

will cause it to be one of exceptional bitterness.

The Catholic Church opened an aggressive warfare upon the Church of Jesus Christ of Latter-day Saints last November. She is now getting a dose of her own medicine.

POWERS OF U. S. MARSHALS.

THE calamity which was consequent upon the arrest without a warrant of Thomas B. Helm, by officers at Pleasant View, Weber County, has caused some dispute as to the powers of United States Marshals and their deputies. It is claimed that the Edmunds-Tucker Act of 1887 endowed them with enlarged powers. This is true, but it is necessary to understand both the scope and the limit of those powers, in order to judge correctly as to the subject in consideration. That Act provides as follows:

Sec. 8. That the marshal of said Territory of Utah, and his deputies shall possess and may exercise all the powers in executing the law of the United States or of said Territory possessed and exercised by sheriffs, constables, and their deputies as peace officers; and each of them shall cause all offenders against the law in his view, to enter into recognizance to keep the peace and to appear at the next term of the court having jurisdiction of the case, and to commit to jail in case of failure to give such recognizance. They shall quell and suppress assaults and batteries, riots, routs, affrays and insurrections.

This simply extends to these Federal officers the same powers as may be exercised by local peace officers, in executing the laws of the United States or the Territory. "Offenders in his view" means persons who in the view or sight or presence of the officer commit an offense against the law. In such case the Marshal or his deputy may arrest the lawless person without a warrant. The meaning of the term "in his view" is established. It does not signify "in his opinion" or "in his belief" or anything of this character, as some persons have supposed. Simpson's Law Glossary defines the word "view" as signifying "sight," "inspection," etc. The phrase in the section quoted above simply means that the officer may arrest an offender whom he witnesses in the act of causing a breach of the peace.

To cause such offenders to enter into recognizance to keep the peace does not authorize a marshal or his deputy to assume the functions of a Justice of the Peace, but he must cause the offender to go before the proper functionary and enter into such recognizance or to put him in jail if he will not comply.

When a warrant has been issued for an all-ged offense the officer must serve that warrant as provided by law. Bishop, on Criminal Procedure, says:

"For a past offence lower than felony, none of these officers [sheriffs, constables, conservators of the peace] can make an arrest without a warrant." Vol. 1, sec. 161.

"The like rule applies also in one respect in all other misdemeanors, namely, that a private person (and the same is true of an officer) acting without a warrant, cannot make the arrest for a misdemeanor committed on an occasion already passed." Sec. 167.

Wharton's Criminal Procedure says:

"It is a misdemeanor at common law for a public officer, in the exercise or under color of exercising the duties of his office, to abuse any discretionary power with which he is invested by law, from an improper motive. In such cases the existence of such motive may be inferred either from the nature of the act or from circumstances of the whole case." Sec. 1572.

The officers of the law must be protected in the legitimate discharge of their duties. But they must be careful to keep within the limits of their authority. They should have produced the warrant for the arrest of Mr. Helm. The death of his wife consequent upon the violence used to compel him to go with the officers without service of a warrant, lays them liable to the consequences of their unlawful act.

It is wrong to resist an officer in the lawful discharge of his duty. It is not wrong to make resistance when the officer is acting unlawfully.

The same recognized legal authority, Wharton, says:

"The right of resistance to illegal official action, it must be remembered, is essential, not merely to all free government, but to any government whatsoever. The Roman law has been charged with being despotic, but by the Roman law this right is repeatedly and unreservedly recognized."

The duties of U. S. Marshals and their deputies are well defined, and we have always advised respectful recognition of their legitimate authority. But we are not to be brought into serfdom by officers who exceed their powers because they are clothed with Federal power. When they break the law they are criminals, just as much as other offenders, and should be made amenable to the law.

It is not the duty of such officers to become spies and spotters or to assume the functions of public prosecutors. Those who take the ground that these are within the scope of their official authority are mistaken. They are executive officers and should arrest accused persons on a

warrant duly issued and when a violation of law occurs within their view, i.e. their sight, their cognizance, they may arrest the offender without a warrant.

Let no officer be resisted in the lawful discharge of his duty; let no officer transcend his powers, even if urged beyond their legitimate limits by persons or papers that will not be responsible for any excess of such authority.

THE DISFRANCHISEMENT BILLS.

As a matter of current and historical interest we publish herewith the full text of the anti-"Mormon" disfranchisement bill, the product of R. N. Baskin's narrow-gauge mind, introduced into the House of Representatives by Congressman Struble, April 11th, 1890.

A BILL

To amend the act of Congress of March third, eighteen hundred and eighty-seven, entitled "An act to amend an act entitled 'An act to amend section fifty-three hundred and fifty-two of the Revised Statutes of the United States in reference to bigamy and for other purposes, approved March twenty-second, eighteen hundred and eighty-two.'"

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That no person who is living in what is known as patriarchal plural, or celestial marriage, or in violation of any law of the United States forbidding any such crime, or who in any manner teaches, advises, counsels, aids, or encourages any person to enter into bigamy, polygamy, or such patriarchal, plural, or celestial marriage, or to live in violation of any such law, or to commit any such crime, or who is a member of, or contributes to the support, aid, or encouragement of, any order, organization, association, or society which teaches, advises, counsels, encourages, or aids any person to enter into bigamy, polygamy, or such patriarchal or plural celestial marriage, or which teaches or advises that any such law as aforesaid is not supreme, or that any alleged revelation on the subject of such marriage is paramount to any such law or any of the doctrines, tenets, teachings, or instructions of which, or any alleged revelations to which, require, encourage, advise, authorize, or instruct any person, under any circumstances, to enter into or practice the relations of bigamy, polygamy, or plural, patriarchal or celestial marriage, or in which the solemnization or ceremonies of bigamous, polygamous, plural, patriarchal, or celestial marriage is authorized, performed, or provided for, or in which any person in any way is assisted, aided, or abetted in the solemnization or ceremonies of any such marriage, or in which any party participating in the solemnization or ceremonies of any marriage is bound to secrecy regarding the same, under any oath, obligation, covenant, penalty, or promise, shall either vote, serve as juror, or be selected to, or hold any civil office in the Territory of Utah.

Sec. 2. That instead of the oath prescribed in such cases by the act of