HUMAN RIGHTS AND THE CRIMINAL LAW IN SOUTH-EAST ASIA

By NORVAL MORRIS*

December the tenth, 1958, is the tenth anniversary of the adoption of the Universal Declaration of Human Rights by the General Assembly of the United Nations. During this decade, the Declaration has exercised both a direct and an indirect influence: many of the provisions of this document have been incorporated in the constitutions of several sovereign states, including Costa Rica, Egypt, El Salvador, Eritrea, Indonesia, Haiti, Jordan, Libya, Pakistan and Syria. Agreements and conventions concluded under the auspices of the United Nations, such as the Somaliland Agreement and the Convention on the Status of Refugees, have been based on the Declaration. The peace treaty with Japan signed at San Francisco in September, 1951, declares in its preamble that one of the purposes of the treaty is to enable Japan to "strive to realize the objectives of the Universal Declaration of Human Rights." Likewise, the international agreement concerning the "Free Territory of Trieste" and that between France and Tunisia of June, 1955, build upon the Declaration. But perhaps more than in these constitutional pronouncements, the Declaration's impact is to be measured, if this be measurable, in the role it plays in men's minds, in its regular use as a reference point for argument, occasionally in courts, frequently in legislatures, and more frequently in the day-to-day personal political discussions which go to create responsible opinion on public issues.

To the cynic, the failure after ten years of international effort to draft covenants on civil and political rights and on economic, social and cultural rights, which can receive the support of the United Nations, may suggest the failure of the Declaration to move from pious hope to political reality; but such a view is superficial. Between ideal and reality there is, of course, a vast chasm to be bridged (as decided at the time of the Declaration) by "covenants on human rights" and by "measures of implementation," and the progress with these has not been spectacular during the intervening ten years. Nevertheless, the influence of the Declaration remains great, and it is no exaggeration to say that there is no political document in the world today which is producing a greater impact upon men's thoughts, words and actions. That we in the countries of privilege, plenty and relative political stability are less conscious of the

*LL.M. (Melb.), Ph.D. (London), Senior Lecturer in Law, University of Melbourne, Bonython Professor of Law Elect, University of Adelaide.

significance of this document than those in the less privileged, the materially backward and the politically turbulent countries is not surprising —it is a truism that only when a bone is broken is one aware of it.

It may well be that in the perspectives of history the Universal Declaration will be seen to have played the same role in the international community as did the Declaration of the Rights of Man and the Citizen of 1789 in France, the Petition of Right of 1628 and the Bill of Rights of 1689 in England, and the Declaration of Rights and Bill of Rights of the American Revolution.

The Economic and Social Council, the Commission on Human Rights, the Commission on the Status of Women, the Sub-Commission on Prevention of Discrimination and Protection of Minorities, the Trusteeship Council, are all in various ways pursuing the task of giving reality to the "rights" enunciated in the Declaration. This article deals with one aspect of that endeavour; with one way of giving practical meaning to the operation of certain provisions of the Declaration in the South-East Asian (including Australia and New Zealand) geographical area. These provisions are:

Article 3. Everyone has the right to life, liberty and security of person.

Article 5. No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 9. No one shall be subjected to arbitrary arrest, detention or exile.

Article 10. Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

Article 11. (1) Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.

(2) No one shall be held guilty of any penal offence on account of an act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

In the long run, it is the substantive criminal law and the rules of procedure and evidence in any country which must be relied on to implement these "rights." As Wechsler has written, "this is the law on which men place their ultimate reliance for protection against all the deepest injuries that human conduct can inflict on individuals . . . it governs the strongest force that we permit official agencies to bring to bear on individuals. Its promise as an instrument of safety is matched only by its power to

destroy. . . . Nowhere in the entire legal field is more at stake for the community or for the individual."[1]

The United Nations is organizing a series of regional conferences on the protection of human rights in criminal law and procedure, the first having been held in the Republic of the Philippines in February, 1958, the second to be held later in the year in Chile. The Philippine conference produced material which should interest the Australian lawyer for at least two reasons: first, comparative discussion of rules of criminal law and procedure, aimed at balancing the apparently conflicting interests of individual freedom and the effective detection and punishment of crime, may throw light on defects in our own law and may help to guide us towards their removal. By such comparisons we may dispel complacency, recognise defects, and even possibly be stirred to action. Secondly, this is an area of government-citizen relationships in which, for historical reasons, our practices are outstandingly good and where we have information and knowledge of value to other countries in this geographical area. Australia's contribution to the development of the countries to her north is of great potential importance to our future—our various contributions under the Colombo Plan are our largest and best-publicised effort—and in every sphere of human activity, where we can assist, the obligation is clear and the need to develop and maintain good relations is obvious.

