

A HISTORY OF THE SOUTH PACIFIC JUDICIAL CONFERENCES, 1972-2005

Gerald W. Berkley-Coats*, Melinda A. Berkley-Coats**,
Jon M. Van Dyke***

Since 1972 there have been sixteen South Pacific Judicial Conferences (SPJC) held on a variety of Pacific Islands. The questions of who were the prime movers responsible for these meetings, and what topics were discussed are the main foci of this study.¹

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- Ph.D. in History 1977, and J.D. 1991, William S. Richardson School of Law. Currently Assistant Director for International Support Services at Virginia Tech.
 - ** M.Ed. in English as a Second Language 1995, former journalist on Guam.
 - *** J.D. 1967, Harvard University. Currently Professor of Law, William S. Richardson School of Law.

Note 1 – This study is largely based on various documents provided by the Office of the United States Courts for the Ninth Circuit. In particular, we wish to acknowledge the contributions of the following individuals: (A) The Honorable Richard H. Chambers, who served as Chief Judge of the US Court of Appeals for the Ninth Circuit from 1959 to 1976, and as Senior Judge until his death in 1994. (B) The Honorable J. Clifford Wallace, former Chief Judge and now Senior Judge of the US Court of Appeals for the Ninth Circuit. Judge Wallace not only made available his papers from the various South Pacific Judicial Conferences, but gave freely of his time to answer questions about these meetings; (C) Associate Justice of the US Supreme Court Anthony M. Kennedy, who granted an interview on the subject of the South Pacific Judicial Conferences, and who provide a copy of his keynote address to the 11th SPJC meeting on Guam in 1995; (D) Justice Christine E. Dawe of the Family Court of Australia, who provided us with a complete record of the Fifth South Pacific Judicial Conference, which was held in Canberra in 1982; (E) Judge Samuel P. King, Senior Judge with the US District Court of Hawaii. Judge King not only provided papers from the first eight SPJC meetings, but also agreed to be interviewed in both San Francisco and Honolulu; (F) Judge Alfred T. Goodwin, Senior Judge of the US Court of Appeals for the Ninth Circuit, who provided both his personal papers, and agreed to be interviewed in San Francisco. (G) Judge William C. Canby, Senior Judge for the US Court of Appeals for the Ninth Circuit, who also provided his personal papers and agreed to be interviewed in San Francisco; (H) The Honorable Alex R. Munson, Chief Judge of the US District Court for the District of the Northern Mariana Islands. Judge Munson provided both his personal papers and an interview in San Francisco. Finally, our thanks to Dr. S. K. De Datta, Associate Provost for International Affairs at Virginia Tech, for making it possible for Dr. Berkley-Coats to work on this project.

In September of 1970, the Honorable Donald C. Crothers, who served as Chief Justice of the High Court of American Samoa from 1968 to 1972, wrote to the Honorable Barrie C. Spring, Chief Justice of the Supreme Court of Western Samoa from 1966 to 1972, and proposed that instead of holding a Judicial Conference between the two Samoas as Justice Spring had suggested, an enlarged gathering of Chief Justices be held. Chief Justice Spring supported the idea. The concept of a South Pacific Judicial Conference was thus given life.

Chief Justice Crothers acknowledged in a letter to the Honorable Richard H. Chambers, Chief Judge of the US Ninth Circuit Court of Appeals, that for the following year, he did "...virtually nothing else but devote much of my time ...trying to get this South Pacific Judicial Conference off the ground." There were numerous drafts and redrafts

concerning the proposed Conference before agreement was reached between the two Samoas and invitations were sent out. During this process, Chief Justice Crothers received "...encouragement, assistance, and advice" from Chief Judge Chambers.

Finally, on Monday, January 10, 1972, in Apia, Samoa, the First South Pacific Judicial Conference opened. It marked the first time in history that judicial representatives from the three cultures of the Pacific, that is, Polynesia, Meianesia, and Micronesia, met.

Attending this meeting were fifteen Chief Justices from various Pacific Islands. Also present were officials from the United States, the United Kingdom, Australia, and New Zealand. On the second day, the Conference moved to Pago Pago, American Samoa, and closed there on Thursday, January 13, 1972.

Among the topics covered at this historic meeting were the following: (1) Disparities in culture and ethics, and their effect on the judicial process; (2) A proposal for a South

Pacific Regional Court of Appeal; (3) Immigration and extradition; (4) The narcotics problem in the South Pacific; and (5) A comparison of court systems. The judicial branch of the Government of American Samoa covered most of the costs of this initial meeting.

By all accounts, this First South Pacific Judicial Conference was a resounding success. Problems, however, arose when the issues of when, where, and who would be responsible for a Second South Pacific Judicial Conference were discussed.

At the conclusion of the First Conference, Chief Justice Crothers, who was scheduled to return back to the United States in the following month, suggested that Chief Justice Spring be appointed as "...sort of a guardian to get the thing together again."

Unfortunately, in June of 1972, Chief Justice Spring, a native of Auckland, New Zealand, opted to return home, and "...tossed the ball" to the Honorable John Minogue, Chief Justice of the Supreme Court of Papua, New Guinea. The timing proved problematic because Australia was in the process of disengaging itself from its United Nations trusteeship over Papua New Guinea. As a result, there was considerable uncertainty in the judiciary as to the shape of things to come as PNG became independent. The PNG Supreme Court found itself between two worlds, the Australian and the Papua New Guinean. Accordingly, Chief Justice Minogue announced his intention to resign in March of 1974. That same month he suffered a heart attack, and formally retired in May of 1974. The task of organizing the Second South Pacific Judicial Conference then fell to the new Chief Justice of Papua New Guinea, the Honorable Sydney Frost.

