

**THE THIRD PHILIPPINE DELEGATION TO THE FEDERAL COURT OF
AUSTRALIA
UNDER THE SPONSORSHIP OF THE
CENTRE FOR DEMOCRATIC INSTITUTIONS**

REPORT AND RECOMMENDATIONS

**Team Leader
Mr. Justice JOSE C. VITUG**

**Team Members
Mr. Justice CANCIO GARCIA
Fr. RANHILIO C. AQUINO
Judge ARTEMIO TIPON
Judge REYNALDO DAWAY
Judge APOLONIO BRUSELAS**

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Commonwealth of Australia

The Program

The recently concluded visit of the Philippine delegation of judicial officials to the Federal Court of Australia sitting at Melbourne, Victoria (Australia) is part of the continuing judicial education partnership program between the Centre for Democratic Institutions, headed by Dr. Roland Rich, and the Philippine Judicial Academy, headed by its Chancellor, Justice Ameurfina A. Melencio Herrera. The program has already included dialogues by Australian jurists with their Philippine counterparts, among these the Appellate Court Justices Dialogue with two justices of the Federal Court of Australia.

The Team

The team was headed by Mr. Justice Jose C. Vitug (who was accompanied by Mrs. Vitug who was a surrogate mother to the rest of the team). In the team were Mr. Justice Cancio Garcia of the Court of Appeals, Judge Reynaldo Daway, Judge Artemio Tipon (who was likewise accompanied by Mrs. Tipon), Judge Apolinario Bruselas, of the Regional Trial Court and Fr. Ranhilio C. Aquino of the Philippine Judicial Academy.

Mr. Justice Vitug ably steered the group's participation in all activities, occasionally giving instructions on specifics of participation, and seeing to the active involvement of all.

The Philippine Judicial Academy had selected the complement of judges in the light of the area of concern of this particular segment of the program: "Commercial Law and Intellectual Property Law". The three regional trial court judges chosen are judges assigned to resolve corporate disputes transferred to

the courts from the Securities and Exchange Commission under the new Securities Regulation Act.

The Academy also hopes that the members of the team will be able to share with the rest of the Philippine judiciary, through the courses and seminars of PHILJA, the suggestions and insights engendered by this particular Australian visit.

Acknowledgment

Special thanks are due Mr. Pierre Huetter, Executive Officer of the Centre for Democratic Institutions who, from the arrival of the team in Melbourne to its penultimate day, saw to every need of the Philippine delegation and guided it through the entire exercise. Ms. Maina M. Walkley, Honorary Consul of the Philippines at Melbourne, was not only a most gracious hostess, but also gave the team the opportunity to pass on some news to the Filipino community of Victorian, and to dialogue with them.

The members of the team acknowledge with immense gratitude the attention given us by Mr. Chief Justice Michael Black, AC, the justices and the officers and personnel of the Federal Court of Australia. Justice Susan Kenny, who was the moderator for this particular segment of the program, and her assistant Clint Lingard, were always pleasant, accommodating and most helpful.

The Sessions

All sessions were held at the Federal Court of Australia Building, a walking distance away from the Saville Park Suites where the whole team was comfortably billeted. Sessions generally started at 8:00 in the morning and were usually over by 5:00 in the afternoon, with breaks in between for morning and afternoon coffee, and lunch.

The justices and court officials who presided over the sessions were prepared, and every effort was made to make materials available: notes, handouts, including CD's and VHS tapes.

