

## CHAPTER-VIII

### Political Framework and the Governmental Process: The Executive

#### I

Powers and position of the Chief Executive.

System of appointment of other Executives.

Relation between the Chief Executive and other Executives during the reign of the Chogyals.

The Convention of 1890 between Great Britain and China relating to Sikkim and Tibet established the British supremacy on Sikkim so much so, that the internal administration and foreign relations of the State came under direct and exclusive control of the British Government. Neither the ruler nor any official of the State could have any relation, formal or informal, with any other State. (1) John Claude White was appointed the Political Officer, who usurped the authority of the monarch Thutob Namgyal and brought the administration of the state completely under his control and became the virtual ruler of Sikkim. (2) For nearly thirty years following the Convention of 1890 the British Resident in Sikkim, called the Political Officer, directly administered even the internal affairs of Sikkim. (3) An Advisory Council was established. It was composed of members nominated from the influential Kazis, generally favourable to the British Government. Under White's authority an attempt was made to set up an administration in Sikkim on modern lines as a departure from primitive feudalism. In 1894, the British Government came to know about the wrong treatment meted out to the Maharaja and about the usurpation of the authority of

the Sikkim Raja by the Political Officer. In 1895, after Thutob's return from confinement, he was given back the charge of judiciary only. By 1905, the Political Officer handed over the Council and a part of the administration to the Maharaja, but retained the power to review any transaction. (4) Thutob's son, Sidkeong Tulku was trained and educated in Oxford. After his return to Sikkim in 1908, he was appointed the Vice-President of the State Council (the previous Advisory Council) and was placed in charge of Education & Forest Departments in addition to Ecclesiastical Affairs. (5) During the reign of Tashi Namgyal, Departments of Excise, Income-Tax, Police and Jail were transferred to the Maharaja by the 1st April, 1916, in addition to Education, Forest and Monasteries upon which he exercised independent control. (6) By 1917, the authority of the Maharaja was further increased by the grant of the Departments of Revenue, Stamps, Printing Press, Co-operative Societies etc. which were placed under his independent control. Mr. K. P. Dewar was appointed Assistant to His Highness, he was the Chief Executive Officer, who controlled all the departments under the Maharaja. (7)

An investiture Darbar was held on the 5th April, 1918, in the palace, in which Charles Bell, the then Political Officer, handed over the Kharita of investiture from the Viceroy and Governor General of India conferring full powers of administration of Sikkim to the Maharaja Tashi Namgyal. (8) The Sikkimese became jubilant on the occasion owing to the Darbar having received back its former privileges from the British Raj. Mr. K. P. Dewar, Assistant to the Maharaja, was reverted to his

substantive post under the Government of India on the 3rd March, 1919. (9)

Genesis of modern administration.

The Ruler thus became the source of all authority within a few years, so far as internal administration of the state was concerned. The Government was directly under the control of the Maharaja, who was assisted by an organised Secretariat. The entire administration was carried on through specific departments. The recommendations of the Departmental Officers were carefully considered in the Secretariat and the decisions of the Darbar were issued by a Secretary to the Government in the form of Orders, Proceedings or Letters. (10) The administration of Sikkim under the direct rule of the Maharaja had been steadily adapting itself to modern form of government. The system was based on good old patriarchal monarchy of ancient days of oriental civilization where subjects stood as children of the ruler and with simple hill people, unaffected by the virus of democracy and elections, the system worked excellently. (11) The State Council, constituted of the members nominated by the Maharaja, was there, to aid and advise him in the governance of the country. The annual budget went through this Council for his final sanction. The ruler also enjoyed prerogative to pass any order independent of the Council. (12) All the appointments were made by the Maharaja and the incumbents served in their posts, till the pleasure of the Maharaja. But these powers were, to certain extent, all apparent. The Maharaja had to consult the Political Officer on all important matters, and no decision could

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be taken without taking the Political Officer in confidence. (13)  
However, a system was developed with regard to the decision making; if the Council members and the Political Officer agreed on any matter, the Maharaja had to accept that and if the Maharaja and the Council members agreed on any matter, the Political Officer used to accept that. (14) Even if the powers were given to the Maharaja, the ultimate authority was, in fact, retained by the Political Officer. (15)

Powers and position of the Land Lords.

During Thutob's detention, Claude White liquidated the 'Private Estates' of the Royal House and the lands of loyalist elements and distributed them mainly among the pro-British elements. A number of lessee landlords were created. (16)  
The country was divided into several 'elakhas' (estates) and they were placed under the Elakhadars. These Elakhadars were invested with certain administrative as well as judicial powers, which they enjoyed till the abolition of the lessee system in 1949. The landlords were to look after law and order within their own 'elakhas' and as such they functioned as police officers within their respective jurisdictions. (17) The Elakhadars were authorised by the Darbar to arrest and detain in custody the Bastiwallas, who they had reason to believe, were actually leaving the jurisdiction of their Elakhas without paying their rent and taxes. They could detain such Bastiwallas for a maximum period of twenty four hours; but no Bastiwalla, paying land rent of Rs.25/- and above, could be detained by them. All the Elakhadars and Managers of Elakhas of Sikkim were permitted to sell or

attach movable properties of the defaulting Bastiwallas to the extent of khazanas due from them, on the condition that they should not sell or attach properties of those Bastiwallas whose outstanding khazana was less than Rs. 10/- after payment of greater portion of their khazana. (19) The Elakhadars were ipso facto subordinate Forest Officers of <sup>their</sup> estate. They maintained menial forest establishment at their own expenses and were paid in the shape of half of the royalty on timbers and other minor forest produce, sold from the reserved forest in their elakhas and a portion of the royalty accruing from the sale of timber etc. in the kasmahal areas. (20)

