

SENATE....

...No. 73.

---

---

M E S S A G E

OF

HIS EXCELLENCY

J O H N D A V I S,

TO THE

TWO BRANCHES OF THE LEGISLATURE,

SEPTEMBER 7, 1842.

---

---

Boston:

DUTTON AND WENTWORTH, STATE PRINTERS.

.....

1842.



## M E S S A G E .

---

*Fellow Citizens of the Senate  
and House of Representatives :*

THE delay of Congress to pass an apportionment bill in season for your action has made this adjourned term necessary. Since your separation, such a law has been enacted, and the representation has been assigned to the several states for ten years to come. This duty which devolves upon Congress every ten years is one of high trust, involving considerations of great importance, as it is a distribution to each of the states of its share of power for that period in the popular branch of the national legislature. The small states, especially, have a great interest in the ratio, as it may be easily so fixed as to take from them the half, a third, a fifth, &c., of their power, while the loss of a large state will be so inconsiderable as not to be felt. The large states manifestly have it in their power to favor themselves, and to throw a great share of the unrepresented fractions upon the small states. In the apportionment upon the census of 1830, the whole unrepresented fraction was 475,475—making a loss of nearly ten members. The ratio established was 47,700, by which the number of Massachusetts was reduced from thirteen to twelve, and her unrepresented fraction was 38,007, while the states of New York, Pennsylvania, Tennessee, Kentucky, Indiana and Georgia, having one hundred and ten members, had an aggregate unrepresented fraction of 33,019; thus Massachusetts was required to sacri-

rice more of her political power than all these states. In the same apportionment Massachusetts, New Hampshire, and Vermont, with twenty-two members, had an aggregate unrepresented fraction of 110,980,—while New York, Pennsylvania, Virginia, Georgia, Tennessee and Kentucky, with one hundred and twenty-four members, had an aggregate unrepresented fraction of only 46,782. From these facts it is easy to deduce the importance of a just and fair apportionment, which equalizes as far as possible the fractions unrepresented, and especially does justice to the weaker states.

By the law of 1842, the number of our representation is reduced two, and we have a large unrepresented fraction.

Several new principles have been introduced into this law which merit notice.

First. The whole number of representatives which was 242 has been reduced to 223, while the constituency has been increased from twelve to seventeen millions. This appears to have found favor on the ground that business may be done by a smaller number with greater despatch, while better order and greater decorum will be maintained.

This view of the subject may to some extent be just, but it merits grave consideration whether the best and most enduring interests of the people are promoted by curtailing the representation of an increased constituency. The popular branch is designed to be the exponent of public opinion, and ought to be sufficiently numerous to bring with it into the halls of legislation the views, sentiments and wants of the people. A representative should be what the term implies, for he stands in the place of the people who elect him, acting for them and in their behalf; and if he is unknown to them or they to him, or if he is unacquainted with their sentiments and wants, the object of the constitution is frustrated. Besides, all experience teaches us that there is safety in numbers—that though large deliberative bodies may be slow, they are cautious—that they are not easily corrupted—that they are not readily swayed or misguided from selfish considerations—that the infusion of popular feeling is greater and its influences more certain—that they are the best exponents of public opinion, and the safest deposi-

tories of power—and that they are best suited to the genius of our institutions.

The number must be limited, but 242 is certainly sufficiently moderate to represent the people of the United States, whose average number for ten years to come will be at least twenty millions.

Second: Provision is made, that where the fraction remaining from a division of the population of a State by the ratio is greater than one half of the ratio, the State shall have an additional member. This provision no doubt tends to equalize the distribution of power, and to correct the injustice which is almost necessarily done to some of the States. On this ground it was advocated by the delegation from Massachusetts, in 1832, carried in the senate but lost in the house.

Third: All the States must be divided into districts, in each of which one member is to be elected.

The object of this provision appears to be to establish a uniform system, affording the best means of representing public sentiment.

It would be repugnant to the spirit and frustrating the design of the Constitution for the great State of New York, balanced as it is by parties, entertaining, as it does, in different localities, conflicting opinions of public policy, to erect itself into one district for the choice of 34 members. The views of a preponderating party might be thus expressed, but it would in no just sense be a representation reflecting the state of public opinion. This seems to be tacitly conceded by the advocates of the general ticket system, for they aim to distribute their members in the same manner as if the State were districted, professedly on the ground that this is necessary to a fair representation; and yet the greatest and most important element of just representation is disregarded by annulling local majorities, and giving them members whose sentiments do not harmonize with their own.