The sessions had the following topics:

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|-----|------------------------------------|-----------------------|
| 1. | The Role of the Duty Judge | Justice Marshall |
| 2. | The Role of the Registrar | District Registrar |
| 3. | Court's Use of Technology | District Registrar |
| 4. | Trade Practices | Justice Goldberg |
| 5. | Video-Conference with J. Nicholson | Justice Nicholson |
| 6. | Corporations | Justice Finkelstein |
| 7. | Intellectual Property | Justice Finkelstein |
| 8. | The Australian Legal System | Prof. Cheryl Saunders |
| 9. | Courts and the Public | Therese McCarthy |
| 10. | Case Management | Registrar Efthim |
| 11. | International Law in Domestic Law | Justice Merkel |
| 12. | Intranet/Internet/Library Use | Petal Kinder |
| 13. | Native Title | Louise Anderson |
| 14. | Mediation | District Registrar |

The planned session on Constitutional and Administrative Law was canceled due to an engagement of Justice Kenny with a court hearing involving a sensational extradition petition.

The Duty Judge

One interesting feature of the Federal Court of Australia – which is both a trial and an appellate court – is the “duty judge”. One of the justices of the Court is a “duty judge” who discharges this duty for a week. He is called upon at all times

of day and night when the need arises. Matters that have to be urgently disposed of – such as petitions for writs or injunctive reliefs – are dealt with by the duty judge who can hear motions and petitions *ex parte* even in his own residence. The duty judge also substitutes for judges who are sick on those matters that allow for a substitution.

The Docket System and Case Management

This is a system designed to equalize the workload of members of the Federal Court. Cases are classified as “panel” and “non-panel” cases. Panel cases are those assigned to a specialized panel of judges. Among the panel cases are:

1. Labor law and Industrial Relations
2. Intellectual Property
3. Admiralty
4. Taxation.

Most other cases are non-panel, and can therefore be assigned to any judge. Once a case is filed, it is assigned to a judge, who is next on line to receive cases. Assignment of cases is so arranged as to equalize the workload of the federal court judges. Once a case is assigned to a judge, it stays with him from the time of initiation to judgment. On the average, a case is disposed of by judgment within eighteen (18) months from the time it is filed.

While there is no administrative penalty imposed on a judge who fails to dispose of cases assigned to him with reasonable dispatch (although Parliament may order inquiries, and subsequently impeach the judge), a judge with a disproportionate number of unresolved cases is virtually non-existent. The collegiality of the Federal Court is such that other justices will, of their own volition, extricate a fellow judge from a web of unresolved cases by helping out.

The Registrar

The Registrar is a peculiar feature of the Australian Federal Court. His Philippine counterpart is the Clerk of Court but he has considerably ampler powers. The Registrar has a *judicial function*: he sits at trials, when so directed by the judge and renders a judgment. Historically, bankruptcy cases were assigned to Registrars. In large measure, they still are, today. There is a two-fold assurance of legality in proceedings before the Registrar:

- a) They are under the supervision of the judge.
- b) The losing party has a right to a *de novo* trial before a Federal Court judge who will not in any way be affected by the judgment rendered by the Registrar.

Parties who do not wish their cases tried by a Registrar may ask for a referral to a judge. Proceedings before a Registrar hold the advantage of being cheaper and faster. They also conserve judicial resources for more important cases.

Aside from presiding over cases referred to him by the judge, the Registrar also acts on *urgent injunctions*. Application is made to the Registrar who then makes arrangements with the duty judge – possibly for an *ex part hearing* at the judge's home should the application be made out of office hours. Immigration cases are particularly urgent cases.

Relative to cases tried by the judge, the Registrar sees to the preparation of the *court book* which is in effect a rollo for each of the parties distributed to the court and to the adverse party. Thus, in one neat volume (or in several neat volumes) are compiled all the pleadings, exhibits and documents that will be used and referred to at trial. It is the Registrar's duty to see that the court books are kept at reasonable lengths – that only documents that will actually be used and referred to are included.

The Registrar is also an *admiralty marshal*. He arrests ships under the maritime and admiralty laws. There is, on display in the fabulous Federal Court building, an admiralty mace that the admiralty marshal carries before the judge and places up front in court when it sits in admiralty.

A key function of the Registrar is *mediation*. The mechanics of mediation in the Federal Court system will be discussed further below.

