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Lorenz-von-Stein-Institut
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Lorenz von Stein and the Meiji Era: A Look at his Role as a Legal Advisor to Japan

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Abstract

Lorenz von Stein was an important German jurist and political scientist of the 19th century. He is considered the "inventor" of the welfare state and a pioneer of administrative sciences. Less known in his career, but nevertheless of great importance, is his connection to Japan. In the mid-19th century, the opening up of previously closed-off Japan led to an upheaval in the political system. This so-called Meiji Era brought about the modernization of Japan. This was accompanied by efforts to create a constitution. Japanese delegates traveled to Europe to study the constitutions there and were particularly impressed by the Prussian model. As a result, in 1882, the future Prime Minister Itō Hirobumi sought out Lorenz von Stein for advice on the creation of the Japanese constitution. Lorenz von Stein privately lectured the Japanese delegates on his doctrine of state and society and acted as an advisor to the Japanese embassy. Thus, he eventually contributed to the drafting of the Meiji Constitution and to further codification work.

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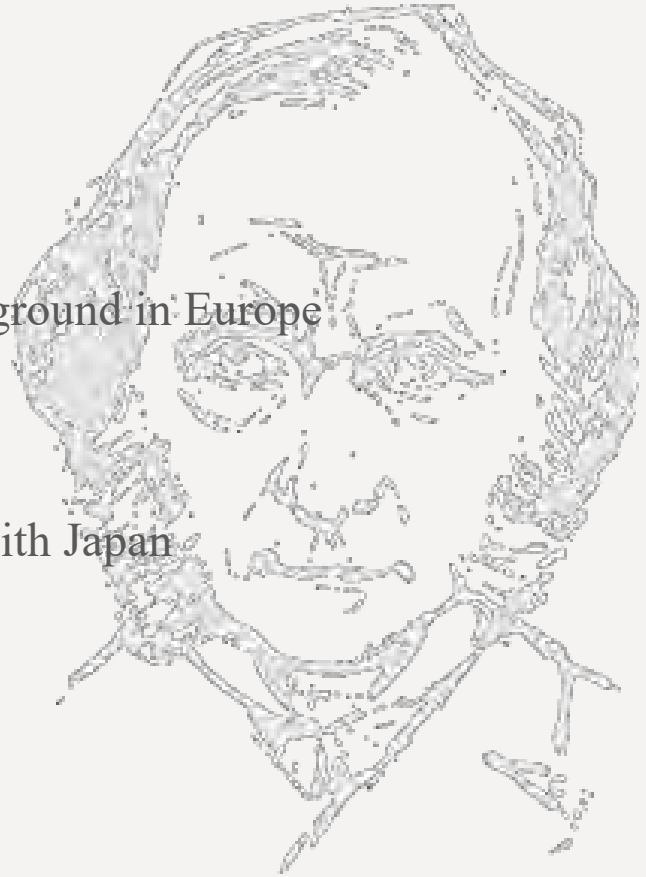


A. Introduction

https://www.lvstein.uni-kiel.de/de/lorenz-von-stein

https://diercke.westermann.de/content/japan-wirtschaft-978-3-14-100870-8-169-5-1

B. Main Part (1)

I. Lorenz von Stein and the Historical Background in Europe (1)

- Von Stein was born on November 15th, 1815 in Borby near Eckernförde.
- When he was born, the era of the Napolean wars was coming to an end. During the Congress of Vienna in 1815, representatives of all European powers met to bring order to a disrupted Europe after the downfall of the French Emperor Napoleon Bonaparte. It was the time of the birth of the German Confederation.
- Since 1821 the young von Stein was raised and educated in the Christians-nursing home in Eckernförde and eventually went to the Latin School of Flensburg.
- In 1835 he enrolled at the Christian-Albrechts-University of Kiel as a student of law and philosophy and passed the state law examination in Kiel in 1839.
- Von Stein eventually received his doctorate in law in Kiel in 1840.
- From October 1841 to March 1843 von Stein stayed in Paris, where he learned about the so-called early socialists, conducted comparative law studies and began to deal with the so-called social question.
- Back to Kiel, he started his academic teaching career in 1843/44 as a private lecturer at the faculty of at the Christian-Albrechts-University of Kiel where he gave lectures about the state and public international law and offered classes about the philosophy of law.

