Judicial Seminars in Micronesia

by Addison M. Bowman*

I. INTRODUCTION

This article describes a unique program of judicial education and training being conducted by American law professors in Micronesia.[1] Sponsored jointly by the Supreme Court of the Federated States of Micronesia, the Supreme Court of the Republic of Palau, and the William S. Richardson School of Law at the University of Hawaii, a series of semi-annual, two-week seminars designed to impart essential legal skills to approximately fifteen Micronesian judges has been in progress since 1982. The Micronesian transition from Trust Territory of the Pacific Islands[2] to a cluster of emergent Pacific nations[3] is evidenced by new constitutions and new governments and accession to political leadership by Micronesians. The constitutions that have been adopted in the Federated States

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[1] Apart from Australia, Indonesia and the Philippines, the Pacific islands are divided into three groups: Melanesia, stretching from Papua-New Guinea to New Caledonia and Fiji and including the Solomons and New Hebrides; Polynesia, stretching from New Zealand to Hawaii and including Samoa, the Marquesas and Cook Islands; and Micronesia ("small islands"), consisting of the four archipelagoes of the Mariana, Caroline, Marshall, and Gilbert Islands. For an historical and anthropological survey of these islands, see D. OLIVER, THE PACIFIC ISLANDS (rev. ed. 1975).

[2] The United States acquired the Caroline, Mariana, and Marshall Islands in 1945, and since 1947 has administered them under a Trusteeship Agreement approved by the United Nations Security Council and the United States. *See infra* text accompanying note 19. *See also* Trusteeship Agreement for the Former Japanese Mandated Islands, 61 Stat. 3301, T.I.A.S. No. 1665 (1947), *reprinted in* 2 FSM CODE 895 (1982). The Trusteeship Agreement is also reprinted in C. HEINE, MICRONESIA AT THE CROSSROADS (1974).

[3] The Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau will perhaps soon be nation-states "freely associated" with the United States. See *infra* text accompanying notes 93-97. The free association status and the proposed arrangement with the Commonwealth of the Northern Mariana Islands are discussed in Clark, *Self-Determination and Free Association—Should the United Nations Terminate the Pacific Islands Trust?*, 21 HARV. INT'L L.J. 1 (1980).

of Micronesia[4] and the Republic of Palau[5] create judicial systems that closely resemble their American counterparts, and a common law jurisprudence has taken root. The judicial education program described in this article aims to generate a proficiency in common law analysis and decision making sufficient to enable Micronesian judges, as they decide the cases that will come before them, to fashion a common law embodying the traditions and aspirations of the Micronesian peoples.

II. GEOGRAPHICAL, POLITICAL, AND SOCIAL BACKGROUND

The Federated States of Micronesia (FSM) is a nation of 607 islands[6] covering a huge expanse of ocean north of the equator and west of the international dateline.[7] FSM includes most of the Caroline Islands.[8] What were formerly the island districts of Ponape, Truk, and Yap are now the four Federated States of Kosrae,[9] Pohnpei,[10] Truk,[11] and Yap.[12] The 607 islands of FSM comprise a

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[4] The FSM Constitution is reprinted on p. C-3 of I FSM CODE (1982). For a comprehensive history of the development and adoption of the FSM Constitution, see N. MELLER, CONSTITUTIONALISM IN MICRONESIA (1985).

[5] The Palau Constitution is reprinted in PALAU NATIONAL CODE (1986).

[6] FEDERATED STATES OF MICRONESIA, NATIONAL YEARBOOK OF STATISTICS 5 (1981) [hereinafter FSM STATISTICS]. A number of the islands are high islands evidencing geologically recent volcanic activity, but most are sandy, coral islets forming atolls and encircling lagoons. For an explanation of the geological evolution from high islands to coral atolls, see E. LARSON AND P. BIRKELAND, PUTNAM'S GEOLOGY 535 (4th ed. 1982). Only 52 of the islands are inhabited. *See* U.S. DEP'T OF STATE, TRUST TERRITORY OF THE PACIFIC ISLANDS, 37TH ANNUAL REPORT TO THE UNITED NATIONS 3 (1984).

[7] FSM lies between 1° and 12° north latitude, and between 137° and 163° east longitude. Its eastern flank, Kosrae, lies midway between Honolulu and Australia and its western flank, Yap, lies directly east of the Philippines and midway between Australia and Japan.

[8] The Carolines, one of the four archipelagoes of Micronesia, comprise the island groupings of Pohnpei, Truk, Yap, and Palau, in east-to-west order. *See supra* note 1. The Palau Islands have become the Republic of Palau; the balance of the Carolines is now the Federated States of Micronesia. *See supra* note 3.

[9] Kosrae (previously spelled Kusaie), consisting of five islands with a total land area of 42.3 miles and a population of 6,262, was formerly part of Pohnpei, but in 1977 was detached and became one of the four FSM states. N. MELLER, *supra* note 4, at 25. Statistical information is derived from U.S. DEP'T OF STATE, *supra* note 6, and from FSM STATISTICS, *supra* note 6, at 4.

[10] Pohnpei (previously Ponape) consists of 163 islands with a land area of 133.4 square miles and a population of 26,922. U.S. DEPARTMENT OF STATE, *supra* note 6; FSM STATISTICS, *supra* note 6, at 4. The principal island, a high island also called Pohnpei, is one of the largest islands in Micronesia with an area of 129 square miles. The seat of the FSM national government is in Kolonia, Pohnpei's main town. For statistical data concerning Pohnpei, see PONAPE STATE STATISTICS OFFICE, PONAPE STATISTICAL YEARBOOK FOR 1981.

[11] Truk has 290 islands, a land area of but 49.2 square miles, and a population of 44,596. Truk thus claims half the population of FSM. U.S. DEP'T OF STATE, *supra* note 6; FSM STATISTICS, *supra* note 6, at 4.

[12] Yap boasts 149 islands, a land area of 45.9 square miles, and a population of 10,595. *See*

land mass of but 270 square miles and support a population of 88,375.[13] The Republic of Palau, consisting of 200 small islands with a land mass of 179 square miles and a population of 14,000, makes up the balance of the Carolines and lies to the west of FSM.[14]

Most of the Caroline Islands lie between 4° and 10° north latitude, and the climate is tropical. Natural resources are meager, especially on the atolls, and much of the population engages in subsistence farming and fishing.[15] Coconut, taro, and breadfruit are the principal subsistence crops. Marine resources are plentiful, and many Micronesian atolls encircle large lagoons shielded from ocean turbulence and teeming with fish and marine life.[16]

Micronesian society is traditionally matrilineal, and the matrilineage consisted of an extended clan with governance and landholding functions.[17] Traditional titles and chiefly rank were associated with clan membership and the location and size of the clan lands. Custom and tradition continue to exert powerful influence throughout FSM and Palau but erosion is evident. Many young people have migrated from outer islands and villages to the principal towns, where salaried work is available.