Technological Advances

The Australian Federal Court has commenced employing information technology (both hardware and software) in the following areas:

1. *Electronic filing*: allowing for cases to be filed by litigants who download forms (on Adobe format) from the website of the Court, pay legal and docket fees by credit card, and receive acknowledgement – including court stamp and registrar's signature – electronically.
2. *E-Court*: The Federal court is itself an e-Court in those cases that the judge decides can be disposed of in this fashion. Pleadings are filed electronically; affidavits are electronically signed and sent; judgment is e-mailed. Quite obviously, not all cases lend themselves to resolution in this fashion, but there is a growing number of cases assigned for disposition by the e-Court.
3. *Video-Conferencing*: coupled with the use of satellite telephone and fax (when these are necessary) allows witnesses several miles away from court to testify. Testimony given through tele or video conferencing is now a frequent occurrence in Australia. Fr. Aquino inquired whether or not testifying by way of Internet videolink would be allowed by the Australian Rules, and his question occasioned some thought on the part of Justice Nicholson – who confessed that

he had not yet been confronted with the question but found it useful – who later affirmed that it would be so allowed. In the Philippines this mode might be cheaper than long-distance calls which video-conferencing would require, since Internet connections depend on local lines.

Trade Practices

Foremost in existing Australian trade practices law is the proscription of all forms of restraint to competition. Whatever has the effect of substantially restraining competition is illegal and contractually void. When asked how Australia equipped and prepared its judges to deal with the complex questions of economics that trade practices and competition cases call for, Justice Goldberg responded that it was pursuant to the adversarial tradition to which Australia strictly adhered to leave it to the parties to advance their evidence. He also expressed concern that many times, the so-called “expert witnesses” presented to testify in highly complex economic and commercial cases were in “professional witnesses”, available to whomsoever could afford their fees.

Justice Goldberg made the very valuable suggestion that equipping the judges for commercial cases might take the form of a dialogue with trade practitioners. A tripartite exchange between judges, trade practitioners and academics would be helpful towards making the judge aware of the complex problems involved in commercial law cases, as well as with the problems lawyers and trade practitioners have with courts that sit in judgment over such cases.

The underlying *ethos* of trade practices law in Australia is that competition is good for the public welfare. Consequently, price-fixing is a *malum prohibitum*. Whatever may be the intention behind fixing prices – and regardless of its actual effects – it is always a violation of law.

Prohibited then under trade-practices law are:

1. *Horizontal dealing*: dealings among competitors in such wise as to produce cartels, or to eliminate competition.
2. *Price fixing*
3. *Vertical dealing*: the exploitation of one's substantial market power.
4. *Resale price maintenance*
5. *Prohibited acquisitions*.

This last item was a novelty for many of us, although many features of the Australian trade-practices law were! A corporation is prohibited from acquiring the shares of another corporation if, as a result of this acquisition, competition would be diminished!

Video-Conferencing

Justice Nicholson spoke through video-conferencing from Perth, and his session dealt with video-conferencing. The following were highlights of his session:

1. Video-conferencing was particularly useful in special leave applications (motions), so that it was not necessary for a petitioner to be physically before the Court before which he had filed his motion for leave or his petition.
2. Testimony could also be rendered by video-conferencing as was being so rendered in Australian courts. To allow the court to observe the demeanor of the witness, the judge had control of the panning device that allowed the camera to capture the demeanor and conduct of the witness while testifying.

3. The camera could also be made to focus on the document the witness was handling, thus allowing the judge – situated probably several hundreds of miles away from the place where the witness was testifying – to read the document in the hands of the witness.
4. It was necessary for courts, intending to employ video-conferencing technology, to produce a protocol for video-conferencing first. Such a protocol would be attached to the court rules and would lay down the procedure and the processes for the use of the device in court proceedings.
5. There had to be an empowering rule in the Rules of Court generally allowing video-conferencing in the rendering of testimony and in appearances.

