



Hawai'i

LATE

Committee: Senate Committee on Public Safety, Intergovernmental, and Military Affairs
Hearing Date/Time: Thursday, March 8, 2018, 1:30 p.m.
Place: Conference Room 229
Re: Testimony of the ACLU of Hawai'i in Opposition to S.C.R. 33,
Urging the United States Congress to Call a Constitutional Convention Pursuant to
Article V of the United States Constitution

Dear Chair Nishihara, Vive Chair Wakai, and Committee Members:

The American Civil Liberties Union of Hawai'i **opposes** Senate Concurrent Resolution 33, which petitions the United States Congress to call for a constitutional convention to propose amendments to the United States Constitution to impose fiscal restraints on the federal government, limit the power and jurisdiction of the federal government, and limit the terms of office for its officials and for members of Congress.

While the ACLU of Hawai'i supports making the U.S. government more responsive to the people and recognizes the right to amend the Constitution by convention under Article V of the U.S. Constitution, the lack of standards governing such conventions renders the *unprecedented*¹ step of calling a constitutional convention an unacceptable risk to all our hard-fought fundamental rights and liberties.

Under Article V of the U.S. Constitution, there is no mechanism to ensure that a constitutional convention would be limited in scope to address only the matters proposed in S.C.R. 33. Indeed, conservative and liberal legal scholars and Supreme Court justices agree that a constitutional convention could well result in a full rewrite of the constitution. Consequently, a convention could result in amendments, which could drastically alter our democratic and federal system of government or put our basic civil rights and civil liberties at risk. No limiting wording in the resolution can prevent this.

For these reasons, the ACLU of Hawai'i urges the Committee to defer this measure.

¹ Pursuant to Article V, the U.S. Constitution offers two vehicles for proposing amendments to the United States Constitution: either two thirds of both Houses of Congress "shall propose Amendments to this Constitution," or on the application of two-thirds of the State legislatures, the U.S. Congress "shall call for a Convention for proposing Amendments." Only the former method has been used to propose amendments to the U.S. Constitution, and nothing in Article V suggests that a convention may be called for the limited purpose of proposing specific amendments but not others. Additionally, the ratification process for amendments is also uncertain as the convention could redefine the ratification process to make it easier to pass new amendments, including those considered at the convention.

LATE

Thank you for the opportunity to testify.

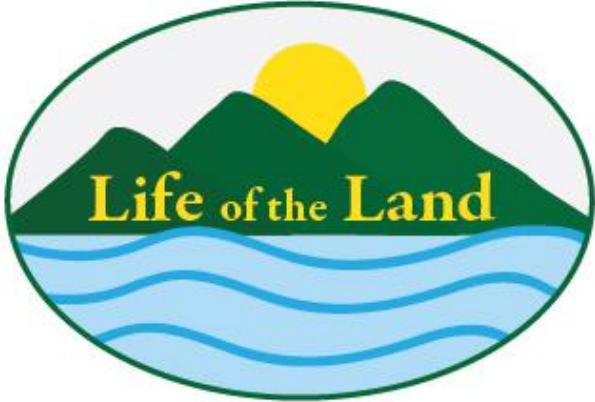
Sincerely,



Mateo Caballero
Legal Director
ACLU of Hawai'i

The mission of the ACLU of Hawai'i is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawai'i fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawai'i is a non-partisan and private non-profit organization that provides its services at no cost to the public and does not accept government funds. The ACLU of Hawai'i has been serving Hawai'i for 50 years.

LATE



P.O. Box 37158, Honolulu, Hawai'i 96837-0158
Phone: 927-0709 henry.lifeoftheland@gmail.com

COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL, AND MILITARY AFFAIRS
Senator Clarence K. Nishihara, Chair
Senator Glenn Wakai, Vice Chair

Thursday, March 8, 2018
1:30 p.m.
Conference Room 229

SCR 33 / SR 16 Federal Constitutional Convention

PLEASE HOLD

Aloha Chair Nishihara, Vice Chair Wakai and Members of the Committee:

Life of the Land is Hawai'i's own energy, environmental and community action group advocating for the people and `aina for 47 years. Our mission is to preserve and protect the life of the land through sound energy and land use policies and to promote open government through research, education, advocacy and, when necessary, litigation.

The U.S. Supreme Court issued a terrible decision in Citizens United v. Federal Election Commission, 558 U.S. 310 (2010).

Some who advocate overturning the decision have turned to a radical approach that has never been used before. SCR 33 / SR 16 proposes a federal constitutional convention that is limited to a narrow discussion. However, there is absolutely no guarantee that the constitutional convention could be restricted to one issue.

There is a maxim that must be reflected upon. Be careful what you wish for, since the desired outcome may not be as desirable, once it has been attained. Pandora's Box can't be closed.

