1894 Constitutional Convention

Synopsis of the Henry Klemme election controversy.

In the election for Constitutional Convention delegates representing the Island of Oahu, in a close vote, candidate A.K. Kunuikea won by 2 votes over Henry Klemme.

Mr. Klemme contested the election results asking for a recount of ballots. The Election Inspectors certified the final results in favor of A.K. Kunuikea. Mr. Klemme then filed a motion in First Circuit Court asking for a recount. The Court ruled that it did not have jurisdiction to order a recount. Mr. Klemme then petitioned directly to the Convention for a recount. A Convention Committee was tasked with investigating the voting results and declared A.K. Kunuikea as legally elected.

Included are two petitions: Henry Klemme’s petition to the Convention and another petition by voters asking for an inspection of the ballots and recount.
PETITION:

TO THE HONORABLE, THE CONSTITUTIONAL CONVENTION
OF THE HAWAIIAN ISLANDS.

GENTLEMEN:

Your Petitioner, HENRY KILMEE, of Honolulu, in the Island of Oahu, respectfully represents to your Honorable Convention that he was a candidate for election to said Convention, as a Delegate from said Island of Oahu, at the election held of the second day of May, Instant. That he believes he should have been returned and certified as duly elected as such Delegate, upon the state of the polls at said election; and, for reasons of such belief, he respectfully refers your Honorable Convention to the annexed copy of a petition filed by your Petitioner in the Circuit Court for the First Circuit, wherein your Petitioner sought to have the votes cast at said election re-counted, and the returns thereof corrected to correspond with the conditions of the polls. And your Petitioner represents that upon said petition to said Court, the Court decided and ruled that it had not jurisdiction to hear and determine the matters therein set forth, and that said decision now stands and obtains as a final decision therein. And your Petitioner shows that, as he is advised and believes, he has no remedy at law, or otherwise, except by petition to your Honorable Body, for the wrongs complained of by him in said petition, the allegations whereof he here reiterates and re-asserts.

WHEREFORE, your Petitioner prays this Honorable Convention that it will, without unnecessary delay, cause to be made an inspection and recount of the ballots cast in the different precincts of said Island, at said election, to the end that the illegals and informalities complained of in said Petition may be
fully investigated, and that, should such inspection and recount show that any candidate has been returned who failed of receiving the requisite number of votes at said election, such person may not be permitted to sit as a Delegate in your Honorable Convention: and that, if such recount shall show that your Petitioner has obtained a sufficient number of legal votes to entitle him to election, he shall be admitted to your Honorable Convention as a Delegate from said Island of Oahu. And your Petitioner further prays that he may be represented by attorney in such proceedings, before any Committee of your Honorable Body, as shall be had in pursuance of this petition.

And your Petitioner will ever pray.

Dated this 30th day of May, 1894.

[Signature]
Attorney for Petitioner.

[Signature]
Petitioner.
PETITION FOR WRIT OF Mandamus.

To the Honorable W. AUSTIN WHITING, First Judge of the
Circuit Court for the First Circuit.

The petition of the undersigned, HENRY KLEIGH, of Honolulu, respectfully shows unto the Court here as follows:-

1:—That your petitioner is now, and ever since the 1st day of April last past has been duly possessed of the qualifications required by law in a delegate to the Constitutional Convention authorized by Act 68 of the Provisional Government, approved the 16th day of March, 1884.

2:—That he became a candidate for election as such delegate to said Convention, or and from the Island of Oahu, and took all legal and requisite steps to have, and had his name printed upon the tickets or ballots issued by the Minister of the Interior under and in accordance with said Act, the name of your petitioner appearing therein in this form, viz: "H. KLEIGH".
2. That on or about the 17th day of March, 1894, the Minister of the Interior issued his Proclamation, as in said Act provided, calling an election for delegates to said Convention hereinafter, to be held on the 2nd day of May, 1894, and that the persons hereinafter named were appointed and acted as Chairmen of the respective Boards of Inspectors of such election, within and for the respective Districts and precincts of the Island of Oahu here following, that is to say:

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<th>Precinct</th>
<th>Name of Chairman</th>
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<td>First</td>
<td>C.A. Howard</td>
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<td>Second</td>
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<td>W.R. Hoops</td>
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<td>Second</td>
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<tr>
<td>Third</td>
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<td>H.S. Emerson</td>
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<td>Second</td>
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<td>Fourth</td>
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<td>C.R. Williams</td>
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<td>Seventh</td>
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<td>C.H. Judd</td>
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<td>James B. Offutt</td>
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<td>Eighth</td>
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4. That A.K. Kumuiakas; T.J. King; C.J. Carter; A.C.A. Robertson; L.C. Ables; John Kidwell; J.M. Vivas; Antonio Fernandez; J.C. Cluney and John Mitchell were also candidates for election as such delegates to said Convention, from said Island of Oahu; and had their names printed on the ballots used in the election hereinafter referred to, as.

5. That an election for such delegates was duly held on said Island, on Wednesday, the second day of May, 1894, at which election said Chairman of the different Boards of Inspectors of Election severally acted as such, and in said capacities, received and deposited the ballots cast in their respective precincts and counted said ballots, and declared the result of said voting in their res-
Effective precincts at the close of the poll, made the returns thereof as by law provided, and sealed and delivered the ballots so cast, to the Minister of the Interior, in whose possession, as your petitioner is informed and believes, and so on information and belief alleges, they now are.

6:- That your petitioner is credibly informed and believes, and as on information and belief alleges that ballots, many of which were marked for your petitioner, and should have been counted for him, were illegally rejected and left uncounted by said divers of said chairman, and that ballots were, by divers of said Chairman counted for others of said candidates, and for particularly for said A.K. Ramaiah, which should not have been so counted: and, in particular, your petitioner is credibly informed and believes, and so on information and belief alleges, that many ballots, the precise number whereof is to your petitioner unknown, were marked for your petitioner, and that such votes for your petitioner were rejected in certain of said precincts, and especially in the first and second precincts of said third district, for the reason, as alleged by the Chairman of said precincts respectively, that said ballots were not marked in the space by law assigned for such mark to wit, to the right of the lateral line drawn on the right of all the names on said ballots, whereas in fact, such rejected ballots were marked for your petitioner, to the right of his name thereon, as by law provided.

7:- And your petitioner avers, in particular, that in the second precinct of said second district, said defendant J.S. Martin acted as Chairman of such Board of Inspectors, and, of his own motion rejected and refused to count numerous ballots there cast, without conference with or consent of his co-Inspectors, and that your petitioner has reason to believe, and does believe, that such
petitioner has reason to believe, and does believe, and so on belief alleges, that certain of the ballots so, in said precinct, rejected, and left uncounted, as aforesaid, were legally marked, and should have been counted for your petitioner.

3: That the Inspectors of Election in the several precincts of said Island counted fractions of votes marked for the different candidates at such election, and credited and counted the aggregate of such fractions as gathered from the different ballots, to and for the respective candidates for whom they were marked, and that your petitioner is advised and believes, and so upon advice and belief asserts, that such action was illegal.

3: That said Chairman severally returned and reported to the Marshal of the Hawaiian Islands the result of said election in their respective precincts, which returns contained the errors and omissions hereinbefore alleged and complained of, and that said Marshal, E.G.Hitchcock, has caused said returns to be canvassed, as by law provided, and, having accepted and acted and acted upon the same, as made as aforesaid, and containing said errors and omissions has certified to the Minister of the Interior that said candidates have respectively received the number of votes here follows, to wit, that is to say: A.C.M. Robertson, 186; C.R. Carter, 116; J.A. Víves, 105%; Antonio Fernandez, 105%; J.C. Addie, 103%; A.K. Kumakakea, 69%; H.Kalama, your petitioner, 60%; T.J. King, 57%; John Mitchell, 36%; J.C. Cumins, 31%; and John Mitchell, 10; and that said A.C.M. Robertson; C.R. Carter; J.A. Víves; Antonio Fernandez; J.C. Addie and A.K. Kumakakea, and none others of said candidates, are duly elected as such delegates as aforesaid.

