Chapter III

General Elections in Thailand
System and Procedure

3.1 Historical Background:

The historic first Senate election in Thailand began on March 4, 2000, and was finally completed on July 22, 2000, a period of almost five months. In some provinces, the election process was necessarily lengthened by several ballot-casting rounds due to fraud and lack of transparency in the elections. Nevertheless, the voter turnout on March 4, 2000, at 71.89% (data from the Election Commission, see Table 1 and Figure 1), was higher than that for other recent elections, reflecting the flurry of excitement and interest the people showed in the historic election. People were also encouraged by the fact that, under the new regulations, failure to exercise the voting right would result in the loss of certain rights. The high voter turnout, as shown in Table 1, was an indication of the success of political reform and democratic development.

*It also showed that the people’s enthusiasm was much stronger in this election than in all the previous elections*, which were House of Representatives elections, even though the later rounds of the Senate election held in some provinces registered a lower percentage of ballots (due perhaps to the voters’ weariness and the inconvenience of traveling to the polling stations on several occasions). A considerable number of people expressed dissatisfaction with the many rounds of the Senate election. As shown in Table 3.1, which records the opinions of people on
the numerous rounds of the Senate election\(^1\) (Bureekul, 2001a), over half of those responding to the questionnaire in six provinces expressed disapproval (67.9 percent). When asked to give the reasons (multiple reasons were permissible), 95.8 percent expressed weariness and 93.4 percent said it was time-consuming. But they acknowledged the good points of multiple voting, that is, its role in the fight against the vote-buying problem (94.7) and the building of a stronger democracy (92.8).

\[\text{Table 3.1} \]

\textbf{Ballot-casting in General Elections from 1933 – Present}

<table>
<thead>
<tr>
<th>No.</th>
<th>Election date</th>
<th>Qualified voters (Persons)</th>
<th>Voter turnout (Persons)</th>
<th>Percentage of voters</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>15 November 1933</td>
<td>4,278,231</td>
<td>1,773,532</td>
<td>41.45</td>
</tr>
<tr>
<td>2.</td>
<td>7 November 1937</td>
<td>6,123,239</td>
<td>2,462,535</td>
<td>40.22</td>
</tr>
<tr>
<td>3.</td>
<td>12 November 1938</td>
<td>6,310,172</td>
<td>2,210,332</td>
<td>35.03</td>
</tr>
<tr>
<td>4.</td>
<td>6 January 1946</td>
<td>6,431,827</td>
<td>2,091,788</td>
<td>32.52</td>
</tr>
<tr>
<td>5.</td>
<td>29 January 1948</td>
<td>7,176,464</td>
<td>2,117,464</td>
<td>29.51</td>
</tr>
<tr>
<td>6.</td>
<td>26 February 1952</td>
<td>7,602,591</td>
<td>2,461,291</td>
<td>32.37</td>
</tr>
<tr>
<td>7.</td>
<td>26 February 1957</td>
<td>9,859,039</td>
<td>5,668,566</td>
<td>57.50</td>
</tr>
<tr>
<td>8.</td>
<td>15 December 1957</td>
<td>9,911,118</td>
<td>4,370,586</td>
<td>44.10</td>
</tr>
<tr>
<td>9.</td>
<td>10 February 1969</td>
<td>14,820,080</td>
<td>7,285,832</td>
<td>49.16</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>No.</th>
<th>Date</th>
<th>Amount</th>
<th>Costs</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>10</td>
<td>26 January 1975</td>
<td>18,343,486</td>
<td>9,473,320</td>
<td>51.64</td>
</tr>
<tr>
<td>11</td>
<td>April 1976</td>
<td>20,623,430</td>
<td>9,072,629</td>
<td>43.99</td>
</tr>
<tr>
<td>12</td>
<td>22 April 1979</td>
<td>22,581,780</td>
<td>9,913,401</td>
<td>43.90</td>
</tr>
<tr>
<td>13</td>
<td>18 April 1983</td>
<td>24,224,470</td>
<td>12,295,339</td>
<td>50.76</td>
</tr>
<tr>
<td>14</td>
<td>27 July 1986</td>
<td>26,224,305</td>
<td>16,070,957</td>
<td>61.28</td>
</tr>
<tr>
<td>15</td>
<td>24 July 1988</td>
<td>26,658,638</td>
<td>16,944,931</td>
<td>63.56</td>
</tr>
<tr>
<td>16</td>
<td>22 March 1992</td>
<td>32,436,283</td>
<td>19,216,466</td>
<td>59.24</td>
</tr>
<tr>
<td>17</td>
<td>13 September 1992</td>
<td>31,855,156</td>
<td>19,760,377</td>
<td>62.03</td>
</tr>
<tr>
<td>18</td>
<td>2 July 1995</td>
<td>37,817,983</td>
<td>23,462,746</td>
<td>62.04</td>
</tr>
<tr>
<td>19</td>
<td>17 November 1996</td>
<td>38,564,593</td>
<td>24,070,750</td>
<td>62.42</td>
</tr>
<tr>
<td>20/1</td>
<td>4 March 2000</td>
<td>42,557,583</td>
<td>30,593,259</td>
<td>71.89</td>
</tr>
<tr>
<td>20/2</td>
<td>29 April 2000</td>
<td>26,888,584</td>
<td>14,473,078</td>
<td>53.83</td>
</tr>
<tr>
<td>20/3</td>
<td>4 June 2000</td>
<td>8,010,585</td>
<td>3,303,082</td>
<td>41.23</td>
</tr>
<tr>
<td>20/4</td>
<td>24 June &amp; 9 July 2000</td>
<td>3,479,800</td>
<td>1,071,885</td>
<td>30.80</td>
</tr>
<tr>
<td>20/5</td>
<td>22 July 2000</td>
<td>1,177,324</td>
<td>369,667</td>
<td>31.40</td>
</tr>
<tr>
<td>21/1</td>
<td>6 January 2001</td>
<td>42,875,036</td>
<td>29,925,432</td>
<td>69.80</td>
</tr>
<tr>
<td>21/2</td>
<td>29 January 2001</td>
<td>6,564,433</td>
<td>3,557,041</td>
<td>54.19</td>
</tr>
</tbody>
</table>
* The 20/1 to 20/5 inclusive were the Senate election, and the 21/1 and 21/2 were the House of Representatives election.

** Source: Chaowana Traimas, 2542 and the Election Commission.

- **2000 – 2002 Senate Election Result**

The Election Commission is a newly established organization. In its three and a-half year existence it has often had to be innovative, being unable to draw on previous experiences or experiences elsewhere. Its work has not been without tribulation. In fact, the senatorial election, which started with a royal decree announcing election day to be November 18, 1999, finally ended with the declaration of the result of the last round of voting for one last senator in June 2001. A breakdown of the Senate elections can be seen in Table 3.2, which shows the effectiveness of the new election system. If there is evidence that the electoral laws have been violated, the Election Commission has the power to withhold approval of the election and organize a new election (yellow card), or remove the offending candidate from the list (red card).

<table>
<thead>
<tr>
<th>Election Day</th>
<th>Eligible Voters</th>
<th>No of Constituencies</th>
<th>No of Candidates</th>
<th>Turn out (%)</th>
<th>Invalid Ballots (%)</th>
<th>Declared Senators</th>
<th>No of Seats of Re-election (Sort by Card)</th>
</tr>
</thead>
<tbody>
<tr>
<td>March 4, 2000</td>
<td>42,557,583</td>
<td>76</td>
<td>1,532</td>
<td>71.8</td>
<td>6.3</td>
<td>122</td>
<td>78</td>
</tr>
<tr>
<td>April 29, 2000</td>
<td>26,877,074</td>
<td>35</td>
<td>1,054</td>
<td>53.8</td>
<td>7.2</td>
<td>66</td>
<td>12</td>
</tr>
<tr>
<td>June 4, 2000</td>
<td>8,001,267</td>
<td>9</td>
<td>255</td>
<td>41.3</td>
<td>7.2</td>
<td>8</td>
<td>4</td>
</tr>
<tr>
<td>June 24 and</td>
<td>3,479,800</td>
<td>4</td>
<td>124</td>
<td>30.8</td>
<td>6.9</td>
<td>3</td>
<td>1</td>
</tr>
</tbody>
</table>

Table 3.2

Senate Election
As a result of complaints and objections, the commission found credible evidence to order Senate by-elections in seven provinces for 10 seats. Another by-election was ordered due to the death of the incumbent.

