

DHAKA TUESDAY FEBRUARY 24, 2009

From our archives

Where is the alternative to caretaker govt?

M M REZAUL KARIM

THE principal area in which demand for reform has been repeatedly voiced recently in some quarters is about the caretaker government in vogue in the country. The caretaker government is a unique system bred out of political expediency and is designed to ensure free, fair and impartial parliamentary election. The system of caretaker government was formally introduced during the 1996 election of the parliament, though the 1991 election conducted under a caretaker government was so done as a sequel to political compromise but only on one time basis. This unprecedented system designed to ensure impartial election was, unfortunately, a product of enormous distrust prevalent among our major political parties and the outcome of a long and painstaking search for a solution acceptable to all concerned. It is ironic that the principal political parties, who are committed to the principle of democracy, yielded to the institution of caretaker government, which is basically a non-elective and thereby an undemocratic contraption. They accepted its rule, albeit for a brief period of 90 days prior to each election. The most important element of the caretaker government is neutrality, which must be ob-

served in carrying out its functions. Ordinarily, in most democratic countries, following announcement of the election schedule the outgoing government acts as a caretaker government and conducts election till the inauguration of a new government. The outgoing US Administration continues to govern for as long as almost three months after the election is over.

The formula consisted of the last retired Chief Justice of the Supreme Court to act as the Chief Advisor of the Caretaker government who would thereafter choose his fellow members of the Advisory Council. There is no constitutional requirement for the Chief Advisor to consult with political parties on the matter of selection of his advisors. Anyway, he would receive lists of candidates suggested by the two major political parties for consideration. The two elections that were held in 1996 and 2001 under caretaker governments were universally recognised as fair and impartial, though the defeated parties promptly made mild allegations of rigging before finally yielding to its outcome. Only lately, the main opposition party, the Awami League and its associates, made a demand for reform of the caretaker government system. The concept of the caretaker government, though originally

advanced by the Jamat-e-Islami party, was later taken up as the prime force of movement by the opposition Awami League during the second half of the BNP regime established in 1991. The movement was spearheaded with that sole demand and won support from people far and wide.

The ruling BNP opposed it on the plea that the demand was unconstitutional, as no such provision for establishment of caretaker government existed in the constitution. But in the teeth of heavy demand and intensive movement the BNP agreed to make the requisite amendment to the constitution. But all the Awami League members of the parliament had already resigned as a body and the necessary two-thirds majority was not available to amend the constitution. The BNP, however, was able to hold on to the last and held an election in February 1996 in order to get a two-thirds majority of seats necessary to amend the constitution. Since the Awami League boycotted the election, the BNP and its coalition partners easily bagged over two-thirds seats. The amendment was passed in a marathon session in one night before dissolving the parliament, thereby providing the legal basis to hold the next elections under caretaker government. What then prompted the

Awami League to demand replacement or modification of the system for the introduction of which it had organised such a massive and prolonged political movement earlier? The present demand appears to have been related to the acceptability of the person, who is expected to be the Chief Advisor supervising the next general election. Under the existing system, the Chief Advisor must be the last retired Chief Justice. If he is unwilling or unable to take office, choice will fall on a member of the Appellate Division of the Supreme Court and failing which a person chosen in consultation with the major political parties.

The Awami League became unhappy with the person of the next Chief Advisor following government's recent decision to raise the age of retirement of the Judges of the Appellate Division, hence the demand for reform. The opposition party apprehends that as he had been appointed as Chief Justice by the BNP government by superseding some other Judges, he might unduly discriminate in favour of the BNP during the next election. However, it is worthwhile to note that the Awami League itself had earlier superseded the same Judge in order to promote to the Appellate Division some other Judges of its choice. The Awami League quarters have been highly critical

of Justice Latifur Rahman as Chief Advisor of the Caretaker government in 2001. He was alleged to have been discriminatory and was at beck and call of the BNP high command. What he, in fact, did was to transfer some government officials against whom either of the political parties had reservations about their fairness and impartiality, but he never replaced them with officials suggested by any party. He may also have recommended to the President for issuance of some Ordinances, but mostly after consultation with the Election Commission with a view to facilitating the latter's work. However, nothing would prevent the elected government to repeal such ordinances promptly. Furthermore, there exists no motive for a retired Chief Justice to deviate from the set standard of justice and fairness in dealing with different political parties. Neither he nor any other Chief Advisor has since taken up any job under the government of the victorious party. For that matter, no Advisor has got a job subsequently which may bear semblance to acts of gratitude to their alleged mentors.

