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COMPARATIVE CONSTITUTION 5-3

**PARLIAMENTARY SYSTEM OF
JAPANESE CONSTITUTION**

HISTORY OF JAPANESE LEGISLATIVE BRANCH



IMPERIAL DIET OF MEIJI CONSTITUTION

- Legislative power belonging to the Emperor



DIET OF CURRENT CONSTITUTION

- **Highest organ** of the state
- **Solo-lawmaking** organ

HISTORY OF JAPANESE LEGISLATIVE BRANCH



IMPERIAL DIET OF MEIJI CONSTITUTION

- Legislative power belonging to the Emperor
- Emergency order / Independent order



DIET OF CURRENT CONSTITUTION

- **Highest organ** of the state
- **Solo-lawmaking** organ



HIGHEST ORGAN?

- **Article 41: Highest organ of the state**

- GHQ draft: The Diet was given the authority to be called the highest organ in the entire system of the government

Ex.

- Annulment of unconstitutional decisions of the Supreme Court by a special majority of the Diet
- Diet's Consent in the appointment of ministers



• **On the whole of government system, the equality of the three powers is rather secured.**



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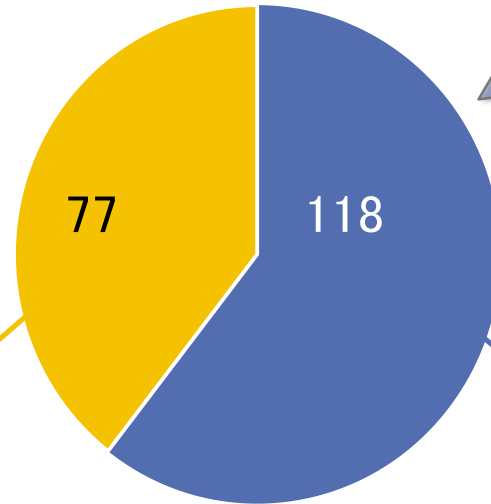
→ **merely Lip service** to Diet



BICAMERAL SYSTEM

- double-checking to ensure careful deliberation
- preventing tyranny by the first house
- reflecting diverse interests.

- reducing costs in terms of time and money
- being more flexible



US, UK, Germany,
Japan, etc.

Scandinavia, Israel,
Turkey, China, Korea,
Mongolia, etc.

■ Unicameral
■ Bicameral



BICAMERAL SYSTEM: 2 TYPES IN HISTORY

- **Status-based bicameralism**

- Ex. United Kingdom, Meiji Constitution
 - ← Each House represents the interests of its own status

- **Bicameralism with federalism**

- Ex. United States, Germany, Austria
 - ← Senate as a body to coordinate the interests of the states
 - Members of the Senate represent the interests of the states

→ **What about current Japan?**



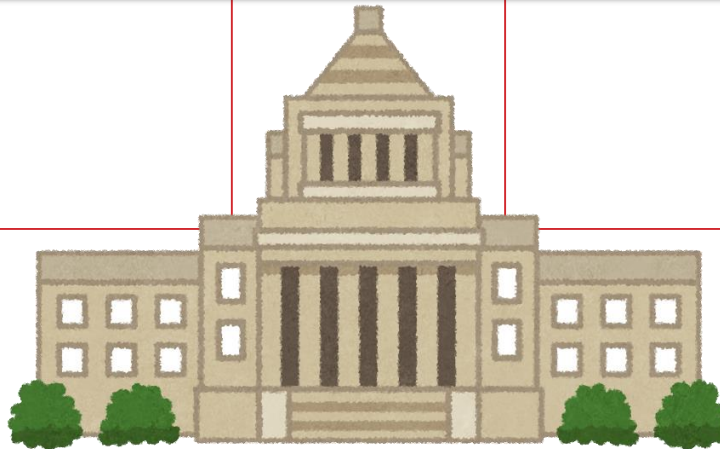
BICAMERAL SYSTEM: DEMOCRATIC 2ND CHAMBER

House of Representatives

House of Councillors

→ Neither representative of
specific status interest nor
state interest under federalism

Both houses shall consist of elected members,
representative of all people



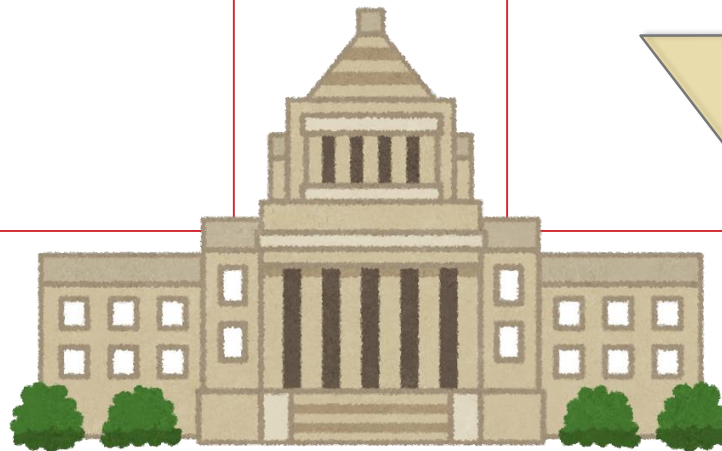


REFLECTING DIVERSE INTEREST?