B. Main Part (2)

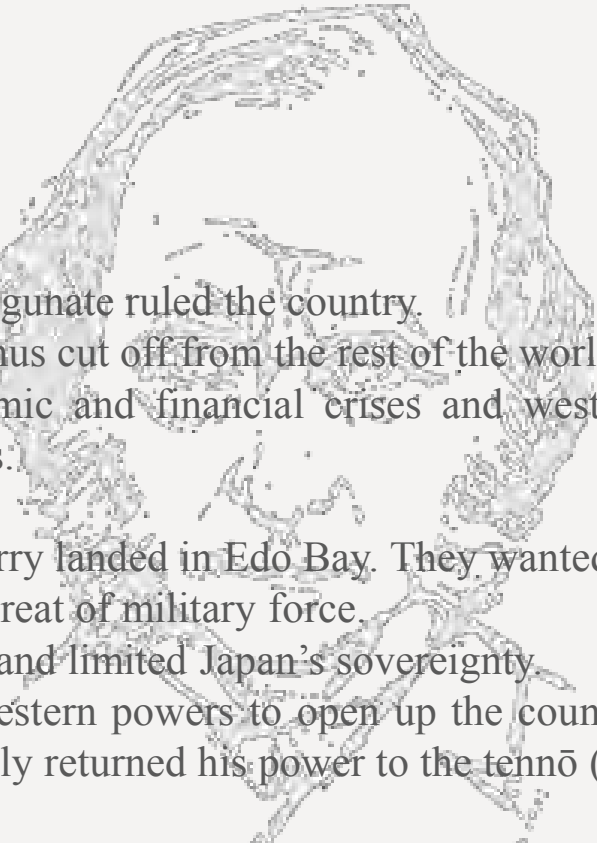
I. Lorenz von Stein and the Historical Background in Europe (2)

- In 1846, he was appointed Associate Professor of Political Science in the faculty of Philosophy in Kiel.
- In this time a lifelong journalistic output began.
- Also, von Stein wanted to get involved into politics and did so in regard to the Schleswig-Holstein Question in 1848, which was a conflict about the dutschies Schleswig and Holstein.
- His political involvement in the years 1848 to 1851 and the defeat of the Schleswig-Holsteiners led to him being dismissed from the public service by the Danish government
- Eventually, he applied to the Austrian emperor for the professorship of national economics and finance and in 1855, he was appointed full professor of political economy at the University of Vienna.
- He remained there until his retirement in 1885.
- Von Stein's main scientific work was written in Vienna where his main focus was on administrative science.
- Also, in this time in Vienna the connection between von Stein and Japan took place.
- Von Stein died on September 23rd, 1890 at his country estate in Weidlingau near Vienna.
- His handwritten estate was transferred to the Schleswig-Holstein State Library in 1972.

