

Abstract

Constitution of the Kingdom of Thailand prescribes the Legislative Branch to be the main body having the power to enact the laws for application to the people. Because of the reason that the Legislative Branch is the body in which its members consist of Representatives elected by the people, therefore, in enacting a law to be used as a tool for carrying out various missions of the State which affecting the rights and liberties of the people must be consented by the people's Representatives. But, because of the reason on a tremendously increasing missions of the State coupled with the fact on substantial technology progress, have resulted in the Legislative Branch to be unable to enact a law to cover all matters thoroughly. It is, therefore, compellingly necessary for the Legislative Branch to authorize the Executive to enact the subordinate legislations for applications, as well, which, in principle, when the Legislative Branch is desirous of making the law in any matter, the Legislative Branch will enact the law prescribing the frame being the rules extensively and then authorize the Executive to be the entity having the power to enact the subordinate legislation to regulate the part which are the details on such particular matter in order to make the law of the Legislative Branch perfectly valid.

However, the Legislative Branch, in authorizing the Executive to enact a subordinate legislation, has caused a vital problem which is the subject of study under this Thesis; that is the problem to what extent of the scope of authority of the Legislative Branch shall be in enacting the law to authorize the Executive to enact a subordinate legislation or whatever the rules or principles on whichever the matter shall be taken into account in enacting a law to authorize the Executive to enact a subordinate legislation or should it be deemed that the Legislative Branch which is the main body having the legislative power would be able to enact the law to bestow the legislative power which it has upon any person as it desires. The study revealed that, at present, the enactment of a law by the Legislative Branch contains the provisions in a manner to authorize the Executive Power to enact the subordinate legislations with an extensive extent due to the reason that the law of the Legislative Branch does not specify a frame for clarity enough to be used as a basis in enacting the subordinate legislations of the Executive and that a delegation of authority on some certain case is not in conformity with legal principles and rules as it should have been, thus, resulting in the Executive

to use its discretion to regulate the rules and regulations extensively. The Legislative Branch's law enactment under this nature indeed will consequently result in the rights and liberties of the people to be extremely prejudiced and may cause damage to the State, especially, the enactments of many important laws; such as, Enterprise Capital Act, B. E, 2542 (1999), Constitution Ancillary Act Governing the State Audit, B. E. 2542 (1999) and Kingdom Internal Security Operation Act, B. E. 2551 (2008) which are studied under this Thesis. According to the aforementioned problems, Thesis Compiler have a recommendation relating to an enactment of the Legislative Branch in order to authorize the Executive to enact a subordinate legislation that the Legislative Branch should prescribe material rules and then authorize the Executive power to prescribe the rules on the part which are the details in order to make the law enforcements in compliance with the provisions of the law of the Legislative Branch which, in this connection, the law of the Legislative Branch which is the source of the power of the Executive on the enactment of the law must be adequately clear enough as to whichever the matter the Legislative Branch desires the Executive to prescribe the details and that if it should be necessary for the Legislative Branch to enact a law that would affect and restrict the rights and liberties of the people or which would be an important matter, the Legislative Branch shall perform such acts by itself without being entitled to authorize the other organization to act on its behalf because the stipulations of the rules and regulations affecting the rights and liberties of the people shall exclusively be carried out by the Legislators who are the People's Representatives.