

Preface

October 10, 2005 -- the tenth day of the tenth month of this year -- marks my tenth anniversary as a member of the Supreme Court (SC). How time flies. It seems only yesterday when President Fidel V. Ramos appointed me to the Court in 1995. As my way of marking my yearly anniversaries, I write a book (one per year) that serves as my report on the major activities of my magistracy for the past year. Hence, this volume covers the period from October 10, 2004, to October 10, 2005.

My tenth year coincides with the final year in the judiciary of Chief Justice Hilario G. Davide Jr. He retires upon reaching the age of 70 on December 20, 2005. Because much of the content of this book is devoted to a discussion of the “Action Program for Judicial Reform” or APJR -- the centerpiece of his stewardship of the entire judiciary -- I humbly dedicate this book to him.

Consistent with this dedication to the Chief, Isaiah 42: 6-7 strikes me as an apt passage that I believe guides him in focusing his vision and in performing his work:

*I, the Lord, have called you for the
victory of justice,
I have grasped you by the hand;
I formed you, and set you
as a covenant of the people,
a light for the nations,
To open the eyes of the blind,
to bring out prisoners from confinement,
and from the dungeon, those who*

Part I. This book is divided into two main parts. Part 1, entitled the “Philippine Judiciary Reinvented,” examines how the APJR has reformed and continues to reform the judiciary. Chapters 1 and 2 narrate in detail the wide-ranging programs and projects encompassed by the APJR. Chapter 3 explains the massive international support APJR has generated in terms of the grants, loans and technical assistance from all major developmental and aid agencies in the world. Chapter 4, “Judicial Reforms: Issues To Consider” -- authored by Anthony Gerald Toft, chief counsel for the World Bank’s East Asia and the Pacific Region -- is reprinted here to show the global community’s very supportive stance, direct from “the horse’s mouth,” so to speak. It was actually a lecture delivered on August 24, 2005, in connection with the “Chief Justice Hilario G. Davide Jr. Distinguished Lecture Series.” The Series is one of the projects held to commemorate the Chief’s final year in office.

But the Lecture Series is just one of the many activities conducted to mark the Chief’s retirement. There are many others. As chairperson of the Valedictory Executive Committee, I explained these projects in Chapter 5, entitled “A Celebration of Thanksgiving.”

Chapters 6, 7 and 8 discuss various aspects of our reform agenda as they affect various stakeholders of the justice system, especially the poor. Chapters 9 (“Judging the Judges”) and 10 (“Beyond Excellence”) speak about the qualities a judge must have. Although strictly not covered by the APJR, I believe these values are essential in any discussion of judicial reforms. After all, justice is rendered by human beings -- the judges. Thus, the quality and

speed with which it is delivered depends to a very large degree on the aptitude and character of the decision dispensers.

Chapters 11 and 12 take up the legal profession and its critical role in the rendition of justice. I am particularly proud of Chapter 11, because it points out what I believe are the twin goals of the rule of law: the safeguarding of the *liberty* and the nurturing of the *prosperity* of our people.

Chapter 13, “The Power of Example,” was taken from the speech I delivered during the book launching of *The Task of Building a Better Nation*, authored by former Senate President Jovito R. Salonga, my esteemed *guro* for 50 years now (since my college days). I decided to include it in this book because it dovetails into the Chief Justice’s personal credo, “Leadership by Example.”

Part II. Entitled “The Controversial Cases,” this part summarizes the significant litigations decided by the Supreme Court during my tenth year in office. The first chapter of this part of the book -- Chapter 14 entitled “Invest in the Whole Country, Not Just in the Mining Industry” -- was adapted from a speech I delivered during the International Mining Summit held in Makati City on February 2-4, 2005. It was crafted to explain my Decision upholding the constitutionality of the Mining Law of 1995. As an aftermath, many “road shows” were conducted in several countries, during which the government (led by Ambassador Delia Albert, our former foreign affairs secretary) and the Chamber of Mines of the Philippines (led by its President Benjamin Philip Romualdez) always distributed copies of this speech to the participants. I am happy to note that, as a direct consequence of that

Decision, investments in mining have skyrocketed during the last 10 months.