At this point the Honorable Richard H. Chambers, Chief Judge of the US Ninth Circuit Court of Appeals, with his long-standing interest in the Pacific, stepped back into the

picture. In 1968 he had undertaken a trip to various Pacific islands. He reported being "...shocked by the state of the judiciary" in the islands he visited, especially the lack of basic judicial resources. Accordingly, Judge Chambers began what he termed a "hands across the sea" project, which continues to this day. He prevailed upon several courts in his Ninth Circuit to send copies of basic legal publications, such as the ALR, to the courts in the Pacific.

So, in September of 1974, moved by his continuing interest in the development of the judiciary in the Pacific, Judge Chambers wrote in a letter to the Right Honorable Sir Garfield Barwick, Chief Justice of the High Court of Australia, that "Justice Minogue is shopping for a successor and as soon as he gets him, we hope to prevail on him to call the Second South Pacific Conference to be held in Honolulu either just before or just after our (Ninth Circuit) conference and also, we would hope to have some joint sessions. Justice Minogue has indicated he thinks our plan is a good one."

The Honorable Richard H. Chambers had been selected as Chief Judge of the US Ninth Circuit Court of Appeals in 1959.

As a result of Chief Judge Chambers' suggestion, and with the able assistance of both the Honorable William S. Richardson, Chief Justice for Hawaii, and recently appointed Chief Judge Samuel P. King of the US District Court for the District of Hawaii, the Second South Pacific Judicial Conference was convened in Honolulu on July 16, 1975. This meeting, unlike the First South Pacific Judicial Conference, was not limited solely to judicial officers, but included all those involved in the administration of justice. In attendance were representatives from Papua New Guinea, Tahiti, American Samoa, the Trust Territories of the Pacific Islands (TTPI), Samoa, Australia, and the United States.

Chief Justice Richardson set the tone at the beginning of the Conference by observing that: "We are a family of nations, a gigantic circle of humanity, a living ring of intense activity...In the ancient past, our ancestors had frequent contact with each other, but these relations have almost disappeared, and we have become isolated by war and nationalism. Today, we've chosen to end this isolation, at least in the judicial field, knowing that the peoples of the world could attain peace and harmony by meeting and exchanging ideas regarding our legal systems..."

Shortly after the very productive Second South Pacific Judicial Conference, Chief Judge Chambers recommended to US Supreme Chief Justice Warren Burger that a Judicial Conference of the United States be formed to address matters relating to Guam and the Pacific Trust Territory. On June 9, 1976, Chief Justice Burger wrote Judge Chambers that he agreed, and that he was appointing Judge Chambers to chair what was to become the Pacific Islands Committee.

This Committee was to "... deal with matters relating to Guam, American Samoa, the Northern Marianas and the remaining Trust Territory of the Pacific." In 1977 the Committee attended the Third South Pacific Judicial Conference, which was held in Papua New Guinea. There they had the opportunity to meet with judges from throughout the Pacific Islands. Two years later, the Committee attended the Fourth South Pacific Judicial Conference, which was held on Rarotonga, Cook Islands. Members of the Committee participated in various sessions, and recommended that the practice of sending surplus law books to Pacific Island judicial officers be continued.

In 1982 Chief Judge Chambers, who deserves much of the credit for the success of the South Pacific Judicial Conferences up to that date, resigned from the Pacific Islands

Committee for personal reasons. He was replaced as chair by US Ninth Circuit Court of Appeals Judge Anthony M. Kennedy. Judge Kennedy noted shortly thereafter that the vast geography of the Pacific "...underscores the value of continued judicial interest in what is now a vast frontier for the evolution of constitutional government."

In 1990, then-US Supreme Court Associate Justice Kennedy recommended to Chief Justice Rehnquist that future work of the existing Committee be assigned to the US Ninth Circuit's Judicial Council. Thus, on April 19, 1991, the Pacific Territories Committee of the Ninth Circuit was chartered. Among other charges, the Pacific Territories Committee was to liaison with "Pacific jurisdictions in joint endeavors to improve the administration of justice in the Pacific Basin."

Initially chaired by Senior Ninth Circuit Court of Appeals Judge Alfred T. Goodwin, the Pacific Territories Committee continued to focus on both legal resources for the Pacific Island nations and on securing better training for island judges. In 2000, the Honorable J. Clifford Wallace, Chief Judge of the Ninth Circuit Court of Appeals since 1991, assumed the duties of chair of the Committee. Judge Wallace was responsible for changing the name of the Committee from the Pacific Territories Committee to the Pacific Islands Committee. Judge Wallace was also successful in securing funding for judicial training for the courts of the Pacific Islands. This training involved the National Judicial College of Reno, Nevada. Even after taking Senior Judge status in 1996, Judge Wallace still chairs the Pacific Islands Committee of the US Ninth Circuit Court, and continues to make major contributions to the South Pacific Judicial Conferences.

We shall now turn our attention to a detailed account of the sixteen South Pacific Judicial Conferences that have been held as of 2005.