Corporations and Intellectual Property

Justice Finkelstein's discussion of corporations and intellectual property broadened to include jurisdiction of federal courts and the workings of the Australian federal judiciary as it dealt with corporations and intellectual property cases.

Australian corporation law was basically the English Companies Act of the 19th century. In the 1950's there evolved different provisions of law for each state and the two territories. In 1961, some end was brought this mosaic of corporation laws by the Uniform Company's Act, but the uniformity was short-lived, lasting only ten months. In 1980, Parliament passed the Company's Code, and in 1990, the new Corporations Law. Parliament vested in federal courts jurisdiction over company matters.

Intellectual property is similarly a federal matter in Australia, and there is, in the Federal Court, a special panel dealing with intellectual property cases.

Injunctions in such cases are among the most frequent matters dealt with by Registrars and resolved by duty judges.

Copyright law in Australia is still in the main common law. In this the Philippines enjoys considerable advantage, its Intellectual Property Code having been crafted only lately, and in response to the country's obligations under the World Trade Organization.

Very significantly, there are distinct reports for Intellectual Property Cases running to several volumes as there are separate reports for trade practices cases.

The Australian Legal System and International Law

Australia celebrates the centennial of its federation this year. The federation was born in 1901, the year that marked the end of a process of constitution-making. It brought the colonies together and from them all constituted one jurisdiction. The result was the *Commonwealth of Australia*. In answer to Justice Vitug's query on the appropriateness of "commonwealth" – a term the Philippines itself used prior to its independence from American sovereignty – Prof. Saunders remarked that there was nothing to suggest Australia's dependence on any foreign sovereignty.

Appeals to the Privy Council from decisions of the High Court were effectively ended by the combined effects of the Privy Council (Limitation of Appeals) Act 1968 and the Privy Council (Appeals from the High Court) Act 1975. However, a right of appeal to the Privy Council remained from State courts, in matters governed by State law, until the passage of the Australia Acts, both State and Federal, in the 1980s.

Quite interestingly, however, it was only in 1986 that the British Parliament passed what it called "The Australia Act" declaring that it could no longer pass laws for Australia – in effect acknowledging Australia's independence. In this same year, all appeals from the Australian High Court to the Privy Council came to an end, and although, constitutionally, there is a way of going to the Privy Council, the High Court of Australia has declared that it will no longer certify cases to the Privy Council.

Between the two strands of common law – British common law and American common law – it is along the lines of the former that Australia has hewn its own legal system, although there is increasing prodigious use of American jurisprudence. After 1986, however, with the end of appeals to the British Privy Council, Australia commenced developing its own legal system and tradition.

Peculiar to the Australian constitution is the fact that, although modern, it has no Bill of Rights. The Federal Court of Australia is, in effect, the guarantor of the rights of the citizenry. There is, however, no ground-swell for the crafting of a Bill of Rights. Not only are the traditional rights of citizens guaranteed by common law. The very structure of democratic government, it is believed, is sufficient to guarantee citizens their rights.

The federal court system, which was the most interesting feature for us, on the Philippine team, was "super-imposed" on a pre-existing state court system. The High Court of Australia – which is its Supreme Court – has appellate jurisdiction over cases decided by the Federal Court, and also over state matters. Because it is to the High Court that all final appeals are directed – whether federal or state – it is possible for one Australian common law to emerge.

Very interestingly, in some cases, state courts are also given federal jurisdiction. It is Parliament that has conferred on state courts federal jurisdiction. Obviously,

this is one way of strengthening the working of federal law in the states. There are, however, federal (constitutional) minimum standards for state courts. As regards federal courts, however, the reverse is not true: federal courts cannot be given state jurisdiction. States are obviously jealous about what powers it is they surrender to the federation.

Mr. Justice Vitug requested Fr. Aquino to write a paper on the federal court system in the Commonwealth of Australia and in the United States. He offers the federal court system as the judiciary's move of preparedness for plans to respond to perennial ethic problems by turning to federalization.

