

EXCERPTS FROM THE MEIJI CONSTITUTION OF 1889

Introduction

Promulgated on February 11, 1889, the Meiji Constitution was a major landmark in the making of the modern Japanese state and in Japan's drive to become one of the world's advanced, "civilized" powers. Drafted by Itō Hirobumi, a group of other government leaders, and several Western legal scholars, the document was bestowed on the Japanese people by the Emperor Meiji and established Japan as a constitutional monarchy with a parliament (called the Diet), the lower house of which was elected. Itō and his associates drew heavily on Western models, and especially the conservative traditions of Prussia, in creating a constitution that reserved almost unrestricted power for the Emperor while still permitting the creation of democratic institutions.

Document Excerpts with Questions (Longer selection follows this section)

From *Modern Japan: A Brief History*, by Arthur Tiedemann (New York: D. Van Nostrand Reinhold Co., 1962). © 1962 D. Van Nostrand Reinhold Co. [NOTE: This text originally appeared in *Commentaries on the Constitution of the Empire of Japan*, by Itō Hirobumi, translated by Itō Myoji (Tokyo).]

Excerpts from The Meiji Constitution of 1889

Preamble

Having, by virtue of the glories of Our Ancestors, ascended the Throne of a lineal succession unbroken for ages eternal; desiring to promote the welfare of, and to give development to the moral and intellectual faculties of Our beloved subjects, the very same that have been favored with the benevolent care and affectionate vigilance of Our Ancestors; and hoping to maintain the prosperity of the State, in concert with Our people and with their support, We hereby promulgate, in pursuance of Our Imperial Rescript of the 12th day of the 10th month of the 14th year of Meiji, a fundamental law of State, to exhibit the principles, by which We are to be guided in Our conduct, and to point out to what Our descendants and Our subjects and their descendants are forever to conform.

The rights of sovereignty of the State, We have inherited from Our Ancestors, and We shall bequeath them to Our descendants. Neither We nor they shall in future fail to wield them, in accordance with the provisions of the Constitution hereby granted.

We now declare to respect and protect the security of the rights and of the property of Our people, and to secure to them the complete enjoyment of the same, within the extent of the provisions of the present Constitution and of the law. ...

Questions:

1. According to the Meiji Constitution, what is the source of the Emperor's legitimacy as ruler of Japan?
2. Who holds sovereignty over Japan in this constitutional system? Why is this important?

Chapter II
Rights and Duties of Subjects

ARTICLE XX. Japanese subjects are amenable to service in the Army or Navy, according to the provisions of law.

ARTICLE XXIX. Japanese subjects shall, within the limits of law, enjoy the liberty of speech, writing, publication, public meetings and associations.

Questions:

3. In the Meiji Constitution, the people of Japan are referred to as "subjects," not as citizens. What is the difference, and why is this significant?
4. What rights do Japanese subjects have under this document? Are these absolute rights?

Chapter III
The Imperial Diet

ARTICLE XXXIII. The Imperial Diet shall consist of two Houses, a House of Peers and a House of Representatives.

ARTICLE XXXIV. The House of Peers shall, in accordance with the Ordinance concerning the House of Peers, be composed of the members of the Imperial Family, of the orders of nobility, and of those persons who have been nominated thereto by the Emperor.

ARTICLE XXXV. The House of Representatives shall be composed of Members elected by the people, according to the provisions of the Law of Election.

Questions:

5. In drafting the Meiji Constitution, Itō and his associates attempted to circumscribe the potential power of the elected lower house of the Diet (the House of Representatives). Article LXXI was intended to insure that the Diet could not shut down government by refusing to pass a budget. As it turned out, however, political parties in the Diet would later use Article LXXI to successfully apply pressure to the Emperor and his advisors. How do you think this was possible?

Longer Selection with Questions

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The rights of sovereignty of the State, We have inherited from Our Ancestors, and We shall bequeath them to Our descendants. Neither We nor they shall in future fail to wield them, in accordance with the provisions of the Constitution hereby granted.

We now declare to respect and protect the security of the rights and of the property of Our people, and to secure to them the complete enjoyment of the same, within the extent of the provisions of the present Constitution and of the law.

The Imperial Diet shall first be convoked for the 23rd year of Meiji and the time of its opening shall be the date when the present Constitution comes into force.

When in the future it may become necessary to amend any of the provisions of the present Constitution, We or Our successors shall assume the initiative right, and submit a project for the same to the Imperial Diet. The Imperial Diet shall pass its vote upon it, according to the conditions imposed by the present Constitution, and in no otherwise shall Our descendants or Our subjects be permitted to attempt any alteration thereof.

