November 11, 2013

Senator Rufus Blodgett: The Sherman Anti-Trust Act’s Lone Dissenter

Steven Lavender
Senator Rufus Blodgett: The Sherman Anti-Trust Act’s Lone Dissenter

By Steven Lavender*

INTRODUCTION

Only one member of Congress voted against the Sherman Anti-Trust Act. He was Rufus Blodgett, a United States Senator from New Jersey. While numerous authors recognize that Blodgett was the only person to vote against the Act, many do not have a full appreciation of Blodgett or of his vote. One reason these authors lack information about Blodgett’s vote is that he never spoke publically about it. Another reason is that the authors do not have adequate sources to cite on the matter.

It appears that only one author, Russell Decker, has previously analyzed Blodgett’s vote. While the 1959 Decker article contains some excellent supporting citations and analysis, it is only a starting point for understanding Blodgett and his unexplained vote. Therefore, this Article seeks to pick up where the Decker article left off by providing additional supporting citations and analysis. Like Decker article though, this Article

---

* Steven Lavender is an attorney at the Federal Trade Commission. His e-mail address is stevenclavender@yahoo.com.

1 The Senate approved the act by a vote of 51-1 on April 8, 1890. 21 CONG. REC. 3153 (1890). The House approved the act by a vote of 242-0 on June 20, 1890. 21 CONG. REC. 6314 (1890).

2 21 CONG. REC. 3153 (1890).

3 See ELIZABETH SANDERS, ROOTS OF REFORM: FARMERS, WORKERS, AND THE AMERICAN STATE, 1877-1917 271 (briefly identifying Blodgett as a “banker” and “railroad man”); Barak Orbach, How Antitrust Lost Its Goal, 81 FORDHAM L. REV. 2253, 2259 (2013) (implying that Blodgett did not vote for the Sherman Anti-Trust Act because he was a railroad executive, and he was not a candidate for reelection); Lino A. Graglia, Is Antitrust Obsolete?, 23 HARV. J.L. & PUB. POL’Y 11 (1999) (“Another reason to be suspicious of the Sherman Act is that it was passed unanimously in the House and unanimously in the Senate except for the vote of one Senator, who probably thought that something else was on the floor.”); George W. Stocking, The Attorney General’s Committee’s Report; The Businessman’s Guide Through Antitrust, 44 GEO. L.J. 1, 1 (1955) (“Although he did not state his reasons, he may have felt the inconsistency between its objectives and New Jersey’s 1889 legislation permitting corporations organized in that state to hold stock in other corporations.”).

4 A search of the Congressional Record and national and local newspapers of the time did not reveal any comments from Blodgett about his vote.

5 Aside from the Decker article, infra note 6, there does not appear to be any in depth analysis of Blodgett’s vote.


7 See, e.g., id. at 258 (citing interviews with Blodgett’s distant relatives that describe him as a “mean, stingy, contemptible, and miserly old man with few friends” and an interview of a co-worker that describes him as a strong-willed man); id. at 263 (noting the absence of Blodgett’s opposition to the bill in the Congressional Record); id. at 264 (noting that Senator Sherman does not mention Blodgett, or very much about the Anti-Trust Act, in his papers); id. (noting very minimal coverage of Blodgett’s vote in local New Jersey newspapers).
reaches a similar conclusion: Blodgett likely voted against the Sherman Anti-Trust Act because he wanted to protect the railroad industry and he thought the Act would have negative consequences on it.\(^8\)

Part I provides a brief background about Blodgett’s experience in the railroad industry. Part II describes the circumstances that led to Blodgett’s election. Part III analyzes Blodgett’s vote by determining that Blodgett could have reasonably concluded that the Sherman Anti-Trust Act would likely harm the railroad industry and the particular companies in which Blodgett had a personal interest. Part III also puts Blodgett’s vote in context by examining other Senators with connections to industries that the Sherman Anti-Trust Act could have affected.\(^9\)

