HOUSE OF REPRESENTATIVES
TWENTY-NINTH LEGISLATURE, 2018
STATE OF HAWAII

H.R. NO. 21
H.D. 1

HOUSE RESOLUTION

URGING THE HAWAII CHAPTER OF THE AMERICAN JUDICATURE SOCIETY AND
THE HAWAII STATE BAR ASSOCIATION TO ANALYZE AND ASSESS THE
ROLE OF THE JUDICIARY WITHIN THE CONSTITUTIONAL FRAMEWORK
OF GOVERNMENT IN THE STATE OF HAWAII.

WHEREAS, our Nation and our State were founded upon the
constitutional principle of maintaining separate but equal
branches of government to ensure an equal distribution of power;
and

WHEREAS, in Trustees of Office of Hawaiian Affairs v.
Yamasaki, 69 Haw. 154 (1987), the Hawaii Supreme Court clarified
the separation of powers doctrine as follows:

[While the object was to "divide and allocate the
sovereign power among three co-equal branches, . . . . the
separate powers were not intended to operate with absolute
independence."

The Constitution "contemplates that practice will integrate
the dispersed powers into a workable government. It enjoins
upon its branches separateness but interdependence,
autonomy but reciprocity."; and

WHEREAS, the separation of powers doctrine ensures a
workable government by precluding a branch from encroaching into
the jurisdiction of another; and

WHEREAS, discussion about the role of the Judiciary should
include consideration of the Judiciary's constitutional role in
protecting individual rights and freedoms, and the importance of
an independent judiciary in preserving the rule of law. As
former Hawai'i Supreme Court Chief Justice William S. Richardson
stated: "Only an independent judiciary can resolve disputes
impartially and render decisions that will be accepted by rival parties, particularly if one of those parties is another branch of government."

WHEREAS, continual discourse and reflection upon the respective roles and responsibilities of the three branches is necessary to ensure responsible governance; and

WHEREAS, Hawaii attorneys and judges have a continuing responsibility to assess the constitutional framework of government in Hawaii, including the separation of powers doctrine; now, therefore,

BE IT RESOLVED by the House of Representatives of the Twenty-ninth Legislature of the State of Hawaii, Regular Session of 2018, that the Hawaii Chapter of the American Judicature Society and the Hawaii State Bar Association are urged to analyze and assess the role of the Judiciary within the constitutional framework of government in the State of Hawaii, including but not limited to topics such as the political question doctrine, the Judiciary's interrelationship with the legislative and executive branches, the Judiciary's role in ensuring a workable government, the Judiciary's role in protecting individual rights and freedoms, and the importance of judicial independence in fostering the rule of law; and

BE IT FURTHER RESOLVED that certified copies of this Resolution be transmitted to the Chair of the Board of Directors of the Hawaii Chapter of the American Judicature Society, the President of the Hawaii State Bar Association, the Chief Justice of the Hawaii Supreme Court, and the Governor of the State of Hawaii.