

# **TRANSLATION OF THE RESOLUTIONS OF THE 1<sup>ST</sup> SESSION OF THE NATIONAL COUNCIL**

*(The 14<sup>th</sup> Day of the first 5<sup>th</sup> Month of the Earth Male Rat Year corresponding to June 17, 2008)*

## **A) Inaugural Ceremony**

The First Session of the National Council commenced on the 14<sup>th</sup> Day of the 5<sup>th</sup> Month of the Earth Male Rat Year corresponding to June 17, 2008 with the offering of traditional Zhugdrel Phuensum Tshogpa. His Majesty the King Jigme Khesar Namgyel Wangchuck was escorted to the opening session with Chipdrel and Serdrang ceremonies.

## **B) Inaugural Address by the Chairperson during the 1<sup>st</sup> Session of the Council**

The Hon'ble Chairperson began his address by quoting Chogyel Tsangpa Jarey, "Let elaborate ceremonies precede good events; prosperity will follow one's wishes." On behalf of the members of the National Council, the Chairperson welcomed His Majesty the Druk Gyalpo and expressed their gratitude for gracing the occasion from the Golden Throne. The Chairperson reminded the House of the selfless deeds of the fourth Druk Gyalpo His Majesty Jigme Singye Wangchuck to strengthen peace, security and happiness of the Bhutanese people. He said that His Majesty the King ushered in great political transformation with the gradual process of decentralization culminating in the transition of the country from Hereditary Monarchy to Constitutional Democracy, which created huge ripples of admiration across the world. The Chairperson said that all the Bhutanese people shall remain grateful to this great legacy and work towards fulfilling His Majesty's dreams with all their abilities.

The Chairperson said that, among several development activities, His Majesty Jigme Khesar Namgyel Wangchuck established constitutional offices like the Anti-Corruption Commission and the Election Commission of Bhutan that laid a strong foundation for democracy. The phenomenal success of the first parliamentary elections in the country was all due to His Majesty's wise guidance and leadership.

On behalf of the National Council, the Chairperson expressed profound gratitude to His Majesty for instituting the Druk Holding and Investments with the sole objective of safeguarding and protecting national wealth in the interest of the Bhutanese people.

In a historic landmark in the relationship between Bhutan and its closest neighbour, India, the Indian Prime Minister, His Excellency Dr Manmohan Singh, addressed the first joint session of the Parliament. He graced the commissioning of Tala Hydropower Project and laid the foundation for Punatsangchu Hydropower Project. The Prime Minister also pledged the Bhutanese government a huge amount of money in aid. The Chairperson said that this gesture from the Indian Prime Minister was symbolic of the deepening and lasting friendship between Bhutan and India.

The Chairperson expressed sympathy for the people of Trashigang, Pemagatshel, Mongar, Samdrupjongkhar and Samtse dzongkhags who had been severely affected by recent storms. He thanked Her Royal Highness Ashi Dechen Yangzom Wangchuck, who visited the affected areas, and the government which extended its utmost support to the victims. He reminded the House that, in future, the government should be prepared to avert such a disaster, and pledged the full support of the National Council towards this end.

To the National Council members, the Chairperson reminded that, as the first batch of parliamentarians in the new democratic setup, they should work with selflessness and disinterested commitment to ensure everlasting stability of the nation. He added that, while deliberating on the profoundly important Bills and making additions or amendments, the members should not be influenced by short-term benefits but be mindful of long-term significance which should last for hundreds of years.

Lastly, the Chairperson said that, at a time when Bhutan celebrates three historic events in the same year, the Coronation of the fifth Druk Gyalpo, Centenary of the glorious institution of monarchy, and the country's transition to Constitutional Democratic Monarchy, the whole nation humbly prays that Their Majesties the Kings enjoy a long and stable life; that our religion and uniquely distinct culture flourish; that our laws and policies be fair and wise; and that peace, happiness and prosperity of the people of Bhutan be augmented like the waxing moon.

### **C) Expression of Gratitude by the Hon'ble Members**

Eminent Member Kuenlay Tshering expressed his gratitude to His Majesty the King for gracing the opening of the first session of the National Council. He said that the audience with His Majesty provided the members a new opportunity to receive crucial guidance and wise counsel. This opportunity, he said, was due to the collective good fortune of the people of Bhutan, and it was an auspicious sign that the members would dutifully discharge the constitutional responsibilities they were called upon to bear.

The Hon'ble Members from Trongsa, Lhuentse, Pemagatshel, Gasa, Trashiyangtse and Haa Dzongkhags expressed their

sense of fulfillment at the smooth conduct of the inaugural Zhugdrel Phuensum Tshogpai Tendrel in the presence of His Majesty. They said that, as Bhutanese believed in the course of ceremonies to be the forerunner of things to come, the opening ceremony of the first session of the Council, which went smoothly, augured well for the House. The Members reminded the House that, as an indispensable political institution, the National Council should discharge all its duties in the best possible way. The National Council, they said, was a historic institution. It came into being after the dissolution of the Royal Advisory Council, which had been established in 1965 and had been in place for the past 40 years. Each Member pledged to serve the country and the people with devotion and purity of thought.

#### **D) Adoption of Agenda for the Session**

Among the six Bills to be passed by the National Assembly and the National Council, the Bills that needed to be first tabled in the National Council and endorsed were identified. These were the Election Bill of the Kingdom of Bhutan 2008, the Public Election Fund Bill of the Kingdom of Bhutan 2008, the National Referendum Bill of the Kingdom of Bhutan 2008, and the National Council Bill of the Kingdom of Bhutan 2008.

The Hon'ble Member from Trashigang, Sonam Kinga, sought clarification from the House on two issues. First, if the two Bills that were being deliberated in the National Assembly were passed and forwarded to the National Council, could the Council put the Bills to discussion? Second, what could the House do in the event of a national emergency that demands urgent deliberations in the session beyond the set agenda? He submitted to the House that, if the Bills could not be unanimously passed due to differences in opinions among the

Members, an alternative procedure should be thought of in advance.

The Hon'ble Chairperson responded that the proceedings of the session could accommodate any emergency issue if it was in the best interest of the country and the people.

Eminent Member Kuenlay Tshering said that, since it was high time for the Council to embark on its duties, it was important to streamline and endorse its code of conduct. He said that the code of conduct made the working procedures smooth just as a good road made a journey smoother. He suggested that Committees be formed in the National Council to facilitate better deliberations on Bills, divide issues among the Members so that doubts could be better clarified, and the proceedings move faster.

The Members submitted on one note that the National Council should take its decisions in accordance with the Constitution in general and Article 11 of the Constitution in particular. The Members should formulate policies and enact Acts with the interest of the Tsa-Wa-Sum in mind. The general good should take precedence over personal preferences. The Members expressed their wish that, whatever the Council is called upon to do, whether it be reviewing plans and policies or discussing the security and sovereignty of the country, all goes in the best interest of the country and the people.

### **Members who expressed Gratitude during the Inaugural Ceremony**

1. Eminent Member Kuenlay Tshering
2. Hon'ble Member Dr. Jagar Dorji from Trongsa
3. Hon'ble Member Rinzin from Lhuentse
4. Hon'ble Member Jigmi Rinzin from Pemagatshel

5. Hon'ble Member Sangay Khandu from Gasa
6. Hon'ble Member Kesang Namgyal from Trashiyangtse
7. Hon'ble Member Sonam Kinga from Trashigang
8. Hon'ble Member Tshering Dorji from Haa

*(The 15<sup>th</sup> Day of the first 5<sup>th</sup> Month of the Earth Male Rat Year corresponding to June 18, 2008)*

## **E) The Election Bill of the Kingdom of Bhutan 2008**

### **1. Introduction and background to the Bill by the Chief Election Commissioner**

The Chief Election Commissioner, Dasho Kunzang Wangdi, congratulated the Chairperson and the Members of the National Council on having been elected or nominated to the House. On behalf of the Election Commission of Bhutan, he expressed his profound gratitude to the clergy, the interim government, Royal Bhutan Police, and all the people of Bhutan for coming together in a cooperative spirit and enabling the success of the first democratic elections in the country.

According to the Royal Decree from the fourth Druk Gyalpo issued on December 31, 2005, which established the Election Commission of Bhutan, the Commission is mandated to draft Bills related to democratic elections. Articles 15, 16, 23, 24, and 34 of the Constitution also require the Commission to draft election-related Bills. Therefore, the Election Bill of the Kingdom of Bhutan 2008, the Public Election Fund Bill of the Kingdom of Bhutan 2008, and the National Referendum Bill of the Kingdom of Bhutan 2008 has been drafted.

The Chief Election Commissioner also informed the House that the Election Bill of the Kingdom of Bhutan 2008 had been comprehensively discussed with the relevant Ministries

and that the professional input from legal experts of the Indian Election Commission had been incorporated. Moreover, the Bill had been exhaustively reviewed by the Council of Cabinet Ministers on October 19, 2006. To ensure that the general public was familiar with the contents of the Bill, it was circulated to the Chimis during the 86<sup>th</sup> session of the National Assembly where some sections were deliberated on for a prolonged period of time.

The Chief Election Commissioner expressed his eternal gratitude to the fourth Druk Gyalpo for bestowing upon the Election Commission of Bhutan the responsibility of drafting every section of the Bill and for His guidance through the whole process. He reminded the House that the successful conduct of the elections was commended by many countries including India, Japan, Canada, and the United States of America, not to mention more than a hundred international media professionals who also expressed their appreciation.

Explaining important chapters and sections of the Bill, the Chief Election Commissioner said that the Election Bill should not remain a draft but be referred to as a world-class Election Act worthy of appreciation. He added that he hoped the National Council would pass the Bill in view of its importance (*Full text available in the Verbatim Records*).

## **2. Members' Deliberation on the Bill**

### **Section 1 of Chapter 1**

On Section 1 (b) regarding the extent of the Bill, Eminent Member Karma Yezer Raydi submitted that, beyond elections in the constituencies, the application of the Bill be extended to candidates also. It was resolved that the Election

Commission should study the need to extend the extent of the Bill and inform the House.

### **Section 4 of Chapter 2**

The Hon'ble Member from Trashiyangtse Dzongkhag sought clarification on Section 4 regarding the allocation of seats. He said that Samtse Dzongkhag, which has a population of 42,177, has four seats and Sarpang Dzongkhag with a population of 23,378 has two seats. He said that if a population of 10,000 per constituency is not fulfilled, in Trashigang which has a population of 45,915, one more seat could be created by adding 5,000 people.

In response, the Chief Election Commissioner clarified that, as provided for by the Constitution, the allocation of seats would be reviewed every ten years based on the census data. He added that, since the allocation of the seats would be determined by the population of the Dzongkhag, there was room for changing the number of seats.

### **Section 9 of Chapter 2**

On Section 9, Eminent Member Kuenlay Tshering pointed out that the clause 'members of the National Council shall be chosen by direct election from each Dzongkhag' would connote that all 25 members should be elected from the Dzongkhags. He submitted that if Section 8 (a) could be reflected in Section 9, the difference between the 20 elected members and the five eminent members appointed by His Majesty would be clearer. The Chief Election Commissioner responded that necessary changes would be made to the Section and submitted to the House.



## **Section 12 of Chapter 2**

Some Members expressed doubts about Section 12 (c) as to whether there would be one Dzongkhag Yargay Tshogdu representative from all the Dzongkhag Yenla Thromdes combined or there would be one representative from each of the Dzongkhag Yenla Thromde.

The Chief Election Commissioner clarified that each Dzongkhag would have one Thromde, which would have one representative. If there are townships and commercial centres that did not fall under the Thromde, they would all be considered as one constituency represented by one candidate. This, the Chief Election Commissioner explained, would become clearer when the delimitation started.

## **Section 14 of Chapter 2**

On Section 14 (a) and (b) which state that, in the event of premature dissolution of Dzongkhag Tshogdu or Gewog Tshogde, the Gup and Mangmi shall continue to be the members of either of them until such time the new representatives are elected, the Hon'ble Members from Pemagatshel and Gasa asked whether the members continuing to serve in either Dzongkhag Tshogdu or Gewog Tshogde could take part in the election of new members, and whether there was a provision for the serving members to continue their office.

The Chief Election Commissioner clarified that, in the event of premature dissolution of Dzongkhag Tshogdu or Gewog Tshogde, the members, namely Gup and Mangmi, could continue their office if they fulfilled the age criteria. But if they desired to contest in the next election, they must step down. In case this clause was missing from the Section, the

Chief Election Commissioner said that the Section will be reviewed and submitted to the House.

The Hon'ble Member from Trashigang Dzongkhag submitted that, since Section 14, Section 154 of Chapter 8 and Chapter 12 all pertained to the election of representatives to the National Council, the National Assembly and the Local Government, it would be clearer if all matters pertaining to the election of representatives were put under one chapter. It was resolved that the Election Commission should look into the matter and inform the House.

On Section 14 (b) which states that the members of Gewog Tshogde comprise the Gup, Mangmi and elected Tshogpas, the Hon'ble Member from Haa Dzongkhag submitted that, if the word 'Tshogpas' was not elucidated, it could be misunderstood for 'Sidhen Tshogpas' or political parties. He submitted that, instead of the blanket term 'tshogpa', some other term might be used to refer to the member of Gewog Tshogde. In response, the Chief Election Commissioner said that, since the term tshogpa was widely used in political parlance, its political connotations were genuinely problematic. He informed the House that an alternative term shall be used in the future about which the Election Commission would notify the public.

The House resolved that a public notification by the Election Commission would suffice and suggested that the term be an easy-to-pronounce and good synonym of 'tshogpa'.

Concerning Section 14 (b), which states that in the event of premature dissolution of Gewog Tshogde, the Gup and Mangmi shall continue to be the members of the Dzongkhag Tshogdu until such time a new Gup, Mangmi and Tshogpas are elected, the Hon'ble Member from Gasa Dzongkhag

expressed his reservations about the members continuing their office even after the dissolution of Gewog Tshogde. He said that an interim government took over the reigns of governance in the event of the dissolution of the government but the members of Gewog Tshogde continuing to serve Dzongkhag Tshogdu even after the Gewog Tshogde was dissolved seemed a little out of place. He submitted that, as the Chief Justice of Bhutan would head the interim government in the event of dissolution of the government, the judiciary could head a similar system in Dzongkhag Tshogdu.

In response, the Chief Election Commissioner clarified that, in the event of dissolution of Gewog Tshogde, new representatives from among eligible candidates should be elected. As for the Gup and Mangmi, because they had been elected from the Gewog concerned, they would naturally hold office in Dzongkhag Tshogdu. However, if Dzongkhag Tshogdu was also dissolved, a new election should be held altogether. He explained that, if the members were eligible to stand for the new election and desired to do so, they should step down before contesting the election. Otherwise, until such time a new Gup or Mangmi is elected, they should continue to hold office. The House resolved to retain the Section without amendments.

## **Section 18 of Chapter 2**

The Hon'ble Member from Trashigang Dzongkhag submitted that Section 18, which reads 'A Dzongkhag Thromde shall, for the purposes of section 17, be divided into constituencies equal to the number of elected members in the Thromde Tshogde' be rephrased as 'Thromde Tshogde shall be divided into constituencies equal to the number of seats allocated to the Dzongkhag Thromde'. The House resolved that the

Election Commission should make necessary changes to Section 18 and submit the same to the House.

### **Section 21 of Chapter 3**

Seeking clarification on Section 21, the Hon'ble Members from Lhuentse and Gasar Dzongkhags asked whether private and armed force personnel could be eligible for appointment to the posts of the Chief Election Commissioner and the two Election Commissioners, or whether the appointees should be necessarily from the Civil Service. They said that, if the appointees were holding an office at the time of appointment, they would be deemed to be holding an Office of Profit and, therefore, not in keeping with the provision of the Bill. The Hon'ble Member from Zhemgang Dzongkhag submitted that appointment of the election officials from the Civil Service was inappropriate. Eminent Members Kuenley Tshering and Dasho Karma Ura explained on when Members are not deemed to hold Office of Profit.

The Chief Election Commissioner informed the House that the clause 'not holding any Office of Profit' would be reviewed in consultation with relevant Members and the National Council informed about it.

The Hon'ble Member from Mongar Dzongkhag expressed his doubts about the clause 'appointment or to serve as the Chief Election Commissioner or the Election Commissioner' in Section 21, and the clause 'suitably qualified for the post' in Section 21 (f).

The Chief Election Commissioner responded that the appointee should be suitably qualified and capable to carry out the duties related to election with equality and justice. On

his submission, the House resolved to retain the Section without amendment.

### **Section 22 of Chapter 3**

Regarding Section 22, Eminent Member Karma Damcho Nidup asked whether the term of office of the Chief Election Commissioner and the two Commissioners would be five years. On Section 29, which states that the Chief Election Commissioner shall not be eligible for reappointment, she asked if it would apply to the present incumbent. If the Section did not apply to the present incumbent, she asked if the issue could be put up to the Joint Committee for decision.

The Chairperson clarified that because the present Chief Election Commissioner and the two Election Commissioners had been appointed by His Majesty through a Special Decree, the tenure provided in the Bill would not apply to them. He said that, in the new democratic setup, the officials would be appointed by His Majesty based on a name list recommended by the government. Regarding the reappointment of the Chief Election Commissioner as stated in Section 29, he said that it should be done in accordance with the system of the new government.

### **Section 24 of Chapter 3**

Pertaining to Section 24, the Hon'ble Member from Pemagatshel Dzongkhag proposed that, after resigning the post at 56 or 60 years of age, since he or she could not be appointed in any office, the Chief Election Commissioner should be granted annuity and benefits by the government for the rest of his or her life. This, he said, would enable the Chief Election Commissioner to work independently and uninfluenced during his or her term in office. If the Chief

Election Commissioner resigned before attaining 65 years of age, the Member submitted that he or she be appointed in another constitutional office or granted remuneration until he or she attained 65 years of age. The Hon'ble Member from Trongsa Dzongkhag seconded the submission. Eminent Member Kuenlay Tshering said that he hoped that the government would consider granting post-service benefits to the Chief Election Commissioner.

The Chief Election Commissioner informed the House that, although it was appropriate to put the salary, allowances, and responsibilities of the Chief Election Commissioner and the two Election Commissioners into a legal framework, it has not been worked out for it was not permissible. However, he said that, if the Rules for constitutional office holders were prepared, the issue could be deliberated on later. The House resolved that the Election Commission seriously consider the issue and begin working on it soon.

### **Section 34 of Chapter 3**

On Section 34, the Hon'ble Member from Tsirang Dzongkhag asked whether the identity card mentioned in the Section was for voting, constituency identification or for general use as a citizen. The Chief Election Commissioner clarified that the clause in Section 34 (b), 'will issue identity card', was for the purpose of personal identification during elections. The House resolved that the term "Identity Card" should be changed to "Voter Photo Identity Card" as suggested by the Chief Election Commissioner.

### **Section 37 of Chapter 3**

Concerning Section 37, which states that the elections will be held in a free and fair manner, the Hon'ble Member from

Zhemgang Dzongkhag asked whether security should also come under the Section, and if not, whether the mention of security would merit a new section. Regarding the same Section, the Hon'ble Member from Trashiyangtse Dzongkhag expressed his doubts about the clause, 'The Election Commission shall have the power to direct the Royal Bhutan Police and the security agencies to deploy personnel'. Since the Royal Bhutan Police was under the Ministry of Home and Cultural Affairs as per the Constitution, he asked whether two authorities commanding the same police force would be advisable.

The Chief Election Commissioner explained that the Election Commission was granted the power to maintain and direct security measures and deploy security personnel upon the issue of a notification until the election results were out. He also explained in detail security action plan related to elections.

The Hon'ble Member from Trashiyangtse Dzongkhag submitted if the deployment of security personnel during elections and the Election Commission's full power to do so could be discussed with the Royal Bhutan Police and Royal Bhutan Army. The Chief Election Commissioner said that it was the sole responsibility of the police force to ensure safe and smooth elections and to maintain peace and security in the country as a whole. He informed the House that the issue of directing and operating the armed forces during elections had been thoroughly discussed with the authorities of the armed forces. The House resolved that the explanation by the Chief Election Commissioner was sufficient.

### **Section 40 of Chapter 3**

With regard to Section 40, which states that the Election Commission shall have full authority over all aspect of its financial and personnel management, Hon'ble Member from Pemagatshel Dzongkhag reminded the House that it was important to ensure that this clause did not contradict with any provision of the Civil Service Bill.

The Chief Election Commissioner informed the House that there were various difficulties because of the rule that all government servants fell under the purview of the Civil Service Rules and Regulations. He said that apart from the Election Commission, other organizations like the Royal Audit Authority and Anti-Corruption Commission were also affected by this rule. He submitted that the House consider the issue and deliberate on it.

The House resolved that the Election Commission should discuss the issue with the Royal Civil Service Commission and report the outcome to the House during the deliberations for passing of the Bill.

#### **Members who made Submissions on Chapter 1 to Chapter 3 Section 40**

1. Eminent Member Karma Yezer Raydi
2. Eminent Member Karma Damcho Nidup
3. Hon'ble Member Sangay Zam from Thimphu
4. Hon'ble Member Sonam Kinga from Trashigang
5. Eminent Member Kuenlay Tshering
6. Hon'ble Member Jigmi Rinzin from Pemagatshel
7. Hon'ble Member Tshering Dorji from Haa
8. Hon'ble Member Sangay Khandu from Gasa
9. Hon'ble Member Naichu from Mongar
10. Hon'ble Member Rinzin from Lhuentse
11. Hon'ble Member Pema Lhamo from Zhemgang



12. Eminent Member Dasho Karma Ura
13. Hon'ble Member Dr. Jagar Dorji from Trongsa
14. Hon'ble Member Justin Gurung from Tsirang

*(The 16<sup>th</sup> Day of the 5<sup>th</sup> Month of the Earth Male Rat Year corresponding to June 19, 2008)*

### **Section 41 of Chapter 3**

With regard to Section 41 (e), which states that the appointees to the posts of the Chief Election Commissioner and the Election Commissioners should not hold any Office of Profit and should be suitably capable and patriotic, the Hon'ble Member from Haa Dzongkhag said that the clause suggested that civil servants were not eligible for the posts. He submitted that the clause needed to be deliberated on.

In response, the Hon'ble Chairperson said that, although the clause had been comprehensively deliberated on and resolved, considering the significance of the submission, the Hon'ble Members from Zhemgang and Gasa Dzongkhags should consult about it with the Election Commission.

### **Chapter 4**

The Hon'ble Member from Sarpang Dzongkhag expressed doubts about the title of Chapter 4, 'Election Officers'. He said that the title might have different connotations confusing the understanding of the actual meaning of the term.

The Chief Election Commissioner explained that the Chief Election Coordinator's role was to facilitate and coordinate elections. He submitted that the title be retained as it was since the election officers were put under two categories for clearer understanding.

The House resolved that the Election Commission should look into it and report to the Council.

#### **Section 48 of Chapter 4**

The Hon'ble Member from Thimphu Dzongkhag pointed out that in Section 48, the Chief Election Coordinator is referred to as Dzungda in the English version. She submitted that, in Section 48 and 49 where the Dzungda's role is the coordination of elections, he or she could be better referred to as the Chief Election Coordinator. The Chief Election Commissioner seconded that the Dzungda be referred to as the Chief Election Coordinator as in the Dzongkha version. The House resolved to make the change.

The Hon'ble Member from Mongar Dzongkhag pointed out that, in many of the sections of the Bill, the mention of 'government officials' could mean all civil servants under the three branches of the government. He submitted that they be referred to as the civil service officials. The Chief Election Commissioner submitted that, owing to the shortage of manpower during elections, the broader term 'government officials' be retained. The House resolved to retain the original term.

Regarding the Election Commission's appointment of a Dzongkhag Electoral Officer, the Hon'ble Member from Paro Dzongkhag asked if the post would not come into conflict with the dzongkhag administration concerned. On the Chief Election Commissioner's response that there was no problem with that, the House resolved to retain the Section unchanged.

## **Section 51 of Chapter 4**

On Section 51, the Hon'ble Member from Wangduephodrang Dzongkhag submitted that the phrase 'designate or nominate' be replaced by the word 'appoint'. The Chief Election Commissioner responded that, if the word designate was replaced by the word appoint, the meaning should be clear enough. It was resolved that the Election Commission should review the clause and inform the House.

The Hon'ble Member from Haa Dzongkhag pointed out that Section 51 to 57 of the Bill pertained to regular posts. He submitted if the clauses pertaining to regular posts and those pertaining to temporary posts could be separated. He expressed similar doubts about Section 61. The Chief Election Commissioner said that, since separating the clauses only meant moving the first section of the chapter elsewhere, it would not make much difference. Regarding Section 61, he said that it pertained to a different matter altogether. The House endorsed the submission made by the Chief Election Commissioner.

## **Section 55 of Chapter 4**

The Hon'ble Member from Pemagatshel submitted that, because the Registration Officers and Assistant Registration Officers are regular office bearers like the Dzongkhag Electoral Officers, they should be "appointed", not "designated or nominated".

The Hon'ble Member from Bumthang Dzongkhag submitted that in Sections 55, 58 and 60, all phrases 'designate or nominate' be replaced by 'appoint' as in the case of Section 51. The House resolved that in all the above-mentioned

sections, the phrase ‘designate or nominate’ would be replaced by the word ‘appoint’.

### **Section 63 of Chapter 4**

With regard to Section 63 and 65, which empowered the Returning Officer to appoint Presiding Officer and Polling Officer or Officers, the Hon’ble Member from Trashigang asked whether the procedure of appointment routed through the Election Commission to the Royal Civil Service Commission would function smoothly. The Chief Election Commissioner responded that the Returning Officer was empowered to appoint Presiding Officer and Polling Officer for administrative convenience since election news were generally routed through the Dzongkhag election office.

The Hon’ble Member from Mongar Dzongkhag submitted that the provisions of the Bill would be clearer if the word ‘appoint’ was used for the Electoral Officer and Registration Officer, while the word ‘nominate’ was used for the Presiding Officer and Polling Officer for they were temporary office bearers. The House resolved that the Election Commission should review the relevant clauses and apprise the Council during the final deliberations on the Bill.

### **Section 68 of Chapter 4**

The Hon’ble Member from Samdrupjongkhar submitted that in Section 68, since the role of Counting Supervisors and Counting Assistants was not significant enough, the role could be put under the Presiding Officer’s.

The Hon’ble Member from Chhukha Dzongkhag clarified that this section empowers the Returning Officer to appoint government officials to count votes in case there were not

enough people, which helps him or her to ensure a free and fair election.

The Chief Election Commissioner explained the section with examples from other countries. He submitted that the section could remain on the merit of its benefits in the future. The House resolved to retain the section.

### **Section 69 of Chapter 4**

The Hon'ble Member from Haa Dzongkhag submitted that the Dzongkhag Electoral Officer and Registration Officer in Section 69 could be put under to Section 72.

On the same Section, the Hon'ble Member from Trongsa informed the House that the section, which states that the officials on deputation during elections cannot be transferred, posed practical problems. He said that it was important for the Election Commission to coordinate with relevant ministries and departments. Otherwise, election activities could be hampered, he added. The House resolved that the Election Commission should review the issue to explore better alternatives and inform the Council.

### **Section 71 of Chapter 4**

On Section 71, which states that no person who has been employed by or has been working for a candidate contesting the elections shall be appointed an Election Officer, the Hon'ble Member from Sarpang submitted that the clause be complemented by stating that nor shall a person be appointed an Election Officer if he or she is related to the candidate.

The Hon'ble Member from Gasa submitted that, since the important issue in Section 71 was the Election Officer and the

political candidate operating in the same constituency, it should be clearly added to the section that they shall not operate in the same constituency.

On this, the Chief Election Commissioner submitted if a phrase, ‘shall not go to one’s own constituency’, could be added to the section. The House resolved to add the phrase.

### **Section 72 of Chapter 4**

The Hon’ble Member from Thimphu Dzongkhag pointed out that the ‘independent observers’ in Section 72 were not verified and authenticated. Therefore, if the phrase was not explained, in the event of a problem with the observers, it would be extremely difficult to verify and authenticate the status of the observers.

The Hon’ble Member from Bumthang Dzongkhag submitted that the word ‘independent’ be replaced with ‘not affiliated with any political party’ as stated in the Constitution. It was resolved that the Election Commission should review the section and inform the outcome to the House.

### **Sections 75 to 80 of Chapter 5**

The Hon’ble Member from Gasa Dzongkhag submitted that Section 80 could be merged with Section 76 for clear understanding.

The Hon’ble Member from Thimphu Dzongkhag submitted that, instead of putting Section 80 at the end of Section 76, it could replace Section 75. It was resolved that the Election Commission should study the options for moving or merging the sections and inform the House.

### **Section 83 of Chapter 5**

On Section 83, where ‘deliberative vote’ means a vote a member of the Delimitation Commission gets per issue, Eminent Member Karma Damcho Nidup pointed out that since there were six members in the Commission and therefore the possibility for a tie, Section 84 should give the deciding vote to the Chief Election Commissioner. The Chief Election Commissioner responded that such a deadlock in the past had been resolved through general consensus among the members and had not been a problem.

Eminent Member Karma Damcho Nidup reiterated that the Chief Election Commissioner be given the deciding vote, upon which it was resolved that the Election Commission should consider the submission and report to the House.

### **Section 88 of Chapter 5**

Expressing his doubts on Section 88, which states that the Delimitation Commission shall forward duly authenticated copies of each of its orders to both Houses of Parliament, the Hon’ble Member from Pemagatshel asked whether the orders were for the Parliament to review or endorse. The Chief Election Commissioner answered that the orders were forwarded to inform the Parliament. He, however, added that, if the Parliament had reservations, it could review the orders.

### **Section 89 of Chapter 5**

Regarding Section 89, according to which the seats to the National Assembly and local governments will be reallocated and readjusted every 10 years, Eminent Member Karma Damcho Nidup asked if the seats could be reallocated before 10 years if the need arose. It was resolved that the Election

Commission should study the possibility and inform the House.

