

# May The President Of The Philippines Enact Health Ordinances For The City Of Manila?

By VICENTE ABAD SANTOS

The defunct Philippine Legislature inserted a very peculiar provision in the Revised Administrative Code of 1917 which empowers the Governor-General (now the President of the Philippines) to enact a health ordinance for the City of Manila if the City municipal board should *unduly delay* the enactment of a health ordinance which has been recommended by the Director of Health for enactment. This provision is found in section 1019 and the pertinent part of the section reads:

“\* \* \* If the Director of Health shall consider that the Municipal Board is unduly delaying the action relative to any health ordinance duly transmitted to it for enactment, he may appeal, through the Department Head, to the Governor-General, who may direct the Municipal Board to act on such ordinance or may himself approve it with such modifications as are deemed advisable, and every ordinance so approved by the Governor-General shall have the force and effect of law.”

It can thus be seen that the President of the Philippines is by law empowered to enact health ordinances for the City of Manila if the Municipal Board unduly delays the enactment of the same. It is believed that this power given to the President is null and void because it constitutes an illegal delegation of legislative power—a delegation prohibited by our sys-

tem of constitutional government.

This is a pure delegation of legislative power because the enactment of an ordinance is an act of legislation so much so that the law provides that “every ordinance so approved by the Governor-General shall have the force and effect of law” and the law further provides a penalty for violation of the same when it provides in section 2697 that “any person who shall violate any provision of the Public Health Law or any regulation of the Philippine Health Service or order or notice having the force of law and promulgated under the authority of said Public Health Law, for which delinquency no specific penalty is provided by law, shall be punished by a fine of not more than two hundred pesos or by imprisonment for a period not exceeding six months, or both.”

It cannot be said that this is a case wherein the executive may be validly empowered by the legislature to promulgate rules and regulations which have the force and effect of law. The executive can be so empowered only if the legislature has previously declared a policy, determined standards, and fixed limitations. As said by Judge Ranney: “The true distinction is between the delegation of power to make the law, which necessarily involves a discretion as to what it shall be, and conferring authority or discretion as to its execution, to be exercised under and

in pursuance of the law. The first cannot be done; to the latter no valid objection can be made." (Cincinnati W. & Z. R. Co., v. Clinton County Comrs., (1852) 1 Ohio St. 88, quoted in Sinco's Philippine Government, 4th ed. p. 468.)

In the law under consideration it may be said that the legislature has declared a policy, i.e., promotion of public health, and it may even be said that it has fixed a limitation i.e., that the power of President arises only if the municipal board unduly delays the enactment of a health ordinance which has

been recommended for enactment by the Director of Health. But it cannot be said that the law has fixed any standards. What the ordinance shall contain is left alone to the discretion of the President of the Philippines. And it has been held that if the law does not set up an ascertainable standard it is void. (U. S. v. Ang Tang Ho, 43 Phil. 1.) Indeed it may be said that this is delegation running riot. It is not canalized within banks which keep it from overflowing. It is unconfined and vagrant. (Schechter Poultry v. U. S., 79 L. ed., 97 A.L.R. 947.)