Other than the validity of the Mining Law (Chapter 15), several other Decisions affecting the economy were issued by the High Court during my tenth year, issues that included those on the Expanded Value-Added Tax Law (Chapter 16) and the Safeguard Measures Act (Chapter 17). Two landmark judgments involving labor law are also worthy of mention; they are summarized in Chapters 18 and 19. Chapter 20 deals with a new Decision on the ethical conduct of lawyers, while Chapter 21 is a reprise of last year's Decision invalidating the automation Contract entered into by the Commission on Elections. Finally, as I promised in my last book, *Leveling the Playing Field*, I have included -- as the last chapter -- an insider's look at the work of the House of Representatives Electoral Tribunal (HRET).

SC and HRET Seating Protocols. During my tenth year in office, there were no retirements and no new appointments either in the Supreme Court or in the HRET. Thus, the seating protocols on both tribunals remain the same as those during my ninth year. The members of the SC en banc, which meets on Tuesdays, are seated around the Court's horseshoe-shaped conference table as follows:

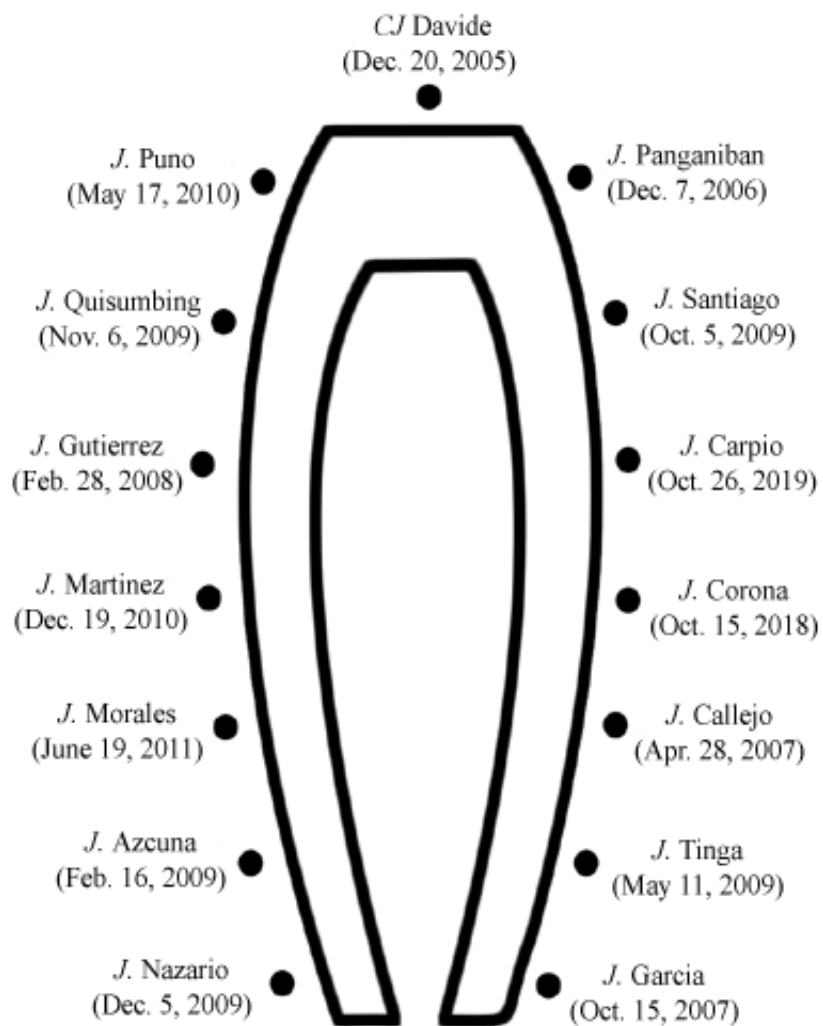
Supreme Court of the Philippines

En banc

Seating protocol

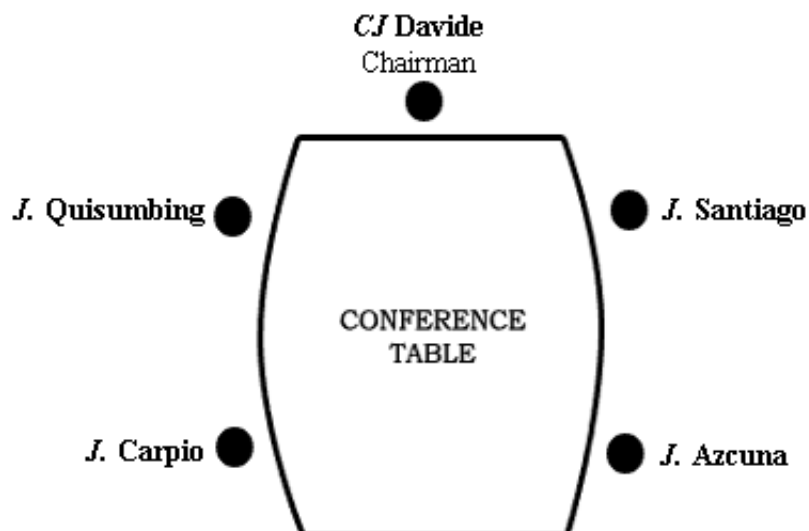
as of October 10, 2005

(The retirement dates are in parentheses)

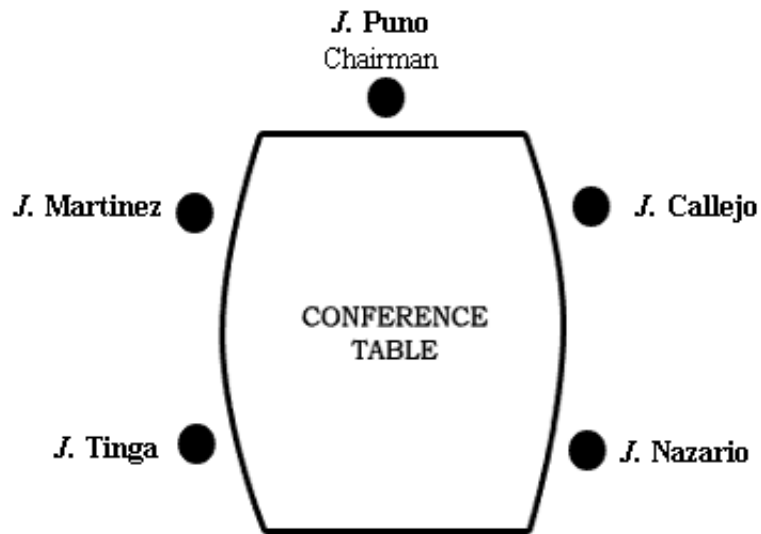


The Three Divisions of the Court, which meet on Mondays and Wednesdays, have the following seating protocols:

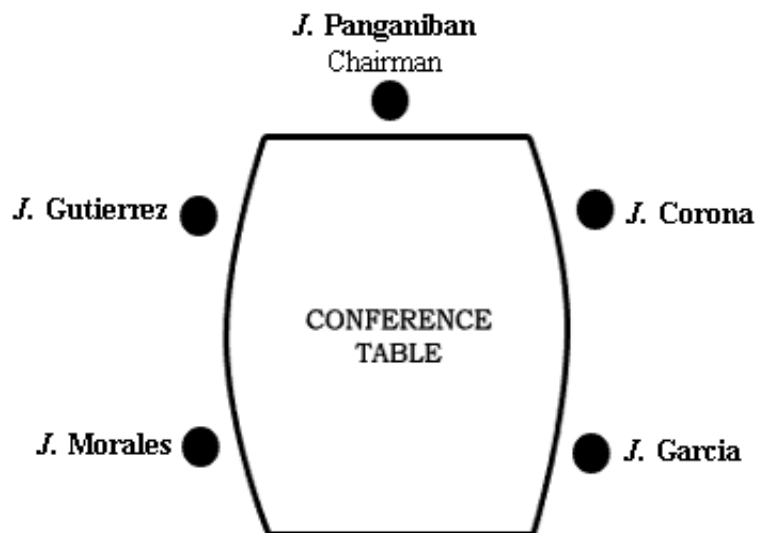
FIRST DIVISION



SECOND DIVISION



THIRD DIVISION

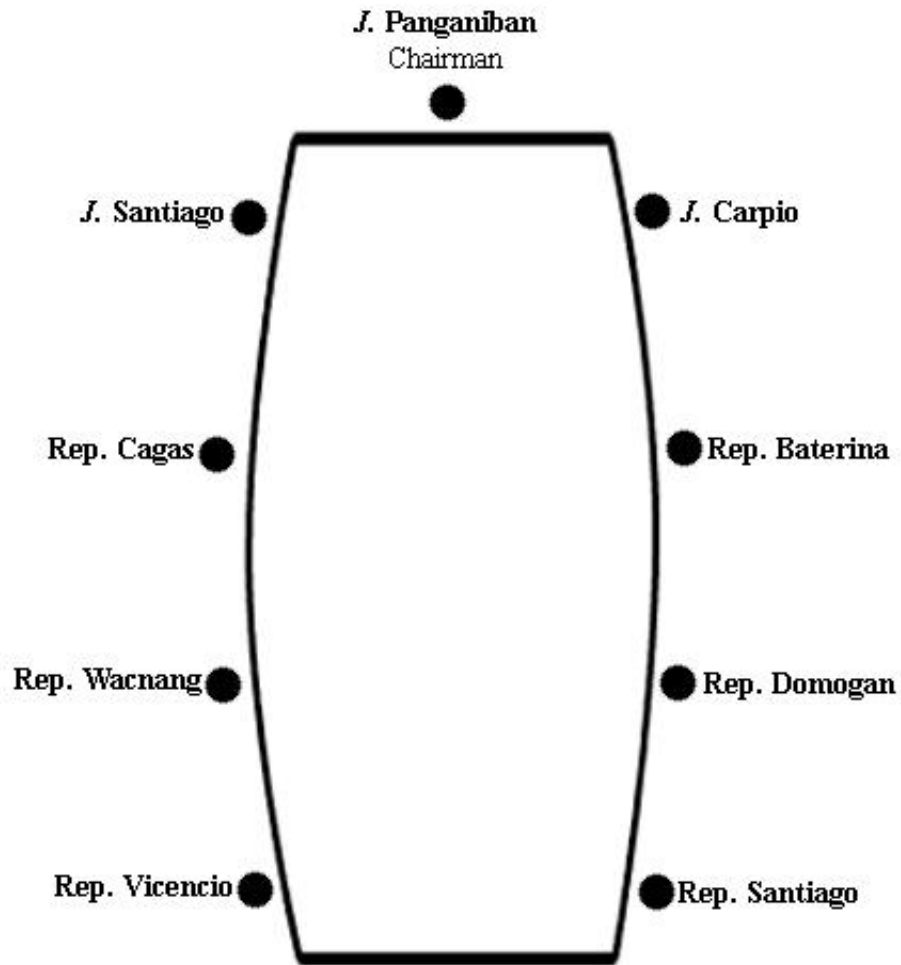


The House of Representatives Electoral Tribunal (HRET) composition has not also changed, as follows:

House of Representatives

Electoral Tribunal

Seating Protocol
as of October 10, 2005



Work Load. Aside from chairing the Supreme Court Third Division and the House of Representatives Electoral Tribunal (HRET), I have also been kept very busy by my work as head of seven Supreme Court Committees.^[1] For my tenth year, I have been assigned two other arduous tasks: chairing (1) the International Conference and Showcase on Judicial Reforms; and (2) the Valedictory Executive Committee, which has been charged with superintending the various projects and programs connected with Chief Justice Davide's last year in office (which ends on December 20, 2005). These projects and programs are discussed in Chapter 5, "A Celebration of Thanksgiving."

I must repeat here what I wrote in my Preface in my previous book, *Leveling the*

Playing Field: “I must admit that these additional non-decision-making responsibilities, particularly the chairmanship of several committees, have impinged on the little remaining free time I have. Since Day One of my Supreme Court incumbency in 1995, I have already set aside the afternoons and evenings of my Saturdays, Sundays and holidays, during which I find the time and the tranquility to be able to write my *ponencias* and opinions. Now, with these added duties, I just have to work late nights daily.”