Mahalo,
Henry Curtis,
Executive Directo

LATE

COMMUNITY ALLIANCE ON PRISONS

P.O. Box 37158, Honolulu, HI 96837-0158

Phone/E-Mail: (808) 927-1214 / kat.caphi@gmail.com



COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL, AND MILITARY AFFAIRS

Sen. Clarence Nishihara, Chair

Sen. Glenn Wakai, Vice Chair

Thursday, March 8, 2018

1:30 pm

Room 229

STRONG OPPOSITION to SCR 33/SR 16 - ARTICLE V CONSTITUTIONAL CONVENTION

Aloha Chair Nishihara, Vice Chair Wakai and Members of the Committee!

My name is Kat Brady and I am the Coordinator of Community Alliance on Prisons, a community initiative promoting smart justice policies in Hawai`i for more than two decades. This testimony is respectfully offered on behalf of the families of **ASHLEY GREY, DAISY KASITATI, JOEY O`MALLEY, JESSICA FORTSON AND ALL THE PEOPLE WHO HAVE DIED UNDER THE "CARE AND CUSTODY" OF THE STATE** as well as the approximately 5,500 Hawai`i individuals living behind bars or under the "care and custody" of the Department of Public Safety on any given day. We are always mindful that approximately 1,600 of Hawai`i's imprisoned people are serving their sentences abroad thousands of miles away from their loved ones, their homes and, for the disproportionate number of incarcerated Kanaka Maoli, far, far from their ancestral lands.

SCR 33/ SR 16 urges the Congress of the United States to call a convention for proposing amendments pursuant to Article V of the United States Constitution limited to proposing amendments that impose fiscal restraints on the federal government, limit the power and jurisdiction of the federal government, and limit the terms of office for its officials and for members of congress.

Community Alliance on Prisons is stunned that anyone in Hawai`i would introduce a resolution calling for a national constitutional convention at this tumultuous time in U.S. history. This is very disturbing for people who love democracy. This proposal is being pushed by the Koch Brothers, whose aim is to dismantle laws and regulations that interfere with big business. Is that really where Hawai`i is going? Where business is important and the people are in the way?

Our objections to these resolutions are many, some include:

1. The climate in Congress is definitely NOT CONDUCIVE to public input;
2. There has NEVER been a Constitutional Convention that was limited to one issue;
3. How would this limitation happen?
4. What safeguards are in place to ensure that corporate money will not dominate the agenda?

LATE

5. What protections are in place to ensure that our constitutional rights will be upheld?

We don't understand why anyone would want to open up the one document that enshrines our rights when we are living in a time where dissent is criminalized, freedom of speech has been consistently chilled, and the press has been demonized for reporting the news.

There are so many things wrong this resolution. Its submission and the introducers send a very disheartening message to the community about democracy.

Please don't pass SCR 33/SR 16.

Dissent is central to any democracy.

Harry Belafonte



THE TWENTY-NINTH LEGISLATURE
REGULAR SESSION OF 2018



THE SENATE
COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL, AND MILITARY AFFAIRS
Senator Clarence K. Nishihara, Chair
Senator Glenn Wakai, Vice Chair
State Capitol, Conference Room 229
Thursday, March 8, 2018; 1:30 p.m.

**STATEMENT OF ILWU LOCAL 142 ON SCR33 / SR16
RELATING TO URGING CONGRESS OF THE UNITED STATES TO CALL A CONVENTION
FOR PROPOSING AMENDMENTS**

The ILWU Local 142 strongly opposes SCR33 / SR16, which urges and applies to Congress under the provisions of Article V of the Constitution of the United States for the calling of a convention of the states, limited to proposing amendments to the Constitution of the United States that impose fiscal restraints on the federal government, limit the power and jurisdiction of the federal government, and limit the terms of office for its officials and for members of Congress.

We do not believe a Convention of the States is necessary. Rather than “imposing fiscal restraints” Congress should focus on implementing an equitable tax structure that ensures everyone pays their fair share - that means closing tax loops used by corporations and the wealthy. Doing so will generate the revenue to pay for the various, necessary programs across the U.S.

Moreover, we believe all congressional members are ultimately held accountable every two- and six-year election cycle. The choices we make as a people at the ballot box determine the type of local, state and federal government we get. It is more important to focus on initiatives that make voting accessible and appealing to all.

As such, the ILWU strongly opposes SCR 33 / SR 16. Thank you for the opportunity to share our views on this matter.

LATE

SCR-33

Submitted on: 3/7/2018 3:04:02 PM
Testimony for PSM on 3/8/2018 1:30:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Jacob Wilson	Individual	Support	Yes

Comments:

Senators,

Thank you all for considering the CoS resolution. This is a vital step in gaining control of the federal government and regaining control over our own destiny. This convention, when called will definitely be a way for Hawaii to ensure its own standing and gain control over its own budget and chart the best course for Hawaii, rather than the bureaucrats in Washington making the decisions for us.