### **Section 94 of Chapter 5**

The Hon'ble Member from Pemagatshel Dzongkhag sought clarification on Section 94 as to whether the orders of the Delimitation Commission would be notified before forwarding them to the Parliament or whether they would have to await a response from the Parliament to be notified.

The Chief Election Commissioner responded that there was no problem either way since the Delimitation Commission notified only the final draft of its orders to the public to invite feedback before they were finalized. The House resolved not to make any change to the section.

### **Section 98 of Chapter 5**

With regard to Section 98, Eminent Member Karma Damcho Nidup pointed out that while it was clear in Dzongkha, the meaning in English was not clear enough. The House resolved that the Election Commission should review the Section and report to the Council.

### **Section 118 of Chapter 7**

Regarding Section 118, which states that the electoral roll for any parliamentary constituency shall be revised before each election of the National Assembly, the Hon'ble Member from Wangduephodrang asked whether the electoral roll would also be revised before the National Council elections that came before the Assembly elections. Some other Members also asked the same question. It was resolved that the



Election Commission should review the section and report to the House.

### **Section 121 of Chapter 7**

On Section 121, which specifies qualifying dates for the revision of the electoral roll, Hon'ble Member from Thimphu Dzongkhag said that the fixed date could cause inconvenience to the people. She asked in what ways the preparations of the Election Commission would be affected if the qualifying date was fixed according to the convenience of the people.

The Chief Election Commissioner clarified that the qualifying date was fixed in view of administrative and census-related problems during the primary elections. Considering its importance, the date would be fixed under separate heads which would not cause any inconvenience to the people.

### **Section 134 of Chapter 7**

The Hon'ble Member from Trashigang Dzongkhag submitted that the application for registration under Section 134 could include the Charter of the Party. Upon the Chief Election Commissioner's agreement, the House resolved that the Party Charter would be included in the application for registration of a political party.

### **Section 138 of Chapter 7**

On Section 138, which has seven sub-sections for disqualification of a political party, the Hon'ble Member from Trongsa Dzongkhag asked whether the disqualification was possible based on non-fulfillment of one clause or all of

the clauses. The House resolved that the Election Commission should review the Section and inform the Council.

### **Section 143 of Chapter 7**

Regarding Section 143, which requires a political party to put an application to the Election Commission for changing its name, the Hon'ble Member from Bumthang Dzongkhag submitted that a timeframe be given for the party concerned during which to apply to the Election Commission. The House resolved that the Election Commission should review the section and inform the Council.

### **Section 146 of Chapter 7**

On Section 146 (e), which states that the Election Commission may remove a political party if it had failed to secure at least ten percent of the total valid votes cast at two successive primary rounds of elections, Eminent Member Karma Damcho Nidup asked whether a party removed as per the section could form a political party again.

The Chief Election Commissioner explained that, although the party may not be allowed to establish itself as a new party immediately after the removal, it could register itself as a new political party later after undergoing scrutiny. The House endorsed that the point was valid.

### **Section 147 of Chapter 7**

The Hon'ble Member from Pemagatshel Dzongkhag sought clarification on how the new opposition party would be elected when the current opposition party was dissolved, whether the dissolved opposition party could take part in the

election of the new opposition party, and if there were three parties contesting, whether there could be two rounds of elections for them. A few other Members expressed the same doubts.

The Chief Election Commissioner clarified that a new electoral process would be put in place for such an election. He informed the House that any party, including the governing party, could take part in such an election. The House resolved that the Members who expressed their doubts on the Section should consult with the Election Commission and make necessary changes and improvements.

### **Section 149 of Chapter 8**

On Section 149, the Hon'ble Member from Pemagatshel Dzongkhag submitted that the phrase 'outstanding amounts of all debts incurred by, or on behalf of the party as at the end of the financial year' should also include the party's assets.

The Chief Election Commission said that, since the accounts of political parties were maintained as per commercial system, the accounts also included their assets. He, however, added that mention of party assets would improve the section. The House resolved to make the addition to the section.

### **Section 151 of Chapter 8**

On Section 151, which states that 'every eligible voter shall be entitled to be a member or be associated with or be elected as an office bearer of a political party', the Hon'ble Member from Zhemgang Dzongkhag pointed out that the clause seemed to allow all eligible voters, without exception, to take part in the stated political process. She reminded the House that the civil servants were required to remain apolitical as

per their rules as was the case with other groups in the society.

Several Members said that Section 151, which gives every voter the right to be a member of a political party, might lead to too many members of political parties that might in turn lead to conflict in the communities, among neighbors, families, and married couples. Therefore, the Members submitted that the number of members of political parties be kept as small as possible. They submitted that, instead of giving the right to every eligible voter, the membership should be restricted to one coordinator and Tshogpa each for the constituency, Gewog and Chiwog.

Other Members, however, argued that restricting political party membership would affect the Bhutanese people's basic right to be a member to any political party. They submitted that, while the number of party members should be kept unrestricted, the voters should be left on their own to exercise their free will. The House resolved that the Election Commission should carefully review the section and inform the Council.

### **Members who made Submissions on Chapter 3 Section 41 to Chapter 8 Section 151**

1. Hon'ble Member Tshering Dorji from Haa
2. Hon'ble Member Dr. Jagar Dorji from Trongsa
3. Hon'ble Member Sangay Khandu from Gasa
4. Hon'ble Member Kesang Namgyal from Trashiyangtse
5. Hon'ble Member Karma Donnen Wangdi from Sarpang
6. Hon'ble Member Ugyen Tshering from Paro
7. Hon'ble Member Sonam Yangchen from Wangduephodrang
8. Hon'ble Member Tshewang Jurmi from Bumthang
9. Hon'ble Member Jigmi Rinzin from Pemagatshel
10. Hon'ble Member Sonam Kinga from Trashigang
11. Hon'ble Member Naichu from Mongar

12. Hon'ble Member Tshewang Lhamo from Chhukha
13. Hon'ble Member Jigme Wangchuk from Samdrupjongkhar
14. Eminent Member Karma Damcho Nidup
15. Hon'ble Member Pema Lhamo from Zhemgang
16. Hon'ble Member Rinzin from Lhuentse
17. Eminent Member Kuenlay Tshering

*(The 17<sup>th</sup> Day of the first 5<sup>th</sup> Month of the Earth Male Rat Year corresponding to June 20, 2008)*

### **Section 152 of Chapter 8**

The Hon'ble Member from Haa Dzongkhag submitted that Section 152 is contradictory to Article 7.12 of the Constitution and, therefore, not relevant. The House resolved that the Election Commission should review the section and inform the Council.

### **Section 159 of Chapter 8**

On Section 159, the Hon'ble Member from Trashigang pointed out that, while there was the ceiling prescribed for political parties to accept financial or in-kind contributions from its registered members, there was no mention of acceptance and measurement of asset contributions, or whether it was legal.

The Chief Election Commissioner explained that the monetary value of asset contributions could be calculated and accounted for in the list of voluntary contributions. The House resolved to retain the clause unchanged.

### **Members who made Submissions on Chapter 8 Section 152 to Chapter 9 Section 159**

1. Hon'ble Member Jijme Wangchu from Samdrupjongkhar
2. Hon'ble Member Rinzin from from Lhuentse

3. Hon'ble Member Sonam Yangchen from Wangduephodrang
4. Hon'ble Member Sonam Dorji from Dagana
5. Hon'ble Member Sonam Kinga from Trashigang
6. Eminent Member Karma Yezer Raydi
7. Hon'ble Member Dr. Jagar Dorji from Trongsa
8. Hon'ble Member Pema Lhamo from Zhemgang
9. Hon'ble Member Tshewang Lhamo from Chhukha
10. Hon'ble Member Jigmi Rinzin from Pemagatshel
11. Eminent Member Tashi Wangmo
12. Eminent Member Kuenlay Tshering
13. Hon'ble Member Tshering Dorji from Haa
14. Hon'ble Member Sangay Khandu from Gasa
15. Hon'ble Member Kesang Namgyal from Trashiyangtse
16. Hon'ble Member Sangay Zam from Thimphu
17. Hon'ble Member Naichu from Mongar

*(The 20<sup>th</sup> Day of the first 5<sup>th</sup> Month of the Earth Male Rat Year corresponding to June 23, 2008)*

### **Section 160 of Chapter 9**

On Section 160, some Members pointed out that, although the clause required a Member of Parliament to resign from the previous post, the five Eminent Members of the National Council were still holding their offices, which was not in keeping with the section.

The Chief Election Commissioner responded that because the appointment of the five Eminent Persons to the National Council was His Majesty's prerogative, there was no need of its mention in the Bill. However, the House resolved that the Election Commission should review the clause and report to the Council.

### **Section 161 of Chapter 9**

The Hon'ble Member from Pemagatshel Dzongkhag submitted that in Section 161, 'Private Legal Corporation'

should be added after sub section (f). The House resolved that the Election Commission should review it and inform the Council.

### **Section 163 of Chapter 9**

On Section 163 (g), Eminent Member Karma Yezer Raydi pointed out that the phrase ‘National/Judicial Commission’ could be understood as ‘National Commission’ and ‘Judicial Commission’, implying Judiciary’s intrusion into the Executive.

The Chief Election Commissioner clarified that the phrase carried no other meaning than ‘Judicial Commission’. The House resolved that the Election Commission should review the section and inform the Council.

### **Section 173 of Chapter 10**

Regarding Section 173, some Members submitted that the university degree acquired through distance education be recognized for a person to be eligible to contest for a seat in Parliament.

The Chief Election Commissioner reminded the House on how Bhutan had enjoyed Gross National Happiness due to its educational capacity. He said that, in order to ensure a strong democratic parliament, its members should be adequately qualified. However, the House resolved that the Election Commission should review the issue and inform the Council.

### **Section 174 and 175 of Chapter 10**

On Section 174 (c), the Hon’ble Member from Bumthang Dzongkhag submitted that the English version should

mention the maximum age of the candidate. A few other Members submitted that, in Section 174 and 175, a new clause ‘Not affiliated to any political party’ be put. The Chief Election Commissioner agreed to the submissions, and the House accordingly resolved that the additions will be made.

### **Section 176 of Chapter 10**

On Section 176 (c), some Members submitted that the clause ‘Has been dismissed or removed from public service’ should include private and corporate sectors. The House resolved that the Election Commission should study the need for the addition and report to the Council.

### **Members who made Submissions on Chapter 9 Section 160 to Chapter 10 Section 176**

1. Hon’ble Member Ugyen Tshering from Paro
2. Hon’ble Member Sangay Khandu from Gasa
3. Hon’ble Member Jigmi Rinzin from Pemagatshel
4. Eminent Member Karma Yezer Raydi
5. Hon’ble Member Sangay Zam from Thimphu
6. Hon’ble Member Dr. Jagar Dorji from Trongsa
7. Hon’ble Member Rinzin from Lhuentse
8. Hon’ble Member Tshewang Jurmi from Bumthang
9. Hon’ble Member Sonam Kinga from Trashigang
10. Eminent Member Kuenlay Tshering
11. Hon’ble Member Tshewang Lhamo from Chhukha
12. Hon’ble Member Kesang Namgyal from Trashiyangtse
13. Hon’ble Member Jigme Wangchuk from Samdrupjongkhar

*(The 21<sup>st</sup> Day of the first 5<sup>th</sup> Month of the Earth Male Rat Year corresponding to June 24, 2008)*

### **Sections 177, 178, 179 of Chapter 10**

Some Members pointed out that the provisions under Section 176 (a) to (e) seemed too stringent and contradicted the



Articles of the Constitution. The House resolved that the Election Commission should review the Section and report to the Council.

### **Section 181 of Chapter 10**

Regarding Section 181, which states that any religious personality shall remain above politics, some Members submitted that since religious people were also citizens of Bhutan, they should have fundamental rights in accordance with Article 7 of the Constitution and, therefore, be allowed to vote if not allowed to form a party or be members of one. Other Members, however, submitted that religion be always kept above politics. Some Members asked whether Gomchens in the villages, whose lifestyle was both religious and secular, could vote.

The Chief Election Commissioner said that the fact that the Bill had been drafted under the wise counsel of Their Majesties the Kings and His Holiness Je Khenpo's wish to keep religion and politics separate should be acknowledged. He informed the House of the dangers of mixing religion with politics. The House resolved that the Election Commission should review the section and inform the Council.

### **Section 186 of Chapter 11**

On Section 186, the Hon'ble Member from Dagana Dzongkhag asked whether there would be primary round of election if there were only two parties. The Hon'ble Member from Trashigang Dzongkhag submitted that, if there were only two parties and the primary round of elections not held, it should be made clear in the Bill. He said that it would save time and resource if the primary round of elections was not held when there were only two parties contesting. He asked

whether there would be Assembly sessions if one party won all the 47 seats in the National Assembly. He was supported by the Hon'ble Members from Gasa and Lhuentse Dzongkhags.

In response, the Chief Election Commissioner said that the primary round of elections would not be held if there were only two parties. If there was only one party, the election would be deferred. Meanwhile, if no new party came up, the election would be held for the single party on "Yes" and "No" vote. If a single party won the election, the Chief Election Commissioner said that the National Assembly sessions could be convened. The House resolved that the Election Commission should make amendments based on the submissions and report to the Council.

### **Section 193 of Chapter 11**

On Section 193, which states that in the event of premature dissolution of a Local Government, the Election Commission will call an election to elect a new government within 90 days, some Members expressed doubts on who would run the local government in the interim period if the Gup and Mangmi wanted to take part in the election and stepped down.

The Chief Election Commissioner explained that, in the event of a complete dissolution of a local government, the responsibility of governance in the interim period fell on the Dzongda and Gewog Administrative Officer in accordance with Gewog Chathrim. The House accepted the explanation made by the Chief Election Commissioner.

## **Section 195 of Chapter 11**

On Section 195, some Members said that every Dzongkhag is divided into two or more constituencies. Therefore, the National Assembly candidates had a smaller area to cover during one month's campaign period. However, for the National Council candidates whose constituency encompasses the entire Dzongkhag, the same campaign period was not enough. The Members submitted that the campaign period for the National Council candidates should be determined based on the population of the Dzongkhag and the number of Gewogs. The House resolved that the Election Commission should review the possibility and report to the Council.

## **Section 200 of Chapter 11**

Regarding Section 200, the Hon'ble Member from Haa Dzongkhag submitted that, while any election should be held within 90 days of the dissolution of a political institution in accordance with the command of His Majesty, the date of election could be extended beyond 90 days. The Hon'ble Member from Gasa Dzongkhag said that the fact that the last National Council elections were postponed in five Dzongkhags reflects how the elections could be deferred. He submitted that, therefore, it should be clearly mentioned in the Bill.

The Chief Election Commissioner responded that, under the command of His Majesty, the Election Commission had the power to set timetables and make work plans. Therefore, he submitted that His Majesty's command be upheld. The House resolved that the Election Commission should review the submission and report to the Council.

## Section 203 of Chapter 12

The Hon'ble Member from Lhuentse Dzongkhag submitted that a new Section should be added which states that 'The resignation of a member of a political party from his or her office shall be announced in the audio-visual and print media, and a copy of newspaper announcement of his or her nomination as a political candidate should be submitted'. The Hon'ble Member from Bumthang Dzongkhag submitted that the phrase 'one year' should be replaced by 'one term'. The Hon'ble Member from Zhemgang submitted that, since a copy of the resignation letter of the party member would be forwarded to the Election Commission, there was no need of a new section.

The Hon'ble Member from Trashigang Dzongkhag said that he did not support the submission of the Hon'ble Member from Bumthang Dzongkhag. He submitted that the phrase 'one year' be retained.

On Section 203 (d), the Hon'ble Member from Thimphu submitted that the phrase 'has affiliation to' was unclear. Some Members reminded the House that having or not having affiliation to a party had been put under discussion in Parliament. They submitted that the word 'affiliation' should be clearly defined and put in the annexure of the Bill.

Regarding Section 203 (d), the Chief Election Commissioner explained that the phrase 'belongs to or has affiliation to' meant the resigning member of a political party would receive a letter from the Election Commission mentioning the date, upon which his or her name would be removed from the party's list of its members.

The Hon'ble Member from Gasa Dzongkhag asked whether a person could rejoin the civil service after resigning from a political office. The Chief Election Commissioner responded that such a provision in the Bill would lead to problems. Therefore, he submitted that it be better discussed when the civil service Bill was put up to Parliament.

The House resolved that the issue of whether a person could join private companies and the civil service after resigning from a political office would be determined by the service rules of companies concerned and the civil service. It was decided that the Election Commission should review the other submissions above and inform the House.

### **Section 206 of Chapter 12**

On Section 206 (c), the Hon'ble Member from Pemagatshel Dzongkhag asked whether a political party could nominate a different candidate from the one whose name was filed in the nomination letter. The Member pointed out the contradiction that, while in Section 205 the time for the submission for nomination paper is until 4 pm, Section 206 (c) states that it is until 5 pm. Some Members supported his submission.

Some Members submitted that there was a problem if the candidates of the losing party could join the winning party. The Chief Election Commissioner responded that this opportunity was made available to the candidates in order to enable capable candidates to become the members of Parliament.

The Hon'ble Member from Zhemgang Dzongkhag submitted that, if the candidates of a losing party in the primary round of election were allowed to join a winning party and be nominated as its candidate in the general round of election, it

should be mentioned in the Election Bill. The Hon'ble Member from Thimphu Dzongkhag submitted that, since the democratic system in the country is new, the Bill should be strong. The House resolved that the Election Commission should review the submissions and inform the Council.

### **Section 229 of Chapter 12**

On Section 229, some members submitted that, instead of political party elections only, the section should also deal with the National Council elections. The House resolved that the Election Commission review the submission and report to the Council.

### **Sections 251 and 252 of Chapter 13**

Regarding Sections 251 and 252, the Hon'ble Member from Trashigang Dzongkhag submitted that the Sections should contain detailed dos and don'ts about the election. He also submitted that instead of two representatives at the polling station, polling representative and election representative, one representative should be enough.

The Chief Election Commissioner responded that, although the candidate could appoint the same person as both polling representative and election representative, due to their different duties, they should be mentioned separately. The House resolved that the Election Commission should review the issue and report it to the Council.

### **Members who made Submissions on Chapter 11 Section 177 to Chapter 13 Section 252**

1. Hon'ble Member Sonam Dorji from Dagana
2. Hon'ble Member Sonam Kinga from Trashigang
3. Hon'ble Member Sangay Khandu from Gasa

4. Hon'ble Member Rinzin from Lhuentse
5. Hon'ble Member Jigmi Rinzin from Pemagatshel
6. Hon'ble Member Dr. Jagar Dorji from Trongsa
7. Hon'ble Member Naichu from Mongar
8. Eminent Member Tashi Wangmo
9. Hon'ble Member Tshering Dorji from Haa
10. Hon'ble Member Tshewang Jurmi from Bumthang
11. Hon'ble Member Sangay Zam from Thimphu
12. Hon'ble Member Pema Lhamo from Zhemgang
13. Hon'ble Member Kesang Namgyal from Trashiyangtse

*(The 22<sup>nd</sup> Day of the first 5<sup>th</sup> Month of the Earth Male Rat Year corresponding to June 25, 2008)*

## **Chapter 14**

On Chapter 14, some Members submitted that the campaign period prescribed by the Election Commission was not enough. The Hon'ble Member from Trongsa submitted that the campaign period is not enough because of activities such as debate.

The Hon'ble Member from Pemagatshel Dzongkhag said that it was difficult to campaign in remote villages of the Dzongkhag due to inadequate time. He submitted that the campaign period for the National Council candidates should be allocated based on the number of Gewogs in the Dzongkhag. The Hon'ble Member from Chhukha Dzongkhag said that the candidate could not even get across the campaign messages properly in one month's time.

In response, the Chief Election Commissioner said that the campaign period for the National Council candidates would be reflected in the campaign period display board as well as in the Election Bill.

Some Members submitted that the campaign period should be made uniform to all the candidates. Eminent Member Kuenlay Tshering seconded the submission of other Members and said that in view of the objective of the election campaigns, the campaign period should be included in the Election Bill.

The Hon'ble Member from Samtse Dzongkhag submitted that, since most of the people in the villages did not understand Dzongkha, whether the candidates could speak in regional dialects. The Hon'ble Member from Lhuentse Dzongkhag seconded the submission.

The Chief Election Commissioner said that the candidates would be given adequate campaign period. Regarding the use of language during campaign, he said that even if the candidates were allowed to campaign in their regional dialects, the debate must be conducted in Dzongkha.

The House resolved that the candidates could campaign in their regional dialects although it was not mentioned in the Bill. It was also resolved that the allocation of campaign period for the National Council candidates should be clearly mentioned in the Election Bill.

### **Section 264 of Chapter 14**

On Section 264, Eminent Member Karma Yezer Raydi asked whether local government candidates could campaign like Parliamentary candidates. The Chief Election Commissioner clarified that they could do so.



### **Section 265 of chapter 14**

Regarding the Royal Decree in Section 265, the Hon'ble Member from Pemagatshel Dzongkhag asked whether the Decree would also apply to the elections for local governments. The House resolved that the Election Commission should review the section and report to the Council.

### **Sections 267, 268, and 269 of Chapter 14**

On Sections 267 and 269, the Hon'ble Member from Bumthang Dzongkhag submitted that, along with political parties, the National Council should also be mentioned. The Chief Election Commissioner said that the Election Commission would review the sections, make them applicable to the National Council as well and report to the Council.

### **Section 274 of Chapter 15**

On Section 274, which states that a Public Election Fund shall be paid to the parties and candidates at elections to the Parliament, some Members submitted that the public election fund should also be made available to the candidates contesting in the local government elections. The House resolved that the Election Commission should review the section and report to the Council.

### **Section 278 of Chapter 15**

On Section 278, according to which a person can receive contributions from any member of the party if he or she has been authorized in writing by the party concerned, the

Hon'ble Member from Haa Dzongkhag submitted that the clause left room for illicit solicitation of contributions.

The Chief Election Commissioner submitted that the phrase 'in accordance with the law' will be added to the section. The House resolved that the Election Commission should make the addition to the section and report to the Council.

### **Section 279 of Chapter 15**

On Section 279, the Hon'ble Member from Trashigang Dzongkhag asked whether there was any legal action if a person or a party collected contributions beyond the prescribed ceiling. The Chief Election Commissioner responded that there were appropriate legal actions against the defaulter and the party would also be liable for dissolution.

### **Section 294 and 295 of Chapter 16**

On Section 292, the Hon'ble Member from Trongsa Dzongkhag submitted that the clause 'no political party or candidate shall permit their supporters to make use of any public property or private property, without the owner's written permission, for purposes like erecting prayer flags' would be a problem during the campaign rallies.

The House resolved that, since election campaigns would cause inconveniences and security problems to the general public, political rallies should not be allowed in the Bhutanese democratic system.

### **Section 299 of Chapter 16**

The Hon'ble Member from Thimphu Dzongkhag said that in section 299, "members of political parties" should be incorporated. The Chief Election Commissioner submitted that the word 'minister' would be removed from the section and necessary changes made. The House resolved that the Election Commission should study the option and inform the Council.

### **Section 300 of Chapter 16**

Regarding Section 300 (f), while some Members submitted that political parties should be allowed to serve or distribute food or drink to voters, others submitted that the section should not be changed. The House resolved that the section would remain unchanged.

Some Members submitted that even if display boards and posters were not removed 48 hours ahead of elections, there were no harmful implications. Therefore, the campaign publicity boards and posters should be allowed to remain until the end of the poll. The House resolved that the Election Commission should review the section and make the necessary amendments.

### **Section 329 of Chapter 17**

On Section 329, some Members submitted that the citizens be allowed to vote on the internet since traveling to the constituency of one's census entails difficulties. The Hon'ble Member from Pemagatshel Dzongkhag submitted that the spouse and dependents of the person mentioned in Section 329 (d) and (e) should be also allowed to vote through postal ballot.

In response, the Chief Election Commissioner said that, although His Majesty commanded that the persons mentioned in Section 329 (a) to (e) be given the opportunity to vote by post, the Election Commission could not do that owing to a shortage of human resource. He added that voting on the internet required qualified people. He informed the House that voting on the internet would be made possible in the next five years.

Some members submitted that employees of private companies be allowed to cast their votes by post. The House resolved that the Election Commission review the submission carefully and report to the Council.

### **Section 333 of Chapter 17**

Regarding Section 333, some Members submitted that traveling to one's own constituency to vote entailed risk to life and financial problems, the citizens should be allowed to vote from the constituency of their residence. The House resolved that the Election Commission should find the best possible alternative and report to the Council.

### **Members who made Submissions on Chapter 14 to Chapter 17 Section 333**

1. Hon'ble Member Jigmi Rinzin from Pemagatshel
2. Hon'ble Member Dr. Mani kumar Rai from Samtse
3. Hon'ble Member Tshewang Lhamo from Chhukha
4. Hon'ble Member Sonam Kinga from Trashigang
5. Hon'ble Member Sangay Khandu from Gasa
6. Hon'ble Member Tshewang Jurmi from Bumthang
7. Eminent Member Kuenlay Tshering
8. Hon'ble Member Rinzin from Lhuentse
9. Eminent Member Karma Yezer Raydi
10. Hon'ble Member Tshering Dorji from Haa

11. Hon'ble Member Dr. Jagar Dorji from Trongsa
12. Hon'ble Member Naichu from Mongar
13. Hon'ble Member Sangay Zam from Thimphu
14. Hon'ble Member Pema Lhamo from Zhemgang
15. Hon'ble Member Sonam Dorji from Dagana
16. Hon'ble Member Karma Donnen Wangdi from Sarpang
17. Hon'ble Member Kesang Namgyal from Trashiyangtse

*(The 23<sup>rd</sup> Day of the first 5<sup>th</sup> Month of the Earth Male Rat Year corresponding to June 26, 2008)*

### **Section 336 of Chapter 17**

On Section 336, the Hon'ble Member from Pemagatshel submitted that the voter turnout would be better if industrial workers and employees of government establishments were granted leave for a required period to go to the polls. The House resolved that, while making announcement regarding the clause, the Election Commission should be mindful of the phrase 'for a reasonable period'.

### **Section 343 of Chapter 17**

Some Members submitted that, if the identity of the voter on the postal ballot paper was clear enough, the ballot paper should be accepted. The Chief Election Commissioner responded that it would be clearly mentioned in the election rules and regulations besides making it part of the voter education programme, which the House endorsed.

### **Section 345 of Chapter 17**

The Hon'ble Member from Pemagatshel Dzongkhag submitted that Section 345 should also cover the candidates of the National Council along with the National Assembly candidates. The Hon'ble Member from Lhuentse Dzongkhag

asked whether votes could be cast by post during local government elections.

The Chief Election Commissioner said that the section would be made inclusive of the National Council candidates. Regarding the possibility of postal ballots in local government elections, he said that the Election Commission will review the issue and inform the Council.

With regard to the phrase “the names of contesting candidates on the ballot paper shall be printed along with their respective names of political party and symbols”, the Hon’ble Member from Samdrupjongkhar Dzongkhag submitted that the section should also mention the photograph of the candidate. The House resolved that the clause should include the requirement of a photograph.

### **Section 347 of Chapter 17**

The Hon’ble Member from Paro Dzongkhag expressed concerns on the secrecy of the ballot due to lack of appropriate polling booths. On this, other Members pointed out the inconsistency in affixing candidates’ photographs and placement of machines at the polling stations and submitted that the size of the candidate’s photograph be enlarged for identification and the polling booth electrified and other alternatives be put in place where there is no electricity.

To this, the Chief Election Commissioner informed that the electronic voting machines had been used without any problem and affixing candidates’ photograph and placement of machines had been announced on television and the print media. In addition, he submitted that training had been conducted on the whole electoral process. The House resolved that Election Commission should look into these

matters and come up with appropriate solutions as far as possible.

### **Section 365 of Chapter 17**

With regard to section 365, the Hon'ble Member from Bumthang Dzongkhag submitted that provisional vote should be given to a person who had cast postal ballot, but due to certain problems had to go to vote in person. In response, the Chief Election Commissioner informed that provisional vote is not provided to such a person as an individual is entitled for only one vote. The Hon'ble Member of Trongsa Dzongkhag submitted that Provisional Vote casters should produce both the valid citizenship identity card and voter photo identity card at the time of casting vote and not just one of them. The House resolved that the Election Commission shall review the section and submit to the Council.

### **Section 380 and 381 of Chapter 18**

In response to the submission made by Hon'ble Member of Thimphu Dzongkhag to rearrange the order of section 380 (a) to (c) and 381 (a) and (b), the House resolved that the Election Commission shall make the changes and submit to the Council.

### **Section 440 and 441 of Chapter 19**

Eminent Member Karma Damcho Nidup submitted whether "Parliamentary constituency" refers to only National Assembly constituencies or if it would also include the National Council. Hon'ble Member of Pemagatshel Dzongkhag also submitted that section 448 and 452 regarding declarations of results of the National Council should be included under Section 441. The House resolved that the

Election Commission should review and submit to the Council.

### **Section 448 to 453 of Chapter 19**

Most of the Members submitted that Section 448 to 453 wherein the National Council and institution of Local Government are incorporated in the same sections needed to be segregated into different sections. The House resolved that the Election Commission should review and report to the Council.

### **Section 451 of Chapter 19**

The Hon'ble Member from Trongsa Dzongkhag submitted that, although the formation of a government led by the Prime Minister under the command of His Majesty after the National Assembly election has been stated, there is no mention of the election of the Chairman and procedures under Section 451 for the National Council and problems might ensue as a result of this. The House resolved that the Election Commission shall review the matter and report to the Council.

### **Section 455 of Chapter 19**

In Section 455, the Hon'ble Member from Dagana Dzongkhag submitted that there should be re-election instead of draw of lots if two candidates secure an equal number of votes. To this, the Hon'ble Member from Trongsa Dzongkhag submitted that the decision by draw of lots should stand since securing an equal number of votes signify equal competency of the candidates.



Based on the submission by the Hon'ble Member from Trongsa Dzongkhag, the National Council resolved to retain the section without change.

