

The State University of New York University at Buffalo

An Up-“Hill” Battle:

The Introduction of the Australian Ballot in New York State 1888-1890

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This research thesis explores the transformation of the ballot in New York State and the political environment in the 1880s and 1890s. It highlights the legislative progression of the Australian ballot in New York State and considers whether it was created in the best interest of the voters. By investigating the process of enacting the secret ballot in New York State in 1888-1890, along with the political and social climate of the time, we get a better understanding of the motives in enacting this bill. On both sides of the aisle, there were coherent arguments for the period. Opposition to this bill defined David B. Hill's political career during his time as governor. As a Democrat, he had a large voter base in New York City, which this bill aimed to affect the most. This thesis explores whether Hill and the opposition, and those in accord, were truly for or against the ballot changes based on the principles they articulated or what they saw as the political consequences, namely, the potential to help or hurt their electoral prospects.

Previous Scholarship

Alexander Keyssar's book, *The Right to Vote: The Contested History of Democracy in the United States*,¹ is a strong, thorough history of major trends of voting seen in the history of the United States. As there are very few specific details on these trends, this same strength is also a major weakness. Keyssar describes these major trends using his own personal critiques. Critiques like Keyssar's critiques are crucial in analyzing the changes in election law but do not enumerate how change occurred in instances that are more specific. Keyssar did include a short description of the institution of the secret ballot in New York State, since it was more complicated to enact compared to the rest of the country. To fill in these knowledge gaps, Ronald

¹ Alexander Keyssar, *The Right to Vote: The Contested History of Democracy in the United States*. (New York: Perseus, 2000).

Hayduk's book, *Gatekeepers to the Franchise*,² goes through the electoral history solely in New York State and fills in specific details that Keyssar's record did not contain. These two accounts united are extremely useful in creating an overview of the electoral system and voting trends in New York State.

With Keyssar's and Hayduk's background knowledge in electoral history and brief glimpse at the secret ballot, it is useful to use Herbert Bass's article *The Politics of Ballot Reform in New York State, 1888-1890*³ to complete an overview of the political environment around ballot reform during this time in New York State. Bass examines the influences of the political machines on the voting system and how, in a perfect world, the Saxton bill would have solved those problems. After which, Bass goes into the general overview of the progression of the bill along with Governor Hill's role throughout the legislative process. Bass argues that Governor Hill tried to maintain his original position throughout the entire legislative process and the Republican legislature did the same, which therefore led to an ugly battle. To complement this article, Bass also published a book in the same year titled "*I Am Democrat*": *The Political Career of David Bennet Hill*,⁴ which detailed the life and political decisions of the Governor during his entire life. Together, these works help to compile a more complete picture of Governor Hill as a person, along with his political position throughout his career.

² Ronald Hayduk, *Gatekeepers to the Franchise: Shaping Election Administration in New York*. (Dekalb, IL: Northern Illinois University Press, 2005).

³ Herbert J. Bass, "The Politics of Ballot Reform in New York State 1888-1890," *New York History: New York State Historical Association* 42 (1961): 253-272.

⁴ Herbert J. Bass, "*I am a Democrat*" *The Political Career of David Bennett Hill* (Clinton, Massachusetts: Syracuse University Press, 1961).

To complete the overall viewpoint for this thesis, Mark Summers' *Party Games: Getting, Keeping, and Using Power in the Gilded Age Politics*⁵ helps to better understand the extensive power political machines had along with the partisan politics during the period when the secret ballot was passed. Throughout his account, Summers describes how the political machines were able to play such an essential role in the election process during this time.

Before the Australian Ballot

To understand why there were conflicts over ballot reform in New York, it is necessary to understand the nineteenth century American political party system. This system was created in the 1830s and was well established by the 1860s. The political parties operated in a primarily homogeneous, rural electorate, which was highly partisan. There were large numbers of political officials elected, but their terms were short, which forced communities to hold elections at least once a year. In both states and counties, the political parties were highly decentralized. Most importantly, elections were won mainly by having a party mobilize its constituents rather than try to convert opponents' constituents or inactive voters.⁶ Even though there were some reforms made during this era, there were two aspects that were not addressed. There was no clear definition of who should print and distribute the ballots and there were no safeguards for voting in secrecy.⁷

Before the institution of the Australian ballot, also known as the secret ballot in America, during the second half of the nineteenth century, any male citizen was allowed to vote in public without registering beforehand. There were no laws regarding the creation or distribution of

⁵ Mark Summers, *Party Games: Getting, Keeping, and Using Power in Gilded Age Politics*. (Chapel Hill: University of North Carolina Press, 2004.)

⁶ Alan Ware, "Anti-Partism and Party Control of Political Reform in the United States: The Case of the Australian Ballot." *British Journal of Political Science* Volume 30 No, 1 (2000): page 10.

⁷ Bass, "Politics of Ballot Reform," 254.

ballots, and candidates could decide up until the day of the race to run. It was prohibitively expensive for non-party members to run for office because of the burden of printing one's own ballots. Following this lack of regulation, there was violence, corruption, and bribery at the polling place.⁸ All of these factors combined to create an extremely unsafe election environment.

One New York City election inspector reported, "I think it next to impossible for any man to go down and get a square vote at that precinct unless he had a regiment of soldiers with fixed bayonets... The crowd got around me and threatened my life, so that I was advised I had better leave, and did so, as I did not want to be killed." This inspector reported that Richard Croker, who eventually became a Tammany boss, bullied possible Republican voters and was a repeat voter who managed to vote seventeen times in one election. In 1874, he was arrested for murdering an opponent at the polls.⁹

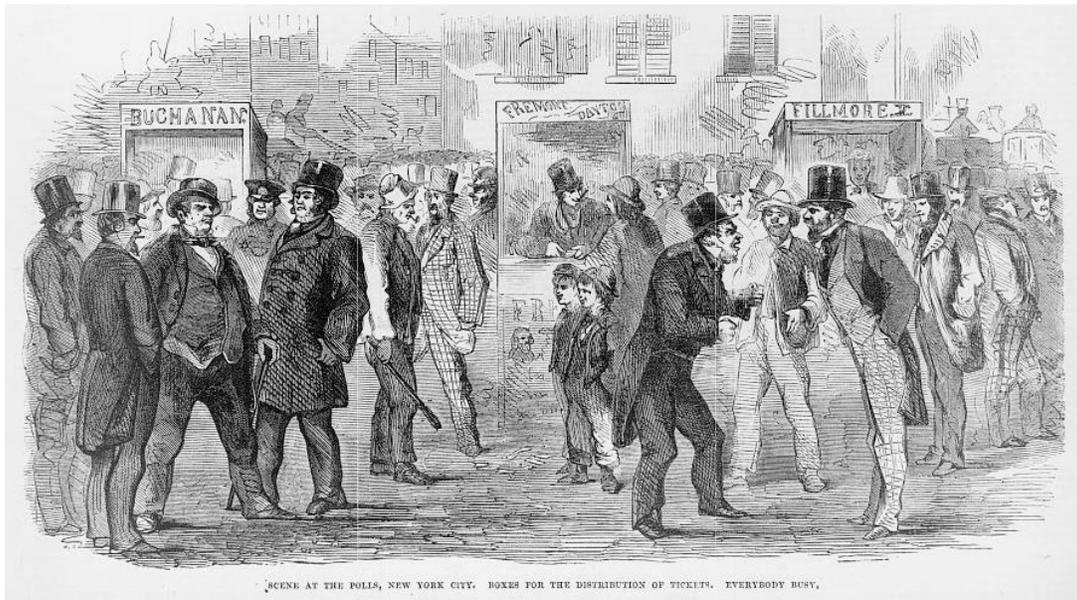


Figure 1. A sketch of the presumed voting process. Photograph from Frank Leslie's Illustrated Newspaper.¹⁰

⁸ Elizabeth Dori Tunstall, "Australia's Un-Doing of Voter Intimidation," *The Conversation* (2014).

⁹ Lonthrop Stoddard, *Master of Manhattan: The Life of Richard Croker* (New York: Longmans, Green, 1931), 46, 56.

¹⁰ Frank Leslie's Illustrated Newspaper, v. 2, no. 49 (November 1856), 353.

In contrast to the chaotic situation in New York City, system devoid of voter registration often worked well in small towns because officers conducting the elections generally knew every person who lived there and, therefore, knew who was allowed to vote. For example, “if everyone in a community knew who was entitled to vote, it was unnecessary to construct a list of eligible voters; nor could there be any possibility of impersonation of voters in that type of community.”¹¹ This older system assumed that neighbors and officials could identify eligible voters. Once cities and immigration flourished, this notion became impossible when the officers could no longer identify everyone in the large cities. For example, “heelers” registered to vote an unlimited amount of times. “Heelers” registered the names of dead men, absentees, and voters who had moved away, then other “heelers” voted using the registered names. On Election Day, groups of “heelers” met in adjacent bar rooms, and then one by one, they voted continually throughout the day. They exchanged their hats, coats, caps, and jackets to remain incognito, as demonstrated in Figure 2.¹²

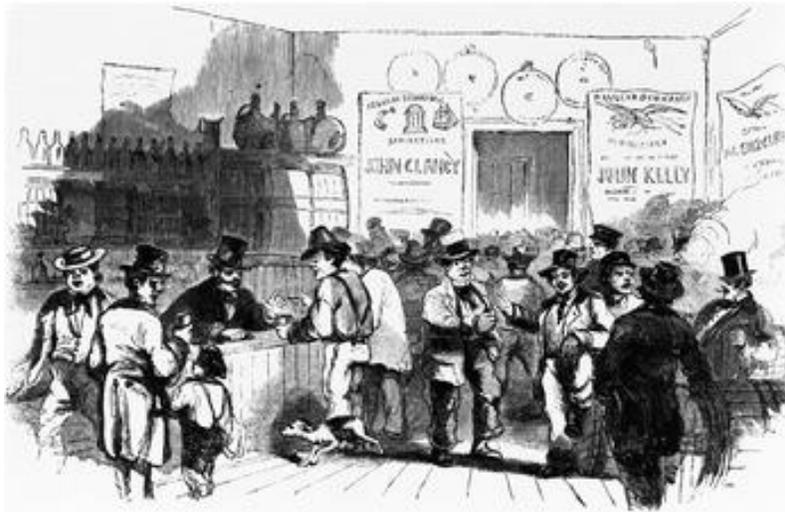


Figure 2. “Voting Place, No 488, Pearl Street, Sixth Ward, New York City, 1858.” Photograph from Harper’s Weekly.¹³

¹¹ Ware, “Anti-Partism and Party Control of Political Reform,” 10.