B. Main Part (3)

II. Historical Background in Japan (1)

1. Historical Classification of Contemporary Events: Especially the Meiji-Era

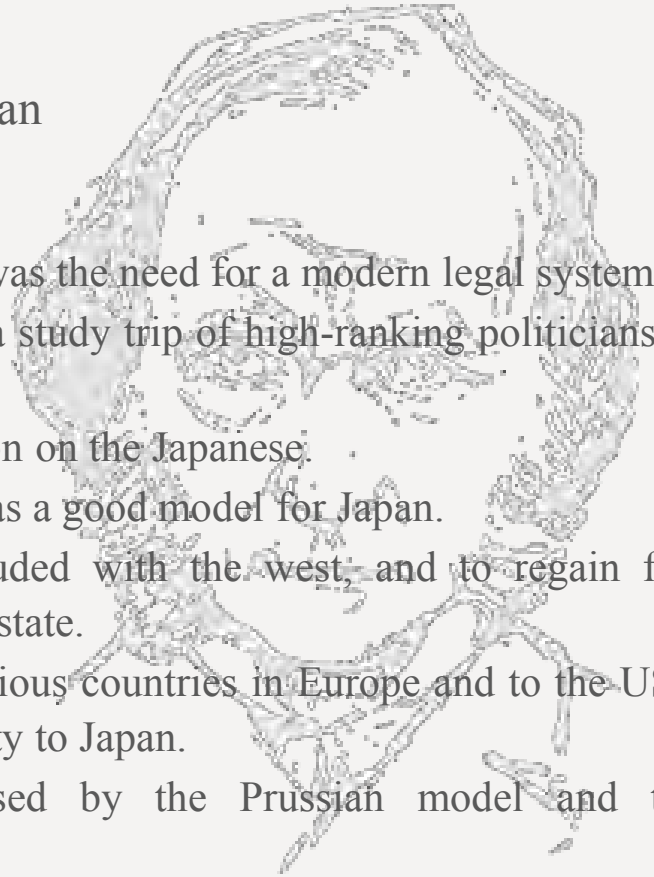


- Since the 12th century, the shoguns had ruled the country.
- From the 17th century on (Edo-period) the Tokugawa shogunate ruled the country.
- From the 1630s onward Japan began to be isolated and thus cut off from the rest of the world.
- In the 18th and 19th century there were severe economic and financial crises and western powers started to demand access to Japan and its markets.
- The Tokugawa shogunat started to lose control.
- In 1853, American ships under Commodore Matthew Perry landed in Edo Bay. They wanted to obtain concessions and the opening of Japan under the threat of military force.
- Treaties were concluded which opened up some harbors and limited Japan's sovereignty.
- Internal difficulties, triggered by the demands of the Western powers to open up the country, led to the removal of the Shogunate. The Shogun officially returned his power to the tennō (the emperor), which started the Meiji-Restoration of 1868.
- Japan began to open up and modernize in the form of political, social and economic changes and reforms in order to catch up with the west.

B. Main Part (4)

II. Historical Background in Japan (2)

2. The urge to Modernize and Constitutionalize Japan according to Western Models



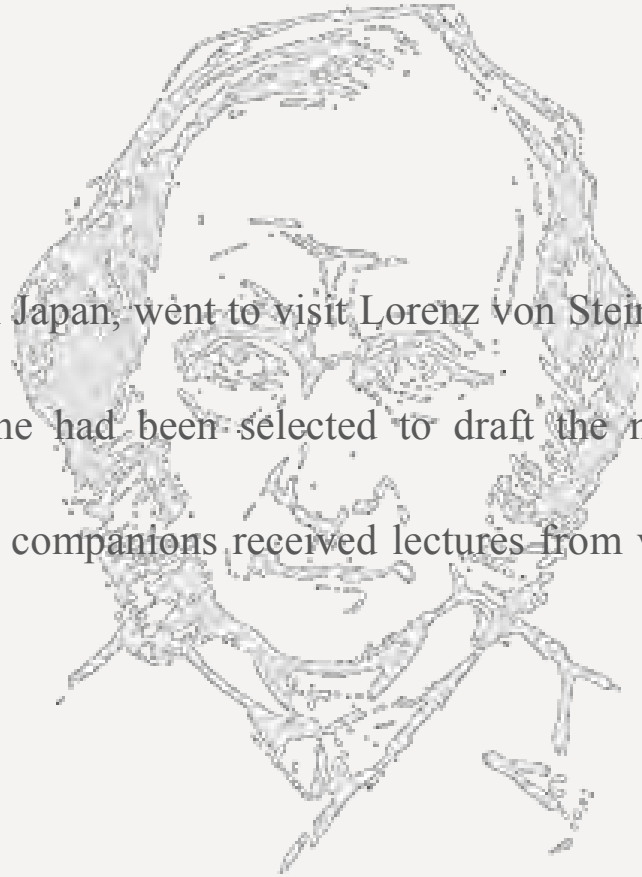
- In the so-called Meiji-Era, part of the modernization was the need for a modern legal system.
- In 1871 the Iwakura-Mission took place, which was a study trip of high-ranking politicians to North America and Europe.
- Specifically, the German Empire left a good impression on the Japanese.
- The Western idea of constitutionalism was perceived as a good model for Japan.
- In order to revise the Treaties, which were concluded with the west, and to regain full sovereignty, there was a need to form a constitutional state.
- In 1882 another trip was made by a delegation to various countries in Europe and to the USA to examine the constitutions there and their adaptability to Japan.
- The participants were again particularly impressed by the Prussian model and the constitutional monarchy.
- The Japanese delegates traveled to various scholars inter alia to Lorenz von Stein.