10: That but for the errors and omissions committed by said several Inspectors and Inspectors, and in case all votes legally
cast for this petitioner, had been duly credited to, and counted for
him, this petitioner should, and would have been certified and re-
turned as having been elected as such delegate; and your
and my, on belief alleges, petitioner alleges that he believes, that he was so legally elected
and that he is entitled to a certificate of such election.

11: Wherefore your petitioner prays, that said defendants may
be generally cited to appear and answer this petition, and to show
cause why they should not do and perform the several acts herein
prayed to be commanded of them: and that the voting lists, roll
books, ballots, tally sheets, returns and other records and papers
of, and used in and about the said election, and pertaining thereto,
may be examined by the Court here, or by some officer or officers
thereof under its direction; and that a recount of the ballots
cast at said election may be had, and the result thereof, as to each
of said precincts and districts declared; and that said defendant
Chairman, and all other persons whose duty it was, is or shall be
to act in the premises, shall be compelled by the mandate of this
honorable Court, to correct their several returns of said election
so as to conform to the result of such recount; and that the said
Marshal be compelled, by a similar mandate, to canvass such amended
returns, and to certify the result thereof to the said Minister of
the Interior.

12: And that such other acts may be enforced, by and on the
part of said several defendants, and all other persons whose duty
it was, is or shall be to act in the premises, as the circumstances
of the case shall require, and to right and justice shall pertain.

(Sig) Mr. Bradford
Counsel for Petitioner.

(Sig) Henry Bellmire
Petitioner.
I sincerely hope that this letter finds you in good health and spirits. I cannot express how much I appreciate your kindness and understanding during these difficult times.

The recent events have been challenging for everyone, but I believe that with unity and perseverance, we can overcome any obstacle. It is important that we continue to support each other and maintain a positive outlook.

Please take care of yourself and your loved ones. If there is anything I can do to assist you, please do not hesitate to let me know.

Sincerely,

[Signature]
Hawaiian Islands,

City of Honolulu, as

Henry Klaasen having been duly sworn, deposes and says that he is the petitioner named in the foregoing petition. That he has read the said petition and knows its contents, and that the matters and things therein alleged are true, of his own knowledge, except those things which are therein alleged upon information, advice or belief, and as those matters he believes them to be true.

Sworn to before me this __ day of __, __.

Henry Klaasen, Circuit Judge.
Petition of Caleb

Presented June 12th
PETITION.

TO THE HONORABLE THE CONSTITUTIONAL CONVENTION
FOR THE HAWAIIAN ISLANDS.

Gentlemen:-

The petition of the undersigned respectfully shows that they are residents of the Island of Oahu, and that they were duly qualified to vote, and did vote for Delegates to your Honorable Convention, at the election held on the second day of May, Instant.

That they are informed, and believe, and so, upon information, represent to your Honorable Convention, that, at the election aforesaid, HENRY KLEEALE, one of the candidates for election as a Delegate from the Island of Oahu, received a sufficient number of votes to entitle him to an election, and that, had the votes legally cast for him been duly counted, and had no illegal votes been counted for other candidates, said HENRY KLEEALE would have been elected, and so declared and certified.

And your Petitioners in particular represent that an apparent misunderstanding of the law existed among the several Inspectors of Election on said Island, and that there was a lack of uniformity in their action as to the counting of votes marked to the right of the name of any given candidate, but not marked in the space assigned for such mark by the general election law; and that in some precincts of said Island votes were rejected for the reason that such mark was not placed in the space so assigned, while in other precincts all votes were counted where the marks were placed to the right of the name of the candidates voted for, irrespective of whether or not they were so marked in said space or not; and that many ballots were rejected by Chairman of Boards of Inspectors, and especially by the Chairman of the Board of Inspectors for the second precinct, of the second district, J.S. MARTIN, by
name, without reference to, or conference with, or the consent or approval of his or their co-Inspectors, as by law required; and if many fractions of votes were marked and counted by the Inspectors for different candidates at such election, which, as your Petitioners claim and respectfully submit, was not sanctioned by law; and that the acts and doings herein complained of were prejudicial to said HENRY KLEMME in the premises, and that but for such violations of the law, your Petitioners believe and so represent that said KLEMME would have been, and should have been declared and certified as elected as such Delegate as aforesaid.