> American education [has] laid a foundation of knowledge and values which [has] gradually undermined satisfaction with a village life-style based upon subsistence farming supplemented by income earned from copra marketing, and constrained by the remaining hierarchical premises of tradition.[18]

For the past hundred years the people of the Caroline Islands have been dependent upon four successive foreign powers: Spain (1885-98), which acquired the Carolines through papal arbitration; Germany (1899-1914), which purchased the Carolines from Spain; Japan (1914-45), which wrested the Carolines from Germany and colonized them; and United States (since 1945),

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U.S. DEP'T OF STATE, *supra* note 6; FSM STATISTICS, *supra* note 6, at 5. Life on a Yapese island is chronicled in K. BROWER, A SONG FOR SATAWAL (1983).

[13] U.S. DEP'T OF STATE, *supra* note 6, at 2.

[14] *See* DISTRICT ADMINISTRATOR OF PALAU, THIS IS PALAU 10 (1965); Kluge, *Palau Isn't Sure Whether "Paradise" Is There—Or Here*, SMITHSONIAN, Sept. 1986, at 44.

[15] In 1984, of FSM's population of 88,375, only 10,160 were employed as wage earners by government and private enterprise, see U.S. DEP'T OF STATE, *supra* note 6, at 2.

[16] *See* W. ALKIRE, CORAL ISLANDERS 23-28 (1978); W. ALKIRE, AN INTRODUCTION TO THE PEOPLES AND CULTURES OF MICRONESIA 7 (2d ed. 1977) [hereinafter PEOPLES AND CULTURES OF MICRONESIA].

[17] *See* PEOPLES AND CULTURES OF MICRONESIA, *supra* note 16, at 26-67. See also *infra* note 55 for a discussion of Trukese society.

[18] N. MELLER, *supra* note 4, at 17.

which seized the Carolines in World War II and has since governed and administered them as part of the Trust Territory of the Pacific Islands.[19] Throughout that century the Micronesians have preserved their languages,[20] maintained their customs and traditions, and sustained a hope for freedom and autonomy. Now, anticipating approval of the Compacts of Free Association,[21] Micronesians look hopefully toward a time of virtual political independence.

Since 1962 the Trust Territory of the Pacific Islands (TTPI) has been administered by the United States Secretary of the Interior.[22] This administration included the exercise of executive, legislative, and judicial functions and the designation and appointment of personnel for these purposes. The Trust Territory High Court, located on Saipan in the Mariana Islands, has until very recently performed all judicial functions in Micronesia.[23] The High Court appointed local judges in the various districts of the TTPI, but the district courts had limited jurisdiction and the judges received little or no education or training. Most cases of any substance were taken to the High Court, which had a trial-level division that traveled among the various districts to hear the disputes that arose.

By plebiscite held on July 12, 1978, the people of Kosrae, Pohnpei, Truk, and Yap adopted and ratified the Constitution of the Federated States of Micronesia.[24] The first FSM Congress convened in 1979,[25] and in 1981 President

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[19] For a description of this history, see C. HEINE, MICRONESIA AT THE CROSSROADS (1974); N. MELLER, THE CONGRESS OF MICRONESIA (1969). Meller writes:

> Over 6,000 Americans were killed wresting Micronesia from Japanese control, and the temper of the American people hardly countenanced surrendering the islands to any other nation; conversely, the United States had early declared it sought no territorial gains from World War II. The placing of the area under United Nations trusteeship resolved the dilemma, and in 1947, with the Trusteeship Agreement, the islands technically came under civil administration.

Id. at 14. Governance of the Trust Territory was entrusted to the Commander-in-Chief, United States Pacific Fleet, from 1947 until 1951, when the responsibility was shifted to the Department of the Interior. *Id.* at 14-17.

[20] Each of the four Federated States has a separate language, and there are many dialects. Most people speak their own language plus at least English or Japanese. It is probable that English will become the common language of the Federated States. *See* C. HEINE, *supra* note 19, at 92. English is the language of the Government of the Federated States. *See* FSM STATISTICS, *supra* note 6. The same is true of Palau. Article XIII, section 1 of the Palau Constitution declares that "Palauan and English shall be the official languages," and section 2 elaborates: "The Palauan and English versions of this Constitution shall be equally authoritative; in case of conflict, the English version shall prevail."

[21] *See infra* text accompanying notes 93-96.

[22] EXEC. ORDER NO. 11,021, 48 U.S.C. § 1681 (1982).

[23] *See* Bowman, *Legitimacy and Scope of Trust Territory High Court Power to Review Decisions of Federated States of Micronesia Supreme Court: The* Otokichy *Cases*, 5 U. HAW. L. REV. 57, 65-68 (1983).

[24] *Id.* at 62. *See generally* N. MELLER, *supra* note 4. Pursuant to article XVI ("effective date"), the FSM Constitution took effect one year after ratification. According to 1 FSM CODE intro. (1982), the "establishment of constitutional government [took place] on May 10, 1979."

[25] *See* Bowman, *supra* note 23, at 62.

Tosiwo Nakayama administered the oath of office to FSM Supreme Court Chief Justice Edward C. King. King, an American lawyer, recognized an immediate need for judicial training in FSM. Micronesians had no experience in self-government, yet self-government was fast becoming a reality under a Constitution bearing substantial similarity to the United States Constitution. Constitutional conventions, moreover, were in progress or on schedule in the four FSM states of Kosrae, Pohnpei, Truk, and Yap and, predictably, those state constitutions would create state court systems with plenary jurisdiction and power similar to their United States state court counterparts.

The FSM Constitution creates a tripartite national government with checks and balances,[26] and adopts a federal model with four constituent states and state governments. The national government is a government of power "expressly delegated [or] . . . indisputably national [in] character."[27] As in the United States, the states hold the residual power.[28] The Constitution "is the supreme law of the Federated States of Micronesia . . . [and any] act of the Government in conflict with this Constitution is invalid to the extent of conflict."[29] Article IV contains a "Declaration of Rights" that closely resembles the United States Bill of Rights.[30] Article XI treats the judicial function and establishes the Supreme Court's jurisdiction to "review cases heard in the national courts, and cases heard in state or local courts if they require interpretation of this Constitution, national law, or a treaty."[31] The judicial article also contains what Chief Justice King calls the "judicial guidance" provision: "Court deci-

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[26] *Id.* at 62-64. *See also infra* note 72.

