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PART II—Section 2

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

LOK SABHA

The following Bills were introduced in Lok Sabha on the 23rd August 1974:—

BILL No. 58 OF 1974

*A Bill further to amend the Constitution of India.*

BE it enacted by Parliament in the Twenty-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 1974.

(2) It shall come into force at once.

2. In article 101 of the Constitution, in sub-clause (a) of clause (3), for the words, brackets and figures "clause (1) of article 102", the words, brackets and figures "clauses (1), (1A) or (1B) of article 102" shall be substituted.

3. In article 102 of the Constitution,—

(i) after sub-clause (a) of clause (1), the following sub-clause shall be inserted, namely:—

"(aa) if he practices any profession such as teaching in a college or a school, legal practice in any court, tribunal or other authority which permits appearance of legal practitioners before it, medical practice or is employed with any individual or insti-

Short title and commencement. Amendment of article 101.

Amendment of article 102.

AS INTRODUCED IN LOK SABHA

## BILL NO. 91 OF 1974

*A Bill further to amend the Constitution of India to give effect to the wishes of the people of Sikkim for strengthening Indo-Sikkim co-operation and inter-relationship.*

BE it enacted by Parliament in the Twenty-fifth year of the Republic of India as follows:—

Short title  
and com-  
mencement.

1. (1) This Act may be called the Constitution (Thirty-sixth Amendment) Act, 1974.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Insertion of  
new article  
2A.

2. After article 2 of the Constitution, the following article shall be inserted, namely:—

Sikkim to  
be associat-  
ed with  
the Union.

“2A. Sikkim, which comprises the territories specified in the Tenth Schedule, shall be associated with the Union on the terms and conditions set out in that Schedule.”

Amend-  
ment of  
article 80

3. In article 80 of the Constitution, in clause (1), for the words “The Council of States”, the words and figure “Subject to the provisions of paragraph 4 of the Tenth Schedule, the Council of States” shall be substituted.

4. In article 81 of the Constitution, in clause (1), for the words and figures "Subject to the provisions of article 331", the words and figures "Subject to the provisions of article 331 and paragraph 4 of the Tenth Schedule" shall be substituted.

Amendment of article 81

5. After the Ninth Schedule to the Constitution, the following Schedule shall be added, namely:—

Addition of Tenth Schedule.

### TENTH SCHEDULE

[Articles 2A, 80(1) and 81(1)]

#### PART A

#### TERRITORIES OF SIKKIM

1. **Sikkim.**—Sikkim comprises the following territories, namely:—

The territories which, immediately before the coming into force of the Government of Sikkim Act, 1974, were comprised in Sikkim.

#### PART B

#### TERMS AND CONDITIONS OF ASSOCIATION OF SIKKIM WITH THE UNION

2. **Responsibilities of the Government of India.**—(1) **The Government of India—**

(a) shall be solely responsible for the defence and territorial integrity of Sikkim and for the conduct and regulation of the external relations of Sikkim, whether political, economic or financial;

(b) shall have the exclusive right of constructing, maintaining and regulating the use of railways, aerodromes, landing grounds and air navigation facilities, posts, telegraphs, telephones and wireless installations in Sikkim;

(c) shall be responsible for securing the economic and social development of Sikkim and for ensuring good administration and for the maintenance of communal harmony therein;

(d) shall be responsible for providing facilities for students from Sikkim in institutions for higher learning in India and for the employment of people from Sikkim in the public services of India (including the All-India Services), at par with those available to citizens of India;

(e) shall be responsible for providing facilities for the participation and representation of the people of Sikkim in the political institutions of India.

(2) The provisions contained in this paragraph shall not be enforceable by any court.

3. **Exercise of certain powers by the President.**—The President may, by general or special order, provide—

(a) for the inclusion of the planned development of Sikkim within the ambit of the planning authority of India while that authority is preparing plans for the economic and social development of India, and for appropriately associating officials from Sikkim in such work;

(b) for the exercise of all or any of the powers vested or sought to be vested in the Government of India in or in relation to Sikkim under the Government of Sikkim Act, 1974.

**4. Representation in Parliament.**—Notwithstanding anything in this Constitution—

(a) there shall be allotted to Sikkim one seat in the Council of States and one seat in the House of the People;

(b) the representatives of Sikkim in the Council of States and the House of the People shall be elected by the members of the Sikkim Assembly;

(c) a person shall be qualified to be the representative of Sikkim in the Council of States or the House of the People if he is qualified to be chosen to fill a seat in the Sikkim Assembly;

(d) every representative of Sikkim in the Council of States or in the House of the People shall be deemed to be a member of the Council of States or the House of the People, as the case may be, for all the purposes of this Constitution except as respects the election of the President or the Vice-President:

Provided that in the case of any such representative—

(i) clause (2) of article 101 shall apply subject to the modifications that for the words “a House of the Legislature of a State”, in both the places where they occur, and for the words “the Legislature of the State”, the words “the Sikkim Assembly” shall be substituted;

(ii) sub-clause (a) of clause (3) of article 101 and article 102 shall not apply;

(e) if a representative of Sikkim, being a member of the Council of States or the House of the People, becomes subject to any of the disqualifications for membership of the Sikkim Assembly, his seat as a member of the Council of States or the House of the People, as the case may be, shall thereupon become vacant;

(f) if any question arises as to whether a representative of Sikkim, being a member of the Council of States or the House of the People, has become subject to any of the disqualifications mentioned in clause (e) of this paragraph, the question shall be referred for the decision of the President and his decision shall be final:

Provided that before giving any decision on any such question, the President shall obtain the opinion of the Election Commission and shall act according to such opinion;

(g) the superintendence, direction and control of the preparation for and the conduct of elections to Parliament under this paragraph of the representatives of Sikkim shall be vested in the Election Commission and the provisions of clauses (2), (3), (4) and (6) of article 324 shall, so far as may be, apply to and in relation to all such elections;

(h) Parliament may, subject to the provisions of this paragraph, from time to time by law make provision with respect to all matters

relating to, or in connection with, such elections to either House of Parliament;

(i) no such election to either House of Parliament shall be called in question except by an election petition presented to such authority and in such manner as may be provided for by or under any law made by Parliament.

