

## Debate on Mr. Fisher's Caucus Resolutions,

CONTINUED.

MR. STRANGE offered as an apology for troubling the House with any remarks on the subject now under consideration, the deep interest he felt in the disposition the House might make of the Preamble and Resolutions. He had hoped they would have disposed of them, while he was necessarily absent from the service of the House; in this hope however he had been disappointed. He regretted that they had ever been introduced, inasmuch as they were calculated to excite angry and malignant passions among those who took a part in their discussion, and to scatter fire-brands over the political face of the country, without these evils being counterbalanced by the prospect of any good result. After the able remarks which had fallen from gentlemen occupying the same side of the question with Mr. S. it might be deemed impertinent in him to offer any, inasmuch as he could do little more than repeat what had already been said by others. But on this occasion, he must claim to himself the full benefit of the maxim, that a good thing is none the worse of being twice said.

He might likewise plead the example of the gentlemen on the other side of the question, to whom he had listened with much attention, under the expectation of hearing some argument which might shew that the doctrines set forth in the Preamble and Resolutions were tenable. All that had yet fallen from the gentlemen was but a reiteration and amplification of the ideas and sentiments contained in the Preamble and Resolutions themselves, so that for all Mr. S. could see, the House would have been fully as much enlightened upon this subject, had each of the gentlemen who had spoken on the other side, contented himself with reading over to the House in a distinct and audible voice the Preamble and Resolutions. But Mr. S. was very far from attributing this to any want of ability in the gentlemen themselves. On the contrary, when he looked to the formidable array of talent by which the Preamble and Resolutions were supported, he confessed he had felt disheartened. He knew full well, that there were gentlemen in those ranks who could clothe truth in her loveliest attire, and strip falsehood of her borrowed garments; or, when it suited their purpose, and the proposition was not too manifestly against them, "make the worse appear the better reason." On the present occasion, therefore, he felt satisfied, that it was the cause they had espoused which was so sterile in argument, and not that the gentlemen possessed not ability to find them out, that so few had been offered.

We have been charged, Mr. Speaker, said Mr. S. with unparliamentary conduct, for insisting on our motion for the indefinite postponement of the Preamble and Resolutions. It is admitted that our course is not a violation of parliamentary rule, but it is asserted that it is a violation of parliamentary decorum. Now, Sir, I confess, that I had always been led to believe that parliamentary rules were founded upon the strictest principles of good manners, and that he who kept within parliamentary rule, would be in little danger of violating parliamentary decorum. It seems, however, to be one of the misfortunes of disagreement on political questions, that things right in themselves become wrong when they may be used to defeat any favorite measure, or to shew the fallacy of any favorite opinion.

Mr. S. said he had two objections to the adoption of the Preamble and Resolutions. The first was, because he deemed the act itself useless and improper. The very "head and front" of the evil which these Resolutions are designed to remedy, is, that a Caucus is an unauthorized meeting.—That members of Congress are not elected with a view to the part they shall take in a Caucus which may be held during their continuance in office, and that, therefore, they are in that respect not the representatives of those who elect them. Let this be granted, and what follows? Is it not as representatives alone that the warmest advocates of the right of instruction affect to instruct? And it is only in these matters in which one represents us, that we can claim any right to instruct him. If, Sir, I employ a man to transact any piece of business for me, I have unquestionably a right to instruct that man as to the manner in which that particular business is to be performed, but do I therefore acquire a right to instruct him in matters exclusively his own? or does he not remain entirely free to act upon all matters not involved in his agency, precisely as he would have done had he not become my agent? Neither, Sir, do Senators and members of Congress become *de facto*, the slaves of those whom they represent, and upon any act which they do not perform officially, we have no more right to instruct them than upon the color of their coats, the quality of their food, or with whom they shall associate during the hours of relaxation. It is true, Sir, we can express our opinions; but are they bound to respect them? "We can call spirits from the vasty deep, but will they come when we do call for them?" I should fear not, Sir. I should fear our Senators and Representatives in Congress would retort upon us our own language, and say, Gentlemen, you take too much upon you. But the Preamble and Resolutions seem to me to be framed with a view to make their own inconsistencies as manifest as possible, and while the one loudly and positively disavows the agency of members of Congress in the Caucus nomination of the President of the U. States, the other studiously selects the very language which could only properly be used when agency exists. Again, Sir, by passing these Resolutions, we pass a direct censure on almost all the great, good, and wise men in the nation, not excluding our own venerable Senator, nor even the present most prominent candidates for the Presidency; for it is to be presumed, if the Congressional Caucus be now the monster of iniquity, which this Preamble and Resolutions represent it, it could not have been entirely innocent even when attended by Macon, Crawford, Adams, and Calhoun. And lastly, by adopting the Preamble and Resolutions, we place ourselves in the dilemma of condemning that, which in the very act of condemnation we are ourselves performing—for no one can pretend, that it was for the purpose of passing such Resolutions as those now upon your table, that our constituents sent us to this place, and thus, while we are "pulling the mote out of our brother's eye, we see not the beam that is in our own eye."