[27] FSM CONST. art. VIII, § 1.

[28] *Id.* § 2.

[29] *Id.* art. II, § 1.

[30] For example, art. IV, § 5 specifies: "The right of the people to be secure in their persons, houses, papers and other possessions against unreasonable search, seizure, or invasion of privacy may not be violated. A warrant may not issue except on probable cause, supported by affidavit particularly describing the place to be searched and the persons or things to be seized." In FSM v. Tipen, 1 FSM Intrm. 79 (Tr. Div. Pohnpei 1982), Chief Justice King, writing as trial division judge, noted the striking similarity between section 5 and the U.S. Constitution's fourth amendment, and observed that the Micronesian drafters had cited and alluded to U.S. Supreme Court decisions construing the Bill of Rights. "Thus," concluded King, "the Journal of the Micronesian Constitutional Convention teaches that, in interpreting the Declaration of Rights in the Constitution of the Federated States of Micronesia, we should emphasize and carefully consider United States Supreme Court interpretations of comparable language in the Bill of Rights of the United States Constitution." *Id.* at 85.

[31] FSM CONST. art. XI, § 7. Section 6 vests in the trial division of the Supreme Court "concurrent original jurisdiction in cases arising under this Constitution; national law or treaties; and in disputes . . . between citizens of different states . . . ."

sions shall be consistent with this Constitution, Micronesian customs and traditions, and the social and geographical configuration of Micronesia."[32] Regarding the states, the Constitution specifies simply that a "state shall have a democratic constitution."[33]

The state constitutions establish judicial systems in each of the four FSM states. The Yap Constitution, for example, ordains that the "judicial power of the State shall be vested in the State Court [which] . . . shall be the highest court of the State and shall consist of a Chief Justice and two Associate Justices."[34] As in the national scheme, justices are appointed by the executive with advice and consent of the legislature.[35] The state constitutions charge the state judiciaries with the responsibility for promulgating rules of practice and procedure and for judicial administration. The state constitutions also require judicial deference to "state traditions and customs."[36] Judicial systems have been established in Kosrae, Pohnpei, Truk, and Yap and, as of 1987, twelve state justices have been appointed and confirmed and are hearing cases at the trial and appellate levels.

Organizationally and functionally, then, the FSM national and state judiciaries closely resemble their American counterparts, and state court judges are required to interpret and to apply constitutional and statutory language, to analyze and to follow precedent,[37] and to administer state justice systems. The FSM Supreme Court sought and obtained a congressional mandate to develop a judicial training program, recognizing that the proper discharge of these functions would require training and education. The first generation of Micronesian state judges has been drawn from the traditional societal leadership and has little if any background of formal law school training. These circumstances necessitate the development of a program of judicial education that emphasizes and incul-

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[32] FSM CONST. art. XI, § 11. See also Semens v. Continental Air Lines, 2 FSM Intrm. 131 (Tr. Div. Pohnpei 1985) (construing the judicial guidance clause in a contract dispute). For a discussion of *Semens*, see *infra* text accompanying notes 52-53.

[33] FSM CONST. art. VII, § 2.

[34] YAP CONST. art. VII, §§ 1, 2.

[35] *Id.* § 3.

[36] *See e.g.*, KOSRAE CONST. art. VI, § 9. Section 9 provides: "Court decisions shall be consistent with this Constitution, State traditions and customs, and the social and geographical configuration of the State."

[37] Of particular concern is the need for state judges to apply and to follow FSM Supreme Court decisions construing the national constitution. The FSM Constitution provides, in article IX ("Legislative"), § 2p that the definition and penalization of "major crimes" is a national function. The National Criminal Code defines "major crimes" as those punishable by three years or more imprisonment. FSM CODE tit. 11, §902(a) (1982). The result is that crimes punishable by less than three years imprisonment are tried in the state courts. State court criminal jurisdiction is thus not insubstantial and national constitutional due process and related guarantees are fully applicable in such cases.

cates basic skills essential to the proper conduct of the judicial function in a common law framework, with maximum sensitivity to the overarching Micronesian desire to develop the law of the land and the sea in harmony with custom and tradition. These are ambitious goals. Chief Justice King's first step was to contact the faculty of the Richardson School of Law at the University of Hawaii. Hawaii's proximity to Micronesia was a factor in that decision,[38] as was King's belief that a faculty sensitive to issues peculiar to island societies would be most likely to contribute positively to the implementation of the judicial guidance provisions. The program commenced in 1982.

III. HISTORY OF THE PROGRAM

Early seminars[39] were held in August, 1982, and March, 1983, in Pohnpei which is the seat of the national government.[40] Each seminar lasted two weeks and consisted of two three-hour sessions per day for five days per week. Chief Justice King and his associate on the FSM Supreme Court, Justice Richard H. Benson, attended most seminar sessions and contributed to the early attainment of one important goal, that the seminars eschew a traditional teacher/student dichotomy and achieve a style of participatory dialogue that recognizes and respects every participant's ability to offer a meaningful individual contribution to the common educational task. The discussion format was facilitated also by the number of participants. The 1982 seminar, for example, had but ten participants including King and Benson.

The 1982 and 1983 seminars featured original materials that were distributed to the judges one month in advance of the seminars.[41] The materials included opinions from the United States and FSM Supreme Courts, constitutional and statutory excerpts, readings on legal analysis and the application of precedent, and a great many questions and problems that would focus seminar

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[38] Hawaii lies roughly halfway between the American mainland and Micronesia.

[39] A judicial education seminar consisting of FSM Supreme Court justices and Trust Territory district court judges (some of whom would be appointed as state court justices) was held in Kosrae in August, 1981. "This was a reasonable first effort," notes Chief Justice King in a letter to the author dated March 31, 1986, "but . . . we plainly did not have time to put the necessary materials together and probably did not have the resources . . . to do so."

[40] Each of the two seminars was conducted by the author and by his colleague, Williamson B. C. Chang. Chang is an Associate Professor at the William S. Richardson School of Law, University of Hawaii at Manoa.