#### Local Self Government.

A unique system of local self government was prevalent in two Northern villages of Lachen and Lachung. About this local self government Claude White wrote, "the two villages of Lamteng in the Lachen and Lachung in the Lachung valley have an unusual and almost communistic government of their own. On every occasion the whole population meet at a 'Panchayat' or Council, where they sit in a ring in consultation. Nothing however, is done without such a meeting ..... Everything is settled at these meetings, any business there may be, is transacted and everything from the choosing of their own headman to the smallest detail, is arranged in consultation." (21) "The people of the two villages Lachen and Lachung elect two representatives as the head of the village, known as pipon, for two years, who for all practical purposes, function as custodian of law and order and are also responsible for the discharge of all official

works entrusted by the Government of Sikkim". (22)

These Pipons used to select two assistants of their choice to help them to function. They were locally known as Gya-pons. The people of these two places had their own Assembly Houses locally known as Zom-Kha (Zome means to assemble and kha means house). (23) Before the expiry of the terms of the Pipons, each head of the family, who was entitled to vote, was to attend the Assembly House on a fixed date for the election of two new Pipons by secret ballot. After the election, the names of new Pipons were submitted to the Government of Sikkim for approval. The Pipons thereafter, also selected a few influential elders of the village to constitute a body, known as Gyen-me. (Gyen means elder and me means people) whose main function was to assist and advise <sup>The Pipons</sup> in the disposal of all important and crucial matters involving the interest of the community as a whole. Except murder cases, all other civil and criminal cases were heard and disposed of by the Gyen-me. (24)

### Transition to modernity.

However, the powers and position of the ruler as it was, continued up to 1950. After India achieved Independence, the question of the status of and relation with Sikkim came up. There was a general recognition that Sikkim had a ~~xxxx~~ special position. The Sikkimese delegation which went to Delhi for negotiation with the Government of India, being encouraged by the attitude of the Central Government, continued its discussions with a view to have a treaty agreement under which some specified

matters would remain as the responsibility of the Indian Government. (25) In the meantime, demands for democratic government and economic reforms, raised by the political parties, led to an agitation that compelled the Maharaja to introduce a new (cabinet) system of government in 1949. It was simply an experimental measure and also a measure to appease the agitated public. The powers and position of the ministry was ill defined and within a short time, the Ministry, headed by Tashi Tsering as the Chief Minister, came in conflict with the Darbar. The Maharaja dissolved the interim Ministry appointed under the notification of the 9th May, 1949, and "having in mind the interest of peace and the welfare of His Highness' people, His Highness has agreed that the Government of India should nominate a Dewan to administer the state in His Highness' name and that the Political Officer in Sikkim should take charge of the administration in the mean while". (26) As such, Mr. J. S. Lall, I.C.S. was appointed Dewan of Sikkim State with effect from the 11th August, 1949. (27)

Meanwhile, the negotiations for initiating a treaty went on. In the press note, issued by the Ministry of External Affairs on the 20th March, 1950, it was stated - "As regards the status of Sikkim it has been agreed that Sikkim will continue to be a Protectorate of India. The Government of India will be responsible for its External relations, defence and communication ..... As regards internal government the state will continue to enjoy autonomy subject to the ultimate responsibility of the Government of India for the maintenance of good administration and law and order. For the present, an officer of the Government of India will continue to be Dewan of the state. But the Government of India's policy is one of progressive association of the people of

the state with its government." (28) The Maharaja agreed to this policy. Thereafter a treaty was signed between the Government of India and Sikkim, in December 1950, which granted autonomy to Sikkim with regard to its internal affairs.

### The Executive Council.

In 1953, the Maharaja promulgated a constitutional Proclamation, postulating the powers and functions of the State Council and the Executive Council. A system of Diarchy was established in Sikkim, by which the Maharaja retained some important spheres of government exclusively with him and transferred some other spheres to the Executive Councillors who were chosen from among the elected members of the State Council, composed of both elected and nominated members. The Proclamation envisaged that "there shall be an Executive Council for the State, the members of which shall hold office during the Maharaja's pleasure and shall be responsible to him for the executive and administrative functions of government." (29) The Executive Council was constituted of the Dewan, who was the ex-officio President of the Executive Council and such other elected members of the State Council as the Maharaja might appoint from time to time. The Executive Councillors were entrusted with the administration of the transferred subjects, such as, Education, Public Health, Excise, Bazars, Transport, Forest and Public works. The Executive Councillors were to retire from office at the commencement of the first session of each new State Council, but they were eligible for re-appointment. The Maharaja retained the right to veto any decision made by the Executive Council and to substitute his own

decision thereof. (30) The reserved subjects which were exclusively under the control of the Maharaja, consisted of Ecclesiastical, External Affairs, State Enterprise, Home and Police, Finance, Land Revenue, Rationing and Establishment, <sup>(31)</sup> Departments. The Executive Councillors could not deal with any of these matters. The Dewan was the administrator of the reserved subjects. (32)

The responsibility and appointment of the Executive Councillors.

The Executive Councillors were held individually responsible for their respective Departments to the Council. In every Council session the Chief Secretary submitted the reports of achievements of the Government relating to reserved subjects and the Executive Councillors submitted reports of their respective Departments. Mr. P. S. Tsong once raised a question in the Sikkim Council that with regard to transferred subjects, presumably the Executive Councillor concerned would have to resign in the case of failure of his departmental responsibilities but with regard to reserved subjects "who was to resign in such circumstances - the Chief Secretary of the Sidlon" (Dewan)? (33) The Chief Secretary answered that among government officers it was invariably the person or persons responsible, against whom action was usually taken in such cases which might range from simple warning to dismissal and prosecution in Court. (34) In reality, the Executive Councillors were responsible to the ruler as they were appointed by him, and to a great extent it was the discretion of the ruler as to whom he would appoint. The number of the Executive Councillors varied from time to time. In 1959 two Executive Councillors and three Deputy Executive Councillors were appointed; of them Mr.

Kashiraj Pradhan was made the senior Executive Councillor. (35) Mr. Kashiraj Pradhan had to resign after the judgement of the Election Tribunal. In 1967, three Executive Councillors and two Deputy Executive Councillors were appointed. (36) In 1970, the Chogyal appointed six Executive Councillors and there was no Deputy Executive Councillor that year. (37) In 1973, six Executive Councillors were appointed by the Chogyal, (38) though the members representing the Sikkim National Congress and Sikkim Janata Congress did not participate.

