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NO. 1. THE VETO POWER,
ITS ORIGIN, DEVELOPMENT AND
FUNCTION IN THE GOVERNMENT OF THE
UNITED STATES (1789-1889)**

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No. 1

THE VETO POWER

*ITS ORIGIN, DEVELOPMENT AND FUNCTION IN THE
GOVERNMENT OF THE UNITED STATES*

(1789-1889)

BY

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1891

EDITOR'S PREFACE.

AMONG the many subjects in the constitutional development of the United States on which no formal treatise has been written, none seems more to deserve the attention of a scholar than that chosen by Mr. Mason and here presented as the first number of the Harvard Historical Monographs. The veto power is the most important of the institutions connecting the national executive with the legislature; the provision for a revision by an enlarged majority of the legislature is original, to the United States; the vetoes have appertained to some of the most interesting episodes of American history; the power is in frequent exercise, yet has of late been somewhat disputed.

In a work of this kind, based on records sometimes defective and usually badly indexed, perfection is almost impossible. The greatest pains have, however, been taken to make the list of vetoes complete. In the Report made to the Senate in 1886, by the Senate Committee on Printing, there are printed, with some other matter, two hundred and thirty-seven veto messages, which were supposed by the Committee to include all that had ever been rendered. Mr. Mason has discovered ten additional vetoes, to which reference is made in appendix A; and he has added references to one hundred and eighty-six messages submitted since the date of the report.

The Editor's function has been that of advice, suggestion, and revision; the labor of preparation is entirely Mr. Mason's own. All important points of opinion have been discussed between us, but in every case Mr. Mason has stated his own views and assumes all responsibility for them. Although the work deals with political subjects, many of which are still subjects of debate, both

Editor and Author have endeavored to avoid political bias; the vetoes are condemned or approved upon what seem to us sound principles of constitutional law and political expediency, irrespective of the attitude of present parties. The effort has been made in the notes and appendices to furnish all the apparatus necessary for following out and testing the Author's conclusions, and for pursuing the subject further.

It had been intended to add a chapter on the workings of the veto in the States, and another on the veto power in modern constitutions. The discussion of the veto in the national system of government in the United States has required more space than had been anticipated: the two additional chapters have therefore been omitted. But, for purposes of comparison, there has been introduced as an appendix a tabulation of the provisions of state constitutions. In another appendix will be found a list of the vetoes of the President of the Confederate States of America. The material for it has been kindly furnished for this Monograph by Mr. John Osborne Sumner, a member of the Graduate Department, from the manuscript Journals of the Confederate Congress, which he has been the first historical scholar to study.

I desire also to express my obligation to Dr. Charles Gross, of Harvard University, for his careful revision of the proofs; and to Professor J. B. Thayer, of the Harvard Law School, for helpful suggestions.

ALBERT BUSHNELL HART.

CAMBRIDGE, April 12, 1890.

AUTHOR'S PREFACE.

THE object of the present Monograph is, to trace the development and operation of the veto power in the government of the United States. The work is almost wholly the result of an examination of the sources. Indeed such a course was almost a necessity since very little has been written upon the subject. The basis of the study is a list of the Presidential vetoes, compiled from the records of Congress, and covering the period from the foundation of the present form of government in 1789, to the end of President Cleveland's administration, March 4, 1889.

For convenience of comparison, the vetoes have been classified according to subject; and to the discussion of these classes the greater part of the work is devoted. It has, however, seemed essential in a full treatment of the subject to prefix a brief account of the origin in English and Colonial precedent of that particular form of the veto power which is found in the United States: and to add a chapter on the constitutional points which have arisen concerning the operation of the veto power; and another on the gradual development of the power during the century of the national government.

The preparation of the thesis began in the fall of 1887, in one of the Historical Research Courses in Harvard University, and has been continued most of the time since, as undergraduate and graduate work, in connection with the University, under the direction of Professor Albert Bushnell Hart, the editor of the Monograph. I desire to express my obligation to Dr. William Everett, of Quincy, Mass., for information in regard to the decline of the veto in England; and to Mr. Herman V. Ames, a member of the Graduate Department of Harvard College, who has kindly

furnished me with a list of proposed amendments which concern the veto power. The authorities used will be found enumerated in Appendix C. As the work is based upon the voluminous Government Records, special pains have been taken to verify every reference, both in the text and appendix. Nevertheless, errors may have crept in, owing either to errors in the originals or to inadvertence. I shall be happy to acknowledge the correction of such mistakes as may be discovered. The deductions have been made after long and careful thought; but are subject to the errors into which a person not directly connected with the administration of affairs is always liable to fall. Here again, corrections and criticisms will be gladly received.

The results of the study of this somewhat neglected portion of American constitutional history are given to the public in the hope that they may aid in the further investigation both of the question here considered and of other related and unsolved problems in United States history and law.

EDWARD CAMPBELL MASON.

CAMBRIDGE, April 12, 1890.

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