What would be thought of a modification of our Constitution whereby the Commonwealth should be made one district for the choice of senators and representatives? Such an arrangement might, in times of excitement, bring none but the friends

of a triumphant party into power, who would enjoy their authority undisturbed by the vigilance and scrutiny of an active minority—but this would be, under any circumstances, an indifferent equivalent for the sacrifice of the fundamental principle of representation.

There can never be contentment under an unjust distribution of political power, nor under any measures designed to suppress a fair expression of the opinions of a minority.

This act, however, requires no change of the policy of Massachusetts, as she has hitherto elected her members by districts. This is in fact so fixed a principle that no other method could meet with approbation. Our practice harmonizes with the law, and we shall hereafter have the benefit of a uniform system throughout the United States.

It seems to be understood, that as soon as this duty is accomplished the Legislature will be anxious to close its session. I shall not, therefore, enter upon matters which might otherwise engage your attention, but leave them for future disposition.

I cannot, however, close this communication without advertising to one or two subjects in which the people of this Commonwealth feel a great interest.

In pursuance of the authority vested in me by certain resolves of the last session, to take such measures as the exigencies of the times might render necessary to bring to an honorable adjustment the controversy respecting the North-eastern Boundary of the United States, I did, with the advice of the Council, appoint Commissioners to proceed to Washington, and to agree upon a conventional boundary, if one should be proposed upon terms that should be just and satisfactory. This measure was adopted at the request of the President of the United States, who, through the Secretary of State, desired that a special session of the Legislature should be convoked for the purpose; but your timely action upon the subject, in anticipation of the arrival of a special minister, clothed with power to make such propositions, superseded the necessity which would otherwise have existed for such a session.

There has not, to my knowledge, been any official publication of a treaty, or of the documents connected therewith, but

there is no doubt that one has been signed and duly ratified by the United States, and now only awaits the sanction of the Queen of the United Kingdoms when it will doubtless be made public. The provisions contained in this instrument, so far as regards the North-eastern portion of the boundry, received the unanimous approbation of the Commissioners of Maine and Massachusetts.

The copy which appears in the public press seems to be understood as varying in no essential particulars from the treaty. By this and through other sources we learn, that the boundary from the monument, at the head of St. Croix river, to the Rocky mountains, a distance probably of three thousand miles, has been finally adjusted, though a large portion of this line has until now been in dispute. It is believed that at all points on this extensive route except at the north-east angle, Great Britain has conceded the claims of the United States; and among other things, has surrendered an important portion of territory on the line of Vermont and New York, containing the fortification at Rous's point, to which territory her claim was unquestioned, though it was believed to be in the United States till the surveys were made under the treaty of Ghent.—This fortification, which commands the outlet of Lake Champlain, was commenced soon after the last war by the United States, because of the military importance of the site, but the work was suspended when the true line was traced.

By the boundary as agreed to, between Maine and the British provinces, a territory, of which the two States were coproprietors, most of which is uninhabited, is relinquished, and each of the States is to receive the sum of one hundred and fifty thousand dollars, as an equivalent therefor, and to enjoy the free navigation of the St. John, with the benefit of the Colonial market. There are other stipulations by which the expenses of maintaining a civil posse upon this frontier are to be reimbursed, and the fund in the hands of provincial officers arising from the sale of timber unlawfully cut down is secured to the States.

Upon a deliberate and careful consideration of the value of the property, and all the circumstances which connected

themselves with the controversy, the commissioners from each of the States, came to the unanimous decision that the interests of the States would be better subserved by acceding to the proposed terms, than to submit to the delays and hazard incident to the renewal of an arbitration, which was the alternative proposed by the late administration in case no agreement could be made.

The arrangement has terminated a controversy of a dangerous and threatening aspect, as it was surrounded with irritating circumstances which were constantly becoming more aggravated in their character, and thus menacing the peace of the two countries. There is now a prospect before us of enjoying all blessings which flow from pacific relations between two nations whose interests are strongly allied by the great trade and commercial intercourse which subsists between them.

The doings of the commissioners will be laid before you. Their labors have been arduous, and their position in some respects embarrassing, but they appear to have discharged all their duties in a manner meriting the approbation and confidence of their fellow citizens. As the documents of the United States have not been laid before the public and probably will not be till the final ratification, their publication, excepting some extracts, must be deferred.

During the late session of the Legislature, resolves were passed approving of the distribution of the proceeds of the public lands, and recommending a revision of the revenue laws by which the system of horizontal duties should be abolished and a discrimination instead be introduced, designed to foster industry, and to protect the laborer.

