



JON MARKHAM VAN DYKE

April 29, 1943 - November 29, 2011



SATURDAY, JANUARY 14, 2012
VISITATION 10:00 A.M. TO 11:30 A.M.
MEMORIAL SERVICE 11:30 A.M.



MEMORIAL SERVICE

Master of Ceremonies Dean Aviam Soifer,
William S. Richardson School of Law, University of Hawai'i at Mānoa

Oli – Ka Wai a Kāne *The waters of Kāne* **Manu Boyd**

U.S. Senator Daniel Kahikina Akaka

Jesse Broder Van Dyke, Son

Joyce Kainoa, Jon's first Hawai'i client

Mele **Haunani Apoliona, Trustee, Office of Hawaiian Affairs**

Colette Machado, Chair, Office of Hawaiian Affairs

Professor Seokwoo Lee, Inha University, Seoul, Korea

Professor Mari Matsuda, William S. Richardson School of Law, University of Hawai'i at Mānoa

Mary Bitterman, President, The Bernard Osher Foundation; Former Chair, EWC Board of Governors

Mele **Haunani Apoliona, Trustee, Office of Hawaiian Affairs**

Professor David Caron, Berkeley Law School and President, American Society of International Law

Commander Jonathan Odom, JAG Corps, U.S. Navy, U.S. Pacific Command

Princess Abigail Kinoiki Kekaulike Kawananakoa Statement read by Aaron Mahi

Eric Broder Van Dyke, Son

Hawai'i Aloha **All**

Aloha 'Oe **All**



Mele by The Supreme Court 10:00 to 11:00 a.m. and Na Leo Aloha No Jon 11:00 to 11:30a.m. Mahalo Nui Loa for joining our 'Ohana in the Celebration of Jon's Life. Please join us for light refreshments at the garden level at Imin Center.

HAWAI'I ALOHA

Makua Laiana

E Hawai'i e ku'u one hānau ē
Ku'u home kulāiwi nei
'Oli nō au i nā pono lani ou
E Hawai'i aloha ē

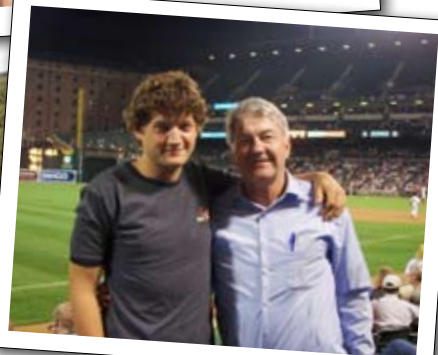
Hui:

E hau'oli e nā 'ōpio o Hawai'i nei
'Oli ē, 'oli ē
Mai nā aheahe makani e pā mai nei
Mau ke aloha no Hawai'i

*O Hawai'i, sands of my birth
My native homeland
I am gladdened by your heavenly
righteousness
O beloved Hawai'i*

Chorus:

*Be happy, O children of Hawai'i
Rejoice, rejoice
From the gentle breezes that blow
Our love for Hawai'i is everlasting*





ALOHA 'ŌE

Queen Lili'uokalani

Hā'aheo e ka ua i nā pali
Ke nihi a'ela i ka nahahe
E uhai ana paha i ka liko
Pua 'āhihi lehua o uka

