

THE BALLOT-REFORM VETO

GOV. HILL'S OBJECTIONS TO THE BILL. HE SAYS IT IS FULL OF UNCONSTITUTIONAL PROVISIONS AND DISFRANCHISES ILLITERATE VOTERS.

ALBANY, March 31.—Gov. Hill transmitted to the Legislature to-night the following veto of the Saxton bill: STATE OF NEW-YORK, EXECUTIVE CHAMBER, ALBANY, March 31, 1890.

To the Senate: Senate bill No. 117, entitled "An 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 public expense," is herewith returned without approval.

The Legislature has refused to co-operate with the efforts of the Executive to obtain an immediate practical determination of the constitutionality of this bill. Such determination was desired by the Executive in order that the bill might become a law, if declared to be in harmony with the Constitution of this State, or that certain constitutional provisions, no longer occupying the time and attention of the lawmaking power, might be repealed.

The Attorney General, chosen by the people as the legal adviser of State officers in such emergencies as the only official legal adviser has the right to require a legal opinion—has advised me that certain provisions of this bill are unconstitutional. Eminent lawyers of both political parties have expressed to me the same opinion with regard to other provisions.

My objections to one feature of this measure are well known. They have been reiterated in two annual messages, as well as in two special veto messages of similar measure, and in many public utterances.

I believe that every voter should have the right to prepare his ballot at his own home or wherever he pleases, and to bring it with him to the polls and vote it in secret. I deny the constitutional right of the Legislature to compel an elector to accept of a ballot containing the names of other than his own candidates.

Every elector under our Constitution has a right to prepare his own written or printed ballot, and to bring it with him to the polls. The Legislature may regulate its form and shape, it may designate the kind and quality of paper to be used, it may require a uniform style of caption or indorsement, it may prescribe separate tickets for different offices, but it cannot change the essential characteristics of a ballot as it exists when the Constitution was framed.

First—They unreasonably hinder and impede the exercise of the elective franchise and discriminate against the individual elector. Individual electors are not permitted to print a ballot of their own containing their own candidates, but must content themselves with writing or pasting another ballot foisted upon them against their will.

well-recognized characteristics violates the fundamental law.

ILLITERACY MUST BE PROTECTED.

Third—The provisions for an exclusively official ballot prevent an illiterate elector from voting a secret ballot. They absolutely compel him not only to publicly confess his illiteracy, but also to disclose the contents of his ballot to two election officers.

The Constitution (Article II, Section 1) prescribes the qualifications of electors. The Legislature cannot add to such qualifications. It has no power to prescribe any educational tests whatever or to discriminate against illiterates. An illiterate person has equal rights with any other elector, and no regulations can lawfully be imposed which will prevent him, although illiterate, from freely casting a secret ballot of his own selection.

It is clear that a provision would be unconstitutional which required an elector himself to write the name of his candidate upon the ballot given him at the polls, and prevented his voting any other ballot or in any other manner. Such a provision would virtually establish an educational qualification for electors.

It is no answer to say that no additional hardship or unfair burden is imposed upon him, because, as is claimed, an illiterate elector must necessarily consult some one in the preparation of his ballot, and he might as well inform the sworn ballot clerks as to his choice as to inform them in the presence of the elector.

The Constitution gives an illiterate person the same right to vote as an educated one. It makes no distinction. It recognizes no differences. The Legislature has power to regulate the exercise of the right of suffrage, but it has no power to prohibit, restrict, or impede it.

As an illiterate elector has an absolute right to vote under the Constitution, and as he cannot write his own ballot nor read a ballot handed him for inspection, then, if the Constitution guarantees to him a secret ballot, it must follow that he has an implied right under the Constitution to prepare his ballot in secret, and to bring it to the polls and to vote it. In no other manner can his rights be fully preserved and protected.

There are numerous legal authorities which amply sustain this position, but it is unnecessary to cite them here. The point is abundantly settled beyond question or cavil. Unless secrecy is implied in the term "by ballot," there is nothing to prevent the Legislature from passing a law requiring every elector to vote an open ticket.

Gov. Hill's Idea of Secrecy. There are numerous legal authorities which amply sustain this position, but it is unnecessary to cite them here.

