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# Bavaria's Constitution of 1808

Historical

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- Source of constitutional authority
- Preamble

# Preamble

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We Maximilian Joseph, by the grace of God, King of Bavaria.

We are governed by the conviction that as long as the State remains a mere aggregate of separate parts, it can neither achieve its full potential strength, for which it has the means, nor can the individual members aim to impart upon themselves all the advantages of civil union. We have sought already through many ordinances to eliminate the differences in the administrative systems in our Kingdom, as far as it was possible beforehand, to establish a more uniform system for direct and indirect obligations, and to make the most important public institutions of the collective more equivalent, through establishments that at the same time ensure their distinctiveness. Furthermore, in order to obtain the advantage of just and equal civil and criminal laws for our collective states, we have also arranged the preliminary work necessary for achieving this goal, which in part has actually already been completed. Due, however, to the fact that these individual developments of particular parts of the institution of the State do not lead to the perfect consummation of our purpose, and leave behind gaps, whose filling is an integral requirement for the necessary unity of the whole Kingdom, we have decided to give all of the components of the legislature and administration of our Kingdom complete coherency, through organic laws, with consideration for both foreign and interior relations. We have decided to establish the basis for this coherency through the present constitutional charter, whose purpose is to guarantee the fulfillment of the demands of the State on its individual members, as well as the demands of the individual members on the State, through the appropriate ordinances and regulations. These demands are just and founded in the concept of the general purpose of the State. This shall provide the whole Kingdom a firm relationship and bond, and give each of the components of the administration of the State its own appropriate efficacy. All of this shall be accomplished with the goal of meeting the requirements necessary for securing collective wellness.

We regulate and ordain according to the following:

## Part I. Main Regulations

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- Regional group(s)

### Article 1

The Kingdom of Bavaria is part of the Rhenish Federation.

### Article 2

All special constitutions, privileges, hereditary offices and regional incorporated bodies of individual provinces are hereby abolished. The entire Kingdom shall be represented by a representative body, held to the same laws, and governed by the same policies; according to these policies the very same taxation system shall apply to the entire Kingdom. The land tax may not exceed one-fifth of the Kingdom's income.

- Prohibition of slavery

### Article 3

Serfdom, where still in existence, shall be hereby abolished.

### Article 4

Regardless of the current arrangement of provinces, the Kingdom shall hereby be split into districts that are as equal as possible, and according to natural boundaries, where feasible.

- Mentions of social class

## Article 5

The aristocracy shall retain their titles and their landlordly rights according to the legal regulations, as shall every possessor of property; regarding the State's financial burdens, however, as they currently stand and as they are introduced, the aristocracy shall be treated the same as all other citizens. The aristocracy does not represent a special part of the representative body; rather their participation shall be proportional to that of the wholly free landowners. Nor are they entitled to exclusive rights to state offices, honors conferred by the state, or state benefices. All statutes of currently existent incorporated bodies must be adjusted to fit these policies in due time.

## Article 6

The same regulations also apply to the clergy. Moreover, every religious entity, without exception, is hereby confirmed as entirely and exclusively the property of the parishes, schools, and churches, as they are divided according to the following 3 categories in the Ordinance of the 1st of October 1807: of religious rites, of education, and of benefaction, all of which are combined in one administration. These possessions cannot be retracted under any pretense, nor can they be liquidated for any external purpose. The same also applies to the Church's goods, which whenever established shall be allocated to the dioceses and the religious chapters for endowment.

## Article 7

The State grants all citizens personal and proprietary security – complete freedom of conscience – and freedom of the press, according to the decreed censure edict of the 13th of June 1803, and the ordinances of the 6th of September 1799 and the 17th of February 1806, enacted due to political newspapers. Only natives of the State or owners of property within the State may fill government offices. The foreign-born may only be issued citizenship through a law or a declaration of the King.

## Article 8

Each citizen of the State that has reached the end of his 21st year is due to take an oath of office in front of the public authorities over his district, attesting that he shall obey the constitution and laws of the State – he shall be loyal to the King. No one may emigrate, go abroad, leave for foreign service, or accept a salary or honor from a foreign power without the express permission of the Monarch, with the penalty of the loss of all civic rights. All those, who identify a foreign jurisdiction over themselves, outside of specific cases of legal customs or contracts, forfeit themselves to the same punishment, which may be increased, according to the circumstances.

## Part II. Of the Royal House

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### Article 1

The Crown is inheritable by the male line of the governing House, according to the right of the first born and agnatic linear succession.

### Article 2

The princesses are always barred from taking on governmental positions, and they and their descendants shall remain barred from succession as long as a male heir stemming from the governing House exists.

- Right to own property
- Restrictions on rights of groups
- Freedom of opinion/thought/conscience
- Requirements for naturalization
- Head of state powers
- Freedom of press

- Freedom of movement
- Restrictions on entry or exit
- Duty to obey the constitution
- Head of state powers

- Eligibility for head of state
- Head of state selection
- Head of state replacement

- Head of state replacement
- Eligibility for head of state
- Head of state selection

## Article 3

After complete elimination of the male line, the heirship shall fall to the daughters and their male descendents.