### **Section 459 of Chapter 20**

The Hon'ble Chairperson informed the House that “the authority to try an election petition relating to an election to a Local Government shall be the Dzongkhag Court” under Section 459 and the High Court being such an authority as per the Local Government Act are contradictory. It was resolved that the Election Commission would review the section and submit to the House.

### **Section 460 of Chapter 20**

The Hon'ble Member from Bumthang Dzongkhag submitted that “an election petition calling in question any election shall be presented after the date of declaration of results in the constituencies” should be revised as “after counting of votes followed by immediate declarations of results” and to prevent inconveniences with the 10 days observatory period, there is also a need to include a protocol on reporting results.

To this, the Chief Election Commissioner explained that it would be convenient if the Election Officers could delay the results. However, failure to declare results immediately is likely to create doubts among the public in view of free and fair elections. Based on the submission, the House resolved to retain the section as it is.

### **Section 527 of Chapter 21**

Although campaigning activities are prohibited during the period of 48 hours before the commencement of poll, some of

the members submitted their doubts as to whether the candidates are allowed to interact with election observers and travel to other areas or to remain within their respective polling areas during the period.

To this, the Chief Election Commissioner submitted that this had to be dealt with as per the law. The House resolved to retain the section as it is.

### **Section 532 of Chapter 21**

The Hon'ble Member from Trongsa Dzongkhag submitted that although Section 532 (a) states that a person shall not possess more than one Voter Photo Identity Card, the issuance of two different Voter Photo Identity Cards during the mock election and actual election is likely to cause inconveniences to the public. The House resolved that the Election Commission should come up with solutions to resolve this.

### **Section 535 of Chapter 21**

The Hon'ble Member from Chhukha Dzongkhag submitted that although the Section prohibits canvassing within a distance of hundred metres of the polling stations, it seems that the same is allowed beyond the prescribed distance in other places. The House resolved that matters pertaining to this should be dealt as per the existing law.

## **Chapter 22**

Eminent Member Karma Yezer Raydi submitted that as there is separate National Referendum Bill, there is no need to include the National Referendum in the Election Bill. To this, the Chief Election Commissioner affirmed that the

Referendum Bill is not only related to the Election Bill but would also benefit it in terms of its status and authenticity and therefore, should be kept as it is.

The House resolved that the Election Commission should review the section and submit to the Council.

### **Section 558 of Chapter 22**

The Hon'ble Member from Haa Dzongkhag submitted that although the initiation of the National Referendum by Section 558 (a) and (b) is appropriate, section 558 (c) is not in line with the provisions of the Constitution and should be removed. On this, the Hon'ble Member from Gasa Dzongkhag submitted that this is in accordance with the provision of the Constitution under Article 34.4 and accordingly the House resolved to retain the section as it is.

### **Section 566 of Chapter 23**

In Section 566, the Hon'ble Member from Lhuentse Dzongkhag raised concerns over a poll at any election taken in the constituency concerned even if there is only one contesting candidate. In addition, the Hon'ble Member from Dagana Dzongkhag questioned how the poll is going to be conducted if there were no contesting candidates at all in a constituency. The House resolved that the Election Commission should review the section and submit to the Council.

### **Section 570 of Chapter 23**

In addition to the submission by the Hon'ble Member from Pemagatshel Dzongkhag on requirement of provision for the Election Commission to hold by-elections without consulting

the Government, the Hon'ble Member from Bumthang proposed the deletion of (b) of this section.

Deliberating on this, a few members questioned what would happen if the opposition party won an equal or more number of seats during the by-election. Likewise, the Hon'ble Member from Trongsa Dzongkhag submitted that there is a need for a provision in the Act for the Government to remain functional at the time of by-election since dissolving the Government during by-election would lead to inconveniencies. The House resolved that the matters pertaining to this should be thoroughly reviewed by the Election Commission and submitted to the House.

### **Section 573 and 574 of Chapter 23**

The Hon'ble Member from Gasa Dzongkhag submitted whether the amendment of this Act should be made in a joint sitting of Parliament or in the respective Houses. In response to this, the Hon'ble Member from Pemagatshel Dzongkhag put forward that a simple majority of the total number of members of Parliament as per Section 573 suggests that it is in the joint sitting that such an amendment should be made. He proposed that the simple majority should be replaced by two-thirds majority.

Some members deliberated that proposals for amendments should be allowed to be submitted in the respective Houses instead of a joint sitting.

On this, the Hon'ble Member from Zhemgang Dzongkhag submitted that there was no need for changes in the section as Article 13.4 of the Constitution and Section 574 of the Election Bill are in agreement. The House resolved that the

Election Commission should review the relevant sections and submit to the Council.

### **Section 575 of Chapter 23**

It was deliberated that since the responsibility mentioned in this section is a moral responsibility, there is no need for inclusion of this section in the Bill. However, the House resolved to retain the section as it is.

### **Annexure**

The Hon'ble Member from Bumthang Dzongkhag submitted the deletion of (qq) which states that words importing the masculine gender shall include the feminine gender. The House resolved to adhere to the resolution of the joint sitting of Parliament.

Eminent Member Karma Damcho Nidup submitted that in (ff) parliamentary constituency includes only the National Assembly and should take account of the National Council as well. The House resolved that the Election Commission should review this and submit to the Council.

### **Members who made Submissions on Chapter 17 Section 336 to Chapter 23 Section 575**

1. Hon'ble Member Jigmi Rinzin from Pemagatshel
2. Hon'ble Member Tshewang Lhamo from Chhukha
3. Hon'ble Member Rinzin from Lhuentse
4. Hon'ble Member Ugyen Tshering from Paro
5. Hon'ble Member Naichu from Mongar
6. Hon'ble Member Karma Donnen Wangdi from Sarpang
7. Hon'ble Member Dr. Jagar Dorji from Trongsa
8. Hon'ble Member Jigme Wangchuk from Samdrupjongkhar
9. Hon'ble Member Tshewang Jurmi from Bumthang
10. Hon'ble Member Sangay Zam from Thimphu

11. Eminent Member Karma Damcho Nidup
12. Hon'ble Member Sonam Dorji from Dagana
13. Hon'ble Member Sangay Khandu from Gasa
14. Hon'ble Member Tshering Dorji from Haa
15. Eminent Member Karma Yezer Raydi
16. Eminent Member Kuenlay Tshering
17. Hon'ble Member Sonam Kinga from Trashigang
18. Hon'ble Member Pema Lhamo from Zhemgang

*(On the 24<sup>th</sup> Day of the 5<sup>th</sup> Bhutanese month, Earth Male Rat Year corresponding to June 27, 2008)*

## **F) The National Referendum Bill of the Kingdom of Bhutan, 2008**

### **1. Introduction and background to the Bill by the Election Commissioner**

The National Referendum is a new system not found in other countries. It emanated from His Majesty for the stability of the nation and is a distinct electoral process in a democratic system.

The inclusion of National Referendum in the Bhutanese democratic system allows both the systems of direct democracy and representative democracy. This empowers the people of Bhutan to have their say if Parliament does not function as per the will of the people on matters pertaining to national security and other issues of national significance by voting at a National Referendum.

### **2. Members' Deliberation on the Bill**

#### **Preamble**

Eminent Member Kuenlay Tshering proposed the correction of "Article 32 of the Constitution of the Kingdom of Bhutan"

in the introduction as “Article 34” and the House resolved to amend accordingly.

### **Section 10 of Chapter 3**

Hon’ble Member from Haa Dzongkhag proposed that His Majesty the Druk Gyalpo as the authority to initiate the National Referendum under Chapter 22 Section 4 has to be included in Chapter 3 Section 10 as well. In addition, Section 16 and 17 under Chapter 3 have to be reviewed as to their legality. National Referendum under Section 20 shall be initiated by Parliament and proposed that Section 16 to 19 of Chapter 3 should be put under Section 13. The House resolved that the Election Commission shall review these and submit to the Council.

### **Section 11 of Chapter 3**

Eminent Member Karma Yezer Raydi sought clarification on the definition of motions that shall be submitted by the Chairman of the Dzongkhag Tshogdu after communication within 10 days for a National Referendum and questioned the validity of a motion in case of failure to communicate within 10 days.

To this, the Election Commissioner clarified that the 10 days duration has been kept to enable community leaders to communicate without delay as the people cannot directly forward a motion and for this there is a need to develop rules and guidelines.

The House resolved that the Election Commission should develop rules and guidelines and change “Chairman” to “Chairperson” in the English version and “Article 32” as “Article 34”.

### **Section 12 of Chapter 3**

The Hon'ble Member from Zhemgang Dzongkhag submitted that forwarding the motion calling for National Referendum to the Election Commission in Section 10 and forwarding the motion calling for National Referendum to Parliament in Section 12 are not in congruence and proposed that it should be mentioned as the Election Commission instead of Parliament. To this, the Election Commissioner clarified that the issues contained in Section 10 and 12 are different and, therefore, should be kept as it is.

The Hon'ble Member from Trashigang sought clarifications on variations of understanding of the motion forwarded to Parliament by Dzongkhag Chairpersons and the Druk Gyalpo proclaiming a National Referendum as per the Constitution. Similarly, the Hon'ble Member from Haa Dzongkhag expressed that the motion is forwarded to Parliament since it is Parliament that frames the National Referendum procedures.

To this, the Election Commissioner clarified that the motion calling for a National Referendum through the Dzongkhag Tshogdu shall be forwarded to Parliament and Parliament shall then forward it to the Election Commission which will submit it to the Supreme Court for review.

The Hon'ble Member from Trongsa Dzongkhag submitted that it should be made possible to forward the motion from Dzongkhags to the Election Commission directly without having to go through Parliament in view of the possible inconveniences in forwarding a motion to Parliament.

The Hon'ble Member from Pemagatshel Dzongkhag pointed out that the Election Commission submitting a motion of



National Referendum to the Supreme Court to review its legality before submitting it to the Druk Gyalpo in Chapter 3 Section 16 and 17 should be stated before Section 25. The House resolved that the Election Commission shall review the above issues and submit to the Council.

### **Section 23 of Chapter 3**

The Hon'ble Member from Chhukha Dzongkhag asked what would be the solutions when “Yes” and “No” vote cast in a National Referendum turns out to be equal. On this, the Election Commissioner clarified that although it is not mentioned in the Bill, it will be specified in the code of conduct and rules and guidelines in such cases. The House resolved that the Election Commission shall review this and submit it to the Council.

### **Section 36 of Chapter 4**

The Hon'ble Member from Wangduephodrang Dzongkkhag proposed for the deletion of མཚན་ལྟོ in the Dzongkha version, which the House endorsed.

### **Section 46 of Chapter 5**

The Hon'ble Member from Gasa Dzongkhag raised concerns as to whom the “permitted participants” refers to in the National Referendum campaign. The Hon'ble Member from Pemagatshel Dzongkhag added if there is any limitation to the number of permitted participants.

To this, the Election Commissioner clarified that “permitted participants” refers to eligible voters and political parties and the number would depend on the situation.

### **Section 49 of Chapter 4**

Eminent Member Karma Damcho Nidup informed that Section 49 would jeopardize the independence and rights of media and, therefore, Sections 49 and 50 should be reflected under Section 270 of the Election Bill and formulate a Code of Conduct for the media. To this, the Election Commissioner clarified that this will not jeopardize the independence of media as the campaigning period last for only 90 days. The media personnel should also abide by the law and, therefore, formulation of separate code of conduct is not necessary. The House resolved accordingly.

### **Section 53 of Chapter 4**

The Hon'ble Member from Trongsa Dzongkhag pointed out that "no person shall, during the time of voting and before the declarations of results, publicize the voting trend" in Section 53 would mean that knowing the results before the official declarations by the Election Commission is a violation of Section 53 of this Act.

To this, the Election Commissioner clarified that it is not the publicizing of the actual results of the election that is not allowed but the dissemination of the results obtained by the media through their own research. This section, however, needs to be reviewed for its clarity and the House resolved, accordingly.

### **Section 63 of Chapter 6**

The Hon'ble Member from Zhemgang Dzongkhag submitted that, while the National Council is a permanent body, Section 63 (g) implies an existence of a separate law for its dissolution. Further, the right to dissolve the National

Assembly through a National Referendum should be given to the people. On this basis, “Dissolution of Parliament or Local Government” in Section 63 (g) was proposed for deletion.

To this, the Election Commissioner explained that although it is stated that the dissolution of the National Council cannot be subjected to a National Referendum, it seems that it is reflected elsewhere. However, its mention in the “Exclusion” section establishes the permanent status of the National Council and also submitted that since there is a separate rule on the dissolution of the National Assembly, the issue need not be incorporated in the National Referendum Bill. The House resolved that the Election Commission should review this issue and submit to the Council.

### **Section 68 of Chapter 6**

The Hon’ble Member from Bumthang Dzongkhag submitted that the provision for amendments should be identical to that of the provisions in the Election Bill. The House resolved to make the procedure for amendment of the all the Acts uniform.

### **Section 70 of Chapter 6**

The Hon’ble Member from Trongsa Dzongkhag submitted that like in any other Act, there is a need to include a section on authoritative text in this Bill as well. The House resolved that the Election Commission should review on this and submit to the Council.

### **Members who made Submissions on the National Referendum Bill of Bhutan**

1. Hon’ble Member Dr. Jagar Dorji from Trongsa
2. Hon’ble Member Sangay Zam from Thimphu

3. Eminent Member Kuenlay Tshering
4. Hon'ble Member Tshering Dorji from Haa
5. Eminent Member Karma Yezer Raydi
6. Hon'ble Member Pema Lhamo from Zhemgang
7. Hon'ble Member Sonam Kinga from Trashigang
8. Hon'ble Member Tshewang Lhamo from Chhukha
9. Hon'ble Member Ugyen Tshering from Paro
10. Hon'ble Member Karma Donnen Wangdi from Sarpang
11. Hon'ble Member Sonam Yangchen from Wangduephodrang
12. Hon'ble Member Jigmi Rinzin from Pemagatshel
13. Eminent Member Karma Damcho Nidup
14. Hon'ble Member Tshewang Jurmi from Bumthang
15. Hon'ble Member Rinzin from Lhuentse Dzongkhag

*(On the 27<sup>th</sup> Day of the first 5<sup>th</sup> Bhutanese month, Earth Male Rat Year corresponding to June 30, 2008)*

## **G) National Budget Report and Budget Appropriation Bill for the Fiscal Year 2008-2009**

### **1. Presentation by His Excellency the Finance Minister**

His Excellency expressed his gratitude for the opportunity to present the Budget Appropriation Bill 2008-2009 passed by the National Assembly and explained that the Bill was being submitted to the National Council since both the Houses need to endorse it.

His Excellency said that the budget for the financial year 2008-2009 aims to promote socio-economic development, improve living conditions and accelerate the pace of development contributing to the happiness of the people, and said that the report is in line with the Public Accounts Bill of the Kingdom of Bhutan 2007. The presentation was thereafter made as per the booklets for the National Budget Report and the Budget Appropriation Bill for Fiscal year 2008-2009.

*(Full text available in the Verbatim Records).*

## **2. Members' Deliberation on the Bill**

Eminent Member Kuenlay Tshering submitted that Nu 100 billion grants under Chapter 5.1.2 promised by the Prime Minister of India should be divided equally for the current and capital expenditure of the 10<sup>th</sup> Five Year Plan and suggested that it would be of immense benefit if the Royal Government of Bhutan emphasizes on the hydropower projects. In pursuant to the Article 14.12 of the Constitution, he submitted the need to establish Relief Fund for humanitarian relief in case of natural calamities and also thanked the new government on behalf of the people of Bhutan and on behalf of the National Council for incorporating in its plan under Chapter 7.1, the Druk Holding and Investments Limited instituted by Druk Gyalpo through a Royal Charter to manage the public fund for the benefit of the people of Bhutan.

The Hon'ble Member from Pemagasthel Dzongkhag sought clarifications on whether the Budget Appropriation Bill has to be submitted to Parliament if changes are required after passing the Bill.

There are two subsidies of Nu 70 million and Nu 221 million for Bhutan Broadcasting Service Corporation and the Hon'ble Member from Trashigang Dzongkhag sought clarification on whether the former is included in the latter. He also pointed out that while it is indicated as 4 million in English version as subsidies to the private media, the Dzongkha version reflects 4 hundred thousands.

To this, the Finance Minister clarified that the two subsidies of Nu 70 million and Nu 221 million for Bhutan Broadcasting Service Corporation are different; the former for current and the latter for capital expenditure and incase of the private

media subsidy, the English version of Nu 4 million is the correct figure.

The Hon'ble Member from Trashigang Dzongkhag informed that while Bhutan Broadcasting Service Corporation alone has been allocated a total budget of Nu 291 million, the private media has been allocated only Nu 4 million creating a disparity of Nu 287 million. Concern was also raised whether the Nu 4 million is for the private print media alone or for the entire private media and questioned the benefits and efficiency of service delivery with such huge disproportion.

To this, the Finance Minister informed that the huge budget allocation to Bhutan Broadcasting Service Corporation is because of project-tied budgets already included in the plan. In addition, it was submitted that there was no system of allocating subsidy to the private media in the past and since it is being incorporated in the plan for the first time, it has been allotted only Nu 4 million.

Eminent Member Dasho Karma Ura submitted that the promises made by the political parties should be stated in the Budget Act of the 10<sup>th</sup> Plan and added that there is a problem in statement in the Bill restricting expenditure beyond the limit set since the total figure in the Bill would be changed on confirmation of the total grant from the Government of India.

Clarification was sought on how the budget outlay is going to change in view of the report submitted by the GNH Commission and the Centre for Bhutan Studies and proposed that the finalized budget be submitted to Parliament during the November session as the budget for capital expenditure is going to fluctuate due to the inflation in the cost of commodities. It was also submitted that the government come

up with a mechanism to help the 37000 people living in poverty.

To this, the Finance Minister informed the House that the Budget and Appropriation Bill will be submitted again to Parliament in case of amendment after it is passed. He also submitted that the current Budget and Appropriation Bill lacks necessary reports since the budgetary aid is going to be explored from external sources and reminded that the research reports submitted by the GNH Commission and the CBS would be considered if the government finds it appropriate.

The Hon'ble Member from Sarpang Dzongkhag raised doubts about the construction of a motor road from Dolong Gang village of the Dekiling Gewog to Pangkhey Dovan Gewog which has been already commissioned is not reflected in table 4.14 of Chapter 4. He also sought clarification on whether there are any changes on the plan to construct an airport in the Dzongkhag as per the draft 10<sup>th</sup> FYP.

To this, the Finance Minister responded that only major activities are reflected in the table and if the construction of road at the above place has been commissioned, it should be reflected in the budget. Therefore, it was proposed that this will be reviewed and submission made to the House. He also informed that although construction of international airport in Gelephu is mentioned in the draft 10<sup>th</sup> FYP, it is a major project and the officials from GNH Commission and Ministry of Foreign Affairs are scheduled to visit India for talks to seek foreign assistance.

The Hon'ble Member from Lhuentse Dzongkhag questioned the plans to construct and repair motor roads and the mechanisms to tackle inflation and cost of commodities by

the Ministry of Agriculture in the 10<sup>th</sup> plan. Issue was also raised on appropriation of budget for development activities in the developed and underdeveloped Dzongkhags according to the philosophy of the Ruling Party.

To this, the Finance Minister informed that motor roads and electricity shall be provided as promised by the Ruling Party. However, those that are not mentioned equally in the 1<sup>st</sup> Fiscal Year shall be provided in the following 4 years of the 10<sup>th</sup> plan. Of the total budget, almost 11% has been allocated to confront inflation.

The Hon'ble Member from Zhemgang Dzongkhag proposed that it would be appreciated if Nu 80 million allocated for widening of road from Tingtibi to Wangdigang in Chapter 4 Sl. No. 5 is reallocated for the construction of new roads for those Gewogs in the Dzongkhag without roads. Table 4.13, Chapter 4 indicates a budget of Nu 40 million for skills development whereas only over Nu 8 million is allocated for self-employment programmes indicating underutilization of the skills that the youths have acquired through skills development. Therefore, to realize self-reliance, there is a need to provide investment schemes and extra support through separate provision after reviewing the budget appropriation.

To this, the Finance Minister informed that the road connecting Tingtibi and Wangdigang was being shortened and widened because of the Mangdichu hydropower project and the road widening project could not be relocated since it was funded by the Asian Development Bank. It was also reported that the Ministry of Economic Affairs and the Ministry of Labour and Human Resources in collaboration with the Band of Bhutan and Bhutan National Bank have



initiated a system to provide establishment loan for self-reliance.

Eminent Member Dasho Karma Ura pointed out that although the Constitution states that the cost of recurrent expenditures be met from internal resources, it is otherwise in the Fiscal Year 2008-09 and, therefore, it should be reviewed and submitted in the November session. Concern was raised on the possibility of changes in export and import duty if Bhutan becomes a member of the World Trade Organization. It was also reminded that the decision of the government to provide funds for the two political parties is contradictory to Article 14 of the Constitution.

Although the Constitution says that a minimum foreign currency reserve adequate to meet the cost of not less than 12 months' import must be maintained, the Finance Minister informed, adding that it was likely to be inadequate this year and a detailed calculation is underway. He pledged that the policies emanated from His Majesty the fourth Druk Gyalpo shall be implemented. It is said that there was a miscommunication between the news reporter and the Ministry of Economic Affairs with regard to Bhutan's membership to the WTO and no further comments were submitted. The Finance Minister explained that the decision of the Government to include funds for the political parties in the Public Election Fund Bill is not in contravention to the provisions of the Constitution. Membership contribution, the only source of fund for the political parties is inadequate to sustain the party and hence the fund provided by the Government will enable stability of the political parties.

### **Members who made Submissions on the Bill**

1. Eminent Member Kuenlay Tshering
2. Hon'ble Member Jigmi Rinzin from Pemagatshel

3. Hon'ble Member Sonam Kinga from Trashigang
4. Eminent Member Dasho Karma Ura
5. Hon'ble Member Karma Donnen Wangdi from Sarpang
6. Hon'ble Member Rinzin from Lhuentse
7. Hon'ble Member Pema Lhamo from Zhemgang

*(On the 28<sup>th</sup> Day of the first 5<sup>th</sup> Bhutanese month, Earth Male Rat Year corresponding to July 1, 2008)*

The Hon'ble Member from Trashigang Dzongkhag sought clarification on whether the fund for supporting the political parties and the constituency development fund approved by the government are part of this budget outlay and if so under which activity it is indicated. Besides, it was reminded that it is unconstitutional on the part of the government to decide without the endorsement of Parliament.

To this, the Finance Minister submitted that the provision of funds for the political parties were deliberated for inclusion in the Public Election Fund Bill and decisional authority on whether to include it or not rests solely with the National Assembly and the National Council. Budget is only allocated as per the provisions of the Bill. With regard to constituency development fund, it is meant for carrying out essential developmental and restorative activities in consultation with the public of the respective constituencies. However, approval has to be sought from the Ministry of Finance as per government rules.

The Hon'ble Member from Pemagatshel and Lhuentse Dzongkhags submitted that the constituency development grant should not feature separately but distribute it among activities within the 10<sup>th</sup> FYP. Clarification was also sought on whether constituency development grant is part of the budget outlay and asked how it was included without the endorsement of Parliament if it was so.

To this, the Finance Minister clarified that constituency development fund was incorporated in the National Budget under the Ministry of Finance and it was included in the Bill before endorsement in order to avoid budgetary shortcomings with the developmental activities of all ministries and departments in this financial year as per the present system of preliminary estimation of budgets to be included in the Bill.

Eminent Member Kuenlay Tshering submitted that although the Constitution states that the executive body shall not issue any executive order and circulars inconsistent with the law in force, the Cabinet's decision to provide budgetary support to political parties and inclusion of constituency development fund in the Budget and Appropriation Bill without the approval of Parliament is inconsistent with the law and, therefore, it would be difficult for the National Council to endorse it.

To this, the Hon'ble Member from Trongsa Dzongkhag submitted that, if the GNH Commission after reviewing the 10th plan appropriates the budget as per the requirement of the Local Government, there is a provision to disburse the Local Government Development Fund as per the will of the people. Other Members submitted that problems would ensue due to constituency development fund if Budget and Appropriation Bill is passed. Responding to this, the Finance Minister pointed out that if the fund for the political parties and the constituency development fund are passed considering its consistency with the Constitution, the Ministry of Finance shall implement accordingly.

Eminent Member Kuenlay Tshering submitted that it would be difficult to pass the constituency development fund and the fund for political parties as these are inconsistent with the

Constitution and requested to remove them and deliberate on it in a joint sitting of Parliament.

To this, the Finance Minister requested to pass the Bill as resubmission to the National Assembly will prolong the issue thereby affecting planned developmental activities in the country and submitted that the Finance Ministry shall utilize the budget as per the law.

Eminent Member Dasho Karma Ura questioned the actual figure allocated for constituency development fund and the fund for political parties as reflected under National Budget Services as part of the Budget outlay from Finance Ministry. Responding to this, the Finance Minister informed that each political party has been allocated Nu 15 million and Nu 2 million each as constituency development fund.

To this, the House resolved to deliberate on the issues in Parliament after repeated submission by most of the Members to exclude the constituency development fund and the fund for political parties from the Budget.

The Hon'ble Member from Pemagatshel Dzongkhag raised doubts on the decrease in the recurrent budget of the Gewogs for the financial year 2008-2009 to Nu 98.186 million from Nu 98.562 million in 2007-2008 whereas table 4.9 (c) Sl.No. 10, 11 and 14 reflects an increase to Nu 813 million in the 2008-2009 fiscal years. Doubts were also raised on the construction of feeder road in Tsebar and Ngangshing-Woongchilu as reflected in table 4.14 Sl. No. 8 is also a part of the budget outlay for the construction of farm road in Nanong Gewog and whether the budget outlay for Pemagatshel town development in table 4.15 Sl.No. 2 are allocated for the present town or for relocation at Rinchenthang. Further, the Hon'ble Member questioned

whether RENEW, which is a non-government organization, is subject to auditing at the end of the financial year since a budget of Nu 23.580 million has been allocated in the table 4.9 (a) Sl.No. 14.

To this, the Finance Minister clarified that there is a decrease in budget for Dzongkhags and Gewogs in table 4.7 as it not only excludes external assistance but also recurrent and capital funds and informed that the government is in the process of dialogue as far as relocation of Pemagatshel town is concerned. The minister also informed that RENEW has been thoroughly audited and the government is providing budgetary support though it is a non-government organization as it has dealings with the Ministry of Health.

In response to the submission by Hon'ble Member from Gasa Dzongkhag on whether Nu 1 million capital budget allocated for income generation in Lhatsho under Khatoe Gewog also includes acquisition of new tools for the village, the Finance Minister informed that it may have been incorporated in the government policies, and if not, this will be included in the five year plans after reviewing.

The Hon'ble Member from Samdrup Jongkhar Dzongkhag requested that since the capital budget for Samrang Gewog under Samdrupjongkhar has only Nu 1 million and does not include plans for the development of roads and telecommunications training centre, the Ministry of Finance and GNH Commission should review and allocate budgets at par with other Dzongkhags.

To this, the Finance Minister highlighted that Samrang Gewog consists of only 22 households most of which are empty and reported that it is not reflected in the budget outlay as there is

no capital works planned. The Nu 1 million allocated under capital expenditure is for the construction of a BHU.

The Hon'ble Member from Samtse Dzongkhag submitted that along with the introduction of democratic system, the country and people will be benefited if the new government implements planned budget and the government should find solutions to the rise in prices of commodities which government had said it could not do anything as reported in the papers. The Hon'ble Member also raised doubts regarding the allocation of Nu 7 million as capital budget for Nainital Gewog consisting of 260 households compared to Nu 6 million for the biggest Gewog, Tading. To this, the Finance Minister replied that the government will work out solutions for inflation in commodity prices and informed that this will be submitted to Parliament in November for endorsement in order to implement new budget, and as far as budget for two Gewogs is concerned, it will be reviewed.

With regard to the allocation of Nu 7000 million for tourism infrastructures, the Hon'ble Member from Trashigang Dzongkhag questioned the plans for the equitable development of tourism facilities in eastern and southern districts and whether airport construction at Bartsham to promote tourism has been finalized. The Hon'ble Member also questioned the location of the bird watching and mountain bike trails to be developed with the allocated fund of Nu 3.479 million. In addition, clarification was sought on whether the road construction for Thrimshing and Kangpar will be from the existing alignment.

To this, the Finance Minister informed that the tourism training centre to be instituted at Motithang for the benefit of the entire country is under construction and bird watching and mountain bike track development will be implemented in

Mongar. While Bartsham in Trashigang is identified for the location of the airport, it will be confirmed once the funding support is received after evaluation by foreign experts. Regarding the road construction at Thrimshing and Kangpar, it is in the process of dialogue with the people because of problems with the old alignment.

The Hon'ble Member from Haa Dzongkhag said that although Druk Phuensum Tshogpa's manifesto mentions road construction at Sombeykha and Gakiling under Haa, it is not included in the budget.

To this, the Finance Minister reported that because of unconfirmed external assistance about 15% of the budget, the budget allocation for development has remained unfulfilled as per objectives. Like most of the manifesto-related development programmes, the road construction at Sombeykha and Gakiling under Haa Dzongkhag are incorporated in detailed plan document although not reflected in the Budget and Appropriation Bill.

Eminent Member Karma Yezer Raydi submitted that as all smaller activities like construction of irrigation channels are decided by the Local Government and bigger activities like the construction of hospitals and bridges by the Centre, it would be inconvenient if it has to depend on the political parties' manifesto and also informed that instead of providing constituency development fund through the National Assembly members, it should be distributed directly to the Local Government as annual Central Government grant.

To this, the Finance Minister informed that the Ministry is currently studying to introduce such a system.