Australia clarified its posture towards international law in the genocide cases filed against the Prime Minister. He had been charged with genocide as defined by international law. The High Court held that only Parliament could define crime for which Australians could be charged before Australian courts.

In keeping with the tradition of the United Kingdom, Australia adheres to the "transformation" doctrine – requiring that Parliament transform treaties and conventions into domestic law so that they may be enforced in Australia. However, there is also a rule of construction that directs courts to interpret Australian law in conformity its international obligations. Jurisprudence also directs the courts "to take international law" into consideration.

Native Title Coordination

One of the liveliest issues and developments in the Australian federal judiciary this time is native title. Not too long ago, Australian law did not recognize the claim of indigenous peoples to ownership on the basis of occupancy, possession and use since time immemorial. The landmark case of *Mabo v. The State of Queensland (No. 2)* apparently brought about a radical jurisprudential change,

and from that time, native title has captured the imagination of the Australian federal judiciary. Many innovative uses of technology for judicial proceedings as well as sittings of the court in out-of-the-way places have been for native title cases.

The Philippine delegation immediately recognized the kinship of this new feature of Australian law and jurisprudence with the "Indigenous Peoples Rights Act" and the recent decision of the Supreme Court that saw its membership divided evenly on both sides of the legal debate over its constitutionality.

There is a Native Title Tribunal that does not however adjudicate. Courts adjudicate on native title, but the tribunal takes charge of registration, offers the possibility of mediation, hears objections to applications. Its administrative decisions can be reviewed by the courts.

Native title, however, is awarded only to groups and communities -- and only through them to individuals. A native title claim is therefore not the claim of an individual, but that of a community or of an ethnic group.

Quite interesting is the fact that with the emergence of the development in law recognizing native title, the judges submitted themselves to training on native title -- and one of their membership, who had developed expertise in the subject -- volunteered to school his colleagues in its intricacies. Present legislation -- in contrast to previous legislation -- has made applicable the rules of procedure and of evidence applicable in regular proceedings. When we expressed surprise that such an area of law that would require special proceedings and accommodation for the condition and capacities of indigenous peoples -- who will often be the witnesses -- the lecturer remarked that Australian procedural law was flexible enough and shunned the rigidity of more conservative systems.

The *in situ* hearings of Court, in the Australian outback, are in themselves an interesting and very instructive phenomenon, not only on the use of technology (such as satellite phones, wireless protocols for Internet access, etc.) but also on the preparedness and determination of Australian federal court judges to bring the federal court to indigenous peoples. The lecturer did remark however that even if the Federal Court accommodated indigenous peoples by bringing proceedings to their doorstep, the court sittings remained rigid and strictly in keeping with the rules.

The Courts and the Public

The Australian Federal Court has an office that has launched a vigorous public information drive to familiarize the Australian public with the workings of the federal court and its role in a constitutional and a democratic government.

Some of the output of this office include:

1. Printed material on the Federal Court: e.g., brochures, pamphlets, posters;
2. Internet postings, including an up-to-date and well maintained Website;
3. Television programs.

This public information office has two principle guiding aims:

1. Informing the public on the function and the workings of the Australian federal court;
2. Maintaining within the court a lively interest in communicating and informing.

The office has found it very useful to provide the mechanism of feedback: keeping the court aware of public perception.

Mediation

All of the sessions were instructive and interesting, but mediation was particularly engaging. When the period was over, Mr. Justice Vitug decided that the group forego court observation and continue with mediation.

In many respects, the session was particularly interesting to us from the Supreme Court because mediation in Australia -- which has proven to be very successful and highly accepted -- contrasts with the beginnings of mediation in the Philippines.

