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Jean Y. Aoki
President
League of Women Voters of Hawai'i
Fax Number: 599-5669

Dear Ms. Aoki:

This letter is sent in response to your request dated June 11, 1997 for views on the different issues regarding the holding of a Constitutional Convention in Hawai'i. Thank you for inviting my comments. My statement is as follows:

"Hawaii's original 1950 State Constitution established a procedure whereby the voters would be polled every ten years to determine if they wished to hold a constitutional convention. Pursuant to that procedures, conventions were held in 1968 and 1978 and important amendments were adopted. After the 1978 Con Con, a further amendment was passed that required future amendments to be adopted by a majority of all the votes cast at the election (and by at least 30 percent of the total number of registered voters). This amendment did not adjust the language governing the procedures for voting to call a Con Con, but the Hawai'i Supreme Court nonetheless interpreted the language chosen in 1950 to require the same result--a majority vote of all the votes cast at the election, thus counting blank or spoiled ballots as "No" votes. No further amendment of this provision is needed unless this result is viewed as improper. Because the Court's interpretation leads to a result that is consistent with the way votes are counted to determine if an amendment has been adopted, this result can be seen as a reasonable one, which recognizes the importance of the decision to call a constitutional convention and ensures that the voters truly want to hold such an event. The language in Article XVII, Section 2 nonetheless probably should be changed in one important respect--to remove the reference to a "special election" and thus to require that the vote on whether to hold a constitutional convention be held only in a general election. Many more voters go to the polls in a general election than in a special election because more questions and election contests are at stake. If we are to be consistent in trying to ensure that a call for a constitutional convention is strongly favored, we must require that such a decision be

made at a general election when the largest turnout can be expected. Otherwise, at a special election with a low turnout, the outcome could be determined by a small faction with a special interest different from the views of the electorate as a whole.

“The final question is whether we need a constitutional convention at the present time. I feel that it is healthy for a community to examine its fundamental governing document on a regular basis and thus have supported the holding of a constitutional convention. But we also have on our political agenda the effort of the Hawaiian people, or Kanaka Maoli, to create a sovereign and autonomous nation to govern themselves and their lands and people. The positive result of the Native Hawaiian Vote in 1996 and the continuing efforts of the Hawaiian people to find consensus indicates that we are closer to the time when a process will be in place to draft a governing document for the sovereign Nation of Hawai’i. When that process is completed, the community as a whole will have to consider amendments to the State Constitution concerning the recognition of the Nation, the disposition of the ceded lands, the governing of the Hawaiian Home Lands and the Office of Hawaiian Affairs, and many other issues involving Hawaiian resources and affairs. It makes little sense to spend large sums of money now for a constitutional convention and then to have to spend similar amounts in the near future to address amendments related to the creation of the sovereign Nation of Hawai’i. It seems preferable, therefore, to postpone the holding of a statewide convention until the Hawaiian people have their convention and determine their preferred future.”

Thank you for including these views in your publication, Ka Leo Hana. I would be grateful if you could send me a copy of your summer edition in which you publish the views of community leaders on these questions. Thank you for your leadership on these important questions, and please let me know whenever I can be of assistance in the future.

Sincerely yours,



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