The second objection which Mr. S. had to adopting the Preamble and Resolutions, was, that by so doing, he would be permitting persons to put words into his mouth which did not accord with the sentiments of his heart. It is true, said Mr. S. that in the mass of obnoxious matter, some principles are cunningly and ingeniously inserted to which no one can refuse assent, as the physician who wishes to administer to his patient some nauseous drug, artfully combines with it some more palatable ingredient; but in the present case, that which is nauseous, so far exceeds in proportion that which is palatable, that I am for rejecting the whole dose. If any one will be at the trouble of examining the Preamble in detail, he will be surprised to find, to how small a portion he can yield his assent. To the first paragraph I would freely agree, that this House should subscribe, did I think it necessary that the Legislature of North-Carolina should proclaim to the world its belief that black is not white, or that the plainest proposition in nature is true. But upon the second paragraph, (and remember it contains the gist of the whole matter) our friends over the way will excuse us if we do not agree with them: if we do not accept the marrow, until they have cracked the bone: if we do not admit the dangerous tendency nay the innate corruption of the Caucus system, until they have proven it to us. What, Sir! admit without a scintilla of proof, that those whom we have selected from among us for their wisdom and integrity, are so stupid as to be cheated into a nomination decidedly against the interest of the nation? Or so corrupt as to be bribed by douceurs or promises to bend their backs for an unprincipled traitor to mount to honor at the expense of the happiness of his country? That the people of these United States will so far forget the price which their happy institutions have cost them, as tamely to see them bartered away by a contract which requires their ratification before it can have any binding effect? That our political fabric, of whose strength we so often boast, and whose foundations are cemented by the blood of our ancestors, can be subverted by a breath? I confess, Sir, it would require a degree of credulity which I trust I neither possess, nor wish to possess, to admit positions so revolting to our best feelings and our best hopes, with no farther proof than has been offered us by the gentlemen on the other side. But this, Mr. Speaker, is one among the many cases in which the mere application of opprobrious terms, has loaded with disgrace and condemned to ignominy a practice innocent, nay useful in itself. We have reason, Sir, however, to rejoice, that it is not every one that can be thus duped, that even the majority of mankind, when uninfluenced by prejudice, have discernment to see that it is not names which make things good or bad, that words are but representations of ideas, that the qualities of things reside in the things themselves, and remain essentially the same,

whatever names may be applied to them; that calling members of Congress traitors, does not make them so; and that the lawfulness or unlawfulness of a Caucus depends entirely upon the lawfulness or unlawfulness for which it is held. Sometimes a Caucus has been held for the vilest purposes, and of course, that particular Caucus deserved the execration of every good man. At other times, a Caucus has been held for the best and holiest purposes, when surely the mere application of that name could not make it criminal. The Caucus principle enters into the most common affairs of life, from the most trivial to the most important, whenever a set of individuals assemble voluntarily for the purpose of consulting upon matters of common interest, it is assuredly a Caucus, and many were the meetings of this description which were held before our forefathers achieved their independence, and perfected the system of government under which we now enjoy so much happiness and security. The truth is the best and holiest things may be converted to the worst of purposes, and no one is ignorant that even that blessed Religion which was designed by its great author for the comfort of man in this life and his happiness in the next, has been converted, by the inquisition of the Romish Church, to one of the most horrid engines, to torture and afflict the wretched race of man, that the malignity of men or of devils could have invented. That any set of men hath a right to assemble and express their opinions upon any question whatsoever, I presume no one will deny. That any set of men in the community may, if they think proper, nominate the President, no one will deny. Is it, then, the respectability of members of Congress, and their means of information that makes it wrong in them? That the respectability of a source from which a nomination might come would increase its weight; no one will question; but that it would therefore be more likely to be an erroneous nomination, I confess I am unable to see.

That a nomination by some person is necessary, I think is very evident. The lamented Wm. Lowndes has very happily expressed the sentiments of every man of correct feeling; when he said that "the Presidency of the United States was an office neither to be sought nor rejected." It seems therefore, that no man can with propriety tender his own services; and how can the people, scattered as they are over an almost boundless extent of country, be personally acquainted with any one individual whose private virtues might command a majority of their suffrages, or unite their votes, unless some person was particularly designated? And who so well qualified to designate as members of Congress? The President must necessarily be taken from the ranks of public life. And whose eye would be so constantly fixed upon him as his associates in public life? They would be his rivals, and would never award to him the meed of preferment, unless his merits challenged denial. The man who gets the Caucus nomination in Congress will generally stand like Themistocles, who was in the mind of each individual second only to himself.