April 21, 2001 | 5,537,209 | 8 | 78 | 41.4 | 5.2 | 10 | 1 | 1
May 26, 2001 | 994,482 | 1 | 12 | 46.0 | 3.47 | 1 | - |
Feb 24, 2002 | 711,564 | 1 | 13 | 31.76 | 3 | 1 | - |

Source: www.ect.go.th

- **2001 – 2002 General Election Results**

The general election for MPs was held on the 6 January 2001. At stake were the 400 seats for constituency-based MPs and 100 seats for party-list MPs. The first round of the election produced 338 constituency-based MPs and 100 party-list MPs. So, the second round of the election, on 29 January 2001, involved 62 seats. The Election Commission was required to declare the result of the election for all the 500 MPs within 30 days of January 6, therefore all of the 62 leading candidates in the second round were endorsed by the commission. Not having had time to investigate the second round of the election, the commission made it a priority to check on the MPs of these constituencies. Subsequently, the commission ordered by-elections in seven constituencies out of the 62, stripping the seven MPs in those constituencies of their seats. This new round of election was held on June 30, 2001. As for the 338 MPs who were elected in the first round, the commission received hundreds of complaints and objections and as a result of investigations and the testimony of 6000 witnesses, by-elections were ordered in a further 16 constituencies. The events in the MP general and subsequent elections are summarized in Table 3.3
### Table 3.3
MPs Election

<table>
<thead>
<tr>
<th>Election Day</th>
<th>Electoral System</th>
<th>Eligible Voters</th>
<th>No. of Constituencies</th>
<th>No. of Candidates</th>
<th>Turn out (%)</th>
<th>Invalid Ballot (%)</th>
<th>Declared MPs</th>
<th>No of Seats of Re-elections</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jan 6, 2001</td>
<td>Single-Member Constituencies</td>
<td>42,789,001</td>
<td>400</td>
<td>2,782</td>
<td>69.9</td>
<td>10</td>
<td>338</td>
<td>62</td>
</tr>
<tr>
<td></td>
<td>Proportion Representation</td>
<td>1</td>
<td>940</td>
<td>2.5</td>
<td>100</td>
<td>-</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Jan 29, 2001</td>
<td>Single-Member Constituencies</td>
<td>6,559,530</td>
<td>62</td>
<td>433</td>
<td>56</td>
<td>8.6</td>
<td>62</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td>Proportion Representation</td>
<td>1</td>
<td>21</td>
<td>57.17</td>
<td>2.84</td>
<td>5</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>Jun 30, 2001</td>
<td>Single-Member Constituencies</td>
<td>711,973</td>
<td>7</td>
<td>21</td>
<td>57.17</td>
<td>2.84</td>
<td>5</td>
<td>2</td>
</tr>
<tr>
<td>Aug 18, 2001</td>
<td>Single-Member Constituencies</td>
<td>197,370</td>
<td>2</td>
<td>6</td>
<td>50.33</td>
<td>2.5</td>
<td>2</td>
<td>-</td>
</tr>
<tr>
<td>Mar 3, 2002</td>
<td>Single-Member Constituencies</td>
<td>1,548,078</td>
<td>14</td>
<td>48</td>
<td>56.36</td>
<td>1.76</td>
<td>-</td>
<td>-</td>
</tr>
</tbody>
</table>

Following complaints and objections for the second round of election in 62 constituencies, the ECT found credible evidences to order by-election in 7 constituencies.

As a result of complaints and objections, the ECT found credible evidences to order by-elections in 12 provinces for 14 constituencies.

Source: www.ect.go.th

From above tables, the 1997 constitution creates new innovation in Thailand politics and establishes great election awareness among the people. While the right to vote is an integral part of representative democracy, political participation is not restricted to that process, but incorporates other forms of participation (Huntington and Nelson, 1976:14).

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3.2 Election Reforms:  

The vote buying and associated corruption in Thailand have been constantly on an increase. Observers and analysts claimed that vote buying in the election in November 1996 was more rampant than the previous one and the price of the vote buying doubled. The Poll watch reported almost 70 percent increase from the previous election in the amount of money commercial banks transferred during the campaign period. An increase in the buying up of polling stations was also reported.

There is no independent agency to administer and supervise elections. The Ministry of Interior has been responsible for conducting and supervising elections since 1933. Political interference has been possible as the Interior Minister is usually a key figure in a government party. It is believed that the minister is able to influence to a certain extent election outcome through provincial governor and district officers who are attached to the Ministry.

The elections are not attractive to a number of Competent and public-minded persons. The election system favors local boss and rural elite, a number of whom work their way to the top through a patronage system and unscrupulous means. In addition, more balance between rural MPs and urban MPs is needed as the constituency demarcations allow rural MPs to dominate the parliament. The urban electorate are underrepresented.

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3 Suchit Bunbongkarn “Changes in the Thai Electoral System and Mechanisms Designed to Prevent Political Corruption”.
3.2a The Election System Under the New Constitution

The Establishment of an Election Commission.

To ensure clean, free and fair elections, an Election Commission has been established under the new constitution. The Commission consists of five members nominated by a nomination committee and approved by the Senate before submitted to the King for royal appointment. The members must not concurrently hold positions in the civil service, government administration, judiciary, the parliament or state and private enterprises. The independent status of the commission is guaranteed by the constitution.

The commission is authorized to conduct and supervise elections. It also has the authority to investigate alleged malpractice, irregularities and corruption in elections as well as to order a reelection in a constituency where there has been convincing evidence of frauds and malpractice.

3.2b The New Election System

A single member constituency system is adopted to replace the multi-member constituency system. This will result in smaller constituencies where unwealthy candidates can compete with rich ones without spending much money. It is believed that supervision of election will be more effective in small constituencies. The number of MPs elected under this system is fixed at 400.

Another 100 MPs are elected through a party-list system. Each party will field in not more than 100 candidates to run in the
constituency identical with the country size. Voters are required to choose only one party and the number of seats each party will get depends on the percentage of popularity vote the party receives. It is believed that the party-list system will reduce the rate of vote buying as the constituency is too large to buy.

It is also expected that each party will put on the list a number of respectable, competent and honest candidates who are recognized nation-wide.

- **Compulsory Vote**

  Voting's for MPs and senators are compulsory. Those who fail to vote without informing the authority the reasons may lose the right to vote. This may reduce vote buying since the number of those who cast vote would be so large that no party can afford to buy them all.

- **Vote counting**

  Votes from all polling stations in each constituency are counted in only one place in that constituency unless the Election Commission decides otherwise. This would prevent someone from buying up polling stations since it is impossible for checking the result of voting in each polling station.

### 3.2c Constitutional Provisions Related to the Election System

**Constitution of Thailand 1997,**

**The House of Representatives**

**Section 98.** The House of Representative consists of five hundred members, one hundred of whom are from the election on a party-list
basis under section 99 and four hundred of whom are from the election on a constituency basis under section 102.

In the case where the office of a number of the house of Representative becomes vacant for any reason and an election of a member of the House of Representatives has not been held to fill the vacancy, the House of Representatives shall consist of the existing members of the House.

