

ber of votes received by him, would be 242, leaving a majority over the Hon. Charles S. Taylor, of three votes; and that the said W. B. Ochiltree received, therefore, the third highest number of votes cast by the citizens of Nacogdoches.

With these facts before them, your committee are of opinion that, in deciding between the claims of the memorialist and the present occupant of the seat claimed, they can only be directed by what they deem to be the express will of the electors. From the best evidence before them, and the peculiar circumstances of the case, your committee are satisfied that the nine votes polled for "Hugh Ochiltree," were clearly intended for W. B. Ochiltree; and that the said W. B. Ochiltree, having received the third highest number of votes polled, is, therefore, duly entitled to a seat in this Convention, as the third delegate from the county of Nacogdoches.

Your committee submit the facts above stated to the consideration of the Convention, and recommend the adoption of the following resolution:

Resolved, by this Convention, That W. B. Ochiltree, having received the third highest number of votes given by the citizens of Nacogdoches, at the late election for delegates, is, therefore, entitled to the seat now occupied by the Hon. Charles S. Taylor.

[Signed]

J. B. MILLER,

Chairman.

On motion of Mr. Van Zandt, the report was laid upon the table, for the present.

Mr. Caldwell moved to adjourn until to-morrow morning, 9 o'clock. Lost.

Mr. Mayfield moved 10 o'clock. Lost.

On motion of Mr. Evans, the member from Bowie, Mr. Tarraut, came forward, and took his seat as a member of this body.

On motion of Mr. Mayfield, the House adjourned until 8 o'clock, to-morrow morning.

WEDNESDAY MORNING, July 9, 1845.

The Convention met pursuant to adjournment.

Present—Messrs. President Rusk, Armstrong of R., Armstrong of J., Baylor, Bache, Brashear, Burroughs, Caldwell, Clark, Cunningham, Cuney, Darnell, Davis, Everts, Forbes, Gage, Hemp-hill, Hicks, Hogg, Horton, Holland, Hunter, Irion, Jewett, Lati-

mer of L., Lewis, Lumpkin, Lipscomb, McGowan, McNeill, Moore, Parker, Power, Rains, Scott, Smyth, Standefer, Tarrant, Van Zandt, White, Wood, Wright and Young—43.

Absent—Messrs. Anderson, Brown, Cazneau, Evans, Henderson, Howard, Latimer of R. R., Lusk, Mayfield, Miller, Navarro, Runnels and Taylor—16. Mr. Lusk absent on account of sickness.

Quorum present—prayer by the Chaplain. The journal of the preceding day was read and adopted.

Mr. Lewis offered the following resolution:

Resolved, That the Executive committee be instructed to digest and report to the Convention, a plan or system for the organization of the militia of the State of Texas.

Mr. Van Zandt moved to amend, by inserting after the words "be instructed," the words "enquire into the expediency of reporting." Which amendment was lost.

The question was then taken on the resolution, and adopted.

The House proceeded to the

ORDERS OF THE DAY.

The President laid before the Convention the RULES reported by the committee on that subject, which, on motion, was read Article by Article.

The 1st, 2d, 3d, 4th, 5th, 6th, 7th, 10th, 11th, 12th, 13th, 14th, 15th, 16th, 17th, 18th, 19th, 20th, 22d, 24th, 25th, 26th, 27th, 28th, 30th, 31st, 32d, 33d, 34th, 35th, 36th, 38th, 39th, 40th, 41st, 42d, 43d, 44th, 45th, 47th and 48th Rules were adopted.

On motion of Mr. Lipscomb, the 8th Rule was so amended as to strike out all that portion which required the Secretary to take an oath for the faithful discharge of the duties of his office; and

On motion of Mr. Lipscomb, the 9th Rule was amended in like manner, exempting the Sergeant-at-Arms and Doorkeeper from taking an oath of office.

In Rule No. 21, Mr. Moore moved that it be so amended as to require only a majority of the Convention to excuse a member from voting, instead of the unanimous consent, as the Rule expresses.