[41] A. BOWMAN, MATERIALS AND QUESTIONS FOR THE JUDICIAL EDUCATION AND TRAINING SEMINAR FOR THE JUDGES OF THE FEDERATED STATES OF MICRONESIA (1983); W. CHANG, CASES AND MATERIALS FOR THE JUDICIAL EDUCATION; AND TRAINING SEMINAR FOR THE JUDGES OF THE FEDERATED STATES OF MICRONESIA (1983); A. BOWMAN & W. CHANG, CASES AND MATERIALS FOR THE JUDICIAL TRAINING SEMINAR FOR THE JUDGES OF THE FEDERATED STATES OF MICRONESIA (1982).

discussion and facilitate collective problem solving. For example, at the 1982 seminar one discussion topic concerned the enforcement of judgments, a topic that was included in the agenda at the request of a Trukese justice. The materials contained some readings describing the law of enforcement of judgments in the United States and the following note:

> Anglo-American law has always favored money judgments in contract and tort cases, but this traditional development has been based on the assumption that judgment debtors will have money or attachable property. If this assumption does not usually hold true in Micronesia, then alternatives to money judgments should perhaps be explored. We will devote a training session to the exploration of this problem. In preparation, please give some thought to the following questions.
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> In contract cases, there is the alternative of ordering specific performance. Should the remedy of specific performance be more readily available to contract plaintiffs? How have Micronesians customarily treated one who defaulted on a promise or a bargain?
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> In tort cases involving negligent or intentional injury to persons or property, what alternatives to money damages are there? How have Micronesians customarily treated the tortfeasor? Could the tortfeasor be ordered to repair property, or to perform services? Has there been a traditional ceremony of apology? Has such a ceremony been considered adequate in the past? Should the law seek to enforce money judgments in areas where money damages have not been traditionally applied?[42]

As one ponders these questions, it becomes apparent that the faculty learns at least as much during seminar sessions as do the students.

The early seminars yielded a full realization of the responsibility of the judges for the development of the common law of Micronesia. The FSM has a penal code[43] but little legislation in the areas of contract, property, and tort, the predictable subject matter of the state judges' plenary jurisdiction. There are precedents from the Trust Territory High Court but those precedents are not mandatory and FSM judges are free to disregard them if wise social policy or due regard for custom and tradition dictates. In a word, the transition from Trust Territory of the United States to nationhood creates a moment of jurisprudential discontinuity that invites, if not requires, a reexamination of fundamental norms and values. This realization serves to imbue the seminars with a deepened sense of responsibility and purpose. And in addition to imparting basic analytical skills, the seminars take on the added dimension of confronting the judges with policy choices that may be presented to them in future litigation and generating the collective wisdom of a group of men currently occupy-

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[42] A. BOWMAN & W. CHANG, *supra* note 41, at 60.

[43] National Criminal Code, FSM CODE tit. 11 (1982).

ing traditional leadership roles as well as judicial positions.

In retrospect we view the 1982 and 1983 seminars as initial, experimental components in a challenging undertaking in judicial education. By 1984 most of the first generation of state court judges had been appointed and confirmed. And by 1984, King and the author were able to articulate their primary goals: that within three to five years the seminars would yield training equivalent to the first year of formal law study, including the basic technique of common law analysis, and would enable the Micronesian judges to discharge their ongoing judicial tasks with increasing competence and confidence.

The inaugural seminar of the current series was held in Yap State in June, 1984.[44] In attendance at the Yap seminar was Chief Justice Mamoru Nakamura of the Supreme Court of the Republic of Palau. After participating in the seminar, Nakamura pledged Palau's future co-sponsorship of the seminars and offered to host the next one. The Palau seminar was held in January, 1985.[45] The second 1985 seminar was held in June in Pohnpei.[46] The February, 1986, seminar was held at the William S. Richardson School of Law in Honolulu and featured a diverse faculty including law professors, judges, and practicing lawyers. The June, 1986, seminar was hosted by Truk State,[47] and the most recent seminar was held in Kosrae State in January, 1987.[48]

The 1984 Yap seminar began with a week of very basic legal analysis training. Topics on the agenda were "Nature and sources of law," "Opinion analysis and the concept of precedent," "Judicial power and federalism," and "The role of custom." Again the materials were original.[49] Judges were asked to brief cases in advance of the seminar and to hand in their briefs for evaluation. Opinions were analyzed in the seminar sessions and the analysis was brought to bear on the solution of hypothetical problems. For example, the judges read and briefed *In re Iriarte*,[50] a case in which the FSM Supreme Court trial division held that a summary contempt proceeding had violated the alleged contemnor's due process rights. Seminar discussion of this opinion focused on the following

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[44] This seminar was conducted by the author and his colleague, Mari Matsuda. Matsuda is an Assistant Professor at the William S. Richardson School of Law, University of Hawaii at Manoa.

[45] The Palau seminar was conducted by John Barkai and Mari Matsuda. Barkai is a Professor of Law at the William S. Richardson School of Law, University of Hawaii at Manoa.

[46] The June, 1985, seminar was conducted by the author and by Jon Van Dyke. Van Dyke is a Professor of Law at the William S. Richardson School of Law, University of Hawaii at Manoa.

[47] The June, 1986, seminar was conducted by Van Dyke and Eric K. Yamamoto. Yamamoto is an Assistant Professor at the William S. Richardson School of Law, University of Hawaii at Manoa.

[48] This seminar was conducted by the author and Amy H. Kastely. Kastely is an Associate Professor at the William S. Richardson School of Law, University of Hawaii at Manoa.

[49] *See* A. BOWMAN & M. MATSUDA, SYLLABUS AND MATERIALS FOR THE FEDERATED STATES OF MICRONESIA JUDICIAL SEMINAR (1984).