## **Members who made Submissions on the Bill**

1. Hon'ble Member Sonam Kinga from Trashigang
2. Hon'ble Member Jigme Rinzin from Pemagatshel
3. Hon'ble Member Rinzin from Lhuentse
4. Eminent Member Karma Yezer Raydi
5. Eminent Member Kuenlay Tshering
6. Hon'ble Member Sangay Khandu from Haa
7. Hon'ble Member Dr. Jagar Dorji from Trongsa
8. Hon'ble Member Pema Lhamo from Zhemgang
9. Hon'ble Member Ugyen Tshering from Paro
10. Hon'ble Member Naichu from Mongar
11. Hon'ble Member Jigme Wangchuk from Samdrupjongkhar
12. Hon'ble Member Dr. Mani Kumar Rai from Samtse
13. Hon'ble Member Tshering Dorji from Haa

*(On the 29<sup>th</sup> Day of first 5<sup>th</sup> Bhutanese month, Earth Male Rat Year corresponding to July 2, 2008)*

In response to the submission by the Hon'ble Member from Trashiyangtse Dzongkhag on how the budget has been allocated to provide road connection to Yalang and Toetshog Gewog under Trashiyangtse Dzongkhag, the Finance Secretary informed that although it is not reflected in 2008-09 fiscal year, it will be included in one of the fiscal years of the 10<sup>th</sup> Plan.

The Hon'ble Member from Gasa Dzongkhag inquired whether the construction of a guest house proposed in the 9<sup>th</sup> Plan was incorporated in the current Plan since people pitch tents at Gasa Tshachhu and posed threats to the national animal Takin in the wildlife park.

The Finance Secretary informed that if the site development work is initiated with the development budget of Nu 2.5 million, there will be disturbance in the movement of wild animals and, therefore, a group from the National Environment Commission, Ministry of Home and Cultural



Affairs and Ministry of Agriculture is undertaking an investigation.

The Hon'ble Member from Dagana Dzongkhag pointed out that although the National Council Secretariat proposed Nu 80 millions, the sum of Nu 20 million for the establishment and furnishing of the National Council Office, Nu 14.200 million for the construction of building and seating gallery in Sl. No. 7 and Nu 25.495 million as capital budget on page No. 69 Sl. No. 3 under table 4.9 (d) totals to only Nu 59 million and questioned whether the entire budget is reflected in the outlay. It was also questioned why the budget for the establishment of Offices for the Members in Sl. No.1 is not reflected while the National Council Secretariat establishment is reflected in Sl. No. 7.

In addition to the submission that there is a need to establish tourism industry, renovate the Dzong and maintain roads in Dagana Dzongkhag, and the need for budget allocation to be more in view of the Dzongkhag being not as developed as other Dzongkhags, the Finance Secretary informed that the budget for establishing the National Council Secretariat is not reflected since the funding is not yet finalized and will be incorporated once the funds are secured. Although the budget for Dagana Dzong renovation is not reflected the Finance Ministry will coordinate in incorporating it in the 10<sup>th</sup> Plan. He informed the House that there are plans to distribute funds based on the size and prevalence of poverty among the 205 Gewogs under the 20 Dzongkhags.

The Hon'ble Member from Trongsa Dzongkhag submitted that it would benefit the people if the government compensated for the crops destroyed by wild animals as about 23% of the Bhutanese population lives in poverty and this is not reflected under the capital expenditure of

agriculture sector in table 4.10 and, therefore, requested that there is a need to develop measures for this. To this, the Finance Secretary informed that a programme has been scheduled for the Agriculture Ministry to report to the Council of Ministers on the various measures devised to help the rural farmers.

The Hon'ble Member from Mongar Dzongkhag questioned the plans and policies to alleviate poverty pointing out that although the budget for development of industries and skills development has been allocated, only a minimum budget has been allocated for the alleviation of poverty and creation of employment opportunities and, therefore, there is a need to review it. It was also reported that the existing industries at Pasakha has been offering most of employment opportunities to foreigners and not to the Bhutanese youths coming out from schools and training institutes.

To this, the Finance Secretary informed that to alleviate poverty in the country through hydropower-related employment and revenue, it has been incorporated in the 10<sup>th</sup> plan and in fiscal years 2008-09, a budget of over Nu 400 million has been allocated for the construction and renovation of farm roads. Besides, 150-200 kms of new road construction in the villages are all measures for poverty alleviation. In addition, electrification of all the Gewogs compared to only 15000 households electrified in the 9<sup>th</sup> plan, the private sector development and generation of employment opportunities for the youth of Bhutan, a budget of Nu 389 million has been allocated for fiscal years 2008-09 in the 10<sup>th</sup> plan whereas a budget of Nu 215 million had been allocated in the fiscal years 2006-07 and 2007-08. Moreover, there are policies to exempt customs and business taxes for 3 to 4 years for the private sector development.

The Hon'ble Member from Chhukha Dzongkhag sought clarification on whether Nu 300 million grant from the government of India for widening the Thimphu-Phuentsholing highway is included in the budget outlay and reminded that the widening of the highway not only makes 14 households under the Dzongkhag vulnerable to soil erosion but also poses threat to the Chhukha Hydropower dam. It was also reminded that the construction of highway through the new alignment would affect the income of people living in Tsimasham whose business thrives as a result of travelers. The people have made huge investment in constructing concrete buildings based on the plan to construct the highway via Tsimasahm in 2000.

The Finance Secretary presented the benefits that people could rip from the widening of the Thimphu-Phuentsholing highway and submitted that although plans are in place to make the project undisruptive to the people, it is not reflected in the budget outlay as the alignment has not been finalized. Future deliberation was proposed in regard to the above clarifications once financial assistance has been confirmed for the 10<sup>th</sup> FYP.

The Hon'ble Member from Bumthang Dzongkhag pointed out that as indicated in table 4.7, Dzongkhags have been allocated 83% of the total budget of Nu 5479.679 millions whereas Gewogs have been allocated only 17%. He asked if a budget of Nu 911 million was sufficient for the Gewogs. It was also submitted that five remote villages under Chumey Gewog are a day's walk from the nearest road, yet no budget has been allocated for road construction in these villages in the current financial year.

To this, the Finance Secretary informed that in line with the policy of decentralization, there is an increase of 5% in the

Gewogs and a 5% decrease in the Dzongkhag budget in the 10<sup>th</sup> FYP as compared to an allocation of 88% and 12% for Dzongkhags and Gewogs respectively in the 9<sup>th</sup> FYP.

In order to be able to respond clearly to the queries made by the people of the respective constituencies on budget outlay and the plans, the Hon'ble Member from Sarpang Dzongkhag submitted that booklet containing details of budget appropriation should be made available to all the Members by the Finance Ministry. In response, the Finance Secretary informed that a copy of the booklet containing details of budget appropriation shall be submitted to the National Council Secretariat.

On Chapter 1, the Hon'ble Member from Zhemgang Dzongkhag submitted that the basic infrastructure established through foreign assistance, after a few years, is left without maintenance budget. She said that to assure the quality of any developmental activity, it is also necessary to explore and plan the recurrent budget parallel to the capital budget. To this, the Finance Secretary informed that the government has in place the policy to raise internal resources in order to realize self-reliance of recurrent expenditure as the grants received from external sources can only be used exclusively for capital expenditure.

The Hon'ble Member from Trongsa Dzongkhag submitted that the construction of three different roads in Trongsa Dzongkhag are the activities that were left uncompleted in the 9<sup>th</sup> plan and supposed to be incorporated in the 1<sup>st</sup> year of the 10<sup>th</sup> FYP but there is no indication of it in the financial year 2008-09. To this, the Finance Secretary reminded that although details of farm roads are not reflected in the budget outlay submitted to Parliament, it is reflected in the booklet containing details of planned activities.

The Hon'ble Member from Mongar Dzongkhag submitted that the ongoing construction of Gyalpoizhing-Nglanglam road would immensely benefit the people of eastern Dzongkhags in terms of commercial activity. He submitted that the government should explore possible means to complete the construction as early as possible. The House resolved that the Finance Ministry should device possible means after talks with relevant ministries.

The Hon'ble Member from Gasar Dzongkhag asked why the import of Toyota Prado within the duty free entitlement of the government officials and the members of Parliament has been prohibited and why other vehicles of higher prices are exempted from the prohibition. The Finance Secretary clarified that the restriction had been imposed since the government incurs a loss of Nu 400 thousand for duty free import of every Prado and added that the prohibition remained the same for other vehicles with higher prices.

The Hon'ble Member from Lhuentse Dzongkhag pointed out that the government had already spent Nu 19.00 million to procure pool vehicles for ministers, the opposition leader, the National Assembly Speaker, Chairperson of the National Council, and Chief Justice, and Nu 700 thousand transport allowance for each member of Parliament as indicated in table 3,3 (a) sl. No. 21. Yet it is submitted to Parliament for endorsement, which is questionable in terms of protocol. The House resolved that the issue shall be clarified while deliberating on the Parliamentary Entitlement Bill.

The Hon'ble Member from Trashigang Dzongkhag expressed that although the budget allocation for the 15 Gewogs of Trashigang Dzongkhag is uniformly distributed, the fund in the budget outlay was apparently less given the highest

number of Gewogs and high poverty rate. Similarly, both current and capital expenditures are evidently less for Samkhar despite it being one of the biggest Gewogs. He said that such shortcomings could be resolved if there is a provision for the National Council to review when changes are made to plans and policies. Clarification was sought on the specific site of the road construction in Thimphu municipality as reflected in the budget outlay. It was also pointed out that measures should be taken to solve the existing problem of motor roads and drinking water in Changbangdu, which was also supported by the Hon'ble Member from Thimphu. The Finance Secretary informed that new development plans are formulated by the GNH Commission and will be implemented under the coordination of Thromde Sub-Committee once the Finance Ministry releases fund as per the budget outlay.

The Hon'ble Member from Pemagatshel Dzongkhag proposed that the amount of annual resources and income generated by socio-economic development in the country and industries be reported to the National Council in the next session and asked why the nine companies under table 7.2 are left with direct shareholdings by the Ministry of Finance when many other companies are owned by the Druk Holding and Investments Limited.

To this, the Finance Secretary reminded that all the big commercial corporations are owned by the DHI since it is mandated to hold and manage the government's interest in the companies for the long-term benefits of the country. The companies that are left with direct shareholdings by the Ministry of Finance are those with social obligations. He informed the House that as per its Charter, the Chairperson of the DHI shall appear in person before the Parliament and

clarify any doubts at the time of submission of the DHI's report to Parliament.

Towards solving the difficulties faced by Zamsa village in Paro Dzongkhag consisting of over 100 households, political parties have promised to build a bridge. In this regard, the Hon'ble Member from Paro Dzongkhag sought clarification as to whether that is indicated in the budget outlay. To this, the Finance Secretary informed about the difficulties in reflecting a major rural development activity in the budget outlay without being incorporated in the plan and concluded the deliberation on the Budget and Appropriation Bill 2008-09.

### **Members who made Submissions on the Bill**

1. Hon'ble Member Kesang Namgyal from Trashiyangtse
2. Hon'ble Member Sangay Khandu from Gasa
3. Hon'ble Member Sonam Dorji from Dagana
4. Hon'ble Member Dr. Jagar Dorji from Trongsa
5. Hon'ble Member Naichu from Mongar
6. Hon'ble Member Tshewang Lhamo from Chhukha
7. Hon'ble Member Tshewang Jurmi from Bumthang
8. Hon'ble Member Karma Donnen Wangdi from Sarpang
9. Hon'ble Member Pema Lhamo from Zhemgang
10. Hon'ble Member Tshering Dorji from Haa
11. Hon'ble Member Rinzin from Lhuentse
12. Hon'ble Member Sonam Kinga from Trashigang
13. Hon'ble Member Jigmi Rinzin from Pemagatshel
14. Hon'ble Member Ugyen Tshering from Paro

*(On the 30<sup>th</sup> Day of the first 5<sup>th</sup> Bhutanese month, Earth Male Rat Year corresponding to July 3, 2008)*

## **H) Re-deliberation and Passing of the Election Bill, 2008**

### **Section 1 of Chapter 1**

The Election Commission amended Section 1 (b) of the Election Bill of the Kingdom of Bhutan, 2008 to read as, “This Act shall extend to the whole of Bhutan, and apply to elections and tenure of members to Parliament and Local Governments and to National Referendums”. The National Council endorsed the changes.

### **Section 9 of Chapter 2**

In response to the submission to review Section 9 to differentiate the five eminent persons nominated by Druk Gyalpo, the Election Commission amended the section as “elected by direct election from each Dzongkhag for the purpose of Section 8 (a)”, which the National Council endorsed accordingly.

### **Section 11 of Chapter 2**

On the submission to move Section 11 under Chapter 12, the Election Commission proposed to do so by creating a new Section 205 under nomination and withdrawal of candidatures. This was endorsed by the National Council.

### **Section 12 of Chapter 2**

For the clarification sought on partaking of the representatives from Dzongkhag Yenla Thromdes, the Election Commission submitted that Section 12 (b) would be



clarified at the time of Local Government delimitation in concurrence with the Local Government Act and the Thromde Act and, therefore, need not be changed. The House resolved accordingly.

### **Section 14 of Chapter 2**

In Section 14, the House proposed that misapprehension is inevitable as the word “Tshogpa” is also used for some other organizations. To this, the Election Commission submitted that it will be informed and propagated through research in order to avoid such misapprehensions. On the proposal for an interim Local Government in case the Gup and Mangmi even after expiry of their tenure fail to continue participating in the Dzongkhag Tshogdu, the Election Commission submitted that the Dzongda and Gewog Administrative Officer as the Chief Executive Officer at the Dzongkhag level and Gewog level respectively, shall bear similar responsibility as that of an interim government by remaining apolitical and through unprejudiced coordination in commencement of election for the new Local Government. Outgoing Gups and Mangmis continue to attend the Dzongkhag Tshogdu until a new replacement is elected to enable the normal functioning of the Dzongkhag Tshogdu. The Election Commission submitted that the section be retained without changes. The House endorsed the submission.

### **Section 16 of Chapter 2**

The House endorsed the amendment made by the Election Commission in Section 16 as “Each Gewog shall, for the purposes of section 14, be divided into Chiwogs equal to the number of seats allocated in the Gewog Tshogde and each such Chiwog shall elect one Tshogpa to the Gewog Tshogde as provided hereinafter”.

## **Section 18 of Chapter 2**

The House proposed Section 18 to be reviewed in order to make it clear that the division into constituencies happen before the conduct of election. The Election Commission changed the section as “A Dzongkhag Thromde shall, for the purpose of section 17, be divided into constituencies equal to the number of seats allocated in the Thromde Tshogde”. The House endorsed the change.

## **Section 21 of Chapter 3**

As proposed, the Election Commission reviewed section 21 (a)-(f) and deleted (e) “not holding any Office of Profit”, and added new section 31 as “The Chief Election Commissioner or the Election Commissioner shall not hold any office of profit”. As a supplementary to this, Parliament was requested to draft a Bill on the terms of office and salary of the Chief Election Commissioner and the Election Commissioners as per section 30 and a separate Act defining the Office of Profit for the new Section 31. The House endorsed the change and the submission.

## **Section 35 of Chapter 3**

The House endorsed the alteration made by the Election Commission in section 35 (a) as “introduce any device or system for the purpose of registration of voters, issue of voter photo identity cards to them, conduct of elections and for counting of votes thereof” in response to the proposal to correct “identity card” as voter photo identity card.

### **Section 40 of Chapter 3**

After thorough deliberation on Section 40 stating that the Election Commission shall have full authority over all aspect of its financial and personnel management, the House resolved to retain the section without change after a simple majority supported it by raise of hands.

### **Chapter 4**

The House endorsed the use of Election Officer and its translation as the heading of the Chapter as it is.

### **Section 48 of Chapter 4**

The House endorsed the change of Dzongda in the heading in English to “The Election Co-Oodinator during Elections” as in the Dzongkha version.

### **Section 51 of Chapter 4**

Responding to the National Council’s proposal to replace “nominate” with “appoint”, the Election Commission altered Section 51 as “The Election Commission shall designate or appoint an Officer of the Government as a Dzongkhag Electoral Officer for every Dzongkhag”. Likewise, “nominate” was replaced with “appoint” in sections 55, 58 and 60. The House endorsed the changes.

### **Section 63-65 of Chapter 4**

Doubts were raised whether appointment of Presiding Officers and Polling Officers in Section 63-65 and separate appointment of Counting Personnel under Section 68 are

necessary. To this, the Election Commission submitted that no changes are required. The House endorsed the submission.

### **Section 69, 70 and 71 of Chapter 4**

The Election Commission agreed on separate grouping of the provisions related to permanent workers in Section 69, 70 and 71 and those on deputation for the election and accordingly the House endorsed the transfer of these provisions to Section 74.

### **Section 72 of Chapter 4**

On repeated submission by some Hon'ble Members on the necessity of defining the terms "independent" and "affiliate", the Election Commission submitted the revised version as "The Election Commission may appoint independent national observers who are not under the jurisdiction of the Election Commission and international observers approved by the Ministry of Foreign Affairs, to oversee the conduct of elections or carry out other functions entrusted to them by Commission".

To this, Hon'ble Member from Gasa pointed out that there should be a minor change since it does not spell out the independence of national observers from any political party or candidate, leaving room for controversies in the future. The Hon'ble Member from Trongsa added that in the Dzongkhags, competent observers are invested with power to make independent decisions and, therefore, deletion of "not under the jurisdiction of the Election Commission" would make it feasible for issuance of orders in the future, if such need arises.

The Election Commission committed that necessary changes shall be made and accordingly the House resolved to make the amendments proposed.

### **Section 75 to 80 of Chapter 5**

The House endorsed the removal of the heading “Responsibility of the Delimitation Commission”; addition of Section 80 to the new Section 77; transfer of Section 78 under the Section 76; and deletion of “this Act” in Section 79, as submitted by the Election Commission.

### **Section 83 of Chapter 5**

In Section 83, concerns were raised on the dilemma in case of a tie. The Election Commission revised the Section as “The Chief Election Commissioner presiding over a meeting of the delimitation Commission shall have a deliberative vote and in the case of a tie, cast a deciding vote”. The House endorsed the change.

### **Section 98 of Chapter 5**

The House endorsed “Every notification under Section 98 shall be placed before both Houses of Parliament, for information, and the Delimitation Commission shall provide further publicity as specified under Section 88” as amended by the Election Commission in response to clarification sought on this.

### **Section 118 of Chapter 7**

Inclusion of “National Council” in Section 118 (a) and (b) was proposed and accordingly the Election Commission amended the sub-sections with addition of “National Council

or”. The House endorsed the changes made by the Election Commission.

### **Section 134 of Chapter 8**

The Council endorsed addition of a new sub-section (g) “A copy of the Charter of the Party” under Section 134.

### **Section 138 of Chapter 8**

In Section 138, doubt was raised whether refusal of an application for registration applies to only disqualification of all the Sub-sections or even to disqualification of any one or two sub-sections. To this, the Election Commission justified that the word “or” at the end of (f) “Name of symbol of the party is the name or symbol, or resembles the name or symbol, of another political party which is already registered with the Commission; or”, implies cancellation of registration even on failure to fulfill one of the requisites. The Council endorsed the submission.

### **Section 143 of Chapter 8**

On the specification of duration for changing the name in Section 143, the Election Commission clarified that no changes and additions are necessary as it shall be stated clearly in the Political Parties Bill. The House endorsed the submission made by the Election Commission.

### **Section 147 of Chapter 8**

Doubt was raised in case of no more than one or two political parties contesting in Opposition Party elections. The Election Commission clarified that an uncontested election shall be conducted in case of only one letter of intent submitted for contesting the Opposition Party election. Thus, the new

Section 148 “if only one letter of intent is submitted for contesting the Opposition Party election, an uncontested election shall be conducted”, was submitted. If no political parties submit a letter of intent, then the Ruling party shall be restricted from any legislative functions till an Opposition Party is elected, creating a very difficult situation in the country. Announcement of an uncontested general election would lead to uncontested election wherein if the party acquires more than 50% of the total votes cast, it shall assume full responsibility of Ruling Party. As a clarification on the above and as another measure during such situations, the following new Section “the Ruling Party shall continue to function till completion of the remaining term in office if no registered political parties submit the Letter of intent within the notified dates”, was submitted. The House Council endorsed the changes submitted by the Election Commission.

### **Section 149 of Chapter 8:**

Additional provision on declaration of Assets and Liabilities by the parties was proposed and to this the Election Commission submitted the change as “Assets and liabilities accrued, by or on behalf of the party, as at the end of the financial year”. The House endorsed the change submitted by the Election Commission.

### **Section 151 of Chapter 8**

The Election Commission submitted the amended Section 151 as “Every eligible voter shall be entitled to be a member and be elected as an office-bearer of a political party. Provided such person is not a civil servant, a member of the armed forces, holders of elective office in the National Council and Local Governments or has not been disqualified under section 101” To this, the House resolved to amend “not

a civil servant, a member of the armed forces, and holders of elective office in the National Council and Local Governments” as “disqualified under any law made by Parliament”.

The Election Commission submitted for inclusion in election related Rules and Regulations that a political party cannot have more than: 1) one Coordinator in the Dzongkhag, 2) one Coordinator in a Constituency, 3) one Coordinator in a Gewog, and 4) one Coordinator in a Chiwog as its member other than the candidate. This submission was endorsed by the National Council.

### **Members who made Submissions on Chapter 1 to Chapter 8 Section 151 of the Election Bill**

1. Hon’ble Member Dr. Jagar Dorji from Trongsa
2. Hon’ble Member Naichu from Mongar
3. Eminent Member Karma Damcho Nidup
4. Hon’ble Member Rinzin from Lhuentse
5. Eminent Member Karma Yezer Raydi
6. Eminent Member Tashi Wangmo
7. Hon’ble Member Sonam Dorji from Dagana
8. Eminent Member Kuenlay Tshering
9. Hon’ble Member Sangay Khandu from Gasa
10. Hon’ble Member Jigmi Rinzin from Pemagatshel
11. Hon’ble Member Sonam Kinga from Trashigang
12. Hon’ble Member Tshewang Jurmi from Bumthang
13. Hon’ble Member Pema Lhamo from Zhemgang

*(On the 1<sup>st</sup> Day of second 5<sup>th</sup> Bhutanese month, Earth Male Rat Year corresponding to July 4, 2008)*

### **Section 152 of Chapter 8**

Hon’ble Member from Haa Dzongkhag submitted the removal of Section 152 stating that “a person shall not be



member of more than one political party at any given point of time” since it contravenes with the Fundamental Rights.

On explanation by Eminent Member Kuenlay Tshering that barring a person from becoming member of another party after acquiring membership of one party does not contravene the Fundamental Rights but is instead a Fundamental Duty of every Bhutanese, the House resolved to retain the Section as it is.

### **Section 155, 156 and 158 of Chapter 8**

After thorough deliberation on Sections 155, 156 and 158, it was submitted that Section 155 to be kept as in the draft Bill. The House endorsed the submission.

### **Section 160 of Chapter 9**

In this Section, the Chief Election Commissioner pointed out that the authority to appoint Eminent Persons is the Royal Prerogative of His Majesty and submitted that it should be included in the National Council Act on whether they should be allowed to hold an Office of Profit or not. The House resolved to finalize it while discussing the National Council Bill.

### **Section 161 of Chapter 9**

On the proposal to add “any income generated from private sector” in Section 161, the Election Commission submitted that the purpose of the provision has been covered in Section 163 (k) and therefore, there is no need for any addition. The House endorsed the submission of the Election Commission.

## **Section 163 of Chapter 9**

The amendment by the Election Commission in the Section 163 (g) as “National Judicial Commission under the Judiciary Service Act 2007” was endorsed by the National Council.

To this, Eminent Member Karma Yezer Raydi submitted that the new Section 163 (e) stating “Chairperson or Member of National Judicial Commission or Parliament or other Commissions established by the Government not withstanding anything contain in Section 161” is covered under Section 163 (g) and therefore should be deleted. The House resolved to delete the sub section as proposed.

## **Section 173 of Chapter 10**

With regard to recognizing distance education as equivalent to university degree, the Election Commission informed that the Members of Parliament should be qualified and competent and should adhere to the provision of “formal university degree” definition and therefore submitted that no change be made. The House resolved to retain the Section as it is.

## **Section 174 and 175 of Chapter 10**

The House endorsed the amendment of Section 175 (d) as “Functionally literate and possesses skills adequate to discharge his/her duties, except the candidate for the post of Thrompon must possess a formal university degree” as submitted by the Election Commission.

In addition, proposal for a need to mention the age limit in Section 174 (d) in the English version by Hon’ble Member from Bumthang Dzongkhag and proposal for new sub-section

(e) in both Section 174 and 175 stating “not affiliated to any political party” as submitted by some Hon’ble Members was accepted by the Chief Commissioner. The House accordingly resolved to make the necessary changes.

### **Section 176 of Chapter 10**

The House endorsed the change in the Section 176 (c) as “has been dismissed or removed from public service or the corporate sector” as submitted by Election Commission.

In addition, the House resolved to correct “Chapter 8” to “Chapter 9” in the Section 176 (k).

### **Section 177, 178 and 179 of Chapter 10**

The Election Commission submitted that Sections 176 (a) to (e) in Sections 177, 178 and 179 be kept as it is without changes since the provisions are not only in conformity with the Constitution but also the responsibility of the Members of Parliament being highest law making body in the country to possess all these qualifications. The House endorsed the submissions made by the Election Commission.

### **Section 181 of Chapter 10**

The Election Commission amended Section 181 to read “as determined/registered as religious organizations or religious personalities under the provisions of the Religious Organizations Act 2007”. This was endorsed by the House.

### **Section 186 of Chapter 11**

Clarification was sought in Section 186 as to whether both the primary and general elections should be conducted or not

even with only two political parties as per the provision of the Constitution. On this, the Election Commission amended Section 186 (b) as “Provided that the Primary Round shall be foregone and the General Election conducted directly if only two registered political parties submit the Letter of Intent”. This was endorsed by the National Council.

### **Section 193 of Chapter 11**

In response to the submission on Interim Local Government, the Hon’ble Member from Gasa proposed that the Dzongda should coordinate in case of premature dissolution of Local Government. To this, the Election Commission submitted that it would be more appropriate for this to be deliberated while reviewing the Local Government Act. The House endorsed the submission made by the Election Commission.

### **Section 195 of Chapter 11**

The Election Commission informed that the campaign duration of Nation Council, depending on the enormity of the area, has been specified in section 264 and the clause “The Letter of Intent shall include a tentative list of candidates that it may field in the General Election” reflected in English version but missing in the Dzongkha version was added to Section 195. The House endorsed the submission.

### **Section 200 of Chapter 11**

The Election Commission submitted that to be able to conduct the orderly elections, the postponement of the date of poll within 90 days and not beyond should be contained in the Royal Decree issued under the Hand and Seal of His Majesty. The House endorsed the submission of the Election Commission.

## **Members who made Submissions on Chapter 8 Section 152 to Chapter 11 Section 200**

1. Hon'ble Member Tshering Dorji from Haa
2. Hon'ble Member Karma Donnen Wangdi from Sarpang
3. Eminent Member Karma Yezer Raydi
4. Hon'ble Member Sangay Khandu from Gasa
5. Eminent Member Dasho Karma Ura
6. Hon'ble Member Sangay Zam from Thimphu
7. Hon'ble Member Jigmi Rinzin from Pemagatshel
8. Hon'ble Member Dr. Jagar Dorji from Trongsa
9. Hon'ble Member Rinzin from Lhuentse
10. Hon'ble Member Sonam Kinga from Trashigang
11. Eminent Member Kuenlay Tshering

*(On the 5<sup>th</sup> Day of second 5<sup>th</sup> Bhutanese month, Earth Male Rat Year corresponding to July 7, 2008)*

### **Section 203 of Chapter 12**

The House endorsed the removal of “or has affiliation to” in Section 203 (d) and alteration at the end of the Section as “Provided that the disqualification under sub-section (d) shall cease to operate after the lapse of one year from the date of acceptance of the application of resignation or removal from the membership of a political party and such resignation or removal shall be immediately notified by the concerned party office in the print media with a copy submitted to the Election Commission” as submitted by the Election Commission.

### **Section 206 of Chapter 12**

The Hon'ble Member from Pemagatshel Dzongkhag pointed out the inconsistency of evening timing as 4 PM in Section 205 and 5 PM in Section 206 (d). To this, the Election Commission clarified that the timeframe in Section 205 is the time to deliver to the Returning Officer the nomination papers

of a candidate while the timeframe in Section 206 is for communication with the Returning Officer in prescribed form by the office bearer or authorized person with name and signature, on the last date for making nominations.

Similarly in Section 206 (d), it was informed that the opportunity for the elected party to nominate candidates from the unelected party after the Primary Elections is an instrument for political parties to obtain competent candidates. The House resolved to retain the sections without change.

### **Section 229 of Chapter 12**

On the proposal to cover the National Council elections under Section 229, the Election Commission amended the Section as “The list of validly nominated candidates shall be arranged in alphabetical order showing their addresses, election symbols and name of party in case of General Elections, together with other particulars as prescribed”. The National Council endorsed the amendment.

### **Section 251 and 252 of Chapter 13**

To clarify on the appointment of election and polling representative, the Election Commission informed that a person can be appointed by a candidate as both election and polling representative as per the will of the candidate. However, separate reference is necessary in the Bill since the modus operandi is different. Therefore, the Election Commission submitted that both the Sections be retained unchanged. The House endorsed the submission made by the Election Commission.

## **Chapter 14**

For the National Council candidates to have adequate election campaigning period, it was proposed that allocation of equitable time be stated clearly. To this, the Election Commission reminded that the election campaign shall be permitted to commence from the date of issue of notification by a Royal Decree calling an election and end 48 hours prior to the day of poll. The Election Commission submitted that the details will be stated in the announcement made by the Election Commission as a measure to provide adequate campaign period without having to change the provisions of the Election Bill. The House endorsed the submission made by the Election Commission.

### **Section 265 of Chapter 14**

The House endorsed the amended Section 265 as “The election campaign shall be permitted to commence from the date of issue of notification by a Royal Decree calling an election as announced, or notified in the case of Local Government elections by the Election Commission and end forty-eight hours prior to the hour fixed for the commencement of poll for the election” as proposed by the Election Commission.