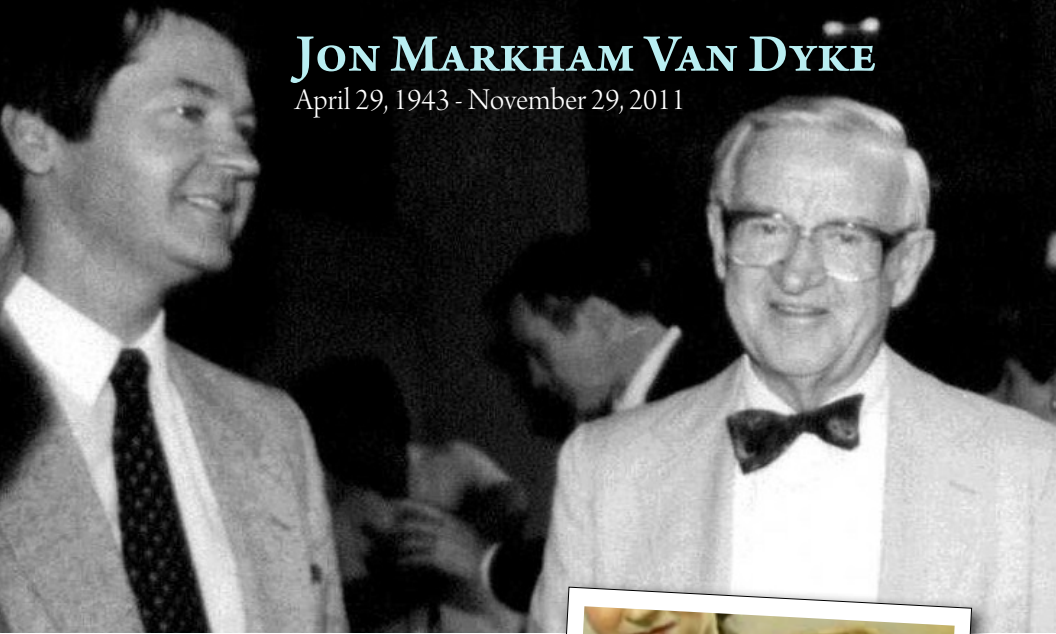
Hui:
Aloha 'oe, aloha 'oe
E ke onaona noho i ka lipo
A fond embrace, a ho'i a'e au
Until we meet again

*Proudly, the rain falls on the cliffs
Creeping upward, towards the forest
Perhaps following the young buds
'Āhihi lehua blossoms of the uplands*

*Chorus:
Love to you, love to you
O fragrant one who dwells in the
shaded depths
A fond embrace, then I must depart
Until we meet again*

JON MARKHAM VAN DYKE

April 29, 1943 - November 29, 2011



JON MARKHAM VAN DYKE, a leading Hawai'i professor, legal scholar, and practitioner in international law, human rights, environmental, ocean, and constitutional law, was born in Washington, D.C. in 1943 and died Nov. 29, 2011, in North Wollongong, New South Wales, Australia. He was 68 years old.

He attended Ankara High School in Ankara, Turkey, graduating from the American Community School as the valedictorian in Beirut, Lebanon while his father was a diplomat to Turkey. He earned his undergraduate degree *cum laude* in 1964 from Yale University, completing his degree in three years. He was a Member of the Managing Board of the Yale Daily News, Editor-in-Chief of the Yale News and Review, and a member of the Manuscript Society. He graduated *cum laude* from Harvard Law with his J.D. in 1967. His third-year paper written for a seminar with Henry Kissinger



