Tribute to Dr. Kaoru Kashiwagi

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In June, 1946, Kaoru Kashiwagi, a former lieutenant in the Japanese Imperial Army, returned to Tokyo from China to discover a country shattered by war.³ Penniless, the young man soon discovered that his job prospects were further limited by the double whammy of a severe economic depression and the Allied prohibition against graduates of Japan’s Imperial University taking positions in either the national or local government. Yet, in spite of these significant disadvantages, through hard work and diligence, Kashiwagi not only managed to build a successful law firm, but also became the first international legal consultant licensed to practice in Hawai‘i, helping to facilitate transactions between people who, for a time, regarded each other as enemies. His commitment to deepening the understanding between Japan and the outside world is evidenced in both his generous support of William S. Richardson Law School students and faculty focusing on Japanese law, and in his decision to pursue a Ph.D. in business law despite being well into his seventies.

When Kashiwagi repatriated from China in 1946, Japan was in turmoil – not only was it struggling to deal with a previously unthinkable defeat, but it was also plagued with widespread food shortages and economic chaos. Moreover, because his father had been killed in action two years earlier in New Guinea, Kashiwagi now bore the burden of caring for his mother and younger sister. The

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³ The bulk of the information for this Tribute comes from an interview with Dr. Kaoru Kashiwagi and Mrs. Michiko Kashiwagi conducted in Honolulu, Hawai‘i on May 17, 2005. A recording of the interview, which was conducted in Japanese, is preserved at the William S. Richardson School of Law Library. The authors would like to send a special thanks to Dr. and Mrs. Kashiwagi for sitting down with them, and to Moon-Ki Chai, David Kuriyama, and Iris Okawa for their assistance in reviewing the writing.
following year, he decided to enroll in the University of Tokyo’s Law Department, becoming part of that school’s second post-war graduating class. Just getting admitted into the school was a remarkable accomplishment because here too, the General Headquarters of the occupation allied forces, or GHQ, had put a restriction on ex-military officers, decreeing that they could not comprise more than ten percent of the school’s entering class. Thus, not only did Kashiwagi have to pass the entrance exam, but he also had to beat out the droves of other ex-servicemen who were competing for the same precious few spots that had been allotted to them.

Kashiwagi began his legal studies at a unique point in Japan’s history because its new Constitution had just taken effect on May 3rd of that year. In fact, Kashiwagi learned constitutional law from Professor Toshiyoshi Miyazawa, a prominent participant in the deliberations on the Constitution who would later become its foremost interpreter in the early post-war years. For Americans, this would be as if one could have studied constitutional law from James Madison in Philadelphia immediately following our 1787 Constitutional Convention.

One of Kashiwagi’s most memorable experiences as a law student was that of sitting in on the trial sessions for the Tokyo tribunal while studying criminal law. He was particularly impressed by the sincere efforts of the American attorneys who had been assigned to defend people who had only recently been viewed as utter enemies, such as General Hideki Tojo and other suspects accused of “Class A” war crimes. Given the heated emotions that had run on both sides of the Pacific, those attorneys from the U.S. demonstrated to Kashiwagi in no uncertain terms that lawyers really could

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5 In fact, a few eighteenth century Americans had a somewhat comparable chance, studying law from Virginia delegate George Wythe, who was a respected law professor at the College of William and Mary.

transcend their own personal feelings and serve as impartial officers of the court. After witnessing their obvious commitment to justice, Kashiwagi became convinced that he had made the right choice in deciding to pursue a career in law. Years later in his own practice Kashiwagi would have the opportunity to work side-by-side with one of the U.S. defense attorneys at the Tokyo tribunal, Mr. Ben Blakeney, who had decided to remain in Tokyo as a practicing foreign lawyer.

To support his family while attending school, Kashiwagi also worked part-time in the law office of Sadayoshi Hitotsumatsu, who at various times in his career served as a public prosecutor, a Representative in Japan’s Lower House, and a cabinet member for three different Prime Ministers. Following his graduation from Tokyo University in 1950, Kashiwagi furthered his legal training at the Supreme Court of Japan’s Judicial Research and Training Institute while continuing to work for Hitotsumatsu, spending the first nine years of his legal career working as an associate in that office. During this period, Kashiwagi had the opportunity to work on several high-profile cases involving powerful Japanese political figures such as former Prime Minister Hitoshi Ashida.

Through his work with Hitotsumatsu, Kashiwagi became acquainted with several Japanese-Americans from Hawai’i who had served in World War II's highly decorated 442nd Regimental Combat Team and gone on to work for companies in Japan. For example, one of Hitotsumatsu’s clients was the Daiei Motion Picture Company, which owned movie theatres in Hawai’i. It was in this connection that Kashiwagi first met Matsuo Takabuki — an accomplished businessman and future Bishop Estate trustee with whom Kashiwagi would form a lasting friendship that would span over half a century. Although Kashiwagi himself would not be able to travel to Hawai’i until several years later, his affection for Hawai’i grew out of many friendships with people who called these islands home.

In 1959, Kashiwagi left Hitotsumatsu’s law office to hang up his own shingle in the Yurakucho area of central Tokyo.

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7 In Japan, working for many years as an associate is not uncommon.

Kashiwagi Law Offices\(^9\) quickly became one of the most successful law firms in Japan with Kashiwagi serving as chief outside legal counsel for a number of leading Japanese companies. One such client was Mitsui and Company, Ltd., a trading company that descended from one of the four main \emph{zaibatsu} technically dissolved during the Allied Occupation.\(^{10}\) As Mitsui’s business relations with the U.S. grew, so did Kashiwagi’s international law practice.