¹² “Recent Reforms in Balloting.” Allen Rice Thorndike, *The North American Review*; July 1, 1886

¹³ Harper's Weekly, Nov. 13, 1858.

To combat corruption in the voting process, between 1860 and 1880, large northern cities created a registry of the people who were permitted to vote in elections. As early as 1859, New York became the first city in the nation to institute a voter registry.¹⁴ The goal of this step was to stop men disqualified by state law from voting, as well as Native Americans, women, and immigrants. Under the Tweed “regime,” the “heelers” voted early at the polls using the names previously registered, even using the names of well-known citizens. The real voter would end up voting later in the day, only to find that they had, apparently, already cast their vote. If anyone tried complaining, the police escorted him out of the polling site.¹⁵

These registration systems were weak since local legislation had commissioned local election officials to create the list of eligible voters based on the official’s familiarity of the community or by simply going door-to-door.¹⁶ New immigrant and minority groups, especially in large urban centers, used the Democratic Party to challenge these registration laws because they had to complete elaborate procedures that were not required of rural towns. Republicans worried that their already small voter base would shrink even further if registration was required for their constituents.¹⁷ Since New York had the largest number of immigrants in the country, including a large population of migrant workers in New York City, electoral reform was necessary to handle these worsening problems.¹⁸

¹⁴ Ware, “Anti-Partisan and Party Control of Political Reform,” 11.

¹⁵ Thorndike, Allen Rice “Recent Reforms in Balloting,” *The North American Review*, (July 1, 1886).

¹⁶ Hayduk, *Gatekeepers to the Franchise*, 19.

¹⁷ Hayduk, *Gatekeepers to the Franchise*, 20.

¹⁸ “Electoral Reform: with the Massachusetts Ballot Reform Act and New York (Saxton) Bill.” *The Society for Political Education*. XXIV vols. (1889): 5.

Issues with the Previous Ballot and Polling Places

Before 1890, there were no laws pertaining to the distribution or printing of ballots. This loose arrangement created a loophole of which the candidates for public office took advantage. Voters used party tickets, which were printed by the political party and only contained the names of the candidates from said party. These ballots came in different sizes and colors, which allowed them to be extremely noticeable to the public. Hawkers or ticket peddlers distributed these ballots at the polls, which made a constituent's ballot a public display.¹⁹ The hawkers would also give the ballots to constituents in advance of the election. The voter then took the ballot to the polling place on Election Day. This process mobilized illiterate voters because the illiterate voter had the confidence that he was actually voting for the candidates of the party for which he intended to vote.²⁰

It was simple to imitate another party's ballot since color and size easily gave away the party from which the voter took the ballot. If the voter did not know the hawkers or ticket peddlers handing out the ballots, it was possible that the hawkers would give him a ballot that looked similar to his party's ballot but actually contained the names of the opposition party.²¹ This experience was described as the simplest form of bribery, "ballot peddlers or district captains paid a voter as he emerged from the polling place and to check that he actually used the ballot, it was colored or otherwise recognizable and the compliant voter was followed up to the box."²² A different form of intimidation was seen in smaller towns; there was a sense of community pressure to conform, which worsened when every neighbor knew each other. Locals

¹⁹ Peter Argersinger, "New Perspectives on Election Fraud in the Gilded Age." *Political Science Quarterly*. Volume 100. No 4. Page 672.

²⁰ Ware, "Anti-Partism and Party Control of Political Reform," 11.

²¹ Ware, "Anti-Partism and Party Control of Political Reform in the United States," 11.

²² Fredman, *The Australian Ballot: The Story of an American Reform*, 22.

would be intimidated from voting differently from their neighbors, since these insular communities would know exactly how they voted and had to interact with them each day after elections.²³

Any candidate could decide at any point up to the date of election to run for a position, create their ballots, and hand them out to registered voters. The candidates had to provide and pay for their own ballots to hand to constituents. For this reason, machine politics were typically only way to fund an election.²⁴ It was nearly impossible for a common citizen to be able to afford to print thousands of ballots and campaign frequently enough to hand out ballots to each qualified voter. Candidates were assessed by their ability to pay for the ballots and their distribution. A large amount of money was needed to also pay for peddlers and paid voters, which extremely limited the pool of candidates to the extremely rich. Other candidates borrowed money from political machines, money that was expected to be paid back while in office.²⁵

This political environment allowed fear, corruption, and bribery to flourish. There were three main frauds during this time period. One type of fraud was the falsification of the vote count, which violated a voter's rational will. The second and third fraud types were voter intimidation and "repeating" or casting multiple ballots by one person.²⁶ The violence and intimidation at the polls, as described by historian Peter Argersinger,²⁷ caused many voters to refrain from voting, termed "deflationary fraud." Party meetings took place near or inside a

²³ Summers, *Party Games*, 241.

²⁴ Tunstall, "Australia's Un-Dong of Voter Intimidation," 2.

²⁵ Fredman, *The Australian Ballot: The Story of an American Reform*. (East Lansing, MI: Michigan State University Press, 1968) 27.

²⁶ Argersinger, "New Perspectives on Election Fraud in the Gilded Age." 673.

²⁷ Argersinger, "New Perspectives on Election Fraud in the Gilded Age." 684.

saloon for the same intimidating reason. Paid peddlers loitered outside of the polling place to create disorder, frighten away voters uninvolved with the corruption, and continue coercing voters. It is also thought that workingmen were intimidated by manufacturers seeking their vote for protective tariffs or by agitators seeking their vote for socialism.²⁸

During this time, “Americanization” campaigns began. Starting in 1890, the United States immigration patterns shifted from Western European to Eastern European migrants. The cultural differences and different languages created a divide between native-born “old” Americans and “new” immigrants. These “new” immigrants were stereotyped as less skilled, less educated, and more clannish. These “new” immigrants were therefore problematic in elections since they were not able to read the ballot.²⁹ These immigrants were also easily corrupted, as they lacked a background in American traditions, had no innate commitment to American institutions, and had no reason to vote their beliefs. On top of lacking background in American traditions, they were often so badly paid that bribe money was a helpful economic boon.³⁰ Poor American men were also dependent on the bribe money. One newspaper stated that voters, in both parties, waited to be paid before voting, even to vote for the ticket of their choice. It was estimated that one-third of each party did this.³¹ Here is a political cartoon released around this time which highlights this theme, which even shows the role of a heeler.

²⁸ Fredman, *The Australian Ballot: The Story of an American Reform*, 24

²⁹ Ellis Cose, *A Nation of Strangers: Prejudice, Politics, and the Populating of America*. (New York: Morrow, 1992).

³⁰ Summers, *Party Games*, 100.

³¹ *New York Evening Post*, November 16, 1888.

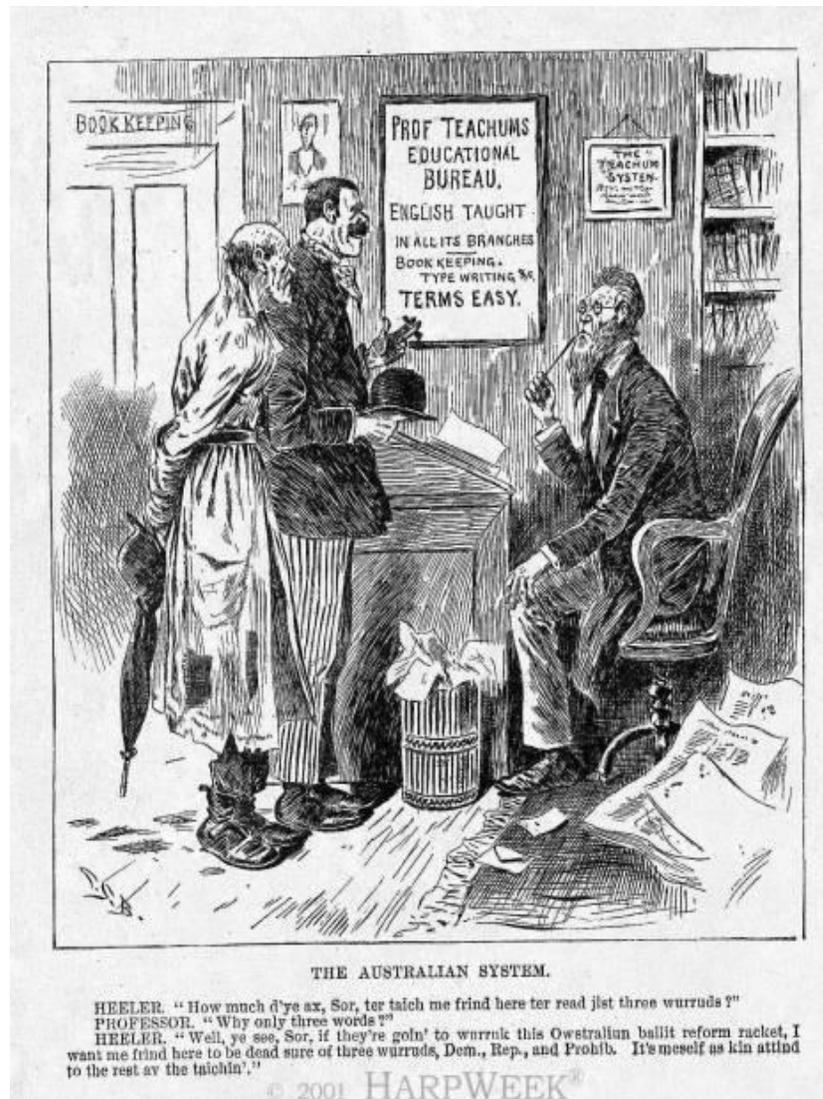


Figure 3. A political cartoon released around this time which highlights this theme, which even shows the role of a heeler. Photograph from Harper's Weekly.³²

The worst and most disorderly elections occurred in major cities such as New York City and San Francisco. This is because there were high concentrations of poor people and recent immigrants who did not understand the voting process, as well as registrations that could be easily padded with fake names. Managers would naturalize non-existent aliens and enroll non-existent boarders from rooming houses and then on election day, the managers would hire repeat

³² "The Australian System." *Harper's Weekly* (NY, NY), February 22, 1890.

voters to use the names. Two journalists, Parkhurst and Goff, wrote in the *North American Review*, “the inmates of these lodging-houses are the nomads of our civilization, with no home, no family ties, no cares for nor interest in government, and who around election time are contracted for at so much a hear to register and vote.”³³ These “inmates” would place the lodging-house as their residence, but the lodging-house did not keep any sort of records. These people then claimed to be native born. If they were aliens, they would claim that they were naturalized in another state. Either way, there would be no way to prove their voter eligibility. A evidence of these accusations, in 1868 there were 41,112 aliens naturalized in New York, of which 81 were naturalized in January, 26,226 in October, and 24 in December.³⁴

Tammany society was instituted as a patriotic organization, which allowed both Democrats and Republicans to be together without any sacrifice of principles or severance of party connection.³⁵ Tammany Hall, which was led by William Tweed, had dominated New York politics shortly after the Civil War.³⁶ Under Tweed, it was converted into a political machine which allowed political advancement.³⁷ Tweed and his henchmen, who included the city’s mayor, comptroller, and other officials, used their political control to take money from the city government. After Tweed’s death, John Kelly took control of the group, which eventually restored the group but was now used entirely for selfish purposes. By 1880s, Tammany had as much control of the city as they had under Tweed. Kelly even created a policy in which all Tammany-backed candidates had to contribute their expense money to a general fund so that

³³ Parkhurst and Goff “Needed Municipal Reforms,” *North America Review*, Vol. 158, No. 447 (1894):204.