B. Main Part (5)

III. Lorenz von Stein and Japan (1)

1. The actual connection:

Especially the Meeting of Itō and von Stein

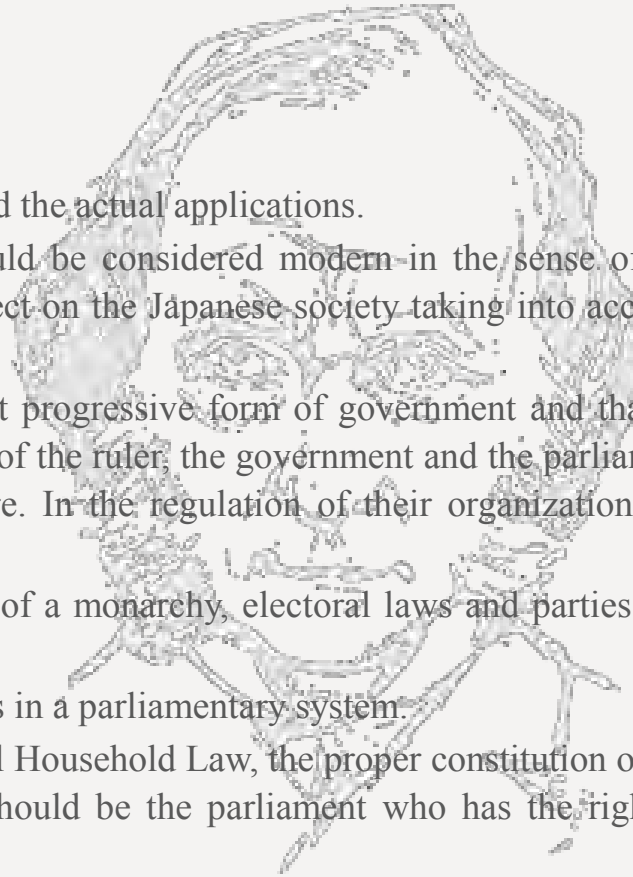


- In 1882 Itō Hirobumi, later the first Prime Minister in Japan, went to visit Lorenz von Stein in Vienna to learn from him.
- Itō was a very important person by that time as he had been selected to draft the new constitution, se so-called Meiji Constitution.
- From September 18 to October 31, 1882, Itō and his companions received lectures from von Stein and were his students.