Section 99. In an election of members of the House of Representatives on a party-list basis, a voter shall have a right to cast ballot from the lists of candidates prepared by political parties; provided that only one party-list may be voted for and the territory of Thailand shall be regarded as the whole constituency.

The party-lists of candidates in the election under paragraph one shall be prepared by political parties. Each party shall prepare one list, which shall contain not more than one hundred persons and be submitted to be Election Commission before the date an application for candidacy in and election on the constituency basis commences.

Name of persons in the party-list under paragraph one shall:

(1) consist of the names of candidates from equitably various regions;

(2) not be repeated by the names in the lists prepared by other political parties and names of candidates in the election on the constituency basis under section 102 and;

(3) be placed in numerical order.
**Section 100.** The list of any political party receiving votes of less than five percent of the total number of votes throughout the country shall be regarded as one for which no person listed therein is elected and such votes shall not be reckoned in the determination of the proportional number of the members of the House of Representatives under paragraph two.

The determination of the proportion of votes received by the party-list of each political party according to which the persons whose names are listed therein shall be regarded as being elected in the proportion shall be in accordance with rules, procedure and conditions provided by the organic law on the election of members of the Houses of Representatives and senators.

It shall be deemed that the candidates whose names are in the list of each political party are elected in respective order of the allocated numbers in the list in accordance with such proportional number of the members of the House of Representatives as determined for that list.

**Section 101.** Subject to section 119 (1), in the case where there occurs, during the term of the House of Representatives, any cause resulting in the members elected from the election on a party-list basis being less than one hundred in number, such members shall consist of the existing members.

**Section 102.** In the election of members of the House of Representatives on a constituency basis, the person having the right to vote shall cast ballot for one candidate in each constituency.

The determination of the ratio of the number of inhabitants to one member shall be made by reference to the division of such number of inhabitants throughout the country as evidenced in the census announced
in the year preceding the year of election by the number of four hundred members of the House of Representatives.

The number of members of the House of Representatives of each Changwat shall be determined by the division of the number of inhabitants in that Changwat by such number of inhabitants per one member as determined under paragraph two. Any Changwat with inhabitants below the number of inhabitants per one member under paragraph two shall have one member of the House of Representative. Any Changwat with more inhabitants than the number of inhabitants per one member shall have an additional member of the House of Representatives for every such number of inhabitants as representing the number inhabitants per one member.

Upon the number of members of the House of Representatives of each Changwat being obtained under paragraph three, if the number of member of the House of Representatives is still less than four hundred, and Changwat with the largest fraction remaining from the determination under paragraph three shall have an additional member of the House of Representatives and the addition of the members of the House of Representatives in accordance with such procedure shall be made to Changwats in respective order of fractions remaining from the determination under paragraph three until the number of four hundred is obtained.

Section 103. In a Changwat where the number of members of the House of Representatives to be elected is not more than one, the area of that Changwat shall be regarded as the constituency and in a Changwat where the number of members of the House of Representatives is more than one, such Changwat shall be divided into constituencies in the number equal to such number of members of the House of
Representatives as may be elected therein and, for this purpose, each constituency shall have one member of the House of Representatives.

In a Changwat, which is divided into more constituencies than one, the boundary of each constituency shall be adjoining and the number of inhabitants in each constituency must be closely apportioned.

Section 104. In a general election, a voter shall have the right to cast ballot for only one list of candidates prepared by the political party and, in an election on a constituency basis, for one candidate in the constituency.

In an election of a member of the House of Representatives to replace the member of the House of Representatives elected on a constituency basis whose office becomes vacant under section 119(2), a voter shall have the right to cast ballot for one candidate in the constituency.

The election shall be by direct suffrage and secret ballot.

In each constituency, the counting of votes form every polling station altogether shall be conducted and the result of the vote-counting shall be announced publicly at any single place in the constituency as designated by the Election Commission, except that in the case where necessity arises in a particular locality, the Election Commission may provide otherwise in accordance with the organic law on the election of members of the House of Representatives and senators.

The provisions of paragraph four shall apply mutatis mutandis to the counting and announcement of votes received by each party-list in each constituency under section 103.
Section 105. A person having the following qualifications has the right to vote at an election:

(1) being of Thai nationality: provided that a person who has acquired Thai nationality by naturalisation must hold the Thai nationality for not less than five years;

(2) being not less than eighteen years of age on 1st January of the year of the election; and

(3) having his or her name appear on the house register in the constituency for not less than ninety days up to the date of the election.

A voter who has residence outside the constituency under section 103 within which his her name appear in the house register, or who has his or her name appear in the house register in the constituency for the period of less than ninety days up to the date of the election, or who has residence outside the Kingdom of Thailand shall have the right to cast ballot in the election in accordance with rules, procedure and conditions provided by the organic law on the election of members of the House of Representatives and senators.

Section 106. A person under any of the following prohibitions on the election day is disfranchised;

(1) being of unsound mind or of mental infirmity;

(2) being a Buddhist priest, novice, monk or clergy;

(3) being detained by a warrant of the Court or by a lawful order;

(4) being under suspension of the right to vote.
The following are the sections showing the functions of Senate under 1997 constitution:

**Section 121.** The Senate shall consist of two hundred members to be elected by the people.

In the case where the office of the senator becomes vacant for any reason whatsoever and an election of the senator to fill the vacancy has not yet been held, the Senate shall consist of the remaining senators.

**Section 122.** In an election of senators, the area of Changwat shall be regarded as one constituency.

The number of senators each Changwat can have shall be determined in accordance with the procedure provided in section 102 paragraph two, paragraph three and paragraph four *mutatis mutandis*.

**Section 129.** Subject to the provision of this Constitution, rules and procedure for an election of senators shall be in accordance with the organic law on the election of members of the House of Representatives and senators.

For the purpose of equal introduction of candidates in the election, the State shall carry out the following acts:

1. causing notices and posters relating to the election and candidates in the election to be posted;
2. publishing and furnishing to persons having to right to vote documents relating to the election and candidates in the election;
3. providing places and allocating radio and television broadcasting time for introducing candidates in the election;
4. carrying out other acts as prescribed by the Election Commission.
Rules and procedure for carrying out the acts under paragraph two shall be in accordance with the organic law on the election of members of the House of Representatives and senators.

The introduction of candidates by themselves or other persons is permitted only insofar as provided in the organic law on the election of members of the House of Representatives and senators.

### 3.3b Constitution of Thailand 1997, Election Commission

According to the Constitution, the Election Commission “shall control and hold, or cause to be held, an election of members of the House of Representatives, senators, members of a local assembly and local administrators including the voting in a referendum for the purpose of rendering it to proceed in an honest and fair manner”. In addition, the independent Election Commission has been created to administer and oversee elections using the assistance of NGO's. It has wide-ranging investigative and prosecutorial powers. It can also call for new elections. There is provision for limiting campaign monies and providing candidates and parties with support to guarantee fairness.

In its three and a-half years of existence, it has had to take an innovative approach being unable to call on previous experiences or experiences elsewhere. It work has not been carried out without tribulation.

The first ever senate elections, which began with a royal decree announcing November 18, 1999 as Election Day, finally ended with the declaration of the result of last round of elections, for one last senator, in June 2001.
The general election for the House of Representatives was held on the 6 January 2001. At stake were the 400 seats for constituency-based MPs and 100 seats for party-list MPs. The first round of the election produced 338 constituency-based MPs and 100 party-list MPs.

Sections under 1997 constitutions shows following functions:

Section 136. The Election Commission consists of a Chairman and other four Commissioners appointed, by the King with the advice of the Senate, from persons of apparent political impartiality and integrity.

The President of the Senate shall countersign the Royal Command appointing the Chairman and Commissioners under paragraph one.