Our founders never intended for our government to grow this big. They had intended the federal government to have an almost inconsequential roll in our lives. We are most free when the government is most local. Calling a convention of states to return our government into our hands is the only way to do this. The bureaucrats in Washington will never limit themselves it is up to us to do this. I encourage you all to pass this and help the cause of freedom in all our lives.

Sincerely, Jacob Wilson

LATE

Katherine T. Kupukaa
Mililani Town, HI 96789

COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL, AND MILITARY AFFAIRS
Senator Clarence K. Nishihara, Chair
Senator Glenn Wakai, Vice Chair

DATE: Thursday, March 8, 2018

TIME: 1:30 p.m.

PLACE: Conference Room 229

State Capitol

415 South Beretania Street

RE: SUPPORT SCR 33/SR 16 URGING THE CONGRESS OF THE UNITED STATES TO CALL A CONVENTION FOR PROPOSING AMENDMENTS PURSUANT TO ARTICLE V OF THE UNITED STATES CONSTITUTION LIMITED TO PROPOSING AMENDMENTS THAT IMPOSE FISCAL RESTRAINTS ON THE FEDERAL GOVERNMENT, LIMIT THE POWER AND JURISDICTION OF THE FEDERAL GOVERNMENT, AND LIMIT THE TERMS OF OFFICE FOR ITS OFFICIALS AND FOR MEMBERS OF CONGRESS.

We must limit the size, scope and jurisdiction of our out of control federal government. Washington D.C. is broken and no matter which party is in power, Convention of States is the only remedy left to the states and the people to restore our Constitutional Republic. Furthermore every republic in human history has collapsed because of a big central government grown too tyrannical, too large, and too disconnected from the people to stop its fiscal irresponsibility.

Let us get back to first principles of the Constitution and put the States back in charge. Policy decisions made at the state level tend to be more responsive to the needs and desires of the people. We do not want our children and grandchildren enslaved by a \$20 trillion national debt.

Thank you for allowing me the opportunity to provide testimony.

LATE

SCR-33

Submitted on: 3/7/2018 7:57:48 PM
Testimony for PSM on 3/8/2018 1:30:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Noa Napoleon	Individual	Support	No

Comments:

I thank you for the opportunity to support SCR33. I stand in agreement with the millions of Americans across the Country who are concerned about an increasingly intrusive federal government and who see Article V as the necessary vehicle for returning power back to the States. I agree with those who are calling this effort "nothing short of a second American revolution; a peaceful one, authorized in the Constitution!"

Please vote to support!

Mahalo nui loa!

Noa Napoleon

The States have lost their power and a Convention of States will work to restore true federalism: the balance of power between the federal government and the States.

LATE

SCR-33

Submitted on: 3/8/2018 11:36:24 AM

Testimony for PSM on 3/8/2018 1:30:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Randall Imada	Individual	Support	No

Comments:

The founding fathers of the Constitution made Article V to allow citizens to propose amendments when Congress would not act. A citizen proposed Article V constitutional amendment has been used as a way to get Congress to act in over half of the existing 27 amendments. It is a legitimate means of the Constitution that should be used today to get money out of politics.

LATE

SCR-33

Submitted on: 3/8/2018 6:55:29 AM
Testimony for PSM on 3/8/2018 1:30:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Charlene Dierking	Individual	Oppose	No

Comments:

This sounds very political and biased towards the current administration. This isn't California.

LATE

SCR-33

Submitted on: 3/8/2018 4:03:55 PM

Testimony for PSM on 3/8/2018 1:30:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Eric Schrager	Individual	Comments	No

Comments:

Aloha!

All of the legal research conducted on the Article V Convention process has concluded that the states have the power to call a convention limited to a single subject and that there are multiple mechanisms in place for those limitations to be enforced. I urge you vote on every Article V Convention application, including SCR33, based on the merits of the subject matter within the application.

Please consider these quotes found in the aforementioned legal reports:

"We consider Congress' duty to call a convention whenever two-thirds of the state legislatures have concurred on the subject matter of the convention to be mandatory." - The American Bar Association in a report titled, "Amendment of the Constitution by the Convention Method under Article V"

"This paper concludes that Article V permits the states to apply for, and the Congress to call, a constitutional convention for limited purposes, and that a variety of practical means to enforce such limitations are available." -Office of Legal Policy, U.S. Department of Justice, in a report titled, "Limited Constitutional Conventions under Article V of the United States Constitution"

"Since it is undisputed that Congress possesses the authority to propose amendments limited to a single topic or group of topics, it follows that the applications of the states for calling a constitutional convention also may be limited. This understanding is reinforced by the normal practice of the states in limiting by subject their applications to the Congress." -Office of Legal Policy, U.S. Department of Justice, in a report titled, "Limited Constitutional Conventions under Article V of the United States Constitution"

Thank you for your consideration!

Eric Schrager