B. Main Part (6)

III. Lorenz von Stein and Japan (2)

2. The Contents of von Stein's Teachings

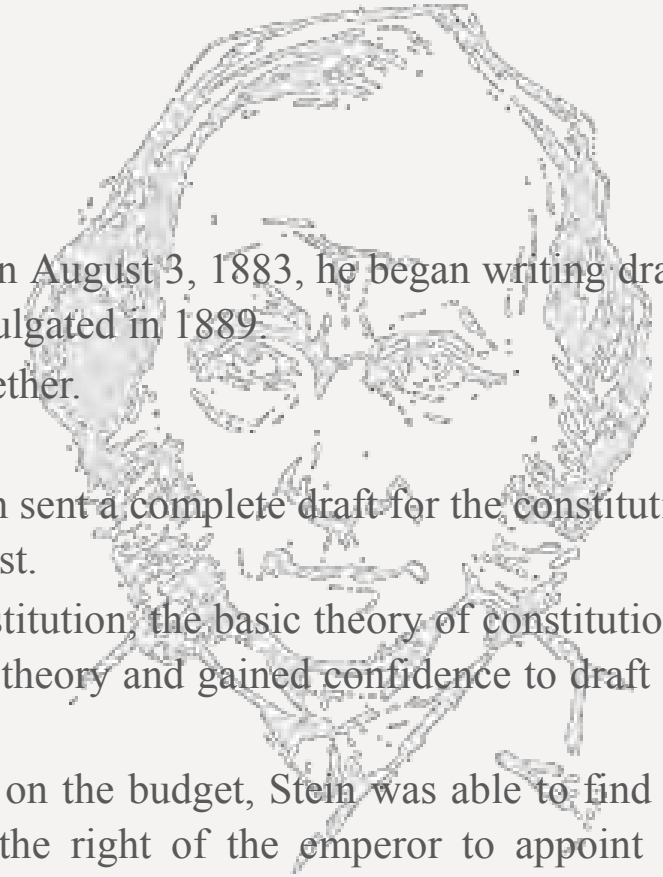


- Von Stein explained the theories of European constitutions and the actual applications.
- He explained how a constitution must look like, which could be considered modern in the sense of the European state theory of that time and have a stabilizing effect on the Japanese society taking into account their historical background and the social conditions.
- Von Stein's doctrine was that constitutionalism was the most progressive form of government and that its spirit realized the free will of the people, with three elements of the ruler, the government and the parliament as necessary components of the constitutional state structure. In the regulation of their organization and power he saw the core of the constitution.
- Itō learned from von Stein the basic workings and structure of a monarchy, electoral laws and parties in a constitutional system.
- Von Stein emphasized the importance of having two chambers in a parliamentary system.
- For him public law consisted of three equal parts: the Imperial Household Law, the proper constitution of the parliament, and administrative law. Von Stein said that it should be the parliament who has the right to deliberate the budget.
- Von Stein also explained that the tennō should have strong rights as the right to elect the ministers.

