

शन की आवश्यकता है। सरकार इसको नोटिफाई कर के इसको धोषित करेगे और जल्दी ही कदम उठायेगे।

वेज लिमिट का जहां तक सवाल है आई. डी. एक्ट पास होने के बाद इनकी सारी फौंसिलिटीज मिलेंगी, चाहे आई. एस. आई की फौंसिलिटी हो या अन्य कोई फौंसिलिटी हो क्योंकि, कोई वेज लिमिट नहीं है एम्प्लोईज के लिए। इसलिये कोई इससे प्रभावित नहीं होता है। राज्य सभा की समिति ने इसको स्टेट्यूटरी फ़ोर्स देने की स्वीकृति की थी जिसे हमने स्वीकार कर लिया है, और अन्य संशोधनों के साथ आपके सामने आये हैं। आप इसको स्वीकार करें। इसका व्यापक समर्थन हो चुका है, और कोई विशेष जानकारी माननीय सदस्यों ने नहीं चाही है। जो सूचना चाही थी उसकी जानकारी मैंने दे दी है। मुझे आशा है कि आप इस बिल स्वीकार करेगे।

17.00 hrs.

MR. DEPUTY-SPEAKER : The question is :

“That the Bill to amend the Sales Promotion Employees (Conditions of Service) Act, 1976, as passed by Rajya Sabha, be taken into consideration.”

*The motion was adopted.*

MR. DEPUTY-SPEAKER : Now, the House will take up Clause by Clause consideration of the Bill. There are no amendments to Clauses 2 and 3.

The question is :

“The Clauses 2 and 3 stand part of the Bill.”

*The motion was adopted.*

*Clauses 2 and 3 were added to the Bill.*

*Clause 1—Short Title*

MR. DEPUTY-SPEAKER : There is Government Amendment to this Clause. You may move.

*Amendment made.*

“Page 1, line 4,—

for “1980” substitute “1982” (2)

[*Shri Dharamavir*]

MR. DEPUTY-SPEAKER : The question is :

“The Clause 1, as amended, stand part of the Bill.”

*The motion was adopted.*

*Clause 1, as amended, was added to the Bill.*

### ENACTING FORMULA

MR. DEPUTY-SPEAKER : There is Government Amendment to the Enacting Formula. You may move it.

*Amendment made.*

“Page 1, line 1,—

for “Thirty-first”

substitute

“Thirty-third” (1)

[*Shri Dharamavir*]

MR. DEPUTY-SPEAKER : The question is :

“That the Enacting Formula, as amended stand part of the Bill.”

*The motion is adopted.*

*The Enacting Formula, as amended, was added to the Bill.*

MR. DEPUTY-SPEAKER : The question is :

“That the Title stand part of the Bill.”

*The motion was adopted.*

*The Title was added to the Bill.*

MR. DEPUTY-SPEAKER : Now, the Minister may move that the Bill, as amended, be passed.

SHRI DHARMAVIR : Sir, I beg to move :

“That the Bill, as amended, be passed.”

MR. DEPUTY-SPEAKER : The question is :

“That the Bill, as amended, be passed.”

*The motion was adopted.*

17.04 hrs.

POWERS-OF-ATTORNEY (AMENDMENT) BILL

MR. DEPUTY-SPEAKER : The House will now take up the next item

On behalf of Shri Jagannath Kaushal, Shri Ghulam Nabi Azad will pilot the Bill.

THE DEPUTY MINISTER IN THE MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI GHULAM NABI AZAD) : Mr. Deputy-Speaker, Sir, on behalf of Shri Jagannath Kaushal, I move :

“That the Bill further to amend the Powers-of-Attorney Act, 1882, as passed by Rajya Sabha, be taken into consideration.”

Sir, this Bill is a very short one and I hope also a non-controversial one. It seeks to amend the century-old Powers of Attorney Act, 1882. On the whole, the Act has worked well. But, in the light of its policy of modernising and updating the laws, the question of its revision was considered by the Government in the light of the recommendations of the Law Commission. This Bill is the result. The Act applied to the whole of India except the State of Jammu and Kashmir. Since Entry 7 of the Concurrent List of the Seventh Schedule to the Constitution does not apply to the State of Jammu and Kashmir, the Act has not been extended to that State.

