PREFACE

For most historians and general readers, the term western legal history brings immediately to mind the legal developments and institutions associated with the U.S. territories and states of continental North America. Law and courts in the territorial phase of the region’s development became the subject of important historical writing early in the twentieth century, initially under the influence of Frederick Jackson Turner and the “frontier school,” and the subject was later invigorated with new attention to constitutional and legal dimensions by the work of such leading scholars as Clarence Carter, Francis Philbrick, Earl Pomeroy, Howard Lamar, and Kermit Hall. In the pages of Western Legal History, since its founding, there has been abundant writing published in both the Turnerian tradition—focused on the processes of westward expansion, community building, and democratic politics and governance—and the newer school of scholarship that is focused on courts, doctrinal legal development, and the “law and society” nexus.

The present symposium issue of this journal, on federal courts and law in the Pacific Ocean area, presents three articles in which the geographic scope of the legal history of the American West is extended to encompass the former island territories of the United States and of other colonial powers. The articles discuss both Hawai’i in its late territorial phase, during the World War II era when it was the mid-ocean launching point of America’s Pacific war effort, and the other territorial units that today have attained status ranging from political independence and free association to commonwealth standing under the U.S. flag.

In the first article, the present authors offer new research on the treatment of Japanese-American citizens under the regime of martial law that the U.S. Army and the national government imposed on the Territory of Hawai’i during World War II. The Americans of Japanese ancestry living in Hawai’i escaped the fate of mass removal and incarceration that befell their counterpart population, citizens and aliens alike, on the West Coast of the mainland. However, one subgroup of that population in Hawai’i, the American-born citizens known as Kibei—individuals who had lived in Japan for part of their lives, for educational or other purposes, and who then returned to Hawai’i—suffered a harsher fate that represents a nearly forgotten dimension of army and intelligence policies in the war era. The cost to the Kibei was high, in terms of loss of constitutional and personal liberties, and only the intervention of district courts and the Ninth Circuit appellate court prevented an even higher cost from being exacted.
Judge Alfred T. Goodwin and Professor Jon M. Van Dyke, in the two articles following, document a very different aspect of federal law and courts in the legal history of the Pacific area territories. As their scholarship shows, the historic relationship of the U.S. Court of Appeals for the Ninth Circuit to the island communities and polities of the Pacific was of vital significance in the territories and has continued in full vigor in more recent years, beyond the era of the islands' governance under the United States or other colonial powers. Over time an important partnership evolved, and the Ninth Circuit's judges have been instrumental in promoting institutional ties and international judicial amity throughout the Pacific region in this modern era of post-colonial development.

Judge Goodwin, himself a key figure in this recent history, provides a full overview and analysis of both the judicial institutions in the former territories of the United States and the other colonial powers, and the continuing interrelationship of American judges and federal law to the post-colonial governments. Of particular interest, as he notes, is the continuing role of the Ninth Circuit's Pacific Islands Committee in advancing and helping to coordinate judicial interchange. Professor Van Dyke carries this story forward, fully documenting and analyzing the South Pacific Judicial Conference and its successor, the Pacific Judicial Conference. His article discusses the major issues that these conferences have addressed, the progress that has been made in advancing the key objectives of rule of law and judicial independence, and the role of individual judicial leaders (including, notably, from the United States, Justice Anthony Kennedy and Judges Goodwin, the late Samuel King, and J. Clifford Wallace) in shaping the agendas and the important process of dialogue that has emerged in the conference's history.

We are grateful to the journal's editor, Brad Williams, for inviting us to serve as guest editors and to include our own work in the present issue; and to members of the federal judiciary, especially Judges Goodwin, Richard Clifton, and King, for their personal interest in seeing this symposium come to publication.

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Guest Editors