

Constitutional Court Ruling No. 3 - 4/2557 (2014)

President of the National Assembly Applicant

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Respondent

Constitution, section 122, section 123, section 126 paragraph three, section 169 paragraph one and section 170 paragraph two;

Bill to Authorise the Ministry of Finance to Obtain Loans for the Development of National Transportation Infrastructure, B.E.

Members of the House of Representatives' use of an electronic identification card and casting of a vote for another Member of the House of Representatives during the deliberations of the Bill to Authorise the Ministry of Finance to Obtain Loans for the Development of National Transportation Infrastructure, B.E. was an infringement of the basic principle of being a Member of the House of Representatives under section 122 of the Constitution and was inconsistent with the principle of integrity as stated in the oath given by the Member of the House of Representatives under section 123 of the Constitution. The act was also inconsistent with the principle of voting under section 126 paragraph three of the Constitution. As a consequence, the Bill was not properly enacted under the provisions of this Constitution.

Furthermore, the Bill to Authorise the Ministry of Finance to Obtain Loans for the Development of National Transportation Infrastructure, B.E. provided that the loans, which were public funds, could be spent pursuant to the purpose of the loans without having to remit to the treasury under the law on budgetary procedures and law on treasury. As a consequence, the expenditures were not subject to scrutiny by the National Assembly, and there were no clear checks and controls. Also, the development of national transportation infrastructure was not a case of an urgent necessity, since such undertakings could be done by other means having a lesser impact. Hence, the Bill was contrary to or inconsistent with section 169 paragraph one of the Constitution. In addition, the exercise of the Ministry of Finance's authority to borrow up to two trillion baht under this Bill without clarity on details of plans or projects for the expenditures, and without sufficient guarantees against fiscal and monetary risks as well risks to the economic system was inconsistent with fiscal discipline under Chapter 8 of the Constitution, hence, contrary to or inconsistent with section 170 paragraph two of the Constitution.