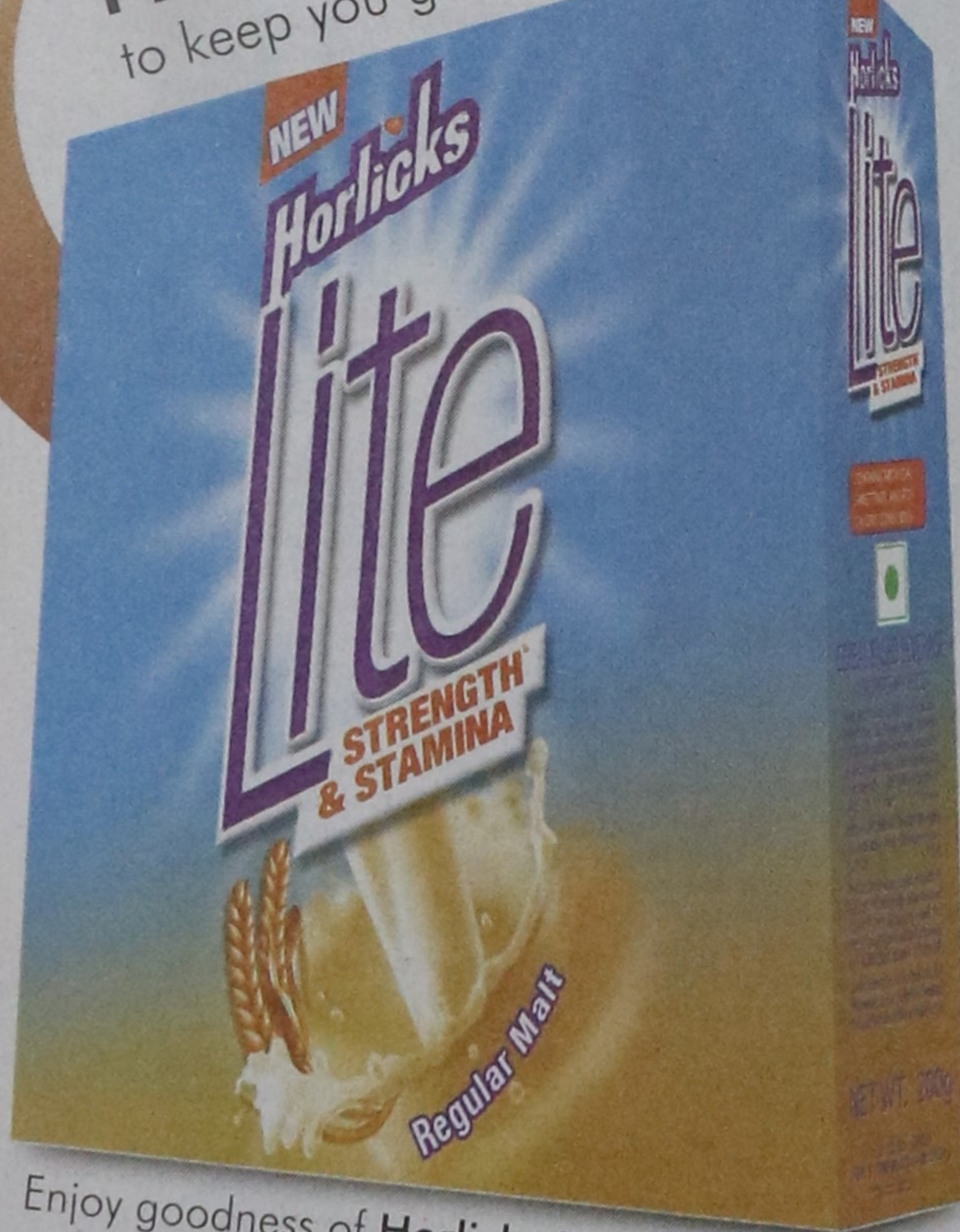
As for the replacement or modification of the caretaker system, there could be a few alternatives. Firstly,

CONTINUED ON PAGE 59

INTRODUCING

Horlicks Lite
to keep you going!

ADDED SUGAR
ZERO
CHOLESTEROL



Enjoy goodness of Horlicks Lite everyday*

*For people with Diabetes: Horlicks Lite can be introduced as part of your daily diet plan, as advised by your physician.

www.icbislamic-bd.com

Happy Anniversary
on 18 years of The Daily Star

First time in Bangladesh
ICB Islamic Bank proudly introduces

SERVICE
GUARANTEED

- Account opening in 2 working days
- Cheque book delivery in 2 working days
- Changing customer information as per customer's requirement within 2 working days
- Balance confirmation & solvency certificate within 1 working day
- Issuance of duplicate statement within 1 working day
- No over the counter transaction charges

Contact for further details: enquiries@icbislamic-bd.com
88 018141 885 510, 88 01811 408 291

ICB Islamic
Mudaraba Savings Account

ICB Islamic
Mudaraba InstaProfit Term Deposit

ICB Islamic
Alwadia Current Deposit

ICB Islamic
Monthly Profit on MTD

Head Office: T.K. Bhaban (15th floor), 13 Kazi Nazrul Islam Avenue
Kawran Bazar, Dhaka 1215, Bangladesh. Hotline: 88 01841 242 242

ICB ISLAMIC BANK
a member of ICB Financial Group Holdings AG