I. **RUFUS BLODGETT: A LIFE-LONG RAILROADER**

In 1834, Rufus Blodgett was born in New Hampshire.\(^10\) As a young man, he moved to New Jersey to be a railroad engineer on the New Jersey Southern road.\(^11\) He advanced to Chief Engineer, followed by Master Mechanic, and finally Superintendent.\(^12\) In 1884, Blodgett became Superintendent of the New York and Long Branch Railroad (“NY&LB”).\(^13\) He held this position for 25 years, until his death in 1910.\(^14\) The NY&LB contained 38 miles of track located along the New Jersey shore.\(^15\) In addition to providing beach access to the public, the NY&LB served as an important connection for the Pennsylvania Railroad and the Central Railroad of New Jersey.\(^16\)

---

\(^8\) See id. at 265-66 (“Blodgett was a railroader—first, last, and always. Railroads had been his entire life. His logic would undoubtedly lead him to conclude that the bill was anti-railroad—and that would have been enough for this hard-headed individualist.”). It is worth noting at the outset that just because Blodgett was interested in protecting the railroad industry from the Sherman Anti-Trust Act, it does not mean that his vote was necessarily against consumer welfare.

\(^9\) I do not intend to show how Blodgett’s vote impacts the scholarly debate about whether or not Congress intended the Sherman Anti-Trust Act to be a pure consumer protection measure. Likewise, I will not attempt argue how breaking up railroad combinations affects consumer welfare.


\(^11\) Rufus Blodgett, HARPER’S WEEKLY, Mar. 12, 1887, at 187.

\(^12\) Id.

\(^13\) Notes of Various Interests, N.Y. TIMES, Aug. 16, 1884, at 5.

\(^14\) Ex-Senator Blodgett Dead, N.Y.TIMES, Oct. 4, 1910, at 11. Blodgett also served in the New Jersey Legislature, he served seven terms as the Mayor of Long Branch, and he was the president of a bank and water company. Id.


Blodgett had close ties with Henry S. Little, a President of the Central Railroad of New Jersey and of the New Central Coal Company. Along the side of Little, Blodgett was also active in the management of the New Central Coal Company. He was elected as a director in 1886, Vice President in 1888, and again as Vice President and Director in 1889.

For these reasons, Blodgett’s railroad ties were well-established by the time he was elected to the United States Senate in 1887.

II. BLODGETT’S ELECTION TO THE UNITED STATES SENATE

This Part first explains the railroad industry’s influence on New Jersey politics as a prerequisite for understanding Blodgett’s election.

A. New Jersey Politics During the Latter Half of the Nineteenth Century

During the latter half of the nineteenth century, various railroads heavily influenced the New Jersey State legislature. Elections to the United States Senate were not an exception to that influence. It appears that Commodore Robert F. Stockton was the first in a train of Senators that the New Jersey Legislature elected due to his significant railroad influence. Stockton, the President of the Delaware and Raritan Canal and the Camden and Amboy Railroad, commonly known as “the Joint Companies,” was elected in 1851.