House of Representatives

House of Councillors

Both houses shall consist of elected members,
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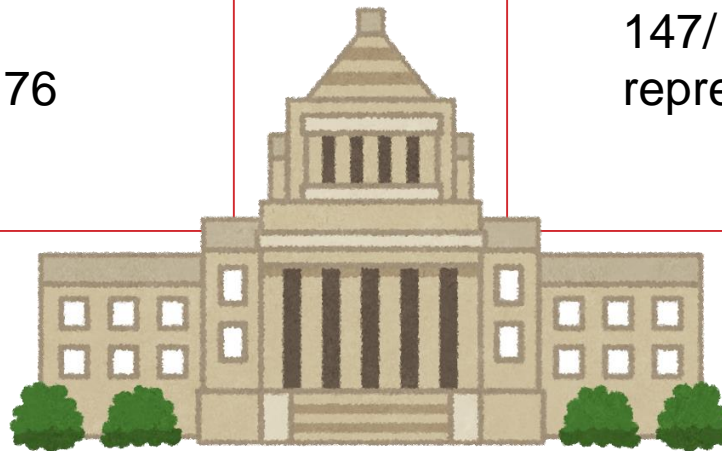
REFLECTING DIVERSE INTEREST?

House of Representatives

- Number of members: 465
- Term of office: 4 years
- Right to stand for: citizens 25 years of age or over
- Constituency: Single-seat constituency 289/
proportional representation 176

House of Councillors

- Number of members: 245
- Term of office: 6 years
- Right to stand for: citizens 30 years of age or over
- Constituency: Plural-seat prefectural constituency 147/
proportional representation 98





PREVENTING TYRANNY OF HOR?

House of Representatives

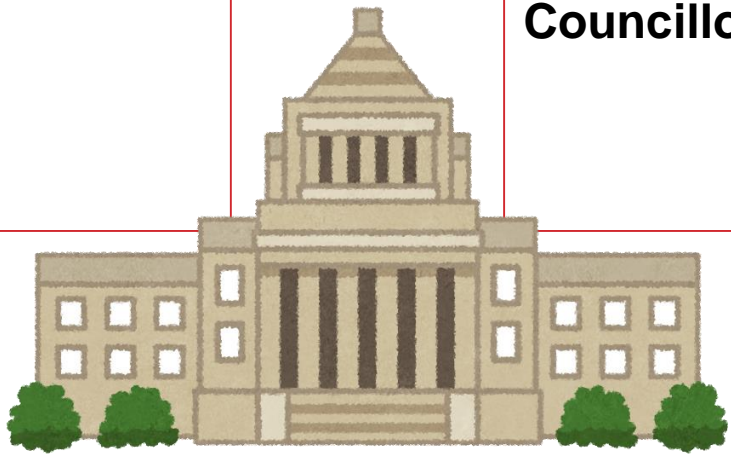
House of Councillors

Before 1980s

“Carbon copy of the House of Representatives”