Congress passed a law to carry into effect this policy, so well devised to revive and infuse new energy into the languishing business of people of this Commonwealth, but it met in the hands of the Executive with the fate of other measures which were designed to mitigate the public distress. The President could not urge in his justification constitutional scruples, for he had at the previous session signed the Distribution Act, but his apology for defeating a measure vital to the best interests of the great laboring community, is the exigencies of the treasury,

though the treasury could scarcely need replenishing more than at the time he approved the Distribution Act.

The Executive assumes virtually that no bill providing for a duty of more than 20 per cent. shall become a law, unless the revenue from the lands is restored to the treasury by the suspension of the Distribution Act, and he has accomplished his object. He has brought the revenue from the lands back into the treasury, and it will be instrumental in renewing the scenes and working out the results which have disheartened the laborer, and retarded the prosperity of this country for many years past. This revenue, all have learnt from experience is exceedingly fluctuating. We have seen it deranging the whole system of financial policy, both by excess and deficiency. We have seen it reach nearly twenty-five millions of dollars in a year, and then fall to less than two millions; thus unsettling and deranging the whole system of duties, and keeping the tariff question in constant agitation by an apparent necessity to raise or lower duties. This unsteady basis of the financial policy—this constant agitation of the question—this uncertainty as to what is to come, keeps all whose business rests directly or remotely upon the tariff for support in a state of alarm which paralyzes their energy, and is fatal to their prosperity. Sudden changes in the financial system are too often followed by disastrous consequences, and hence it is a matter of momentous consideration that the system should rest upon a firm basis demanding little change. No measure ever adopted by Congress promised more auspicious results to labor than the law of distribution, which removed from the treasury the great disturbing cause which created excesses and deficiencies, nor has any law held out to the working-man, and all others, such a promise of a future state of things on which we might rely with confident assurance, as there could be little occasion for injurious change. The defeat of a measure so auspicious to our best interests, so well designed to remove the embarrassments which have beset the whole country, and so full of the promise of benefits to come, is, therefore, greatly to be deplored.

Those who are opposed to a tariff, discriminated so as to protect industry, and who are in favor of reducing the wages of

labor, will no doubt be opposed to a distribution of the revenue from the lands, for they perceive what has been so long and so deeply felt by the friends of American industry, that the surest way to check manufacturing enterprise, and to obstruct the division of labor, is to keep the revenue laws in a state of fluctuation—to make it uncertain whether he who has twenty-five per cent. protection this year, will have more than ten or fifteen the next. Nor are they blind to the fact that the revenue from the lands will almost necessarily be so irregular as to work out this result. If any injustice were done to States or to the people by the distribution, we might find in that circumstance a motive to resist the policy. But whatever sums might be distributed, there is not a State where the people would not be relieved to the extent of all it receives from direct taxation. In our own Commonwealth we raise annually great sums for free schools, for the support of highways and the poor, and to meet the multiplied exigencies of the times. So it is elsewhere, and as many of the States are burdened with debt, a more seasonable and welcome relief from public burdens could not be afforded to the whole people of the United States.

In a country like ours, differing widely from the old continent in this, that our land produces, through the blessing of Heaven, enough of the substantial comforts of life for all, it is matter of surprise that the measures which are best calculated to promote a division of labor, by which alone these blessings can be so distributed as to make all who have the capacity and the will to take care of themselves, comfortable and happy, far beyond the enjoyments of other countries, should be so steadily and resolutely resisted.

But the people must not be discouraged by a defeat—they have the power to set this matter right; and a steady, patient, resolute perseverance at the ballot-box will accomplish it. No friend of the great interests of labor should slacken his exertions till the distributive policy is carried into successful operation.

Notwithstanding the defeat of a measure so salutary and auspicious to the interests of the people, we find much consolation in the fact that the horizontal line of duties has been abandoned, and that the great principle of discrimination in favor of

American labor has been restored. This we owe to the patience and persevering energy of Congress amid embarrassments such as have seldom beset a deliberative body. That the new revenue law will exert a happy influence in renewing the courage of the despondent, and in infusing new life and energy into business, can scarcely admit of a doubt;—but the work is not done, nor will it be till the principle of distribution is asserted and maintained. This may be done by such a law as was enacted at the extra session, or the average amount received from the sale of public lands in ordinary years may be ascertained, and that sum paid into the treasury, while the surplus shall be distributed. Until the one or the other is accomplished, there will be no lasting prosperity.

JOHN DAVIS.

COUNCIL CHAMBER, SEPT. 7, 1842.