Some

17 Hon. Rufus Blodgett, United States Senator from New Jersey, FRANK LESLIE’S ILLUSTRATED NEWSPAPER, Mar. 19, 1887, at 69.  
18 In and Out of Town, THE RED BANK REGISTER, Dec. 25, 1889.  
19 ENGINEERING AND MINING JOURNAL VOL. 1, Jan. 2, 1886.  
20 FREDRICK EDWARD SAWARD, THE COAL TRADE vii (1888).  
22 Jersey’s New Senator, WASH. POST., Mar. 3, 1887, at 1 (“[Blodgett] is identified with the interests of several railroad companies and has always been recognized as a staunch Democrat. . .”).  
23 See, e.g., Highway Robbery by Law, HARPER’S WEEKLY, Apr. 1, 1882, at 204 (“The New Jersey Legislature, a political body attached to the corporations of the Pennsylvania Railroad and the New Jersey Central Railroad . . .”); Railroad Monopoly in New Jersey, BALTIMORE SUN, Mar. 30, 1872 (“The Pennsylvania Railroad Company controls the New Jersey Senate, and the interests of the people are at a discount. The direct issue between the people and the railroad monopolists was presented to the Senate this morning and decided in favor of the latter. The New York and Philadelphia railroad bill came up for final passage, and was signally defeated. It is freely asserted, and generally believed, that it has cost the Pennsylvania Company at least $50,000 to defeat this bill in the Senate.”) (quoting the New York Tribune’s Trenton correspondent). See also Lincoln Steffens, New Jersey: A Traitor State, MCCLURE’S MAGAZINE, Apr. 1905, at 649 (alleging that the railroads had corrupted the New Jersey Legislature at the time of Blodgett’s election).  
24 As the Seventeenth Amendment was not ratified until 1913, state legislatures elected U.S. Senators at this time.  
25 The Railroad Senators, NEW YORK DAILY TIMES, Feb. 24, 1853 (stating that “[t]he election of Com. Stockton was the commencement of the new order of things, and was made before the State had entirely surrendered to the railroad . . .”).  
26 The Railroad Troubles in New Jersey, N.Y. TIMES, Mar. 7, 1860.  
27 Monopolies in New Jersey, BALTIMORE SUN, Jun. 12, 1851.
New Jersey Democrats pointed to his election as evidence that the influence of railroad corporations in the New Jersey Legislature was becoming dangerous.\textsuperscript{28}

Two years later, the New Jersey Legislature elected John Thompson and William Wright to the United States Senate.\textsuperscript{29} Following this election, the New York Daily Times re-published an article from the Providence Journal titled, \textit{The Railroad Senators}, which stated:

> Oxford and Cambridge Universities are represented in Parliament. We believe that New-Jersey is the only State which reserves this distinction for a railroad corporation. The Camden and Amboy Railroad sends two Senators to Congress, and the Legislature of New-Jersey, on being duly notified by the Corporation upon which it is dependent, dutifully elects them. The qualifications are great wealth, and, of course, thorough devotion to the monopoly which rules the State.\textsuperscript{30}

In 1866, the Governor appointed Frederick T. Frelinghuysen to the United States Senate.\textsuperscript{31} Theodore Randolph, former President of the Morris and Essex Railroad,\textsuperscript{32} was elected to the Senate in 1875.\textsuperscript{33} And finally, in 1881, the New Jersey Legislature elected Blodgett’s direct predecessor, William J. Sewell.\textsuperscript{34} Sewell was in charge of all Pennsylvania Railroad operations in New Jersey.\textsuperscript{35} Upon his election, the New York Times reported that Sewell owed his nomination to the “Pennsylvania Railroad agent in Trenton,” who shrewdly managed the affair.\textsuperscript{36}

B. \textit{Blodgett Was Elected Because He Was a Railroad Man}

The New Jersey legislature unexpectedly elected Blodgett to the United States Senate in 1887.\textsuperscript{37} Much like the previous elections, this election also revealed the railroad’s influence on New Jersey politics. Blodgett, a Democrat, was a compromise candidate that both Republican and Democratic legislators agreed upon after each party’s first choice candidate failed to receive the requisite number of votes.\textsuperscript{38} Many had expected the