*Explanation.*—In this paragraph, the expression “the Sikkim Assembly”, shall mean the Assembly for Sikkim constituted under the Government of Sikkim Act, 1974.

5. Schedule not to derogate from agreements, etc.—The provisions of this Schedule shall be in addition to, and not in derogation of, any other power, jurisdiction, rights and authority which the Government of India has or may have in or in relation to Sikkim under any agreement, grant, usage, sufferance or other lawful arrangement.’

## STATEMENT OF OBJECTS AND REASONS

In pursuance of the historic agreement of the 8th May, 1973, between the Chogyal, the leaders of the political parties representing the people of Sikkim and the Government of India and of the unanimous desire of the members of the Sikkim Assembly expressed in the meetings of the Assembly held on the 11th May, 1974, for the progressive realisation of a fully responsible Government in Sikkim and for furthering its close relationship with India, the Sikkim Assembly considered and passed the Government of Sikkim Bill, 1974 unanimously. The Chogyal promulgated this Bill on the 4th July, 1974 as the Government of Sikkim Act, 1974. For the speedy development of Sikkim in the social, economic and political fields, section 30 of the Government of Sikkim Act, 1974 empowers the Government of Sikkim, *inter alia*, to seek participation and representation for the people of Sikkim in the political institutions of India. On the 28th June, 1974, after passing the Government of Sikkim Bill, the Sikkim Assembly resolved unanimously that measures should be taken, amongst other things, for seeking representation for the people of Sikkim in India's parliamentary system.

2. After the promulgation of the Government of Sikkim Act, the Chief Minister of Sikkim has made formal requests to the Government of India through the Chief Executive requesting the Government of India to take such steps as may be legally or constitutionally necessary to give effect to the Government of Sikkim Act, 1974 and the resolutions passed by the Assembly and particularly for providing for representation for the people of Sikkim in Parliament.

3. With a view to giving effect to the wishes of the people of Sikkim for strengthening Indo-Sikkim co-operation and inter-relationship, the Bill seeks to amend the Constitution to provide for the terms and conditions of association of Sikkim with the Union. The terms and conditions are set out in the Tenth Schedule proposed to be added to the Constitution by clause 5 of the Bill. Apart from referring to the responsibilities of the Government of India and the powers of the President in this regard, the Schedule provides for allotment to Sikkim of one seat in the Council of States and one seat in the House of the People and for the election of the representatives of Sikkim in the Council of States and the House of the People by the members of the Sikkim Assembly.

NEW DELHI;

SWARAN SINGH.

The 30th August, 1974.

## FINANCIAL MEMORANDUM

The Bill seeks to add a new Schedule,—the Tenth Schedule,—to the Constitution—*vide* clauses 2 and 5. The new Schedule sets out the terms and conditions of association with Sikkim. Paragraph 2 of the new Schedule enumerates the responsibilities of the Government of India. Clauses (a) and (b) of paragraph 4 of the new Schedule provide respectively for allotment to Sikkim of one seat in the Council of States and one seat in the House of the People and for the election of representatives of Sikkim in the Council of States and the House of the People by the members of the Sikkim Assembly. Clause (f) of the said paragraph 4 provides for reference to the President of any question as to whether a Member of Parliament from Sikkim had incurred any disqualification and for the determination of the same in accordance with the opinion of the Election Commission. Clause (g) of the said paragraph 4 provides for the vesting in the Election Commission of the superintendence, direction and control of the preparation for and the conduct of elections to Parliament from Sikkim.

2. Except for the provisions as to representation for Sikkim in Parliament and matters connected therewith, the responsibilities of the Government of India under the proposed Tenth Schedule are declaratory of the existing position. The expenditure for discharging these responsibilities is being met even now from the Consolidated Fund of India from the sums sanctioned by Parliament under the Appropriation Acts passed from time to time. Thus the additional expenditure which will be incurred on account of the provisions of the Tenth Schedule, when enacted, will be that relating to the conduct of elections to Parliament from Sikkim, the salaries and allowances payable to the two Members of Parliament from Sikkim and to the determination of election petitions relating to elections to Parliament from Sikkim and questions as to disqualification of any representative of Sikkim in Parliament. The expenditure on the conduct of elections to Parliament for filling the two seats allotted to Sikkim in Parliament is not likely to exceed Rs. 50,000 on each occasion. It is not possible to estimate the expenditure which may be incurred in connection with the determination of election petitions and questions as to disqualification as that will depend upon various contingencies. However, it is estimated that on an average, the expenditure in regard to these matters and the expenditure on the salaries and allowances of the representatives of Sikkim in Parliament is not likely to exceed Rs. 60,000 per annum.

3. The provisions of the Bill do not involve any other expenditure of a recurring or non-recurring nature.

S. L. SHAKDHER,  
Secretary-General.