The whole question may be summed up in a few words: An illiterate person, if required to accept an exclusively official ballot upon which is printed the names of divers sets of candidates, is unable to designate his choice among so many names because he cannot read or write, and hence cannot vote.

There is another constitutional question which arises under this bill. It is submitted that the provision contained in Section 22 relating to the election of two ballot clerks is unconstitutional. That section provides for the election of two ballot clerks, (where ballot clerks are to be elected), and prohibits each political party from nominating more than one candidate, and prevents an elector from voting for more than one ballot clerk.

There is no escape from this conclusion. The question is an important one. It affects a vital part of the bill. It is conceded that unusual and extraordinary powers are conferred upon the elector by the bill. It is conceded that the exclusively official ballot is based upon the assumption that the two ballot clerks, who are to have sole charge of all ballots, are to be legally elected on different tickets and are to belong to different political parties.

its soundness. It completely demonstrates the unconstitutionality of the foundation upon which rests the supposed necessity of the exclusively-official ballot provided for in this bill.

The feature of an exclusively official ballot, derived from the Australian system, is one not adapted to the political system of our State. It does not harmonize with our free institutions. The Australian system, proper for electors cannot write their own ballots, but he is only permitted to vote for a candidate thereon who has been duly nominated.

THE GOVERNOR'S IDEA OF REFORM.

The Legislature has seen fit thus far to insist upon the retention of an exclusively-official ballot, and manifested a disposition to accept that and nothing else. It has chosen to imperil the success of every effort to reform our elections by an adherence to this single provision. Believing that the kind of ballot which the Legislature persists in adopting, to the exclusion of every other, is in violation of the Constitution, I have been unable to approve the measures heretofore proposed on this subject.

It seems needless to indicate in this communication, what has been so often outlined heretofore, the essential features of an electoral reform measure which I would cheerfully approve. They may, however, be again summarized as follows:

First—Provision for a general registration of electors throughout the whole State.

Second—The act to extend to all elections of public officers by ballot.

Third—The secret booth or private compartment plan. Each voter to be guaranteed absolute privacy in obtaining or preparing his ballot, and compelled to remain an appreciable length of time in the booth, and secrecy in voting made compulsory.

Fourth—The privilege of nominating candidates by properly-certified petitions, as well as by party conventions.

Fifth—No electronic printing permitted within a reasonable distance of the polls.

Sixth—Official and unofficial ballots to be used. They shall be exactly alike, the official ballots being printed and furnished at public expense and the unofficial ballots printed only by the election officers, and subject to be furnished by parties or candidates, and obtainable at the polls or elsewhere, and may be prepared at home and brought to the polls and voted.

Seventh—All ballots when voted to be inclosed in a specially provided envelope furnished only by election officers at the polls.

It is unnecessary to specify any other particulars or minor provisions which may be regarded as essential or appropriate to render effectual the foregoing provisions to accomplish the great objects desired, to wit: Absolute secrecy and freedom from bribery, corruption, and intimidation. They were fully pointed out in my last annual message, to which the attention of the Legislature is again referred.

OTHER OBJECTIONS TO THE BILL.

It will be observed that the principal reasons presented heretofore for the withholding of my approval of this measure are based upon constitutional objections. It should not be inferred from this that the measure is otherwise regarded as satisfactory. There are many defective and incongruous provisions, which, however, may be easily obviated.

Who is to determine what shall be printed upon the ballot under this provision? Who is to decide what words "will aid the voter in the preparation of his ballot for voting"? It might fairly be assumed by the officer who had the preparation of the ballots that every voter would desire to vote for principles and not for men, and hence that it would materially "aid the voter" in the preparation of his ballot for voting, if there were printed on each ticket a résumé of the principles or platform, as he understands them, of the different parties or candidates representing them.

GOV. HILL MORALIZES.

No man realizes more thoroughly than I do the necessity for guarding the purity and secrecy of our election system. No man can appreciate more vividly than I do the dangers to our institutions in the improper use of money at the polls. When men are able to obtain high places in Government, not by virtue of their fitness, but by reason of their immense wealth, our country has begun a reign of plutocracy, and republican institutions are threatened.

many professed reformers that some of those who are now leaders in their advocacy of a change in election methods have been heretofore most active in debasing suffrage. Quick to discern the advantage which the adoption of the Australian system proper would give them in attaining their ends, and not content to accept morally those provisions which are designed to secure the ballot, bribery, intimidation, and the improper use of money, and which all sincere and intelligent reformers agree upon, they are attempting to engrave upon our statute books those other features of the system which are properly applicable only to those States and conditions where these provisions and laws impose an educational qualification for suffrage.