³⁴ Fredman, *The Australian Ballot: The Story of an American Reform*, 25.

³⁵ “John Kelly Vs. Nelson J. Waterbury.” *New York Times* (NY, NY), March 7, 1875.

³⁶ Robert Muccigrosso, “The City Reform Club: A Study in Late Nineteenth-Century Reform” *New York Historical Society Volume 52* (1968): 236-240.

³⁷ “John Kelly Vs. Nelson J. Waterbury.” *New York Times* (NY, NY), March 7, 1875.

there could be a unified campaign. Tammany was able to control votes by loyalty and coercion. For example, close to Election Day, the saloonkeepers and prostitutes had to pay a certain amount to the organization to avoid trouble with the law. With this power, Tammany was almost able to guarantee sixty thousand votes.³⁸

Attempts at Reform

One reformer stated that the two major evils during this time were the frequent failure of the present mode of voting to correctly record the popular verdict, and the other being the unlimited and virtually compulsory disbursement of money by the candidate or his supporters.³⁹ In the late 1880s, American political reformers focused on eliminating corruption, fraud, and bribery from elections, while also instituting a more democratic form of voting. To combat these voting problems, the reformers wanted to institute the secret ballot, which was often referred to as the Australian ballot, because it was first instituted there. Since voting laws in the United States are handled at the state level, this battle continued for many years across the United States in every single state.⁴⁰

New York was one of the first states to adopt the new measure of election reform called the Australian ballot. The original Australian ballot's essential features were that the ballot paper was printed by the state, not by the candidates or parties, and it would only be available at polling places at the time of voting, and could not legally leave the polling place.⁴¹ The drastic change represented by this new procedure, combined with the fact that it was opposed by powerful interests, such as strong unions and political machines like Tammany Hall, made it an

³⁸ Muccigrosso "The City Reform Club," 236-240

³⁹ "Recent Reforms in Balloting." Allen Rice Thorndike, *The North American Review*; (July 1, 1886)

⁴⁰ Bass, "Politics of Ballot Reform," 253-272.

⁴¹ Ware, "Anti-Partism and Party Control of Political Reform in the United States, 8.

uphill battle from the start. It is also important to note that there was a drastic split in the New York State Democratic Party between the upstate Democrats and the Tammany Hall Democrats of New York City. The ability to comprehend of the upstate Democrats' perspective is a key factor in understanding the NYS legislature's argument for instituting the secret ballot.⁴² "Party conflict was likely in New York because there was a sharp division between the upstate, predominately Republican, and an urban Democratic machine, which thrived on electoral abuses; also, because the governor was a democrat and the legislature had a republican majority."⁴³

A Bill to Combat Fraud

Historians have created a general background of the political landscape in New York in the period that electoral reform took place, but do not focus on the complex pathway the legislation went through. There was an ongoing battle for two years, in the state legislature, before the question even made it to the state supreme court. This thesis uses public papers, senate reports, minority reports, committee reports, and court reports to document the legislative history of the Australian ballot in New York State. These sources are complimented by newspaper articles that show how the general population learned about the process of the legislation.

A bill to implement the secret ballot in New York State was first introduced by Charles T. Saxton, a Republican state senator from Wayne county. The bill was first introduced in 1888. Saxton's original bill would have allowed voters to cast their vote in private; therefore, the public, and specifically political machines, would not see how the ballot was casted. Other provisions, such as voter registration and ballots provided by the government would also be

⁴² Bass, "Politics of Ballot Reform," 258.

⁴³ Fredman, "The Introduction of the Australian Ballot in the United States," *The Australian Journal of Politics and History*, Vol. 13 Issue 2 (June 1967): 204-220.

enforced in this bill. This ultimately would shift the burden of registration from the government to the individual.

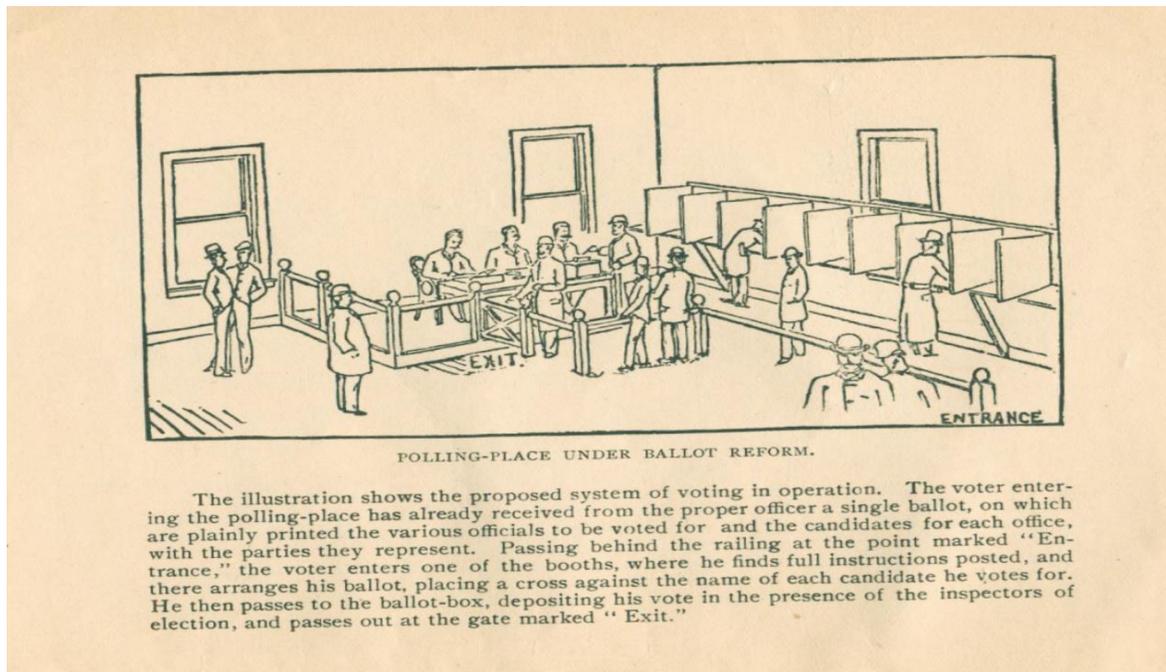


Figure 4: Proposed Voting Station. Photo from the Society for Political Education⁴⁴

Governor David Hill, a Democrat from Elmira, New York, vetoed the original legislation. Most Democrats also opposed the bill. Shortly after the original veto, Governor Hill released his public papers, which included a twenty-three-page explanation as to why he was against this bill. The key issues Governor Hill had with the Saxton Ballot included that it would be discriminatory towards the candidates, it would make the process to become a candidate more difficult, ballot clerks would be decided by the political parties and therefore easily corrupted, it would be difficult to nominate a candidate, functional issues with the ballot as proposed, on top of the bigger issue of who was going to pay for this entire new system.

⁴⁴ "Electoral Reform: with the Massachusetts Ballot Reform Act and New York (Saxton) Bill." *The Society for Political Education*. XXIV vols. (1889): 5-10.

According to Hill, the Saxton bill would mean candidates could be easily discriminated against since they needed a certain percentage of the population to sign a petition, in order for their name to appear on the ballot. Candidates could only run on a party line if they were nominated by a convention of a party that polled at least three percent of the general voter population last election. By allowing their name to be listed on the ballot, it would automatically give the candidate a leg up compared to the other candidates whose names were not on the ballot because of their smaller political party or inability to receive enough signatures on their petition. These provisions would not allow a party that did not appear in the last election or poll three percent of the population, to nominate a candidate. Essentially, this would not be fair to the candidates of smaller parties or someone who was not involved in a political machine to run for office.⁴⁵ The Saxton Bill would force all candidates to have a signed petition by a certain number of constituents, along with filing a petition with the government to run for office, a set number of days before the election took place. Governor Hill felt that this was not fair to the voters since they were limited in who they were allowed to vote for. Every person should have the right to decide up until their ballot is cast, who they would like to vote for that position.⁴⁶

The Saxton bill called for both of the Ballot Clerks to be in charge of signing the back of each ballot to ensure that the person was legally able to vote and if the ballot had shown to be missing one of those signatures, it would be automatically discounted. This was an extremely easy way to discredit voters and to not count their votes solely because of an intentional, or inadvertent error by a Ballot Clerk. Governor Hill also had issues with the actual ballot that would be filled out by the voters and then signed by both Ballot Clerks. Governor Hill had many

⁴⁵ New York (State). Governor (1885-1892: Hill). Public Papers of David B. Hill, Governor, 1885-[1887, 1890, 1891]. Albany, N.Y.: Argus Co., 1885-1892, 104.