The powers and position of the Executive Councillors.

In 1958, the Senior Executive Councillor, Executive Councillor and Deputy Executive Councillors were entitled to emoluments of Rs. 600/- + 150 Spl. allowance, Rs. 600/- and Rs. 350 P.M. respectively. All of them were entitled to a house rent allowance of Rs. 75/- P.M. (39) The power of the Executive and Deputy Executive Councillors to grant expenditure (contingent grant) was fixed by the Maharaja as 'financial power' by which the Executive Councillors could spend Rs. 500/- and the Deputy Executive Councillors could spend Rs. 100/-. But this power was to be exercised in respect of duly authorised item of expenditure for which there was budget provision. (40)

In June 1967, the Chogyal approved certain Rules of Business for the Executive Council and powers for the Executive Councillors. These included enhancement of financial power, in so far as the Executive Councillors were authorised to sanction expenditure not exceeding Rupees five thousand, and the Deputy Councillors were authorised to sanction expenditure

not exceeding Rupees two thousand five hundred in each individual case, as grants other than contingent grant and maintenance of vehicles grant. So far as contingent grant was concerned the provision of 1958 was retained. (41) These grants could be made provided, there was specific provision in the budget and proposals of grants were processed through the Finance Department. The Executive Councillors were also to see that the proposals did not involve the Darbar in any recurring liability. Any proposal for expenditure of an urgent nature, not provided for in the budget, must be processed through the Finance Department for obtaining approval of the Chogyal. (42)

As regards legislation, the Executive Councillors were authorised to legislate on transferred subjects. Any such proposal should unanimously be passed in the Executive Council as far as possible; in case of difference of opinion, the matter should be referred to the Chogyal for final order. In the case of decision on any matter, if there be a difference of opinion between the President and <sup>the</sup> Executive Councillors, the President would refer the matter to the Chogyal for decision. Pending such decision the President was competent to take action in urgent case, but was to obtain the Chogyal's orders at the earliest. The Executive Councillors were to keep the Chogyal informed of all important matters through the Principal Administrative Officer. (43) The Executive Councillors were to submit their tour programmes a week in advance through the P.A.O. to the Chogyal for approval. The Executive Councillors were authorised to sanction casual leave, privilege leave and leave without pay to Class II and III officials of their respective Departments.

All cases of leave, transfer, increment, promotion etc. of Gazetted and Class I Officers would be referred to the Establishment Department by the Heads of Departments through the Executive Councillors. The Executive Councillors were to forward <sup>the tour</sup> a programme of the Heads of Department to the P.A.O. (44)

Even though the Executive Councillors were placed in charge of the transferred subjects, the policy decisions were, infact, taken by the Dewan (who was later designated as the Principal Administrative Officer and Sidlon) in consultation with the Chogyal. The Executive Councillors were to execute those decisions through the Departmental Officers under them. (45) While taking part in the debate on Sikkim subejct Regulation in 1961, one of the members expressed his surprise that the Executive Councillors could do nothing to prevent such regulation. They were nothing but ornamental Executives. He also implied that the Executive Councillors were nothing but mere clerks. (46) "The Executive Councillors, though elected by the people but nominated by the Ruler, have no real executive powers, nor have they been vested with the powers to which they are entitled. This, it would appear, has been motivated with the specific idea of bringing disrepute to the people's representatives in the eyes of the people, and thereby disrupt any progress towards the introduction of democracy in Sikkim." (47)

#### Administrative Structure.

The sytem of administration in modern lines, was first introduced in Sikkim by the British Political

Officer John Claude White, during eighteen nineties. He tried to lay down the basic administrative structure and with the passing of time it adopted itself to modern forms of government. By 1908, the post of the Private Secretary to the Maharaja was created, who was to help the Maharaja to administer the departments under his control. (48) As the power of the Maharaja was successively increased by 1916, another post of Assistant to His Highness was created; he was the Chief Executive officer of the State who was to control all the departments under the Maharaja. (49) This post was, however, abolished in 1919. (50) Later, the Maharaja was assisted by an organised secretariat and the entire administration was carried on through specific Departments. All the various Departments of the administration were controlled by three Secretaries, besides the State Engineer who also acted as the Secretary for the Public Works Department of the State. (51) Of the three Secretaries, the General Secretary dealt with Police, Arms and Ammunition, Land administration, Registration, Co-operatives, Forest, Political ie., Chamber of princes etc., Miscellaneous and Stationary. The Judicial Secretary dealt with Education, Medical, Ecclesiastical, Jails, Printing Press, Income-tax, Excise, Bazars, veterinary, stamps, Census and Miscellaneous (internal dealings) etc. The Financial Secretary dealt with Budget, Accounts, Audit and Establishment etc. (52)

State Service and Provident Fund Rules came into force with effect from the 1st April, 1940. The decision of the Maharaja on the doubtful interpretation of any rule was made final. The State servants were divided into four grades: the

first grade included officers of the State service drawing salary exceeding Rs. 650/-; the second grade included officers drawing salary between Rs. 150/- and Rs. 650/-; the third grade included all other State servants in superior service, and the fourth grade included police constables, jail wardens, forest guards, excise peons and other State servants in the inferior grade. (53)

The retirement age of the government servants was 55 years optional and 60 years compulsory. (54) The Sikkim Darbar reserved the right to retire an employee on his attaining the age of fiftyfive. (55)

In 1949, an officer given on loan, by the Government of India, was appointed Dewan and with the appointment of the Dewan, who was in charge of administration of the State, the modernisation of the administrative system achieved a steady progress. Landlordism was abolished in 1949 and gone with it the magisterial powers of the landlords. Several Tahsils were established, Revenue Officers were appointed and the rate of taxes were reduced. (56) Later, for administrative purpose, the State was divided into four districts with their respective Head Quarters. The District Officers were appointed who also functioned as Magistrates. Later, a Deputy Development Officer, and <sup>an</sup> Inspector of Land Revenue were also placed in the District Service. (57)

