

The Legal Effects of the Lifting of Martial Law on the Power of the President to Legislate

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Upon the lifting of Martial Law in the country by virtue of Proclamation No.2045, legal questions arose as to whether or not the said lifting carried away the power of the President to Prime Minister. This Article presents the two views and thereafter the Author's take on the issue.

Supporters of the first view believe that the lifting also extinguished the President's power to legislate. It relies mainly on Amendment No. 5 of the 1973 Philippine Constitution which provides that the President shall exercise legislative powers until Martial Law shall have been lifted. Martial Law being lifted by Proclamation No. 2035, it follows that the President's exercise of the legislative power is also extinguished.

On the other hand, the second view proponents find support in Amendment No. 6 of the 1973 Philippine Constitution which provides that while the lifting of Martial Law terminates the power of the President to legislate, he may still do so in cases of grave emergency or threats or whenever the Batansang Pambasa fails to act on any matter that in his judgment requires immediate action. The proponents also rely on Presidential Decree No. 1737 or "An Act Providing for the Preservation of Public Order and the Protection of Individual Rights and Liberties During Periods of Emergency and Exercise of Extraordinary Executive Power." They claim it is an enabling law that implements Amendment No. 6.

To the Author, the second view must prevail by virtue of Amendment No. 6 and Presidential Decree No. 1737. He clarifies however that the President may not do so unless the any of the conditions set forth in Amendment No. 6 exists.