⁴⁶ Ibid, 103.

problems with the idea of having Ballot Clerks in charge of running the elections. Ballot clerks would not be chosen based on their merit or honesty, but instead chosen by the two largest political parties of the last elections. The bill did not specify if they were to be elected or appointed by the political party. It did not allow third parties to have a representative as a ballot clerk. On top of all this, these ballot clerks would have ties to the political parties, making it easy for them to be corrupted.⁴⁷

The Saxton Ballot set a strict limit of ten minutes that each person would be allowed to fill out the ballot, in an attempt to curb corruption. Governor Hill felt that each person would not have enough time to fill out their ballots, especially illiterate voters.⁴⁸ The illiterate voters would not be able to vote since they would not be able to read the names that were on the ballot. Ballot Clerks would then be responsible to help the illiterate voters fill out the ballot, but that ultimately went against the definition of a secret ballot.

Governor Hill also raised a point that there was not a clause to handle the situation if the said candidate died in between the nomination and election period; a point in which the *New York Times* described this point as “flimsy” and “hypocritical.”⁴⁹

ing the same nominations. This is a fair sample of the Governor's disingenuous twisting of the plain purpose and effect of the bill.

Another of his flimsy, hypocritical objections is that if a candidate were to die or withdraw within a few days of an election when they are given out. This is one of the most trivial of all his objections. No ordinary mind can conceive how that can possibly interfere with the secrecy of the ballot.

Figure 5: An entire criticism by the *New York Times*, a democratic newspaper, which displays a strong position against the beliefs of Governor Hill.⁵⁰

⁴⁷ Public Papers of David B. Hill, Governor, 1885-[1887, 1890, 1891], 106.

⁴⁸ Public Papers of David B. Hill, Governor, 1885-[1887, 1890, 1891], 108.

⁴⁹ “A Maze of False Pretenses.” *New York Times* (NY, NY), May 14, 1889.

⁵⁰ Ibid.

Governor Hill described the entire provision of nominating candidates as, “It is not a legitimate exercise of legislative power to restrict the elector in the methods by which he may choose to present a candidate for the popular suffrage, and to discriminate between candidates because of the manner in which they were presented to the people.”⁵¹ Hill’s basic argument was that the legislature only had the power to regulate the exercise of voting; therefore, it was only allowed to pass registration law. The secret ballot was not a registration issue; therefore, the legislature did not have the power to create this law.⁵²

On the other hand, around this time the *New York Times* shared a point of view that the only people who would be against a bill like this were those who would have a lot to lose, since they would not be able to secure votes anymore. They felt that taking away the printing and supply of ballots would make a big difference by itself, since these politicians would not be able to confirm how their paid voters actually voted with the secret ballot. Instead of looking at this side of the issues, the *New York Times* felt that the opponents were solely focusing on the fact that it was undemocratic and an effort to rob poor men of their vote. While the other fact is that they want to secure provisions for illiterates, which would essentially destroy the idea of a secret ballot, and would allow old abuses to continue.⁵³

Hill had a strong aversion, stemming from his days as a lawyer, against sloppy or defective legislation. He felt that lawmakers would rush through poorly made bills with vague provisions. Hill was determined to keep bills like this off the statute book, by either sending them back to their authors to make suggested corrections, or refusing to approve them. Herbert Bass described this characteristic of Governor Hill as, “Hill’s fetish of keeping the books unmarred by

⁵¹ Public Papers of David B. Hill, Governor, 1885-[1887, 1890, 1891, 109.

⁵² Ibid, 120.

⁵³ “A Really Secret Ballot” *The New York Times* (NY, NY) December 18, 1888, page 4.

slipshod legislation led him more than once to recommend the creation of a commission of legal experts to help frame bills properly. The legislators, however consistently ignored the suggestion.”⁵⁴ This overall theme is seen consistently throughout the legislative battle to enact the secret ballot.

The Up- “Hill” Battle

It was nearly impossible for Governor Hill to change his mind over the years, since he made such a strong stance against the Saxton bill in 1888. This created a tough position for him when the rest of the Democratic Party across the country began to favor a single ballot. Hill, a Democrat from upstate New York, was re-elected in 1888, for the 1889 calendar year, by a slim margin of less than one and a half percent. ⁵⁵

During this same election, Democrat Grover Cleveland of upstate New York ran against Republican Benjamin Harrison for President of the United States. Cleveland defeated Harrison by a small plurality, but lost New York and ultimately the electoral college. This was the opposite of what happened in 1884 when he had narrowly taken New York State. Republican Harrison’s plurality was over 13,000 votes in New York, while Democrat Hill won his reelection by over 17,000 votes. Tammany Democrats won city offices and over half of the assembly districts. This is a major discrepancy of votes. The County Democrats, Mugwumps, and Democrats charged Hill and Tammany Hall with betraying their national party and knifing the election. A Cleveland biographer named this as an important factor in his defeat.⁵⁶ The *New York Times*, showed their stance and stated, “a better man never was sacrificed to a meaner one”

⁵⁴ Herbert Bass, *I am a Democrat’ The Political Career of David Bennett Hill* (Clinton, Massachusetts: Syracuse University Press, 1961), 52.

⁵⁵ Kennedy, Robert C., "On This Day: A Desperate Chance", *New York Times*, <http://www.harpreweek.com/09Cartoon/BrowseByDateCartoon.asp?Month=October&Date=13>

⁵⁶ Bass, *Democrat*, 121

referring to Cleveland's loss to Harrison.⁵⁷ The County Democrats argued that Hill vetoed liquor and ballot reform issues to "trade" that portion of the ticket to Tammany Hall in order to ensure his reelection at the expense of the national election.⁵⁸ On the other hand, Hill felt that he lost his chance of running for president and would have gained more with Cleveland winning the reelection since Cleveland would not be able to run in the 1892 presidential race.⁵⁹

Hill knew during his re-election, that his position against the Saxton bill was no longer popular. Hill suggested creating amendments that would decrease bribery and corruption. Even though Hill compromised with these amendments, he would not compromise his position of being against an official ballot.⁶⁰



Harper's Weekly, June 16, 1888.

"Hill's rejection of the Saxton ballot reform bill and his veto of another measure concerned with purifying elections, the so-called Fassett antibribery bill, promised to alienate a good deal of voting support in the November, 1888 elections."

Figure 6: A political cartoon of how the public viewed Governor Hill's position on the Saxton ballot during his reelection campaign. Photo from Harper's Weekly.⁶¹

⁵⁷ Fredman, *The Australian Ballot: The Story of an American Reform*, 29.

⁵⁸ *Ibid.*

⁵⁹ Bass, *Democrat*, 123.

⁶⁰ Bass, "The Politics of Ballot Reform in New York State 1888-1890," 260.

⁶¹ Bass, *Democrat*.

On January 1st, 1889, the Governor wrote an eleven-page message to the senate, with hopes to pass election reform that year. He went on to describe how he felt that the most recent presidential election was the most corrupt in United States' history, which highlighted exactly the reason why election reform was needed in that year. Hill explained that he liked the idea of the secret ballot because then voters could not be bribed to vote a certain way, by others or their employers. He was against the idea of the government paying for the ballots in which he said "It is not believed to be desirable, nor is it just to the taxpayers, that every political adventurer who desires to run for a public office should have his ballots printed at public expense, regardless of his merits, the extent of his followings, or the motives or purposes of his candidacy."⁶²In the next sentence Hill justified his assertion, with clearly an audacious tone, "English or Australian system of voting (which is being much discussed by those who apparently know little concerning it), requires every candidate to pay his fair and just proportionate expense of election."⁶³Lastly Hill stated, "It is believed that what the people of the state desire is a plain and simple measure amending the present election law in a few particulars, by lessening the opportunities for corruption, intimidation, and every species of fraud."⁶⁴

A week after this message, Senator Saxton reintroduced essentially the same version of the Saxton bill that Governor Hill had vetoed the year before. There were a few minor changes along with a major change in the blanket ballot. The proposed blanket ballot would contain all of the names of each party's candidate for each office instead of having a separate ballot containing the name of all the party's candidates for every office. Hill tried to block this bill from reaching

⁶² *New York State. Governor David B. Hill Governor's Message. Albany, NY. January 1, 1889, page 7.*

⁶³ *Ibid*, 8.

⁶⁴ *Ibid*, 12.

his desk. At this time, the support of electoral reform was growing and therefore a veto would be seen as unpopular.⁶⁵

While the bill was in committee, he asked Judge Nelson Waterbury, the jurist who had agreed with Hill's veto on constitutional grounds the previous year, to argue in Albany at the bill's hearing for an acceptable substitute.⁶⁶ Judge Nelson Waterbury was a member of Tammany Hall until Tweed rose to power, which caused Waterbury to leave the organization. Though opposed to Tweed, Mr. Waterbury defended Tweed at the Senate Investigating Committee and the criminal courts.⁶⁷ After Tweed's fall, he returned to the organization until the next leader John Kelly accused him of violating the rules of order, and divulging the organization's secrets with a newspaper.⁶⁸ He returned to the organization in 1890, which is the same year Governor Hill asked him to testify in Albany.

Judge Waterbury's first law partner was Samuel Tilden, who was a past Governor of New York State.⁶⁹ Hill forged a friendship and political alliance with Samuel Tilden as a state senator. During this time, Boss Tweed controlled the New York Democracy. David Hill believed in party regularity, which meant voting favorably upon Boss Tweed's schemes.⁷⁰ Both Tilden and Hill served on the judiciary committee that ultimately voted to remove the corrupt Tweed Ring judge from a political office.⁷¹ After Tweed's exposure, Samuel Tilden became a recognized leader of the Democrats in the legislature; Hill's participation in the impeachment

⁶⁵ Bass, "The Politics of Ballot Reform in New York State 1888-1890," 263.

⁶⁶ Bass, "The Politics of Ballot Reform in New York State 1888-1890," 264.

⁶⁷ "Ex-Judge Nelson J. Waterbury Dead." *New York Times* (NY, NY), April 23, 1894.

⁶⁸ "John Kelly Vs. Nelson J. Waterbury." *New York Times* (NY, NY), March 7, 1875.

⁶⁹ "Ex-Judge Nelson J. Waterbury Dead." *New York Times* (NY, NY), April 23, 1894.

⁷⁰ Bass, *Democrat*, 4.

⁷¹ Kennedy, Robert C., "On This Day: A Desperate Chance", *New York Times*,

<http://www.harpreweek.com/09Cartoon/BrowseByDateCartoon.asp?Month=October&Date=13>

proceedings was looked upon favorably with the Democratic Party.⁷² Although, when Hill was first elected as Governor in 1885, “Hill’s endorsements, several federal appointments were secured for Tammany men,” while also accepting legislation from the County Democrats.⁷³



Harper's Weekly, October 31, 1885.