Since 1953 several Departments were created and <sup>later a</sup> full-fledged Secretariat started its function under the Chief Secretary. The post of the Chief Secretary was created in 1954 and Mr. T. D. Densapa was appointed the first Chief Secretary of Sikkim. (58) After his retirement Mr. D. Dadul was appointed the Chief Secretary. Later, Mr. T. S. Gyaltzen was

appointed the Chief Secretary in 1973. (59) In 1954, the post of a Development Commissioner was created and His Highness appointed the Maharajkumar Jigdal Tsweang Namgyal, <sup>as</sup> Development Commissioner of Sikkim. (60) The Departmental Secretaries were under the Chief Secretary. The Chief Secretary was also the Head of the District Administrative system, functioning through four District Officers. (61) A number of departments were there headed by the Directors. The Education Officer was redesignated as the Director of Education. (62) The office of the Superintendent of Police was redesignated as Police Commissioner. (63) There were Director of Health Services, Conservator of Forest etc. as well as ~~to~~ Financial Advisor and a Chief Accounts Officer. A new Department of Audit and Accounts was established in 1971 with the post of an Auditor General in the rank of Secretary to the Government. (64)

Whatsoever, the Dewan was in the overall charges of administration. "As President of the two Councils and Administrator of the reserved subjects, the Dewan was placed in a position of Commanding power. John Lall's was a delicate task. The reforms he envisaged necessitated the exercise of the Dewan's authority over a wide field of Administration." (65) This post of Dewan was designated as Principal Administrative Officer and later as Sidlon. (66) The Chief Secretary as well as the Secretaries and Directors was subordinate to the Sidlon and they worked under his orders. The village administration was carried out through the Panchayats established since 1966. Earlier, the Mandals of the villages were given certain powers so that they could be the custodian of law and order. Besides their legitimate duties connected with Land Revenue, the Mandals were to help the

Government in all matters pertaining to development and welfare schemes in their blocks. (67)

The last Sidlon was Mr. I. S. Chopra. When Mr. Chopra was relieved of his responsibilities, the Chogyal directly assumed the administration of the State in 1972. (68) In December 1972, the Chogyal found it expedient to appoint an ad-hoc Council of Senior Officers to look into the urgent and important matters of policy decisions affecting the country and the administration, including the general election during his absence. As such, he constituted a Special Council with Mr. D. Dadul, (in his absence, Mr. T. Gyaltshen), Mr. J. T. Densapa, Mr. M.M. Basaily and Mr. M. P. Pradhan. All decisions, taken by the Special Council, would be of interim nature subject to the Chogyal's review and/or ratification. (69)

"Though Sikkim was a Protectorate of India prior to its admission as an Associate State by and under the Constitution (Thirty fifth Amendment) Act, 1974 and its subsequent incorporation in the Union of India as a component State by and under the Constitution (Thirty Sixth Amendment) Act., 1975, the Ruler of Sikkim was not a limited Ruler in regard to its internal administration - limited neither by any written Constitution nor by any Legislature. As regards its internal governance and administration, the Ruler was the Supreme Legislature, the Supreme Executive and the Supreme Judiciary and as such all his orders, howsoever issued, were equally effective and were to govern and regulate the affairs of the State and its citizens" (70)

Tripartite Agreement and the Government.

The Tripartite Agreement of the 8th May, 1973, envisaged a democratic form of government in a limited sense. The Chogyal was to perform the functions of his high office in accordance with the constitution set up by the agreement. The palace establishment and the Sikkim Guards were placed directly under the Chogyal. The agreement provided for an Executive Council composed of the elected members of the Assembly who would be appointed by the Chogyal on the advice of the Chief Executive. The Chief Executive was to preside over the meetings of the Executive Council. The Chief Executive was to be appointed by the Chogyal on the nomination of the Government of India, who would be the Head of the Administration in Sikkim. The Chief Executive would have all powers necessary for the discharge of his functions and responsibilities. He was to act in consultation with the Executive Councillors on matters entrusted to them. He was to submit all important matters to the Chogyal for his information and approval of the proposed actions. (71) In case of emergency, the Chief Executive might act on his own but was required to obtain approval of the Chogyal as soon as possible. In case of any difference of opinion between the Chief Executive and the Chogyal, the matter should be referred to the Government of India through the Political Officer, whose decision would be binding. The Chief Executive was given special responsibilities with regard to implementations of the constitutional and administrative changes in Sikkim, the smooth and efficient running of its administration, fundamental rights of all sections of people and the optimum utilisation of funds allocated for development of

Sikkim for the benefit of the people. (72)

On the basis of the principles underlined in the Tripartite Agreement, the general election to the Sikkim Assembly was held in April, 1974. The Assembly expressed the need of drafting a constitution. The Government of India deputed a constitutional expert who drafted the Government of Sikkim Bill. The Bill was adopted by the Sikkim Assembly and after it was assented to by the Chogyal, the Government of Sikkim Act, 1974, came into effect in July of the same year. (73)

The Government of Sikkim Act and the new arrangement.

By this Government of Sikkim Act, the Chogyal, an authoritarian hereditary Ruler, was made a Constitutional Head of the State. His supreme authority in the internal governance of the State was gone and he was subjected to the advice of the Chief Executive and the Council of Ministers. He was to act on the advice rendered to him by them. He was also bound by the decision of the Government of India in case there was a difference of opinion between him and the Chief Executive. Thus the office of the Chogyal was transformed into a titular one.