Section 137. An Election Commissioner shall have the qualifications and shall not be under any prohibition as follows:

(1) being of Thai nationality by birth;
(2) being of not less than forty years of age on the nomination day;
(3) having graduated with not lower than a Bachelor's degree or its equivalent;
(4) not being under any of the prohibitions under section 106 or section 109 (1), (2), (4), (5), (6), (7), (13) or (14);
(5) not being a member of the House of Representatives or the Senate, political official, a member of a local assembly or a local administrator;
(6) not being or having been a member of or holder of other position in a political party throughout the period of five years preceding the holding of office;
(7) not being an Ombudsman, a member of the National Human Right Commission, a judge of the Constitutional Court, a judge of the
Administrative Court, a member of the National Counter Corruption Commission or a member of the State Audit Commission.

**Section 139.** An Election Commissioner shall not;

(1) be a Government official holding a permanent position or receiving salary;

(2) be an official or employee of a State agency, State enterprise or local administration;

(3) hold any position in a partnership, a company or an organization carrying out businesses for sharing profits or incomes, or be an employee of any person;

(4) engage in any other independent profession.

In the case where the Senate has elected a person in (1), (2), (3) or (4) with the consent of that person, the elected person can commence the performance of duties only when he or she has resigned from the position in (1), (2), (3) or has satisfied that his or her engagement in such independent profession has ceased to exist. This must be done within fifteen days as from the date of election, if that person has not resigned or ceased to engage in the independent profession within the specified time, it shall be deemed that that person has never been elected to be an Election Commissioner and the provisions of section 138 shall apply mutatis mutandis.

**Section 140.** Election Commissioners shall hold office for a term of seven years as from the date of the appointment by the King and they shall serve for only one term.
The Election Commissioners who vacate office upon the expiration of the term shall remain in office to continue to perform their duties until the newly appointed Election Commissioners assume their duties.

145 Section 145. The Election Commission shall have the following powers and duties:

Section 146. Government officials, officials or employees of a Government agency, State agency, State enterprise or local administration or other State officials shall have the duty to comply with orders of the Election Commission given under section 145.

Section 147. The Election Commission shall forthwith conduct an investigation and inquiry for finding facts in any of the following cases;

(1) an objection by a voter, a candidate in an election or a political party a member of which stood for the election in any of the constituencies has been raised that the election in the constituency has proceeded inappropriately or unlawfully;

(2) convincing evidence has appeared that any member of the House Representatives, senator, member of the local assembly or local administrator, before being elected, had committed any act in contravention of good faith to enable him or her to be elected, or has been elected in contravention of good faith as a law on the election of members of the House of Representatives and senators, the organic low on political parties or the law on the election of members of local assemblies and local administrators;

(3) Convincing evidence has appeared that the voting in a referendum did not proceed lawfully or an objection has been raised by a
voter that the voting in a referendum in any polling station proceeded inappropriately or unlawfully;

Upon completion of actions under paragraph one, the Election Commission shall pass a decision forthwith.

(1) to issue Notifications determining all activities necessary for the execution of the laws referred to in section 144 paragraph two;

(2) give orders instructing Government officials, employees of a Government agency, State agency, State enterprise of local administration or other State officials to perform all necessary acts under the laws referred to in section 144 paragraph two;

(3) conduct investigations and inquiries for fact-finding and decision on arising problems or disputes under the laws referred to in section 144 paragraph two;

(4) order a new election or a new voting at a referendum to be held in any or all polling stations when there occurs convincing evidence that the election or the voting at a referendum in that or those polling stations has not proceeded in good faith and justly;

(5) Announce the result of an election and the voting in a referendum;

(6) Perform other acts as provided by law.

In the performance of duties, the Election Commission has the power to summon any relevant document or evidence from any person, or summon any person to give statements as well as to request the Courts, Public Prosecutors, inquiry officials, a Government agency or State agency, State enterprise or local administration to take action for the
purpose of performing duties, investigating, conduction inquiries and passing decisions.

The Election Commission has the power to appoint persons, a group of persons or representatives of private organizations to perform such duties as entrusted.

Section 148. During the period in which a Royal Decree calling for an election of members of the House of Representatives or senator or a Notification calling for the voting in a referendum is effective, no Election Commissioner shall be arrested, detained or summoned by a warrant for inquiry except in the case where permission of the Election Commission is obtained or where the arrest is made in flagrant delicate.

In the case where an Election Commissioner has been arrested in flagrant delicate, or where and Election Commissioner is arrested or detained in other cased, it shall be forthwith reported to the Chairman of the Election Commission and the Chairman may order a release of the person so arrested.

3.4 Election System at Present and Future:

In South East Asia the elections are slated to be held in Indonesia, Philippines and most likely in Malaysia, too. In Thailand the elections are to be held in July this year with the general elections scheduled for next year (2005). The change in leadership, if any, in the ensuing elections will affect the region in its war against terrorism, the region’s economy
and the stock markets and the functioning of the ASEAN as a whole along with the ARF and the APEC[^4].

Continuity in leadership and political stability in the region is a key factor for regional economic integration. The region is beset with terrorist menace with organizations such as the Jemaah Islamiah and Abu Sayyaf. Hence cooperation by way of sharing intelligence and concerted action against training, movements and monetary transactions of these terrorists has to be ensured by the countries of this region.

In the election year as many sops are likely to be offered by the incumbents, the stock markets will be on the upswing and the purchasing power of the region will improve.

Perhaps only by the end of the year a clear picture of the political leadership in the region will emerge though no major changes or upsets seem to be in the offing.

It is only these four countries that play a leading role in ASEAN and hence the political leadership has a great responsibility for better functioning of the group as a whole and in its interaction with the other major powers of Asia and the world.

As per the assessment of Lee Kim Chew (The Straits Times -26 January 2004) Prime Minister Thaksin Shinawatra “is leading Thailand into one-party rule with the overwhelming dominance of Thai Rak Thai party in parliament”

The gubernatorial elections in July this year will be a forerunner for the parliamentary elections to be held in 2005. Hence Thaksin is using all his resources to ensure the party’s success.

If the present trend continues the party now controlling around 300 of the 500 seats in the parliament will improve its position further in the next elections.

3.5 Democracy as a form of Government

There is need to focus on these aspects: (1) Three forms of democracy: Fusion of power (parliamentary system), Separation of power (presidential system) or a mixed system, (2) Elections and (3) Provision for multiple political parties.

• Three Forms of Democracy

In general, it is believed that Thailand exhibits democracy as a “form”, mostly because during the 1932 revolution, the democratic parliamentary system of England was used as a model for Thailand’s own system. Thailand’s democracy is a fusion of different democratic styles – sometimes we use the unicameral system (using only the House of Representatives), sometimes the bicameral system (the Senate and the House of Representatives). The democratic means of selecting house members has changed through Thailand’s history of democracy. At times members have been selected through an electoral process and at other times by appointment, as in Table 3.4.
### Table 3.4

**Forms of Thai parliament (1932–1992)**

<table>
<thead>
<tr>
<th>Unicameral System</th>
<th>Bicameral System</th>
</tr>
</thead>
<tbody>
<tr>
<td>Constitution</td>
<td>Constitution</td>
</tr>
<tr>
<td>Appointment of Members of Parliament</td>
<td>Appointment of Members of Parliament</td>
</tr>
<tr>
<td>Volume</td>
<td>Year</td>
</tr>
<tr>
<td>(Temporary)</td>
<td>1932</td>
</tr>
<tr>
<td>2</td>
<td>1932</td>
</tr>
<tr>
<td>6</td>
<td>1952</td>
</tr>
<tr>
<td>7</td>
<td>1959</td>
</tr>
<tr>
<td>9</td>
<td>1972</td>
</tr>
<tr>
<td>11</td>
<td>1976</td>
</tr>
<tr>
<td>12</td>
<td>1977</td>
</tr>
<tr>
<td>14</td>
<td>1991</td>
</tr>
</tbody>
</table>

Remarks: For Bicameral system, members of the House of Representatives come from election by the people.