## Article 4

A special law regarding families shall designate the manner in which this heirship shall enter the government; but with consideration for the inheritable charges mentioned in the Article 34 of the Rhenish Federation Act, as far as they are recognized and defined. The last living individual from the House of the King shall seek to obtain peace and independence of law through appropriate measures.

## Article 5

After the death of the King, the Princes shall receive no landed property, but instead an annual appanage shall be paid out, of at the most 100,000 guilder from the royal treasury in monthly installments, which shall be returned to the royal treasury after the death of the Princes' male heirs.

## Article 6

200,000 guilder of annual income in addition to a respectable residence is the designated maximum for the provisions received by the governing Queen after the death of the King; the established dowry of a princess is 100,000 guilder.

## Article 7

All members of the House of the King stand under the jurisdiction of the monarch, and in the event of the loss of their right to inheritance, may only be married with his approval.

- Minimum age of head of state

## Article 8

The royal Princes shall be of age upon the end of their 18th year.

## Article 9

Every Monarch, during the time in which his successor is under age, is free to choose an royal vicar for the Kingdom from among the Princes who are of age. In the absence of such an appointment, the administration shall fall to the next agnate who is of age. The appointed agnate, who takes over the administration due to the under-aged status of the closest male in the royal line, shall follow through in this duty until the rightful Monarch is of legal age. The government shall be administrated in the name of the under-aged Monarch; all government offices, with exception of judiciary positions, may only be filled tentatively during the reign of the appointed agnate. The royal vicar may not give over property belonging to the Crown, nor may he create new government offices. In the absence of an agnate who is of age, the administration of the Kingdom shall fall to the first royal official. The education of the children of a widowed Queen may be conferred to her under the supervision of the imperial vicar, never, however, may the administration of the Kingdom be conferred to the Queen.

## Article 10

Four royal officials shall be established for the Kingdom. A royal chief court official – a royal chief administrator of finances – a royal chief marshal – a royal chief postmaster, all of whom shall attend the assemblies of the Privy Council. All truly governing privy ministers of the State shall enjoy all of the honors and benefits connected to privileged royal status.

- Head of state powers

## Article 11

The pragmatic law enacted on the 20th of October 1804 due to the unnegotiability of State property shall be affirmed; however the King shall be free to utilize both fiefdoms that shall fall back to the Kingdom in the future and newly acquired State domains in order to reward great and determined services provided to the State. These areas then adopt the properties of fiefdoms only inheritable by male relatives of the Crown, and for them no claims may be issued.

## Part III. Of the Administration of the Kingdom

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- Powers of cabinet
- Establishment of cabinet/ministers

### Article 1

The ministry shall be divided into 5 departments; foreign relations, justice, finance, interior and defense. The realms that each are concerned with shall be and remain determined by the Ordinances of the 25th of May 1801, the 29th of October 1806, and the 9th of May 1807. Several departments may be represented by one minister. The position of the state Secretary shall be occupied by each minister for his department; therefore all royal decrees must be signed by him, and only with this formality shall they be recognized as legally valid. The ministers shall be accountable to the King for the exact fulfillment of royal orders, as well as for any violations of the constitution occurring at their instigation or with their assistance. They shall provide the Monarch with a detailed annual report regarding the state of their department.

- Advisory bodies to the head of state

### Article 2

A privy council shall be arranged to consult regarding the most important internal affairs of the Kingdom, which shall consist of 12 or 16 members at most, not including the ministers. The privy councilors shall be appointed by the King for one year initially, and shall not be considered permanent until after at least 6 years of service. The King and the heir to the Crown shall attend the assemblies of the privy council; during the attendance of both the oldest State minister present shall preside over the privy council. The privy council shall develop and discuss all laws and major ordinances in accordance with the fundamental laws. The ministers shall relate relevant information to the King, who in turn shall assign the privy council laws and major ordinances to discuss, with particular focus on laws entailing obligations or finance. The privy council shall decide all disputes of competence over court jurisdiction and administration, as well as whether an administrative officer shall or may be put on trial. In order to conduct business the privy council shall be divided into three sections: civil and disciplinary legislature, finance, and internal administration. Each section shall consist of at least 3 members, and shall prepare its business for reporting to the council assembly.

- Advisory bodies to the head of state

### Article 3

The privy council shall only have an advisory vote in the exercising of its powers.