B. Main Part (7)

III. Lorenz von Stein and Japan (3)

3. Lorenz von Stein and his Influence on the Meiji Constitution

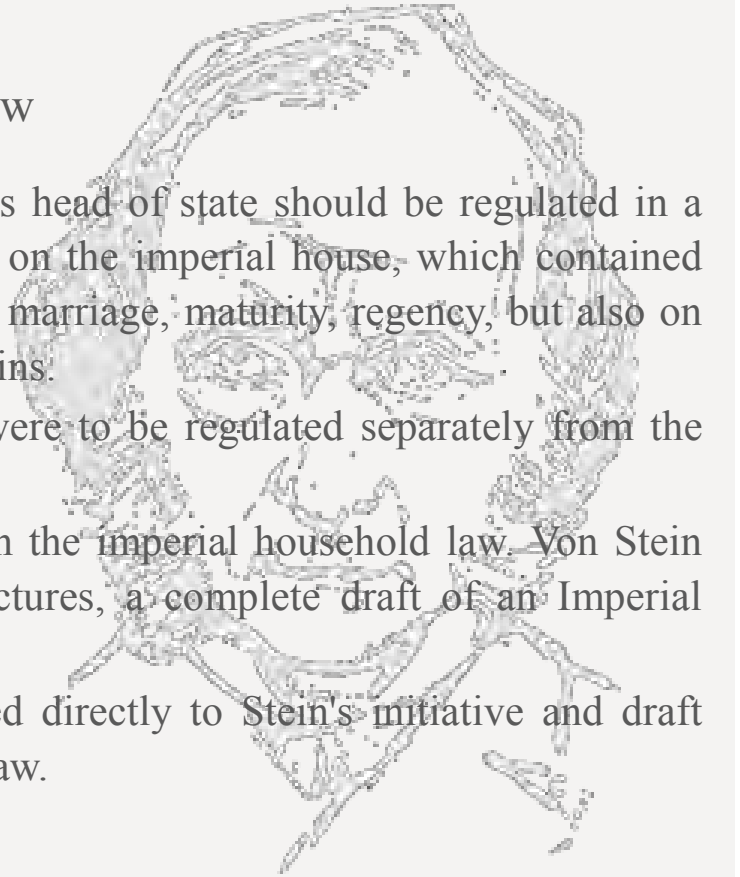


- When Itō returned from his trip to Europe to Japan on August 3, 1883, he began writing drafts of the Meiji Constitution which eventually was promulgated in 1889.
- Von Stein was not there in Japan to draft with Itō together.
- Thus, he did not influence the actual wording.
- There is the discussion in literature whether von Stein sent a complete draft for the constitution to Itō. But most evidence suggests that it does not exist.
- Von Stein taught Itō, the person who drafted the constitution, the basic theory of constitutional monarchism. Itō was impressed by von Stein's basic theory and gained confidence to draft the constitution.
- On the elementary issue that the Parliament decides on the budget, Stein was able to find his view reflected in the Constitution of Japan. Also the right of the emperor to appoint the ministers was found in the Meiji Constitution.

B. Main Part (8)

III. Lorenz von Stein and Japan (4)

4. Lorenz von Stein and the Imperial Household Law

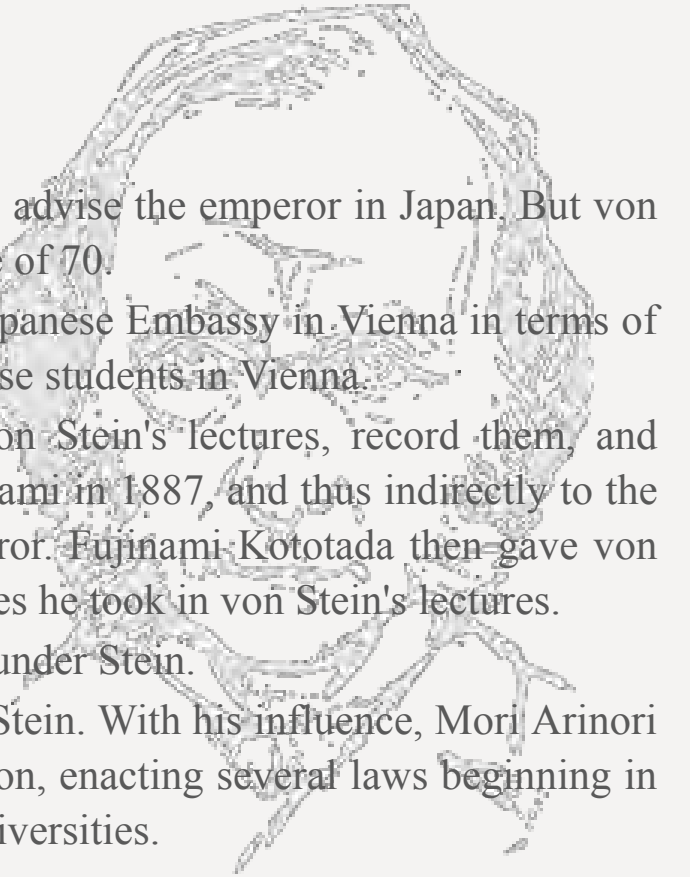


- Von Stein took the view, that the emperor's rights as head of state should be regulated in a separate house law, which included, above all, laws on the imperial house, which contained provisions on succession to the throne, legitimation, marriage, maturity, regency, but also on the administration of the court and the imperial domains.
- For von Stein, the emperor's property and budget were to be regulated separately from the government budget.
- Von Stein presented an important written opinion on the imperial household law. Von Stein gave Fujinami Kototada, who also attended his lectures, a complete draft of an Imperial Household Law, which Itō received in 1888.
- The Imperial Household Law of 1889 can be traced directly to Stein's initiative and draft because Japan had not initially considered a House Law.