\textsuperscript{28} \textit{Id.} Other evidence of the railroad’s influence in the New Jersey Legislature included monopoly grants made to the Joint Companies. \textit{Id.}
\textsuperscript{29} \textit{The Railroad Senators, New York Daily Times}, Feb. 24, 1853.
\textsuperscript{30} \textit{Id.}
\textsuperscript{32} \textit{Politics in New-Jersey, N.Y. Times}, Jul. 24, 1868.
\textsuperscript{33} \textit{Forty-Third Congress—Second Session, Baltimore Sun}, Feb. 8, 1875.
\textsuperscript{34} \textit{See Death of Senator Sewell, Baltimore Sun}, Dec. 28, 1901.
\textsuperscript{35} \textit{Id.}
\textsuperscript{37} \textit{Abbett’s Hopes Balked, N.Y. Times}, Mar. 3, 1887.
\textsuperscript{38} \textit{Hon. Rufus Blodgett, United States Senator from New Jersey, Frank Leslie’s Illustrated Newspaper}, Mar. 19, 1887, at 69.
New Jersey Legislature to elect Governor Leon Abbett, a fellow Democrat and Blodgett’s main political rival.\(^{39}\) When the Republicans, however, realized that they did not have enough votes to re-elect Sewell, they rallied behind Blodgett in order to ensure that Abbett did not win.\(^{40}\) After a raucous election in New Jersey’s legislature—there were threats of violence, use of profanity, and consumption of alcohol—the legislature settled on Blodgett.\(^{41}\)

One New Jersey Legislator described the choice between Blodgett and Abbett as that between a “railroad and an anti-railroad man.”\(^{42}\) This difference likely explains why Blodgett was elected instead of Abbett. Abbett had previously defeated Blodgett for the New Jersey Governorship,\(^ {43}\) and had established himself as an anti-railroad politician.\(^ {44}\) Thus, it seems logical if the previous railroad candidate, Sewell, could not be re-elected, Blodgett would also fit the bill.

III. **Blodgett’s Sherman Anti-Trust Act Vote**

A. **Blodgett Could Have Reasonably Concluded that the Sherman Anti-Trust Act Applied to the Railroads**

While Congressional debates did not focus on railroad monopolies as the chief evil the Sherman Anti-Trust Act was intended to address, Blodgett could have reasonably concluded that the railroad industry would have been implicated for several reasons.\(^ {45}\) First, many railroad business practices that could be viewed as restraining trade involved industries on which Congressional debates did focus.\(^ {46}\) For example, a House of Representatives Report investigated the Sugar Trust and the Standard Oil Trust.\(^ {47}\) Allegations arose as to whether the railroads charged the trusts favorable rates for shipping their products, presumably allowing the

---

\(^{39}\) *Abbett’s Hopes Balked*, N.Y. TIMES, Mar. 3, 1887, at 8; *Rufus Blodgett*, HARPER’S WEEKLY, Mar. 12, 1887, at 187.

\(^{40}\) *Hon. Rufus Blodgett, United States Senator from New Jersey*, FRANK LESLIE’S ILLUSTRATED NEWSPAPER, Mar. 19, 1887, at 69.

\(^{41}\) *See Abbett’s Hopes Balked*, N.Y. TIMES, Mar. 3, 1887, at 8 (describing one Abbett supporter threatening to “break every bone in [the] body” of an “anti-Aubett man” and another Abbett supporter throwing “a big law book” at the head of someone celebrating Abbett’s loss); *Diary of Public Events*, THE CONGREGATIONALIST, Mar. 10, 1887 (“Quite a number of persons were the worse for liquor.”).

\(^{42}\) *Abbett’s Hopes Balked*, N.Y. TIMES, Mar. 3, 1887, at 8.

\(^{43}\) *Jersey’s Next Senator*, N.Y. TIMES, Jun. 8, 1890.

\(^{44}\) *Taxing Jersey Railroads*, BALTIMORE SUN, Feb. 28, 1884 (reporting that Governor Abbett is living up to his campaign promise as free from railroad influence by introducing a bill that would increase railroad taxes).

\(^{45}\) *See Volume 21 of the Congressional Record*. Perhaps members of Congress did not focus on railroads as part of the Sherman Act debate because the Interstate Commerce Act specifically dealt with various types of uncompetitive railroad conduct. *See* 24 STAT. 379 (1887).