Our Ministers of State, on Our behalf, shall be held responsible for the carrying out of the present Constitution, and Our present and future subjects shall forever assume the duty of allegiance to the present Constitution.

Chapter 1
The Emperor

ARTICLE I. The Empire of Japan shall be reigned over and governed by a line of Emperors unbroken for ages eternal.

ARTICLE II. The Imperial Throne shall be succeeded to by Imperial male descendants, according to the provisions of the Imperial House Law.

ARTICLE III. The Emperor is sacred and inviolable.

ARTICLE IV. The Emperor is the head of the Empire, combining in Himself the rights of sovereignty, and exercises them, according to the provisions of the present Constitution.

ARTICLE V. The Emperor exercises the legislative power with the consent of the Imperial Diet.

ARTICLE VI. The Emperor gives sanction to laws and orders them to be promulgated and executed.

ARTICLE VII. The Emperor convokes the Imperial Diet, opens, closes and prorogues it, and dissolves the House of Representatives.

ARTICLE VIII. The Emperor, in consequence of an urgent necessity to maintain public safety or to avert public calamities, issues, when the Imperial Diet is not sitting, Imperial Ordinances in the place of law.

Such Imperial Ordinances are to be laid before the Imperial Diet at its next session, and when the Diet does not approve the said Ordinances, the Government shall declare them to be invalid for the future.

ARTICLE IX. The Emperor issues or causes to be issued, the Ordinances necessary for the carrying out of the laws, or for the maintenance of the public peace and order, and for the promotion of the welfare of the subjects. But no Ordinance shall in any way alter any of the existing laws.

ARTICLE X. The Emperor determines the organization of the different branches of the administration, and salaries of all civil and military officers, and appoints and dismisses the same. Exceptions especially provided for in the present Constitution or in other laws, shall be in accordance with the respective provisions (bearing thereon).

ARTICLE XI. The Emperor has the supreme command of the Army and Navy.

ARTICLE XII. The Emperor determines the organization and peace standing of the Army and Navy.

ARTICLE XIII. The Emperor declares war, makes peace, and concludes treaties.

ARTICLE XIV. The Emperor declares a state of siege. The conditions and effects of a state of siege shall be determined by law.

ARTICLE XV. The Emperor confers titles of nobility, rank, orders and other marks of honor.

ARTICLE XVI. The Emperor orders amnesty, pardon, commutation of punishments and rehabilitation.

ARTICLE XVII. A Regency shall be instituted in conformity with the provisions of the Imperial House Law. The Regent shall exercise the powers appertaining to the Emperor in His name.

Chapter II Rights and Duties of Subjects

ARTICLE XVIII. The conditions necessary for being a Japanese subject shall be determined by law.

ARTICLE XIX. Japanese subjects may, according to qualifications determined in laws or ordinances, be appointed to civil or military or any other public offices equally.

ARTICLE XX. Japanese subjects are amenable to service in the Army or Navy, according to the provisions of law.

ARTICLE XXI. Japanese subjects are amenable to the duty of paying taxes, according to the provisions of law.

ARTICLE XXII. Japanese subjects shall have the liberty of abode and of changing the same within the limits of law.

ARTICLE XXIII. No Japanese subject shall be arrested, detained, tried or punished, unless according to law.

ARTICLE XXIV. No Japanese subject shall be deprived of his right of being tried by the judges determined by law.

ARTICLE XXV. Except in the cases provided for in the law, the house of no Japanese subject shall be entered or searched without his consent.

ARTICLE XXVI. Except in the cases mentioned in the law, the secrecy of the letters of every Japanese subject shall remain inviolate.

ARTICLE XXVII. The right of property of every Japanese subject shall remain inviolate. Measures necessary to be taken for the public benefit shall be provided for by law.

ARTICLE XXVIII. Japanese subjects shall, within limits not prejudicial to peace and order, and not antagonistic to their duties as subjects, enjoy freedom of religious belief.

ARTICLE XXIX. Japanese subjects shall, within the limits of law, enjoy the liberty of speech, writing, publication, public meetings and associations.

ARTICLE XXX. Japanese subjects may present petitions, by observing the proper forms of respect, and by complying with the rules specially provided for the same.

ARTICLE XXXI. The provisions contained in the present Chapter shall not affect the exercise of the powers appertaining to the Emperor, in times of war or in cases of a national emergency.