Sources: Chai-Anan Samudwanit, Peerasak Chandavarin and Chawana Trimas, *Basic information on the Thai government during the Mid-Period* (Bangkok: Social Science Association of Thailand, 1992), p. 54. (In Thai)

### 3.6 National Assembly:

Members of the house of Representatives and senators are representatives of the Thai People, and shall honestly perform the duties for the common interest of the Thai People.
• The Effectiveness of the Thai National Assembly

The constitution stipulates the three core functions of the National Assembly, namely law enactment, monitoring the performance of the executive branch, and a control function based on its power to appoint and remove various office holders.

• The spirit of the Constitution and functions of the National Assembly

The Constitution intends to improve the effectiveness of the National Assembly through the direct election of the Senate, the simplification of the submission of laws, the separation of auditing of political corruption from legal auditing, the establishment of parliamentary mechanisms to enhance the stability of the government, and the provision of measures to prevent the prime minister from becoming a dictator.

• Thai National Assembly

The assessment was conducted by means of result-based evaluation, effectiveness evaluation, and evaluation from third parties.

On the effectiveness of law enactment, it was found that the National Assembly under the present constitution has been able to enact more laws than in the past, and the quality of debate on bills has improved (Sethabutr and Lertpaitoon, 2002). The people are also able to submit bills to the National Assembly, however the number of such submissions is still limited since a large number of signatures (50,000) is required. People are satisfied with the enactment of laws by the National Assembly, particularly with the Senate.
Effectiveness of monitoring the performance of the executive branch. It was found that impromptu interpellation has enabled the National Assembly to raise topical issues and call for immediate government action. Censure debates have been more justified. However, powers and functions of the committees have not been clearly identified, leading to redundancy. The prime minister and the ministers have not paid attention to interpellation.

**Effectiveness of the selection of officials**

It was found that the National Assembly has performed in accordance with the provisions of the Constitution. Some problems have, however, been found. There has been no internal unit to check the qualifications of the nominees, and the suitability of officials appointed to certain organizations has been questioned by the public.

**The performance of the Thai National Assembly in representing the Thai people**

The people are generally satisfied with how the members of the National Assembly have performed in representing them. Their performance in accordance with the spirit of the Constitution, both in law enactment and censure debate, was ranked moderately.

According to public opinion, there are problems and obstacles that have affected the performance of the National Assembly. The unofficial requirement that MPs need the agreement of their respective parties before they can submit bills to parliament is of concern, as is the difficulty in bringing a censure debate motion against the prime minister. To do so requires a minimum vote of two fifths of the members of the
House and in a situation where one party dominates the House there are difficulties in finding enough MPs to support the move. This fulfills the intention of the constitution to promote political stability. The cabinet and PM can work effectively without concerns over time spent in the parliament.

Function of house of Representative:

• To initiate and/or deliberate draft laws.
• To scrutinize budget to select an mp to be prime minister.
• To dismiss a prime minister or any minister.
• To control the administration by: Written or verbal interpellation
  Setting up commissions to make proposals.
  • To sit with the senate to consider:
    - Matters related to monarchy and constitution
    - Important procedural matters
    - War or peace declaration and ratification of international treaties
    - Important legislations turned down by the house by simple majority (upon gov. request)

3.7 Electoral System (House of Representative)

The 1997 Constitution has introduced a new election system, which divided the 500 members of the House of Representatives into two types.

Four hundred MPs are to two types. Four hundred MPs are to be elected on a single-member constituency basis, while the remaining 100 MPs are to be elected on a party-list basis
Number of Constituencies a Province (Changwat) and Their Delimitations Province (Changwat)

Constituency Basis

The Strong Points of An Election on Constituency Basis

Party-List Basis (Proportional Representation)

The Strong Points of An Election on a Proportional Basis

Campaign Expenses

Vote Counting and Announcement of the Election Result

Re-Election

<table>
<thead>
<tr>
<th>NO OF CONSTITUENCIES</th>
<th></th>
<th></th>
<th></th>
<th>0</th>
<th>1</th>
<th>7</th>
<th>7</th>
</tr>
</thead>
<tbody>
<tr>
<td>No of Provinces</td>
<td>3</td>
<td>7</td>
<td>0</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Within a province, constituencies are delimited so that each one forms a single area with approximately equal population.

- **Constituency Basis**

The number of the representatives on this basis is 400 persons, one of whom is elected from each constituency. No duplication of candidates is allowed in the election on a constituency basis. The number of the representatives in a Changwat (province) is calculated based on the ratio of the Changwat's population to the national population (61,661,701 persons)

If any representative elected on a constituency basis is appointed to be a minister, the person must be removed from the representative seat within 30 days of being appointed and that person or the party will be charged for the new election held in that constituency.
- **The Strong Points of An Election on Constituency Basis**

A single-member constituency is an area where political activities and political community can less-confusingly be developed. Every voter casts a single vote in accordance with the principle of equality. A voter has a single choice and it should be easier to decide on a best candidate than on several candidates. Contrary to the case of multi-member constituency, in this case political party should not persuade people to cast votes for a whole team of candidates. As an area of a single-member Constituency is smaller, a candidate or an MP shall know well about the problems of the people in the area.

- **Party-List Basis (Proportional Representation)**

Each political party prepares a list of candidates comprising not more than 100 persons from every region of the country. The lists are to be submitted to the Election Commission on the date of application for candidacy in the election. The names must not be repeated on the lists of candidates of other parties or the list of constituency candidates. Any party receiving less than 5 percent of the total votes will not have its candidates elected and its votes will be eliminated. The remaining votes are divided by 100 to determine the number of votes needed for each candidate. The number of party-list representatives that each party may appoint (i.e., send to Parliament) is calculated by dividing the votes each party obtained by the number of votes needed for one party-list candidate (that is, remaining votes divided by 100). If the number of representatives appointed by this method comes to less than 100 persons, the parties having the most remaining votes will share the remaining seats. An example of the method follows.
Table 3.5

Example of voting on a party-list basis

<table>
<thead>
<tr>
<th>Party</th>
<th>Votes</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>4,050,000</td>
</tr>
<tr>
<td>B</td>
<td>6,120,000</td>
</tr>
<tr>
<td>C</td>
<td>700,000</td>
</tr>
<tr>
<td>D</td>
<td>12,000,000</td>
</tr>
<tr>
<td>E</td>
<td>7,330,000</td>
</tr>
<tr>
<td>F</td>
<td>900,000</td>
</tr>
<tr>
<td>G</td>
<td>1,400,000</td>
</tr>
<tr>
<td>Total votes</td>
<td>33,000,000</td>
</tr>
</tbody>
</table>

Five percent of the total votes is 1,650,000

Votes that will be eliminated are 700,000 from party C
900,000 from party F
1,400,000 from party G

Total number of eliminate votes is 3,000,000 votes
The remaining votes are 33,000,000 - 3,000,000 = 30,000,000 votes
The number of votes needed for one party-list elected candidate is

The number of party-list representatives appointed from each party is

<table>
<thead>
<tr>
<th>PARTY</th>
<th>PARTY VOTES</th>
<th>APPOINTED SEATS</th>
<th>REMAINING VOTES</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>4,050,000</td>
<td>13</td>
<td>150,000</td>
</tr>
<tr>
<td>B</td>
<td>6,120,000</td>
<td>20</td>
<td>120,000</td>
</tr>
<tr>
<td>D</td>
<td>12,000,000</td>
<td>41</td>
<td>200,000</td>
</tr>
</tbody>
</table>
Parties D and A have the largest number of remaining votes. Therefore, each party will be appointed one more seat from the remaining two seats.

If any representative from a party list is appointed to be a minister, the person must be removed from the representative seat within 30 days of being appointed, and the next name on that party list will be appointed to be a representative, without holding a new election.