Another major client was the Obayashi Group, one of Japan’s largest construction companies, which built and operated many condominiums and hotels in Hawai‘i such as the Sheraton Kauai Hotel. Beginning in the 1970s, working closely with Genro Kashiwa, who like Matsuo Takabuki was a veteran of the 442nd, Kashiwagi was instrumental in facilitating the Obayashi Group’s expansion into Hawai‘i.

Today, the Kashiwagi Sogo Law Offices has fourteen attorneys who serve Japanese clients with investments and businesses all around the globe, as well as many non-Japanese clients doing business in Japan. Moreover, the firm has hired several Richardson Law School graduates as foreign law associates.

For many, the coda to an accomplished career in international business law would be a restful retirement, but Kashiwagi never lost the inquisitiveness to learn and a thirst for more law studies. For over forty-five years, work and family obligations postponed that dream. But good news came when he learned of a Tokyo-based night school program being offered by Tsukuba University's law department.

In 1999, Kashiwagi moved just a few pieces of his practice to younger attorneys at the Kashiwagi law firm and enrolled in a rigorous, two-year LL.M. night school program. Kashiwagi — who was not only substantially older than his classmates, but his professors as well — demonstrated himself to be an outstanding legal scholar.

\(^9\) Over the years Kashiwagi Law Offices has changed names a few times as Kashiwagi entered into partnerships with other attorneys. Its current name is “Kashiwagi Sogo Law Offices.”

\(^{10}\) During the Allied occupation of Japan, reformers dissolved the \emph{zaibatsu} — large family-owned banking and industrial combines that controlled much of the Japanese economy prior to WWII. In the 1950s and 1960s, these efforts were undone, to a degree, when groups based on the old \emph{zaibatsu} reemerged as \emph{keiretsu} industrial associations. \textit{See} Lawrence Repeta, \textit{Declining Public Ownership of Japanese Industry: A Case of Regulatory Failure?} \textit{17 LAW IN JAPAN} 153 (1984).
After graduating with a LL.M. in Business Law in 2001, he went on to earn a Ph.D. in 2004, by completing both a comprehensive course load and a full-scale research dissertation.11

Kashiwagi’s research extensively analyzed corporate governance reforms in England. This was a strategically idealistic topic choice: Kashiwagi had been dismayed by Japan’s post-bubble economic malaise and the rash of corporate scandals occurring there, and felt strongly that comparative research could introduce to Japan wise methods adopted in England and present a beneficial model for change.

Beginning with the establishment of the English Financial Reporting Council in 1990 and culminating in the promulgation of the “Combined Code” — a new standard for corporate governance adopted by the London Stock Exchange as part of its Listing Rules — the private sector was able to successfully establish and implement this new standard without the impetus of any new statutes in a relatively short time-span. To Kashiwagi, this accomplishment was even more remarkable because the approach adopted by the British was so different from the way the Japanese would have handled the situation. In Japan, implementing industry-wide reforms typically demands extensive deliberation by the legislature, which eventually leads to the passing of new laws. After researching the history of the Combined Code, however, Kashiwagi realized that it presented the Japanese with an invaluable lesson — that it is possible for private industry to reform itself autonomously and with minimal outside input from attorneys or the legislature.

As noted above, Kashiwagi became the first foreign law consultant licensed to practice in Hawai‘i in 1989. That same year, he and his wife Michiko generously provided the William S. Richardson School of Law with an endowment for Japanese law studies. As of this writing, this endowment has already helped to send nineteen law students to study in Japan and has been used to vastly expand the law library’s Japan collection. Since 1997, the Kashiwagi Endowment

has also provided substantial funding support for the Law School’s Japanese law specialist, Professor Mark Levin’s teaching and numerous articles on legal education reform, tobacco control policy, and race justice issues in Japan. In recent years, Dr. and Mrs. Kashiwagi have regularly visited the Law School, always impressing administration, faculty, and students with their warm and gracious interest in students and our programs.

In recognition of his work as a leading attorney in international business transactions, his committed engagement with legal scholarship exhibited by his Ph.D. accomplishment, the depth of his ties to Hawaiʻi’s legal community, and his financial and personal support of the Law School’s mission, the University of Hawaiʻi’s Board of Regents awarded Kashiwagi with a Honorary Doctor of Humane Letters on May 15, 2004. When the Regents conferred the degree during the Law School’s 2004 graduation ceremony, Regent Patricia Lee’s praise for Kashiwagi included the following: “[G]iven the Richardson Law School’s mission to promote justice, ethical responsibility, and public service, and our scholarship with special comparative law emphasis in Pacific and Asian Legal Studies, one can not imagine a more outstanding role model for our graduates seated here today.”

When Kashiwagi repatriated in 1946, he did so under the most inauspicious of circumstances. Not only was he destitute and facing extremely limited job prospects, he also bore the burden of being the head of the household for a grieving family. Fortunately, Kashiwagi chose never to dwell on the hand that fate had dealt him and instead forged ahead, establishing himself as a respected attorney both within and outside his country. When asked to impart some words of wisdom to the future graduates of Richardson Law School, Kashiwagi responded by saying that as long as they work diligently and with integrity, they will find success. Although Dr. Kashiwagi is far too humble to admit it, his life is a testament to the truthfulness of this maxim.