### **Section 267, 268 and 269 of Chapter 14**

The Election Commission moved Section 268 stating “Provided in the case of Primary Round of elections to the National Assembly allocation of equitable time shall be made after the issue of Royal Decree calling upon all Parliamentary constituencies to elect political parties” under Section 267 and amended Section 269 as “The allocation of equitable time shall be binding on all political parties and candidates

concerned”. The National Council endorsed the changes made by the Election Commission.

### **Section 274 of Chapter 15**

In response to the proposal on provision of state funding to the candidates of Local Government, the Election Commission amended Section 274 as “The Parliament shall provide every year such amount as the Election Commission may consider appropriate to registered political parties and the candidates for funding the elections to the Parliament or Local Government from the Public Election Fund established by Parliament in accordance to the law”. This was endorsed by the National Council.

### **Section 278 of Chapter 15**

In order to avoid misapprehension, the Election Commission amended Section 278 as “No person shall receive any contribution from any member of the party or on behalf of any registered political party, unless the person has been authorized in writing on this behalf by the concerned party and such contributions are accounted for and in keeping with other provisions of this Act”. This was endorsed by the House.

### **Section 279 of Chapter 15**

Doubt was raised on the existence of penalties in the event of a political party accepting donations beyond the prescribed limit in Section 279. To this, the Election Commission informed that both the recipient and donor shall be subject to penalty and besides, the party may stand dissolved as per the provisions of Section 145, and reminded that Section 278 should refer to the representative of a political party and not



to a candidate as only the political parties are entitled to collect donations and not the candidates.

### **Section 294 and 295 of Chapter 16**

In response to doubts on the advantages and disadvantages of having a political rally, the Election Commission proposed to delete Section 294 and amend Section 295 as “A political party or candidate organizing a meeting shall give advance intimation and receive approval from the appropriate authorities of the venue and time of the proposed meeting and their campaign schedule and instruct their members and supporters that no dangerous article that can be used to cause injury be brought to a political rally, meeting or any other political function and take steps to ensure that there is no blockage or hindrance to traffic and no cause is given for any other public inconvenience” by deleting the word “political rally” from it. The House endorsed the changes proposed by the Election Commission.

### **Section 299 of Chapter 16**

The House endorsed the deletion of “including Ministers” from Section 299 and its amended version as “Members of Parliament, Members of Local Governments or members of political parties and candidates shall not enter any polling station or place of counting except in their capacity as a voter or candidate or on obtaining valid entry permit from the Election Commission” as submitted by the Election Commission.

### **Section 300 of Chapter 16**

The Election Commission submitted that for the canvass and posters displayed in the constituencies to be kept till the end

of the poll, a new as Section 305 needed to be added to read as “the responsibility to remove posters or any other campaign materials on the next day of the poll lies with the respective political parties or candidate”. This was endorsed by the National Council.

### **Section 329 of Chapter 17**

On submission to extend the facility of postal ballot to the family members of civil servants and other eligible postal ballot voters, the amendment in Section 329 (g) as “the spouse or dependent of a person referred to in sub-sections (a) to (e), if the spouse or dependent is ordinarily residing with him/her; and” was made by the Election Commission. This was endorsed by the Council. Similarly, on the proposal to provide postal ballot facilities to private employees, the Election Commission submitted that it could be possible as per Section 329 (h) and for this, a system shall be formulated. The Council endorsed the submission made by the Election Commission.

### **Section 333 of Chapter 17**

In response to the proposal of casting vote from the place of residency, the Election Commission submitted that the mechanism will be devised based on future circumstances. The House accordingly endorsed the submission of the Election Commission.

### **Section 336 of Chapter 17**

The Election Commission submitted that granting of leave of absence for reasonable period to enable the employees of any organization to vote at an election under Section 336 shall be

specified in the election advertisement. This was endorsed by the National Council.

### **Section 343 of Chapter 17**

On the submission to accept a ballot paper if the identification marks on it are clearly indicated, the Election Commission informed that the issue will be elaborated in the Election Rules and Regulations and in voter education programmes and therefore, the Section need not be changed. The Council endorsed the submission of the Election Commission.

### **Section 345 of Chapter 17**

The amendment of Section 345 by the Election Commission as “The names of contesting candidates on the ballot paper shall be printed along with their photographs and in the case of General Elections, with the respective names of political party and symbols” was endorsed by the National Council.

### **Section 347 of Chapter 17**

It was proposed that the design of ballot box and EVM placement should be convenient to ensure the secrecy of vote. To this the Election Commission submitted that only EVM shall be used while appropriate measures will be arranged for ballot box to be used in postal ballot. This was endorsed by the House.

### **Section 365 of Chapter 17**

The amendment of Section 365 by the Election Commission as “The Presiding Officer may, if a person claiming to be a particular voter comes to the polling station after another person has already voted as such voter, allow him/her to cast

a provisional vote. Provided he/she produces a valid citizenship identity card or/and voter photo identity card” was endorsed by the National Council.

### **Section 380 and 381 of Chapter 17**

The Election Commission submitted that there is no need to amend the order of Sub-sections under Section 380 and in addition submitted that Sub-section (a) and (b) under Section 381 has been interchanged. The House endorsed the submissions made by the Election Commission.

### **Section 440 and 441 of Chapter 19**

The Election Commission submitted for changes in wordings in Sections 440 and 441 as “National Assembly” from “Parliamentary” and insertion of new Section 442 as “The Election Commission shall, on receipt of the Final Result Sheets from the Returning Officers of all National Council constituencies, declare in a prescribed form, the candidates who have secured the highest number of valid votes in their respective constituencies as having been duly elected from those constituencies to the National Council”. The submissions were endorsed by the National Council.

### **Section 448 to 453 of Chapter 19**

The submission of the Election Commission to delete “Local Government” to categorize the establishment of National Council and Local Government in Sections 448 to 453 and insertion of new Sections 454 to 459 for establishment of Local Government was endorsed by the National Council.

### **Section 451 of Chapter 19**

Although it is reflected that the Prime Minister will lead the formation of Government after the National Assembly election, there is no mention of coordination and election of National Council Chairperson in Section 451 which is likely to pose inconveniences. To this, the Election Commission submitted that depending on the need, it is allowed to postpone the election under Section 200 and, therefore, shall come up with necessary solutions to avoid inconveniences. The House endorsed the submission of the Election Commission.

### **Section 459 of Chapter 20**

Regarding “The authority to try an election petition relating to an election to a Local Government shall be the Dzongkhag Court of the Dzongkhag concerned” in Section 459 and the High Court of Bhutan as such authority under the Local Government Act, the Election Commission submitted to retain the Section as it is. It was submitted that since an appeal should be made to the High Court under Section 502 (b), petition may have to be filed in the Dzongkhag Court. The submission was endorsed by the House.

### **Section 460 of Chapter 20**

The Election Commission submitted to retain Section 460 as it is since the election procedure, declaration of results and code of conduct are clearly mentioned which have to be abided. The House endorsed the submission.

### **Section 527 of Chapter 21**

The Election Commission clarified that Section 527 implies to 48 hours before the commencement of poll while Section 535 is about prohibitions on the poll day. The House resolved to retain the Sections as it is.

### **Sections 532 of Chapter 22**

The Election Commission submitted that no inconveniences will arise due to the issuance of two Voter Photo Identity Cards as one has been recollected through the Dzongkhags. The House accepted the submission of the Election Commission.

### **Chapter 22**

With the existence of a separate National Referendum Bill, it was submitted that this Chapter be removed from the Election Bill. To this, the Election Commission explained that since the Election and National Referendum are related, the inclusion of National Referendum principles in the Election Bill adds legitimacy to it. The House endorsed the submission and resolved to retain the Chapter.

### **Section 566 of Chapter 23**

The amendment of Section 566 by the Election Commission as “A poll at any election to Parliament or a Local Government shall be taken in the constituency concerned even if there is only one contesting candidate or political party” was endorsed by the National Council.

## **Section 570 of Chapter 23**

On submission by Hon'ble Members regarding problems in this Section, the Election Commission added a new section as Section 448 as "the Opposition Party shall be announced as the Ruling Party if it secures simple majority of seats in the National Assembly in the event of bye-elections. However with only 180 days remaining the Ruling Party shall continue the office if a bye-election is not conducted". This was endorsed by the National Council.

## **Sections 573 and 574 of Chapter 23**

The Election Commission submitted that the necessary amendments shall be made according to the provisions of general amendment procedures of the two Houses once the National Assembly and National Council Acts are passed. The House accepted and endorsed the submission.

## **Annexure**

The Election Commission submitted that the masculine and feminine words shall be dealt according to the resolution of Parliament after the Bill is passed. It was also submitted that (ff) be amended as "Parliamentary Constituency means constituency provided under Section 6 for National Assembly and Section 10 for National Council elections". The National Council endorsed the submission and amendment proposed by the Election Commission.

## **Members who made Submissions on Chapter 12 Section 203 to Chapter 23 Section 574**

1. Hon'ble Member Tshering Dorji from Haa
2. Hon'ble Member Dr. Jagar Dorji from Trongsa
3. Hon'ble Member Sangay Zam from Thimphu

4. Hon'ble Member Sangay Khandu from Gasa
5. Hon'ble Member Rinzin from Lhuentse
6. Eminent Member Karma Yezer Raydi
7. Hon'ble Member Pema Lhamo from Zhemgang
8. Hon'ble Member Jigmi Rinzin from Pemagatshel
9. Eminent Member Kuenlay Tshering
10. Eminent Member Dasho Karma Ura
11. Hon'ble Member Ugyen Tshering from Paro
12. Hon'ble Member Jigme Wangchuk from Samdrupjongkhar
13. Hon'ble Member Sonam Dorji from Dagana

*(On the 6<sup>th</sup> Day of the second 5<sup>th</sup> Bhutanese month, Earth Male Rat Year corresponding to July 8, 2008)*

## **I) Passing of the National Referendum Bill, 2008**

### **Section 10 of Chapter 3**

The Election Commission submitted that Section 10 need not be amended. The House accordingly resolved to retain the related Sections as they are.

### **Section 12 of Chapter 3**

The Election Commission submitted that in Section 12, amendments are not necessary and a handbook on rules and guidelines shall be prepared on the issues raised by the Members. This was endorsed by the House.

### **Section 23 of Chapter 3**

As the National Referendum shall be passed by a simple majority, the House endorsed the submission by the Election Commission to consider a motion as not being passed if votes secured for “Yes” and “No” are 50 % each.



### **Section 63 of Chapter 6**

The Election Commission submitted that existence of separate law for the dissolution of National Assembly establishes the permanent status of National Council and therefore “Dissolution of Parliament” need not be reflected in the National Referendum Bill. It was submitted that the exclusion clause be retained in the Bill. The House endorsed the submission of the Election Commission.

### **Section 68 of Chapter 6**

The Election Commission submitted that the necessary amendments shall be made in Section 68 according to the provisions of general amendment procedures of the two Houses once the National Assembly and National Council Acts are passed. This was endorsed by the House.

### **Section 70 of Chapter 6**

On the proposal to include a section on Authoritative text in the Bill like in other Acts, the House endorsed to add a Section on this.

### **J) Establishment of National Council Committees**

In order to discharge the responsibilities of the National Council efficiently, the House established seven Committees: 1) Legislative Committee; 2) Economic Affairs Committee; 3) Social and Cultural Affairs Committee; 4) Environment and Natural Resources Committee; 5) National Security Committee; 6) Good Governance Committee; and 7) House Committee.

On the doubt raised by the Hon'ble Member from Bumthang Dzongkhag regarding the number of Committees that a National Council Member can sit on, the House resolved that each member can sit on two Committees.

In response to the query on the tenure of Committees, the Hon'ble Chairperson proposed that a Member sit in a Committee for one or one and half years. On this, some Hon'ble Members submitted that the tenure should be kept one year as a matter of convenience. To this, other Members submitted that the tenure of a Member in a Committee be lengthened and the Chairperson changed once a year for successful performance. The House resolved that the Chairperson shall be changed every year but, it is up to the Members to continue in a Committee or move to another Committee after a year as a Member.

The Hon'ble Member from Pemagatshel Dzongkhag proposed on the possibilities of changing the name of Economic Affairs Committee as it resembles the name of a Ministry in the English version though the name is appropriate in Dzongkha. On this, the House resolved to leave it up to the respective Committee to review and change the name of a Committee.

Some Members submitted that it would be appropriate to select the Chairperson of a Committee based on professional background and experience. Similarly, the selection of members to a Committee should be based on the field of experience and will of a Member. The House resolved to accordingly follow.

### **Members who made Submissions on the Establishment of Committees**

1. Hon'ble Member Tshewang Jurmi from Bumthang

2. Eminent Member Kuenlay Tshering
3. Hon'ble Member Rinzin from Lhuentse
4. Hon'ble Member Sangay Khandu from Gasa
5. Hon'ble Member Sangay Zam from Thimphu
6. Hon'ble Member Jigmi Rinzin from Pemagatshel
7. Hon'ble Member Jigme Wangchuk from Samdrupjongkhar
8. Hon'ble Member Ugyen Tshering from Paro

*(On the 8<sup>th</sup> Day of the second 5<sup>th</sup> Bhutanese month, Earth Male Rat Year corresponding to July 10, 2008)*

## **K) The National Assembly Bill of the Kingdom of Bhutan, 2008**

### **1) Background of the Bill by the Secretary, National Assembly**

The National Assembly Bill has been drafted keeping in mind the need of the country by adopting the modern systems in addition to traditional values adhering to standards of discipline, dignity and decorum, which are the foundational norms of Parliamentary institution as the Country is being transformed from Hereditary Monarchy to Democratic system. The Bill is being submitted to the House for endorsement after being passed by the National Assembly.

### **2) Members' Deliberation on the Bill**

#### **Preamble**

On the phrase stating the National Assembly as the “highest legislative body”, the Hon'ble Member from Trashigang Dzongkhag submitted that it is not only the Assembly but also the National Council that is the highest legislative body. This was supported by Eminent Member Kuenlay Tshering and the Hon'ble Member from Trongsa Dzongkhag, who also

submitted that “Parliamentary Democracy” in the second paragraph should be changed to “Constitutional Democracy”.

On this, the Hon’ble Member from Lhuentse Dzongkhag submitted that it would be appropriate to state that “National Assembly is one of the highest legislative bodies”, which was supported by the Hon’ble Member from Pemagatshel Dzongkhag who also sought clarification on different dates provided for enactment and commencement of the Act.

To this, the National Assembly Secretary said that there is no problem in amending the provisions in the Preamble and in addition submitted that the two different dates are for enactment and assent by the Druk Gyalpo. To this, some of the Hon’ble Members submitted that there is no need for two different dates.

The House endorsed the amendment as “National Assembly is one of the highest legislative bodies” and replacement of “Parliamentary Democracy” by “Constitutional Democracy”. With regard to the dates, the House resolved to follow the due process of law.

#### **Section 4 of Chapter 2**

The Hon’ble Member from Trashigang Dzongkhag pointed out that the review functions under Section 4 are the responsibility of the National Council and not of the National Assembly. He submitted that if the responsibilities of the two Houses are the same, there is no need of establishing National Council and National Assembly, separately. The Hon’ble Member from Pemagatshel supported this submission.

To this, National Assembly Secretary explained that both the Houses are responsible for reviewing existing Acts and Laws since both the Houses are entrusted with legislative functions.

The Hon'ble Member from Lhuentse Dzongkhag submitted that "scrutiny of State functions" is the responsibility of the National Council and not the National Assembly. The Hon'ble Member from Trongsa Dzongkhag submitted that though both the Houses have legislative power, it appears in the Section that only the National Assembly has this power.

To this, Eminent Member Karma Yezer Raydi explained that review should be done in both the Houses. He added that the review power should be vested in the National Assembly since the national policies are framed by the National Assembly. As far as national security and sovereignty of the country is concerned, he submitted that the National Council is entrusted with extra responsibilities.

To this, the Hon'ble Member from Sarpang Dzongkhag proposed the deletion of Section 4 as problems would ensue if both framing and review of policies are done by the National Assembly. After much deliberation on the issue, the House resolved that the Secretary of National Assembly shall review and submit it to the House.

## **Section 5 of Chapter 2**

Eminent Member Dasho Karma Ura submitted that the provision "the legislative power shall be vested in the National Assembly" implied that the National Council is devoid of such power and therefore, it should be Parliament instead of National Assembly. To this, the National Assembly Secretary explained that this Section implied to the power to pass a Bill by the Assembly.

To this, the Eminent Member Karma Damcho Nidup proposed the deletion of “Druk Gyalpo” if it implied only to the power to pass a Bill by the Assembly. The House resolved that the National Assembly Secretary shall review the issue and submit it to the House.

### **Section 10 of Chapter 3**

On submission to replace “Parliament” with “National Assembly” in Section 10 by the Hon’ble Member from Pemagatshel Dzongkhag, the House resolved that the National Assembly Secretariat shall make amendments, accordingly.

### **Section 13 of Chapter 3**

Eminent Member Dasho Karma Ura submitted that looking at the provision “should not hold any office under the Government” in Section 13, it appears that even the Prime Minister and the Ministers are not allowed to hold government office. In addition to this, the Hon’ble Member from Thimphu Dzongkhag submitted that the provisions of Section 13 (b) and (e) are covered under Section 10 as “the election of the members of National Assembly shall be in accordance with the provisions of the Election Act of Bhutan”.

Similarly, the Hon’ble Member from Gasa Dzongkhag submitted that Section 13 (f) contravenes the Election laws while Eminent Member Dasho Karma Ura pointed out the possibility of understanding that the Prime Minister and Ministers shall have to resign from holding the Government office as per Section (f). The House resolved that the National

Assembly Secretariat shall review Section 13 (f) and submit to the House.

### **Section 15 of Chapter 3**

Eminent Member Tashi Wangmo submitted that the provision “so long as such disqualification continues” in English is missing from the Dzongkha version. The National Assembly Secretary submitted that the translation shortcomings shall be taken care of by the Legislative Committee of the National Assembly. This was accepted and endorsed by the National Council.

### **Section 22 of Chapter 3**

Eminent Member Karma Damcho Nidup submitted that while Section 22 states “within 12 months”, the Election Bill provides for 180 days. This was supported by the Hon’ble Member from Wangduephodrang Dzongkhag.

In addition, some Hon’ble Members felt that problems may ensue if 12 months is retained in the National Assembly Bill after passing the Constitution and the Election Bill which provides for 180 days. Since all the Acts should be made consistent, the House resolved that the National Assembly Secretariat should review and submit to the House.

### **Section 28 of Chapter 4**

The Hon’ble Member from Pemagatshel Dzongkhag pointed out that although the English version mentions “National Assembly Secretariat” in Section 28, the Dzongkha version has it as “Ministry of National Assembly”. The House resolved that Ministry of National Assembly shall be replaced with National Assembly Secretariat.

## **Section 30 of Chapter 4**

The House resolved to replace “Parliament” with “National Assembly” in Section 30.

## **Section 40 of Chapter 6**

Eminent Member Karma Yezer Raydi’s proposal on replacement of “the Speaker shall remain bi-partisan” with “non-partisan” in the English version in Section 40 was endorsed by the National Council.

## **Chapter 8**

The Hon’ble Member from Tsirang Dzongkhag asked why the National Assembly deleted Chapter 8 on the Opposition Party. The National Assembly Secretary explained that both the Ruling and Opposition Parties are covered under the Constitution. Moreover, since the Bill does not have a separate chapter on Ruling Party, it is deemed unnecessary to have a separate chapter on Opposition Party. Based on this, the National Assembly resolved to delete this chapter. The House endorsed the rationale of the National Assembly.

## **Members who made Submissions on the National Assembly Bill**

1. Hon’ble Member Sonam Kinga from Trashigang
2. Eminent Member Kuenlay Tshering
3. Hon’ble Member Dr. Jagar Dorji from Trongsa
4. Hon’ble Member Rinzin from from Lhuentse
5. Hon’ble Member Jigmi Rinzin from Pemagatshel
6. Eminent Member Karma Damcho Nidup
7. Eminent Member Dasho Karma Ura
8. Hon’ble Member Kesang Namgyal from Trashiyangtse
9. Hon’ble Member Sangay Zam from Thimphu
10. Eminent Member Karma Yezer Raydi



11. Hon'ble Member Karma Donnen Wangdi from Sarpang
12. Hon'ble Member Sangay Khandu from Gasa
13. Hon'ble Member Tshering Dorji from Haa
14. Hon'ble Member Naichu from Mongar
15. Eminent Member Tashi Wangmo
16. Hon'ble Member Sonam Yangchen from Wangduephodrang
17. Hon'ble Member Justin Gurung from Tsirang

*(On the 9<sup>th</sup> Day of the second 5<sup>th</sup> Bhutanese month, Earth Male Rat Year corresponding to July 11, 2008)*

### **Section 82 of Chapter 10**

On the submission by Eminent Member Dasho Karma Ura on the lack of clarity of Section 82 in Dzongkha version, the House resolved that the National Assembly Secretariat shall improve the Dzonkha version.

### **Section 83 of Chapter 10**

The Hon'ble Member from Pemagatshel Dzongkhag raised concerns on the lack of clarity in the Dzongkha version of Section 83. The National Assembly Secretary clarified that the motion of thanks mentioned in the Bill does not refer to the concluding address at the end of the Assembly session alone but to the motion of thanks by a Member from each party after every address and message by His Majesty. The House resolved that the meaning of words in Dzongkha should be made consistent with the English version.

### **Section 87 of Chapter 10**

The Hon'ble Member from Trongsa Dzongkhag pointed out that in order to make it consistent with the Dzongkha word འདི་འཕྲོ་ལས in Section 87, its equivalent should be used in English version. The submission was supported by the

Hon'ble Member from Lhuentse Dzongkhag. The House resolved that the National Assembly Secretariat should add the wordings, accordingly.

### **Section 128 of Chapter 15**

The Hon'ble Member from Gasa Dzongkhag enquired whether "Leader of Ruling Party" in Section 128 refers to the Prime Minister or the President of the Ruling Party. The National Assembly Secretary clarified that the Leader of the Ruling Party and the Prime Minister would be different and therefore, the Leader of the Party within the Assembly shall refer to the Prime Minister.

In the Dzongkha text, Eminent Member Kuenlay Tshering proposed that it should be "Council of Ministers" instead of "Board of Ministers" in the heading under Chapter 15. Similarly, the Hon'ble Member from Pemagatshel Dzongkhag proposed insertion of "Leader of the Opposition" in place of "Chairman of the Opposition" in Section 128. The House resolved to change the heading under Chapter 15 to Council of Ministers and replace Chairman of the Opposition Party with Leader of the Opposition in Section 128.

### **Section 143 of Chapter 16**

Eminent Member Karma Yezer Raydi proposed to change "explicit" as "simple majority or two-third" in "explicit vote of no confidence in a Minister" in Section 143 as there are doubts and possibility of misinterpretation. To this, the National Assembly Secretary informed that this is a prerogative of the Prime Minister in accordance with the democratic principles.

Similarly, the Hon'ble Member from Lhuentse Dzongkhag submitted that it would be better for democracy if it is kept as two-third rather than leaving as the Prime Minister's prerogative. The Hon'ble Member from Trongsa Dzongkhag also submitted that it does not look like the prerogative of the Prime Minister as Section 139 states that a motion of no confidence in a Minister shall be moved by one-third of the Members. The House resolved that the National Assembly Secretariat shall review the section and submit to the House.

### **Section 159 of Chapter 17**

Eminent Member Karma Yezer Raydi submitted that while section 159 provides that "A member shall not present a petition from himself", section 153 provides that a petition shall be presented or submitted by a member, which is quite confusing. The National Assembly Secretary submitted the possibility of combining the two sections. The National Council resolved to make amendments as submitted by the National Assembly Secretary.

### **Section 175 of Chapter 19**

Eminent Member Kuenlay Tshering submitted that section 175 which states that a motion for the adjournment must be supported by not less than half of the total member would be more appropriate if changed as simple majority to which the National Assembly Secretary agreed. The National Council resolved that the National Assembly Secretariat should make amendments in accordance with the submission.

## **Chapter 21**

Eminent Member Kuenlay Tshering submitted that the title of Chapter 21 should be changed from "Legal Procedure" to

“Legislative Procedure”. The House resolved to make amendments, accordingly.

### **Sections 229, 231 and 232 of Chapter 21**

The Hon’ble Member from Trashigang Dzongkhag submitted that the difference in the meaning conveyed in Dzongkha and in English under Sections 229, 231 and 232 should be harmonized. In addition, the different procedures for passing general Bills and Money Bills should be removed.

The National Assembly Secretary submitted that though Money Bills originate in the National Assembly, the procedure for passing them will not be different from other Bills. However, some of the Hon’ble Members submitted that though the procedure for passing Money Bills and other Bills are same, the above provision indicates that there is a different procedure. A separate procedure for passing Money Bills is not required and a general procedure of passing Bills is sufficient. Further, the provision “15 days” in section 129 should be changed to ‘30 days’ in accordance with the Constitution. The National Council directed the National Assembly Secretary to thoroughly review the section and submit it to the House.

### **Section 235 of Chapter 21**

In section 235 on submission of a Bill for Assent, Eminent Member Kuenlay Tshering submitted for the provision to read as “from both the houses” instead of “from the House during a session.” The National Council resolved that the National Assembly Secretariat shall review the section and submit it to the House.

## **Sections 243 and 244 of Chapter 21**

On Sections 243 and 244, the Hon'ble Member from Zhemgang Dzongkhag submitted that though the procedure for passing Bills is the same, section 243 provides that "the Speaker shall endorse that it is a Money Bill", and section 244 provides that "If any question arises whether a Bill is a Money Bill or not, the decision of the Speaker thereon shall be final". She enquired why these provisions are included. The National Assembly Secretary submitted that since such a system is new in our country, references have been made to the practices of about 11 countries and the appropriate practices have been adopted. The House resolved that should the Members have different opinions, they should consult the National Assembly Secretary.

## **Section 274 of Chapter 25**

The Hon'ble Member from Wangduephodrang Dzongkhag submitted for deletion of the phrase "at all times" in section 274 as it not only refers to the House while in session but outside the House as well. The House resolved that the National Assembly Secretariat shall review this and submit it to the House.

## **Section 275 of Chapter 25**

On Section 275, Eminent Member Karma Yezer Raydi said that laptops should be allowed inside the Hall as it would benefit while referring to legal documents and reports, which was supported by the Hon'ble Member from Sarpang Dzongkhag. However, the Hon'ble Member from Gasa submitted that this would pose security risks as well as numerous other problems. A few of the Hon'ble Members supported this submission. The National Council, therefore,

resolved that the section shall be retained as in the draft for the time being.

### **Section 288 of Chapter 25**

The Hon'ble Member from Pemagatshel Dzongkhag submitted that although section 288 provides "shall not maintain or operate bank account in any country outside Bhutan", Ministers should be allowed to maintain bank accounts outside Bhutan, though other Members of Parliament may not be so allowed. To this, the Hon'ble Member from Gasa Dzongkhag submitted that not only the Ministers but other Members would also have to travel abroad.

The National Assembly Secretary submitted that the operation and maintenance of bank accounts in foreign countries should not be allowed since this would create the risk of draining the nation's resources outside the country. Since the Ministers are also members of the National Assembly, they should be treated the same in accordance with the democratic principles. The National Council resolved to retain the section unchanged.

### **Section 289 of Chapter 25**

The Hon'ble Member from Pemagatshel Dzongkhag submitted that the provision in section 289 "A member shall not hold any office under the Government, public companies or corporations," could also refer to the office of Ministers. The National Assembly Secretary explained that the Ministers hold their post by virtue of being a Member of Parliament and therefore, the section will not cover the office of Ministers.

A few Hon'ble Members submitted that the section should cover Private Corporations also. However, some of them said that only those Private Corporations registered under the Companies Act should be covered. The National Council resolved that the National Assembly Secretariat shall review this and submit to the House.

### **Section 300 of Chapter 26**

The Hon'ble Member from Bumthang Dzongkhag submitted that the phrase "members of Parliament" in section 300 should be changed to "members of National Assembly" to which the National Assembly Secretary clarified that it was a typographical mistake. The National Council resolved that the National Assembly Secretary should make the changes and submit to the House.

### **Section 304 of Chapter 26**

A few of the Hon'ble Members submitted that the phrase in section 304 which reads as "Act of Parliament" should be changed to "an Act passed by Parliament." The National Council resolved that the National Assembly Secretariat should review it and submit to the House.

### **Section 332 of Chapter 30**

In Section 322, the Hon'ble Member from Pemagatshel Dzongkhag submitted that the provision "not less than two-thirds" is for passing the amendment. He submitted that a provision for submission of the proposal of amendment similar to that of the Election Bill requiring "one-third" is not mentioned. The National Assembly Secretary submitted that the proposal for amendment will be submitted to Parliament

by one-third while it will be passed by two-thirds through voting.

Most of the Hon'ble Members submitted that the Election Bill contradicted section 107 of this Bill which provides that one Member shall submit a proposal for amendment. However, the National Council resolved to go by the submission made by the National Assembly Secretary and retain the section without change.

### **Section 333 of Chapter 33**

On section 333, Eminent Member Kuenlay Tshering submitted that in other Acts, Dzongkha version is the authoritative text in the event of difference in meaning. He submitted that the same should be the case in this Bill, which was acknowledged by the National Assembly Secretary. The National Council resolved that the National Assembly Secretariat shall make the amendment and submit it to the House.