With technological problems, assistance can easily be sought and given without risk of political embarrassment. Australia can be invited by, say, Thailand to send an engineer trained and experienced in the building of bridges or dams to assist in such projects in Thailand, and this may be arranged under the Colombo Plan or under the auspices of the U.N. through the Technical Assistance Board without any embarrassment on the part of the inviting country. But it is another matter entirely to expect a country to solicit technical assistance in the field of human rights —it is not easy at all for a South-East Asian country to solicit guidance from an Australian expert on the administration of a police force, for example, on methods of preventing policemen from inflicting physical suffering on a suspected person in order to extract a confession from him. An exchange of knowledge on such a subject can better be arranged, therefore, through the processes of conference and discussion, by bringing together experts on these problems from many countries, than by any direct application for or supply of technical assistance. These are topics on which, understandably, countries are loath to admit they are backward.

Participants were invited to the conference in the Philippines from all the states in the general geographical area of the Far East and South and South-East Asia, as well as Australia and New Zealand, which are members of the United Nations or of any of the specialized agencies. In the

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[1] Herbert Wechsler, **The Challenge of a Model Penal Code**, 65 Harv. L. Rev., 1097, at 1098.

result, seventeen countries were represented by a total of thirty-one participants, which included three Attorneys-General, three Solicitors-General, five senior Judges, two police inspectors, five senior legal advisors to government agencies, and three academics.

Such is the diversity of legal systems and cultures in this geographical area that, although all participants were trained and experienced in most of the technical problems discussed, communication demanded of them all an effort to discuss these problems in operational rather than legal or technical terms, to see them as they affect an impoverished and illiterate individual facing the coercive powers of the state. As the leader of the Philippine delegation phrased it, "Of all the acceptedly identified regions of the world ours encompasses the greatest diversity of peoples of greatly varying political, religious, economic, cultural and racial backgrounds. . . . Our legal systems are as different and unlike as they could ever be in any other given region. Here we feel strongly the influence of the Anglo-Saxon Common Law, the Spanish Civil Law, the French legal system, the autochthonous Filipino-Malayan legal concepts, the Japanese, the Chinese, the Indian, the Korean, the Thailand, and the Indonesian indigenous legal institutions, each different from the rest." Excluding Australia and New Zealand, he continued: "We have perhaps one common heritage—economic underdevelopment and widespread unemployment and poverty. This, too, this common misfortune, sets us apart from the rest of the world."

One further general problem facing such a conference perhaps merits mention before some of the topics canvassed at the conference are discussed. It would be wrong to assume that a fair balance between individual liberty and the coercive power of the state which might be reached in one country can be emulated in another. For example, one topic discussed at the conference was the problem of "detention without trial." It is easy for us to assume that, apart from the detention of the physically or mentally ill, or of neglected children, or of similar people held for their own welfare, there should never be a power to hold a person in detention without trial for an act which should be dealt with, if at all, by the normal processes of the criminal law. Yet, in India, Burma, Pakistan and some other countries such a power is taken to incarcerate without trial (though subject to certain administrative safeguards) persons thought to present a danger to the state. It would be politically unsophisticated for an Australian to assume that such a power was necessarily one that the state should not possess. For us, in times of peace, the libertarian can, and indeed should, take such a position; but it is well to remember that in time of war we accept such powers as appropriate (for example, in England, Regulation 18B of the Defence (General) Regulations, 1939, pursuant to the Emergency Powers (Defence) Act, 1939, and similar powers in Australia and the United States) and to recognise that a recently established state facing grave internal dissention may, for the continuance of its present form of political organisation, require such powers in time of peace. There are marked differences in the tenuousness of political authority throughout this region of the

world, differences which compel diverse solutions to the problem of the balance between the freedom of individuals and the authority of the state. Here, as so often in considering whether legal and political processes and institutions are transplantable, one comes to the view that only the underlying ideas and attitudes are transplantable, not the processes themselves.