- Subsidiary unit government

### Article 4

At the head of every district there shall stand a royal general officer, who shall have at least 3 and at most 5 subordinate councilors for the district; furthermore every district shall have

A. A general assembly, and

B. A deputation

The general assembly shall be elected by the national representative body; the deputation shall be chosen by the King from the general assembly of the district, and

shall

1. Propose the necessary financial obligations to cover the local expenses, for which the funds shall be collected from the pension and tax officers for the requirements of the Kingdom. These funds must be spent exclusively with the same purpose for which they were originally determined, and must be separately incorporated into the annual financial budget.
2. Bring the proposals and desires concerning improvement of the conditions in the district from the internal ministry to the King. The King shall appoint officers for positions in the general assembly for life; they shall be chosen out of the 400 landowners, salesmen, or factory owners of the area who pay the highest property taxes. There shall be 1 general assembly officer for every 1000 residents, and they shall meet every time a representative must be chosen or the King orders them to assemble. Their assemblies shall last no longer than 8 days. The King shall appoint the presidents as well as the officials for the duration of one or more sessions; the position of the president may also be conferred to the general officer of the district. One-third of the deputation of the district shall be replaced annually. The King shall appoint the new members from the deputies in the general assembly. The names of those resigning shall be determined by lottery. The deputation shall assemble annually for 3 weeks at the most. The time and place of the assembly shall be determined by the Monarch. The positions of the chairman and the secretaries shall be regulated as in the general assembly.

- Municipal government

## Article 5

The district courts shall be controlled by the local police with the supervision of the general officer, who shall obtain one or more police actuaries for this purpose. For each municipal and rural community a local administration shall be arranged.

## Article 6

The income, taxes, and obligations of the Kingdom as well as the additional local taxes shall be collected by the pension offices and the other civil servants appointed for the collection of obligations.

## Article 7

All administration officers, from the true counsels on, shall be subject to the regulations of the major ordinances of the 1st of January 1805 and the 8th of June 1807; however all future appointees shall only be seen as true civil servants when they have held an office that brings with it this right for at least 6 uninterrupted years. There shall be another appropriate ordinance enacted concerning the contribution benefits of the other royal servants and their widows.

# Part IV. Of the National Representative Body

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- First chamber selection
- Eligibility for first chamber

## Article 1

In each district, out of the 200 landowners, salesmen, or factory owners of the area who pay the highest property taxes, seven delegates shall be elected, who all together shall form the royal assembly.

- Leader of first chamber

## Article 2

The King shall appoint a president and four secretaries from the members of the assembly for the duration of one or more sessions.



- Term length for first chamber

## Article 3

The deputies shall be appointed for the duration of six years; however after the course of these six years they shall again be eligible for the position.

- Length of legislative sessions

## Article 4

The national representative body shall assemble at least once per year when called together by the King, who shall both open and close the assembly. He may also adjourn or cancel the assembly; however if he cancels, he must call for a new assembly to convene within two months of the cancellation.

## Article 5

Whenever the election of a deputy or the entire representative body of the Kingdom is to be conducted, either all district assemblies, or just those participating, shall be summoned through unsealed royal letters, which shall be forwarded by the minister of the interior.

- Legislative committees
- Initiation of general legislation

## Article 6

The assembly itself shall elect commissions of between three and four members; one commission each for finances, civil and disciplinary legislature, internal administration, and repayment of state debts. These commissions shall assemble and correspond with the relevant sections of the privy council concerning drafts of laws and main regulations, as well as the annual financial budget, whenever the government requires it of them.

- Secrecy of legislative votes
- Initiation of general legislation
- Advisory bodies to the head of state

## Article 7

Laws prepared in this way shall be brought to the representative body by between two and three members of the privy council; the assembly shall vote on the laws by means of secret voting by absolute majority. No one is authorized to speak except the royal commissioner from the privy council and the members of the relevant commission of the representative body.

# Part V. Of the Judiciary

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- Structure of the courts

## Article 1

The judiciary shall be managed by upper and lower courts, in appropriate numbers. Only one supreme court shall exist for the whole Kingdom.

- Judicial precedence

## Article 2

All courts shall be connected, lead by the same final judgments and reasons for their rulings.

- Ordinary court selection
- Supreme/ordinary court judge removal
- Supreme court selection
- Supreme court term length
- Ordinary court term length

## Article 3

The members of the judiciary council shall be appointed for life by the King, and may only lose their positions through a formal dictum.

- Power to pardon

## Article 4

In criminal cases the King may grant mercy, exempt from or soften punishment, but in no case may he impede a pending litigation or investigation in progress, nor may he withdraw a judge from a legal party.

## Article 5

The royal financial administration shall take legislation regarding all disputable affairs of civil law to the royal tribunals.

## Article 6

The confiscation of goods shall not take place, apart from in cases of desertion; however, the income of a criminal may be sequestered throughout his lifetime in order to pay for the cost of a trial.

## Article 7

The entire Kingdom shall establish its own civil code and criminal law.

# Part VI. Of the Military

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## Article 1

A standing army shall be maintained for the defense of the State and in order to fulfill the responsibilities agreed upon in the Rhenish Federation act.

- Duty to serve in the military

## Article 2

The troops shall be recruited by means of common military conscription.

- Restrictions on the armed forces
- Head of state powers

## Article 3

The army shall only act against foreign enemies; the army shall only act in the interior in special cases when the Monarch explicitly orders it, or when the civil authorities formally summon the military power for this purpose.

## Article 4

Persons in the military are only subject to military jurisdiction in cases of criminal and official business; in all other cases, however, they shall be subject to the appropriate civil courts, as are all other citizens.

## Article 5

The civilian militia is hereby affirmed. In order to keep peace in times of war a national guard shall be instituted, as shall a gendarmerie maintained by the police.

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