

Constitution with matters that should be left to the Legislature. Against this tendency the various committees should make a determined stand, not only in their own interest to expedite matters, but in the interest of the whole people. The purpose of the Constitution is not to tie up the Legislature or the people so they can move only within narrow limits, like the walls of an iron cell. It should lay down fundamental principles to guide the policy of the State, leaving to the Legislature, as the direct representatives of the people, the broadest exercise of power consistent with the welfare of all. If this tendency to legislate in the Constitution should prevail, and it should be accepted by the people for want of something better to choose, we will have a State charter at which constant, and essentially expensive, tinkering will be necessary. Again we urge that legislation should be left to the Legislature. Utah's Constitution should not be burdened with a civil and penal code, or with any other matter that can be safely left with the people's representatives to dispose of as occasion may require.

LI HUNG CHANG IN JAPAN.

The arrival of Viceroy Li Hung Chang in Japan as China's envoy to sue for peace is one of the remarkable events of this age. It is pointed out that this is the first time in his life the aged statesman has set foot outside the boundaries of his country, which fact renders the present journey to the country of China's traditional and despised enemy all the more memorable. Japan's phenomenal victories preclude the possibility of resistance on the part of the Chinese government to any terms the mikado's representatives may insist upon; the latter will be restricted in their demands only by the objections of interested western powers. Still, since the peace negotiations consequently will be carried on virtually between these and Japan, the viceroy's recognized diplomatic ability, if properly playing upon the diversified local interests, may secure much better terms of peace than a conquered country otherwise might expect.

What Japan's demands are, is as yet not positively known, but rumor has it that the viceroy is empowered to consent to the cession of all the territory now occupied by the invaders and the island of Formosa, besides a war indemnity guaranteed by customs receipts. China's fleet will also be thrown in if necessary. Should this arrangement be carried out, Japan would become the possessor of not only two of the most important ports of China, commanding the entrance to Peking, but also the whole province of Manchuria in addition to the island of Formosa.

The question of the indemnity is thought to be of particular interest to the United States, because if the demand is made for the payment of \$250,000,000 or more in gold, such disturbances in the financial world are anticipated that might result in the drain of our treasury supply of gold. But as ex-Secretary of State Foster is the legal adviser of China in this affair and as Ministers Dunn at Tokio and Denby

at Peking have been applied to to use their good offices in the negotiations, it is confidently expected that no agreement detrimental to the interests of the United States will be entered into. Li Hung Chang's mission to Japan is likely to be fulfilled in a few days and the terms of peace will soon be announced officially, unless some unexpected obstacle arises. But whatever the results of this mission may be, the present war marks an epoch in the history of Asia, perhaps of the world, and its effects will be felt throughout centuries to come.

THAT IRRIGATION ARTICLE.

The NEWS gave space to an explanation, before the committee on agriculture, etc., of the Constitutional Convention, by the secretary of the Irrigation commission, of the intent of the article proposed by that body for the Constitution, upon the subject of irrigating water. And from what we can glean from a careful reading of the explanation itself, which is by no means clear or free from contradictions, we are perfectly satisfied (as we were at first) that the intention of the commission was all right, and if properly placed before the Constitutional Convention and the people would receive their endorsement. The trouble is that the suggested article which has been criticized did not express the intention which the explanation seeks to convey. It was well to suggest the utter absurdity of the members composing the commission presenting "anything but what they deemed would be for the best interest of all our people." It may be timely now to add for the information of the public that: (1) The suggested article (perhaps inadvertently) did not express the intention of the Irrigation commission; (2) the manner of its wording obscured, and in some respects traversed the original design; and (3) the formulated document was not submitted to or considered and passed upon by the commission, and therefore the gentlemen composing that body in its entirety do not recommend it and are not responsible for its provisions. The secretary states that the suggested article is "almost the exact verbiage" of the Wyoming constitution. That is the trouble; it is the "verbiage," the superabundance of words of which the article chiefly consists, that is objected to.

We fully realize the necessity of an irrigation article in the Constitution; we also recognize the fact that there is no vested right to the water—the corpus—but that all vested rights are to the use of certain proportions for specific purposes, whether that use temporarily diverts or permanently removes the liquid from its natural channel; further, we comprehend the necessity for a uniform system of State control. Since the discussion has gone this far, therefore, we will suggest our view of what might be acceptable in the Constitution. We present this in brief form, from a desire not to encroach upon the ground of the committee having the matter in charge:

1. A declaration of ownership by the State of all public waters.

2. A recognition of water rights (the right to use through priority of appropriation, etc.) inhering in the land.

3. The assumption of control by the State of the distribution of the water in accord with acquired rights.

4. The institution of a State board of control composed of a competent State engineer appointed by the Governor and confirmed by the Senate, and of four other persons selected from defined districts by vote of the people; the decisions of this board to be subject to review by the State courts.

The framing of these provisions in simple and concise language we believe to be all that is necessary for the irrigation article in the Constitution, and a sufficient guide for the Legislature in the enactment of laws consistent with existing rights and conditions and equal to future needs.

WHAT THE RECORD TELLS.

When the work in the paving district was done there were a few property owners in the business quarter who applied for and gained temporary exemption from the City Council order requiring the sidewalks to conform to the fixed grade. These exempted walks are not only unsightly and a public inconvenience, but have been the occasion of damage suits against the city. For instance, on one, the slope of which varies from that established and is such as to be dangerous to pedestrians in wet weather, a man slipped and fell. In trying to save himself he caught his arm on sharp iron spikes attached to the building adjacent, severely injuring him. He now has a \$15,000 damage suit against the city. On another of these out-of-grade sidewalks a lady fell and received injuries for which there is now a \$3,000 suit against the municipality. Besides these there are other claims for damage from the same source.

Since the temporary exemption was granted there have been three efforts in the City Council to have these sidewalks conform to the requirements which had to be met by others. The first time this was done, the Council passed a resolution ordering compliance. The owners of the objectionable sidewalks got to work, and the next meeting the Council rescinded its action. A few months later a second resolution of similar character to the first was adopted and referred to the board of public works to carry out. The favored owners rustled again and secured a report to the Council recommending that the change be not made, because it was late in the season and frosty weather was approaching. That disposed of order number two. The third time was this month. The resolution passed all right, as on former occasions; but the owners effected again had their labors crowned with success, for at the last session of the Council action was taken practically rescinding the order for conformity to grade, passed for the third time.

The direction for grade requirements to be completed with is in accord with the rule of treating all property owners alike. The repeated revocations of orders therefore shows how a special few can be and are favored over the many. The bulk of property owners had to come to time in good shape, but for these few—well, the record speaks.