The Act specified the powers and position of the Chogyal. It provided that the Chogyal should take precedence over all other persons in Sikkim and he should continue to enjoy the honour, position, and other personal privileges hitherto enjoyed by him. The Chogyal should exercise his powers and perform his functions in accordance with the provision of the Government of Sikkim Act and nothing contained above would affect this provision. (74)

So far as his legislative powers were concerned the Chogyal could summon the Assembly on the advice of the Chief Executive, who was the President of the Assembly. The Chogyal might address the Assembly after intimating to the President of the Assembly his intention to do so. The Chogyal or any person nominated by him was to administer oath of affirmation to the members of the Assembly. (75) If there be any doubt as to whether a member of the legislature had become disqualified, the decision of the Chogyal would be final but he should act according to the opinion of the Election Commission or such other election authority as might be specified by the Government of India. The powers of the Assembly to discuss, to make recommendation or to make laws had been limited to twelve specific spheres. The Chogyal on the recommendation of the Government of India might add, by notification, in the Sikkim Darbar Gazette, any other matter which would thereafter be deemed to have included within the jurisdiction of the Assembly. (76)

When a Bill had been passed by the Assembly, it should be presented to the Chogyal and the Chogyal should declare either that he assented to the Bill or that he withheld the assent therefrom. In the later case the Chogyal should return the Bill as soon as possible to the Assembly with his recommendation and with a request to reconsider the Bill or any specified provision thereof. When a Bill was so returned, the Assembly should consider the Bill accordingly, within a period of three months. If it was again passed by the Assembly with or without amendment and presented to the Chogyal for assent the Chogyal

must give his assent to the Bill. The Chogyal might reserve for the consideration of the Government of India, any Bill which would, if it became law, affect any of the responsibilities of the Government of India or any of the special responsibilities of the Chief Executive and should act according to the decision of the Government of India.

Executive powers.

All executive actions of the Government of Sikkim, taken in accordance with the provisions of the Government of Sikkim Act, should be expressed to <sup>have</sup> been taken in the name of the Chogyal.

The Chogyal was to appoint the Chief Executive, nominated by the Government of India. The Chief Minister and other ministers were to be appointed by the Chogyal on the advice of the Chief Executive. The Chief Executive was to submit all important matters to the Chogyal for his information and for his approval of the action proposed to be taken. In an emergency, when prior approval of the Chogyal could not be taken by the Chief Executive for any of his actions, he should obtain the approval as soon as possible, after the action had been taken. If there be any difference of opinion between the Chief Executive and the Chogyal in respect of any matter, it should be referred to the Government of India for decision and the decision of the Government of India would be final. (77)

A few such cases of difference occurred. When Mr. K. C. Pradhan, Minister in charge of Agriculture and

Animal Husbandry was dismissed from the Ministry with effect from 18.3.75, <sup>(78)</sup> the Chogyal wanted that the Chief Minister must assign reasons for dismissing Mr. K. C. Pradhan from the Ministry, but the Chief Executive maintained that it was not necessary to give any specific reason. Again, the Chogyal maintained that the term Darbar or Sikkim Darbar meant the Chogyal, but the Chief Executive meant them as Government of Sikkim. When the matter was referred to the Government of India, it came to the decision that the term 'Darbar' and 'Sikkim Darbar' in various acts, rules and regulations which were in force in Sikkim, meant the Government of Sikkim and not the Chogyal. <sup>(79)</sup> Again, a difference of opinion arose between the Chogyal and the Chief Executive about the authority, <sup>as</sup> to whom, the cases of the Judicial Department requiring higher orders in Government should be submitted. The Chogyal maintained that those should be submitted to him. The matter was referred to the Government of India which opined that the Chief Executive as the head of the administration of Sikkim had full control over the Judicial Department. Hence all cases relating to Judicial Department of Sikkim requiring high level government orders such as those pertaining to appointments and transfers and others should be submitted to the Chief Executive and not to the Chogyal. <sup>(80)</sup> Hence the Judge, Central Court, in his capacity as the head of the Judicial Department was directed to submit all cases requiring higher level orders in the government, to the Chief Executive. <sup>(81)</sup>

The Act also provided that, in the case of any difficulty in giving effect to the provision of the

Government of Sikkim Act, the Chogyal in consultation with the Chief Executive, by order, could do anything not inconsistent with this Act, which would appear to be expedient or necessary for the purpose of removing the difficulty. The Chogyal was also to make rules for the allocation of business to the Ministers and for the more convenient transaction of business on recommendation of the Chief Executive taken in consultation with the Chief Minister.

Council of Ministers.

The Government of Sikkim Act also provided for a Council of Ministers with one of the members thereof at the head who would be designated as the Chief Minister and others as ministers. The Council of Ministers would be in charge of the administrative departments allotted to them and they were to advise the Chogyal with respect to all matters within their jurisdiction. The Council of Ministers were to communicate their advice to the Chogyal through the Chief Executive. The Chief Executive could require the Council of Ministers to modify their advice if he felt that the advice affected or would likely to affect any of his special responsibilities or the responsibilities of the Government of India with regard to Sikkim. The advice of the ministers tendered to the Chogyal would not be questioned in a court of law. The Council of Ministers were responsible to the Assembly. They were to take oath of office and secrecy from the Chogyal or such other person as might be

authorised by him. The Executive Power of the Council of Ministers would extend to Education, Public Health, Excise, Press and Publicity, Transport, Bazars, Forest, Public Works, Agriculture, Food Supplies, Economic and Social Planning including State enterprises and Land Revenue. (82) Neither the Ministry nor the Legislature was given any power with regard to Home and Finance.

### The Chief Executive.

The Chief Executive was placed at the head of the administration in Sikkim. In fact, he was an Officer of the Government of India placed in that high post formally being appointed by the Chogyal. His functions were to ensure that the responsibilities of the Government of India, accrued as a result of the Tripartite Agreement of the 8th May, 1973, or any other agreement entered into between the Chogyal and the Government of India whether before or after the commencement of this Act or the special responsibilities of the Chief Executive entrusted to him through the Tripartite Agreement, were duly discharged. Section 11 of the Tripartite Agreement stated that the Government of India "who are solely responsible for the defence and territorial integrity of Sikkim and who are solely responsible for the conduct and regulations of external relations of Sikkim, whether political, economic or financial, reaffirm their determination to discharge these and their other responsibilities for the benefit of the people of Sikkim, for their communal harmony, good administration and economic and social development. It is hereby re-affirmed that they shall have the necessary powers for carrying out these responsibilities". (83) As for the special responsibili-

ties of the Chief Executive it stated, "he shall have special responsibilities to ensure the proper implementation of the constitutional and administrative changes in Sikkim, the smooth and efficient running of its administration, the continued enjoyment of basic rights and fundamental freedoms by all sections of the population of Sikkim and the optimum utilisation for the benefit of the people of Sikkim of the funds allocated for the economic and social development of Sikkim." (84)

The Government of Sikkim Act further provided that the Chief Executive should have all the powers necessary for the discharge of his functions and responsibilities and the executive power in Sikkim would be so exercised as to ensure compliance with any decision taken or orders or directions issued by the Government of India in the due discharge of its responsibilities. The Chief Executive had also been empowered to take action, in the performance of his functions, on matters of administrative functions allocated to a minister, though he was to act in consultation with the Minister in respect thereof. He was to take approval of the Chogyal for actions proposed to be taken, though he could take action in emergency without prior approval of the Chogyal. But he should get such action approved as early as possible.