\(^{46}\) *See H.R. REP. NO. 3112* (1888).

\(^{47}\) *Id.*
trusts to extend their monopolies. The Pennsylvania Railroad Company, which operated on Blodgett’s NY&LB, was not immune from such charges.

Second, although the railroads were not the primary focus of debates on the Sherman Anti-Trust Act, the Congressional Record does reveal some arguments that it should apply to the railroads. In a House debate on May 1, 1890, Representative Bland argued for an amendment to make sure that it would. He explained that the amendment:

provid[ed] that where there is a combination or agreement to combine between railroad companies or transportation companies for the transportation of persons or property from one State into another, a “pool,” so to speak, it is declared to be subject to this bill. I want at least two things to be known to be covered by this bill, and these two are the most important: the transportation monopoly and the monopoly of the great cattle industry of this country. This amendment will cover these two things, but God knows, for no man in this House knows, what else the bill will cover.

Although this particular statement took place after Blodgett’s vote, and the amendment was not included in the final bill, it is likely indicative of general discourse at the time of which Blodgett would have been aware.

The third reason Blodgett could have reasonably concluded that the Sherman Anti-Trust Act applied to the railroad industry is because it was aimed at monopolies in general, and, as books and newspaper articles written throughout the 1800s demonstrate, it was widely accepted that many railroads were monopolies.

Literature published during the decade immediately preceding the Sherman Anti-Trust Act’s passage are

48 See id. at 80 (inquiring whether the railroads gave Standard Oil Trust preferential shipping rates). Although the Interstate Commerce Act attempted to stop the railroads from providing discounted rates to some industries, there was still concern that the practice continued through the use of rebates. See, e.g., id. at 91, 727, 775, 777, 781.
49 See id. at 193 (inquiring whether the Pennsylvania Railroad Company gave equal rebates to Standard Oil and other companies).
50 See, e.g., 21 CONG. REC. 4099 (1890).
51 Id.
52 Id.
53 See 26 STAT. 209 (1890) (“An act to protect trade and commerce against unlawful restraints and monopolies. . . . Every person who shall monopolize . . . .”) (italics added).
54 See WILLIAM W. COOK, TRUSTS 1-4 (1888) (expressing concern due to the consolidation in the railroad industry, among other industries); Another Railroad Consolidation, CHICAGO TRIBUNE, Nov. 2, 1867 (reporting an agreement that would consolidate control under a single corporation of a rail line running from Chicago to New York); Meeting of Drovers, N.Y. TIMES, Dec. 20, 1855 (reporting that railroad monopolies use high transportation rates at the expense of the livestock industry); Monopoly—Combination, BALTIMORE SUN, Jun. 21, 1838 (reporting high fare rates due to a railroad monopoly between Baltimore and Philadelphia); New-Jersey—The Governor and the Railroad Monopoly, NEW YORK DAILY TIMES, Apr. 3, 1854 (publishing the Governor’s response to a letter inquiring whether he had any connections to the Joint Companies, corporations that had a railroad monopoly in New Jersey); Railroad Monopoly, Boston Daily Globe, Jun. 25, 1872 (reporting that Central Pacific Railway Company purchased “all the railroads and steamboat lines in California”); Railroad Monopolies, Chicago Tribune, Jul. 11, 1863 (reporting an alleged railroad monopoly in Milwaukee); The Chesapeake and Ohio Canal, BALTIMORE SUN, Jan. 28, 1845 (reporting an agreement that gave a railroad a monopoly to carry coal); The Story of a Great Monopoly, ATLANTIC, Mar., 1881 (detailing how Vanderbilt created railroad monopoly).
particularly relevant to Blodgett’s likely perception. For instance, an article reported that Charles Francis Adams, a well-respected authority on railroads, stated that it “has been long obvious, that the railroads of the country are tending toward some vast system of consolidation. They have already felt the tendency toward the ‘Trust’ which characterizes all great commercial enterprises at this time.”