In all humility, I am pleased to report that, despite all the foregoing heavy, non-decision-making duties, I have attained my self-imposed case-disposition goal. Thus, as in the previous years, I have written about 100 full-length *ponencias* and 5 separate/dissenting opinions during the one-year period covered by this report. My grand total, then, during my ten years in office (as of October 10, 2005) is more than 1,070 *ponencias* (full-length, signed decisions, including the 246-page *ponencia* upholding the Mining Law in *La Bugal B’laan v. Ramos* -- the longest in the Supreme Court’s 104-year history) and 83 separate/dissenting opinions. This count does not include the thousands of unsigned, minute resolutions I have also issued during those ten years. (These are sent to the parties by the Office of the Clerk of Court.) As in the previous years, I have no backlog, that is, no pending case that is more than two years old, counted from the last pleading filed.

I am personally gratified by this production, because when I joined the Court in 1995, I privately set as my personal goal the writing of at least 1,000 *ponencias* during my full term in the SC. Having already exceeded that goal now, way before my compulsory retirement, I feel personally fulfilled. But of course, I shall not rest. I shall continue my pace of work until my own retirement.

High Tech. This book is also available in digital form. A CD version, which is placed inside a special pocket attached to the inside front cover, is fully searchable. As an SC publication, it bears the same search engine as that used for the SC e-library.

Appreciation. My sincere appreciation goes to my colleagues in the Court who -- by their decisions, comments and discussions -- have helped me form my own opinions. I have always looked forward to our collegial deliberations, especially those involving controversial issues. Verily, as I have said on some other occasions, “the Supreme Court thrived in a kettle of free ideas, where truth, fairness and justice could be distilled only after all sides – even the most outlandish ones – had poured in and percolated.” Although the justices’ debates have been intense, sometimes even passionate, I have always found them to be a rich source of perspicacity and enlightenment. Despite occasionally difficult exchanges, the justices’ cordial and friendly personal relationship has not been adversely affected.

May I also say thank you to several SC officials^[2] and to my legal staff, both in the Supreme Court^[3] and in the HRET^[4] for their research and help in producing this book.

October 10, 2005.

ARTEMIO V. PANGANIBAN

^[1] During my tenth year, I continued to chair the following Supreme Court Committees: (1) Computerization, (2) Public Information, (3) Judicial Excellence, (4) Legislative-Executive Relations, (5) Raffle for Division Cases, (6) Access to Justice for the Poor and (7) Justice for All Through Education. In the main, these committees are involved in the implementation of the Judicial Reform

Program initiated by Chief Justice Hilario G. Davide Jr.

[2] Atty. Ismael G. Khan Jr., chief of the Supreme Court Public Information Office (PIO), for his usual inputs and suggestions; Jose Emmanuel David M. Eva III for the cover design and Francisco S. Gutierrez for the cover photo (both also of the PIO); Ms Milagros S. Ong, Supreme Court librarian, for preparing the Index; and Mr. Edmundo M. Moredo, chief of the Supreme Court Printing Services, and his industrious staff for printing the book in time for distribution during the International Conference and Showcase on Judicial Reforms on November 28-30, 2005.

[3] As of October 10, 2005, my Supreme Court legal staff is composed of Atty. Millicent N. Reyes, judicial staff head; and the following members: Attys. Sheryl Fortune V. Supapo, Jennifer J. Manalili, Nicolas C. Nañgit Jr., Joel J. Gregorio, Lourdes C. San Pablo, Cristina Regina N. Bonoan and Anna Nerissa Paz-Perez. I also thank Ms N. R. Evangelista, my editor; Vilma M. Tamoria, my secretary; Ramon B. Gatdula, Ma. Roquiza Herald-Reyes, Mary Joji V. Carpio and Maria Theresa B. Andal, executive assistants; and Rogelio G. Jubilo and Jocelyn D. Atienza, encoders.

[4] My legal staff in the HRET is composed of Atty. Emma C. Matammu (staff director) and Attys. Rodolfo T. Espinosa and Julieanne R. Jorge.