The Chief Executive virtually was made all powerful in Sikkim. Whether in the matter of policy decision or in the matter of execution of policies, the say of the Chief Executive was all that mattered. He was made the President of the Assembly and had the power to regulate the jurisdiction of

the Assembly also. Thus the Chief Executive had been vested with real executive and legislative powers. The Council of Ministers was made completely subordinate to and subjected to wide control of the Chief Executive. That was why, it was current in Gangtok that, the Chogyal was made a constitutional head but the Chief Executive was made a Chogyal.

New Government and the political tension.

In accordance with the Government of Sikkim Act a five member Ministry was established with Kazi Lhendup Dorji as the Chief Minister on the 23rd July, 1974. (85) Apart from Kazi, the other four Ministers were Mr. Rinzing Lepcha, B. P. Dahal, Dorji Tsering and Mr. K. C. Pradhan. As the confrontation of the Ministry with the Chogyal was precipitating so was increasing the dissatisfaction with regard to Government of Sikkim Act among the MLAs and some of the Ministers. The Sikkimese leaders felt that virtually they had not been given any real power. Before the adoption of the Government of Sikkim Bill by the Assembly, important youth leaders like R. C. Foudyal, N.K. Subedi etc. went on hunger strike, on the ground that the Bill was far from being satisfactory. When this Act was put to actual working, this feeling rose high among the leaders. The contradiction of the Sikkimese leadership was really bewildering. The exciting thought of getting rid of the Chogyal was inciting them to insist on demanding closer ties with the political institution of India on the one hand while fomenting displeasure over the Government of Sikkim Act on the other. Even after the

Associate status was granted to Sikkim, this feeling continued. The position and power of the Chief Executive vis-a-vis the Council of Ministers was so apparent that by March, 1975 a move was there demanding the transfer of Home, Finance and Establishment portfolios from the Chief Executive to the Chief Minister. A charter of demand was prepared which solicited the reduction of the power of the Indian Government with regard to Sikkim, reduction of the powers of the Chief Executive and diminution of the latter's role to only an advisory capacity. It also demanded withdrawal of three I.A.S. Officers on special duty including the 'all-important Cabinet Secretary.' (86) It hailed the reported statement of the Chogyal to hold dialogue with the Chief Minister. A signature campaign was started and at least 18 Legislators including a Minister signed it. (87) It was gathered that as soon as the authorities got hint of it, they promptly acted and insisted the signatories on withdrawing their signatures. In the emergent meeting of the Legislature Party on the 16th March, the entire move was ultimately repudiated. (88)

The conflict between the Chogyal and the Ministry was mounting. Even though the Chogyal had given an assurance to the Prime Minister to act as a Constitutional Head and to honour the aspirations of the people, his activities and utterances in Gangtok had been to the contrary. (89) The Sikkim Assembly itself was determined to discuss the future of the Chogyal unless the Chogyal adhered to his constitutional role. According to the Ministry, the Chogyal had so far not seemed capable of discharging his constitutional obligations. He had been firmly opposed to the Sikkim Assembly's request for partici-

pation in India's political institutions and had mounted a campaign against the Constitution Amendment Bill intending to give Sikkim an Associate Status. (90) In his communication to the Government of India, the Chogyal claimed that Sikkim had never been a part of India geographically, ethnically or racially. The Chogyal contended that Sikkim was not like the other 500 odd Princely States. The Government of India also did not equate Sikkim with former Indian Princely States and that was why it signed a separate treaty, the treaty of 1950 with it. (91)

The conflict, that was generated over the issue of Government of Sikkim Bill, between the Chogyal and the Sikkim Congress, continually went on deteriorating the political situation in Gangtok. The role of the Chief Executive Mr. B.S. Das became really crucial. Some expected that his role should be one of a link between the Chogyal and his people until such time as the two had sufficiently overcome past prejudices to work together in harmony. (92) As the head of the administration Mr. Das was expected to reconcile the two principal contenders, the Palace and the Sikkim Congress. Mutual distrust and misunderstanding between the Chogyal and the Council of Ministers were gradually widening with the passing of time. Mr. B.S. Das was replaced by Mr. B.B.Lall as the Chief Executive in September, 1974; the contradiction between the Chogyal and the Cabinet could be said to have precipitated during his time. The conflict was not an old fashioned struggle between monarchy and republicanism, since for the time being at least, the throne had little political weightage. Opposition could only be directed against

the Chief Executive in whom was vested all real authority. <sup>(93)</sup> The Chogyal saw the erosion of his power, suffered from humiliation and insult, still he fought, what he said, not for his interest, but for the interest of the Sikkimese and that even by simply demanding to preserve its identity and nothing more. But the leaders of the Sikkim Congress interpreted each of his action as contrary to the aspiration of the people and smooth development of democratic government in Sikkim. In February, 1975, the Ministry was expanded by including Mr. Nayan Tsering Lepcha and B. P. Kharel as Ministers. <sup>(94)</sup> In March, 1975, Mr. K. C. Pradhan was dismissed from the Ministry. <sup>(95)</sup> However, the conflict between the Chogyal and the Political leaders came to such a point that the Sikkim Assembly had to adopt a resolution abolishing the Office of the Chogyal and demanding merger of Sikkim with India. A "Special Opinion Poll" was held on the 14th April, 1975, through which the people overwhelmingly supported the move of the Assembly. The fairness of the poll had, of course, been questioned by many. However, the Cabinet requested the Government of India to do the needful immediately to give effect to the wishes of the people of Sikkim. Consequently, the Constitution (36th Amendment) Act 1975, through which Sikkim became a constituent unit of India was brought into effect from the appointed day, the 26th April, 1975.