Hill's plight in the 1885 gubernatorial campaign, after revelations linking the Elmira with Boss Tweed in the ownership of the *Elmira Gazette*, was pointed up by Thomas Nast in this cartoon captioned: "THE SKELETON IN HIS CLOSET: Mr. Hill's attempt to secrete a scandalous volume of 'ancient history.'"

Figure 6: A political cartoon in 1885 showing Governor Hill's and Tammany Hall's relationship. Photo from Harper's Weekly.⁷⁴

⁷² Bass, Democrat, 4.

⁷³ Bass, Democrat, 29.

⁷⁴ Bass, Democrat.

On February 4th, 1889, the *New York Times* stated, while comparing other secret ballot systems, “In New York the machine which it is desired to break up is Democratic.”⁷⁵ The secret ballot was seen an attempt to curb the Democrats’ influence on the polls. A few weeks later, the Young Men’s Democratic Club supported the bill on February 26, 1889, but with a few amendments. They would endorse the bill if the election inspectors did not have to put their initials on the ballots but instead use a “tag system” to ensure the ballot was absolutely secret. The tag system meant that county clerks would be compelled to exhibit, for inspection before election, the ballot they had printed, and that ballot, instead of detached ballot, would be used. If these amendments were not taken into consideration, they would refuse both the Republicans’ and Democrats’ ideas. The committee was unapologetic that they did not support Governor Hill, even though he was a Democrat.⁷⁶

On May 14, 1889, the *New York Times* released an article explaining the false pretenses that the Democratic Party and Governor Hill put the constituents through, in regards to the Saxton bill. The article argued that the original form of this bill was created with men from both parties and was not aimed to be a partisan issue. It solely became a partisan issue because of Governor Hill. He advocated against bribery and corruption, but stood firmly against the one clause that could fight these vices. The *New York Times* was referring to the idea of an official ballot provided by the government.⁷⁷

About two months later, the *North American Review* released an article about the secret ballot since it was still such a pressing issue in society. In this article, Charles Saxton of the

⁷⁵ “Secret Ballot Systems: Rapid Growth of the Australian Method.” *New York Times* (NY, NY), February 4, 1889.

⁷⁶ “The Saxton Bill Indorsed.” *New York Times* (NY, NY), February 26, 1889.

⁷⁷ “A Maze of False Pretenses.” *New York Times* (NY, NY), May 14, 1889.

Saxton ballot, the Governor of Massachusetts, the Governor of Connecticut and a General from Virginia wrote their comments regarding the secret ballot. The article wanted these people to explain the form and purposes of the measure, and to point out where the laws differed from the implementation. The second of which was directed towards the Governors of Connecticut and Massachusetts. Senator Saxton took this space to explain the differences between the New York proposed bill and those of Connecticut and Massachusetts. Overall, he stated, “the principles underlying them are identical.”⁷⁸ He then went to explain the major goals of this bill which were: “1) that all ballots should be printed at the public expense and delivered to voters by duly qualified officers; 2) that they should contain the names of all candidates nominated for a particular office; 3) that the voter should be entirely shielded from observation while preparing the ballot.”⁷⁹

The issue still did not go away towards the closing of 1889. Shortly before elections took place in November of that year, another article was written regarding ballot reform. The *New York Times* released an article with the different state senator nominees’ positions on ballot reform. The article based the state senator’s positions based on the following four criteria.

First—All ballots should be printed and distributed at the public expense.
Second—The names of all candidates for the same office should be printed upon the same ballot.
Third—All ballots should be delivered to the voter within the polling place on election day by sworn public officials.
Fourth—Only ballots so delivered should be voted, the voter guaranteed absolute privacy in preparing his ballot, and the secrecy of his ballot made compulsory.

Figure 7: The candidates were asked their opinions on these four points; which were just passed at the reform meeting. Photo from *New York Times*.⁸⁰

⁷⁸ “The New Voting Method.” *North American Review* (NY, NY), July 1, 1889.

⁷⁹ *Ibid.*

⁸⁰ “For and Against Reform: The Ballot and Legislative Candidates: A Statement for the Information of Citizens Who Believe in Secret Voting and Honest Elections.” *New York Times* (NY, NY), November 4th, 1889.

When the candidates were asked for their positions on these four points, twenty-seven out of the sixty-one said they were non-committal or negative, all of whom were either County Democrats or Tammany. The positive votes were Republican candidates, but surprisingly the County Democrats had a strong number of candidates who voted in favor of these criteria. This highlights the split in the Democratic party, along with the necessity of uniform party voting if legislation were to be passed. ⁸¹

In 1890, the Republican party controlled the 113th New York State Legislature. New York State Assembly had control 71-57, and the Senate of 19-13. In New York City, the Democrats were split into two factions: Tammany Hall and the County Democracy. The Democrats had their main supporters in the heavily populated New York City. This was difficult for Democrats up state since they resented the bullying like behavior of the Tammany Hall Democrats. With this hostility within the party, it was necessary for any Democrat to, “gain Tammany support while at the same time avoiding the impression of accepting its suzerainty.”⁸² This was essentially critical for Governor Hill during this time. In the New York State election of 1889, all of the six-statewide elective offices, up for election that year, including Governor, were won and carried by the Democrats, in a close margin. ⁸³

In January of 1890, Tammany Democrats, Jacob Cantor and W.L. Brown, wrote a minority report. In their report to the senate, they stated, “We believe the enactment of the so-called “Saxton” bill would be unconstitutional and mischievous. We believe that it would

⁸¹ Ibid.

⁸² Bass, Democrat, 18.

⁸³ *The New York Red Book* compiled by Edgar L. Murlin (published by James B. Lyon, Albany NY, 1897; see pg. 384f for senate districts; pg. 403 for senators; pg. 410–417 for Assembly districts; and pg. 507f for assemblymen)

practically disfranchise thousands of voters. We do not believe that it will secure the absolute secrecy and purity of the ballot.”⁸⁴The Senators then proposed a new bill, with the support of Governor Hill in mid-March of 1889, called the “Linson Bill.” “The Democratic members of the legislature, instead of merely opposing the Saxton bill, propose to make a fair fight for that of Senator Linson.”⁸⁵ In a report to the senate, they explained the key reasons they supported this new bill instead of the Saxton bill that had been recently re-introduced. These key reasons included: giving voters the ability to vote in secret compartments in which to mark their ballots, forbidding electioneering close to the polling places, compelling candidates for office to file sworn statements of their election expenses, mandating candidates be removed from the ballot if fraud or corruption was proven, providing official ballots along with unofficial ballots which can be prepared, if needed, at home, including all necessary provisions to prevent, and providing all elections in the state an equitable system of registration.⁸⁶ Governor Hill supported this new bill and encouraged all Democrats to do so as well.

There were minor changes from the Saxton bill to the Linson bill, such as the amount of days needed before the election date to complete the petition and obtain the percent of the population signatures needed for the petition. The major change was to combat intimidation. This bill would have made it unlawful for employers to pay their employees, “‘in pay envelopes’ which there is written or printed any political mottoes, devices, or arguments, intended to influence the political opinions or actions of such employees.”⁸⁷

⁸⁴ New York State Senate. Committee on Senate Bill No. 18 Commonly Known As the “Linson Bill” to Secure Electoral Reform *Minority Report* (S.Rpt.26). Washington: Government Printing Office

⁸⁵ Bass, Democrat, 134.

⁸⁶ Ibid, 1-2.

⁸⁷ Ibid, 14.

Another major change was the creation of election expenses. Every candidate would be required to submit, within ten days of the election, a detailed statement of all the money contributed or expended by him. If the candidate did not cooperate, he shall forfeit the office, and then there were steps laid out that should be taken. Also, other candidates can also file an application to the attorney general stating that during the election votes were secured in an illegal way, and the candidate who won should be removed from the position for violation electoral law.⁸⁸ The last major change to the Linson bill was to include provisions to voter registration. In section one of the laws in 1880, it states that in towns of 16,000 or more, and towns that touch these boundaries, voters had to show proper proofs of citizenship.⁸⁹ The Linson bill wanted to amend this. All inspectors in every city, except New York and Brooklyn, would have to meet three weeks before the election to create a registry of all the legal voters in their district. The board would then make a list of all people qualified to vote in the entire state. Proper proofs of citizenship were still need in towns, villages and cities of New York State except the cities of New York and Brooklyn.⁹⁰ There were not any voter registration laws created for these cities.

The same day the minority report was given in the Committee on General Laws of the Senate, a dissenting report of both the majority and minority reports was given a by Democrat from Albany county, Norton Chase. He explained that everyone in the committee agreed that reform was necessary. Never before had the attention of the general public been so strongly drawn to the subject of electoral reform until the annual message of Governor Hill to the Legislature at the opening of the legislative session in 1890. Chase was against the Saxton bill because it was only a ballot reform act and the people demanded an electoral reform. To

⁸⁸ Ibid, 15.

⁸⁹ Ibid, 17.

⁹⁰ Ibid, 18.

highlight this, he said that even though a man is a citizen and over the age of twenty-one, he needs to show he know the provisions of the law, which is referring to registering to vote. Chase stated that before we begin to say how a person shall vote it should be determined whether or not he has any right to vote. Registration is the corner stone in every structure of election systems, and if it is a just and proper thing for the city of Albany, it is eminently as just and proper for the village of Clyde.⁹¹

In this quote, Chase was aiming the point towards Senator Saxton because his hometown was Clyde, New York. Afterwards, he explains that he is in favor of the Saxton bill, but it should include pieces of the Linson bill that reference the art of intimidation, corrupt practices, and the ousting from office of men elected by violations of the new law. Along with that, he would not support the Linson bill because it did not provide an exclusive official ballot.⁹²

During this same committee meeting, Saxton read a speech on behalf of Samuel Gompers, a labor union leader and working class advocate, who supported the Saxton bill in its present shape. Afterwards, Saxton stated after hearing Senator Chase's position, he decided to put the Corrupt Practices bill as an amendment to the Saxton bill. Saxton explained that he would put it in the form of an amendment because Governor Hill vetoed the bill when it stood alone. Governor Hill recommended having this bill be an amendment to the general election law on the Penal Code.⁹³

On January 13, 1890, the *New York Times* released an article, "Hill Change of Front: His Sudden Conversion to Ballot Reform, Nobody Believes in the Governor's Sincerity- Chairman

⁹¹ *Dissenting Report from Both the Majority and Minority Reports of the Committee on General Laws in Relation to the Ballot Reform Bills*, 1890, Senate number 28, statement of Norton Chase, 2.

