REFLECTIONS ON THE 40TH ANNIVERSARY OF THE WILLIAM S. RICHARDSON SCHOOL OF LAW

The William S. Richardson School of Law at the University of Hawai‘i celebrates its 40th Anniversary this year. In recognizing this milestone, this series of reflections focuses on the school from several points of view. They include: excerpts from speeches by Chief Justice Richardson whose vision helped make the Law School possible; a perspective on the importance of Hawai‘i’s law school to its community - and its future going forward - by current Dean Avi Soifer; and excerpts from an introduction by Melody Kapilialoha MacKenzie ’76, to a book about the far-reaching legal opinions of CJ Richardson, the Law School’s namesake.

Reflections by Chief Justice ‘CJ’ William S. Richardson excerpted from three important speeches:

On the opening day of the University of Hawai‘i Law School in 1973:

“For too many years I have seen Hawai‘i residents denied a legal education simply because the crush of admissions has caused mainland schools to discriminate in favor of their residents and against ours. Of those who take the bar exam each year in Hawai‘i, sometimes as few as five percent are local applicants.

“The founding of this Law School means greater opportunity for our young people in particular, and for the State in general. There are people, of course, who objected to this venture. We don’t have the money, they said; we don’t need a law school now. I can hear the opposition even yet!

“Our mid-Pacific locus may be reason enough for this Law School eventually to specialize in various aspects of international law. Increasing interaction among nations and increasing ecological concerns promise to make the law of the sea an especially crucial field. We could contribute to its substantive enlargement and extension, since we have easy access to the study of such problems as the preservation of reefs, contamination of the ocean, exploitation of seabeds, and even other far-reaching domestic and international policies as underwater demolitions, territorial fishing rights, and the governing of the artificial creation of phenomena such as tidal waves ……

“Despite its frustrations, law remains a vital, attractive profession. In Hawai‘i, it has supplied us with the preponderant amount of our leaders and policymakers. As they have helped to shape Hawai‘i, you can shape its future. As you progress, so should this school. I hope it will excel, that it will not be run-of-the-mill, that it will keep the law alive, that it will think in terms of the future and what can be.

“To begin, the Judiciary expects to furnish some assistance, and we expect that you will furnish us with relevant criticism and other input. For, as Judge Learned Hand once noted in a speech before a renowned law school, “It is not in books that the law can live, but in the consciousness of the profession as a whole. Judges, dressed with their brief authority, may seem to speak more finally, but it is only for the moment. In the end
they take their cues from the bar and the great schools, like this, which slowly form the molds.”

**To the inaugural graduating class in 1976:**

“I firmly believe, along with many other supporters of the school, that the future of the Law School is important to the future of Hawai‘i.

“First, we need the Law School because many qualified Hawai‘i students are effectively barred from attending mainland law schools. Travel expenses, living costs, and mainland tuition are simply too high for many students. Furthermore, the admissions requirements of the mainland law schools have tightened substantially in recent years, so that even our qualified prelaw students who could afford a mainland education have often been rejected. Hawai‘i needs a law school where bright people, including those of limited financial means, can receive the same quality legal training as mainland students.

“Second, there is a need for additional legal services, especially to lower and middle-income groups. The Law School is helping to meet that need both by increasing the number of lawyers in the State and by providing courses relating to the legal needs of middle and lower income persons.

“Third, the Law School is necessary to prepare lawyers to deal with complex problems peculiar to Hawai‘i. For example the use and development of our lands is complicated by the limited lands available, the concentration of ownership in relatively few hands, and the special history of Hawaiian land tenure. Other relevant fields in which the Law School can practically assist the State are international trade and investment and the law of the sea.

“Fourth, Hawai‘i’s government needs a competent and independent source of critical analysis. Over the years, our State and county governments have grown in size and in relative influence, as contrasted to the private sectors of society. The Legislature, the courts, the Governor’s office, and the State administrative agencies are all involved in the making, administration, or application of the law; and all these branches of the government need evaluation of their legal decisions and practices.