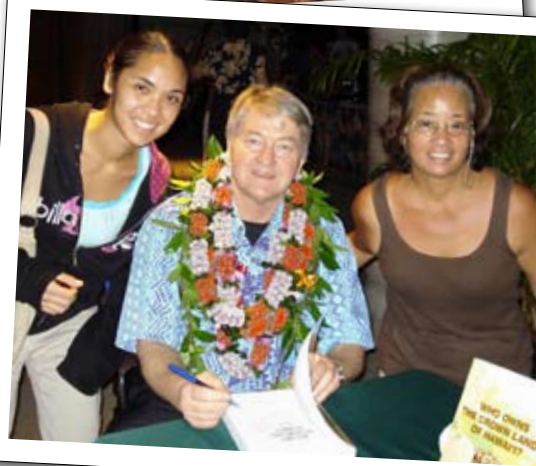
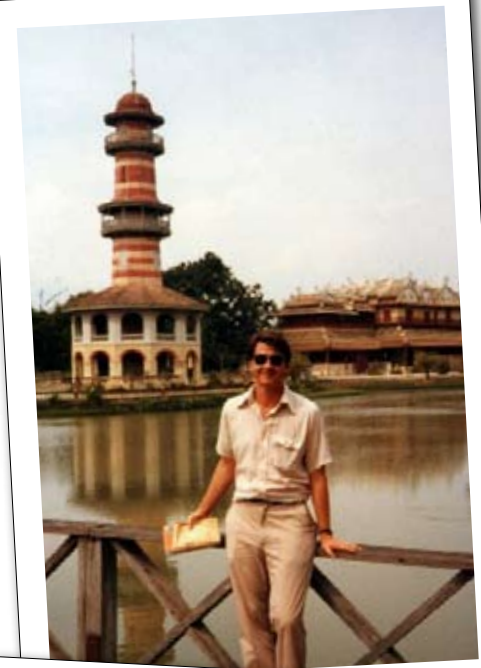
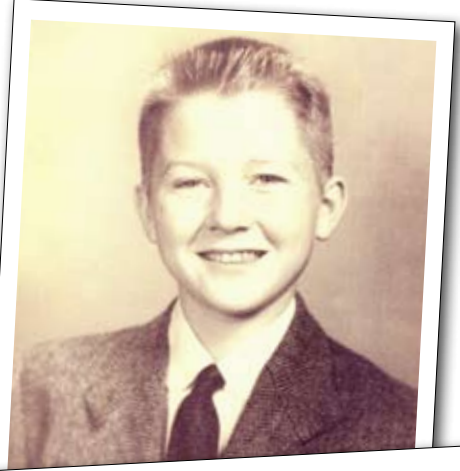
about the failure of the U.S. air war strategy against North Vietnam was selected for deposit in the Harvard Law Library as a paper of high excellence.

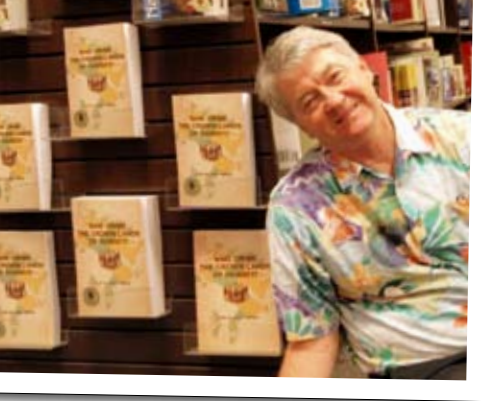
Van Dyke taught at the Catholic University Law School in Washington, D.C. (1967-69) and Hastings College of Law at the University of California, San Francisco (1971-76) before coming to the University of Hawai'i William S. Richardson School of Law in 1976 to teach Constitutional Law,

International Law, International Ocean Law, and International Human Rights.

At the University of Hawai'i School of Law he served as the Associate Dean (1980-82); as the University's representative on the Executive Board of the Law of the Sea Institute (1982-88); as Director of the Spark M. Matsunaga Institute for Peace (1988-90) and Affiliated Faculty at Matsunaga Institute for Peace (1990 to present); as Faculty for the Environmental Law Program Faculty at the School of Law; as Affiliated Faculty for School of Pacific and Asian Studies, Center for Pacific Island Studies. He was on the Editorial Board of the Pacific Islands Monograph Series. He served as an Adjunct Research Associate or Fellow at the East-West Center (1979-91, 2000-present).

During his years at University of Hawai'i School of Law, Van Dyke was invited to be a Visiting Scholar at numerous other U.S. and international institutions, including serving as a Global Ocean Fellow at Inha University in Incheon, South Korea, Duke University in North Carolina, the University of Puerto Rico in San Juan, Touro Law School in Shimla, India, Meijo University in Nagoya, Japan, the Shanghai Maritime Institute in Shanghai, China, and Penn State University Dickenson Law School and Santa Clara Law School both in Strasbourg, France. He had recently returned from the University of California at Berkeley School of Law where he was a Visiting Professor in the Spring of 2011. From 2008 to the present, he was also a Global Ocean Fellow at Inha University in Incheon, South Korea.





From 1969-70

Van Dyke served as law clerk for Chief Justice Roger Traynor of the California Supreme Court; the following year he joined the Center for Democratic Institutions in Santa Barbara, California as a Visiting Fellow.