⁹² *Ibid*, 2.

⁹³ "Ballot Reform Bills." *New York Times* (NY, NY), January 30th, 1890.

of the Legislative Committee.” This article is referring to the fact that the Governor was now in support of the Saxton bill, except for the idea of the official ballot because it will disenfranchise illiterate voters. The *New York Times*’ counter argument to this explanation stated that the governor was only advocating for the illiterates instead of the rest of the people in the state. They even went as far as saying,

shouldn't it? It is ridiculous for the Governor to assume that he is Governor of only the illiterate people in the State instead of all the people of the State. One of the oldest and strongest Democratic axioms is that the majority rules. The majority of the people of this State want ballot reform; the cleanest, strongest, most rigid bill that can be passed. They want the Governor to sign it. See how shortsighted he is. Of course, the Democrats will lose some votes, say 10 per cent. of the total number cast, but won't the Republicans lose as many more when force, intimidation, and coercion are eliminated from the ballot box? I have figured on the result and I put the Republican loss at 15 per cent. Now, what will be the result if the Saxton bill, exclusive ballot and all, becomes a law? It will force every illiterate Democrat to improve himself—make him educate himself. in other words—and while a secret and exclusive ballot might decrease the Democratic vote in 1890 and 1891, I am convinced that by 1892 the Democratic Party will be intelligent enough to vote the most complicated and most confusing ballot.”

Figure 8: The New York Time’s strongly worded counterargument to their fellow democrat Governor Hill. Photo from the *New York Times*.⁹⁴

The *New York Times* had an interesting development of their biases in their articles. Between 1870-1871, the *New York Times* had a series of articles that brought down the corrupted Tweed Ring and end its domination of City Hall. At this same time, the *New York Times* started printing their newspaper in German to accommodate twenty five percent of New York City’s population. In 1876, the editor was disgusted with the Grant administration and moved the Times away from

⁹⁴ “Hill Change of Front: His Sudden Conversion to Ballot Reform, Nobody Believes in the Governor’s Sincerity- Chairman of the Legislative Committee.” *New York Times* (NY, NY), January 13th, 1890.

the Republican party. Then in 1883, the Times dropped its daily price to compete with other newspapers while officially shying away from their Republican reputation as they endorsed Grover Cleveland for president. It is simple enough to say that this article was against the *New York Times* stance at that time, or simply showcasing a County Democrats position.⁹⁵

To further argue this point, below is a *New York Times* article published candidates' positions on the secret ballot. The candidates were asked their position based on the four-points seen in Figure 7. County Democrats mostly supported or were undecided about the secret ballot. While on the other hand, Tammany democrats were strictly against the measure. County Democrats seemed to agree with Republicans on this issue. County Democrats were able to express their position in this newspaper article, but were not able to during the legislative process. County Democrats were not able to vote differently than Tammany Democrats because of party loyalty.

⁹⁵ "Our History." The New York Times Company. Accessed April 12, 2018. <https://www.nytc.com/who-we-are/culture/our-history/#1835-1880> .

| SENATORIAL NOMINEES. | |
|---|----------------|
| <i>Fifth District.</i> | |
| W. L. Brown, Tam. Dem..... | Non-committal. |
| M. C. Murphy, Co. Dem. and Rep..... | Affirmative. |
| <i>Sixth.</i> | |
| Thomas F. Grady, Tam..... | Negative. |
| John F. Ahearn, County..... | Affirmative. |
| <i>Seventh.</i> | |
| George F. Roesch, Tam..... | Negative. |
| F. W. Diehl, County and Rep..... | Affirmative. |
| <i>Eighth.</i> | |
| Lispensard Stewart, Rep..... | Affirmative. |
| <i>Ninth.</i> | |
| Charles A. Stadler, Tam..... | Negative. |
| William J. Boyhan, Rep. and Co..... | Affirmative. |
| <i>Tenth.</i> | |
| Jacob A. Cantor, Tam..... | Negative. |
| Alston G. Culver, Jr., County..... | Affirmative. |
| Charles A. Peabody, Jr., Rep..... | Affirmative. |
| <i>Eleventh.</i> | |
| E. S. Ives, Tam..... | Negative. |
| Dennis A. Spellissy, County..... | Affirmative. |
| John Carlin, Rep..... | Affirmative. |
| ASSEMBLY NOMINEES. | |
| <i>First.</i> | |
| Patrick H. Duffy, Tam..... | Non-committal. |
| Daniel E. Finn, County..... | Affirmative. |
| <i>Second.</i> | |
| T. D. Sullivan, Tam..... | Negative. |
| Thomas Maher, County..... | Non-committal. |
| <i>Third.</i> | |
| James A. Monaghan, C. D. and Rep..... | Affirmative. |
| Perclval Farquhar, Tam..... | Non-committal. |
| <i>Fourth.</i> | |
| Patrick H. Roche, Tam..... | Negative. |
| Thomas Brady, County..... | Non-committal. |
| <i>Fifth.</i> | |
| Dominick F. Mullaney, Tam..... | Negative. |
| Michael Brennan, County..... | Non-committal. |
| Edward R. Shear, Ind. Rep..... | Affirmative. |
| <i>Sixth.</i> | |
| Samuel J. Foley, Tam..... | Negative. |
| Gustav Menninger, County..... | Affirmative. |
| Henry E. Richard, Ind. Rep..... | |
| <i>Seventh.</i> | |
| William Conaghan, Tam. and County..... | Affirmative. |
| Francis V. King, Rep..... | Affirmative. |
| <i>Eighth.</i> | |
| Philip Wissig, Tam. and County..... | Negative. |
| F. J. Martin, Rep..... | Affirmative. |
| Charles Smith, Ind. Rep..... | Affirmative. |
| <i>Ninth.</i> | |
| John Martin, Tam. and County..... | Non-committal. |
| William F. Grell, Republican..... | Affirmative. |
| <i>Tenth.</i> | |
| William Schomer, Tam..... | Affirmative. |
| Jacob Schaeffer, County..... | Affirmative. |
| Philip Wassung, Rep..... | Affirmative. |
| <i>Eleventh.</i> | |
| H. De F. Baldwin, Tam. and Co. Dem..... | Affirmative. |
| W. N. Hoag, Rep..... | Affirmative. |
| <i>Thirteenth.</i> | |
| J. Wesley Smith, Tam. and Co. Dem..... | Non-committal. |
| F. S. Gibbs, Rep..... | Affirmative. |
| L. W. McLeod, Ind. Rep..... | Affirmative. |
| <i>Fourteenth.</i> | |
| William Sulzer, Tam..... | Non-committal. |
| Jacob Kunzeemann, County..... | Affirmative. |
| <i>Fifteenth.</i> | |
| Frederick Haffner, Tam..... | Non-committal. |
| John Mulligan, Co. Dem. and Rep..... | Non-committal. |
| <i>Sixteenth.</i> | |
| Walter G. Byrne, Tam..... | Non-committal. |
| George G. Banzor, Co. Dem. and Rep..... | Non-committal. |
| <i>Seventeenth.</i> | |
| F. A. Higgins, Rep..... | Affirmative. |
| <i>Eighteenth.</i> | |
| Stephen J. O'Hare, Tam..... | Negative. |
| Robert O'Byrne, Rep. and Co. Dem..... | Affirmative. |
| <i>Nineteenth.</i> | |
| John Connelly, Tam..... | Negative. |
| Lawson N. Fuller, Co. Dem..... | Affirmative. |
| <i>Twentieth.</i> | |
| Martin J. O'Brien, Rep..... | Affirmative. |
| <i>Twenty-first.</i> | |
| Richard J. Lewis, Rep..... | Affirmative. |
| <i>Twenty-second.</i> | |
| Joseph Blumenthal, Tam..... | Non-committal. |
| John F. McIntyre, Co. Dem. and Rep..... | Affirmative. |
| <i>Twenty-third.</i> | |
| George P. Webster, Tam..... | Non-committal. |
| Percy D. Adams, Rep..... | Affirmative. |
| <i>Twenty-fourth.</i> | |

Figure 9: These Candidates were asked their position on the four major points, as seen in Figure 7, agreed upon from the secret ballot reform. Photo from the *New York Times* ⁹⁶

⁹⁶ "For and Against Reform: The Ballot and Legislative Candidates: A Statement for the Information of Citizens Who Believe in Secret Voting and Honest Elections." *New York Times* (NY, NY), November 4th, 1889.

On March 31st, 1890, Governor Hill took this as an opportunity to once again explain his criticisms and concerns with the Saxton bill. He makes it obvious that the legislature knows his concerns and how there was no effort made to address his concerns. In the rest of the twenty-page rant, Governor Hill continued to revisit his explanations against the Saxton bill.⁹⁷ This was also the first-time Governor Hill made the argument about the constitutionality of choosing Ballot Clerks by a minority. Saxton immediately criticized Governor Hill for not addressing this concern in the two previous vetoes.⁹⁸

The Linson bill was ultimately blocked by parliamentary procedure by the Republicans, but the Republicans were able to have a straight party vote in the house and senate in April on the Saxton bill. No Democrat voted for the bill, which was a confirmation of Hill's intentions.⁹⁹ Hill was a firm believer, since his assembly days, in party regularity, which is evident here.¹⁰⁰ Once again, Hill tried to block this bill from reaching his desk, and when he failed, he vetoed the new version of this bill. In some ways, the previous bill was less objectionable because the new blanket ballot could be considered an additional obstacle for the illiterate. Although the veto was unpopular, he felt that it was important to the interests of the Democratic party of the state, as well protecting voters.¹⁰¹

Historian Herbert Bass speculated that Hill was planning on a presidential bid for the White House throughout this legislative session, since he was making connections across the country. By the time of the second veto in 1890, high-ranking Democrats across the country

⁹⁷ New York (State). Governor (1885-1892: Hill). Public Papers of David B. Hill, Governor, 1890, Albany, N.Y page 81-82.

⁹⁸ "A Message in the Senate." *The Sun* (NY,NY), April 1, 1890.

⁹⁹ Bass, "The Politics of Ballot Reform in New York State 1888-1890," 263

¹⁰⁰ Bass, *Democrat*, 4.