Although the Act deals with powers of attorney, it has nowhere defined that expression and does not state what a power of attorney is. Hence, for understanding this expression used in the Act, Law Lexicons and other authoritative legal treatises are sometimes required to be consulted. To obviate this difficulty, and to make the Act self-contained, it is proposed to add a definition of the expression ‘Power of Attorney’.

Section 4 of the Act provides for the deposit of powers of Attorney in High Courts and for the issue of certified copies of such powers by the High Courts. These copies, without further proof, would be sufficient evidence of the contents of the documents. It is proposed to make this facility available also to persons who live at places far away from the High Courts. To achieve this object, the Act is being amended so as to enable the deposit of powers of Attorney in the District Courts also and for the issue of certified copies thereof by such Courts. This provision would be of benefit to persons living in districts far away from the seat of the High Courts.

Section 5 of the Act, as at present worded, give the impression that the marriage of a minor, which is prohibited by the Child Marriage Restraint Act, is permitted and that a married woman, who is a minor,

could execute a Power of Attorney. The general rule of law as contained in Section 183 of the Contract Act is that any person who is of the age of majority according to the law to which he is subject and who is of sound mind may employ an agent. Under the Child Marriage Restraint Act, the minimum age of marriage for a woman is 18 years which is also the normal age of majority. Further, a minor does not cease to be one, merely because she is married. Therefore, it is proposed to delete the reference to a woman who is a minor, so as to make it clear that a minor, whether married or unmarried, does not have the power to appoint an agent or execute a power of Attorney.

The Bill has been passed by the Rajya Sabha on the 7th October, 1982. I would, therefore, commend this measure to the House.

MR. DEPUTY-SPEAKER : Motion moved :

“That the Bill further to amend the Powers-of-Attorney Act, 1882, as passed by Rajya Sabha, be taken into consideration.”

SHRI M. RAMANNA RAI (Kasaragod) : Mr. Deputy Speaker, Sir, now this Bill has come for discussion in this House. This Bill has been already passed by the Rajya Sabha. But, even though this Bill has been passed by Rajya Sabha, the explanation given by the hon. Minister does not make it clear why this is being amended now and what is the necessity for it. The original Power-of-Attorney Act has been there for nearly 100 years. During these 100 years of its duration, no difficulty was felt by anybody. So, I do not know why at this juncture this amendment is brought forward in this House and why the Minister wishes to get it passed in this House.

Of course, there is the Report of the Law Commission made in the year 1977 ; in its 68th Report, the Law Commission made the recommendation that this entire Power-of-Attorney Act should be changed and another Act should be brought in its place. That was a recommendation made in the year 1977 by the Law Commission. Instead of bringing in a separate Bill, a comprehensive Bill, on the basis of the recommendations of the 68th Report of the Law Commission, he is only bringing in some amendments to it. What is the necessity of this amendment now ? Why is the recommendation of the Law Commission not taken into consideration ? Why has not a comprehensive Bill been brought forward ? This, he has not explained.

Now, while going through the Bill, we have to consider certain points. The first point that I would like to make is that for the past 100 years there were no complaints at all. This Powers-of-Attorney Act had been there all these years. Of course, that Act was brought by our rulers when we were not free. But, still, we are having now more than 75 per cent of our law which have been brought forward or implemented by our rulers, that is, the British rulers.

Particularly in this Power-of-Attorney Act nobody felt any difficulty or any complication and nobody suffered. But why amendment in the nature of this Bill been brought forward now? For that no sufficient explanation is there. Instead of this if the Government had waited for some time and had patience, they could have brought forward some other measures. Now, it is said that we are having a welfare State. I would have been able to appreciate if the Government had brought forward some important Bill to ameliorate the sufferings of the common people in this country. But no such Bill had been brought forward, nor any steps taken to that effect. But without any reason, without any necessity, this Amendment Bill has been brought forward. So, my submission is that actually this Amendment Bill is not at all necessary. But at the same time there is no harm if it is passed. Without the present Amendment Bill also, we would not be facing any difficulties. Even without this Amendment also, there is no harm. I support this Bill because no harm will be done, even though the Government without any plausible reason, has brought forward this Bill before this House for approval. I am glad that he gave me an opportunity to say something on this Bill. With these words, I support the Bill.