That interchange between states on these problems presents difficulty, and that the human rights themselves are, to a lawyer, not precisely defined, should not lead one to the view that such conferences are not worthwhile. Cynicism is again the easy but false path. By and large, those who came to the conference in the Philippines had a genuine desire to improve the safeguards of human freedom in their own countries, were anxious to learn of practices in other countries, to discuss their problems, and to learn where possible from the failures and successes in other countries. Such an exchange may not lead to the unanimous acceptance of minimum safeguards of human rights in criminal law and procedure, but it may, and in this instance did, strengthen the spirit and develop the knowledge of responsible people who were already, to a degree, dedicated to the preservation and development of those safeguards. This was clearly a leading purpose of the conference—as the Secretary-General expressed it at the twelfth session of the Commission on Human Rights:

> "Perhaps the most important purpose of these seminars would be to bring key people together for short periods of time to stimulate their thinking and through their leadership to encourage greater awareness of problems of human rights within official circles."

The following subjects were discussed over the two weeks of the conference:

1. Rights and safeguards protecting the individual against arbitrary or illegal arrest and detention.
2. Conditional release prior to and during trial.
3. Confessions and admissions—safeguards, administrative and judicial, against improper methods of investigation and inquiry.
4. Avoidance of delay in bringing the accused to trial and in concluding trial and appellate processes.
5. The right of the individual to assistance at the time of trial and and at any proceedings preliminary thereto in respect of
   (a) legal advice and representation,
   (b) proof of guilt,
   (c) language difficulties.
6. Public trial and exceptions thereto; the protection of accused persons against trial *in absentia*.
7. Detention without trial.

Each participating country supplied, in advance of the conference, at least one paper setting out the law and practice within that country in respect of all the above topics. There were also five general background papers, prepared for the Division of Human Rights, intended to serve as

guides to discussion at the conference. One recommendation of the conference was that this documentation as well as a record of the discussions at the conference should be published by the United Nations. If this is done, there will be available to students of comparative criminal law a mine of precise and useful information.

It is not intended in this article to give any overall survey of the many topics discussed or the conclusions reached; instead, the lines of discussion on seven topics will be presented as samples, but not necessarily representative samples, of the problems that faced the conference.

BAIL AND THE INDIGENT

There was not, nor indeed could there properly be, any divergence of views at the conference on the policy to be pursued in relation to bail. It is clearly preferable for an accused person to be on bail pending trial, unless there is some other compelling competing value, such as the risk of his committing another crime, or the risk of his not appearing for trial—and, quite apart from the human rights involved, it is cheaper. Despite this broad unanimity of view, wide divergences of practice were reported, based on procedural and economic differences between countries.

Those countries following the continental inquisitorial processes of investigation of crime cannot allow release on bail as liberally as those following the Anglo-American system. If the "juge d'instruction" is required to interrogate the accused person as an integral part of the investigation of the crime, then as a matter of administrative convenience it is necessary to hold more suspected persons in custody than in our system where, at least in theory, the prosecution case is complete by the time committal proceedings take place.

The majority of countries represented at the conference, however, base their criminal procedure on the Anglo-American system and for these the major difficulty in the South-East Asian area is the — to our minds — remarkable poverty of many accused persons. In Australia, when bail is set low, there are not many accused persons who cannot meet it; for many accused persons in certain Asian countries, to produce any money at all would be an impossibility. Yet it remains desirable, for a variety of reasons, to release them conditionally until trial. What procedures can be devised alternative to bail? First, it was agreed that, as in Australia and New Zealand, the summons procedure should be preferred to the procedure by way of indictment or presentment whenever this was feasible, and it was resolved that representatives at the conference should endeavour to influence their countries towards this development. For the graver crimes, this does not meet the problem. The conference discussed the possibility of the development of techniques of entrusting accused persons to the custody of their families, to relatives, or failing this to other responsible people in the community in which they live, in an endeavour to build up a system of community responsibility for their appearance. This is an interesting and important technique that merits, over the ensuing years, the attention of those interested in criminal law and procedure.