¹⁰¹ Bass, "The Politics of Ballot Reform in New York State 1888-1890," 264.

knew David Hill's name. "The shrewdness of David B. Hill, his political sagacity, and ability to carry his party to victory at the polls did not go unnoticed outside of New York State."¹⁰² The country had a spotlight on the motivations of David Hill, but his ballot reform issue would not look favorable to the rest of the country.¹⁰³

Hill was backed into a corner on how to handle the Saxton bill. He took such a strong position when the ballot reform issue began in 1888, and now the motivation had not decreased over time. His position flip-flopped, from in 1888 restricting the rights of people to not converse nor electioneer with others at the polls, to in 1889 pushing the idea that voters should be compelled to cast a secret ballot. Lastly, he flip-flopped again with a complete rejection of public printed ballots to the acceptance of official ballots as long as other ballots were still allowed.¹⁰⁴ Herbert Bass argued that Hill's main objective was not found in the veto messages, but instead in the character of the Democratic urban vote, especially the illiterates. The official ballot would severely hamper the tactics used by political machines in New York City. Hill stated that he supported any legislation that attempted to curb bribery, intimidation, and corruption. However, as long as any legislation was tied to the exclusively official ballot, Hill would reject it based on his party's interest.

On March 21st, 1890, the Republicans reintroduced the Saxton bill in essentially the same form as before. To get out of this predicament, Hill stated "I have, however, no mere pride of opinion in this matter, and will cheerfully acquiesce where convinced that my views are unsound."¹⁰⁵ Since this bill was so controversial and popular with the public, Hill recommended

¹⁰² Bass, *Democrat*, 76.

¹⁰³ Bass, "The Politics of Ballot Reform in New York State 1888-1890," 265.

¹⁰⁴ Bass, "The Politics of Ballot Reform in New York State 1888-1890," 266.

¹⁰⁵ Bass, "The Politics of Ballot Reform in New York State 1888-1890," 267.

that it be sent to the Court of Appeals for an informal opinion on March 25th, 1890. The choice of sending it to the Court of Appeals was tough political move, since if the Republicans refused, some of the blame of the veto could be placed on them. While on the opposite side, if the court agreed with him, the position would not look terrible to the rest of America. ¹⁰⁶

The legislature handled Hill's sneaky move by sending the bill to the committee before being sent to the Court of Appeals. On April 1, 1890, the Judiciary Committee released a report to the senate on the constitutionality of the Saxton bill. It stated that, "constitutional questions, like all other questions of law, are always decided in actions brought before the courts to which individuals or corporations are parties."¹⁰⁷ The committee was fearful that this would be a dangerous precedent because "the courts may at any time, henceforth, be requested to aid in discharging the duties which the Constitution has imposed upon the governor."¹⁰⁸ Ultimately, all the Republicans in the committee, which included Senator Saxton, agreed to not pass the resolution of sending the bill to the Court of Appeals. Interestingly enough, the court was not in session April 2nd, 1890 to April 14th. There would be no legal way to have the courts meet together within one day or during that vacation period. If this was humanly possible, it would take weeks for the courts to give a decision to the legislature. The committee stated that Governor Hill knew that the court had adjourned. ¹⁰⁹ Hill vetoed the bill for the third time and blamed it on the legislative committee for not sending it straight to the Court of Appeals. ¹¹⁰ Also on April 1, 1890, Hill released an editorial to the *New York Times* regarding the veto. This time,

¹⁰⁶ Bass, "The Politics of Ballot Reform in New York State 1888-1890," 268.

¹⁰⁷ *Report of the Judiciary Committee Upon Submitting to the Court of Appeals the Question of the Constitutionality of the Provisions of the Saxton Ballot Reform Bill*, 1890, Senate number 48.

¹⁰⁸ *Ibid*, 3.

¹⁰⁹ *Ibid*, 8.

¹¹⁰ Bass, "The Politics of Ballot Reform in New York State 1888-1890," 268

his argument solely focused on the constitutional right to protect illiteracy. Senator Saxton had addressed Hill's concern of the Ballot Clerks in this new version. Hill now argued illiterate voters have the same rights as literate ones, therefore they should be able to prepare their ballot at home.¹¹¹

On April 10th, 1890, the Christian Union was "not altogether sorry that Governor Hill has repeated his veto of the Saxton Bill." The group agreed with Ballot Clerks determined by political parties would be unconstitutional because it was "inconsistent with the provision giving every elector the right to vote for all officials." The Christian Union followed that sentence with, "a liberal construction of this provision would not be inconsistent with minority representation, as provided for in the Saxton Bill; a strict construction might be."¹¹² This group was also in favor of the unofficial ballot because it supported the American political system that all people should have an unrestricted opportunity for the expression of the political action.

After this final veto finally ended this dispute, Senator Saxton reached out Prof. Collin, the legal advisor to Governor Hill, and to Mr. Horace Deming, of the Ballot-Reform League, to combine upon a compromise with the Republicans, Democrats, and the Governor. Prof. Collins drafted the bill and received assistance from Mr. Deming and Senator Saxton. All Republican Senators, the Ballot Reform League, and Governor Hill agreed upon this bill. There was every indication that this bill would finally become a law after three long years.¹¹³

The new measure incorporated the idea of the blanket ballot but separated it into strips, each strip containing the names of only one party's nomination. A blank strip would be provided

¹¹¹ "The Ballot-Reform Vet: Governor Hill Objects the Bill." *New York Times* (NY, NY), April 1, 1890.

¹¹² "Let in the Light." *The Christian Union* (NY, NY), April 10, 1890.

¹¹³ "Ballot Reform Doomed: Boss Platt's Orders Obeyed the Letter." *New York Times* (NY, NY), April 23, 1890.

for people who wanted to write in their own names. If the person wanted to vote for a straight party, they could simply deposit the straight strip. There would be no other ballots allowed, which solidified the idea of the exclusive ballot. No party could provide ballots; however, they could supply pasters, which when pasted onto the official ballot, would be considered official.¹¹⁴ The paster had to be on plain white paper, the same font, and ink as the official, given ballot.¹¹⁵ This paster would be considered the choice of the individual. The pasters would benefit illiterates because they could bring the paster with them into the voting booth and paste it on at the polling place.¹¹⁶

When a voter entered the polling place, he would receive a full set of ballots from the Ballot Clerk. Each ballot would have a stub for the Ballot Clerk to write his initials on. The initials would represent that the Ballot Clerk announced the voter's name and his number in the order of his application of ballots written by the poll clerk. The voter could then go to a private voting compartment to complete the ballot. He must stay in the compartment for at least three minutes. When he has completed the ballot, he must fold every ballot given to him, even if unused, in a particular direction to allow his number to show on the outside. He would then hand the ballots to the inspector, who verifies the same information as when the ballot was given. The voter is then finished.¹¹⁷

There would then be two boxes for ballots. The used ballot is deposited into the box. The stubs from the unused ballots are placed into a separate box. The stubs and the unused ballots

¹¹⁴ Bass, "The Politics of Ballot Reform in New York State 1888-1890," 269.

¹¹⁵ "Reform Won Against Odds: The Politicians Forced to Favor a Pure Ballot." *New York Times* (NY, NY), May 3, 1890.

¹¹⁶ Bass, "The Politics of Ballot Reform in New York State 1888-1890," 269.

¹¹⁷ "Reform Won Against Odds: The Politicians Forced to Favor a Pure Ballot." *New York Times* (NY, NY), May 3, 1890.

must be returned to the County Clerks at the end of the day by the Ballot Clerks. The County Clerks would then ensure that the number of unused ballots match the number of ballots received in a sealed envelope at the beginning of election day. These unused ballots would then be burned at the end of the election.¹¹⁸

Senator Fassett, acting under orders of Republican party boss, Thomas C. Platt, ordered a caucus to boycott the bill. “Senator Saxton was committed to this bill, and if he had the courage and the stamina to stand by his convictions, he would have won all the respect of all of the independent people in the State, saved himself much mortification...”¹¹⁹ This move hurt the Republican party and allowed the Democrats to take control of the movement. In the same newspaper article, it is stated, “The Democrats had by far the best argument and the debate. The Republicans were on the defensive and could only explain, shuffle, and equivocate.”¹²⁰ The Democrats insisted upon passing the compromise bill as it was originally agreed upon, while the Republicans advocated for amendments abolishing the paster and permitting the illiterate voter to be accompanied in the booth by a friend. The governor repeatedly stated that would lead to a veto of the bill. The amended compromise was passed 18-10, with all but two Republicans voting in favor of the bill, while all Democrats voted it down.¹²¹

The Republicans were quick to recognize their error, and supported the compromised measure. The *New York Times* described this quick issue as, “In three days they had forfeited much of their credit for ballot reform which would otherwise be theirs.”¹²² The Saxton bill then

¹¹⁸ Ibid.

¹¹⁹ Bass, “The Politics of Ballot Reform in New York State 1888-1890,” 269.

¹²⁰ Ibid.

¹²¹ Ibid.

¹²² “Ballot Reform Doomed: Boss Platt’s Orders Obeyed the Letter.” *New York Times* (NY, NY), April 23, 1890.

passed the senate with a unanimous decision. The *New York Times* argued that the Republicans voted for the bill in fear that the Democrats would support it. While, the Democrats voted for the bill in fear that the Republican majority would take credit for passing it without their votes. The *Times* speculated that had the Legislature truly voted, the bill would not receive the necessary votes to pass.¹²³

On May 2nd, 1890, Governor Hill approved the “act to promote the independence of voters at public elections, enforce the secrecy of the ballot, and provide for the printing and distribution of ballots at the public expense.”¹²⁴

Of course, shortly after it was passed, Governor Hill released another lengthy public paper regarding the bill. It had begun positive in the form that legislation was finally passed, but, within one page, his attitude quickly turned to, “yet in spite of these excellent provisions our laws do not reach the two great evils which attend our elections-intimidation and corruption.”¹²⁵ In the next twenty-four pages, Hill explained the different provisions of the newly passed bill, of course along with some commentary. He even went into explaining how both the Linson and Saxton bills were not sufficient enough since they did not regulate the size and building of the voting booth compartments. This concern was not brought up in any previous arguments.¹²⁶ The Ballot Reform League stated, “with the ‘blanket ballot’ gained, ballot reform will have been completely accomplished.”¹²⁷

¹²³ “Reform Won Against Odds: The Politicians Forced to Favor a Pure Ballot.” *New York Times* (NY, NY), May 3, 1890.