**THE DEPUTY MINISTER IN THE MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI GHULAM NABI AZAD):** Sir, my friend has mentioned about the necessity of this Amendment in this Act. Partly I would like to agree with him. In regard to Section 4 of Clause 5, I would agree with him that there is not much of difficulty or there was not much of need. I would like to clarify the point and explain to the hon. Member about the necessity of this Amendment. As I have already mentioned at the out-set while moving this Bill, this Act is about one hundred years old. Of course, it is dealing with the Powers-of-Attorney. But there was no clear definition for this purpose. So, now a proper definition has been suggested. Now, with the passage of time, some of the words which have been repeatedly mentioned in this Act have become out-dated and obsolete. Those words have been deleted. Of course,

you would say that there would not be much difference if those words continue to be there. The main reason for bringing forward this amendment is providing facility of Power-of-Attorney to the authorities at the District Courts also. In this connection, I would like to point out that in Section 4 of the principal Act in clause (a) and clause (d) after the words "the High Court", the words or District Court" shall be inserted. This has been done keeping in view the problems being faced by the common people in the far-flung areas of the country. So far, the deposit of power-of-Attorney was confined to the High Courts only and as far as the issuing of Certificate of copy was concerned, earlier it was confined to the High Courts only. But now with this amendment, the facility is being taken down to the district level. Those who had to go all the way to the High Courts for depositing the instrument from the district level or the block level will have to go to the district court only for this purpose. That is the main point of this amendment.

Then, by amendment of Section 3, it has been provided :

"In section 5 of the principal [Act, for the words 'A married woman, whether a minor or not, shall, by virtue of this Act, have power, as if she were unmarried and of full age, I, the words A married woman of full age, shall, by virtue of this Act, have power, as if she were unmarried', shall be substituted".

By this, it has been made clear that a woman, whether she is married or unmarried, if she is minor, does not have any power to appoint an agent or execute the power of attorney.

I think, it is a non-controversial thing. This is one of the simplest Bills, which we have before us.

I request the hon. Members to accept and pass this Bill.

**MR. DEPUTY SPEAKER :** The question is :

"That the Bill further to amend the Power-of-Attorney Act, 1882, as Passed by Rajya Sabha, be taken into consideration."

*The motion was adopted.*

**MR. DEPUTY-SPEAKER :** We, will now take up clause by clause consideration of the Bill.

The question is :

"That clauses 2 to 6 stand part of the bill"

*The motion was adopted.*

*Clauses 2 to 6 were added to the bill.*

*Clause 1, the Enacting Formula and the Title were added to the Bill.*

SHRI GHULAM NABI AZAD : I beg to move :

“That the Bill be passed.”

MR. DEPUTY-SPEAKER : Motion moved :

“That the Bill be passed.”  
Shri Bhogendra Jha.

SHRI BHOGENDRAJHA (MADHUBANI) : Mr. Deputy-Speaker Sir, I was disappointed after reading this Bill, not that as far as it goes, but I had expected that the Law Minister because of his experience and personal opinion would bring forward a more comprehensive Bill in This regard. I would like to point out one or two more important things.

First, the Consultative Committee attached to the Ministry of Law and Justice—the present Law Minister, Shri Jagan Nath Kaushal was himself a members had unanimously decided that the court fee should go; that should not remain. After becoming Minister he had convened a meeting of the Law Ministers of States and they also held the view that the court fee should go in the case of economically weaker sections of the society. I was expecting that a comprehensive Bill would be brought forward, but instead, some small change are being made through such Bills.