[50] 1 FSM Intrm. 239a (Tr. Div. Pohnpei 1983).

questions that were included in the materials following the *Iriarte* opinion:

> From your brief of the *Iriarte* decision, try to answer the following questions: What is a "contempt of court"? Where does the power to punish for contempt come from? Does your court have that power? What is "summary contempt"? When is summary contempt procedure appropriate? What was wrong with Judge Diana's contempt order? What should Judge Diana have done? What would you do if a person speaks to you in court the way Iriarte did to Diana? Are you bound by the *Iriarte* opinion and decision? Why or why not?[51]

Custom and tradition are of paramount importance to Micronesians, and the judicial guidance clause[52] imposes an explicit obligation on every Micronesian judge. Chief Justice King has construed the clause in a recent decision requiring the interpretation of a contract:

> I consider the Judicial Guidance clause to impose the following requirements on the Court's analytic method. First, in the . . . event that a constitutional provision bears upon the case, that provision would prevail over any other source of law. Second, any applicable Micronesian custom or tradition would be considered and the Court's decision must be consistent therewith. If there is no directly applicable constitutional provision, custom or tradition, or if those sources are insufficient to resolve all issues in the case, then the Court may look to the law of other nations. Any approach drawn from those other sources, however, must be consistent with the . . . principles of, and values inherent in, Micronesian custom and tradition. Even then, the approach selected for the common law of the Federated States of Micronesia should reflect sensitive consideration of the "pertinent aspects of Micronesian society and culture," including Micronesian values and the realities of life here in general . . . .[53]

Judges attending the Yap seminar read and briefed *FSM v. Ruben*,[54] a prosecution for assault with a machete in which a question of custom was presented. Sometime after midnight, when defendant and his wife and four small children were at home sleeping, defendant's wife's brother, in a drunken condition, approached the house, called out for his sister, and demanded food. Receiving no response, he kicked in the front door and entered the house where he was confronted by the defendant with a machete. Defendant then drove the intruder away from the house and in the effort cut the latter in the chest. In response to the defense argument that the assault was but an incident of the defendant's reasonable defense of his family and his household, the prosecution asserted that

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[51] A. BOWMAN & M. MATSUDA, *supra* note 49, at 116.

[52] *See supra* text accompanying notes 32 and 36.

[53] Semens v. Continental Air Lines, 2 FSM Intrm. at 140-41.

[54] 1 FSM Intrm. 34 (Tr. Div. Truk 1981).

Micronesian custom allowed the brother-in-law free access to defendant's house and entitled the former to demand and receive food from defendant and his wife.[55] Indeed, even the defense agreed that "as a general proposition [the defendant's] own house is that of his brother-in-law and that his brother-in-law should have free access to it."[56] But the defense maintained, and the court agreed, that this customary privilege did not "extend to entry of the house at 1:00 a.m. in drunken condition destroying property, awakening and frightening the children and causing all in the house to be concerned about their personal safety."[57] The government's argument was rejected and the defendant was acquitted.

The *Ruben* case was a superb vehicle for seminar discussion and analysis. The court decided that the government had the burden of proving the applicability of the custom it asserted and that, no evidence on the point having been presented, the burden had not been met.[58] The obvious question, "How would a custom be proved?" generated a lively discussion. Some judges suggested they would take judicial notice of a custom. Others maintained that expert witnesses should be presented on such a question.[59] Of great interest was the realization that the judges themselves divided on the question of the applicability of the custom to the *Ruben* facts. Custom, like the common law, can provide but a set of general propositions, the applicability of which, in any given situation, may be in doubt. Of utmost importance, the judges agreed, is that litigants, or judges acting *sua sponte*, should inject custom and tradition into litigation whenever relevant in order to infuse the developing common law with this material.

A question of custom and the law was presented in *FSM v. Mudong*,[60] denying a motion to dismiss an aggravated assault prosecution. Mudong had allegedly attacked and injured one Manasa, and the opinion recounted the basis for

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[55] "Trukese society," comments Alkire, "is based on a number of matrilineal clans (*einang*) which regulate marriage. Postmarital residence is matrilocal, and thus the basic social group is made up of several sisters and their children, minus out-marrying males plus in-marrying husbands. . . . A man after marriage has labor obligations not only to his wife's lineage but also to his sisters' (his own) lineage." PEOPLES AND CULTURES OF MICRONESIA, *supra* note 16, at 56. The result would be that both Ruben and his wife would have intraclan obligations to the latter's brother.

[56] *Ruben*, 1 FSM Intrm. at 39.

[57] *Id.*

[58] *Id.*

[59] The Judiciary Act of 1979, 1 FSM CODE tit. 4, § 113 (1982) ("assessors") allows justices of the supreme court to "appoint one or more assessors to advise . . . with respect to local law or custom or such other matters requiring specialized knowledge." Similar provisions appear in state legislation. *See, e.g.*, Ponape State Judiciary Act of 1982, S.L. No. 2L-160-82, § 5; Truk State Judiciary Act of 1982, Act No. 2-32, § 23.

[60] 1 FSM Intrm. 135 (Tr. Div. Pohnpei 1982).

Mudong's motion:

> About one week before the criminal proceedings were initiated, some 100 people, including the families of Messrs. Mudong [and] Manasa . . . gathered . . . to discuss the "friction" between the families. . . . At the meeting, the families offered and accepted apologies. Then, "to solemnize the occasion and to purge the bad feeling, both sides sat together and shared cups of sakau, something very important in the Ponapean tradition.". . .[The] uncle of Ketson Manasa . . . states that "it is the consensus of both sides that bad feelings be put to a stop, and that further prosecution of the criminal case may hinder that goal. . . . [F]or that reason, both sides agreed that request has to be made to the proper authorities to dismiss the case."[61]

The motion thus asserted that the customary settlement had effected appropriate reparations and resolved all hostilities, and that the victim and his family approved the request to terminate the prosecution. The court denied the motion but discussed the potential impact of a customary settlement in a criminal case.

The decision to terminate a criminal prosecution, the court recognized, "is, with limited exceptions, within the discretion of the prosecutor."[62] That prosecutorial discretion rests upon important policy and separation-of-powers considerations.[63] The *Mudong* prosecutor opposed the motion to dismiss and thereby asserted the state's paramount interest in the continuation of the case. The opinion recognized that the prosecutor represented "the more generalized interests of the larger society"[64] and that the function of the criminal proceeding is quite different from that of a customary apology and forgiveness ceremony. The ritual ceremony resolves disputes between families and fosters harmony among families and clans. The criminal sanction, on the other hand, vindicates society's interests in punishing the wrongdoer. "The two systems," the court concluded, "can be seen as supplementary and complementary, not contradictory."[65] There is no reason for one to preempt or obviate the other.

Shouldn't the law encourage customary dispute settlements? In a thoughtful piece of policy analysis, the *Mudong* court observed that, although families of accused persons "might find . . . termination of court proceedings a powerful incentive to enter into a customary settlement . . . the family of the victim might be more willing to . . . enter into a customary settlement with the family of the defendant, if the victim's family is confident that the constitu-

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[61] *Id.* at 137.