In denouncing the Congressional Caucus, its enemies have stated two classes of objections.

First: that such a caucus is unconstitutional, and therefore morally wrong, inasmuch as by attending it, members of Congress violate the Constitution which they have sworn to support.

Secondly: that a Congressional caucus is impolitic.

Let us examine each of these classes of objections in detail. The first objection of the first class, (which for the sake of perspicuity, we will take the liberty of putting into syllogistic form) is as follows: That the Constitution has prohibited members of Congress from becoming Electors of the President of the U. States. But the members of Congress by nominating in caucus, do virtually elect the President of the United States, therefore the members of Congress making a caucus nomination of the President of the United States, do violate the Constitution. What a flimsy web of sophistry is this. Archimedes boasted that, with a spot whereon to fix his machinery, he could move the globe itself; and such is the force of logic, that if you grant a man his premises, it is perfectly in his power, with such assistance, to prove any thing that he may desire. But with all their talent for sophistry, the gentlemen on the other side will find it impossible to demonstrate, that nominating is virtually electing, and without this, their whole argument falls to the ground; for be assured, they will find few men in possession of their reason, who will without such demonstration, concede them the point. I have been often told, that there were no two words in the English language precisely synonymous; and according to the new vocabulary which gentlemen, who contend that election and nomination mean the same thing, are about to establish, men have been heretofore greatly mistaken upon this point. Do gentlemen pretend that the people are not free to ratify or reject the nomination? or that by the mere fact of nomination by the Congressional caucus, the person nominated may forthwith be inaugurated President of the United States? Did the gentleman who the other day nominated Governor Holmes to the office he now occupies, virtually elect him? It seems his nomination met the approbation of the Legislature; but was the Legislature obliged to approve? And are the people farther bound by the Congressional nomination than their respect for the opinions of members of Congress, and the coincidence of such opinions with their own, binds them? And to satisfy ourselves that this is the extent of the obligation, let us ask ourselves the question, if Aaron Burr or even De Witt Clinton were to obtain the Caucus nomination, whether such a nomination would be ratified by the votes of a majority of the free people of these United States? If not, how can the people be bound by a caucus nomination? But could we so far forget ourselves as to admit that nominating is virtually electing, it does not strike me that our admission would avail our adversaries for the purpose they design. It would not then follow that the members of Congress had violated the letter of the Constitution, and it is no part of my political creed that it has a spirit that may be violated.

The Constitution of the United States is a written bargain or compact, entered into between the several States of the Union. Like all other written contracts, it is to be construed according to the plain interpretation of the language it contains, and no evidence of an intention not to be gathered from the face of the instrument itself, is admissible. The term Elector used in the Constitution, has a technical signification, and is intended to express an office, created by that Constitution, from the exercise of which members of Congress are expressly excluded: to give it greater latitude of interpretation, would be to exclude members of Congress from voting for the President of the United States, directly or indirectly, which cannot be supposed to have been its intention.

But to proceed to the second argument, which is, if possible, still more flimsy than the first:

That inasmuch as the Constitution provides, that in the event of no one candidate obtaining a majority of votes in the Electoral College, the election shall be made by the House of Representatives; and inasmuch as a Congressional Caucus, would tend to promote an election, and thereby defeat the contingent operation of this provision of the Constitution, therefore, members of Congress who so lend their assistance to effect an election in the Electoral College, do virtually violate the Constitution. This argument like the first, is founded upon what I conceive to be the great political error that the Constitution has a spirit which binds beyond its letter, and may therefore be violated without violating its letter. But were we to admit this to be a political dogma, which we could not contradict, still I think, in the present case, it would not avail the gentlemen to the extent they calculate. It must be evident to all, that this provision of the Constitution was intended for a state of things which it was by no means desirable should exist. It is, as it were, a remedy for a disease to which our political Constitution is liable; but I can see no ground upon which the opinion can be founded, that we are bound to stand quietly by with means in our hands to prevent the approach of the disease, without using them; unless it be that we may afford an opportunity of shewing to the world what admirable political quacks our forefathers were, who could foresee the occurrence of such a disease, and provide so admirable a prescription for its relief. But it is said, ours is a Constitution of compromise, and this feature was intended for the benefit of the smaller States, and that therefore it is a violation of good faith for the larger States, to endeavor to prevent the occurrence of the contingency upon which the operation of this provision will depend. It is only necessary to look to the absurdities into which this argument would lead us, to perceive its fallacy. If a man was to agree to pay another a sum of money, upon his failure to do a certain thing, it would be a violation of good faith on his part to endeavor to accomplish the proposed undertaking, as he would thereby deprive the other party of the sum to which he had a contingent right; and every man who had on any occasion, sworn to support the Constitution of the United States, would be restrained under the risk of committing perjury from taking any measure to promote an election of President in the Electoral College.