PUBLICITY OF COMMITTAL, TRIAL AND APPELLATE PROCESSES

Again, though agreed on policy, discussions at the conference were inconclusive on one problem that faces every country—that of trial by newspaper. There was agreement that sometimes there is conflict between the concepts of freedom of the press and of fair trial, particularly where sensational reports of committal proceedings (in most countries only one side of the case is presented) might prejudice the fairness of the subsequent trial. Those countries with written constitutions guaranteeing freedom of the press find greater difficulties in this matter than countries, such as Australia, where gradual steps to define and limit the area of freedom of the press can be taken without encountering constitutional obstacles. All were agreed that countries should endeavour, in sensational cases and in cases involving the likelihood of grave loss of reputation to the victim of a crime, to prevent harmful publicity by the reporting of committal proceedings, which, after all, are not a part of the trial, properly so-called. In this regard, members of the conference expressed their approval of section 57 (2) of the Western Australian Juries Act 1957,[2] which gives a judicial power to prohibit the reporting of committal proceedings when the accused person is charged with a capital offence. Many would regret, however, that this provision was not accepted by the Western Australian legislature in the form in which it was submitted to them. In its original form, the Bill (Clause 58) provided a blanket prohibition on the reporting of evidence given at any committal proceedings.[3] The political force behind press opposition to such legislation was recognised at the conference, but the desirability of gradually moving so that this liberty should not become licence was thought to merit the consistent efforts of those who place the value of fair trial above that of sensational and socially useless publicity.

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2 Section 57 (2) of the Western Australian Juries Act 1957:

"If the Court at which any person charged with any crime in respect of which the penalty of death may be inflicted and at which such person may be or is committed for criminal trial at any time before the rising of that Court states that in the opinion of the Court in the interests of justice it is undesirable that any report of or relating to the evidence or any of the evidence given at the proceedings before that Court should be published then thereafter no person shall print, publish, exhibit, sell, circulate, distribute or in any other manner make public such report or any part thereof or attempt so to do."

3 "A person—

who is registered as the proprietor, printer or publisher, of a newspaper; or who prints, publishes, exhibits, sells, circulates, distributes, or gives away, or causes to be printed, published, exhibited, sold, circulated, or given away, any newspaper;

. . . which contains a report of or relating to the evidence or any of the evidence given at any proceedings at which a person is or may be committed for criminal trial,

(a) commits a contempt of the Supreme Court and is punishable accordingly by that Court; or

(b) is liable to a penalty of not less than twenty pounds nor more than two hundred pounds on the information of any person who with the authority of the Attorney-General sues for the penalty in any Court of competent jurisdiction, and a penalty so imposed shall be payable to such person as the Court which imposes it directs, the provisions of the Fines and Penalties Appropriation Act, 1909, notwithstanding."

Concerning publicity at trial or on appeal, reports of certain recent developments in New Zealand and Australia were favourably received. In New Zealand the Courts have power to order the suppression of the name of a person convicted of a first offence. Used with discretion, this power would seem to further the state's genuine endeavour to provide for the reformation of first offenders.

Recent legislation in the State of Victoria, the Judicial Proceedings (Regulation of Reports) Act 1957, was also noted by many participants at the conference with a view to its possible emulation in their countries. Section 2 of this Act[4] prohibits the publication of the name or identifying material of any female victim of a sexual crime or of any male victim under the age of 16 years. It does away with a shocking anomaly, which continues to exist in many countries: if a child commits a sexual offence, a blanket of secrecy is thrown by the law around the Children's Court proceedings which protects him and his family from the notoriety

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[4] Section 2 of the Judicial Proceedings (Regulation of Reports) Act 1957:

"2. (1) A person shall not in relation to any proceedings in any Court or before justices in respect of an offence of a sexual or unnatural kind publish or cause to be published in any newspaper or document or in any broadcast by means of wireless telegraphy or television—

(a) the name and address or school or any other particulars likely to lead to the identification of—

(i) any female; or

(ii) any male under the age of sixteen years—

against or in respect of whom the offence is alleged to have been committed (whether or not such female or male is a witness in the proceedings); or

(b) any picture purporting to be or to include a picture of any such female or male—

unless the Court or justices order that all or any such particulars or such picture may be so published and the particulars or picture are published in conformity with the order.

(2) Any person who contravenes any of the provision of sub-section (1) of this section shall be guilty of an offence and shall in respect of each such offence be liable, if a corporation, to a penalty of not more than one thousand pounds and, if a person other than a corporation, to a penalty of not more than five hundred pounds or to imprisonment for a term of not more than four months or to both such penalty and imprisonment.

(3) Where a corporation is guilty of an offence against this section any person being a member of the governing body or being a director manager or secretary of the corporation shall severally be deemed to have committed the offence and shall be liable to the aforesaid penalty or imprisonment or both unless he proves that the offence by the corporation took place without his knowledge or consent.

(4) No prosecution for an offence under this section shall be commenced by any person without the sanction of the Attorney-General.