[62] *Id.* at 140. The principle is a familar one in American jurisprudence. *See* Inmates of Attica Correctional Facility v. Rockefeller, 477 F.2d 375 (2d Cir. 1973); United States v. Cox, 342 F.2d 167 (5th Cir. 1965).

[63] *Mudong*, 1 FSM Intrm. at 140-41.

[64] *Id.* at 145.

[65] *Id.*

tional legal system will deal with the defendant."[66] In dictum the court observed that the court could, at sentencing time, "usefully consider and respond to" the fact of customary apology, forgiveness, and settlement.[67] In this way the court wisely accommodated the customary and criminal justice systems and, incidentally, generated an excellent teaching vehicle for the judicial seminar.

The second week of the Yap seminar was devoted to tort law, and the week began with a mock trial involving a construction accident in which a bulldozer had injured a child. The case presented questions of individual and vicarious tort liability and damages. One of the judges presided, and thereafter all judges were given an afternoon to write an opinion deciding the case. To date, every two-week seminar has devoted one full day to a mock trial and opinion-writing exercise. There are no juries in FSM, and trials are thus simplified in all but one respect: the trial judge must produce a written record of fact findings and legal conclusions adequate for appellate review.[68] Accordingly, the mock trials typically present one or two contested fact issues and a law question. Should the court adopt the principle of respondeat superior? This question was squarely presented in the mock trial in Yap. On questions such as this there is a tendency to reach almost automatically for American law, but the instructor's function is to invoke the judicial guidance provision and the analysis it demands.[69] The judges decided that respondeat superior was not inconsistent with Micronesian values, and produced written opinions explaining their reasoning.

The second installment of torts was delivered during the second week of the Palau seminar, held in January, 1985. The instruction included basic tort law, elements of a negligence case, vicarious liability, the role of insurance, products liability, malpractice, and defamation.[70] The first week of the Palau seminar treated several units of basic judicial functioning, including the conduct of pretrial motions and settlement conferences, decision-making in the bail, sentencing, and small claims contexts, legal research, and opinion writing. Simulated bail hearings, guilty pleas, sentencings, pretrial conferences, settlement conferences, and a trial were conducted. Materials included a hypothetical criminal case involving weapon and drug charges and presenting a question of posses-

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[66] *Id.* at 147.

[67] *Id.* at 148.

[68] The 1985 Pohnpei seminar, devoted one session to "Trial judge's duty to make a proper record for appellate review." *See* A. BOWMAN & J. VAN DYKE, SYLLABUS AND MATERIALS FOR THE FEDERATED STATES OF MICRONESIA JUDICIAL SEMINAR 163-83 (1985). *See also infra* text accompanying notes 71-88. Included in these materials were FED. R. CIV. P. 52, FED. R. CRIM. P. 23(c), readings from NATIONAL CONFERENCE OF STATE TRIAL JUDGES, THE STATE TRIAL JUDGE'S BOOK (2d ed. 1969), and Stevenson & Zappen, *An Approach to Writing Trial Court Opinions*, 67 JUDICATURE 336 (1984).

[69] *See supra* notes 52 & 53 and accompanying text.

[70] *See* J. BARKAI & M. MATSUDA, SYLLABUS AND MATERIALS FOR THE FEDERATED STATES OF MICRONESIA JUDICIAL SEMINAR (1984).

sion. Written opinions deciding the case were obtained from the judges and evaluated.

The third seminar in the current series, held at Pohnpei in June, 1985, was devoted to constitutional law and evidence law.[71] The addition of the Palauan judges meant that two constitutions had to be treated. The Kosrae State Constitution was also included in the materials. There are a number of similarities among the FSM, Palau, and United States Constitutions. Each establishes a tripartite national government with checks and balances,[72] a national judiciary with supreme power of constitutional interpretation,[73] and a declaration of due process and fundamental rights.[74] The Pohnpei agenda included judicial review and jurisdiction, relationships among FSM, Palau, and the Trust Territory of the Pacific Islands, future relationships among FSM, Palau, the Marshall Islands, and the United States, state-national relations in FSM, jurisdiction over marine resources, due process, equal protection, and freedom of expression and religion. This was a rich menu, and additional time at the February, 1986, seminar was required to complete it. The 1985 Pohnpei seminar included a mock trial that presented a question of irregular employment termination raising freedom of expression, equal protection, and contested fact issues. The judges performed all the roles in this trial, and were critiqued.

The second week of the Pohnpei seminar was devoted to evidence law. A judicial system without juries lends itself to simplified evidence rules and the author, at the 1984 Yap seminar, had committed himself to the development of a streamlined set of non-jury evidence rules for FSM and Palau. The 1985 Pohnpei materials[75] contained the following prefatory note:

> The evidence materials are in fulfillment of a promise, made by the author in 1984, to write a set of evidence rules suitable for nonjury trial practice in the Federated States of Micronesia. Using, in most instances, the United States Fed-

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[71] *See* A. BOWMAN & J. VAN DYKE, SYLLABUS AND MATERIALS FOR THE FEDERATED STATES OF MICRONESIA JUDICIAL SEMINAR (1985).

[72] *See, e.g.*, FSM CONST. art. IX ("Legislative"), §§ 2(b) (ratification of treaties), 2(o) (impeachment of president, vice president, and justices), 2(q) (override presidential veto), 22 (presidential veto); art. X ("Executive"), §§ 1 (president elected by Congress), 2(c) (power of pardon), 2(d) (appointment of judges with advice and consent of Congress); art. XI ("Judicial"), §§ 6(b), 7 (together with art. II, power of constitutional interpretation and judicial review); PALAU CONST. art. VIII ("Executive"), §§ 7(4) (appointment of judges), 7(5) (power of pardon); art. IX ("Legislative"), §§ 5(7) (ratification of treaties), 5(8) (approval of presidential appointments), 5(16) (impeachment of president, vice president, and justices), 15 (presidential veto and 2/3 override); art. X ("Judiciary"), §§ 5, 6 (together with art. II, power of constitutional interpretation and judicial review).

[73] FSM CONST. arts. II, XI; PALAU CONST. arts. II, X.

[74] FSM CONST. art. IV; PALAU CONST. art. IV.

[75] A. BOWMAN & J. VAN DYKE, *supra* note 71.

eral Rules of Evidence as a model, the author retained, adapted, or eliminated those rules depending on the criterion of suitability for nonjury practice. The result is a set of proposed rules that could be adopted in the national and state courts.

