

And the question being taken thereon was decided in the affirmative.

On motion of Mr. Goodrich,

Resolved, that no legislative subject shall be acted on by the Convention after this day, the 3rd of March, except such as relates directly to the defence of the country.

On motion of Mr. Everitt, the resolution was laid on the table till to-morrow.

On motion of Mr. Gazley,

Resolved, That a committee of five be appointed to devise & report to this Convention a suitable flag for the Republic of Texas.

And the question being taken thereon, was decided in the affirmative; whereupon the President appointed Messrs. Gazley, Scates, Zavala, Robertson, and Barnett of Austin, and

On motion of Mr. Houston, the President was added to said committee.

On motion of Mr. Goodrich,

Resolved, That the thanks of this Convention be presented to Messrs. Baker & Bordens, editors of the Telegraph for the files of their paper presented them.

And the question being taken thereon, was unanimously decided in the affirmative.

On motion of Mr. Menifee,

The Convention adjourned till tomorrow morning at nine o'clock.

FRIDAY, MARCH 4, 1836.

The Convention met pursuant to adjournment. The names of the members being called and the journals of the two preceding days being read by the Secretary,

Mr. Everitt, chairman of the committee on privileges and elections made the following report:

Your committee on privileges and elections ask leave respectfully to report, that after a patient examination of various documents laid before your committee, in regard to an election held in the municipality of Matagorda, (said election being contested by Messrs. Royall and Fisher) have come to the conclusion that Mr. S. Rhodes Fisher is legally elected and entitled to a seat in this house. In drawing this conclusion, your committee would respectfully state to the house, that among the returns of elections, is one from Goliad, held among the volunteers on the fifth of January; at that election Mr. Royall received sixteen votes. The person who discharged that post, appeared before your committee, and testified that he discharged said volunteers on the evening of the 11th

and morning of the 12th January, and it appears further in evidence, that a part at least of said volunteers voted again, and your committee are unanimously of opinion, that said votes were not legal votes, and that they ought not to be counted, and in making up their report, they have left them entirely out.

It appears further in evidence that three men on their way from the army to the United States, did vote at a house where they stopped for the night, and as is certified, their votes were taken between the hours of 8 and 9 o'clock at night, your committee are unanimously of opinion that the above three votes should not be counted, as they were clearly illegal, and have accordingly thrown them out, as said persons who so voted, did immediately thereafter leave the country, and also that the votes were taken after the time of the election.

Your committee are therefore of opinion, that Mr. S. Rhodes Fisher, named, ought to be enrolled among the members of this house.

S. H. EVERITT, Chairman.
E. O. LeGRAND, }
C. B. STEWART, } Committee.

On motion of Mr. Rusk,

The report of the committee was received.

On motion of Mr. Childress,

Resolved, That inasmuch as there are two contested elections pending before this Convention, viz: that election between Messrs. McMullen and Bowers, and that between Messrs. Royall and Fisher, and inasmuch as there is, and will be, contradictory statements and evidence before this body, and probably great uncertainty will exist as to who ought to have the seats referred to, and inasmuch as there is not time before the probable adjournment of this body to refer the questions back to the people for a new election, and it is desirable that there should be a full representation of all the people, and that the Convention should have the assistance of the representations from those municipalities, and that all dissensions and irritating questions should now be entirely avoided,

Therefore, Resolved, through the plenary powers vested in this Convention, that each of the above named gentlemen be allowed to take their seats as members of this body, that those who are now here be allowed to do so immediately, and the others whenever they may appear and make their application.

Mr. Childress argued in favor of the resolution, Messrs. Rusk and Potter in opposition, and the question being taken thereon it was decided in the negative.

Mr. Legrand asked and obtained leave that Mr. Royall should address the Convention in behalf of himself, which he did at some length in defence of his right to a seat in the Convention.

Messrs. Rusk and Everett followed in support of the report made by the committee on' privileges and elections, and the question being taken thereon, was decided in the affirmative.

Mr. Everett, Chairman of the Committee on privileges and elections, made the following report:

The committee of privileges and elections respectfully ask leave to report that the Honl. John Turner came before said committee and attested that his constituents instructed him to protest against Mr. McMullen being received as a member of this Convention; that the grounds on which the protest was founded, was that many volunteers, who desired to vote on the day of election, were not allowed to vote by a majority of the judges of the election; that he heard at least four say that they intended to vote for Mr. Bowers and he is clearly of opinion that many others would have voted for Mr. Bowers. Your committee differ in opinion, and respectfully desire the sense of the house to be taken on it.

Your committee is fully of opinion that Mr. Bowers should be invited to take a seat in this house.

S. H. EVERETT, Chairman.

C. B. STEWART.

Mr. McMullen asked and obtained leave to address the Convention in behalf of his right to a seat in the Convention.

Mr. Turner followed in debate, and the question being taken on the Report of the committee, it was decided in the affirmative; and

On motion of Mr. Everitt,

The Sergeant at Arms was instructed to assign a seat to Mr. Bowers.

Mr. Parmer, from the committee to whom was assigned the duty to inform the Governor Henry Smith, and the Lt. Govr. Robinson and Council, and notify them of the formation of the Convention, beg leave to report that the committee have performed the duties assigned them; and

On motion of Mr. Parmer,

The Report was received and agreed to.

On motion of Mr. Collinsworth,

The following Preamble and resolution were introduced:

Whereas we are now in a state of Revolution, and threatened by a large invading army, from the central government of Mexico; and whereas our present situation, and the emergency of the present crisis, renders it indispensably necessary that we should have an army in the field; and, whereas, it is also necessary that there should be one Supreme head or Commander in Chief, and due degrees of subordination defined, established and strictly observed,

Therefore, be it Resolved, that General Samuel Houston be appointed Commander in Chief of all the land forces of the Texian Army, both regulars, volunteers and militia, while in actual ser-

vice, and endowed with all the rights, privileges and powers due to a Commander in Chief in the United States of America, and that he forthwith proceed to take command, establish headquarters and organize the army accordingly.

On motion of Mr. Collinsworth,

Resolved, that the rule requiring the resolution to lay one day on the table, be dispensed with, and that the Resolution be forthwith put upon its passage.

On motion of Mr. Gazley,

The Convention adjourned until 2 o'clock P. M.

TWO O'CLOCK, P. M.

The Convention met pursuant to adjournment.

On motion of Mr. Collinsworth,

The resolution laid on the table until two o'clock, being called for, and the house sustaining the call, and the resolution being read by the secretary, Mr. Gazley offered the following amendment:

And that Samuel Houston retain such command until the election of a chief magistrate of this government, and to continue in such office unless, superseded by order of the government, subject, however, to the general orders of the government *de facto*, until the general organization agreeable to the constitution, and always amenable to the laws and civil authorities of the country.

The amendment was accepted by the introducer of the resolution.

Mr. Everett moved the further amendment by adding the words "major general to be," after the word *appointment* and before the word *commander*, the amendment being also accepted by the introducer of the resolution.

The resolution was then put upon its passage, on which a debate arose. Messrs. Collinsworth, Gazley and Thomas, in favor of the resolution, and Mr. Potter in opposition; and the question being taken thereon, it passed in the affirmative.

On motion of Mr. Everett, that the Convention adjourn:

Mr. Parmer moved that they adjourn until nine o'clock on Monday next, and urged the propriety of the time mentioned, as there were two very important committees, composed of a majority of the house, and to give them time to make their report; he hoped the house would adjourn until that time.

And the question being taken, it was agreed to, and so the house adjourned until Monday, nine o'clock.

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