B. Main Part (9)

III. Lorenz von Stein and Japan (5)

5. The further Connection to Japan



- In addition to teaching Itō, von Stein was also invited to advise the emperor in Japan. But von Stein declined the invitation because of his advanced age of 70.
- Von Stein took on a job as a permanent advisor to the Japanese Embassy in Vienna in terms of writing expert opinions and became an advisor to Japanese students in Vienna.
- Also, Itō arranged for Fujinami Kototada to attend von Stein's lectures, record them, and present them to the emperor. Von Stein lectured to Fujinami in 1887, and thus indirectly to the emperor as if he were speaking personally to the emperor. Fujinami Kototada then gave von Stein's lectures to the Emperor in Japan based on the notes he took in von Stein's lectures.
- Itō convinced many other important politicians to study under Stein.
- Japanese education was also under the influence of von Stein. With his influence, Mori Arinori as the minister of education set about reforming education, enacting several laws beginning in 1886 that affected education from popular colleges to universities.

C. Conclusion

Whether Lorenz von Stein had a decisive influence on the constitution in the form of a draft constitution remains unclear, although it can be assumed that there was no such draft.

Thus, there was probably no direct influence on the constitution. Rather, there was an indirect influence in the form of Itō's education, who then drafted the constitution.

Von Stein, through his teaching, had great merit in the establishment of constitutional government and the reception of the Prussian constitutional monarchy.

A strong influence can also be seen mainly in the fact that the new leaders, politicians, judges and other officials in 1884-1895 were under the influence of German law and political science and influenced by this knowledge, constituted the new state government and administration.

Von Stein's most significant contribution to Japanese reform legislation is probably the initiative and drafting by von Stein of the Imperial Household Law.

The entire Meiji Era had an enormous impact on Japan's development until today. During the Meiji Era, Japan was transformed into a modern industrial nation. One of the most important achievements of the Meiji Era was the introduction of a modern constitution in 1889, which was influenced by German constitutions and German scholars like Lorenz von Stein.

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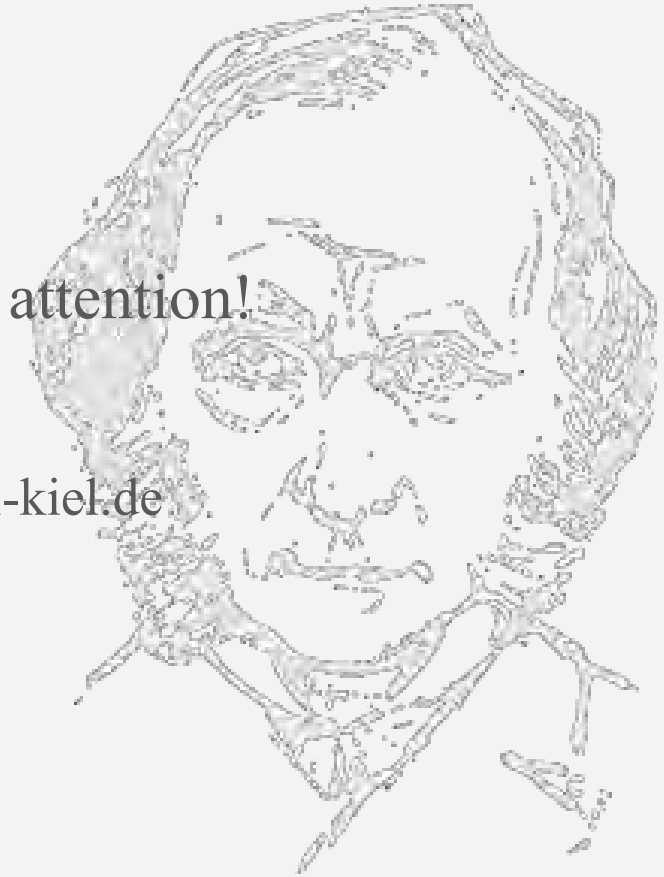
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