II

The Age of Democracy and the New Government.

The merger of Sikkim with India inaugurated a new age and a new political system for the Sikkimese. The Chief Executive Mr. B. B. Lall assumed office of the Governor of Sikkim with effect from the 16th May, 1975. (96) Kazi Lhendup Dorji was appointed by the Governor the Chief Minister of Sikkim and Mr. B. P. Dahal, B.P.Kharel, Dorji Tsering Bhutia, Nayan Tsering Lepcha and Rinzing Tongden Lepcha were appointed (97) Ministers. Thus the governmental machinery being set by the Constitution of India Sikkim started traversing the path. For immediate purpose, by the Constitution (Removal of difficulties) Order No. XI of the President, the Governor of Sikkim was empowered to authorise, by one or more orders, such expenditure from the consolidated fund of Sikkim as he deemed necessary, for a period of not more than six months beginning from the appointed day, pending the sanction of such expenditure by the Legislative Assembly of the State.

The Governor.

Article 371F(g) of the Constitution provides that "the Governor of Sikkim shall have special responsibility for peace and for an equitable arrangement for ensuring the social and economic advancement of different sections of the population of Sikkim and in the discharge of his special responsibility under this clause, the Governor of Sikkim shall,

subject to such directions as the President may, from time to time, deem fit to issue, act in his discretion." This discretionary power of the Governor undoubtedly had been given considering the special conditions that prevailed in Sikkim. The Chief Executive also, under the agreement of the 8th May, 1973 and Government of Sikkim Act 1974, was provided with special responsibilities. But keeping his discretionary power aside, how far the post of the Governor in Sikkim was a decorative one at least upto October, 1979, was a matter of debate. The executive power of the State is vested in the Governor but according to set pattern he is to act on the advice of the Council of Ministers. But in Sikkim, at least during the Kazi's Government, many in Gangtok believed, that it was not the Governor who acted on the advice of the cabinet but it was the Cabinet which acted on the advice of the Governor. It was often heard in Gangtok that the Governor was all in all in Sikkim, he was the 'super legislature and super executive'. In fact, the Ministers were quite new and they were not conversant with the complex working of the modern government. It was the impression of the author that all important decisions were taken by the Governor. The Chief Minister could practically do nothing without consulting the Governor. The Cabinet Secretary also played a vital role in the matters of decision - making. It was given to understand that the Cabinet Secretary played the role of a liaison between the Governor and the Cabinet. On enquiry as to how often he consulted the Governor on matters of decision, the Chief Minister replied that whenever necessity arose he used to consult the Governor. To the author's enquiry whether they had ever defied

the decision of the Governor, most of the Ministers with whom he had a talk, replied that they had a very cordial relation with the Governor and they never had developed any conflict with him. Only Mr. R. C. Poudyal told that sometimes it happened that the Governor wanted something to be done but he did not or could not accommodate that. In fact it was beyond doubt that the Governor, who had been an expert civilian and who had a definite role in the process of Government earlier in U.P. or in the Centre, would make his post in Sikkim a dynamic one and assert his role in the governmental process of the State. One of the senior officers who acted as the Cabinet Secretary also for sometime in the later part of the Kazi Government, told the author that whenever required the advice and guidance of the Governor were sought which he rendered ungrudgingly. Individually, the Cabinet members also approached the Governor for his suggestion and advice. It was told that developmental projects and several other programmes were often suggested by the Governor which the Cabinet used to accept.

The Governor also figured in the Assembly debate as early as in 1976 when Mr. N. B. Khatiwada expressed his displeasure by saying - "Why is the Minister-in-charge, P.W.D is involving the Governor in each and every issue discussed by this august House when the Governor occupies a constitutional position, and this is against parliamentary practice".<sup>(98)</sup> The Chief Minister Mr. Dorji also mentioned in the Assembly that the Governor had been doing his best for the welfare of the people of Sikkim.<sup>(99)</sup>

The Governor was criticised by the Sikkim Janata Parishad leaders during the October election in 1979, who alleged that the Governor was involving himself in party politics by helping the Kazi's Janata Party. (100)

The leaders of the Sikkim Janata Parishad, Sikkim Congress (R) and the Sikkim Prajatantra Congress, seemed at times to be critical of the role of the Governor. But in a period of transition the role of the Governor could not have been otherwise. Though Sikkim was made a constituent State of India, its problems and conditions were quite different from those of other States of India. To grasp the situation, to channelize its working in the constitutional path, to organise and reorient the system, all required a leadership at the helm of the Government which perhaps Mr. B. B. Lall alone could have given. "Mr. B. B. Lall can well be described as the chief architect of what Sikkim is today. It was at the most critical juncture in the history of Sikkim that he took over as the Chief Executive of the State." Turmoil, violence, political intrigues, all made the politics and administration in Sikkim a mess. "Mr. Lall soon brought the situation under control, restored the confidence of the people, streamlined the administration and geared up development activities." (101) As a Governor, he also played a very important role in the development of the State. He had taken the pains to understand the problems of Sikkim and had taken a keen interest in solving them. He had a good team of co-operative members in the Cabinet, and the debate of constitutional power and position had not retarded the functioning of the

Government. So far as the process of decision making and formulation of public policy in the context of the Governor's special powers were concerned, it was given to understand that the Governor had always discussed with the cabinet or the cabinet discussed problems with him. It was pointed out that the political leaders were quite capable of understanding the local problems and the Ministers were capable of taking political decisions. So far as the working of the Government was concerned, it was mentioned that, Sikkim had already a set pattern before it, and the Ministers and the bureaucrats though gradually but steadily followed it. Problems were there, but through co-operation and discussion they were sought to be solved.

