

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
TRANQUILINO LAGMAN, DEFENDANT AND APPELLANT.***G.R. No. 45892. July 13, 1938*

Ponente: AVANCEÑA, C.J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-45892/>**AVANCEÑA, C.J.:**

In these two cases (G. R. Nos. 45892 and 45893), the appellants Tranquilino Lagman and Primitivo de Sosa are charged with a Violation of section 60 of Commonwealth Act No. 1, known as the National Defense Law. It is alleged that these two appellants, being Filipinos and having reached the age of twenty years in 1936, willfully and unlawfully refused to register in the military service between the 1st and 7th of April of said year, notwithstanding the fact that they had been required to do so. The evidence shows that these two appellants were duly notified by the corresponding authorities to appear before the Acceptance Board in order to register for military service in accordance with law, and that the said appellants, in spite of these notices, had not registered up to the date of the filing of the information.

The appellants do not deny these facts, but they allege in defense that they have not registered in the military service because Primitivo de Sosa is fatherless and has a mother and a brother eight years old to support, and Tranquilino Lagman also has a father to support, has no military leanings, and does not wish to kill or be killed.

Each of these appellants was sentenced by the Court of First Instance to one month and one day of imprisonment, with the costs.

In this instance, the validity of the National Defense Law, under which the accused were sentenced, is impugned on the ground that it is unconstitutional.

Section 2, Article II of the Constitution of the Philippines provides as follows:

"Sec. 2. The defense of the State is a prime duty of government, and in the fulfillment of this duty all citizens may be required by law to render personal military or civil service."

The National Defense Law, in so far as it establishes compulsory military service, does not go against this constitutional provision but is, on the contrary, in faithful compliance therewith. The duty of the Government to defend the State cannot be performed except through an army. To leave the organization of an army to the will of the citizens would be to make this duty of the Government excusable should there be no sufficient men who volunteer to enlist therein.

In the United States the courts have held in a series of decisions that the compulsory military service adopted by reason of the civil war and the world war does not violate the Constitution, because the power to establish it is derived from that granted to Congress to declare war and to organize and maintain an army. This is so because the right of the Government to require compulsory military service is a consequence of its duty to defend the State and is reciprocal with its duty to defend the life, liberty, and property of the citizen. In the case of *Jacobson vs. Massachusetts* (197 U. S., 11; 25 Sup. Ct. Rep., 385), it was said that, without violating the Constitution, a person

may be compelled by force, if need be, against his will, against his pecuniary interests, and even against his religious or political convictions, to take his place in the ranks of the army of his country, and risk the chance of being shot down in its defense. In the case of *United States vs. Olson* (253 Fed., 2S3), it was also said that this is not deprivation of property without due process of law, because, in its just sense, there is no right of property to an office or employment. The circumstance that these decisions refer to laws enacted by reason of the actual existence of war does not make our case any different, inasmuch as, in the last analysis, what justifies compulsory military service is the defense of the State, whether actual or whether in preparation to make it more effective, in case of need.

The circumstance that the appellants have dependent families to support does not excuse them from their duty to present themselves before the Acceptance Board because, if such circumstance exists, they can ask for deferment in complying with their duty and, at all events, they can obtain the proper pecuniary allowance to attend to these family responsibilities (sees. 65 and 69 of Commonwealth Act No. 1).

The appealed judgment rendered in these two cases is affirmed, with the costs to the appellants. So ordered.

Villa-Real, Imperial, Diaz, Laurel, and Concepcion, JJ., concur.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.