- **The Strong Points of An Election on a Proportional Basis**

In the first-past-the-post system, only the votes coasted for the winner are consequential but all votes contribute to the allocation of seats in the party-list system.

- The whole country shall be regarded as a Constituency thus making vote-buying more difficult.
- The party system shall be strengthening because people cast votes directly for a party.
- Representatives from party-list should have wider visions because they are elected from people throughout the country.
- If a party-list MP is appointed a cabinet member, there will be no by-election as he will be replaced by the next person on the list. This is more likely the case a compared to the appointment a constituency-based MP, thus the party-list is also a list of aspirant ministers.
• **Campaign Expenses**

In this election, the Election Commission has allowed each candidate to spend not more than 1,000,000 baht for the campaign. Within 90 days after the election result is announced, candidates or political parties must declare campaign expense and relevant documents to the Election Commission.

- **Vote Counting and Announcements of the Election Result**

Vote counting for party-list and constituency elections must be done at the same time but separately by the election committee staff at each polling unit. The results will be collected in each constituency and reported on a party-list basis and constituency basis. When the constituency election committee finishes checking the results, they will announce the results for both bases and submit them to the Election Commission.

If candidates in a constituency have equal votes, the lot-drawing method will be used by the election commission in that constituency.

• **Re-Election**

A Re-election is required when:

- The Election Commission considers the election in that constituency to be unfair, on the basis of evidence:

- There are any objections from a political party, candidate, or voter. An objection must be submitted to the Election Commission within
30 days after the result is announced in the case of fraud, and within 180 days in the case of spending over the allowance.

3.8 Senate:

Function of Senate:
- To scrutinize draft laws that have passed the house.
  * To sit with the house to consider.
  * Matter related to monarchy and constitution.
  * Important procedural matters.
  * War or peace declaration and ratification international treaties.
  * Important legislations turned down by the house (upon Gov. request etc.)
  * To control the administration by
  * Written interpellation.
  * Setting up commissions to make proposals.
  * Calling for general debate (without voting on any motion)
  * To nominate persons, for royal appointment, to sit in different organs under the constitution.
  * To impeach allegedly corrupt politicians of officials.

3.8a Electoral System of Senate

Introduction to the Senatorial Election in Thailand

The Senate of Thailand was first established in accordance with the Interim Constitution of the Kingdom of Thailand B.E. 2490 (1947) which
provided that "The national Assembly consists of the Senate and the House of Representatives. The Senate consists of members which the King appointed in equal number of members of the House of Representatives." Under the Act, the term of the Senate was four years.

Under the new "People's constitution" of Thailand B.E. 2540 (1997) (hereinafter "the Constitution"), the National Assembly is also composed of the Senate and the House of Representatives. However under the Constitution, The Senate is to be composed of two hundred members, and for the first time ever in Thailand's history, these two hundred members of the Senate are to obtain their positions through the electoral process.

The term of the Senate is six years as of election day. The Members of the Senate can not hold their position for more than two consecutive terms. Under the transitory provisions of the Constitution, the first Senate election was to be held within sixty days before the expiration of the existing Senate, or before March 21, 2000. As such, the Prime Minister and the Election Commission agreed that the first Senate election be held on March 4, 2000. The election is to be by direct suffrage and secret ballot.

**Senatorial Election Schedule**

- **Chronology of events for the Thai Senatorial Election**
- **Division of Constituencies and senatorial seats**

All persons having the right to vote at an election of senators may cast a ballot for one candidate in their constituency. In the election of senators, each Changwat (province) is to be regarded as one constituency. In the case where a Changwat has more than one senatorial seat, the
candidates who receive the highest number of votes in respective order will be elected as Senators up to the number of seats available. Under the Constitution, the number of Senatorial seats in each Changwat is determined in accordance with the procedure set out in section 102,

- **Election Campaign**

For MP election: freedom to campaign unless forbidden by law

<table>
<thead>
<tr>
<th>For senate election</th>
<th>Equity in campaigning</th>
</tr>
</thead>
<tbody>
<tr>
<td>Campaign is restricted to what is written in law</td>
<td></td>
</tr>
<tr>
<td>The only form of campaign allowed is the &quot;introduction of candidates&quot;</td>
<td></td>
</tr>
</tbody>
</table>

* Introduction means giving / presenting candidates bio-data (candidates can't tell what they would do if elected.)

* Introduction by candidates or supporters through printed material only (no speech, no rally etc.)

* Introduction by state includes sending bio data to every households, organizing "candidates, meet people", and allocation of air time.

- **New elements of the senatorial election**

Voting is a duty, those who fail to do so lose some of their political rights until they go to vote.

* Overseas Thais are allowed to vote in 76 locations, only 26,058 persons (= 4%) Registered of which 39.4% actually voted.

* Those who reside outside or will go outside their constituency on election day are allowed to vote in advance in their constituency and actually 1.4% voted.
* Election commission is in charge of organizing election instead of the ministry of interior.
* Local and national egos monitor the election instead of poll watch as appointed by pm office order.

- Candidates

3.8b Qualifications of Senatorial Candidates / Prohibitions

Qualifications of Senatorial Candidates.
A person having the following qualifications has the right to be a candidate in an election of senators:

(1) being of Thai nationality by birth;

(2) being of not less than forty years of age on the election day;

(3) having graduated with not lower than a Bachelor's degree or its equivalents.

(4) Having any of the following qualifications:

(4.1) having his or her name appear in the house register in Changwat where he or she stands for election for a consecutive period of not less than one year up to the date of applying for candidacy;

(4.2) having been a member of the House of Representatives in Changwat (province) where he or she stands for election, a member of a local assembly or a local administrator of such Changwat before;

(4.3) being born in Changwat where he or she stands for election;
(4.4) having studied in an education situated in Changwat where he or she stands for election for a consecutive period of not less than two academic years before;

(4.5) having served in the official service before or having had his or her name appear in the house register in Changwat where he or she stands for election for a consecutive period of not less than two years before.

A person under any of the following qualifications shall have no right to be a candidate in an election of senators:

(1) being a member of or holder of other position of a political party;

(2) being a member of the House of Representatives or having been a member of the House of Representatives and his or her membership has terminated for not yet more than one year up to the date of applying for the candidacy;

(3) being or having been a senator in accordance with the provisions of this Constitution during the term of the Senate preceding the application for the candidacy;

(4) being under any of the following prohibitions:

(4.1) being addicted to drugs;

(4.2) being an undercharged bankrupt;

(4.3) being of unsound mind or of mental infirmity;

(4.4) being a Buddhist priest, novice, monk or clergy;

(4.5) being under suspension of the right to vote.
(4.6) being detained by a warrant of the Court or by a lawful order;

(4.7) having been sentenced by a judgment to imprisonment for a term of two years or more and being detained by a warrant of the Court, except for an offense committed through negligence;

(4.8) having been ordered by a judgment or an order of the Court that his or her assets shall dissolve on the State on the ground of unusual wealthiest or an unusual increase of his or her assets;

(4.9) having been ordered by a judgment or an order of the Court that his or her assets shall dissolve on the State on the ground of unusual healthiness or an unusual increase of his or her assets;

(4.10) being a government official holding a permanent position or receiving salary except a political official;

(4.11) being a member of a local assembly or a local administrator;

(4.12) being an official or employee of a State agency, State enterprise or local government organization, or other State official;

(4.13) being an Election Commissioner, an Ombudsman, a member of the National Human Right Commission, a judge of the Constitutional Court, a judge of an Administrative Court, a member of the National Counter Corruption Commission or a member of the State Audit Commission;

(4.14) being under the prohibition from holding a political position under Section 295 of the Constitution;
(4.15) having been removed from office by the resolution of the Senate under Section 307 of the Constitution; provided that, from the date of the resolution to the election day, the period of five years has not elapsed.