An 1881 article published in Harper’s Weekly illustrates the view that railroads were monopolistic and restrained trade, although it does not directly argue for anti-trust laws as the remedy. It equates the monopolized industries of the time to conquerors controlling the country, and it names the railroad as king, “possessed of an undisputed sway.” The article refers to conduct that the Sherman Anti-Trust Act likely intended to condemn: agreements between the railroads to enter “pools” and “compacts” in order to “oppress merchants and travelers.” The article also underscores the perception that the railroads entered merger agreements with the intent to restrain trade. It says, “[W]e have seen railroad after railroad melt into one great monopoly, the idea of competition set aside, and a general union formed to raise the price of travel and freight.”

Another 1881 article, generally criticizing monopolies, stated that:

Examples of the injury suffered by the people, and the loss of the government’s ability to protect the people’s rights, are not wanting among us. Railway and telegraph companies become singly powerful, or powerful by the combination being made expressly to prevent healthy competition, and thus create a monopoly which shall be able to tax commerce and industry as it may please.

... The great railway company has more power over the commerce of a city than the State itself possesses: it can elevate or depress the commercial interests of a whole population...

In 1884, Allen G. Thurman, a prominent Ohio politician, said “I do fear they will build up the worst railroad monopoly ever seen in this country.” Therefore, although it was not entirely clear that the Sherman

---

55 Mr. Adams on Railroads, HARPER’S WEEKLY, Dec. 29, 1888, at 998. The article goes on to state that Adams supports further consolidation because it would allow for easier regulation. Id. The article’s author, however, warns that further consolidation under Trusts would be dangerous. Id.

56 Corporations and the State, HARPER’S WEEKLY, Mar. 19, 1881, at 186 (explaining that “[t]he whole internal trade and communication of the country has fallen under the control of a few active man” and that “not a passenger [can] cross the continent without paying them an exorbitant toll”).

57 Id.

58 Id. The article also refers to fierce competition between the railroads—conduct the Sherman Anti-Trust Act does not seek to condemn.

59 Corporations and the State, HARPER’S WEEKLY, Mar. 19, 1881, at 186.

60 Monopolies, HARPER’S WEEKLY, May 21, 1881, at 334.
Anti-Trust Act’s broad language would apply to railroads, there is enough evidence to show that Blodgett could have reasonably concluded that it did, or at the very least, a substantial probability that it would.

B. The Anticipated Effect on the NY&LB and the New Central Coal Company

On the date that Blodgett voted on the Sherman Anti-Trust Act, he was the Superintendent of NY&LB and was a director and vice president of the New Central Coal Company. The NY&LB railroad operated like much of the rest of railroad industry. Therefore, it is reasonable that Blodgett would have thought that his railroad too could be susceptible to scrutiny under the Sherman Anti-Trust Act. Consolidation at NY&LB provides several good examples of potentially condemnable conduct.

First, the NY&LB acquired four companies by merger on December 20, 1881. Those companies were the New Egypt and Farmingdale Railroad Company, the Long Branch and Sea Grit Railroad Company, The New York and Long Branch Extension Railroad Company, and the Long Branch and Barnegat Bay Railroad Company. Although the acquired railroads were relatively small, the mergers show the general consolidation trend in the industry, and that the NY&LB contributed to that trend. Second, on August 17, 1887, the Central Railroad of New Jersey became the sole owner of NY&LB stock by acquiring the remaining 25 percent of it.