The relation between the Governor and the Cabinet during Kazi's time had been very cordial but the picture had changed after the formation of the new Ministry under the leadership of Mr. N. B. Bhandari. The Parishad leaders before the formation of the Ministry opined that they would request the Government of India to recall the State Governor. <sup>(102)</sup> Mr. Bhandari, before he became the Chief Minister, told that if the Governor did not work contrary to the wishes of the Cabinet and if he confined his activities strictly within constitutional limit, they might not claim for his removal. When the author met him in April, 1980 he was told that the Ministry had made the Governor to remain as a constitutional Head. "We have our jurisdiction, and the Governor has his own. We will not allow the Governor to interfere with our matters." <sup>(103)</sup> In fact, the relation between the two has now become cold. From time to time

it has been alleged that the Governor is indulging in politics in the State. (104) This has led to a demand for his removal voiced by the ruling party. (105)

### The Cabinet.

Kazi Lhendup Dorji's ministry was not believed to be composed of very gifted political personalities. Save Kazi himself and Mr. Nayan Tsering Lepcha none other had experience of running the Government. Only one member was graduate. Most of the others read up to School level. (106) Some of them were not also veteran forefront leaders like Kazi or Nayan Tsering Lepcha. With this background, in a complex machinery of governmental process, the inexperienced Cabinet members became dependent upon the Governor and the bureaucracy for matters of policy decision and execution. So far as legislation was concerned, it appeared that many of the Bills were prepared during the first phases, sometimes even before discussion of broad policy matters. The practice was, however, changed with the passing of time and acquiring of experience. Most of the Ministers opined that they consulted their officers often before taking any decision. Some of them also admitted that they were enormously helped by the officers, most of whom were co-operative. The Chief Minister pointed out that there was a Board, consisting of the Chief Secretary, Finance Secretary and Establishment Secretary. Whenever any difficulty arose regarding administration, policy formulation, or execution of the policies, the matter was referred to the Board and the Chief Secretary was to report to the Cabinet

about their findings and suggestions. But the Chief Secretary and the Establishment Secretary denied that there was any such Board, but admitted that on any important matter relating to Establishment Department or general administration, the three Secretaries used to sit together and decide upon the matter. After the discussion, they used to communicate their suggestions to the Cabinet. One of the senior Officers, pointed out that he had to project policy matters, relevant rules, procedure, orders etc. for the consideration of the Cabinet. He used to suggest policy also to the Cabinet, it was for the Cabinet to accept or reject that. On several occasions, the Cabinet had to change its decision when he objected or suggested contrary to its decision.

#### The Chief Minister.

The Chief Minister, infact, relied much upon the officers on deputation which annoyed a considerable number of officers, particularly the senior Sikkimese Officers. It was gathered from some such officers that, they (the Officers) used to go to the Chief Minister with the files to discuss different matters. It happened often that they had cleared each and every point to Kazi which he understood well but refused to sign without consulting the Cabinet Secretary, an officer on deputation. The disgusted officers stopped going to the Chief Minister; ~~instad~~ instead they started sending the files to the said officer with the request to get the things done.

Kazi Lhendup Dorji had often been described as a "prisoner of indecision". (107) While deliberating on the issues of Power Department, Mr. K. C. Pradhan said - "people can

not take advantage on the simplicity of our Chief Minister and make him sign on papers blindly. The cabinet Ministers and officers should not be given such freehand but made to realise their responsibilities." (108) During the emergency, Kazi could maintain the integrity of the cabinet. But later, the heterogeneous interests of the leaders generated conflict within the Cabinet. Kazi said that he believed in collective responsibility and used to decide things unitedly in the Cabinet. To an enquiry as to how many decisions he had taken himself which were later ratified by the Cabinet, the Chief Minister answered that no such case arose. Still, the dissenting Cabinet members accused that Kazi Lhendup Dorji had developed the habit of cold storing the problems whose solution might not be up to his liking; the first Speaker, late C.S.Roy once accused that Kazi "does not hesitate in sacrificing promising and up coming party men at the alter of his ambitions who might out shine him and vie for his position some day." (109)

On several occasions Kazi's Cabinet became divided on the issue of land reform, on the issue of citizenship and finally on the issue of Bill No. 79 which ultimately gave the fatal blow to the Kazi's Ministry.

The present Ministry formed after the election of October, 79 under the Chief Ministership of Mr. Harbahadur Bhandari, showed uneasiness in the perspective of hostile forces inside and outside Sikkim. The extreme attitude of the Janata Parishad (now Sikkim Parishad), exposed during the election, initially put the Cabinet in a disadvantageous position vis-a-vis

the Central Government. The leaders had to mend their ways abruptly and to pose a different attitude particularly with regard to the Central Government, deputationists in the state Government service, plains people etc. The Cabinet is composed of quite young, new and inexperienced leaders with at least one positive side, their education, in their credit. The strain within the Cabinet is not also less because of the moves and counter moves of the Bhutia Lepcha lobby and the Nepali lobby. This is a legacy of the Sikkimese politics which Kazi Lhendup Dorji had also to carry and whose inheritance had come upon the Bhandari Ministry also. Perhaps, Mr. Bhandari is feeling the fever more acutely than Kazi. It is an open secret that the Parishad Party has developed groups and it has its reflections in the Cabinet also. The Sherab Palden group represents the Bhutia Lepcha lobby and the other group represents the Nepali lobby. Mr. Bhandari even admits that there are certain issues which are too delicate for the Cabinet to decide upon. The Chief Minister, infact, is balancing the demands within and outside the Cabinet.

The ethnic heterogeneity of the structure of the executive — the Cabinet and the bureaucracy, the conflicting demands of the ethnic groups within this structure have been the burning problems of the organisation. Inexperienced young leaders are coming up at the helm of the organisation. Their dependence upon the experienced senior bureaucrats will be obvious. Ethnologically the divided bureaucracy causes no less strain on the working of the executive. Kazi Lhendup Dorji was accused of protecting the rights of the Bhutia Lepchas at the cost of the Nepalese, the Bhandari Government also have been criticised on the

same charge. Kazi was accused of pursuing the policy of divide and rule. The Bhandari Cabinet also is facing the same charge. The fear and distrust among the ethnic groups and their attitude towards the Central Government, the two moving forces of politics in Sikkim, have their reflections on the executive also.

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