**Prohibitions**

To assure the neutrality and independence of the Members of the Senate, section 36 of the organic law on political Party B.E. 2541 (1998) stipulates that political parties shall not assist or support senatorial candidates directly or indirectly. Section 91 of the organic law on an election of the Members of the House of Representatives and the Members of the Senate B.E. 2541 (1998) stipulates that senatorial candidates shall not "campaign" Senatorial candidates, however, are allowed to "introduce" themselves to voters. An underlying assumption not these rules is that senatorial candidates are already known in each Changwat for their works and qualification, and thus do not need to campaign in the manner ordinarily seen in election contests.

For the purpose of equal introduction of candidates in an election, the State shall carry out the following acts:

(1) causing notices and posters relating to the election and candidates in an election to be posted;

(2) publishing and furnishing to persons having the right to vote document relating to an election and candidates;

(3) providing places and allocating radio and television broadcasting time for introducing candidates;

(4) carrying out other acts as prescribed by the Election Commission.

**Self-Introduction Method**
"Self-Introduction" means the presentation of senatorial candidate's personal information, pictures of a candidate or pictures of a candidate with his or her spouse and children, education background and work experiences. Each senatorial candidate may publicize his or her self-introduction in the following ways:

(1) pamphlets or flyers size 32 cm X 46 cm not more than two times of the total number of voters in his or her constituency;

(2) posters or billboards size 45 cm X 65 cm not more than two times of the total number of voters in his or her constituency;

(3) Booklets size 21 cm X 30 cm not more than fifty percent of the total number of voters in his or her constituency;

Each candidate must put his or her number in his or her self-introduction documents. The printing date as well as names and addresses of owners, printers, printers and publishers must also be mentioned in self-introduction documents.

Loud-speakers may not be used by senatorial candidates to introduce themselves. The distribution of self-introduction flyers or pamphlets cannot be made in public areas. Governors of Changwat, the Permanent Secretary of Bangkok, Directors of Khet in Bangkok, Municipalities, the permanent Secretary of Pattaya and Permanent Secretaries of Tambon Administrations must specify venues for candidates to place their self-introduction documents. The Communication Authority of Thailand must facilitate the distribution of self-introduction documents by postal service. Each senatorial candidate is responsible for expenses in this regard.
The Election Commission must coordinate with state authorities to distribute documents related to an election and candidates to voters. The Election Commission must arrange venues as well as radio and television airtime for candidates to introduce themselves.

- **State-Introduction**
  
  **Self-Introduction Expense**

Each senatorial candidate must submit reports on expenses spent in self-introduction with receipts and evidence to the Provincial Election Commission within ninety days after the results of the election are announced.

Any person is entitled to check and make a request to the provincial Election Commission for copies of self-introduction expenses reports at his or her own expense.

**Prohibitions**

The Election Commission has issued a set of “prohibitions” regarding the extent of senatorial candidate's self-introduction. Under these prohibitions, Senatorial, Senatorial candidates may not:

1. Hand out self-introduction cards containing symbols or signs (such as a ticked box) that lead people to cast votes for them;

2. Distribute stickers to be affixed on vehicles unless they are their own or those with the owners' permission;

3. Put up posters in a way that violates the Cleanliness Act, the Election Act and other laws. Permission must be obtained for display of the posters in public places;
(4) Print anything such as miniature calendars on the self-introduction documents;

(5) Hand out pamphlets or flyers without permission from the owners of the premises;

(6) Mail gifts or greeting cards of unusually high value to anyone. The gifts and cards must not mention, in print or otherwise, the senate candidacy;

(7) insert self-introduction cards in newspapers or books for public sale;

(8) Use loud-speakers to introduce themselves at parties;

(9) have the hosts or masters of ceremony of the parties introduce them;

(10) Sponsor or donate to charitable events;

(11) Promote their candidacy during radio or television shows if they run them or are media personalities;

(12) Distribute clothes with the candidate's name printed on them;

(13) Introduce themselves on websites or though other electronic medium;

(14) Introduce themselves at monthly meetings of Kamnan, village headmen, or other local leaders. Candidates authorized to call meeting of private organizations are to refrain from doing so.

Senatorial candidates are also advised not to accept invitations to sing or speak at parties.

**Penalties**

Violation of Section 91 (that prohibits campaigning) is a criminal offense and subject to the following penalties:

- (1) one to ten years imprisonment;
- (2) 20,000 to 200,000 baht fine;
- (3) Disentranced chessmen of the right to vote for ten years.
The Election Commission may also file a civil lawsuit demanding a candidate to compensate expenses in the organization of a new election. The court of justice shall give a final decision in case there is a disagreement of the self-introduction and campaign procedures.

**Power and Duties of Election Commission**

According to the Constitution of the Kingdom of Thailand B.E. 2540, Chapter VI, Part 4, Section 136: "The Election Commission Consists of a Chairman and other four Commissioners appointed, by the King with the advice of the Senate, from persons of apparent political impartiality and integrity."

According to the Organic Law on the Election Commission Chapter I, Section 10 " The Election Commission shall have the power and duties as follows:

1. To control and cause to be held or hold an election and a voting at a referendum as provided by law in an honest and fair manner;

2. To issue notifications determining all activities necessary for the execution of organic law on

- The election of members of the House of the Representatives and senators
- political parties
- The voting at a referendum and the law on the election of members of local assemblies or local administrators;
3. To give orders instructing government officials, officials or employees of a State agency, State enterprise or local government of other State officials to perform all necessary acts under the organic law on

- The election of members of the House of the Representatives and senators, and the law on or local administrators;

4. To issue rules as a guidelines in the performance of a person who appointed to have the power and duty with respect to the election or the voting at a referendum;

5. To determine a constituency for an election on a constituency basis and to provide a roll of electors;

6. To conduct investigation and inquiries for fact-finding and decision on arising problems or dispute under organic law on

- The election of members of the House of the Representatives and senators; and the law on or local administrators;

7. To order a new election or a voting at a referendum to be held in any or all polling stations or to order a new counting when there occurs convincing evidence that the election or the voting at a referendum in that or those polling stations have not proceeded in an honest and fair manner, under the rules and procedure prescribed by the Election Commission;

8. To announce the result of an election or the voting in a referendum;
9. To conduct of, or to co-ordinate with any State agency, local government, State enterprise or other State agencies, or to support a private organization to conduct of education for the people relating to a democratic regime of government with the King as Head of the State.

10. To prepare an annual report and comments for submitting to the National Assembly; 11. To perform other activities as prescribed by this organic law, other organic law or other law to be the power and duties of the Election Commission"
The ECT has organized the House and Senatorial, and also local elections. Referendum, and political parties are under our supervision, as well as providing political education, facilitating signature collection, and organizing local impeachment vote.

**Power and Duties of Provincial Election Commission**

According to the Organic Law on the Election Commission Chapter I, Section 13,

"*The Election Commission shall entrust the election committee of Province to perform the following duties;*

1. To hold the election and the voting at a referendum in that province;

2. To suggest a division of constituency for the constituency election to the Election Commission;

3. To collect and inspect data relating to a number of voters or voters at a referendum;

4. To suggest to the Election Commission to appoint a person who has authority with respect to the election or the voting at a referendum prescribed by the organic law on

- The election of members of the House of Representatives and senators,
- The voting at a referendum or the law on the election of members of local assemblies or local administrators;

5. To perform other activities with respect to the election or the voting at a referendum; Rules and procedure to perform the duties of an election committee of Province shall be prescribed by the Election Commission."