61 The Great Boodle Monopoly, HARPER’S WEEKLY, Nov. 1, 1884, at 730.
62 The Supreme Court later confirmed that the act did indeed apply to railroads. United States v. Trans-Missouri Freight Assoc., 166 U.S. 290, 312 (1896).
63 Although not necessarily indicative of federal law, several state laws provide further evidence that Blodgett could have reasonably believed that railroads would have been subject to the act. See The State Capital—Anti-Monopoly, CHICAGO DAILY TRIBUNE, Feb. 18, 1873 (reporting on a bill introduced in the Illinois legislature “providing against monopoly on the part of common carriers in coal, and to compel railroad companies to transport coal from mines not owned by the railroad company, and without giving any preference to one coal company above another); The United States, THE ECONOMIST, June 22, 1889, at 800 (“[T]he State of Missouri will enforce a new ‘anti-trust and anti-pooling law,’ and bring to court all railway and trust companies which have traffic agreements, or have formed combinations to prevent competition.”).
64 ICC REPORT OF 1889 at 3; see also Long Branch, N.Y. Times, Oct. 5, 1890 (stating that Superintendent Blodgett “thought everything would be satisfactorily arranged” regarding a new train schedule). Blodgett did, however, appoint a NY&LB employee to act as Superintendent of the railroad when he was absent due to his commitments as a Senator. Personal, THE RED BANK REGISTER, Dec. 14, 1887. It appears that the acting Superintendent only functioned in that capacity on a limited basis, as records show that Blodgett was active as the railroads Superintendent while he was a Senator. See, e.g., Minutes of Meeting of Board of Adjustment of Passenger Rates, New York & Long Branch Railroad, Held at the Office of Mr. Wood, Philadelphia, Monday June 9th, 1890 (indicating that Blodgett was present at the meeting as Superintendent) available at Hagley Museum and Library, Wilmington, DE.
67 ICC REPORT OF 1889 at 1.
68 Minutes from the Meeting of the NY&LB Board of Directors, August 17, 1887 available at Hagley Museum and Library, Wilmington, DE; ICC REPORT OF 1889 at 8.
Additionally, like other industries that produced commodities carried by railroads, Blodgett could have reasoned that the New Central Coal Company would also be affected.69 This seems particularly likely given that Henry S. Little had recently switched from president of the Central Railroad of New Jersey to the New Central Coal Company, and one of his first tasks was to “provide the company with transportation facilities” that it lacked.70 Thus, due to Blodgett’s continued involvement in the NY&LB and the New Central Coal Company, he would have also had a personal interest in whether or not the Sherman Anti-Trust Act passed.

C. Putting Blodgett’s Vote in Context

Twenty-nine Senators did not vote on the bill.71 A logical question is whether these non-votes should be viewed as merely neutral, or as non-support. Of those twenty-nine Senators, twenty were likely in fact absent from the Senate that day, as they did not vote on any other matters.72 Nine were present, as indicated by their votes on other matters.73 Three of those Senators, Nelson W. Aldrich, John S. Barbour, and Henry B. Payne, allegedly had connections with industries that may show that their non-votes should be interpreted as a lack of support for the bill.74 Aldrich allegedly had connections with the Sugar Trust.75 Barbour was a former railroad president.76 And, allegedly, Standard Oil bribed the Ohio legislature to have Payne elected.77 The remaining six Senators who were present, but did not vote, did not have any obvious connections to industries that may have affected their position on the bill.78

69 See supra Part III.A.
70 A Change in Management, N.Y. TIMES, Dec. 14, 1889.
71 21 CONG. REC. 3153 (1890) (52 yeas, 1 nay, and 29 absent).
72 See 21 CONG. REC. 3132-53 (1890) (the Congressional Record for April 8).
73 21 CONG. REC. 3145 (1890).
74 Not voting on the bill may have been a middle ground for these Senators that allowed them to preserve their industry connections, yet not offend citizens of their states.
75 See Jerome L. Sternstein, Corruption in the Gilded Age Senate: Nelson W. Aldrich and the Sugar Trust, 6 CAPITOL STUDIES (1978) (describing Aldrich’s close ties to the Sugar Trust and his dedication to protecting the Sugar Trust during negotiations on the McKinley Tariff).
77 Standard-Oil Payne, CHICAGO DAILY TRIBUNE, Jan. 12, 1884 (reporting allegations that Standard Oil bribed the Ohio legislature in order to have Henry B. Payne elected).
78 21 CONG. REC. 3145 (1890) (Allen, Evarts, Hawley, Morrill, Squire, and Voorhees).
In contrast, several Senators who voted for the bill also had connections with industries that it could have affected. Senator Edmunds was a lawyer, and on retainer for the Vermont Central railroad. Senator McMillan was President of the Duluth, South Shore and Atlantic Railroad at the time of the vote. And, several decades earlier, Senator Dawes allegedly accepted stock of a company hired by the Union Pacific Company to build a road.