Mr. Caldwell moved, by way of substitute, that two-thirds be required to excuse a member from voting; which was carried.

In Rule 23d, Mr. Van Zandt moved to amend, by allowing a member to vote after the question has been taken: provided, two-thirds of the members consent to such vote; which was carried.

Mr. Runnels moved to amend said amendment, by inserting "provided such vote did not change the result." Lost.

In rule No. 29, Mr. Forbes moved to amend by requiring two-thirds to put the previous question instead of a majority. Lost.

Rule as amended was adopted.

In rule No. 37, Mr. Hogg moved the following amendment:

"That if any member shall appear before the Orders of the Day be taken up, his name shall be noted as being in attendance. Lost.

Mr. Mayfield moved that the Secretary furnish the publishers of the newspapers with a copy of the roll call of each morning. Lost.

Rule 37th, as amended, was adopted.

In Rule 46th, Mr. Lewis moved to so amend, as to require the Secretary to keep journals of the Committee of the Whole.

The ayes and noes being called for, stood as follows:

Ayes—Messrs. Anderson, Armstrong of R., Baylor, Brashear, Burroughs, Clark, Darnell, Davis, Forbes, Gage, Henderson, Hogg, Horton, Holland, Jewett, Kinney, Lewis, Love, Mayfield, M'Gowan, Miller, Moore, Rains, Runnels, Standefer, Taylor and Van Zandt—27.

Noes—Messrs. President Rusk, Bache, Brown, Caldwell, Cazneau, Cunningham, Cuney, Evans, Everts, Hemphill, Hicks, Hunter, Irion, Latimer of L., Latimer of R. R., Lumpkin, Lipscomb, M'Neill, Navarro, Parker, Power, Scott, Smyth, Tarrant, White, Wood, Wright and Young—28.

So the motion was lost.

Mr. Darnell moved to strike out all the Rule in relation to having a Committee of the Whole.

The ayes and noes being called, stood as follows:

Ayes—Messrs. President Rusk, Baylor, Caldwell, Cunningham, Darnell, Davis, Hemphill, Henderson, Hogg, Horton, Holland, Irion, Jewett, Latimer of L., Latimer of R. R., Lewis, Lipscomb, M'Gowan, Miller, Moore, Navarro, Power, Runnels, Wood and Young—25.

Noes—Messrs. Anderson, Armstrong of J., Armstrong of R., Bache, Brashear, Brown, Burroughs, Cazneau, Clark, Cuney, Evans, Everts, Forbes, Gage, Hicks, Hunter, Kinney, Love, Lumpkin, Mayfield, McNeill, Parker, Rains, Scott, Smyth, Standefer, Tarrant, Taylor, Van Zandt, White and Wright—31

So the motion was lost.

Mr. Lipscomb moved to reconsider the vote rejecting the propositions to require the Clerk to keep a journal of the Committee of the Whole.

The ayes and noes being called, stood as follows:

Ayes—Messrs. Anderson, Armstrong of J., Armstrong of R.

Baylor, Bache, Brashear, Burroughs, Caldwell, Clark, Cunningham, Darnell, Davis, Forbes, Gage, Hemphill, Henderson, Hogg, Horton, Howard, Holland, Irion, Jewett, Kinney, Latimer of L., Lewis, Love, Lipscomb, McGowan, Moore, Navarro, Rains, Runnels, Standefer, Taylor and Van Zandt—35.

Noes—Messrs. President Lusk, Brown, Cuney, Evans, Everts, Hicks, Hunter, Latimer of R. R., Lumpkin, Mayfield, McNeill, Miller, Parker, Scott, Smyth, Tarrant, White, Wood, Wright and Young—20.

So the motion was carried, and the vote reconsidered.

On motion of Mr. Love, it was ordered that a separate journal of the Committee of the Whole be kept.