¹²⁴ NYS 262, 113th Legislature. (1890)

¹²⁵ New York (State). Governor (1885-1892: Hill). *Public Papers of David B. Hill, Governor*, 1890, Albany, N.Y page 8.

¹²⁶ *Ibid*, 14.

¹²⁷ “Reform Won Against Odds: The Politicians Forced to Favor a Pure Ballot.” *New York Times* (NY, NY), May 3, 1890.

A Lasting Impression

From the early 1890s to 1910, voter participation rates in New York state fell in every type of election. Election trends changed after the enactment of the secret ballot in 1890. “From the early 1890s to 1910, voter participation rates fell at all types of elections... During the same period, split-ticket voting increased, suggesting that fewer electors than before took partisanship as their sole and constant guide to voting... turnout and party loyalty weakened in New York.”¹²⁸ Ticket splitting allowed a more accurate count of the voters’ opinions while also weakened the power of political machines.¹²⁹ “Modern researchers have uncovered evidence that ticket splitting did in fact increase after the adoption of ballot reform.”¹³⁰

After this brutal legislative battle, the rest of the country had become leery while trying to implement their own ballot reform. For example, in 1892, Iowa had begun their ballot reform process. The *Daily Inter Ocean* newspaper thought the Australian ballot would pass both houses since a majority of their members are good men; however, “some of them have been badly hoodwinked by as corrupt a gang of political scoundrels as can be found outside the walls of Tammany.” The article then continued to say that all other great states have adopted a perfect form of secrecy at the polls, except New York. This was because, “the perception of fraud has been made easier, and its detection more difficult, than ever before.”¹³¹ Lastly, the article argued that in both Iowa and New York, the Democratic Party would be affected. In New York,

¹²⁸ McCormick, “Prelude to Progressivism: The Transformation of the New York State Politics, 1890-1910,” *New York History*, Vol. 59, No. 3 (July 1978): 254.

¹²⁹ Cox and Kousser, “Turnout and Rural Corruption: New York as a Test Case,” *Journal of Political Science*, Vol. 25, No. 4 (Nov., 1981): 646-663.

¹³⁰ Reynolds and McCormick, “Outlawing ‘Treachery’: Split Tickets and Ballot Laws in New York and New Jersey 1880-1910,” *The Journal of American History*, Vol. 72, No. 4 (March 1986): 836.

¹³¹ “Reform in Iowa.” *The Daily Inter Ocean* (Chicago, Illinois), January 21, 1892.

“Governor Hill opposed a really secret ballot simply because he knew that the saloons and gambling halls can be depended upon for support of the Democratic ticket, and because he knows nine out of ten voters were under absolute control of each gambler or saloon keeper.”¹³²

This similar tone was also seen in Chicago, Illinois. In an editorial to the editor, a person described the different variations of the Australian system. There was much confusion across the United States with the voter changes because of the mixing between the old system and new system without protecting the voter with the new ballot. “The New York law enacted by a Tammany Legislature is one of the most famous of these compromises.”¹³³ The original bill started off with strict conformity with the Australian plan, but over time in legislature allowed the evils old system like the paster ballot. Lastly, the letter went as far to say, “New York, New Jersey, and Connecticut do not use the blanket ballot, and they are probably the worst example of ‘ballot reform’ in the country.”¹³⁴

Voting After the Saxton Ballot

After the enactment of the Saxton bill, all voters had to register across New York State for the first time. About five months after the passage of the bill, newspaper articles began advertising voter registration. These same advertisements were seen approximately a month before elections took place.

¹³² Ibid.

¹³³ “The Australian Ballot System.” *The Daily Inter Ocean* (Chicago, Illinois), December 15, 1893.

¹³⁴ Ibid.

YOU SHOULD GET REGISTERED.

If you are not Registered you cannot vote.

See to it yourself.

It costs nothing to register.

Board of Registry meet at the polling place of your Election District.

Elsewhere than in Cities each Board holds three meetings :

The first—Saturday, October 18th, 1890.

The second—“ “ 28th, “

The last—Friday, “ 31st, “

Each day from 9 A. M. until 9 P. M.

The board at the first meeting should place on the Registry all persons qualified to vote whose names appear upon the Poll list of the next preceeding General Election.

At the second meeting the Board should Register all persons known or proven to their satisfaction to be qualified.

But at the last meeting none will be placed on the list except those who personally appear and tell their names to the clerk, who will write it on the list. N. B.—You can be registered at any meeting on personal application. But remember if your name is not Registered before the last meeting you must go yourself. The law requires that a certified copy of the list shall be conspicuously posted at the polling place from the first day of Registry until election day so that any one can see whether they are Registered or not.

DAYS OF REGISTRATION :

~~Monday~~.....October 6

~~Tuesday~~.....October 14

~~Wednesday~~.....October 23

~~Friday~~.....October 24

~~Saturday~~.....October 24

Hours of Registration :

~~7 A. M.~~.....to.....~~10 P. M.~~

Register To-morrow.

To-morrow is the first day for registration. The polling places will be found on page 2 of to-day's paper. Unless you are registered, you cannot vote. Unless you appear in person you cannot be registered. A registration in previous years will be of no service. You must be registered in person, this year, to vote. If you do not register, you disfranchise yourself. If you disfranchise yourself, you lose the right to complain of bad government by omitting to take the necessary first step by your ballot to make it better. The EAGLE does not seek to constrain your convictions. Whatever they may be, vote them. But that you may vote them, register. The best time to register is the first day, and the first day will be to-morrow.

Figure 10: In New Paltz, New York, and in Brooklyn, New York, respectively, the local newspapers advertised the new registration process. Photos from the New Paltz Times and the Brooklyn Daily Eagle, respectively. ¹³⁵ ¹³⁶

In November of 1890, the first election took place in New York State with the secret ballot. In Westfield, NY, located in Chautauqua county, the Republican newspaper had a large reflection on the first experience with the secret ballot. The overall consensus was, “The secrecy of the ballot is perfect, and there has never before been anything suggested that excels it.”¹³⁷ The Republicans felt the secret ballot eliminated bribery and corruption since political parties would not trust their constituents to vote correctly because they could not see their ballot anymore.

The newspaper also brought up the criticisms after experiencing the secret ballot for the first time. The newspaper recommended changing the law to fold the ballot the opposite way and to provide more ballots per certain number of eligible voters. The major criticism was

¹³⁵ “You Should Get Registered” *New Paltz Times* (New Paltz, NY), October, 1st 1890.

¹³⁶ “Register Tomorrow” *Brooklyn Daily Eagle* (NY, NY), October, 5th 1891.

¹³⁷ “The New Ballot Law” *Westfield Republican* (Westfield, NY), November, 12th 1890.

described as, “The commonest criticism passed upon it is that the multiplicity of ballots is cumbersome and extravagant feature that ought to be change.”¹³⁸ The solution, which was recommended, was to provide a single, blanket, ballot, which was used in Massachusetts, as well as in the original Saxton bill. This election was a big upset for the Republicans on the national stage. Across the country, Democrats won many seats in congress.

Conclusion

Ultimately, Governor Hill was for electoral reform, but not in the way of the Australian ballot. He felt that these explicit provisions were purposeful to discredit voters and still allow corruption in the electoral system. In the end, this bill was a compromise of both the Republicans and the Democrats in the New York State legislature.

In April of 1891, amendments were made to the legislation that was passed the year before. These amendments would allow people to become a candidate by means other than convention, the county clerk would be required publish in two newspapers, six days before elections, a list of candidates, and a more detailed explanation of ballot clerks’ duties and layout of the polling places.

In 1894, John Goff, the Counsel to the Committee for the Prosecution of Election Frauds, argued that in the four years since ballot reform took place, there had been no organized effort to watch its operations or detect any illegal practices. The public was thrilled to be assured that voter fraud was no longer possible. But, based on volunteer watchers’ accounts and over sixty indictments by the Grand Jury, it demonstrates that bribery and false registration were still major problems. This problem was able to still exist because of the help of “obliging inspectors.” The

¹³⁸ Ibid.

inspectors did not try to curtail any person from voting more than once or using a made-up name.¹³⁹

Another provision taken advantage of was permitting blind or disabled people to have assistance in the voting booth. According to Goff, three classes of voters benefited from this provision: the person who could not read or speak English, the English-speaking person who was illiterate, and the man who was suspected to not vote for Tammany Hall. These men would wait on the street until someone offered them a sum of money. The person who offered the money would be the “guide” for the “disabled” man. The “disabled” man would then choose his “guide” to accompany him into the voting booth. Goff then explained numerous examples of the “disabled” men not actually being disabled and blaming both parties’ ballot clerks for their carelessness.¹⁴⁰

Using Goff’s account, it is easy to see the loopholes created by the new legislation. Voter registration and illiterate voters were hot topics during this entire legislative process. Sadly, both of these issues continued after the passing of the Saxton bill and its amendments. The Saxton bill was successful in the fact that it started the pathway of corruption-free elections. People were able to vote in secret and without intimidation with the Saxton bill. But, people went around the rules and therefore still corrupted the elections.

Understanding the process and viewpoints, during the creation of the institution of the secret ballot, allows a complete picture as to the benefits, or downsides, of these changes for all of the socioeconomic classes in America in the past. Previous historians have researched the Saxton bill and the political climate in New York State during this time period, but none have

¹³⁹ Parkhurst and Goff “Needed Municipal Reforms,” *North America Review*, Vol. 158, No. 447 (1894):204-205.

¹⁴⁰ *Ibid*, 207.

researched both aspects together in this light. Doing so creates a fuller understanding of a major piece of the present-day election process.

Today, many people argue that the current election system has disadvantages for certain groups of people. For example, new “voter id” laws are disenfranchising minority and poor constituents, since there are numerous forms of documentation that are needed in order to receive an approved identification card. The Saxton bill created large-scale changes in voting reform that brought us to a similar style of our present day voting process. The argument of voter-id laws can be seen to be similar to arguments about illiterate voters using the Australian ballots, since both arguments are sound and show that it is more complicated for minorities and poor people to meet the requirements in order to vote. Both of these laws also put more responsibility onto the voter to register instead of the government. The challenges and debates about the voting process and limitations today are similar to those put forward in the nineteenth-century.