### **Members who made Submissions on Chapter 10 Section 83 to Chapter 30 Section 333**

1. Hon'ble Member Jigmi Rinzin from Pemagatshel
2. Hon'ble Member Dr. Jagar Dorji from Trongsa
3. Hon'ble Member Rinzin from from Lhuentse
4. Hon'ble Member Sangay Khandu from Gasa
5. Eminent Member Kuenlay Tshering
6. Eminent Member Karma Yezer Raydi
7. Hon'ble Member Kesang Namgyal from Trashiyangtse
8. Hon'ble Member Sonam Kinga from Trashigang
9. Hon'ble Member Tshewang Jurmi from Bumthang
10. Hon'ble Member Pema Lhamo from Zhemgang
11. Hon'ble Member Karma Donnen Wangdi from Sarpang
12. Hon'ble Member Sonam Yangchen from Wangduephodrang
13. Eminent Member Karma Damcho Nidup
14. Hon'ble Member Dr. Mani Kumar Rai from Samtse



*(On the 11<sup>th</sup> Day of the second 5<sup>th</sup> Bhutanese month, Earth Male Rat Year corresponding to July 14, 2008)*

## **L) The National Council Bill of Bhutan, 2008**

### **1. Background of the National Council Bill by Tshewang Norbu, Secretary General of the National Council**

As per Royal Command of His Majesty the 4<sup>th</sup> Druk Gyalpo in 2006, the National Council Bill was drafted based on the Constitution of Bhutan, the laws and norms of other countries and also in accordance with the traditional values of our country. The draft Bill was submitted for perusal to both Their Majesties the Kings and improvements made. The Bill contains the responsibilities of the members of the National Council, their code of conduct and day-to-day procedures of the House which were in accordance with the general Parliamentary norms. The bill contains Parliamentary devices to enable the Members to carry out the responsibilities of the National Council, the session and term of the National Council, the privileges and immunities of Members, the conduct of business and records of resolutions, and procedures for submission of reports. The Bill also contains provisions for passing of Bills, establishment of Committees, and Rule Making authority.

The Bill containing 14 chapters with 187 sections was submitted to the House for thorough deliberations by the Hon'ble Members, in the hope that it would be passed keeping in mind the present and future interest of the nation and the people.

## **2. Members' Deliberation on the Bill**

### **Preamble**

The Preamble of the Bill which was submitted after amendments by the Review Committee was found acceptable. Therefore, the National Council resolved to retain it.

Eminent Member Karma Damcho Nidup submitted to insert a semi-colon in the English version of the Preamble of the Bill. It was resolved that the Secretariat shall insert the same.

### **Section 3 of Chapter 2**

The Hon'ble Member from Lhuentse Dzongkhag submitted that the National Council should be reflected as "one of the highest legislative bodies" in section 3. Most of the other Hon'ble Members submitted that since the National Council is also a legislative body, it should be made at par with the National Assembly. The National Council resolved to make amendments, accordingly.

### **Section 4 of Chapter 2**

The Hon'ble Member from Samtse Dzongkhag submitted that since section 4 deals with the Members of the National Council, it should be moved under chapter 3. Eminent Member Karma Yezer Raydi supported the submission. The National Council deliberated on the issue and felt that the section was an introduction which spelt out the number of Members of the National Council. Therefore, it was resolved that the section shall be kept as it is.

## **Section 6 of Chapter 2**

The Hon'ble Member from Haa Dzongkhag submitted that section 6 should include the wordings "shall not be bound by a voter" and questioned the meaning of "interest group". He also submitted that "non-partisan" should be reworded as "not partisan towards a political party".

The National Council Secretariat submitted that "interest group" means a group that is likely to benefit from an issue or decision, and explained that "non-partisan" means not only to be apolitical, but not to be influenced by voters or interest groups, and submitted that the section be retained without change. The National Council resolved to retain the section unchanged.

## **Section 10 of Chapter 2**

In section 10, the Council Secretariat submitted for addition of a new section (f) as "Review whether the National Assembly functions in the interest of the people", which was accepted and endorsed by the House.

## **Section 13 of Chapter 2**

Since section 13 (c) provides for only the lower age limit of Members, the Council Secretariat submitted for inclusion of the higher age limit in the section. The House accepted the submission and resolved for inclusion of the same.

## **Section 16 of Chapter 3**

Section 16 (c) provides for office of profit which would be problematic when Eminent Members continue to hold their posts in the Civil Service. Therefore, it was submitted for

addition of wordings as “unless there is a Kasho from His Majesty”. The Secretariat submitted that the issue is covered in section 173 (g) which reads “except as otherwise provided by law made by Parliament”.

In response to the submission made by some of the Humble Members that even the Eminent Members should not be allowed to hold office of profit, Eminent Member Dasho Karma Ura submitted that there should not be any if the Members nominated by His Majesty do not receive their earlier benefits once they join the National Council as Members.

On this, the Hon’ble Member from Trongsa Dzongkhag submitted that even if a person holds an office, it would not be considered as an office of profit if such a person receives no additional salary. He submitted that the Royal Kasho nominating the Members be presented once to the House which was supported by some of the Hon’ble Members. The National Council therefore, resolved to retain the section without change.

### **Section 17 of Chapter 3**

Some of the Hon’ble Members submitted for deletion of section 17 which provides “If a member uses physical force in the House, then that member shall be permanently removed from the National Council” since it is unlikely that the Members will resort to such behaviour. The Council Secretariat submitted that such problems may not arise at present. Examples of Parliaments in other countries were cited and as a future safeguard, submission was made for retaining it without change. The National Council resolved to put the section after section 185 as submitted by the Secretariat.

### **Section 18 of Chapter 3**

The Hon'ble Member from Bumthang Dzongkhag submitted that though a person declared ineligible may not be allowed to stand for election as a member for the time being, he should be allowed to stand for election later.

The National Council Secretariat submitted that since the section seems to indicate that a person cannot stand for election later, a slight change shall be made to make the legislative intent clear. The National Council resolved that the necessary amendments shall be made.

### **Section 21 of Chapter 3**

Some of the Hon'ble Mmbers submitted that section 21 should include a provision as to whom the declaration of resignation should be addressed in the event the resigning member is the Chairperson. The House resolved that the addition to the section shall be made by the Secretariat.

### **Sections 22 and 23 of Chapter 3**

The Hon'ble Member from Chhukha Dzongkhag submitted that sections 22 and 23 were contradicting each other. The National Council Secretariat submitted that according to section 22, a member shall be deemed to have resigned from the date of tendering resignation under section 21, while section 23 provides that a person shall not tender his resignation if there is a lawful contest regarding breach of law or disqualification of such member during his election as a member. The National Council accepted and endorsed the explanation submitted by the Secretariat.

### **Section 24 of Chapter 3**

In section 24 which provides for the termination of a Member of the National Council, the Hon'ble Member from Bumthang Dzongkhag asked whether the Chairperson and the Deputy Chairperson would be allowed to remain as a Member of the National Council if they are removed from their positions. The National Council Secretariat clarified that since the Chairperson holds his position by virtue of being a Member in the first place, he will remain a Member even if he is terminated from the position of Chairperson. But if the he is terminated from Membership of the National Council, his position as Chairperson would become automatically invalid.

### **Section 32 of Chapter 3**

In section 32, the Hon'ble Member from Trashigang Dzongkhag submitted that since the Members of the National Council and the National Assembly submit their bio data and other important documents from the date of joining as Members, the Bill should be made consistent with the National Assembly Bill. This submission was supported by the Hon'ble Member from Samdrupjongkhar Dzongkhag. The National Council resolved that the Council Secretariat should review this matter and submit to the House.

### **Section 33 of Chapter 3**

The Hon'bler Member from Pemagatshel submitted that it would be better if the section could be made in line with with the Anti Corruption Act which was supported by the Hon'ble Member from Bumthang Dzongkhag. The National Council resolved that the Council Secretariat should review this matter and submit to the House.

### **Section 34 of Chapter 3**

Though section 34 provides that “Gifts of pecuniary value which a member receives either as guest or host in connection with his duties shall be governed by the rules prescribed by the Anti-Corruption Commission”, submissions were made that gifts would be received not only in the capacity of a host or guest, but also owing to other aspects of one’s responsibility. Therefore, the words “guest or host” should be removed from the section. The National Council resolved that the Council Secretariat should review this matter and submit to the House.

### **Section 37 of Chapter 3**

Submissions were made that since section 59 covers the provision of section 37, this section is not required. To this, a few of the Hon’ble Members submitted that section 59 deals with the Powers of the Chairperson while section 37 provides for the rights of the Members, and therefore, the two should be kept separate. The National Council resolved to retain the section unchanged.

### **Sections 45 to 47 of Chapter 3**

Some of the Hon’ble Members submitted that since sections 45, 46 and 47 provides for the entitlements of the Members, amendments should be made to nthe sections to the effect “shall be in accordance with the Parliamentary Entitlement Bill”. The National Council resolved that the Council Secretariat should make the amendments, accordingly.

### **Section 50 of Chapter 4**

In section 50, the Hon’ble Member from Bumthang Dzongkhag asked whether a new Chairperson needs to be elected or whether

the Deputy Chairperson will be appointed as Chairperson. The National Council Secretariat clarified that as per the Bill, the Chairperson shall be elected all over again. Moreover, section 49 provides that the election of both shall be conducted “in accordance with the Rules and Procedures framed under this Act”. It was submitted that this issue will have to be covered in detail under the Rules of Procedure. The National Council accepted the submission and endorsed it. It was further resolved that the wordings “Election of Chairperson and Deputy Chairperson” shall be added in the title and within the provisions of the section.

### **Section 52 and 53 of Chapter 4**

The Hon’ble Member from Zhemgang Dzongkhag submitted that since sections 42 and 43 deal with the same issue, the two could be combined. The National Council resolved that the Secretariat should explore this possibility.

On section 53, the Hon’ble Member from Chhukha Dzongkhag asked who would preside over the sittings in the event both the Chairperson and Deputy Chairperson are absent. The National Council resolved that the issue shall be dealt with in detail under the Rules of Procedure.

### **Section 60 of Chapter 4**

The Council Secretariat submitted that section 60 could be covered by the provisions under sections 183 to 185, to which the Hon’ble Member from Pemagatshel Dzongkhag asked whether the clause “the member shall be made to withdraw immediately from the House” refers to removing a Member from the Hall during a session or termination of Membership on the grounds of general unethical conduct. The Council Secretariat explained that the section provides for removal of



a Member from the Hall during a session if a Member is in violation of this section. The National Council resolved that the section should be made clearer and submitted again to the House.

### **Section 62 of Chapter 4**

In section 62, some of the Hon'ble Members submitted that the provision "simple majority" should be amended as "two-thirds". The title of the section should mention the Deputy Chairperson and the procedures for termination of Deputy Chairperson need to be included. The National Council resolved to make the amendments as per the submissions.

### **Section 63 of Chapter 5**

In section 63, the Hon'ble Member from Sarpang Dzongkhag submitted that the Dzongkha version reads "shall report to the Druk Gyalpo" while the English version reads "the Chairperson shall inform the Druk Gyalpo." He submitted for replacement of the word "inform" with "apprise". The National Council resolved that the Secretariat should use a suitable word.

### **Sections 67 to 69 of Chapter 5**

The Hon'ble Member from Haa Dzongkhag submitted that since sections 67, 68 and 69 are all about the submission of Election Certificates to the Secretariat by the Members, these sections should be put after section 35. The National Council resolved, accordingly.

## Section 78 of Chapter 5

In section 78, the Hon'ble Member from Pemagatshel Dzongkhag asked whether the National Council sessions should end with *Trashy Moenlam* or not, to which Eminent Member Kuenlay Tshering said that since the sessions are inaugurated with *Chibdrel* ceremony and *Zhugdrel Phuensum Tshogpa*, the session would appear not to have a proper beginning and ending if it is not concluded with *Tashi Moenlam*. The National Council resolved to make the provision as per the guidance from His Majesty.

The Hon'ble Member from Chhukha Dzongkhag submitted that the draft which was distributed during the National Council elections had a provision which stated that the Chairperson shall confer *Dakyen* to the Members. However, this provision is not included in the draft tabled before Parliament for enactment. She wanted to know who would confer *Dakyen* to the Members in future. The House resolved that this issue need not be included in the Bill.

### **Members who made Submissions on Chapter 1 to Chapter 5 Section 78 of the Council Bill**

1. Hon'ble Member Rinzin from Lhuentse
2. Hon'ble Member Tshering Dorji from Haa
3. Hon'ble Member Dr. Jagar Dorji from Trongsa
4. Hon'ble Member Tshewang Jurmi from Bumthang
5. Eminent Member Kuenlay Tshering
6. Hon'ble Member Dr. Mani Kumar Rai from Samtse
7. Eminent Member Karma Damcho Nidup
8. Hon'ble Member Karma Donnen Wangdi from Sarpang
9. Eminent Member Karma Yezer Raydi
10. Eminent Member Tashi Wangmo
11. Hon'ble Member Jigmi Rinzin fro Pemagatshel
12. Hon'ble Member Sangay Khandu from Gasa
13. Hon'ble Member Ugyen Tshering from Paro
14. Hon'ble Member Sonam Kinga from Trashigang

15. Hon'ble Member Kesang Namgyal from Trashiyangtse
16. Hon'ble Member Pema Lhamo from Zhemgang
17. Hon'ble Member Sangay Zam from Thimphu
18. Hon'ble Member Tshewang Lhamo from Chhukha
19. Hon'ble Member Jigme Wangchuk from Samdrupjongkhar
20. Hon'ble Member Naichu from Mongar

*(On the 12<sup>th</sup> Day of the second 5<sup>th</sup> Bhutanese month, Earth Male Rat Year corresponding to July 15, 2008)*

### **Section 122 of Chapter 7**

The Hon'ble Member from Pemagatshel Dzongkhag submitted that according to the Constitution, the annual report of the Royal Civil Service Commission and Office of the Attorney General should be submitted to the Druk Gyalpo and the Prime Minister. He submitted that the present section which provides that the report shall be submitted to the National Council contradicts with the Constitution.

In addition, the Hon'ble Member from Trongsa Dzongkhag submitted that the section in its English version provides that the report should be presented to the National Council while Dzongkha version says that the same shall be submitted to the National Council. He submitted that it should not be made mandatory for the concerned individuals to make the submissions in person so long as copies of the reports are submitted.

The National Council Secretariat submitted that though the Constitution provides that the annual reports shall be submitted to the Druk Gyalpo and to the Prime Minister, it does not prohibit the submission of the reports elsewhere. Since the National Council is a House of Review, it would be beneficial to adopt a procedure whereby it can receive reports. It was submitted that the meaning of the English wordings shall be made in line with the Dzongkha version.

The House accepted and endorsed the submission of the Secretariat.

### **Section 123 of Chapter 7**

Eminent Member Karma Damcho Nidup submitted that since section 123 could be covered by Chapter 2, it should be deleted. The Council Secretariat submitted that this section would prove useful to the National Council in future. The Eminent Member submitted that if the section is retained, the word “principles” need to be added after the the clause “financial sustainability and transparency.” The National Council resolved to make the amendment as submitted.

### **Section 126 of Chapter 8**

Eminent Member Karma Yezer Raydi submitted that section 126 needs to be amended since it appears that the National Council has to wait till the government submitted proposals and resolutions. He also asked why a similar section for submission of “petitions” provided in the National Assembly Bill is not included in the Council Bill. The Council Secretariat explained that this section is only for the purpose where the government would submit issues for review by the National Council, and that the Council could generally review issues of national importance on its own initiative. Regarding the provision on “petitions” in the National Assembly Bill, it was explained that the provision was for the members to report the problems in the constituencies to the National Assembly to which the Ruling Party belonged, and as such, a similar provision was not necessary in the Council Bill.

## **Sections 128 to 131, 140 and 141 of Chapter 8**

Eminent Member Tashi Wangmo submitted that detailed procedures for implementing the devices under sections 128 to 131 need to be included. The Hon'ble Member from Trashigang Dzongkhag submitted that the procedures in the above sections and sections 140 and 141 should be clearly stated as in the National Assembly Bill.

The Council Secretariat submitted that the detailed procedures for the above sections will be covered under the Rules of Procedure. The House resolved that the Secretariat should review the necessity of including the details in the Bill.

## **Section 146 of Chapter 8**

In section 146, the Hon'ble Member from Pemagatshel Dzongkhag submitted that an alternative solution should be found instead of considering the motion of censure null and void if it is not passed by the National Assembly. Some Hon'ble Members submitted that since the National Council is a House of Review, the section should be amended in line with Article 11.2 of the Constitution.

The Council Secretariat submitted that the section could be amended as per the Constitution providing that a motion of censure passed by two-thirds of the Members of the National Council shall be submitted to the Druk Gyalpo, the Prime Minister and the National Assembly. The National Council resolved that the Secretariat shall make appropriate amendments and submit to the House.

### **Section 147 of Chapter 9**

Eminent Member Kuenlay Tshering submitted that the provision for Rule Making under the Chapter on Committees should be put under Chapter 14 in line with the general procedures of legislative drafting. The House accepted the submission and resolved, accordingly.

### **Section 160 of Chapter 8**

The Hon'ble Member from Pemagatshel Dzongkhag asked whether “a committee” in section 160 refers a Committee of the National Council or to a Committee of the Council Secretariat, and submitted that the clause “such expenses shall be met from State funds” be reworded as “as per the laws of the country”. The Secretariat submitted that the committee mentioned in the Bill refers to a Committee of the National Council, which would be the House Committee. The National Council resolved that the Secretariat shall make addition to the clause and submit to the House.

### **Section 168 of Chapter 11**

Eminent Member Karma Damcho Nidup submitted that the words “national sovereignty and integrity of Bhutan” should come before “National Council.” The National Council resolved that the Secretariat should study whether this change in sequence is necessary.

### **Section 173 of Chapter 11**

In section 173 (a), Eminent Member Tashi Wangmo submitted that Members should be allowed to take part in public auctions if they follow the prescribed legal procedures, and therefore, this sub-section should be deleted. The

Secretariat submitted that the sub-section is intended to inspire public trust and confidence in the members and should be retained.

Eminent Member Dasho Karma Ura submitted that it appears like the Members are putting restrictions on themselves in sub-section (b) of this section. The Hon'ble Member from Trashigang Dzongkhag said that while he appreciated the section, the National Assembly does not have a similar section, and submitted that the two Bills should be alike. The Secretariat submitted that since the section provides that the procedures shall be as provided by laws made by Parliament, the section should not be problematic, and hence retained.

The Hon'ble Member from Zhemgang Dzongkhag submitted that while section 16 of the Bill provides for disqualifications of members, Chapter 11 deals with Code of Conduct, and section 173 deals with incompatibility. She submitted that it is very difficult for the members to understand the law. This submission was supported by a few other Hon'ble Members. The National Council resolved that the Secretariat shall try to find means to make the legal meanings easier to understand.

### **Section 175 of Chapter 11**

In section 175, the Hon'ble Member from Trashigang Dzongkhag submitted that while bank accounts may not be allowed in foreign countries for other reasons, the same should be allowed for the purpose of pursuing further studies abroad. Quite a few Hon'ble Members supported the submission and asked either for the deletion of the section or for it to be amended. The Secretariat submitted that this may go against the policy of the country, and requested that the section be retained without change.

The National Council resolved that the section should be examined in accordance with the Citizenship Act of Bhutan and the provisions of the Constitution.

### **Section 181 of Chapter 12**

Eminent Member Karma Damcho Nidup asked how the “breach of privilege and contempt” in section 181 would be determined, whether the issue should be investigated by a Court of Law, and what the penalties for the same are. The House resolved that the issue will be dealt in detail under the Rules of Procedure.

### **Section 184 and 185 of Chapter 12**

The Hon’ble Member from Pemagatshel Dzongkhag submitted that sections 184 and 185 should be put after section 16 (g). The House resolved that the Council Secretariat shall study the feasibility of the same.

### **Section 189 of Chapter 12**

The Council Secretariat submitted that the provision “under the supervision of the Chairperson” in section 189 should be replaced with “in accordance with the provisions of this Act”, which was accepted and endorsed by the House.

Eminent Member Dasho Karma Ura submitted that since the Bill does not provide any specific responsibility to the Deputy Chairperson, the provision “under the supervision of the Chairperson” could possibly be replaced with “Deputy Chairperson”. The National Council resolved that the Secretariat shall study the possibility.



### **Section 190 of Chapter 13**

The Hon'ble Member from Bumthang Dzongkhag submitted that while section 190 (b) refers to proceedings and records, the proceedings are not clearly specified. Therefore, he submitted for addition of a new provision on issuance of order when Bills are passed. The House held that these are clearly provided for under Chapter 10, and resolved that the general issue shall be addressed in detail under the Rules of Procedure.

### **Section 194 of Chapter 13**

Some Hon'ble Members submitted that the procedure for amendment provided under section 194 is too relaxed and should be made similar to the procedures in the National Assembly Bill. The House resolved that the Council Secretariat shall make appropriate amendments.

### **Section 195 of Chapter 13**

In section 195, Eminent Member Kuenlay Tshering submitted that instead of treating the Dzongkha and English texts equally, the Dzongkha text should be recognized as authoritative. The Council Secretariat submitted that since Acts are initially drafted in English, the legislative intents are clearer in English. Therefore, it was submitted that the two texts might be treated as equally authoritative. A few Hon'ble Members submitted that the National Assembly Bill has already been passed wherein the Dzongkha text was held as authoritative. It was resolved that the Acts should be made uniform.

## General

The Hon'ble Member from Bumthang submitted that Invocation and Benediction (Choejed and Moen Tshig) should be included in the Bill. The National Council resolved that the Council Secretariat shall compose the same.

### **Members who made Submissions on Chapter 7 Section 122 to Chapter 14 Section 195**

1. Hon'ble Member Rinzin from Lhuentse
2. Hon'ble Member Tshering Dorji from Haa
3. Hon'ble Member Dr. Jagar Dorji from Trongsa
4. Hon'ble Member Tshewang Jurmi from Bumthang
5. Eminent Member Kuenlay Tshering
6. Eminent Member Karma Damcho Nidup
7. Eminent Member Karma Yezer Raydi
8. Eminent Member Tashi Wangmo
9. Hon'ble Member Jigmi Rinzin from Pemagatshel
10. Hon'ble Member Sangay Khandu from Gasa
11. Hon'ble Member Sonam Kinga from Trashigang
12. Hon'ble Member Kesang Namgyal from Trashiyangtse
13. Hon'ble Member Pema Lhamo from Zhemgang
14. Eminent Member Dasho Karma Ura

*(On the 13<sup>th</sup> Day of the second 5<sup>th</sup> Bhutanese month, Earth Male Rat Year corresponding to July 16, 2008)*

### **M) Passing of the Parliamentary Entitlement Bill of the Kingdom of Bhutan, 2008**

#### **1. Background of the Bill by the National Assembly Secretary**

The Act was discussed in the National Assembly and was passed by it. The same is submitted to the National Council for further deliberations and endorsement. *(Full text available in Verbatim Records)*

## **2. Members' Deliberation on the Bill**

### **Section 2 of Chapter 1**

In section 2, Eminent Member Karma Yezer Raydi submitted that the entitlement of the Chairperson of the National Council, the Speaker of the National Assembly and the Leader of the Opposition Party are equivalent to that of the Council of Ministers. Moreover, the Ministers are also Members of Parliament. Therefore, the phrase “shall not apply to the members of the Lhengye Zhungtshog” should be removed from the section. This was supported by a few other Hon’ble Members.

The National Assembly Secretariat submitted that though Ministers are Members of Parliament, they are Members of the Executive as well, and therefore, their entitlement should be governed by the already existing Lhengye Zhungtshog Act. The entitlement of the Chairperson of the National Council, the Speaker of the National Assembly and the Leader of the Opposition Party are covered by the Constitution which provides that the same shall be equivalent to that of the Council of Ministers.

The Hon’ble Member from Trashigang Dzongkhag questioned whether the existing Lhengye Zhungtshog Act is in line with the democratic norms. In keeping up with the changes in the political system, he submitted that the Parliamentary Entitlement Bill should apply to all Members of Parliament. Therefore, it would provide transparency if the entitlement and benefits of the Council of Ministers are clearly specified in the Bill itself.

The National Council noted that the general parameter for salaries and allowances would be as determined by the Pay

Commission. The House, however, resolved that the section should be made applicable to all Members of Parliament by deleting the phrase “shall not apply to the members of the Lhengye Zhungtshog”.

### **Section 5 of Chapter 1**

Section 5 (a) which read as “The Chairperson of the Royal Civil Service Commission” was amended by the National Assembly by replacing “The Chairperson” with “A Member”, which was accepted and endorsed by the National Council.

### **Section 10 of Chapter 1**

Eminent Member Karma Yezer Raydi submitted that since section 2 has been amended to make it applicable to the Members of the Lhengye Zhungtshog, the phrase “which shall be as per Annexure I” should be added in section 10 which provides “the salary, allowances, benefits and other emoluments of the Speaker of the National Assembly, the Chairperson of the National Council and the Leader of the Opposition Party shall be equivalent to that of a Cabinet Minister. This was endorsed by the National Council. The House also accepted and endorsed the National Assembly’s addition of a new section after section 10 which provides “Deputy Speaker of the National Assembly and Deputy Chairperson of the National Council shall receive reasonable salary and other allowances slightly higher than the Members of Parliament for their additional responsibility”.

### **Section 11 of Chapter 3**

Eminent Member Karma Yezer Raydi submitted section 11 which provides “The salary of the members of Parliament shall be as per Annexure I” should be changed as “as per

Annexure II". The Hon'ble Member from Mongar Dzongkhag submitted that this section should provide not only for the salaries of members, but for their allowances, benefits and other emoluments as well.

To this, the Hon'ble Member from Bumthang Dzongkhag submitted that the phrase "shall be as per Annexure I" has been provided for under relevant sections for all entitlements, and as such, section 11 need not be amended. The National Council resolved that "Annexure I" in the section shall be changed to "Annexure II", and likewise "Annexure I" throughout the Bill shall be changed to "Annexure II". It was also resolved that the section need not cover other entitlements.

### **Section 12 of Chapter 3**

The Hon'ble Member from Pemagatshel Dzongkhag submitted that since the Members of Parliament will reside in Thimphu, section (b) is unnecessary and should be deleted. The Hon'ble Member from Trongsa Dzongkhag asked whether section (c) should also be deleted to which the Hon'ble Member from Pemagatshel Dzongkhag submitted that section (c) refers to Committee meetings, which would be held not only at Thimphu but in other places as well.

Some Hon'ble Members submitted that since it is not clear whether the Members would have their offices at Thimphu, sections (b) and (c) should be retained to enable Members to establish offices in their own constituencies as well. The National Council resolved accordingly.

### **Section 13 of Chapter 3**

In section 13, the Hon'ble Member from Mongar Dzongkhag asked if a Minister should seek approval for travel. If they need not seek approval, this would cause problems and therefore, clear procedures should be provided on this issue. The National Assembly Secretariat clarified that though Ministers need to seek the approval of the Speaker for travel during Sessions, it would be impractical for them to seek his approval for travel related to their executive responsibilities when the House is not in Session.

The House stated that if a clear provision is not included on approval for travel when the House is not in Session, it appears that the Speaker's approval is necessary. As such, the House resolved that the Assembly and Council Secretariats should look for alternate options on this issue.

### **Section 15 of Chapter 3**

The amendments made in section 15 by the National Assembly as "When a Member of Parliament performs a journey outside the country in discharge of his duties, he shall be entitled to traveling and other allowances in accordance with applicable rules of the government" was endorsed by the National Council.

### **Section 17 of Chapter 3**

The Hon'ble Member from Pemagatshel Dzongkhag asked why the National Assembly deleted section 17. The National Assembly Secretariat submitted that since the office of the Members are in Thimphu, it was acknowledged that they are not entitled to sitting fees, and thus the section was deleted.

The Hon'ble Member from Thimphu submitted that sitting fees is necessary to establish recognition, confidence and trust in Parliament, which was supported by a few other Hon'ble Members.

The Hon'ble Member from Pemagatshel Dzongkhag submitted that although sitting fees may be provided for the sessions of Parliament, the same is not warranted for Committee meetings. This submission was supported by some other Hon'ble Members.

The National Council resolved not to endorse the deletion of the section but to amend it as "Members of Parliament shall be entitled to sitting fees while attending the sessions of Parliament. The rates of sitting fees shall be as in Annexure II"

### **Section 20 of Chapter 3**

On the inclusion of "driver's allowance" in section 20 by the National Assembly, Eminent Member Karma Yezer Raydi asked whether the money granted to the members for purchase of vehicle included driver allowance. He also submitted that the provision "Such proportionate amount as remaining upon his retirement/resignation before the completion of the five year term or upon termination from service shall be reimbursed to the Government" is not required. The Hon'ble Member from Sarpang Dzongkhag asked whether the remaining amount has to be reimbursed if a member resigns one or two months before the expiry of term to contest in the next elections.

The National Assembly Secretariat clarified that the remaining amount will have to be reimbursed to the Government, calculated proportionately based on the

remaining term of office, which will be provided in detail when the Rules of Procedure is drafted. This was supported by most of the Hon'ble Members. Some of the Hon'ble Members submitted that government drivers should be provided instead of driver allowance. The National Assembly Secretariat submitted that the reason for the National Assembly's decision to provide driver allowance was for the convenience and safety during travel since there would be some members who cannot drive.

Eminent Member Karma Damcho Nidup said that the Members should be provided with government drivers and not driver allowance, which was supported by the Hon'ble Member from Lhuentse Dzongkhag. Some of the Hon'ble Members submitted that since the vehicles are registered in private names, driver allowance and not government drivers should be provided. Since some other Hon'ble Members wanted government driver, the House was deadlocked, and the issue was voted upon by raise of hands. Nine Members voted for government driver, nine voted for driver allowance and six refrained from voting. The House resolved that the National Council shall report the same to the National Assembly.

### **Members who made Submissions on Chapter 1 Section 1 to Chapter 3 Section 20**

1. Hon'ble Member Rinzin from Lhuentse
2. Hon'ble Member Dr. Jagar Dorji from Trongsa
3. Hon'ble Member Tshewang Jurmi from Bumthang
4. Eminent Member Kuenlay Tshering
5. Eminent Member Karma Damcho Nidup
6. Eminent Member Karma Yezer Raydi
7. Eminent Member Tashi Wangmo
8. Hon'ble Member Jigmi Rinzin from Pemagatshel
9. Hon'ble Member Sonam Kinga from Trashigang
10. Hon'ble Member Kesang Namgyal from Trashiyangtse



11. Hon'ble Member Pema Lhamo from Zhemgang
12. Eminent Member Dasho Karma Ura
13. Hon'ble Member Ugyen Tshering from Paro
14. Hon'ble Member Naichu from Mongar
15. Hon'ble Member Karma Donnen Wangdi from Sarpang
16. Hon'ble Member Sonam Dorji from Dagana
17. Hon'ble Member Sangay Zam from Thimphu

*(On the 14<sup>th</sup> Day of the second 5<sup>th</sup> Bhutanese month, Earth Male Rat Year corresponding to July 17, 2008)*

### **Section 21 of Chapter 3**

Eminent Members Tashi Wangmo and Karma Damcho Nidup submitted that since a system is already in place where the government provides telephone allowance to the Members, they should not ask for mobile allowance. A few of the Hon'ble Members submitted that based on circumstances, a mobile is necessary. The National Council resolved that this section shall provide for mobile phone and not fixed line and that the meaning in the Dzongkha and English texts shall be harmonized.