There is *court-annexed mediation*, and by this is meant that the Registrar of the Court is the mediator. This is the preferred mode, and a greater number of Australian litigants opt for Registrars as mediators, rather than turning to private mediators. One reason is that costs are lower, and the degree of confidence in Registrars as mediators is higher. There are private mediators, and they usually charge considerably higher fees than does the Court for the service of Registrars as mediators.

For mediation to commence, the order of the judge referring the case to mediation is necessary. Thus, mediation is *court-referred*. The judge, in fact, can compel the parties to submit to mediation. In commercial law cases, mediation has been used in large measure with very felicitous results. Among the cases most frequently submitted to mediation are:

1. Trade practices

2. Copyright
3. Industrial relations
4. Bankruptcy
5. Corporations
6. Discrimination.

When Justice Vitug and Fr. Aquino remarked that mediation in our experiments thus far was confined to relatively small cases, the moderators of the session remarked that mediation would hardly be helpful.

Whether Registrar or private mediator, however, one enjoys who mediates enjoys the same immunity: Evidence introduced at mediation is inadmissible, and the mediator cannot be compelled to testify as to the offers or proposals made by the parties.

There is absolutely no record of mediation proceedings so that utmost confidentiality is maintained.

Mr. Justice Vitug expressed surprise at why PHILJA had chosen to allow majority of its mediators to be non-lawyers, as he concurred with the Australian moderators that it was the far wiser thing to do to select mediators who were lawyers. In fact, the more complicated the issues, and the higher the stakes, the more useful mediation was -- but the higher its demands also on mediators.

The Australian mediators shared some useful tips on the practical aspects of mediation:

1. It was important for the mediator to give a good introduction.
2. The principals had to express willingness to sit for mediation, or their agents had to make clear that they had authority from their principals to

settle.

3. The mediator had to assure the parties of neutrality as well as confidentiality.
4. Silence is one of the mediator's most potent tools.
5. A whiteboard is a very useful device in mediation: When issues, claims, proposals are written on it, parties can take some distance from them and study them in a more detached, less self-centered fashion.
6. The mediator must be familiar with the legal issues. He must also be prepared to cope with the emotional problems.
7. Settlement alone is not the measure of success in mediation. To be successful, mediation must have lasting effects, otherwise the parties will find other ways of coming to court.
8. Mediation can be successful even if no settlement is reached, as long as trial days are reduced -- and this happens when at mediation proceedings, the parties can really verbalize what their real interests are, and can distinguish between key interests and spin-offs.

Australian mediators are bound by a fixed fee. The cheaper mediation is, the more useful it is as a method of diversion from the courts. It is **abhorrent** for mediators to claim a their fee any part of the settlement as this makes them interested parties, and makes the litigants suspicious of their motives.

Proposals and Recommendations

1. The method that was used to orient our delegation to the Australian federal judiciary might be profitably used by PHILJA when it assumes the role of judicial educator for the region, i.e., Southeast Asia, as I proposed earlier. Sessions are well-planned but not rigidly structured -- and the participants are in small groups at one time. They are brought to various court rooms or chambers

to meet with the justices and court officials who serve as lecturers and facilitators. We found out that as effective as straightforward lectures were dialogues and discussions.

2. It might be helpful for our superior collegiate courts, i.e., the Sandiganbayan, the Court of Appeals and the Supreme Court, to study the duties of the duty-judge under the Australian federal court system and to adopt a similar system of assigning duty-judges.

3. The Court of Appeals may profitably wish to re-think its position on panel specialization, as well as adopt similar mechanisms as the Australian federal court has done through its docket system to even out the case load for each justice. This might be of particular importance when dealing with the specialized concerns of corporation law, commercial transactions and intellectual property cases.

4. The jurisprudence that has been evolved by the Australian federal court in the native right title case may be profitably studied in the Philippines towards the evolution of our own jurisprudence on indigenous peoples' rights.

5. It is important that our national courts develop a culture -- partly through a more aggressive information drive both towards the public and towards its own members -- that distinguishes them from regional trial courts.