(5) In this section 'newspaper' and 'document' have respectively the same meanings as in section eighty-five of the Police Offences Act 1957 except that neither shall include any information summons warrant charge presentment transcript of evidence or other instrument or document for use in connexion with or arising out of any judicial proceedings or any volume or part of any bona fide series of law reports which does not form part of any other publication and consists solely of reports of proceedings in Courts of law."

that would result from the publication of his name; but if the child is a victim of such an offence, the more salacious newspapers inflict on the victim and his or her family suffering much greater than it is normally within the power of the Court to inflict on the criminal.

ADMINISTRATIVE REMEDIES FOR ILLEGAL ACTS BY THE POLICE

When, as sometimes occurs, from excessive diligence or less commendable motives, the police exceed their rights and seek by force, or threats of force, to coerce accused persons to confess, or in other ways interfere with legally protected human rights, most countries set up criminal and civil remedies, the aim of which is to protect accused persons. For a variety of reasons, most countries have found such remedies inadequate for this purpose, particularly when the citizen has a criminal record, is of ill repute, or is poor or incapable of pursuing his normal legal remedies. No country can claim to have solved these problems, for the balance between effective prevention and repression of crime and the protection of individual liberty is a delicate one. However, the development, in several States of Australia and in New Zealand, of Police Disciplinary Boards or similar tribunals has proved an effective method by which senior police administrators have largely maintained the legality and decency of police practice; participants in the conference were interested in the possible extension of this administrative procedure to their own countries as a method of establishing high standards of conduct on the part of police.

It was recognised, however, that to a large extent, whatever the judicial or administrative remedies available to the injured citizen, high standards in the police force depend upon adequate remuneration of the police, on the insistence on minimum standards of education on recruitment, and on the subsequent provision of intensive and well-planned in-service training courses. Here again, many countries in the South-East Asian area face problems that can only be overcome by substantial improvement in general living standards.

HABEAS CORPUS IN TIMES OF NATIONAL EMERGENCY

After brief discussion, the conference decided that it would not devote time to the question of the propriety of a country's taking power to detain any of its citizens without trial. This was, it was thought, a domestic matter on which it would be both unhelpful and impolitic for the conference to seek to reach agreement. Discussions turned on what rights such detainees should have. On this topic there was a surprising unanimity of view. All were agreed on the proposition that the writ of *habeas corpus*, or similar remedy, providing access to the Courts to test the legality and *bona fides* of the exercise of the emergency powers, should never be denied to the detainee. Considering the legal and cultural diversity of the countries represented at this conference, such an agreement on a legal process developed during the formative period of English Common Law is a remarkable illustration of the historical process by which one country can borrow and rely on institutions developed in

another. This type of realisation should surely tend to diminish one's scepticism concerning the value of such international exchanges as took place at this conference.

SELF-HELP AND UNLAWFUL ARREST

This is the problem: Should the citizen have a right to resist a police officer who is seeking to arrest him if that police officer does not in fact have (though he believes he has) the legal right to effect the arrest? In legal theory, at least, the answer that would be given by all legal systems represented at this conference is, Yes. If the arrest is in fact illegal, then the citizen has all the ordinary rights of self-help forcibly to resist the illegal action of the police officer. Yet several of the participants in the conference were of the view that this is a dangerous and unreal right to give the citizen, tending towards violence and hostility between the police force and the community. They preferred a rule which would require the citizen to submit to any arrest, legal or illegal, carried out by a police officer who, by badge or uniform or proper notification, had brought home to the citizen that he was a police officer. Support for this suggested rule tended to come from countries where the crime rates were lower and the position of the police more secure. At first sight this is a paradox, for it might be thought that such a rule would be needed less in those countries than in countries with high crime rates, less responsible police forces, and a higher level of violence in the community generally.

This type of problem illustrates the interdependence of many of the topics discussed at the conference, for where the delay between arrest and trial is not great, where the judicial and administrative remedies available to the citizen who is being improperly held or treated by the police are inadequate, and where the possibility of languishing in gaol without trial is remote, one can more easily expect the citizen to submit to an arrest he believes to be illegal. The only agreement reached on this question was to the somewhat imprecise proposition that a desirable objective of any legal system should be to diminish the need to rely on this personal remedy and to provide other and more adequate legal remedies.

SPECIAL ORGANISATIONS TO PROTECT HUMAN RIGHTS

The idea of an International Court of Human Rights is, for the time being, Utopian. Even within the Council of Europe which, in 1950, adopted a Convention defining certain civil and political rights, and providing a formal extra-national means of protecting them, three ratifications are still lacking (including that of the United Kingdom) for the establishment of this enforcing mechanism. Even with the establishment of such judicial and quasi-judicial bodies, problems of enforcing their decrees and of avoiding intermeddling in national domestic affairs will obtrude. Nevertheless, with peace, supra-national techniques of protecting human rights may well be developed in the future.