He is the author of six books, frequently collaborating often with other scholars and practitioners. *North Vietnam's Strategy for Survival* (1972), *Jury Selection Procedures: Our Uncertain Commitment to Representative Panels* (1977), *Sharing the Resources of the South China Sea* (co-author with Mark Valencia and Noel Ludwig, 1997), *Who Owns the Crown Lands of Hawai'i?* (2008) (selected Best Non-Fiction Book, Best Text or Reference Book of 2008 and Best Book on Hawaiian Culture by the Hawai'i Book Publishers Association 2008, and as one of the six most memorable books of 2008 by The Honolulu Advertiser), *International Law and Litigation in the U.S.* (casebook, co-author with Jordan Paust and Linda Malone, 3rd ed. 2009), and *Checklists for Searches and Seizures in Public Schools* (co-author with Mel Sakurai, updated annually).

Van Dyke edited another five books – *Consensus and Confrontation: The United States and the Law of the Sea Convention*

(1985), *International Navigation: Rocks and Shoals Ahead?* (1988), *Freedom for the Seas in the 21st Century* (1993) (which was awarded the Harold and Margaret Sprout Award for 1994 by the International Studies Association), *Updating International Nuclear Law* (2007), and *Maritime Boundary Disputes, Settlement Processes, and the Law of the Sea* (2009).

His most recent publications include "Territorial Disputes in East Asia, the San Francisco Peace Treaty of 1951, and the Legacy of U.S. Security Interests in East Asia," in Seokwoo Lee and Hee Eun Lee (eds.), *Dokdo: Historical Appraisal and International Justice* (Leiden; Boston: Martinus Nijhoff Publishers, 2011) and "Transportation of Radioactive Materials through the Caribbean Sea: The Development of a Nuclear-Free Zone," in David D. Caron and Harry N. Scheiber (eds.), *The Oceans in the Nuclear Age: Legacies and Risks* (Leiden; Boston: Martinus Nijhoff Publishers, 2010).

Van Dyke was in the process of completing many scholarly writings, some of which will be published soon. He is co-editor of *Proceedings of a Law of the Sea Institute Conference* (working title) hosted in Honolulu in 2009. Van Dyke also contributed two chapters to *Ocean Governance: Regions, Institutions, and the Law of the Sea* (to be published in 2012) edited by Judge Jin-hyun Paik, Member of the International Law of the Sea Tribunal, and Professor Harry Scheiber, Stefan A. Riesenfeld Professor of Law and History, University of California, Berkeley and Co-Director, Law of the Sea Institute.

Additionally, Van Dyke wrote more than 120 scholarly articles for journals,



“Treat people as if they were what they ought to be and you help them to become what they are capable of being.”

-- Goethe

including contributing to numerous other publications with colleagues.

Van Dyke pushed into new frontiers in his numerous writings and legal practice, focusing on international ocean law, human rights, environmental law, constitutional law and the rights of Native Hawaiians. He was an expert in a wide range of areas of international law and traveled constantly to make presentations at international conferences. He was particularly concerned about peace and reconciliation in Northeast Asia, humanitarian law during armed conflicts, human rights, the dangers of nuclear energy and its waste, social justice for the disenfranchised, the rights of indigenous peoples, the status of Pacific Islanders, the health and continued viability of the oceans, climate change, protection of the environment, and whales and other creatures of the seas.

He also worked on numerous humanitarian causes, including serving with the Law Association for Asia and the Pacific to develop and disseminate a Model Human Rights Charter for the

Pacific Island Region; instructing judicial training seminars for judges in Micronesia, Pohnpei and Chuuk; and working to prohibit the dumping of radioactive waste in the South Pacific. He worked tirelessly on issues of peace and reconciliation in Northeast Asia, traveling to the Republic of South Korea more than 40 times.

Van Dyke was a trial and appellate attorney, often as co-counsel with his wife Sherry Broder. They litigated a consumer class-action civil suit against milk, pineapple and pesticide companies involving the contamination of Hawai'i's milk supply with heptachlor. They represented Native Hawaiians and





**If you're going to do something in life,
you might as well do it...excellently.**

*– George Barnes, Jon's good friend
and college contemporary*

the Office of Hawaiian Affairs in cases involving rights and entitlements and constitutional issues. Van Dyke and Broder represented the human rights victims of torture, summary execution and disappearance against former Philippine President Ferdinand Marcos. They represented Rusti the Orangutan through the International Orangutan Foundation in the successful effort to have a safe and comfortable habitat, including a banyan tree, constructed at the Honolulu Zoo. They worked together on constitutional and other issues for the Counties of Honolulu and Maui.

