of our eminent judges had been superseded by the previous Government which created an uproar throughout the country. And mostly, all the Bar Associations passed a near unanimous resolution condemning the Executive action of the Government.

It related to the supercession of Justice Shelat, Justice Hegde and Justice Grover who distinguished themselves as the upholders of the rule of law and citizens' rights. One day prior to that, in an important constitutional case, in Shri Keshavanand Bharati's case, they gave a judgment which was not to the liking of the Government, and the Attorney General had the cheek to speak in the Supreme Court that some political

\*Published in Gazette of India Extraordinary Part II, section 2, dated 2-12-1977.