6. The rules for mediation as now currently found in the Australian procedural rules, and hereto attached as annex should be a reference for the training of our local mediators.

7. Court referred and court annexed mediation should be resorted to in cases involving commercial and corporation disputes. It is preferable that the mediators be trained lawyers, and the Clerks of Court should receive instruction and familiarization as mediators. They should be entitled to a fixed fee as mediators, and should not in any way be interested in the financial outcome of the case. It is also suggested that Philippine mediation look beyond settlement as a means of reckoning the success of mediation efforts.

8. The Commercial Law department may wish to study the similarities between the trade practices law of Australia and those that correspond to it in our own jurisdiction, as well as to identify the differences. Should they find merit in the very strong bias of Australian federal law in favor of competition, they may structure courses in their department in such wise as to orient the judges towards evolving jurisprudence that will be more vigilant of competition.

9. The Supreme Court should develop protocols for visits of various groups to it. So should the Court of Appeals and the Sandiganbayan. This will allow visits by such groups as school children, law students and the general public to be more productive, as well as keep the visits from constituting disruptions of court services.

10. The Supreme Court should launch a more aggressive information drive -- so that the public may be better informed of the workings of law and of the judicial system, all within the bounds however of the propriety proper to our courts.

Conclusion

We come from our exposure to the Australian Federal Judiciary with plenty of awe for the advances taken. We are specially impressed by the

efficiency and the professionalism of the system. It would not be correct to attribute this all to the fact that Australia is a first world country, while ours belongs to the third world. This would be too simplistic a categorization -- and would give us a ready excuse from trying to do better. It is rather a matter that can be addressed by judicial education, as well as by efforts particularly of the Supreme Court and our country's superior courts at fostering a culture of judicial excellence.

The use by the Australian Federal Court of developments in technology and of the prodigious research resources made available by the world-wide web as well as by interactive media shows the way we can go. We have the beginnings of these technological advances. The challenge is for us to tap the possibilities now open to us within the judiciary.

Advances in rule making and in the evolution of more responsive procedure are the fruit of vision and openness to foreign models and experiences. It might therefore be helpful to the Supreme Court, in the exercise of its rule-making power, to engage as consultants not those who would merely recycle what has come down to us in our books of jurisprudence, but what foreign jurisdictions and authorities have proposed, experimented on and flourished by. To outlaw these developments because they are foreign and that they are alien to our culture is jingoism in its worst form!

Inspired as we were, however, by what Australia's Federal Court introduced to us, we also came from the experience with a very healthy regard for the maturity of our own legal and judicial system, for indeed there are tremendous similarities between the developments of the Philippine and the Australian judiciaries. Particularly worth noting is the fact that R.A. 8293, our Intellectual Property Code, represents a quantum advance over the common law intellectual property precepts that Australia's courts continue to administer.

Then too it does seem that our Philippine courts, with the recognition they accord international treaties and covenants, are closer to the mainstream of developments in international law in this regard -- for there seems to be a growing consensus in the community of nations in favor of the incorporation theory, rather than the more traditional transformation theory that in the main, is still the theory to which the Australian legal system adheres.

We have no doubt about recommending the continued participation of our Philippine justices and judges in this program, even as we continue to be profuse in our sentiments of appreciation, esteem and gratitude towards the Centre for Democratic Institutions and the Australian Federal Court.

JOSE C. VITUG

Associate Justice
Supreme Court
Team Leader

CANCIO C. GARCIA

Associate Justice
Court of Appeals

RANHILIO C. AQUINO

Head, Academic Office
Philippine Judicial Academy
Supreme Court

ARTEMIO S. TIPON

Judge, Regional Trial Court
Branch 46, Manila

REYNALDO B. DAWAY

Judge, Regional Trial Court
Branch 90, Quezon City

APOLINARIO D. BRUSELAS, Jr.

Judge, Regional Trial Court
Branch 93, Quezon City