CONCLUSION

As Professor Orbach suggests, there is some support to show that Blodgett may have actually cast his vote against the Sherman Anti-Trust Act because his re-election was unlikely, rather than abstaining like the other Senators that may not have supported the act. This conclusion, however, is doubtful for two reasons. First, at the time of his vote against the Sherman Anti-Trust Act, Blodgett likely believed that he still had a chance to be re-elected. And second, the circumstances of Blodgett’s election to the Senate show that the railroad’s influence in the New Jersey Legislature put Blodgett into office in the first place. Thus, his vote against the Sherman Anti-Trust Act would have likely been perceived to support the constituency that elected him.

---

79 21 Cong. Rec. 3153 (1890) (Dawes, Edmunds, and McMillan). One explanation for these affirmative votes despite connections with the railroads or other monopolistic industries, is that they may have thought the act was too weak to have a great effect. See Thomas Carl Spelling, A Treatise on Trusts and Monopolies 221-22 (1893) (“But if the Fifty-first Congress had deliberately conspired to gain credit for striking a blow at the trusts under false pretences, it could not have succeeded better than by passing the erroneously prefixed Anti-Trust Bill approved July 2, 1890. It did not even frighten the trusts. It attempts to create and punish an offence not previously known to the laws of the United States, nor even to the common law, except when the act sought to be made an offence was the culmination of a conspiracy; and to do this by language so vague and general that the courts in each of the three cases presented under it to date found holes large enough to let through ‘coaches-and-fours.’”).

80 Current Comment, Washington Post, Mar. 20, 1883 (“‘Senator Edmunds is not a pauper,’ says an informant of the Critic, ‘he receives a liberal salary as counsel for the Vermont Central railroad, and is consulted for an opinion in all important cases before the Supreme court. His annual income, it is said, is not far from $100,000.’”)

81 See News About Railroads – Senator M’Millan to Retire From Management, N.Y. Times, Jul. 12, 1890 (stating that McMillan will not accept a re-election as president of the railroad at an upcoming annual meeting on July 17, 1890).

82 Congress and Credit Mobilier, Christian Union, Jan. 29, 1873. While an analysis of Blodgett’s votes on other matters that would have an effect on the railroad industry may provide additional insight into his vote on the Sherman Anti-Trust Act, it is outside the scope of this Article.

83 See supra note 3.

84 See Blodgett’s Silver Vote, N.Y. Times, July 2, 1892, at 7 (explaining that Blodgett would not likely be elected the following year, and because of this could vote as he pleased for Steward Silver Bill of 1892 – “[T]he general notion is that Mr. Blodgett voted for the bill only because he is full of crotchets, and he can gratify them now without doing himself any political harm.”).

85 See Jersey’s Next Senator – Senator Blodgett Thinks it Too Soon to Predict, N.Y. Times, Jun. 8, 1890. Blodgett cast his vote against the Sherman Anti-Trust Act on April 8, 1890. 21 Cong. Rec. 3153 (1890).

86 See supra Part II.A.
Regardless of the reason that Blodgett actually decided to cast the single vote against the Sherman Anti-Trust Act, the historical evidence points to the conclusion that he was an ardent railroad supporter who likely believed that the Act would hurt the railroads.