The ayes and noes being called, stood as follows :

Ayes—Messrs. Anderson, Armstrong of R., Baylor, Brashear, Burroughs, Clark, Darnell, Davis, Forbes, Gage, Hemphill, Hogg, Horton, Howard, Irion, Jewett, Kinney, Latimer of L., Lewis, Love, Lipscomb, Mayfield, McGowan, Moore, Navarro, Rains, Standefer, Taylor, Van Zandt—30.

Noes—Messrs. President Rusk, Armstrong of J., Bache, Brown, Caldwell, Cazneau, Cunningham, Cuney, Evans, Everts, Hicks, Hunter, Latimer of R. R., Lumpkin, McNeill, Miller, Parker, Power, Runnels, Scott, Smyth, Tarrant, White, Wood, Wright and Young—26.

The Rules as amended were adopted by the Convention.

Mr. Gage offered the following resolution :

Resolved, That the committee on Printing be instructed to contract for the printing of _____ copies of the Rules adopted for the use of the members and officers of the Convention.

The rule requiring the resolution to lie on the table one day for consideration, on motion of Mr. Van Zandt was suspended.

On motion of Mr. Parker, the blank was filled with 100, and the resolution adopted.

On motion of Mr. Wright, Messrs. Tarrant and Everts were added to the committee on General Provisions.

On motion of Mr. Lipscomb, Mr. Tarrant was added to the Judiciary committee.

On motion of Mr. Mayfield, Mr. Howard was added to the committee on General Provisions.

On motion of Mr. Tarrant, Mr. Latimer of R. R., was added to the committee on General Provisions.

On motion of Mr. Young, the report and resolutions of the committee on Privileges and Elections, in relation to the contested election between Messrs. Taylor and Ochiltree, was taken up.

Mr. Navarro was excused from voting on the question at his own request.

On motion of Mr. Mayfield, the Convention went into committee of the whole, on the said report and resolutions—Mr. Darnell in the chair.

After some proceeding therein, the chairman reported progress, and asked to be discharged from the further consideration of the subject—which leave was granted.

On motion of Mr. Wood, a call of the House was made; and

On motion of Mr. Parker, a further call was dispensed with.

On motion of Mr. Moore, the report of the committee was laid on the table, and the resolution taken up.

Mr. Van Zandt offered the following as a substitute for the resolution of the committee.

Resolved, That the seat in the Convention now occupied by the Hon. C. S. Taylor, as a deputy from the county of Nacogdoches, now contested by the Hon. W. B. Ochiltree, be declared *vacant*; and that the same be referred to the people of said county, for the election of a deputy to fill such seat.

After some debate, on motion of Mr. Tarrant, the Convention adjourned until 8 o'clock to-morrow morning.

THURSDAY, July 10, 1845.

The Convention met pursuant to adjournment.

Present—Messrs. President Rusk, Anderson, Armstrong of J., Armstrong of R., Baylor, Bache, Brashear, Brown, Burroughs, Caldwell, Clark, Cunningham, Cuney, Darnell, Davis, Evans, Forbes, Gage, Henderson, Hicks, Hogg, Horton, Howard, Holland, Hunter, Irion, Jewett, Latimer of L., Latimer of R. R., Lewis, Love, Lumpkin, Lipscomb, McGowan, McNeill, Miller, Moore, Navarro, Parker, Power, Rains, Runnels, Scott, Smyth, Standefer, Tarrant, Van Zandt, White, Wood, Wright and Young.

The Chair announced the following committee on Education:

Messrs. Clark, Moore, Henderson, Howard, Tarrant, Baylor, Love.

Mr. Miller, from the committee on Privileges and Elections, made the following report:

c*

Journals of the Convention, Assembled at the City of Austin on the Fourth of July, 1845, for the Purpose of Framing a Constitution for the State of Texas. - Link Page

Previous	July, 8 1845	21a
--------------------------	------------------------------	---------------------

Next	July 10, 1845	29a
----------------------	-------------------------------	---------------------

[Return to Electronic Index Page](#)