ARTICLE XXXII. Each and every one of the provisions contained in the preceding Articles of the present Chapter, that are not in conflict with the laws or the rules and discipline of the Army and Navy, shall apply to the officers and men of the Army and of the Navy.

Chapter III The Imperial Diet

ARTICLE XXXIII. The Imperial Diet shall consist of two Houses, a House of Peers and a House of Representatives.

ARTICLE XXXIV. The House of Peers shall, in accordance with the Ordinance concerning the House of Peers, be composed of the members of the Imperial Family, of the orders of nobility, and of those persons who have been nominated thereto by the Emperor.

ARTICLE XXXV. The House of Representatives shall be composed of Members elected by the people, according to the provisions of the Law of Election.

ARTICLE XXXVI. No one can at one and the same time be a Member of both Houses.

ARTICLE XXXVII. Every law requires the comment of the Imperial Diet.

ARTICLE XXXVIII. Both Houses shall vote upon projects of law submitted to it by the Government, and may respectively initiate projects of law.

ARTICLE XXXIX. A bill, which has been rejected by either the one or the other of the two Houses, shall not be again brought in during the same session.

ARTICLE XL. Both Houses can make representations to the Government, as to laws or upon any other subject.

When, however, such representations are not accepted, they cannot be made a second time during the same session.

ARTICLE XLI. The Imperial Diet shall be convoked every year.

ARTICLE XLII. A session of the Imperial Diet shall last during three months. In case of necessity, the duration of a session may be prolonged by Imperial Order.

ARTICLE XLIII. When urgent necessity arises, an extraordinary session may be convoked, in addition to the ordinary one.

The duration of an extraordinary session shall be determined by Imperial Order.

ARTICLE XLIV. The opening, closing, prolongation of session and prorogation of the Imperial Diet, shall be effected simultaneously for both Houses.

In case the House of Representatives has been ordered to dissolve, the House of Peers shall at the same time be prorogued.

ARTICLE XLV. When the House of Representatives has been ordered to dissolve, Members shall be caused by Imperial Order to be newly elected, and the new House shall be convoked within five months from the day of dissolution.

ARTICLE XLVI. No debate can be opened and no vote can be taken in either House of the Imperial Diet, unless not less than one third of the whole number of the Members thereof is present.

ARTICLE XLVII. Votes shall be taken in both Houses by absolute majority. In the case of a tie vote, the President shall have the casting vote.

ARTICLE XLVIII. The deliberations of both Houses shall be held in public. The deliberations may, however, upon demand of the Government or by resolution of the House, be held in secret sitting.

ARTICLE XLIX. Both Houses of the Imperial Diet may respectively present addresses to the Emperor.

ARTICLE L. Both Houses may receive petitions presented by subjects.

ARTICLE LI. Both Houses may enact, besides what is provided for in the present Constitution and in the Law of the Houses, rules necessary for the management of their internal affairs.

ARTICLE LII. No Member of either House shall be held responsible outside the respective Houses, for any opinion uttered or for any vote given in the House. When, however, a Member himself has given publicity to his opinions by public speech, by documents in print or in writing, or by any other similar means, he shall, in the matter, be amenable to the general law.

ARTICLE LIII. The Members of both Houses shall, during the session, be free from arrest, unless with the consent of the House, except in cases of flagrant delictus, or of offences connected with a state of internal commotion or with a foreign trouble.

ARTICLE LIV. The Ministers of State and the Delegates of the Government may, at any time, take seats and speak in either House.

Chapter IV

The Ministers of State and the Privy Council

ARTICLE LV. The respective Ministers of State shall give their advice to the Emperor, and be responsible for it.

All Laws, Imperial Ordinances and Imperial Rescripts of whatever kind, that relate to the affairs of the State, require the countersignature of a Minister of State.

ARTICLE LVI. The Privy Councilor shall, in accordance with the provisions for the organization of the Privy Council, deliberate upon important matters of State, when they have been consulted by the Emperor.

Chapter V The Judiciary

ARTICLE LVII. The Judiciary shall be exercised by the Courts of Law according to law, in the name of the Emperor.

The organization of the Courts of Law shall be determined by law.

ARTICLE LVIII. The judges shall be appointed from among those who possess proper qualifications according to law.

No judge shall be deprived of his position, unless by way of criminal sentence or disciplinary punishment.

Rules for disciplinary punishment shall be determined by law.