As an immediate national development, Japan has set up a special system of Civil Liberties Commissioners to buttress the normal processes protecting the individual against abuse of state power. We, throughout

the West, are accustomed to various voluntary Civil Liberties Associations appointing themselves as champions of those oppressed by the denial of their human rights and as educators of public opinion. In Japan, in 1949, an official system formalising this type of association was established. The legislation provides for the appointment of up to 20,000 Civil Liberties Commissioners throughout the country. These commissioners serve voluntarily (there is a refund of expenses incurred in their work), are appointed for three years, and have the following duties:[5]

"(1) To carry out public enlightenment and publicity concerning the ideal of civil liberties;

(2) To make efforts for the encouragement of civil liberties movement among the people;

(3) To make investigation and collection of information concerning cases of violation of human rights for the purpose of remedy thereof, and to take other proper steps, including report to the Minister of Justice, and recommendation to other agencies concerned;

(4) To take relief measures proper for the protection of civil liberties of the poor, such as legal aid and so forth;

(5) To make efforts for civil liberties with respect to other matters."

There was also established a system of Consultative Assemblies of Civil Liberties Commissioners to survey these problems and advise on them at the national level.

The whole scheme seems extremely valuable for those countries where constant vigilance is necessary if the oppression of individuals is not to be a close concomitant of the rapidly integrating force of an agressive nationalism. What has to be guarded against is that, as colonial domination withdraws and retires in certain South-East Asian countries, it is not replaced by the domination of indigenous minorities skilled in manipulating political and economic power. In all these countries there are many men of goodwill cognizant of the need forcefully to protect the impoverished and politically-immature majority of their fellow-countrymen, and the Japanese experiment with Civil Liberties Commissioners seems well worthy of their consideration.

LEGAL ADVICE AND REPRESENTATION

No one at the conference doubted that fair trial requires that an accused person should have the right to the assistance of counsel; but a wide diversity of practice was reported. This was one subject on which our practices in Australia do not compare favourably with those obtaining in some of the South-East Asian countries. For example, in the Republic of the Philippines the right to legal representation is the unqualified right of every accused person charged with any criminal offence what-

[5] Article 11, Law No. 139 of 1949 as amended by Law No. 268 of 1952 and Law No. 71 of 1953.

soever, whether he can afford to pay for it or not; and it is available to him both before and during trial.

It may be that no great injustice results in those States of Australia where this type of financial and legal assistance is available only to persons charged with the graver offences. Nevertheless, comforting ourselves with this type of rationalization is really only a means of avoiding the problem, and the view which received support at the conference that the aim of every legal system should be to provide adequate assistance to the accused person charged with any crime, whatever his financial status, is surely one which cannot be rejected, and which holds a lesson for us in Australia.

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The discussion of these problems at an international conference can have nothing but advantage for the countries participating. Further, it is another expression of the developing realization of the social significance of criminal law and procedure and of the need constantly to evaluate the extent to which it is serving the legitimate needs of a community. Our own substantive law of crimes is largely a compendium of historical solutions to then pressing problems—the law of larceny is clearly just such a patchwork, operating reasonably efficiently because of the wisdom of judges and the good sense of juries, but ill-suited to assisting courts to draw the often difficult line between crime and sharp business practice. The work on the Model Penal Code by the American Law Institute and the writings of Dr. Glanville Williams are perhaps the first expressions in the Anglo-American legal system of the need to rethink many of the basic premises of the criminal law since the work of Sir Samuel Griffith at the turn of the century in Queensland, which itself relied heavily on the writings of Sir James Fitzjames Stephens and on his efforts towards codification. If we are responsibly to address ourselves as lawyers to the difficult policy decisions underlying any substantial amendment of the criminal law, these efforts at comparative understanding of the effectiveness of various rules and practices in criminal procedure in a diversity of countries are of the first importance.

The Philippine Conference recommended that in 1962 there should be another meeting on the same subject of the same countries invited to this conference, so that progress and developments in the intervening four years could be studied and further information exchanged. Such meetings, it is submitted, merit the attention of all interested in the criminal law and its administration and, further, are a useful way in which we in Australia can contribute to the development of our near, multifarious and rapidly progressing neighbours.