The Hon'ble Member from Samtse Dzongkhag submitted that Chapter 3 does not provide for leave for Members and therefore, a new section should be included. The National Assembly Secretariat submitted that the Members of the two Houses should seek the approval of the Speaker and the Chairperson, respectively, to avail leave. The National Council resolved that the National Assembly Secretariat shall include a new section on the issue of leave for Members.

Eminent Member Karma Yezer Raydi submitted that a new section should be included under Chapter 3 providing for Discretionary Allowance to the Members. The National Council resolved that the Assembly and Council Secretariats shall include a new section on this issue.

## Chapter 4

The Hon'ble Member from Samdrupjonkhar Dzongkhag asked why the National Assembly had deleted Chapter 4 on Kabney from the Bill. The National Assembly Secretariat submitted that during the deliberations in the National Assembly, it was decided that this issue should not be included in the Bill since award of Kabney and Patang is the prerogative of His Majesty the King. The House thus accepted and endorsed the deletion of this Chapter.

## Chapter 5

The Hon'ble Member from Mongar submitted that a new section on expenses for carriage and personal effects while joining as a member after election or nomination in case of 5 eminent members of National Council should be included under Chapter 5. The National Council resolved that the two Secretariats shall include a new section on this issue.

### **Members who made Submissions on Chapter 3 Section 20 to Chapter 5**

1. Hon'ble Member Rinzin from Lhuentse
2. Hon'ble Member Dr. Jagar Dorji from Trongsa
3. Hon'ble Member Tshewang Jurmi from Bumthang
4. Eminent Member Karma Damcho Nidup
5. Eminent Member Karma Yezer Raydi
6. Eminent Member Tashi Wangmo
7. Hon'ble Member Jigmi Rinzin from Pemagatshel
8. Hon'ble Member Pema Lhamo from Zhemgang
9. Hon'ble Member Ugyen Tshering from Paro
10. Hon'ble Member Naichu from Mongar
11. Hon'ble Member Sonam Dorji from Dagana
12. Hon'ble Member Sangay Zam from Thimphu
13. Hon'ble Member Dr. Mani Kumar Rai from Samtse
14. Hon'ble Member Jigme Wangchuk from Samdrupjonkhar

## **N) Amendments and Passing of the National Assembly Bill of Bhutan, 2008**

### **Preamble**

The National Assembly Secretariat amended the Preamble as “Whereas, the National Assembly comprising of elected representatives is one of the Houses of the highest legislative body and the institution through which the interests of the nation and the aspirations of the people are communicated, safeguarded and fulfilled;

Whereas, the Constitution of the Kingdom of Bhutan provides for the independence of the National Assembly, which is the institutional embodiment of Democratic Constitutional Monarchy; and

“Parliament of the Kingdom of Bhutan do hereby enact the National Assembly Act at its ..... Session of the ....Parliament as follows:” The National Council accepted and endorsed the amendment.

### **Section 13 of Chapter 3**

The National Assembly Secretariat amended section 13 (f) as “Holds any office of profit under the Government, public companies or corporations”, which was accepted and endorsed by the national Council.

### **Section 15 of Chapter 3**

The amendment made to section 15 as “A person who is disqualified by a judgment of a court of competent jurisdiction from being elected to or sitting in the House, by reason of any violation of any Act of Parliament relating to

elections or to the trial of controversial elections of members of the Assembly, shall not be eligible for election as a member of the Assembly solong as such disqualification continues”, was accepted and endorsed by the National Council.

### **Section 22 of Chapter 3**

In section 22, the National Assembly Secretariat replaced “one year” with “six months” which the National Council endorsed.

### **Section 87 of Chapter 10**

The National Council accepted and endorsed the amendment made by the National Assembly Secretariat in section 87 as “If a message from the Council requires any action to be taken by or any matter referred to the Assembly, it shall be immediately set down on the agenda and shall be considered thereafter.”

### **Section 128 of Chapter 15**

The Hon’ble Member from Haa Dzongkhag asked whether the National Assembly Secretarist has amended the wording “Chairperson of the Opposition” to “Leader of the Opposition” in section 128 as resolved by the National Council. The Assembly Secretariat submitted that the changes in wording will be made by the Secretariat, and accordingly, the National Council resolved that the necessary amendments shall be made.

### **Section 143 of Chapter 16**

The National Council accepted and endorsed the amendment made by the National Assembly Secretariat in section 143 as “If the House passes a two-third majority of vote of no confidence in a Minister thereof, the Prime Minister shall recommend the removal of that Minister to the Druk Gyalpo.”

### **Section 159 of Chapter 17**

Though it was resolved that sections 159 and 153 shall be combined, the National Assembly Secretariat submitted that since the two sections deal with different issues, they should be retained separately with minor amendments. The National Council resolved to amend section 159 as “a member shall not present a petition for himself”.

### **Section 175 of Chapter 19**

The National Council accepted and endorsed the amendment made by the National Assembly Secretariat in section 175 as “A motion for the adjournment of the business of the House under this Chapter must be supported by a simple majority of total number of members of the National Assembly.”

### **Sections 229, 231 and 232 of Chapter 21**

The National Council accepted and endorsed the amendments made by the National Assembly Secretariat in section 229 as “When a Bill is passed by the National Assembly, it shall be presented to the National Council within thirty days from the date of passing” and the amendments made to section 231 as “If a Bill passed by the National Assembly and transmitted to the National Council is passed by the Council without amendment,

the message received from the Council to that effect shall be reported to the House.”

However, the National Council did not accept the submission made by the National Assembly Secretariat that since the procedures for originating Money Bill and other Bills are different, section 232 should be retained unchanged, and resolved to amend it as “If a Bill passed by the Assembly and transmitted to the Council is returned with amendments, the member in charge of the Bill may move for the consideration of the said amendments forthwith or on future date.”

### **Section 235 of Chapter 21**

The Hon’ble Member from Haa Dzongkhag asked whether the National Assembly Secretariat has made the amendments as resolved by the National Council, on which the House resolved that the changes in wording will be made by the Secretariat.

### **Section 274 of Chapter 25**

The National Assembly secretariat’s amendment of section 274 by removing the wordings “at all time” was endorsed by the House.

### **Section 289 of Chapter 25**

In section 289, the Hon’ble Member from Pemagatshel Dzongkhag submitted for inclusion of “Private Sector”. The National Assembly Secretariat submitted that since the section was drafted in line with the Constitution, amendments were not necessary, which was accepted and endorsed by the House.

### **Section 300 of Chapter 26**

The National Council accepted and endorsed the amendment made by the National Assembly Secretariat in section 300 as “The National Assembly shall appoint committees, composed of members of the National Assembly, to examine any matter within the jurisdiction assigned to them by the House, and to carry out any mandate given to them by the House”, by replacing “members of Parliament” with “members of the National Assembly”.

### **Section 304 of Chapter 26**

In section 304, the National Assembly Secretariat had submitted amendments made to the English text and not the Dzongkha text. The Hon’ble Member from Bumthang Dzongkhag and Eminent Member Kuenlay Tshering submitted that the wordings in the Dzongkha text should also be changed from “Parliamentary Act” to “Act of Parliament” as in the English text. The National Council resolved to make the amendments as submitted.

### **Section 333 of Chapter 30**

The National Council accepted and endorsed the amendment made by the National Assembly Secretariat in section 333 as “The Dzongkha text shall be the authoritative text, if there exist any difference in meaning between the Dzongkha and the English text” instead of “each text shall be regarded as equally authoritative”.

### **Members who made Submissions on the National Assembly Bill**

1. Eminent Member Dasho Karma Ura
2. Hon’ble Member Dr. Jagar Dorji from Trongsa

3. Eminent Member Karma Damcho Nidup
4. Eminent Member Karma Yezer Raydi
5. Hon'ble Member Jigmi Rinzin from Pemagatshel
6. Hon'ble Member Pema Lhamo from Zhemgang
7. Hon'ble Member Naichu from Mongar
8. Hon'ble Member Tshering Dorji from Haa
9. Hon'ble Member Tshewang Jurmi from Bumthang
10. Eminent Member Kuenlay Tshering
11. Hon'ble Member Sonam Kinga from Trashigang
12. Hon'ble Member Karma Donnen Wangdi from Sarpang

*(On the 18<sup>th</sup> Day of the second 5<sup>th</sup> Bhutanese month, Earth Male Rat Year corresponding to July 21, 2008)*

## **O) Amendments and Passing of the National Council Bill, 2008**

### **Preamble**

Eminent Member Karma Damcho Nidup enquired whether the necessary semi-colons had been inserted in the Preamble. The Secretariat submitted that the same was done, which the House endorsed.

### **Section 3 of Chapter 2**

The National Council accepted and endorsed the amendment made by the Council Secretariat in section 3 as “There shall be a National Council for Bhutan in which, as one of the highest legislative bodies, all legislative powers under the Constitution are vested.”

### **Section 10 of Chapter 2**

The National Council accepted and endorsed the addition of a new sub-section (f) made by the Council Secretariat in section



10 as “Review whether the National Assembly functions in the interest of the people”.

### **Section 13 of Chapter 3**

The National Council accepted and endorsed the amendment made by the Council Secretariat in section 13 (c) as “Is of the minimum age of twenty five years and maximum of sixty-five years at the time of filing the nomination”.

### **Section 21 of Chapter 3**

In section 21, the National Council accepted and endorsed the addition of “If the member so resigning is the Chairperson, the declaration shall be addressed and delivered to the Vice-Chairperson” made in the section.

### **Section 32 of Chapter 3**

The National Council Secretariat amended section 32 to bring it in line with the provisions of the National Assembly Bill, to read as “On assuming office and at the start of the year, a member shall inform the Secretariat in writing about his:

- a) Bio-data and educational qualifications;
- b) Occupation, trade, profession or vocation;
- c) Positions (whether remunerated or not) held in, or membership of corporations, associations or other institutions and bodies;
- d) Agreements pursuant to which, during or after his membership, a member is to be assigned certain activities or granted pecuniary benefits; and

- e) Activities pursued in addition to his occupation and mandate, in particular the delivery of expert opinions, writing and lecturing.”

Most of the Hon’ble Members submitted that while sub-sections (a) and (b) are acceptable, it appeared that office of profit is allowed under sub-section (c) which provides for “corporations, associations or other institutions and bodies”. Some Hon’ble Members submitted that sub-section (c) is not necessary since its provisions could be covered under section 33, while a few of the Hon’ble Members submitted that it should be retained. Since a consensus could not be reached, the House voted on these two issues by raise of hands, wherein the House resolved to retain and endorse the amendments submitted by the Secretariat.

### **Section 33 of Chapter 3**

The National Council accepted and endorsed the amendment made by the Council Secretariat in section 33 as “A member shall declare his income, asset and liability and that of his spouse and dependents in accordance with the guidelines contained in the Anti-Corruption Act.”

### **Section 34 of Chapter 3**

The Secretariat amended section 34 by deleting the words “either as guest or host” for it to read as ““Gifts of pecuniary value which a member receives in connection with his duties shall be governed by the rules prescribed by the Anti-Corruption Commission.” The House accepted and endorsed the amendment.

### **Sections 45 and 47 of Chapter 3**

The Council Secretariat deleted sections 45 and 47 provided in the draft of the Bill and added a new section 45 as “The salary, allowances, benefits, and other emoluments for a member shall be as determined under the provisions of the Parliamentary Entitlement Act”, which was accepted and endorsed by the National Council.

### **Section 46 of Chapter 3**

The National Council Secretariat amended section 46 as “A deduction equivalent to a day’s daily allowance shall be made from the salary every time a member remains absent during the sitting of the National Council without the permission of the House for any reason including suspension under this Act”, and submitted that the section be put after section 85. This was accepted and endorsed by the House.

### **Section 50 of Chapter 4**

The National Council accepted and endorsed the amendment made by the Council Secretariat in section 50 as “The Chairperson and Vice-Chairperson shall hold office until the expiration of the term of the National Council but in the case of death, resignation or removal during the term of the National Council, a new Chairperson or Vice-Chairperson shall be elected without undue delay.”

### **Sections 52 and 53 of Chapter 4**

The Council Secretariat submitted that though sections 52 and 53 might appear similar, their areas of implementation are slightly different and therefore, should be retained, separately. The National Council endorsed the submission.

### **Section 60 of Chapter 4**

The National Council accepted and endorsed the amendment made by the Council Secretariat in section 60 as “If the Chairperson is of the opinion, that a member is deliberately contravening the provisions of this Act during the sitting of the House, the member shall be made to withdraw immediately from such a sitting”.

### **Section 61 of Chapter 4**

In section 61, the National Council accepted and endorsed the amendment made by the Council Secretariat in the title of the section 60 as “Removal of the Chairperson and Vice-Chairperson” and the section as “The motion for the removal of the Chairperson or Vice-Chairperson shall be moved by not less than one-third of the total members of the National Council.”

### **Section 62 of Chapter 4**

The Council Secretariat amended section 62 as “The motion for removal, if passed by two-third of the total members of the National Council, shall require the Chairperson and Vice-Chairperson to be removed by the Druk Gyalpo”. The Hon’ble Member from Pemagatshel asked whether the Vice-Chairperson should also be removed by the Druk Gyalpo, or whether he should be removed by the Chairperson once the motion of removal is passed by the Members.

With regard to the Vice-Chairman, it was decided that the House shall terminate him if a motion is passed by not less than two-third of the total number of Members as provided in the Bill. The House resolved that the necessary changes shall be effected.

## **New Sections after Section 79**

The National Council accepted and endorsed the submission made by the Council Secretariat for addition of new sections after section section 79. The new section 80 reads as “The National Council may require a concerned minister to address or submit any information or explanation in writing whenever a matter relating to that ministry is under discussion” and the new section 81 provides “A member shall point out an error or inconsistency in a statement made by a minister or any other member only after obtaining the approval of the Chairperson. Allegations may be supported by evidence”.

## **Section 123 of Chapter 7**

The National Council accepted and endorsed the amendment made by the Council Secretariat in section 123 as “The National Council shall monitor and review the fiscal performance and position of the government in accordance with the principles of fiscal sustainability and transparency.”

## **Sections 128 to 140 of Chapter 8**

In sections 128 to 140, the Council Secretariat submitted that while the provisions on Interpellation and Motion of Censure are covered in detail, the details of the other Parliamentary Devices shall be provided in the Rules of Procedure so that the procedures could be amended by the Council itself without having to be passed by both the Houses should the need arise in future. The National Council endorsed the submission made by the Secretariat.

### **Section 146 of Chapter 8**

The Council Secretariat amended section 146 as “Once the National Council passes a motion of censure, the same shall be submitted to the Druk Gyalpo, the Prime Minister and the National Assembly along with justifications thereto. The Prime Minister or the concerned minister shall, as the case may be, submit written explanations on steps taken to amend or repeal the government policy in question within 30 days to the Druk Gyalpo, the National Assembly and the National Council”, and submitted it to the House.

The Hon’ble Member from Trashigang Dzongkhag submitted that this section is not at all necessary. After the members debated on whether this section is needed or not, the House resolved to delete section 146.

### **Section 147 of Chapter 9**

The National Council accepted and endorsed the submission made by the Council Secretariat that the words “Rule Making” in the title of section 147 and the wording “The National Council may determine its Rules of Procedure and the Chairperson shall conduct the proceedings of the National Council in accordance with the rules” from the section will be removed and put under Chapter 14.

### **Section 160 of Chapter 9**

The Council Secretariat amended section 160 as “Prior to each fiscal year, a Committee shall prepare an estimate of the budget that will be required for the payment of the charges and expenses of the National Council and the members thereof during the fiscal year and such expenses shall be met from State funds in accordance with the financial rules and

regulations for the time being in force” and submitted it to the National Council, which the Hon’ble Member from Pemagatshel Dzongkhag submitted as unacceptable. Therefore, the National Council resolved to amend the section as “Prior to each fiscal year, a Committee shall prepare an estimate of the budget that will be required for the payment of the charges and expenses of the National Council and the members thereof during the fiscal year”.

### **Section 175 of Chapter 11**

The National Council accepted and endorsed the submission made by the Council Secretariat that there is no requirement to amend section 175.

### **Section 189 of Chapter 12**

The Council Secretariat amended section 189 as “The Secretary General shall, under the provisions of this Act, manage the affairs of the National Council and be responsible for the administration of the Secretariat” and submitted it to the National Council. Eminent Member Dasho Karma Ura submitted for inclusion of “Vice Chairperson” in the section, to which the Secretariat submitted that the House had made two resolutions on this section, and the Secretariat had amended the section according to the first resolution by replacing “under the supervision of the Chairperson” with “under the provisions of this Act”. The House accepted and endorsed the amendment made by the Secretariat.

### **Section 194 of Chapter 12**

The National Council accepted and endorsed the amendment made by the Council Secretariat in section 123 as “The amendment of this Act by way of addition, variation, or repeal

shall be effected by a simple majority of the respective Houses or vote of no less than two-thirds of the total members of Parliament present and voting, provided that the amendment does not undermine the functions and effectiveness of the National Council.”

### **Section 195 of Chapter 12**

The National Council accepted and endorsed the amendment made by the Council Secretariat in section 123 as “In any instance of a difference in meaning between the Dzongkha and the English texts of this Act, Dzongkha text shall be regarded as the authoritative text”.

### **Members who made Submissions on the National Council Bill**

1. Eminent Member Karma Damcho Nidup
2. Hon’ble Member Sangay Khandu from Gasa
3. Hon’ble Member Dr. Jagar Dorji from Trongsa
4. Hon’ble Member Tshering Dorji from Haa
5. Hon’ble Member Pema Lhamo from Zhemgang
6. Hon’ble Member Karma Donnem Wangdi from Sarpang
7. Hon’ble Member Rinzin from Lhuentse
8. Eminent Member Tashi Wangmo
9. Hon’ble Member Ugyen Tshering from Paro
10. Eminent Member Karma Yezer Raydi
11. Hon’ble Member Jigmi Rinzin from Pemagatshel
12. Hon’ble Member Sonam Kinga feom Trashigang
13. Eminent Member Kuenlay Tshering
14. Eminent member Dasho Karma Ura
15. Hon’ble Member Tshewang Jurmi from Bumthang
16. Hon’ble Member Sangay Zam from Thimphu



**P) Passing of the Public Election Fund Bill of Bhutan, 2008**

**Chapter 1**

Some Hon'ble Members submitted that the reproduction of the Articles and clauses of the Constitution under the Preamble are unnecessary. However, the National Council accepted and endorsed the amendments made by the National Assembly.

**Section 2 of Chapter 1**

The National Assembly had deleted section 2 (q) which the National Council accepted and endorsed.

**Section 3 of Chapter 1**

Under section 3, most of the Hon'ble Members submitted that the public election fund should be provided not only to the registered political parties and candidates participating in Parliamentary elections but also to the candidates for local government.

The Election Commission submitted an amendment by addition of "or local government" which was accepted and endorsed by the National Council.

**Section 4 of Chapter 2**

In section 4, some Hon'ble Members submitted that this section which provides "The candidates to the Local Governments shall not receive election campaign funds from the Election Commission," should be amended to provide them with the funds. The Election Commission submitted

that this section could be deleted since it is not required. The National Council accepted and endorsed the submission of the Election Commission.

### **Section 5 of Chapter 2**

In section 5, the Election Commission's submission for addition of "or the election of local government" in line with the other sections was accepted and endorsed by the National Council. It was also resolved that the provision "local government" shall be added in the Bill wherever necessary.

### **Section 7 of Chapter 2**

In section 7, the National Council reinstated the phrase "of the local government" which was deleted by the National Assembly, and resolved to retain the section as per the draft of the Bill.

## **Chapter 3**

Under Chapter 3, the Hon'ble Member from Trashigang Dzongkhag asked whether there should be eligibility criteria for receiving funds for local government candidates similar to that of the National Council candidates and political parties.

The Election Commission submitted that if Parliament in its joint sitting resolve to provide election campaign funds to the local government candidates, a new section prescribing the eligibility criteria for them will be included, which was accepted and endorsed by the National Council.

### **Section 16 of Chapter 3**

On the addition of “and Dzongkhag Thromde, which is not part of a Gewog” in the section by the National Assembly, some Hon’ble Members submitted that if a candidate is nominated from each *Gewog*, the difficulties regarding campaign funds will likewise increase. A few other Hon’ble Members submitted that the candidates will have to be nominated in line with democratic procedures. Some Hon’ble Members submitted that the nomination of candidates should be provided under the Election Bill and not in this Bill. The Election Commission submitted that since the section is not on nomination of candidates but for provision of campaign funds to candidates, it should be retained without change. The National Council resolved to accept and endorse the amendments made by the National Assembly.

### **Section 17 of Chapter 3**

In section 17, the Hon’ble Member from Pemagatsel Dzongkhag sought clarification on whether “the first election” referred to the recent elections or the upcoming elections. The Election Commission clarified that “the first elections” refers to the recent elections and the next election should be called the second election.

Eminent Member Karma Damcho Nidup asked whether “A nominated candidate shall receive an amount equal to the base amount to be received by eligible candidates” refers to the National Council candidates or candidates for Parliament. The Election Commission clarified that this refers to candidates for Parliament.

The Hon’ble Member from Trashigang Dzongkhag submitted that since the National Assembly constituencies have been

proportionately divided the provision “equal to the base amount” applies perfectly. However, the size of the National Council constituencies varies and therefore, the funds for the National Council constituencies should be based on the size of the Dzongkhag and not on the base amount. The Election Commission submitted that besides the size of the Dzongkhag, there are also many other complexities.

Some Hon’ble Members submitted that the allocation of funds to the National Council candidates should be based on the number of voting centres, accessibility of roads, and the size of the Dzongkhag.

The National Council resolved that the Election Commission should review the issue and resubmit it to the House. The Election Commission accordingly amended the section as “A candidate nominated to contest National Council elections after the first elections conducted under the Constitution of the Kingdom of Bhutan shall receive an amount equal to the base amount paid to a candidate in the first election or an amount fixed by the Election Commission from time to time taking into account variation in population size, number and size of *Gewogs* and *Chiwogs*, connectivity, difficult terrain and degree of accessibility in various Dzongkhags” which was accepted and endorsed by the national Council.

### **Sections 19 and 21 of Chapter 3**

The Hon’ble Member from Zhemgang Dzongkhag sought clarification on sections 19 and 21 since there is no difference between the two. The Election Commission clarified that the two sections are different. Section 19 provides for the allocation of funds to a political party which registers to contest in the preliminary election in all the 20 Dzongkhags while section 21 provides for allocation of funds to a political

parity which is contesting in the elections for the first time. The National Council resolved to retain the sections unchanged.

### **Section 20 of Chapter 3**

The Hon'ble Member from Bumthang Dzongkhag submitted that section 20 could be understood as providing campaign funds for more than two political parties if they secure more than 10% of votes cast in the preliminary elections. The Election Commission submitted that the parties failing to secure 10% of votes cast in the preliminary elections will not be entitled to receive funds. The National Council resolved to adjourn and continue the deliberations on this issue.

### **Members who made Submissions on the Election Fund Bill of Bhutan**

1. Eminent Member Karma Yezer Raydi
2. Hon'ble Member Sonam Kinga from Trashigang
3. Hon'ble Member Ugyen Tshering from Paro
4. Hon'ble Member Sangay Khandu from Gasa
5. Hon'ble Member Jigmi Rinzin from Pemagatshel
6. Hon'ble Member Sangay Zam from Thimphu
7. Hon'ble Member Dr. Jagar Dorji from Trongsa
8. Eminent Member Karma Damcho Nidup
9. Hon'ble Member Rinzin from Lhuentse
10. Hon'ble Member Tshering Dorji from Haa
11. Hon'ble Member Pema Lhamo from Zhemgang
12. Hon'ble Member Tshewang Jurmi from Bumthang

*(On the 19<sup>th</sup> Day of the second 5<sup>th</sup> Bhutanese month, Earth Male Rat Year corresponding to July 22, 2008)*

## **Q) Ratification of the Agreement on the Establishment of SAARC Food Bank**

### **1. Presentation by His Excellency the Hon'ble Agriculture Minister**

The SAARC Food Bank which will be established as per the decision of the 14<sup>th</sup> SAARC Summit is aimed at solving the problem of food shortage in South Asia, have a reserve of necessary food items that will last for a long time, establishment of a regional food bank for food security and enhance the relationships between the member countries. 180 metric tonnes of rice and wheat will be deposited annually in the Food Bank while a quantity larger than what is provided for in the agreement may also be deposited. This is to provide sufficient food in which ever country the problem of food shortage arise. Since the National Assembly had endorsed the Agreement, which has to be ratified during the 15<sup>th</sup> SAARC Summit, the National Council was requested to endorse the same as well.

### **2. Submission by Members on the Agreement**

Some Hon'ble Members submitted that the Agreement would contribute towards poverty reduction in the SAARC countries in general and our country in particular, and enhance the friendship amongst the member countries.

Eminent Member Karma Yezer Raydi submitted that South Asia is already a region which has the highest level of poverty. If whatever food is available is stored with the establishment of the Food Bank, he asked if this would not aggravate the problem of food shortage. The Agriculture

Minister clarified while this may appear to be so, the storage of food will be dependent on the production of the people.

The Hon'ble Member from Trongsa Dzongkhag asked for the difference between import food items from outside and storage of what is produced within the country. The Agriculture Minister clarified that though there is no difference between the two, the storage will be as per the local production.

Eminent Member Dasho Karma Ura submitted that if the translation of the Agreement could be amended slightly, it will be clearer, and suggested that the title of the agreement could be “འབྲུ་མཛོད་གསོག་འཛོག་ཁང་” in Dzongkha. The Agriculture Minister submitted that the translation will be reviewed while the name should be retained unchanged. The Agriculture Minister clarified the doubts raised by the Members after which the National Council passed the Agreement.

## **R) Ratification of the Agreement on the Establishment of a South Asian University**

### **1. Presentation by His Excellency the Hon'ble Foreign Minister**

The establishment of a South Asian University was first proposed by the Indian Prime Minister Dr. Manmohan Singh during the 13<sup>th</sup> SAARC Summit held in Dhaka, the capital of Bangladesh, and the Agreement was signed during the 14<sup>th</sup> SAARC Summit. The Agreement for establishing a South Asian University in the Indian Capital of Delhi is aimed at benefiting the world at large and the SAARC countries in particular.

South Asia region does not have a University that caters to experts, researchers and bright students who work in the field of social development. The objective of establishment of this University is to provide one. Moreover, the teachers employed in the University will be the best teachers from within SAARC and well known teachers from other parts of the world, which will make it a recognized University associated with quality. It is also aimed at enhancing the friendship between the countries in the region.

The government of India has provided 100 acres of land at its Capital Delhi for the establishment of the University, and the foundation stone of the University was laid by the Indian Minister for External Affairs, His Excellency Pranab Mukherjee in the month of May 2008. The legal documents for the establishment of the University are currently being framed.

The establishment of the University will cost around Rs. 500 millions. The cost will be shared proportionately among the countries of the region, and Bhutan will have to bear 5% of it, which comes to 20 million. Bhutanese students who study there will be charged minimum fees.

## **2. Submission by Members on the Agreement**

Eminent Member Karma Damcho Nidup expressed her full support on this and asked whether countries that are not members of SAARC could join as members of the University. She also asked whether our students will be charged lesser fees or whether they will be sent based on quota. The Foreign Minister submitted that all these are provided for in the Agreement, and even if admission is based on quota, the students will be sent by making sure that the government does not suffer losses.



Eminent Member Dasho Karma Ura said the establishment of such a University in India is a very good omen since India is the land where Lord Buddha gave his first sermon. Moreover, this will be convenient in a lot of ways. Though our country may not be able to compete in terms of wealth, we have people with high intellectual capacity, and as such, a branch of the University may be established in Bhutan. The Foreign Minister submitted that efforts will be made for the establishment of a similar University in Bhutan, after which the National Council passed the Agreement.

### **Members who made Submissions on the two Agreements**

1. Eminent Member Karma Yezer Raydi
2. Hon'ble Member Dr. Jagar Dorji from Trongsa
3. Eminent Member Kuenlay Tshering
4. Eminent Member Karma Damcho Nidup
5. Eminent Member Dasho Karma Ura
6. Hon'ble Member Rinzin from Lhuentse
7. Hon'ble Member Kesang Namgyal from Trashiyangtse
8. Hon'ble Member Sonam Kinga from Trashigang
9. Hon'ble Member Jigmi Rinzin from Pemagatshel
10. Hon'ble Member Tshewang Jurmi from Bumthang
11. Hon'ble Member Sangay Zam from Thimphu
12. Hon'ble Member Jigme Wangchuk from Samdrupjongkhar

### **S) Continuation of deliberation on the Public Election Fund Bill of Bhutan, 2008**

#### **Continuation on Section 20 of Chapter 3**

In section 20, the Hon'ble Member from Dagana Dzongkhag asked whether the party securing the 2<sup>nd</sup> highest number of vote in the preliminary elections would be entitled to receive campaign funds during the general election if only one party secures more than 10% of votes cast during the preliminary elections. He also submitted that serving of cold drinks

should be allowed while campaigning under Chapter 8 Section 76 (m).

The Chief Election Commissioner submitted that if such an instance should occur, there would be discrepancies between the parties even if they contest in an election. He further submitted that for an election to be free and fair, the serving of drinks and edibles should not be allowed during campaigns.