ARTICLE LIX. Trials and judgments of a Court shall be conducted publicly. When, however, there exists any fear that such publicity may be prejudicial to peace and order, or to the maintenance of public morality, the public trial may be suspended by provision of law or by the decision of the Court of Law.

ARTICLE LX. All matters that fall within the competency of a special Court shall be specially provided for by law.

ARTICLE LXI. No suit at law, which relates to rights alleged to have been infringed by the illegal measures of the administrative authorities and which shall come within the competency of the Court of Administrative Litigation specially established by law, shall be taken cognizance of by a Court of Law.

Chapter VI Finance

ARTICLE LXII. The imposition of a new tax or the modification of the rates (of an existing one) shall be determined by law.

However, all such administrative fees or other revenue having the nature of compensation shall not fall within the category of the above clause.

The raising of national loans and the contracting of other liabilities to the charge of the National Treasury, except those that are provided in the Budget, shall require the consent of the Imperial Diet.

ARTICLE LXIII. The taxes levied at present shall, in so far as they are not remodeled by a new law, be collected according to the old system.

ARTICLE LXIV. The expenditure and revenue of the State require the consent of the Imperial Diet by means of an annual Budget.

Any and all expenditures overpassing the appropriations set forth in the Titles and Paragraphs of the Budget, or that are not provided for in the Budget, shall subsequently require the approbation of the Imperial Diet.

ARTICLE LXV. The Budget shall be first laid before the House of Representatives.

ARTICLE LXVI. The expenditures of the Imperial House shall be defrayed every year out of the National Treasury, according to the present fixed amount for the same, and shall not require the consent thereto of the Imperial Diet, except in case an increase thereof is found necessary.

ARTICLE LXVII. Those already fixed expenditures based by the Constitution upon the powers appertaining to the Emperor, and such expenditures as may have arisen by the effect of law, or that appertain to the legal obligations of the Government, shall be neither rejected nor reduced by the Imperial Diet, without the concurrence of the Government.

ARTICLE LXVIII. In order to meet special requirements, the Government may ask the consent of the Imperial Diet to a certain amount as a Continuing Expenditure Fund, for a previously fixed number of years.

ARTICLE LXIX. In order to supply deficiencies, which are unavoidable, in the Budget, and to meet requirements unprovided for in the same, a Reserve Fund shall be provided in the Budget.

ARTICLE LXX. When the Imperial Diet cannot be convoked, owing to the external or internal condition of the country, in case of urgent need for the maintenance of public safety, the Government may take all necessary financial measures, by means of an Imperial Ordinance.

In the case mentioned in the preceding clause, the matter shall be submitted to the Imperial Diet at its next session, and its approbation shall be obtained thereto.

ARTICLE LXXI. When the Imperial Diet has not voted on the Budget, or when the Budget has not been brought into actual existence, the Government shall carry out the Budget of the preceding year.

ARTICLE LXXII. The final account of the expenditures and revenue of the State shall be verified and confirmed by the Board of Audit, and it shall be submitted by the Government to the Imperial Diet, together with the report of verification of the said Board.

The organization and competency of the Board of Audit shall be determined by law separately.

**Chapter VII.
Supplementary Rules**

ARTICLE LXXIII. When it has become necessary in future to amend the provisions of the present Constitution, a project to the effect shall be submitted to the Imperial Diet by Imperial Order.

In the above case, neither House can open the debate, unless not less than two-thirds of the whole number of Members are present, and no amendment can be passed, unless a majority of not less than two-thirds of the Members present is obtained.

ARTICLE LXXIV. No modification of the Imperial House Law shall be required to be submitted to the deliberation of the Imperial Diet.

No provision of the present Constitution can be modified by the Imperial House Law.

ARTICLE LXXV. No modification can be introduced into the Constitution, or into the Imperial House Law, during the time of a Regency.

ARTICLE LXXVI. Existing legal enactments, such as laws, regulations, Ordinances, or by whatever names they may be called, shall, so far as they do not conflict with the present Constitution, continue in force.

All existing contracts or orders, that entail obligations upon the Government, and that are connected with expenditure, shall come within the scope of ARTICLE LXVII.

Questions:

6. The Meiji Constitution has often been faulted for its vagueness regarding who would exert authority in the Japanese government, especially since it was well established that the Emperor would not personally rule Japan. Does the Constitution make clear who will rule in the Emperor's name? Are the Meiji oligarchs mentioned in the Constitution? What about a prime minister? How are ministers of state selected? Does the Diet have any constitutional role in the determination of a prime minister or cabinet? And to whom do the armed services answer in the Meiji constitutional order?