At the time of his death, he and his wife, attorney Sherry Broder, were deeply involved in several projects, including climate change issues, peace and reconciliation in Northeast Asia, claims and rights of Native Hawaiians, traditional and customary rights in the Marshall Islands, fairness for coastal states in transit passage, the danger of nuclear energy and

waste, the application of the rule of law to the use of drones, and many others issues of social justice. Van Dyke and Broder were team teaching International Law at the University of Hawai'i School of Law this semester.

Van Dyke litigated in the Republic of Palau and represented the people of the Marshall Islands for exposure to atmospheric nuclear testing in the Court of Claims. He served as counsel for Greenpeace International and the World Wildlife Fund regarding activities in the international seabed before the Deep Seabed Authority, International Law of the Sea Tribunal.

Additionally, he has served as an advisor to the Office of Hawaiian Affairs, the State Council of Hawaiian Homestead Associations, the City and County of Honolulu, the County Council and Charter Commission of Maui, and the Planning Departments or Commissions of the Counties of Kauai, Maui and Hawai'i.

Van Dyke served as a consultant and legal expert for the Pacific Regional Environmental Programme, the Permanent South Pacific Commission, the Association of Pacific Island Legislatures, and the governments of Turkey, Vanuatu, Nauru, the Marshall Islands, and the Commonwealth of the Northern Mariana Islands. He has been a member of the editorial boards of Marine Policy, and the International Journal of Marine and Coastal Law and was on the advisory board of the Center for International Environmental Law and the Law of the Sea Institute. He was a member of the International Law Association Indigenous Rights Committee.

University of Hawai'i School of Law Dean Avi Soifer, with whom Van Dyke worked closely for the past eight years, called him "brilliant, talented, and generous" – a man who touched the hearts of his students as much as he broke new ground in his constant battles for justice and legal equality.

Senator Daniel Akaka, for whom Van Dyke's son, Jesse, works in Washington, D.C., praised his Native Hawaiian and civil rights advocacy, as well as his work on Hawaiian land and water rights law, calling Van Dyke "a tireless defender of public lands and natural resources."

"Jon always stood up for what he felt was pono – right and just," said Akaka. "He was an inspiration for our community and his students. Because of Jon's work, the principle of protecting our cultural and historic resources has been preserved, and the tradition of sharing our beautiful beaches and other natural resources with all continues to be honored."



Senator Daniel K. Inouye spoke of Van Dyke's extraordinary commitment to the state where he had made his home in 1976 when he first joined the faculty of Hawai'i's brand new law school.

"Jon Van Dyke was a legal scholar of the first order and a tireless advocate for Native Hawaiian and civil rights," said Inouye in a statement. "He believed in the preservation and protection of history and culture, and his research and writings have expanded our understanding of the Constitution and helped change, for the better, the laws that govern our land and sea."

Throughout his life, Van Dyke never hesitated to seek justice for those who had no voice, or were unable to seek it on their own behalf. One of those cases involved his challenge, with assistance from Broder, of human rights abuses in the Philippines by Ferdinand Marcos in the wake of the dictator's flight to Hawai'i in 1986 as his regime fell. Watching the drama unfold on television as Marcos landed and was welcomed in Hawai'i, Broder turned to her husband with a question: "Can we sue him?"

"Let's do it," replied Van Dyke.

It took years, endless resources, and assistance from other attorneys as part of

a class-action suit on behalf of 10,000 victims, but their cause earned a multi-billion dollar judgment and justice for those tortured and murdered during the Marcos regime. Just in the past year, a first distribution of \$10 million was made to victims at 16 locations throughout the Philippines.

As an educator, Van Dyke had a fierce passion for teaching and an unwavering commitment to the thousands of students who passed through his classes. Many applied to Richardson Law School just for the opportunity to study with him. Maile Osika, one of his most recent student researchers, valued him as a mentor.