### **Section 27 of Chapter 3**

The Hon'ble Member from Samdrupjongkhar Dzongkhag submitted for deletion of "by the Election Commission" from section 27 so that the section would read as "The Division shall disburse funds to the replacement candidate only upon acceptance of his nomination". The Election Commission submitted that since the returning officer is the ultimate authority, there is no problem if this is deleted. Therefore, the National Council resolved to amend the section as submitted.

### **Section 28 of Chapter 3**

In section 28, the Hon'ble Member from Trashigang Dzongkhag submitted that it would be convenient during Auditing if the campaign fund for the replacement candidate is provided separately. Most of the Hon'ble Members submitted that it would be very inconvenient to transfer the accounts from one person's name to another. Therefore, the section could be amended so that the fund is given directly in the name of the new candidate and the remaining amount with the previous candidate recovered by government. The National Council resolved that the Election Commission should study for possible options.

### **Section 31 of Chapter 4**

In section 31, the Hon'ble Member from Trashigang Dzongkhag submitted that it would be practically very convenient if the fund is disbursed three days before the campaign starts and not three days from the date of receipt of application for funding. The Election Commission submitted that though the Election Commission would encounter many problems, the number of days will be reduced from 10 days to three days. The National Council resolved that amendments shall be made as submitted by the Election Commission.

### **Section 33 of Chapter 4**

Under section 33, the Hon'ble Member from Bumthang Dzongkhag asked whether financial support to the political parties will be provided for both the preliminary and general elections. The Election Commission submitted that the political parties will receive funds for both rounds of elections.

The Election Commission submitted for the addition of a new section after section 34 which provides as "A candidate to Local Government Elections shall file his election return within thirty days of the declaration of results of the election to the Division", which the National Council accepted and endorsed.

### **Section 37 of Chapter 4**

The Election Commission submitted for addition of "or Local Government" to section 37 which was accepted and endorsed by the National Council.

## Section 38 of Chapter 4

The Hon'ble Member from Wangduephodrang asked why the National Assembly deleted the words "or National Council elections" from section 38. Eminent Member Tashi Wangmo sought clarification on section 36 which provides that the unspent amount out of the campaign funds provided for the preliminary elections can be used in the general elections and section 38 which provides that the unspent amount may be used for both the preliminary and general elections.

The Election Commission clarified that as per section 36, the unspent amount from the preliminary elections shall be used during the general elections without having to refund to the Election Commission. Section 38 provides that though the unspent amount may be used for both rounds of elections, proper documentations should be maintained as provided under section 112. A few Hon'ble Members submitted that this section is not necessary. Some Hon'ble Members submitted that sections 33 to 35 are not about unspent amount but on filing of election returns, which should be provided for separately. The Election Commission submitted that section 33 could be put after section 35, which the National Council accepted and endorsed.

The Election Commission submitted that sections 36 and 38 could be combined to read as "The unspent amount out of the campaign funds provided to the political parties for the Primary Round by the Election Commission, upon completion of the Primary Round shall be retained for use in the General Elections provided proper documentation is maintained in the election return under section 112, while the parties ineligible to contest the General Elections shall refund the unspent amount to the Division". This was accepted and endorsed by the National Council.

### **Section 41 of Chapter 4**

In section 39, the Hon'ble Member from Lhuentse Dzongkhag asked to whom “a person” in the section referred to. The House noted that this is clear in the amendment made by the National Assembly, and resolved to accept and endorse the Assembly's amendment.

### **Section 53 of Chapter 6**

In section 53, Eminent Member Kuenlay Tshering submitted with the fall in the value of money, inconveniences may occur and therefore, the amount of money should not be provided in the Act. However, the National Council resolved to retain the section unchanged.

### **Section 54 of Chapter 6**

In section 54, the Hon'ble Member from Lhuentse Dzongkhag submitted that the amount of Nu. 100,000 to be provided by the government will not be sufficient in future. The Hon'ble Member from Pemagatsel Dzongkhag submitted the words “less than” is not required in the section.

The Election Commissioner submitted that the words “less than” will be changed as “not less than”. The National Council resolved that the Election Commission shall make appropriate amendments.

The Election Commission submitted for addition of a new section after section 54 which will provide as “The Election Commission shall, disburse funds to the candidates for Local Government Elections which shall be an amount equal to or less than Ngultrum 30,000/- per candidate in case of Thrompon / Gup / Dzongkhag Thromde Thuemis / Mangmi

or Ngultrum 10,000/- per candidate for Thromde Thsogde Tshogpa / Gewog Tshogde Thsogpa elections”, which was accepted and endorsed by the National council.

### **Section 55 of Chapter 6**

In section 55, the Hon’ble Member from Thimphu Dzongkhag submitted that though Sections 36 to 38 provides for refund of unspent amount from the campaign fund, section 55 provides for use of private fund if the funds provided by the government is not sufficient, and therefore, the above three sections are not necessary. The Election Commission submitted that though the funds provided may be minimal, the sections should be retained in the Bill since there is the chance that the funds may be misused.

The National Council accepted the submission of the Election Commission and resolved to retain the sections unchanged.

### **Chapter 6 Section 58**

The Hon’ble Member from Trongsa Dzongkhag submitted that the deletion of section 58 by the National Assembly is not acceptable and that it should be reinstated. The National Council resolved that since the section will be reinstated, the Election Commission shall make amendments regarding the ceiling of funds in the section.

The Election Commission amended the section as “Expenditure incurred or authorized by a candidate contesting elections to Local Governments shall, subject to any orders of the Election Commission under section 7, be limited to a maximum amount of Ngultrum 30,000/- and Ngultrum 10,000/-, respectively or as may be fixed by the Election Commission from time to time”, which was accepted and endorsed by the National Council.

## **Section 59 of Chapter 6**

Eminent Member Karma Yezer Raydi submitted that people with financial resources become members of political parties which could lead to a party that would not benefit the country to win in an election if it had huge funds. Therefore, the government should provide full financial support and severe penalties should be imposed for violation of the section.

The National Council resolved that the Election Commission shall review the possible options and submit to the House. Accordingly, the Election Commission amended the section as “Any person or Party or candidate found guilty of violation of sections 55, 56, and 57 shall be liable to pay a fine into the Fund of an amount equal to but not exceeding the amount given to the candidate, notwithstanding any other action that may be taken under the Election Act of the Kingdom of Bhutan 2008” which the National Council accepted and endorsed.

## **Section 64 of Chapter 6**

The Hon’ble Member from Pemagatshel Dzongkhag asked why the National Assembly resolved to delete section 64 and include it under the Election Bill and under what section of the Election Bill it should be included. He further submitted that if this section is put in the Election Bill, then section 65 needs to be included likewise. The Election Commission of Bhutan submitted that due to lack of time, the issue was not adequately discussed in the National Assembly and therefore, an appropriate place for this section needs to be determined.

The National Council resolved that the Election Commission should review the matter and submit to the House.

## **Members who made Submissions on Chapter 3 Section 27 to Chapter 7 Section 64 of the Election Fund Bill**

1. Hon'ble Member Jigme Wangchuk from Samdrupjongkhar
2. Hon'ble Member Sonam Kinga from Trashigang
3. Hon'ble Member Rinzin from Lhuentse
4. Hon'ble Member Sonam Dorji from Dagana
5. Hon'ble Member Tshewang Jurmi from Bumthang
6. Hon'ble Member Sonam Yangchen from Wangduephodrang
7. Eminent Member Tashi Wangmo
8. Hon'ble Member Sangay Zam from Thimphu
9. Hon'ble Member Jigmi Rinzin from Pemagatshel
10. Hon'ble Member Pema Lhamo from Zhemgang
11. Eminent Member Kuenlay Tshering
12. Hon'ble Member Dr. Jagar Dorji from Trongsa
13. Eminent Member Karma Yezer Raydi

*(On the 20<sup>th</sup> Day of the second 5<sup>th</sup> Bhutanese month, Earth Male Rat Year corresponding to July 23, 2008)*

### **Continuation on Section 64 of Chapter 7**

The Election Commission amended section 64 as “No political party shall accept financial or in kind contributions, other than those voluntarily offered to it by any of its registered members, of an amount or value exceeding Ngultrum 100,000/- per member per year or as may be fixed by the Election Commission from time to time” and submitted for deletion of the proviso under the Dzongkha text but absent in the English text which read as “Provided that the total contribution shall be equal to or less than the total amount of funds provided by the Election Commission to the political party”. The National Council endorsed the amendments and resolved that the section shall be put after section 84 under Chapter 9.



### **Section 65 of Chapter 7**

The Hon'ble Member from Thimphu Dzongkhag asked whether both sections 64 and 65 are really necessary since there is not much difference between them. The Election Commission submitted that section 65 may be deleted which the National Council endorsed.

### **Section 68 of Chapter 7**

The Hon'ble Member from Bumthang Dzongkhag submitted that section 68 need not be provided separately since it could be covered by section 64. However, the Chief Election Commissioner clarified that while section 64 is about voluntary contribution, section 68 is a general coverage and therefore, there is difference between the two.

In addition, the Election Commission submitted for addition of “in excess of the maximum expenditure amount” in the Dzongkha text of the section as provided in the English text, which the National Council accepted and endorsed.

### **Section 69 of Chapter 7**

In order to make section 69 consistent with section 59, the Election Commission submitted for addition of “notwithstanding any other action that may be taken under the Election Act of the Kingdom of Bhutan 2008” in the section, which was accepted and endorsed by the National Council.

### **Section 70 of Chapter 7**

The Hon'ble Member from Thimphu Dzongkhag submitted under section 70 that sections which are similar need not be provided separately. The Chief Election Commissioner

submitted that though it would be best to have as few sections as possible, the requirement under law makes it important for similar sections to be reflected separately. This was accepted and endorsed by the National Council.

### **Section 72 of Chapter 7**

The Election Commission submitted for amendment of section 72 as “Any person contravening the provisions of section 71 shall be guilty of felony of fourth degree” which the National Council accepted and endorsed.

### **Section 76 of Chapter 8**

In section 76, the addition made by the National Assembly as “and the Party’s own Funds in case of Primary Round and General Elections” was accepted and endorsed by the National Council.

However, the Hon’ble Member from Lhuentse Dzongkhag submitted that a definition clause or glossary should be prepared to make the meaning clear in sub-section (h) which deals with the manifesto. The Chief Election Commissioner submitted that the same is covered under sub-sections (a) to (c).

The Hon’ble Member from Gasa Dzongkhag submitted for removal of “election rallies” from the sub-section (i), and the Hon’ble Member from Paro Dzongkhag submitted that number of vehicles that can be hired during elections should also be mentioned in sub-section (j). Likewise, the Hon’ble Member from Bumthang submitted that if not food, serving of cold drinks and snacks should be allowed during election campaigns. Though this was supported by a few Hon’ble Members, others submitted that this should not be allowed if elections are to go in a free a fair manner.

The Election Commission clarified that this section need not be amended, and submitted for an additional provision after section 84 as “Provided that no individual or organization, during an election period, shall sponsor meals, entertainment, donations or activity of any kind which may benefit or damage the electoral prospects of any party or candidate” which the National Council accepted and endorsed.

### **Section 77 of Chapter 8**

The Hon’ble Member from Pemagatshel Dzongkhag submitted that in section 77 (a), fund for the debate between candidates is provided only for the National Assembly elections, while the same would be required for the National Council elections as well. To this, Eminent Member Karma Damcho Nidup submitted that if the word “party” is deleted from the English text of sub-section (b) which was not provided in the Dzongkha text, the section could apply to both the National Assembly and National Council.

The Chief Election Commissioner made amendments to sub-section (a) as “Public debate for Parliamentary Elections” and submitted that the word “party” shall be removed from the English text of sub-section (b), which were accepted and endorsed by the National Council.

### **Section 99 of Chapter 10**

The Hon’ble Member from Pemagatshel Dzongkhag submitted that other than forfeiture of fund, there was no provision of penalty against the violators in section 99. The Chief Election Commissioner submitted that these matters will be clearly included in the Rules of the Procedure. The National Council therefore, resolved to retain the section unchanged.

### **Section 105 of Chapter 11**

The Hon'ble Member from Pemagatshel Dzongkhag said that while the English text of section 105 (d) is clear, he asked whether “payment” in the Dzongkha text refers only to charges paid or other issues as well. The Chief Election Commissioner clarified that the accounts of political parties must be maintained following the Commercial system of book keeping.

### **Section 109 of Chapter 11**

The Hon'ble Member from Pemagatshel Dzongkhag submitted that section 109 (c) should also include properties and assets besides money. It was decided that the Election Commission should amend the section and submit it to the House. Accordingly, the Election Commission amended the section by deleting sub-sections (a) to (c) provided in the draft and addition of new sub-sections (a) and (b) as “Income and expenditure statements for the financial year;” and “Balance sheet (Statements of Affairs)” which was accepted and endorsed by the National Council.

### **Section 115 of Chapter 14**

The addition of “or local government” in section 115 by the Election Commission was accepted and endorsed by the National Council.

### **Section 138 of Chapter 14**

Eminent Member Karma Yezer Raydi submitted that the deletion of the word “candidate” from section 138 by the National Assembly allows the candidates to avail loans from outside Bhutan though the parties could do so only within the country. The Chief Election Commissioner submitted that

section 138 should be retained unchanged as provided in the draft.

Eminent Member Kuenlay Tshering submitted that since the loan is for election campaign, it should be availed on the convenience of both the party and candidate. Some Hon'ble Members submitted since Sections 138 and 137 have no substantial difference, section 138 may be removed.

The National Council resolved to retain both the sections and to reinsert the word "candidate" in section 138 which had been deleted by the National Assembly.

### **Section 153 of Chapter 14**

Eminent Member Kuenlay Tshering submitted that sections 151 and 152 could be done away with since they are covered under section 153. The Chief Election Commissioner submitted that all three sections cover different issues and should be retained separately for future convenience. The National Council resolved to retain all three sections.

### **Members who made Submissions on Chapter 7 Section 64 to Chapter 14 Section 154**

1. Hon'ble Member Tshewang Jurmi from Bumthang
2. Hon'ble Member Sangay Zam from Thimphu
3. Hon'ble Member Tshering Dorji from Haa
4. Hon'ble Member Rinzin from Lhuentse
5. Hon'ble Member Ugyen Tshering from Paro
6. Hon'ble Member Dr. Jagar Dorji from Trongsa
7. Hon'ble Member Sonam Kinga from Trashigang
8. Hon'ble Member Pema Lhamo from Zhemgang
9. Hon'ble Member Jigmi Rinzin from Pemagatshel
10. Eminent Member Kuenlay Tshering
11. Hon'ble Member Sangay Khandu from Gasa

**T) National Assembly’s Review on Amendments made by National Council and Passing of the Election Bill, 2008**

**Section 1 of Chapter 1**

The National Council had amended section 1 (b) as “Extend to the whole of Bhutan and apply to elections and tenure of members to Parliament and Local Governments and to National Referendums” which the National Assembly did not endorse. Therefore, the National Council resolved to retain the section as submitted in the draft by the Election Commission.

**Section 11 of Chapter 2**

The National Council had resolved that Section 11 shall be re-located to Chapter 12 under Nomination and Withdrawal of Candidates as new Section 205, which the National Assembly did not endorse. Therefore, the National Council resolved to retain it as in the draft. The amendment made by the National Assembly on section 11 (b) as “A candidate shall be selected at a Zomdu with a majority decision of the voters at the Zomdu” was accepted and endorsed by the National Council.

**Section 21 of Chapter 3**

The National Assembly had resolved to delete subsections (e) and (f) under section 21 which the National Council accepted and endorsed.

### **Section 36 of Chapter 3**

The National Assembly had replaced the word “witness” with “a person” in section 36 (a) which the National Council accepted and endorsed.

### **Sections 69 to 71 of Chapter 4**

The National Council had resolved to move sections 69, 70 and 71 after sections 72, 73 and 74 under “Observers” which the National Assembly did not endorse. Therefore, the National Council resolved to keep them as in the draft Bill.

### **Section 72 of Chapter 4**

The National Council had resolved to amend section 72 as “The Election Commission may appoint national observers who are able to observe the elections and the electoral process independently and carry out other functions that may be entrusted to them by the Commission” which was not endorsed by the National Assembly. Therefore, the National Council resolved to maintain the section as in the draft Bill.

### **Section 203 of Chapter 12**

The National Assembly had amended the proviso under section 203 by deleting the words “after the lapse of one year” from it which provides as “Provided that the disqualification under sub-section (d) shall cease to operate after the lapse of one year from the date of acceptance of the application of resignation or removal from the membership of a political party”. The National Council did not endorse this amendment and resolved that the issue shall be put up for discussion in the Joint Sitting of Parliament.

### **Section 274 of Chapter 15**

The National Council had resolved to amend section 274 as “Parliament shall establish by law, a Public Election Fund into which shall be paid every year such amount as the Election Commission may consider appropriate for funding registered political parties and candidates at elections to Parliament or Local Government” which was not endorsed by the National Assembly. Therefore, National Council resolved that the issue shall be put up for discussion in the Joint Sitting of Parliament.

### **Section 300 of Chapter 16**

In section 300, the National Council had resolved to add a new section 305 as “The political parties or candidates shall be responsible for the removal of their respective posters or any other election material, immediately after the day of poll” which was not endorsed by the National Assembly. Therefore, the National Council resolved to keep the section as in the draft Bill.

### **Section 570 of Chapter 23**

The National Council had resolved to add a new section 448 “An opposition party, if it gains majority of seats in the National Assembly after any bye-election, shall be declared as the ruling party. Provided that if a bye-election is not held in view of there being less than 180 days remaining of the term, the ruling party shall continue in Government” which was not endorsed by the National Assembly. Therefore, the National Council resolved to keep the section as in the draft Bill.



## **Section 572 of Chapter 23**

The National Assembly had replaced “High Court” with “Supreme Court” in section 572, which the National Council accepted and endorsed.

### **Members who made Submissions on the Election Bill**

1. Hon’ble Member Rinzin from Lhuentse
2. Hon’ble Member Sonam Dorji from Dagana
3. Hon’ble Member Dr. Jagar Dorji from Trongsa
4. Eminent Member Karma Yezer Raydi
5. Hon’ble Member Tshering Dorji from Haa
6. Hon’ble Member Sonam Kinga from Trashigang
7. Eminent Member Karma Damcho Nidup
8. Eminent Member Tashi Wangmo
9. Hon’ble Member Sangay Khandu from Gasa
10. Hon’ble Member Tshewang Jurmi from Bumthang
11. Hon’ble Member Pema Lhamo from Zhemgang

### **U) National Assembly’s Review on Amendments made by National Council and Passing of the National Council Bill, 2008**

#### **General**

The National Assembly had resolved to change the term “Vice-Chairperson” to “Deputy Chairperson” and to add “Kingdom of Bhutan” where reference to an Act is made in the English text throughout the Bill, which was accepted and endorsed by the National Council.

### **Section 3 of Chapter 2**

The National Council had resolved to amend section 3 as “shall be a National Council for Bhutan in which, as one of the highest legislative bodies” which was not endorsed by the

National Assembly. Therefore, the National Council resolved that the issue shall be put up for discussion in the Joint Sitting of Parliament.

### **Section 10 of Chapter 2**

The National Council had resolved to add a new sub section to section 10 as “Review whether the National Assembly functions in the interest of the people” which was not endorsed by the National Assembly, and had resolved to delete sub-section (c) which provides as “Review executive and administrative actions”, which the National Council did not endorse. Therefore, the National Council resolved that the issues shall be put up for discussion in the Joint Sitting of Parliament.

### **Section 21 of Chapter 3**

The National Council had resolved to add “If the member so resigning is the Chairperson, the declaration shall be addressed and delivered to the Vice Chairperson” to section 21 which was not endorsed by the National Assembly. Therefore, the National Council resolved that the issue shall be put for discussion in the Joint Sitting of Parliament.

### **Section 26 of Chapter 3**

The National Assembly had resolved to replace “six months” with “one hundred and eighty days”, which was accepted and endorsed by the National Council.

### **Section 60 of Chapter 4**

The National Council had resolved to amend section 60 as “If the Chairperson is of the opinion, that a member is

deliberately contravening the provisions of this Act during the sitting of the House, the member shall be made to withdraw immediately from such a sitting” which was amended by the National Assembly as “If the Chairperson is of the opinion, that a member is deliberately contravening the provisions of this Act, or that a member is in contempt of or is disregarding the authority of the Chair, or that a member’s conduct is grossly disorderly, the member shall be made to withdraw immediately from such a sitting of the House”. The National Council accepted and endorsed the amendment of the National Assembly.

### **Section 73 of Chapter 5**

In section 73, the National Assembly had replaced “The Druk Gyalpo shall be received with Chibdrel Ceremony during each session of the National Council” with “At the commencement of each session of Parliament, the Druk Gyalpo shall be received in a joint sitting of Parliament with Chibdrel Ceremony”. The National Council resolved that this shall be put up for discussion in the Joint Sitting of Parliament.

### **New Sections after Section 79**

The National Council had resolved to add a new section 80 as “The National Council may require a concerned minister to address or submit any information or explanation in writing whenever a matter relating to that ministry is under discussion” and a new section 81 as “A member shall point out an error or inconsistency in a statement made by a minister or any other member only after obtaining the approval of the Chairperson. Allegations may be supported by evidence”, which had not been endorsed by the National

Assembly. The National Council resolved that these shall be put up for discussion in the Joint Sitting of Parliament.

### **Section 121 of Chapter 7**

The National Assembly had resolved to delete section 121 which provides as “The annual budget shall be presented to the National Assembly for discussion and after being passed by the National Assembly, it shall be presented to the National Council by the Finance Minister”, which the National Council did not endorse. Therefore, National Council resolved that this shall be put for discussion in the Joint Sitting of Parliament.

### **Section 122 of Chapter 7**

The National Assembly had resolved to delete “the Royal Civil Service Commission” and “the Office of the Attorney General” from section 122, to which the National Council resolved that this shall be put up for discussion in the Joint Sitting of Parliament.

### **Section 146 of Chapter 8**

The National Council had resolved to delete section 146 which provides as “If the National Assembly does not pass the motion of censure as passed by the National Council by a two third majority, the same shall be null and void” which had not been endorsed by the National Assembly. The National Council resolved that this shall be put up for discussion in the Joint Sitting of Parliament.

### **Section 160 of Chapter 9**

The National Council had amended section 160 by deletion of “and such expenses shall be met from State funds” from “Prior to each fiscal year, a Committee shall prepare an estimate of the budget that will be required for the payment of the charges and expenses of the National Council and the members thereof during the fiscal year and such expenses shall be met from State funds”, which the National Assembly did not endorse. The National Assembly amended the section as “Prior to each fiscal year, the Secretariat shall prepare an estimate of the budget that will be required for the payment of the charges and expenses of the National Council and the members thereof during the fiscal year and such expenses shall be met from State funds”, which was accepted and endorsed by the National Council.

### **Section 189 of Chapter 13**

The National Council had amended section 189 by replacing “supervision of the Chairperson” with “provisions of this Act” in the section which provides as “The Secretary General shall, under the supervision of the Chairperson, manage the affairs of the National Council and be responsible for the administration of the Secretariat”. The National Assembly did not endorse the amendment and resolved to retain the section as in the draft Bill, which was accepted and endorsed by the National Council.

### **Section 194 of Chapter 13**

The National Council had amended section 194 as “The amendment of this Act by way of addition, variation, or repeal shall be effected by a simple majority of the respective Houses or vote of no less than two-thirds of the total

members of Parliament present and voting, provided that the amendment does not undermine the functions and effectiveness of the National Council”, to which the National Assembly had added “on a motion submitted by one-third of the members of either House”. This was accepted and endorsed by the National Council.

### **Section 195 of Chapter 13**

The National Council had amended section 195 as “In any instance of a difference in meaning between the Dzongkha and the English texts of this Act, Dzongkha text shall be regarded as the authoritative text”. The National Assembly had resolved that the section should be in line with other laws, which was accepted and endorsed by the National Council.

### **Members who made Submissions on the National Council Bill**

1. Hon’ble Member Dr. Jagar Dorji from Trongsa
2. Hon’ble Member Sonam Kinga from Trashigang
3. Hon’ble Member Jigmi Rinzin from Pemagatshel
4. Hon’ble Member Kesang namgyal from Trashiyangtse
5. Eminent Member Tashi Wangmo
6. Hon’ble Member Sangay Khandu from Gasa
7. Eminent Member Karma Damcho Nidup
8. Hon’ble Member Sonam Yangchen from Wangduephodrang
9. Eminent Member Karma Yezer Raydi
10. Hon’ble Member Pema Lhamo from Zhemgang

*(On the 21<sup>st</sup> Day of the second 5<sup>th</sup> Bhutanese month, Earth Male Rat Year corresponding to July 24, 2008)*

**V) Continuation of National Assembly’s Review on Amendments made by National Council and Passing of the Election Bill, 2008**

**New Section 31**

The National Council had resolved to add new section 31 as “A person who is appointed as the Chief Election Commissioner or the Election Commissioner shall not hold any office of profit”. The National Assembly had amended it as “The Chief Election Commissioner or the Election Commissioner shall not hold any office of profit”, which was accepted and endorsed by the National Council.

**Section 45 of Chapter 3**

Section 45 which provides as “The Election Commission shall be supported by a Secretariat headed by a Secretary” was amended by the National Assembly as “The Election Commission shall be supported by a Secretariat”, which was accepted and endorsed by the National Council.

**Section 566 of Chapter 23**

The National Council had resolved to amend section 566 as “A poll at any election to Parliament or a Local Government shall be taken in the constituency concerned even if there is only one contesting candidate or political party”, which was not endorsed by the National Assembly. The National Council, therefore, resolved to retain the section as in the draft Bill.

## **Annexure**

The National Council had amended section (ff) as “Parliamentary constituency” means constituency provided under section 6 for election to the National Assembly and section 10 for election to the National Council”, which was amended by the National Assembly as “Parliamentary constituency” means constituency provided under section 6”. Since the two Houses could not reach a consensus, it was resolved that the issue shall be put up to the Joint Session of Parliament for deliberation.

### **Members who made Submissions during the Passing of the Election Bill**

1. Hon’ble Member Dr. Jagar Dorji from Trongsa
2. Eminent Member Karma Damcho Nidup
3. Hon’ble Member Tshering Dorji from Haa



## **W) Conclusion of the National Council Session**

### **1. Address by the Hon'ble Chairperson**

The first National Council Session was started on the auspicious day of June 17, 2008. During the session, nine (9) important Bills were deliberated upon and passed. Of these, the Election Bill of Bhutan 2008, the National Referendum Bill of Bhutan 2008, and the National Council Bill of Bhutan 2008 were passed by the National Council and submitted to the National Assembly. These were then sent back to the National Council, after which they were enacted. In addition, the National Assembly Bill of Bhutan 2008, the Public Election Fund of Bhutan Bill 2008, the Parliamentary Entitlement Bill 2008, and Budget Appropriation Bill 2008-09 were discussed in the National Assembly and forwarded to the National Council for passing. The National Council thoroughly reviewed these Bills and submitted them back to the National Assembly. The National Council also ratified the Agreement on the establishment of SAARC Food Bank and the Agreement on the establishment of a South Asian University.

The Chairperson offered his gratitude to Their Majesties the 4<sup>th</sup> and 5<sup>th</sup> Druk Gyalpos, the Royal Family, and the Bhutanese people, and everyone who contributed in making the Session a very fruitful one. The Chairperson thanked the Hon'ble Members for their active participation and exemplary conduct. He offered his prayers for greater results in the next five years and for democracy to flourish in the Kingdom.

## 2. Submission by the Hon'ble Members

Most of the Hon'ble Members submitted that the first ever National Council Session has been an important milestone and an unforgettable event in the Bhutanese history. Due to the blessing of the Triple Gem, benevolence of Their Majesties the 4<sup>th</sup> and 5<sup>th</sup> Druk Gyalpos and prayers of the Bhutanese people, everything had run smoothly without any impediment beginning with the deliberations on the Constituion in the Joint Sitting of Parliament. This is because of the Chairperson's selfless conduct while presiding over the Session for the benefit of the nation and the people.

For the next five years, the Hon'ble Members pledged to serve with loyalty and dedication towards fulfilling the aspirations of the nation and the people, and for realization of the hopes and dreams of Their Majesties the 4<sup>th</sup> and 5<sup>th</sup> Druk Gyalpos.

## 3. Concluding Ceremony

The first Session of the National Council was inaugurated on the auspicious 14<sup>th</sup> Day of the first 5<sup>th</sup> Month of the Male Earth Rat Year corresponding to 17<sup>th</sup> June 2008, and graced by His Majesty the King Jigme Khesar Namgyal Wangchuck. For the present and future benefit of the nation and for democracy to flourish like the waxing moon in the clear sky free of cloud and eclipse, nine important Bills were passed. The session concluded successfully on the 21<sup>st</sup> Day of the second 5<sup>th</sup> Month of the Male Earth Rat Year corresponding to 24<sup>th</sup> July 2008 with the offering of *Phuensum Tshokpai Moenlam* for the well-being of the King, the country and the people.

The concluding ceremony was presided over by the Venerable Yangpai Lopen of the Central Monastic Body. “A drop of water in the vast ocean will not perish until the ocean dries completely. Likewise, the prayers offered for the good deeds to the Bodhisatvas will continue till Buddhahood is attained.”

### **Members who Expressed Gratitude during the Conclusion of the Session**

1. Hon’ble Member Pema Lhamo from Zhemgang
2. Eminent Member Kuenlay Tshering
3. Hon’ble Member Dr. Jagar Dorji from Trongsa
4. Hon’ble Member Jigmi Rinzin from Pemagatshel
5. Hon’ble Member Sangay Khandu from Gasa
6. Hon’ble Member Kesang Namgyal from Trashiyangtse
7. Hon’ble Member Sonam Kinga from Trashigang
8. Hon’ble Member Tshewang Lhamo from Chhukha
9. Hon’ble Member Tshewang Jurmi from Bumthang
10. Hon’ble Member Sangay Zam from Thimphu

Namgye Penjore  
**Chairperson**