I am proud to observe that the party to which I belong has been willing to stand against and oppose this insidious scheme, and that, yet on a larger scale it is only the same iniquitous design which the enemies of universal suffrage have sought by the passage of the bill now before me to establish in our own State, where, according to the last census, there were 21,000 men who could not read or write.

URGING RAPID TRANSIT.

A MEMORIAL FROM THE REAL ESTATE EXCHANGE.

The Real Estate Exchange took vigorous hold of the rapid-transit question yesterday at a meeting that was both large and earnest. A memorial to the Legislature and several resolutions in harmony with it were adopted without a dissenting voice.

President Scott opened the meeting. The progress of the city was seriously hampered, he said, by existing conditions, and the natural increase of values was checked, preventing a large addition of taxable values in this State, and consequent reduction of the burdens to existing taxpayers.

Before offering it Mr. Couderc made an address, which stirred up a good deal of enthusiasm. He referred to the days of Tweed, which were now in danger of returning through official malfeasance and corruption. The only reason he could see for official neglect of rapid transit was the fact that men who drove off so-called politicians, and who, in or out of the Legislature, rattened on spoils, saw in the construction of a system of rapid transit opportunity for plunder, and until plunder could be secured or other assurance given of perpetuating their authority, or influence they meant to let the matter wait.

Mr. Couderc submitted a memorial to the Assembly. It sets forth that the memorialists represent among the members of this Exchange an ownership of property equal to one-third of the taxpayers of the city of New-York; that this city is in urgent need of further facilities for the rapid transit of its population.

That your memorialists are wholly independent of any of the opposing bills now under consideration, on behalf of the taxpayers of the city of New-York, that a grievous injustice would be done to the interests of this city if the question of rapid transit were not decided at the present session. Difficulties far greater than those which have to be met in this city have been undertaken and overcome in other cities, where the people have been quick to grasp the benefits which appeals to the Legislature to regard this subject simply in the light of its vital importance to the city and State of New-York.

Before a vote was taken on the memorial, the Rapid-Transit Committee, consisting of R. V. Barnhart, Sinclair Myers, George De F. Barton, James D. Disbeck, and Charles W. Deane, were asked to affix to it their report, of which the following is the essential portion:

Resolved, That the Real Estate Exchange of the city of New-York earnestly and respectfully urges the Legislature to act promptly upon the rapid-transit question by passing an act which shall confer the power to select some method which shall give the desired result.

The memorial and report were then unanimously adopted. Mr. Disbeck offered a resolution, which was passed, deploring the invasion of politics into the subject. It was voted that the Executive and Legislature should go to Albany in behalf of rapid transit legislation, and Messrs. Couderc, Myers, Cummins, Lespinasse, Deering, and Deeves were designated a special committee to serve in an executive capacity for the committee of one hundred.

FLAGS FOR THE NORMAL COLLEGE.

Two beautiful American flags and three fine steel engravings representing Washington, Lincoln, and the Declaration of Independence, were yesterday formally presented to the training department of the Normal College by Mr. and Mrs. Theodore Moos through Col. D. W. C. Ward. Miss Ethel Anderson responded to the presentation address and President Simmons of the Board of Education delivered the address of acceptance.

TODAY'S ELECTION IN NEW-UTRECHT.

A lively election is expected at New-Utrecht to-day. The citizens who have been fighting the ring will make a strong effort for victory for the candidates they nominated last week and they believe they have a good prospect of success. These candidates are: For Justice of the Peace—James Deas; for Auditors—Andrew Hegeman, Otto Heineicke, and C. Mehl.

SEVENTEEN "SAFE LUNATICS." Col. Rogers brought seventeen of his alleged "safe" lunatics into the Supreme Court, Chamber, yesterday, on writs of habeas corpus. The Colonel made his usual speech in behalf of the unfortunate, and added that the District Attorney should take up the crusade he is now carrying on, as it was his duty to get these poor wretches released.