

SHRI K. R. GANESH : I introduce*
the Bill.

I beg to move :

"That the Bill to authorise payment and appropriation of certain sums from and out of the Consolidated Fund of the Union Territory of Manipur for the services of the financial year 1971-72 be taken into consideration."

MR. DEPUTY-SPEAKER : The question is :

"That the Bill to authorise payment and appropriation of certain sums from and out of the Consolidated Fund of the Union Territory of Manipur for the services of the financial year 1971-72 be taken into consideration."

The motion was adopted

MR. DEPUTY-SPEAKER : The question is :

"That clauses, 2 and 3, the Schedule, Clause 1, the Enacting Formula and the Title stand part of the Bill."

The motion was adopted. Clause 2 and 3, the Schedule, Clause 1, the Enacting Formula and the Title were added to the Bill.

SHRI K. R. GANESH : Sir, I Move. :

"That the Bill be passed."

MR. DEPUTY-SPEAKER : The question is :

"That the Bill be passed."

The motion was adopted.

14.56 hrs.

**BENGAL FINANCE (SALE TAX DELHI
VALIDATION OF APPOINTMENTS
AND PROCEEDINGS) BILL.**

MR. DEPUTY-SPEAKER : We have a few minutes more and I think we can take up the next Bill.

THE MINISTER OF STATE IN THE
MINISTRY OF FINANCE (SHRI K. R.
GANESH) : MR. Deputy-Speaker Sir, I
beg to move :

"That the Bill to validate appointments of certain officers under the Bengal Finance (Sales Tax) Act, 1941, as in force in the Union Territory of Delhi and to validate proceedings taken by such officers under that Act and the Central Sales Tax Act, 1956, be taken into consideration."

Sir, as the hon. Members are aware, Section 3 of the Bengal Finance (sales Tax) Act, 1941 extended to the Union Territory of Delhi in 1951, provides that for carrying out the purposes of the Act, the Chief Commissioner (now Lt. Governor) may appoint a person to be Commissioner of Sales Tax together with such other persons to assist him as the Lt. Governor thinks fit. In several cases the officers to assist the Commissioner of Sales Tax were appointed not under the said Section 3 but under the service rules wherein the appointing authorities are not the Lt. Governor in all cases. Though the various officers mentioned above were subsequently appointed by the Lt. Governor under Section 3, with retrospective effect, their appointments are not in accordance with the provisions of Section 3 aforesaid as that Section does not permit any appointment with retrospective effect.

These appointments are, therefore, for obvious reasons of doubtful validity. In a writ petition filed before the Delhi High Court, the Delhi Woollen Mills challenged the appointment of one Assistant Sales-Tax Officer who was appointed with retrospective effect from 15.2.1965 by an order of the Lt. Governor dated 26.4.1968 issued under the said Section 3.

*Introduced/moved with the recommendation of the President.

[Shri K. R. Ganesh]

The Delhi Administration reviewed the position in this context and found that there were nearly 374 such appointments which had been given retrospective effect. It was also found that in about 5.55 lakh cases assessments have been framed by such officers and a demand of Rs. 15.25 crores (both under the local Sales Tax Act and Central Sales Tax Act) was created by them. The Assistant Commissioners of Sales Tax likewise appointed and exercising appellate jurisdiction have disposed of over 32 thousand appeals since 1st November, 1951 when the liability to pay tax under the Act commenced. Under the law, the dealers, on whom assessments have been made by officers not validly appointed, can challenge them within a period of three years from the date of an adverse judicial pronouncement. Such assessments can also be challenged by dealers in the course of recovery proceedings. In case the refunds of tax already collected were to be allowed as a result of any adverse judicial pronouncement, it would, apart from creating serious inroads to the resources position of the Government, have resulted in an unintended benefit to the dealers and not to the purchasers as the former would have already reimbursed to themselves, the sales tax from the purchasers. With the approval of the Executive Council, the Delhi Administration moved the Government of India for the immediate promulgation of an Ordinance to rectify the defect.

The Ordinance title the Bengal Finance (Sales Tax) (Delhi Validation of Appointments and Proceedings) Ordinance, 1971 promulgated by the President on 18th May, 1971 validates appointments of the Officers concerned and the proceedings taken by such officers under the aforesaid Bengal Act and the Central Sales Tax Act, 1956. The need for validating the proceedings under the latter Act has arisen because the administrative authorities under both the Acts are the same.

The present Bill seeks to replace the above Ordinance by an Act of Parliament. I request the House to unanimously accept the Bill.

14.59 hrs.

PARLIAMENT (PREVENTION OF DISQUALIFICATION) AMENDMENT* BILL (Amendment of section 3)

SHRI N. SREEKANTAN NAIR (Quilon) : Sir, I move for leave to introduce a Bill further to amend the Parliament (Prevention of Disqualification) Act, 1959.

MR. DEPUTY SPEAKER : The question is :

“That leave be granted to introduce a Bill further to amend the Parliament (Prevention of Disqualification) Act, 1959.”

The motion was adopted.

SHRI N. SREEKANTAN NAIR : Sir, I introduce the Bill.

15 hrs.

CONSTITUTION (AMENDMENT) BILL (Amendment of article 74)

DR. KARNI SINGH (Bikaner) : I beg to 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

DR. KARNI SINGH : I introduce the Bill.

AGE RELAXATION (SERVICES) BILL*

SHRI B. K. DASCHOWDHURY (Cooch-behar) : I beg to move for leave to introduce a Bill to provide for relaxation of age for entry in to public services in certain circumstances.