“Fifth the Law School is needed as a source of continuing education for Hawai‘i’s lawyers. Recently, our legislature passed a resolution requesting study of a mandatory legal education program for members of the Hawai‘i bar. Whether continuing legal education is to be mandatory or voluntary, or both, there is no question that the rapid changes and increasing complexities of modern law require that lawyers reeducate themselves from time to time. The Law School, with its facilities and its teachers, will be at the heart of our continuing legal education programs.”

**To the class of 1979:**

“Each year, as I watch the Law School community gather together, as I look at the faces of the graduates and shake the hand of the man or woman receiving a diploma, I feel a great sense of pride in this school and its graduates. This experience each year
affirms my conviction that the Law School is fulfilling its obligation to the community; that the dream of a school where Hawai‘i’s young people can receive the highest quality legal training is being realized; and that the graduates of this school will help direct and guide Hawai‘i to a better future.”

**Reflections by Avi Soifer, as he begins his 11th year as Dean of the William S. Richardson School of Law:**

We continue to realize the dream of CJ and his allies, who had to fight for our creation. I genuinely believe that there is no other law school in the United States that is as important to its community as is the Richardson Law School to Hawai‘i. It is also worth remembering that CJ, in his uniquely warm and unassuming way, also envisioned leadership for the Law School and its graduates on the national and international stage.

We have come a long way from our early days in the Quarry, yet much of that early spirit and its celebration of our striking diversity remains. Many people also still remember vividly that the very existence of the Law School was threatened more than once in our early years. But that struggle was won and won so convincingly that now there can be no doubt that the Law School will survive, and that its graduates and current students prove over and over again that CJ’s vision has remained vital not only for Hawai‘i, but for very varied communities around the world,

I am often asked where we are heading. In one important sense, we are not going anywhere; we are here to stay. Yet change is inevitable and necessary and we can accurately envision a bright future for the Law School. Though legal education is in some trouble in other parts of the United States, we are still doing very well.

We have the considerable advantage of still being relatively inexpensive and selective, and our students currently are getting jobs more readily than are most law graduates these days. In addition, three of the Law School’s greatest strengths already are in considerable demand and will be even more so in the decades ahead. I have in mind our deep expertise and exemplary offerings in the realms of Asian law, the laws of the Pacific Islands, and Hawaiian indigenous rights; our extraordinary strengths in environmental law; and the unrivalled actualization and embrace of diversity throughout every aspect of the Law School.

We also stand out because the Law School has taken the lead in numerous multidisciplinary projects across UH and in the wider world. The Child Welfare Clinic, for example, combines students and faculty from the Schools of Education, Nursing, and Social Work as well as the Law School. It brings our social capital out into the community in strikingly innovative ways. We also have pioneered with our award-winning Medical-Legal Partnership for Children at the Kokua Kalihi Valley Community Health Center, as well as through countless other partnerships on and beyond the campus. In addition, we tend to hire faculty members who quickly are sought after for shared appointments and collaborative work.
We will continue to build upon our many innovative programs, while also offering practical skills courses with an emphasis on legal research and writing. And we will build even more strongly on our direct engagement with our communities, whether it be Bishop Street, vulnerable clients of our exceptional Elder Law program, or dealing with human rights issues across the globe. To contain all our classes and new programs, we must build our Community Legal Outreach Center quickly as well as getting started on the planned major renovation of the Law Library Building soon thereafter.

Because we approach legal problems as problems that actual people confront, our graduates are in demand as successful problem-solvers in realms stretching far beyond traditional American legal practice. After 40 years, we probably will not quite reach the Promised Land - and it must be said that we have certainly not been wandering, because of the guidance, cooperation, and inspiration afforded the Law School by so many people. Yet our future is remarkably bright as we continue striving to realize the dream with aloha that began taking real, impressive form 40 years ago.

At our core, we are building upon CJ’s vision by providing students - including those from diverse, underserved populations - the opportunity to learn the craft of lawyering from an absolutely first-rate faculty who are very much committed to teaching. And our students -whether day or evening, local or from across the globe - encounter a supportive, warm, face-to-face culture that is extraordinary, not only within the United States, but among all law schools around the world.