Election Commission of Thailand {ECT} Structure
This is the structure of the Election Commission of Thailand. There are five members here. And each province has an election commission having 5, 7, or 9 members, so the total number is 424. And these are permanent. And for each general election, there is set up of an election commission at the constituency level.
There are vote counting committee, about 300 persons per constituency, which accounts for all 120 thousand people. There are seven persons at the polling station. At least three appointed by election commission, 4 or more coming from political parties. But if parties send only few, then they are to be appointed more than 3 to have at least 7. So in most places there are 7, with few people from parties, and one director, one or two security officers, and one volunteer from NGOs.

• **Election Officers**

*Directors of Polling Stations*

The Director of the Provincial Election Commission must appoint a government official living in each constituency to be the Director of the Director of the Polling Station. The Director of the Polling Station has the following duties:

(1) Support and facilitate the Polling Station Commission so as to assure that an election shall be conduct in good order;

(2) Perform duties as instructed by the Election Commission, the Provincial Election Commission, the Constituency Commission, the Director of the Provincial Election Commission and the Director of the Constituency Commission;

(3) Appoint persons as his or her assistant.
**Security Officers**

The Commissioner General of the Thai Police must instruct the Commander of the Provincial of District Police to provide at least two security officers in each polling station. Their names will be submitted and announced by the Election Commission. Security officers have power on behalf of the Election Commission to file complaints to investigation officers of the police against any violation of the election rules and regulations.

**Termination of Positions**

Positions of the members of the Polling Station Commission and the security officers will be terminated after the ballot boxes are delivered. Positions of other election officers will be terminated after they have finished their duties in the election. Their positions will also be terminated upon death, resignation, lack qualification as election officers or when they are prohibited to be election officers by the Election Commission or are removed from positions due to lack of political neutrality or behavior likely to cause damage.

- The Election Commission has the power to remove the Constituency Commission and the Director of the Constituency Commission.
- The Director of the Constituency Commission has the power to remove the Director of the Polling Station Commission.
- The Constituency Commission has the power to remove other election officers in each constituency.
3.9 Public Participation:

The progress of democratization has been facilitated by the growing realization that life is better under democratic openness. This acceptance rests on the understanding that democracy not only ensures liberty to citizens and entitles them to enjoy human rights, but it also promotes a nation’s closer cooperation with other nations, bringing the promise of peace and prosperity as a result of increased international harmony. This is so because democracy necessarily involves active citizen participation. It explains why, in carrying out political reform to achieve full democracy, political participation is often featured as one of the key issues on the agenda.

The 1997 constitution attaches great importance to citizen participation in political activities, as indicated in several of its sections, to the extent that the charter has been given the epithet “the Constitution for citizen participation”.

The definition of democracy is somewhat dynamic as it is likely to change with the times and society. Extensive discussion continues as to its true meaning. But the most essential aspects of democracy are competition, participation, and political freedom. The strong point of democracy is that it promotes the participation of all actors and provides the possibility of solving conflicts through dialogue rather than by force of arms. The process of democratization
internationally can, therefore, help promote peaceful relations in the State and among states\(^5\) (Boutros-Ghali, 2000:106).

In addition, modern democracies also produce peace keeping and prosperity\(^6\) (Dahl, 2000: 45).

Sir Arthur Lewis, the Nobel Prize winning economist states that the primary meaning of democracy is that “all who are affected by a decision should have the chance to participate in making that decision either directly or through chosen representatives”. To exclude losing groups from participation in decision-making clearly violates the primary meaning of democracy\(^7\) (Lijphart, 1999:31). Democracy provides opportunities for effective participation, equality in voting, gaining enlightened understanding, exercising final control over the agenda and inclusion of adults. If some members of a polity are given greater opportunities than others to express their views, their policies are more likely to prevail\(^8\) (Dahl, 2000: 38).

It is clear, from these theorists, that citizen participation is an important factor in strengthening democracy. Throughout the process of making binding decisions, citizens ought to have an adequate opportunity, and an equal opportunity, for expressing their preferences as to the final outcome. They must have adequate and equal opportunities

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for placing questions on the agenda and for expressing reasons for endorsing one outcome rather than another\(^9\) (Dahl, 1989: 108-14, 220-223).

In its broadest sense, public participation, a two-way communication process that affects decisions, operations, and benefit-sharing, aims to make information available to the people and to encourage free expression of opinions on projects and various decision-making matters of the government that are bound to have an impact on the living conditions and way of life of the people at local and national levels.

Public participation is not only the major condition of participatory democracy, it also contributes to the government’s judicious decision-making in resolving a variety of problematic matters and projects, thus reducing confrontations in society and generating the highest possible benefit to communities and the country.

In practice, however, the extent to which public participation exists at each level largely depends on whether the government attaches any importance to the idea of popular participation\(^10\) (King Prajadhipok’s Institute, 2002).

The concept of public participation is accepted worldwide and used as an instrument to help lower conflict over natural resource and environmental management. Thailand also accepts this principle and has

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included it in the 1997 Constitution in order to promote and protect rights and liberties of the people, provide for public participation in the governance and inspecting the exercise of State power, as well as improving a political structure to achieve more efficiency and stability.

Encouraged by the new Constitution, the people of Thailand are demanding the right to participate in all manner of activities, and do not hesitate to show their strength by taking advantage of mandated opportunities for participation.

People in Thailand are the voters who can be the observers in the Election Observation. They are concerned citizen who become members of political parties, participate in their activities and make financial contributions to political parties. That is not enough, they can join the ECT as the Election Officers.

**Qualification of Voter:**

A person having the following qualifications has the right to vote at an election:

(1) Being of Thai nationality; provided that a person who has acquired Thai nationality by naturalization must hold the Thai nationality for not less than five years;

(2) Being not less than eighteen years of age on 1st January of the year of the election;

(3) Having his or her name appears on the house register in the constituency for not less than ninety days up to the date of the election.

A voter who has a residence outside the constituency under Section 103 of the Constitution within which his or her name appear in the house register, or who has his or her name appear in the house register in the
constituency for the period of less than ninety days up to the date of the
election, or who has a residence outside the Kingdom of Thailand will
have the right to cast ballot in an election in accordance with rules,
procedure and conditions provided by the organic law on the election of
members of the House of Representatives and Senators.

A person under any of the following prohibitions on the Election
Day is disfranchised:

(1) Being of unsound mind or of mental infirmity;
(2) Being a Buddhist priest, novice, monk or clergy;
(3) Being detained by a warrant of the Court or by a lawful order;
(4) Being under suspension of the right to vote.

Each voter may cast his or her ballot for only one candidate in the
election.

Objectives of Election Observer:
- Providing some practical techniques for Volunteer Election
  Observers (VEOs) in identifying leads, irregularities, and/or violation of
election law, and
- Providing some basic guidelines for Volunteer Election
  Observers (VEOs) and proper procedures in gathering and compiling
evidence against any violation of election law and/or any rule &
regulation on electoral process, enabling him/her to properly inform
and/or report any suspected fraudulent practices to the Volunteer Election
Fraud Complaint Officer(s) (VEFCOs).
**Election Officials:**

Any of government officials, which includes officials from various state agencies, state enterprises, or personnel employed by any of the state agencies and any of the Election Officials at all levels. Their conducts and activities are subject to be observed and monitored, especially when any of the them may act or carry out any activities in favors of, or in support of any candidate, or against any of the candidates. According to the election law, these officials are required to be strictly impartial, and must refrain from acting in any way to the advantage or disadvantage of any candidate.

**Election Law:**

Under the new *"People's Constitution" of Thailand B.E. 2540 [1997]*, The Senators selected the 5 members of the Election Commission of Thailand [ECT], appointed by the king.

The Chairman of the Election Commission shall have the charge and control of the execution of the organic law on the election of members of the House of Representatives and senators, the organic law on political parties, the organic law on the voting in a referendum and the law on the election members of local assemblies or local administrators and shall be the political-party registrar.

The next chapter discusses the case study of general election of 2001, giving special reference to Songkhla Province.