“He never took a student’s work for granted, and he really cared about your ideas,” she told a Honolulu Star-Advertiser reporter. “He would never make you feel like he already had an opinion on something or that you couldn’t change your mind.”

Over the years Van Dyke was honored with numerous awards, including many for teaching. In 1984, 1993, 1996 and 2002 he was named the “Outstanding Professor” at the Law School, and in 2006 and 2008 he was selected by the students to give the



faculty

address at graduation ceremonies. In 1987 he received the University of Hawai‘i Presidential Citation for Excellence in Teaching, and in 2009 the Regents’ Medal for Excellence in Research. At the Law School he currently held the position as the Carlsmith Ball Faculty Scholar.

One of his students, Sabrina McKenna, now an Hawai‘i Supreme Court Justice, remembers how the students adored him, and how his Socratic questioning method evoked deep reflection.

“I remember how he would ask those questions and how he opened my mind to so many different ways of looking at things,” she said, “and how respectful he was of so many different points of view.”

“He had an incredible reputation across the world,” said Associate Law School Dean Denise Antolini. “Wherever you went, people would know Jon. Polite, persistent, persuasive, he made a huge difference in Hawai‘i.”

Jon Van Dyke and his wife Sherry Broder deeply loved each other, were best friends, and enjoyed strong professional partnerships. He loved his family passionately and was always available to do anything for them that they needed.





FURTHER THE WORK

For friends and colleagues eager to further the work of Professor Van Dyke, the family suggests donations to the Jon Van Dyke Fund at the William S. Richardson School of Law, University of Hawai'i. Sufficient funds will establish the Jon Van Dyke Institute for International Law and Justice promoting peace and reconciliation, human rights, environmental and ocean law, and the rule of law around the world. The Fund will support programs, visiting scholars, dignitaries and practitioners in residence, faculty and students of the Van Dyke Institute.

Please send checks payable to the "UH Foundation [Jon Van Dyke]," Director of Development, WSRSL, 2515 Dole Street, Room 216, Honolulu, Hawai'i, 96822.

To give online, please go to <https://www.uhfoundation.org/JonVanDykeFund>.





**I KUPU KA LĀLĀ I KE KUMU, I LAU A PUKA
KA MU‘O, KA LIKO**

Branches sprout from the tree, then the leaf buds and young shoots
an expression from hula traditions that also alludes to family growth

MAHALO NUI

Warmest aloha to everyone who has touched the life of Jon Van Dyke.

Mahalo to the East-West Center, Office of Hawaiian Affairs, William S. Richardson School of Law, University of Hawai'i at Mānoa , Carlsmith Ball LLP, the University of Hawai'i Foundation, The Supreme Courtet, and Na Leo Aloha No Jon.

And mahalo nui loa to the countless helping hands of Jon's colleagues, students, and friends here in Hawai'i and around the world who have honored him through their contributions to his memorial service through their love, kindness and respect for Jon. We are grateful for your support and aloha.



**"BE THE CHANGE
YOU WANT TO SEE IN THE WORLD."**

-- Ghandi





Our heartfelt Mahalo to everyone that has been a blessed part of Jon's life.



Professor Van Dyke is survived by his wife, Sherry P. Broder; three children, Jesse Broder Van Dyke, Eric Broder Van Dyke, and Michelle Broder Van Dyke. He is also survived by his brother, Ted Hope Van Dyke and his wife Frances of Washington, D.C. and his sister, Jan Van Dyke and her husband Jerry Varner of Greensboro, North Carolina; sister-in-laws Cindy Broder and her husband Dr. Howard Fingert of Newton, Massachusetts, and Janet Broder of Boca Raton, Florida; and nieces and nephews, Christopher Van Dyke, Hugo Van Dyke, Mary Van Dyke, Sarabeth Broder-Fingert, Jacob Broder-Fingert, Sam Broder-Fingert, Gabriella Broder, and Matthew Broder. His parents, Stuart Hope Van Dyke and Eleonora Markham Van Dyke, are deceased.