

of city elections, then such elections must be held under the old law of 1878, which is not superseded or repealed. That act (Sec. 262, Compiled Laws of 1888) provides: "All municipal elections shall be held and conducted, and the returns and canvass of votes thereof made substantially in accordance with the provisions of this act, and it shall be the duty of the city councils of their respective cities to provide for the registration of voters and the appointment or election of all officers necessary, and to furnish all necessary appliances for the carrying out of the provisions of this section, and to aid them therein the clerk of the county court, on the demand of the Recorder of any municipal corporation, shall, on payment of the proper fees, furnish a certified copy of the registry list of voters of any precinct, or part thereof, within any such municipality."

A law for the approval of Congress cannot be complete or adequate if it makes no provision for municipal elections, and leaves them to be held under the act of 1878. That law contains the old registration oath, the old provisions for the qualification of voters and office holders, and provisions for registration and the conduct of elections quite different from those of the proposed act. I do not doubt that the acts of Congress modify the old law as to the qualification of voters, but the time and manner of ascertaining and enforcing these qualifications would be a matter of controversy in the absence of legislation to carry the acts of Congress into practical effect, and legislation failing to do this is not the kind referred to in the acts of Congress.

I have not carefully examined all the details of the act, it having reached me at 1 p.m. of yesterday, too late for careful consideration, but it differs in detail from an act in my hands on the same subjects, intended to govern the action of the Utah Commission. The general objections to the scope of the act are too great to make a detailed examination necessary. This act is a substitute for a large part of the registration and election law of 1878, and that chapter, of which so much is superseded here, contains provisions in conflict with the organic act, and provides that the Territorial Treasurer and Auditor shall be elected by the people; also that vacancies in the office of Probate Judge shall be filled by election. My predecessors in office have repeatedly urged the Legislative Assembly to repeal these laws, and fetch the statute book from such unlawful provisions. I refrained from repeating this request because it seemed the plain provisions of the organic act, and the decision of the Supreme Court of the United States, furnished much better guides for legislation on these subjects than any I could give. There are several other laws of like nature which conflict with the organic act and encroach on the power Congress has vested in the governor. I mention especially those in the same chapter revised by this proposed act, because

they could not have been overlooked with reasonable care to see how the chapter should be amended, or, if they were overlooked, it shows the act has not received sufficient care.

The history of this controversy is well known and the deference due to Congressional action and the plain duty imposed on me to execute the authority conferred by Congress, would lead me to hesitate to send to that body for approval an act which by its carefully worded repealing clause leaves these unlawful provisions standing on the statute book and in the same chapter the act revises.

While these are objections that could be removed, the important objection remains that the act is a step in the direction of returning to the people of the Territory of Utah the full measure of self government which Congress has deemed it necessary to withdraw, but it is not in harmony with the views and purposes of the American people as expressed in the acts of Congress.

Assuming the full responsibility for my action, I return the bill disapproved, believing that if I should approve it, and Congress should approve it, it would not result in good to the people of the Territory, but would serve to prolong a conflict which under existing conditions, and progressive influence, is solving itself.

I am, very respectfully,

ARTHUR L. THOMAS,  
Governor.

EXECUTIVE OFFICE,  
SALT LAKE CITY, March 13, 1890. }

Hon. F. S. Richards, President of the Council.—Sir—I return disapproved C. F. 49, entitled, "An Act in relation to the registering of voters and conducting of elections, and amending Sections 238, 245 and 246 of the Compiled Laws of Utah of 1888, relating to registrations and elections."

The act amends three sections of Chapter IX, Vol. I, of the Compiled Laws of 1888 (which provides for the registration of voters, the conduct of elections and the canvass and return of the votes), contains provisions intended as a substitute for other portions of the chapter, and leaves other parts of the same chapter unchanged. It is intended, so far as it changes the existing laws, to govern the action of the Utah Commission, and all officers in the course of registration, and in the conduct of elections, and provides it shall be in force when approved. It contains no repealing clause, and is not intended for the approval of Congress. Chapter IX, was enacted February 22, 1878, and has been the rule of action on the subjects named ever since, except so far as qualified by Acts of Congress respecting the qualification of voters, and the appointment of officers to execute the provisions of the law.

The act of Congress of March 22, 1882, (Sec. 9) created the Utah Commission, and among other things defined its duty in these words:

"Each and every duty relating to the registration of voters, the conduct of elections, the receiving

or rejection of votes, and the canvassing and return of the same, and the issuing of certificates or other evidence of election in said Territory, shall until other provisions be made by the Legislative Assembly of said Territory, as is hereinafter provided, be performed under existing laws of the United States and of said Territory by proper persons, who shall be appointed," etc.

The same section provided that at or after the first meeting of the Legislature elected under this act:

"Said Legislative Assembly may make such laws conformable to the organic act of said Territory, and not inconsistent with other laws of the United States, as it shall deem proper concerning the filling of the offices in said Territory declared vacant by this act."

By the act of March 3, 1887, Congress further provided that the provisions of the act of 1882, in this respect, should remain operative "until the provisions and law therein referred to, to be made and enacted by the Legislative Assembly of said Territory of Utah, shall have been made and enacted by said Assembly, and shall have been approved by Congress."

The entire legislative power was and is in Congress, which may delegate to the Utah Legislature such powers as it chooses, and afterward change the extent of the granted power, or withdraw it in whole or in part, and Congress has retained the power of approval or disapproval of all acts passed under the delegated power.

At the time of the passage of the act of 1882 Congress did not change the election laws of Utah in regard to elections, except as to certain disqualifications, but changed the persons to execute them. This indicated an approval of the laws as they then stood. Had the election laws been different, they might or might not have been approved, and changes in the laws themselves might or might not have been made. The words, "under existing laws," would not, of course, prevent Congress from making any desired change. Whether or not these words mean that the duties of the Commission should be performed under the laws of Utah as they then existed, or as they should exist at the time of the performance of the duty, may be a matter of doubt. If it be assumed the latter is the meaning and that the power to change the laws without first obtaining the approval of Congress exists, and still exists, except as to the method of filling the offices, it still remains that the duty of the Commission and its appointees was prescribed with reference to these laws, and that while the duty of the Commission is largely administrative, any such change in the laws as would affect these duties would be affecting, so far, the acts of Congress and the policy of the enactments.

This proposed act makes so many changes that it is not desirable to attempt to mention all of them. The reason for many of them is not apparent. Some are in conflict with the provisions of the act of Congress