Reflections by Melody Kapilialoha MacKenzie, a member of the first graduating class in 1976, an Associate Professor and Director of Ka Huli Ao Center for Excellence in Native Hawaiian Law, and a former law clerk for CJ Richardson. These excerpts are taken from an introduction to the book Ka Lama Kū o Ka No‘eau, a selection of CJ’s judicial opinions, published on the occasion of his 90th birthday:

C.J. Richardson was a staunch advocate of an independent judiciary. Although he had many friends and colleagues in the legislative and executive branches of government, he fiercely defended the Supreme Court’s authority to promulgate rules of practice and procedure for the state courts and to regulate the admission of new lawyers. He fought to ensure that judges were protected from undue political pressures, which in his mind also meant guaranteeing that judges made a decent living.

Nothing is more striking about C.J. Richardson’s achievements than his longstanding and continuing commitment to opening educational and professional avenues for the Islands’ most disadvantaged groups. He understood that those with the greatest stake in building a more just and equitable society were often denied the opportunity to go to law school because of the prohibitive cost and distance. Determined that all in Hawai‘i should have the chance to obtain an excellent legal education, he
fought an uphill battle over many years to create and help shape Hawai‘i’s only law school.

For C.J. Richardson, the past included more than the principles of Anglo-American law; it also included the principles of Hawaiian custom and tradition. For him, the past, present, and future all encompassed concern for the common person and for the dispossessed and disadvantaged. C.J. Richardson understood and accepted, even embraced, his responsibility. He knew that he and his fellow jurists had the opportunity to make major changes and he grasped that opportunity. Working closely with the other members of the Court, C.J. Richardson helped to reincorporate Native Hawaiian tradition and custom into state law and expanded public rights.

At times, this new, yet old, way of thinking drew criticism from government officials and the legal profession, but it has become recognized as an enlightened approach for our distinctive, multi-cultural homeland. [In 2007], C. J. Richardson reflected on his Court’s approach [with these words]:

Hawai‘i has a unique legal system, a system of laws that was originally built on an ancient and traditional culture. While that ancient culture had largely been displaced, nevertheless many of the underlying guiding principles remained. During the years after the illegal overthrow of the Hawaiian Kingdom in 1893 and through Hawai‘i’s territorial period, the decisions of our highest court reflected a primarily Western orientation and sensibility that wasn’t a comfortable fit with Hawai‘i’s indigenous people and its immigrant population. We set about returning control of interpreting the law to those with deep roots in and profound love for Hawai‘i. The result can be found in the decisions of our Supreme Court beginning after Statehood. Thus, we made a conscious effort to look to Hawaiian custom and tradition in deciding our cases – and consistent with Hawaiian practice, our Court held that the beaches were free to all, that access to the mountains and shoreline must be provided to the people, and that water resources could not be privately owned.

C. J. Richardson has identified *In re Ashford* (1968) as the decision of which he is most proud and as the one that he believes has had the most significant impact. In *Ashford*, the Court determined that under ancient Hawaiian tradition, custom, and usage, seaward boundaries described as “ma ke ai” or along the ocean, are located along the upper reaches of the wash of the waves. In two subsequent cases, *County of Hawai‘i vs. Sotomura* (1973) and *In re Sanborn* (1977), the Court affirmed and refined the principles leading to public ownership and usage of Hawai‘i’s beaches, and applied these principles to property registered in the Land Court system.
The Richardson Court also opened the way for greater public access to both the administrative process and the courts. First, in *Life of the Land v. Land Use Commission* (1979) and later in *Akau v. Olohana* (1982), the Court adopted progressive standing requirements, allowing organizations and individuals to challenge land use decisions and to assert environmental and other important public rights.

This collection of C.J. Richardson’s judicial opinions provides only a hint of his enormous influence. It does not begin to touch upon the extraordinary personal qualities – his optimism, his empathy, his uniquely generous blend of heart and spirit and head, his warmth and humor, and his rare common sense – that are so securely anchored in the land and people of Hawai‘i. It also cannot convey how C.J. Richardson’s many deeds, stretching far beyond his judicial opinions, have greatly influenced and improved Hawai‘i as well as the world beyond our shores.