It is hoped that the judicial seminar sessions will test the rules in two ways: (1) By asking the judges to answer the questions and solve the problems that are interspersed throughout the materials . . . and thereby test the rules in the crucible of application; and (2) By using the proposed rules as a focal point for policy analysis, on the assumption that no one is better able to say what the FSM evidence rules should be than the FSM Judiciary. In this context the author will be happy to serve as reporter and provide drafts of amendments that are suggested in seminar sessions.[76]

The proposed evidence rules are characterized by two innovations. The first involves rule 403, which in the United States allows for the exclusion of relevant evidence "if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence."[77] Because of its pervasive scope and application, rule 403 is probably the most frequently invoked rule of evidence in jury trials.[78] Its proposed reformulation for non-jury practice is: "Although relevant, evidence may be excluded if its probative value is substantially outweighed by considerations of undue delay, waste of time, or needless presentation of cumulative evidence."[79] The commentary to proposed rule 403 points out:

The proposed rule eliminates "danger of unfair prejudice, confusion of the issues, [and] misleading the jury" as factors justifying exclusion of relevant evidence. There are two reasons for this: (1) These factors are problematical in jury trials but judges are considered able to avoid prejudice, confusion, and being misled; and (2) In any event, the judge must necessarily learn of the nature of the evidence when he hears the proffer, and since the dangers are thus unavoidably risked the evidence may just as well be admitted for whatever it is worth. Note that evidence of no value is excluded by rule 402, and so rule 403 operates only in contexts where the evidence has *some* relevancy.[80]

The judges welcomed the proposed alternative to rule 403. They agreed that the trial judge necessarily confronts arguably prejudicial evidence under any formulation of the rule. In the first place, most evidence issues arise during the

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[76] *Id.* at 1-2.

[77] FED. R. EVID. 403.

[78] R. LEMPERT & S. SALTZBURG, A MODERN APPROACH TO EVIDENCE 156 (2d ed. 1983).

[79] A. BOWMAN & J. VAN DYKE, *supra* note 71, at 45.

[80] *Id.*

trial, and in any event the classic rule 403 judgment is essentially a contextual one, involving as it does a prediction of the impact of a particular evidence item on the ultimate trial result.[81] That is to say, even if a judicial colleague could be summoned to hear and dispose of a rule 403 objection, that person would be unable to furnish the ruling absent a substantial educational briefing concerning completed and anticipated trial events. Moreover, such a surrogate colleague may not be available in Micronesia. The FSM Supreme Court, for example, with trial and appellate jurisdiction, consists of but two justices. If one hears a case at the trial level, the other must be available to hear the appeal.[82] Under these circumstances the trial judge has little choice but to try the case and resolve the evidence issues as fairly and efficiently as possible.

The second innovation of the proposed nonjury evidence code for FSM and Palau is a revision of the hearsay rule coupled with complete elimination of the hearsay exceptions:

> *Bowman's proposed rule 801*: Hearsay evidence generally admissible.
> (a) *Hearsay defined.* "Hearsay" is a statement uttered by someone other than the witness giving testimony and offered to prove the truth of the matter stated.
> (b) *Admissibility.* Hearsay is generally admissible.
>
> *Bowman's proposed rule 802*: Hearsay to be accorded proper weight.
> In assigning probative value to hearsay evidence the court should consider its relevancy in the rule 401 sense discounted by (1) the strength of the possibility that the statement was never uttered, and (2) the ability or inability of the opponent to test the credibility of the hearsay statement and its declarant.[83]

The elimination of the hearsay rule at bench trials has been strongly advocated by Kenneth Culp Davis.[84] The hearsay analysis is arcane and convoluted and, more often than not, yields admissibility through one or more of the bur-

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[81] Unfair prejudice, confusion of the issues, and misleading the jury, as these phrases are employed in FED. R. EVID. 403, connote an improper skewing of the trial outcome by reason of receipt of evidence. *See* E. CLEARY, MCCORMICK ON EVIDENCE 545-47 (3d ed. 1984). Professor Cleary observes: "Even the same item of evidence may fare differently from one case to the next, depending on its relationship to the other evidence in the cases and the importance of the issues on which it bears." *Id.* at 546.

[82] The judicial article of the FSM Constitution specifies that each supreme court justice "is a member of both the trial division and the appellate division . . . [and that n]o justice may sit with the appellate division in a case heard by him in the trial division." FSM CONST. art. XI, § 2. In order to constitute a three-justice appellate panel, the Court will designate two additional justices pursuant to art. XI, § 9: "The Chief Justice . . . by rule may . . . give special assignments to retired Supreme Court justices and judges of state and other courts."

[83] A. BOWMAN & J. VAN DYKE, *supra* note 71, at 159.

[84] Davis, *Hearsay in Nonjury Cases*, 83 HARV. L. REV. 1362 (1970).

geoning exceptions.[85] Moreover, since the relevance rules are preemptive in all contexts, the hearsay exclusion, when effective, deprives the factfinder of evidence of some worth. For this reason the rule has been called the "child of the jury."[86] Its elimination in Micronesia was desired by the judges, and the only question remaining is whether the confrontation clause of the FSM Constitution,[87] which has not yet been construed, will be offended by the receipt of hearsay against the accused in criminal cases.[88]

In February, 1986, the FSM and Palau judiciary came to Honolulu for a two-week seminar at the University of Hawaii's Richardson School of Law. The Honolulu seminar was supported by a generous grant from the United States Information Agency.[89] The agenda featured criminal and civil procedure, juvenile courts, contracts and commercial law, and a constitutional law continuation.[90] The judges were welcomed by Hawaii's Governor George R. Ariyoshi, and were addressed by Hawaii Supreme Court Chief Justice Herman Lum on "The chief justice's role and responsbility in the matter of judicial administration and calendar control." Chief Judge James S. Burns of Hawaii's Intermediate Court of Appeals lectured on the subject of writing appellate opinions.

The Honolulu seminar mock trial presented a motion to suppress evidence in a criminal case. The hypothetical facts occurred on the main thoroughfare in Kolonia, the seat of the national government and principal town in Pohnpei, and entailed a police officer stopping a pickup truck and seizing a revolver inside the vehicle. There were two witnesses, the defendant-movant and the police officer, and these roles were performed by a law student and a member of the Honolulu Police Department. Chief Justice King presided, and the author and a colleague played the roles of counsel. The judges observed the hearing, discussed issues and procedures at its conclusion, and then wrote opinions deciding the motion to suppress. There was a sharply contested fact-credibility issue that could have been dispositive of the motion. Defendant insisted that

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[85] Bowman, *The Hawaii Rules of Evidence*, 2 U. HAW. L. REV. 431, 465-74 (1981).