The first argument used by our adversaries, is, that the House of Representatives, standing in the situation of an appellate tribunal, in the event of a failure of the Electoral College to elect, it is wrong for its members to prejudice the case by expressing their opinions and pledging themselves in Caucus. We are very apt to be deceived in argument, by supposing a resemblance where none exists; and the present argument is calculated to deceive us, by calling upon us to admit a resemblance between the situation of an appellate Judge, and that of the members of the House of Representatives in the case before us. But a moment's reflection, sir, will enable us to perceive there is none. The House of Representatives does not sit as an appellate tribunal, to confirm or reverse the decision of a former tribunal: the very reason why the question comes into the House of Representatives is, that it has not before been decided, and therefore it in respect resembles an appellate tribunal. While upon this part of the subject, sir, I will take the liberty of mentioning some of the reasons which govern me in believing that sound policy dictates the use of all fair means to keep the election of the President out of the House of Representatives. By the plan of Caucus Nomination, the people are made acquainted with the opinions of members of Congress, and if totally at variance with their own, there is sufficient time for the people to exercise their overruling influence; while, if the sentiments of the members of Congress are concealed until the election is entered upon in the House of Representatives, the matter is settled; and no power on earth can change the result, how much soever it may be at variance with the wishes of the mass of the people. By the plan of Caucus Nomination, members of Congress only recommend; and the people retain in their hands the great prerogative of election; by the other plan, the people only recommend, and the substantial power of deciding is passed over to the House of Representatives.

Upon the score of corruption, about which so much has been said, it is not manifest that both the facilities to accomplish, and the inducements to attempt, are much greater in the House of Representatives, sitting as the elective body, than among the members of Congress, sitting as a Caucus? In the one case, there are only the members of the House of Representatives to corrupt; in the other, the Senators must be corrupted likewise. In the one case, the unprincipled aspirant after office, knows that the man whom he has corrupted can render him real service, and give him actual support; by his own vote; and if he succeeds in corrupting a majority, he is sure of obtaining the benefit of his unrighteous bargain; but, in the other case, should he even succeed in corrupting a majority of the Senators and Members of Congress, he has still to undergo an investigation of his merits before the people; and there are many chances to one, that the infamous traffick in which he has been engaged will be exposed, and so far from succeeding in grasping the honors after which he has been reaching; he will, in addition to a failure in his object, have the mortification of beholding his reputation shipwrecked, and his fortune ruined by the base means to which he has resorted. The second ground upon which the gentlemen over the way contend that a Caucus Nomination is impolitic, is, that members of Congress not being elected with that view, are unacquainted with the sentiments of the people, upon the relative merits of the candidates for the Presidency. This objection, to say the least of it, hangs with at least as much weight upon the favorite plan of election by the House of Representatives, as it does upon the plan of Caucus Nomination; for, if members of Congress be not elected with a view to the Presidential Election, they stand equally uninstructed whether they meet to elect in the House of Representatives, or to nominate in Caucus. But the truth is, they meet in Caucus for the purpose of conferring together, thereby to ascertain what man in the community they can with most propriety recommend to the people as possessing the qualifications they desire. It is, therefore, necessary, that they should agree both upon what those qualifications are, and who it is that possesses them. This they cannot do, without being in some way acquainted with the sentiments of the people, and the alleged uniformity of correspondence between the result and the Caucus Nomination, proves nothing more than that the members of the Caucus have hitherto acted with fidelity and discernment in representing the views of their constituents upon the Presidential question.

A third objection to the practice of caucusing, is, that in time it will become a custom and obtain the sanctity of a law. The weight of this objection must depend entirely upon the weight of those with which it is associated. If a practice be bad in itself, it certainly is a good reason for hastening proper checks; that there is danger of time so strengthening it as to preclude all hopes of its destruction. On the other hand, if a practice be good in itself, its becoming firmly established and growing into custom, cannot make it evil. If the custom under discussion be unconstitutional, while the constitution remains unaltered, unconstitutional it will remain. And here I would reply to a question which is so triumphantly asked us, viz. if the practice be right in itself, why we do not propose that the constitution be so amended as to authorize it? We answer, believing that the constitution does not prohibit it, we think it no more necessary, so to alter the constitution as to expressly authorize it, than we do, so to alter the constitution as expressly to authorize any other lawful act. And that, on the other hand, if gentlemen think the practice pernicious or impolitic, it is for them to propose such an amendment as will bring it under the ban of the constitution. For ourselves, we are contented that matters should remain as they are, satisfied that the practice under discussion is neither *malum prohibitum*, nor *malum in se*.

The last objection, which is more properly a rebutter to what our adversaries feel to be the most powerful argument in favor of a Congressional Caucus, is, that if a caucus is ever political, it is when there is a contest between parties, about some great political principle; but that on the present occasion, it cannot be justified even upon