Secondly, the Consultative Committee attached to the Ministry of Law and Justice,—the Present Law Minister was also a party to that, at that time he was not a Minister—had also unanimously decided that there should be a ceiling on the lawyer's fee. Whatever amendments we make and whatever we decide, in a society where there are sharp class divisions, advantage goes to the richer sections of the people. Even this advantage will invariably go to them, because legally and constitutionally justice in our country is on sale as any capitalist country and not because of the corruption. That I keep apart because of the very socio-economic condition. In such a situation I was expecting that with regard to ceiling on lawyers fees, of the abolition of court fees, particularly to lower income group, a Bill would come, but it has not come. As far as this Bill goes, it is correct that taking it to the dist-

riect courts, it is reasonable and helpful. So, I support the Bill.

SHRI R. S. SPARROW (JULLUNDUR) : Hon. Mr. Deputy-Speaker, Sir, I stand in support of the Attorney (Amendment) Bill that has been brought in. Sir, time spins on and anything that is out-of-date shall have to be put right. Conditions change, situations vary and the idea about the toning up the society to new way of looking at it will always go on. And I am very pleased to note that this Bill has been brought in by our Law Minister. Sir, the two most important points that have been reflected and brought into it are : one is about the Indian woman of whom we are proud. Our womanhood the world over, is the finest and the best and wherever we can keep her stature high, that must be done. Sir, it is a point of pleasure to know that even the minor thing about the minor woman, which has not been so thoughtfully considered previously has been brought in and she can now stand on her legs through the benefit of having an Attorney to her. This is something which has gone well on the way to the flow of society of the modern thinking.

(ii) The other point is about the difficulties that we always see around us. All of us have seen as to what are difficulties about the court life. Only the other day it was illustrated here by many of my friends who are very much legal-minded, and have a very wide experience of it as to how many cases keep on pending, how many cases at various levels have to be sorted out in their correct perspective, but because of certain difficulties it is not easy. And anything that concerns the Act like this, you can sort it out at the, district level rather than having to go high and high up to the top-level, is most welcome.

On this particular point I congratulate the Law Minister and urge him that wherever you can shed away and cut away the longevity of court life, the better it is. These two points and the other out of date ideas which he struck down through his pen and working is most welcome. I am very glad to say that my friends sitting opposite have also felt that the court life of it, having been reduced down to the district only so that an early action is taken on this particular case is most welcome. With that I conclude and thank you for giving me the opportunity to speak.

THE DEPUTY MINISTER IN THE MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI GULAM NABI AZAD) : Sir, Mr. Jha has supported the Bill and I am thankful to him. But at the same time he has raised some points. One is regarding the court fee and the other is regarding the ceiling

on lawyers fees. I am afraid these questions do not concern the Bill.

I am also thankful to my Hon. friend, Shri Sparrow. He has also supported the Bill and has rightly put it that with the passage of time some of the amendment are always required.)

With there work I pray that the Bill, be passed.

SHRI BHOGENDRA JHA : Sir, the matter directly concern the Law Minister and the House would like to hear him on those two points.

THE MINISTER OF LAW JUSTICE AND COMPANY AFFIARS (SHRI JAGAN NATH KAUSHAL) : On some other occasion.

MR. DEPUTY SPEAKER : You meet him separately. He will give his clarification.

The question is:

“That the Bill be passed.”

*The motion was adopted.*

MR. DEPUTY SPEAKER : We now come to the next item. Shri Pranab Mukherjee.

SHRI SATYASADHAN CHAKRABORTY (CALCUTTA SOUTH) : Since there is no quorum in the House, I request that this be taken up in the House on Monday.

THE MINISTER OF PARLIAMENTARY AFFAIRS AND WORKS AND HOUSING (SHRI BHISHMA NARAIN SINGH) : There is no question of quorum. There is quorum. But if the House decides so, I have nothing to say.

MR. DEPUTY SPEAKER : If the House agrees, we can postpone Does the House agree to postpone ?

SHRI SATYASADHAN CHAKRABORTY : Yes, Sir.

MR. DEPUTY SPEAKER : The Hon. Member is not raising the question of quorum seriously. He wants this item to be postponed. I hope the House agrees to postpone.

So, we adjourn the House till Monday the 18th October 1982.

**17-25 hours**

*The Lok Sabha then adjourned till Eleven of the Clock on Monday, October 18th 1982/Asvina 26, 1904 (Saka).*