And your Petitioners respectfully submit that it is the right of every elector, as well as every candidate for election as Delegate, that the true wish and desire of the electors, as expressed at the ballot box should be declared and acted upon, and that it is an infringement of the rights of the people that any person should be counted out of such election after receiving the requisite number of votes to elect him; and that it is a further wrong upon the people that any person whom they have rejected at the ballot box should be permitted, as their pretended Delegate, to sit and legislate in their name, in this Convention.

WHEREFORE, your Petitioners respectfully pray that your Honorable Convention may without unnecessary delay, cause to be made an inspection of the ballots cast at said election, and of the returns thereof by the several Boards of Inspectors of Election, to the end that the correctness of such returns may be thereby tested; and that, in case it shall appear that said KLEMME, or any other delegate who has received no certificate of election herein, should have been declared elected as such Delegate, and is entitled to a seat in your Honorable Convention, such person shall be seated therein, in pursuance of the wish of the electors as expressed at
the polls: and that no person shall be so admitted or seated, or permitted to continue a member of such Convention after it shall appear that he is not legally entitled to a seat therein.

And your Petitioners will ever pray.

Dated this 20th day of May, 1834.

P. Holdenhamer
Jos. Ross
C. Buschjost
C. Knepper
A. Ludloff
Robert King
Jos. Smiller
A. Bright
C. Blum
D. Brightwell
J. Frank.
Mr. Waelands
S. Baker
Robert Robinson
P. Fernandez
John T. Cunningham
A. Johnson
Josiah Gonzal
José Games Cannacho
M. da Grela
M. Coelho
L. Lowell
Chas Opani
I. Fernandys
C. Flash
Samuel W.
M. Carter
Kalua
John J. Allen
J. Kawananu
G. Orcalos
S. Tupe
John Thomas
K. M. Logan
S. K. Kaikaula
Sam. Kapiolani
J. Kamakana
James Chamberlain
Jas Kapili
W. Necham
D. L. Ruki
G. Naipe
J. Peahi
H. Neehumu
W. Coghill
S. Kalama
A. Wright
G. C. Hoak
D. Lamme
G. Wallace
J. Iliana
J. Akina
J. Liebert
O. Schoeckel
R. Langham
R. L. Kini
A. E. Hopps
C. M. Lemmefeld
W. B. Kawahe
L. Pakaula
T. H. Kalua
Hilble. H. Clark
Henry H. Carl
S. Stone
L. Kauinaho
T. Kauapō
M. S. Silva
Thos. G. Kini
T. P. M. Cartly
S. Maddux
J. Cantile
J. Sarvis

J. L. Omer
D. Miers
J. E. Carroll
Manuel D. S. Madura

Billy Ballard

A. R. B. Col.
D. S. K. Carr

S. W. O. S.

D. A. McWay

J. A. Lind

T. Shannon

Jeff Dowran

Jeff Scott

M. E. McDonald

John Early

W. Newsom

G. L. Dwight

W. J. Dorrill

Thomas Means

E. Newsom

W. H. Pond
Jose de Lobo
Jose Benito
Antonio Lopes
Manuel Abreu
Antonio G. da Silva
J. P. Lima da Silva
J. F. Branco
Manuel Garcia
Manuel da N. Sousa
Antonio Faria
J. M. Henriques
Verde de Jesus
Manuel Silva
N. Rodrigues
Jacinto Pinto
Manuel Borges
J. G. Cabral
Manuel Abreu
W. Dietz
H. Dunkel Blackburn
J. Blackburn
O. Smith
J. Reesin
J. Westbrock
E. Bontfield
F. Johnson
J. F. Wheeler
J. F. Willett