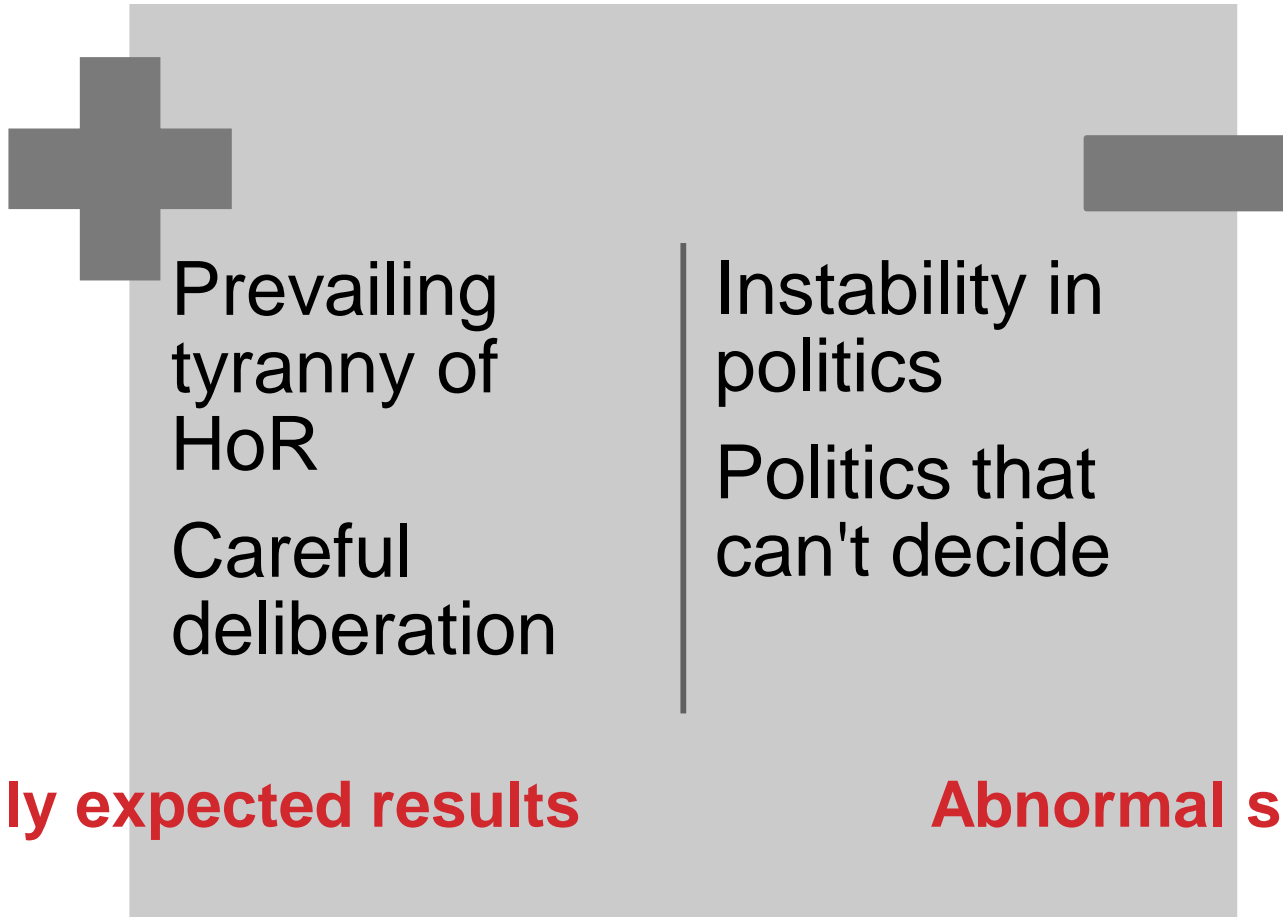
2000s~

“Too Strong House of Councillors”





IS TWISTED PARLIAMENT A BAD THING?





RELATION BETWEEN TWO HOUSES

Bicameral system: the two houses must be positioned as equals, at least in principle.

•Principle

- The unanimous consent of the two houses shall be the will of the Diet.

•Exception

- Primacy of the House of Representatives
 - in matters where the House of Representatives is always given superior authority
 - in cases of disagreement between the House of Representatives and the House of Councillors.



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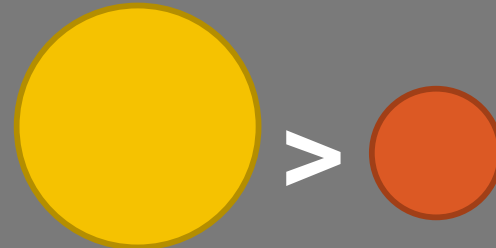
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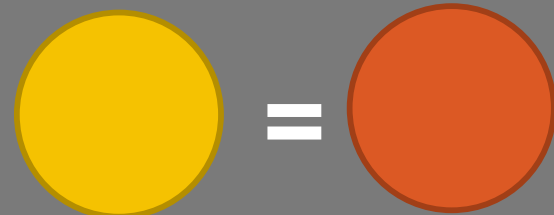
Incomplete bicameralism

Insufficient!!



Complete bicameralism

Stagnating!!





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PRIMACY OF THE HOUSE OF REPRESENTATIVES

HoR is **always** given superior authority

No confidence vote [art.69]

Right to deliberate on budget first [art.60]

In case of **disagreement**, HoR is given superior authority

Bill [art.59]

Budget [art.60]

Approval required for the conclusion of treaty [art.61]

Designation of prime minister [art.67]



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What are the matters that the HoR can re-authorize with a simple majority when the two chambers differ in their decisions? And why do you think this is so?

See, Japanese Constitution.



IS IT ESSENTIAL TO DECIDE?

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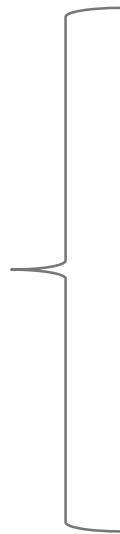
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Essential





RAISON D'ETRE OF BICAMERAL SYSTEM

Agreement of 2 houses

Principle

Bill [art.59]

Priority of HoR

Budget, Treaty, PM

**CONTINUE TO NEXT
PPT**