[86] E. CLEARY, *supra* note 81, at 726 (quoting THAYER, PRELIMINARY TREATISE ON EVIDENCE 47 (1898)).

[87] FSM CONST. art. IV, § 6.

[88] *Cf.* Levin & Cohen, *The Exclusionary Rules in Nonjury Criminal Cases*, 119 U. PA. L. REV. 905, 925-29 (1971); Weinstein, *Alternatives to the Present Hearsay Rules*, 44 F.R.D. 375, 382 (1968).

[89] The principal costs of the seminars, which are regularly funded by the FSM and Palau governments, are in the areas of travel and per diem for the participant judges. These costs were significantly increased in the Honolulu seminar, and the United States Information Agency generously lent support.

Judges were housed at the University's East-West Center. Seminar sessions were held twice daily at the law faculty conference room.

[90] *See* A. BOWMAN, SYLLABUS AND MATERIALS FOR THE FEDERATED STATES OF MICRONESIA—REPUBLIC OF PALAU JUDICIAL SEMINAR (1986).

the weapon was the fruit of a search of the glove compartment, but the officer maintained that the gun barrel was in open view protruding from a paper bag on the floor of the truck. The police officer's reasons for stopping the truck and his conduct of the arrest and seizure raised issues under a provision of the FSM Constitution bearing substantial similarity to the fourth amendment.[91]

The judges' opinions were excellent. Without exception, they perceived the need to resolve the fact question and to find specifically the location of the revolver immediately prior to its seizure. They had previously read, briefed, and discussed in seminar five FSM Supreme Court search and seizure opinions[92] of possible relevance to disposition of the motion to suppress, and they analyzed several of these cases in the legal discussion portions of their opinions. Every opinion furnished an adequate record for appellate review of the point.

The summer 1986 seminar was held in Truk and consisted of a week devoted to civil procedure and a week of examination and discussion of the Compacts of Free Association.[93] If a nation is not fully independent of another the next best status, it might be contended, is free association. The compact between the United States and FSM[94] recognizes that FSM is "self-governing" and fully autonomous in its internal affairs. In the conduct of foreign affairs, on the other hand, the free association status requires that FSM "consult" with the United States and afford the United States "full authority and responsibility for security and defense matters"[95] in the islands. The United States will have the authority to "establish and use" military bases in FSM, and the Micronesians will receive substantial sums of money every year during the life of the Compact.[96]

The materials on the compacts raised the important question, since resolved by the Palau Supreme Court,[97] whether the Compact of Free Association comports with the requirement of the Palau Constitution that any "agreement

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[91] *See supra* note 30.

[92] Ludwig v. FSM, 2 FSM Intrm. 27 (App. Div. 1985) (search incident to arrest); Ishizawa v. Pohnpei, 2 FSM Intrm. 67 (Tr. Div. Pohnpei 1985) (search and seizure of fishing vessel); FSM v. George, 1 FSM Intrm. 449 (Tr. Div. Kosrae 1984) (issue of consent to enter private residence); FSM v. Mark, 1 FSM Intrm. 284 (Tr. Div. Pohnpei 1983) (seizure of plants from garden); FSM v. Tipen, 1 FSM Intrm. 79 (Tr. Div. Pohnpei 1982) (search of handbag).

[93] J. VAN DYKE & E. YAMAMOTO, SYLLABUS AND MATERIALS FOR THE FEDERATED STATES OF MICRONESIA—REPUBLIC OF PALAU JUDICIAL SEMINAR (1986).

[94] The Compacts of Free Association between the United States and the Governments of the Marshall Islands and FSM are reprinted in H.R.J. RES. 187, Pub. L. No. 99-239, U.S.C.S. (Supp., Feb. 1986) 4156. They have been approved by plebiscite in the Marshalls and FSM, and were signed into law by President Reagan on January 14, 1986. Final United Nations approval of the Compacts is contemplated in U.N. CHARTER arts. 83, 85.

[95] Compact of Free Association § 311(a).

[96] *Id.* §§ 211-219, 311(b)(3).

[97] Gibbons v. Salii, No. 8-86 (Sup. Ct. Palau) Sept. 17, 1986).

which authorizes use, testing, storage or disposal of nuclear . . . weapons intended for use in warfare shall require approval of not less than three-fourths (¾) of the votes cast in [a nationwide] referendum."[98] On September 27, 1986, in *Gibbons v. Salii*,[99] the Palau Supreme Court, per Chief Justice Nakamura, held that the Compact of Free Association with the United States, which received only 72% approval in a February, 1986, referendum in Palau, "has not been properly approved" and thus cannot be entered into by the Palau government. The problem is that Section 324 of the Compact[100] would have empowered the United States "to operate nuclear capable or nuclear propelled vessels and aircraft within the jurisdiction of Palau without either confirming or denying the presence or absence of such weapons . . . ." In the wake of *Gibbons*, the United States and Palau will need to begin again the process of negotiating the future political status of Palau.

The January, 1987, seminar, held on Kosrae and Pohnpei, treated contempt of court, judicial recusal and disqualification, judicial and legal ethics, and commercial law.[101] The mock trial featured a motion for recusal of the trial judge and an issue of statutory interpretation. The ethics materials presented issues of judges' personal ethics and of the judges' responsibility for regulating the practice of law in FSM. Each of the FSM states and the national government has adopted either the ABA Code of Professional Responsibility or the ABA Model Rules of Professional Conduct as the local governing standards, and so the Kosrae materials included problems and questions calling for solution under both sets of model rules.

IV. CONCLUSION

The partnership of the Supreme Courts of the Federated States of Micronesia and the Republic of Palau and the Richardson School of Law has produced a training program for trial and appellate judges in Micronesia. The law school's involvement in this endeavor can be seen as an aspect of its commitment to Pacific legal studies and Pacific Island legal development. The faculty is grateful to Chief Justice Edward C. King for having made it all possible.

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[98] PALAU CONST. art. II, § 3; *see also id.* art. XIII, § 6.

[99] *See supra* note 97.

[100] *See* J. VAN DYKE & E. YAMAMOTO, *supra* note 93, at 79.

[101] *See* A. BOWMAN & A. KASTELY, SYLLABUS AND MATERIALS FOR THE FEDERATED STATES OF MICRONESIA—REPUBLIC OF PALAU JUDICIAL SEMINAR (1986).