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*The History of Law in Japan, Through Historical Sources*

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Lecture 18: The Law on Permanent Tenure for Newly-opened Rice Fields

Translated and Interpreted by Nadia Kanagawa

In their Japanese high school textbooks students learn that the *ritsuryō* government ruled its people and realm through a system of “government land and government people.” As the explanation goes, personal tenure of land by noble lineage groups was abolished by the Taika Reforms of the later 640s, after which all land and people became “government” possessions in the sense that they belonged to the realm of the *tennō*.

On the other hand, one of the architects of the field of legal history, Nakada Kaoru (1877-1967), pointed out that government-allotted rice fields were actually understood to be personally-held land rather than government land, challenging the “government land and government people” interpretation. In fact, Nakada is correct. The concept of “government land and government people” came into existence during the late nineteenth-century Meiji Restoration, when domains were abolishedand prefectures created, and when the Meiji government seized lands from great families and major temples and shrines.[[1]](#footnote-1) In this sense, “government land and government people” is a later idea born of the movement to restore the monarchy in the late 1860s.[[2]](#footnote-2) In this chapter, we need to consider how to approach the development of the *ritsuryō* land holding system by examining an extremely important turning point: the creation of the Law on Permanent Private Tenure of Newly-opened Rice Fields in 743, the middle of the Nara period.

Government Fields and Private Fields: On Allotted Fields as Private Fields

In the *ritsuryō* codes and other legal sources, property held by the government is called “official (官) goods” or “government (公) goods,” while personal possessions including property, slaves, and livestock were called “personal (私) goods” or “personal (私) property.”[[3]](#footnote-3) Those who held personal property or goods were called the “owner” or “proprietor.” Individuals who held gardens, residential land, or newly-opened private fields were called “landholders” and “field-owners.” In his analysis of allotted fields in the *ritsuryō* codes, Nakada took this terminology as a telltale sign that such allotted lands were once considered personal (not government) property.[[4]](#footnote-4)

According to the codes, allotted fields were given out to all subjects over the age of six and named in a residence unit register. Men and women, free-born and low-born, all received land that they held [and payed taxes on] until death. Originally, “holding” the land was understood to mean using the benefits of the land, and it was no more than a kind of loan. However, the ninth-century *Ryō no gige* (Commentary on the Administrative Code) discussion of the phrase “government and private land” in the Laws on Rice Fields, Article 29, says: “Land such as rank fields, grant fields, allotted fields, and newly-opened fields is personal. All other land is government land.” The *Ryō shaku* (Legal Interpretations, 787~791 CE) text cited in the *Ryō no shūge* (Collected Commentaries on the Administrative Code) compendium of legal commentaries, also states: “Allotted land and newly-opened land is private land. All other land is government land.” Furthermore, Article 22 of the Miscellaneous Laws of the Yōrō administrative code states, “If buried goods are discovered on government land, they shall belong to the person who discovered them. If they are discovered on the personal land of another person, split them with the landowner. If they differ in form from [the usual] ancient objects, they should be sent to officials, and [the sender shall be] rewarded.” The *Ryō no gige* explanation for this passage notes, “Allotted fields and post fields are all considered personal lands.” In other words, the ninth-century commentator saw the possessor of allotted fields as a landowner. It was in these passages that Nakada found his proof that allotted fields were considered personal property from early on.

On this basis, Nakada argued that classical Japan [was governed by] a principle of personal rather than government land holding. We should note, however, that personal land held for one’s lifetime in the classical period was fundamentally different from land held according to the modern concept of ownership. In classical times, even a one-year loan of an allotted field was termed “selling an allotted field.” In recent years, Yoshimura Takehiko has sounded the alarm on how the terms “government land” and “government people” have been misunderstood, causing confusion that needs to be corrected.

From the Law of Three Generations or One Lifetime (723) to the Law on Permanent Private Tenure for Newly-opened Rice Fields (743)

Officials of the fifth rank and above received “rank fields” (distinct from allotted fields) according to their official court ranks, and the *tennō* had the power to issue orders bestowing “grant fields,” usually to royal family members. Newly-opened fields were also known as “personal fields (私田),” but the *ritsuryō* codesactually had no regulations concerning such fields. In fact, the Japanese field allotment system was not structured to allow farmers to do small-scale land opening. As newly opened fields gradually increased, there was no official recognition of the rights of the field-openers, and the new fields remained undeclared. In 723, however, a response to this situation came in the form of the “Law of Three Generations or One Lifetime.”[[5]](#footnote-5)

**Document 1**

A memorial to the throne from the Council of State says: “Recently, the population of cultivators has increased, and fields and ponds are inadequate for the need. We humbly request that the throne encourage all under heaven to open new land to cultivation. Those who do the work of opening new land by building new irrigation ditches or ponds should be given that land for three generations, no matter how much land it is. Those who use old irrigation ditches and ponds should be granted the land for their lifetime.” The throne was memorialized and the measure was approved [by His Majesty].[[6]](#footnote-6)

This rule states that those who opened new land by constructing new irrigation systems such as reservoir ponds and ditches should hold the land for three generations, and that those who used existing irrigation facilities should hold the land for their (one) lifetime. Another way to put it would be to say that the rule systematized government oversight of what had been undeclared personal land, either after three generations or after the lifetime of the land-opener. By limiting rights to three generations or the lifetime of the cultivator, however, this measure significantly decreased motivation to maintain newly opened land. For this reason, in Tenpyō 15 (743) the Law on Permanent Private Tenure for Newly Opened Rice Fields was promulgated, marking a fundamental switch to personal land tenure.

**Document 2**

A royal order was issued: “I (the *tennō*) have heard: ‘Land is being confiscated according to the time limits set in the Yōrō 7 (723) supplementary regulation. As a result, cultivators have grown lazy—they open land only to then abandon it.’ From now on let the land be considered their personal holding, without any discussion of three generations or one lifetime. Confiscation of the land shall cease forever.

To princes of the first degree and those holding the first court rank grant, [we give] the right to open 500 *chō*.[[7]](#footnote-7) Princes of the second degree and courtiers of the second rank are allowed 400 *chō*; those with the third and fourth princely ranks or the third court rank, 300 *chō*; those with the fourth court rank, 200 *chō*; the fifth court rank, 100 *chō*; the sixth through eighth, 50 *chō*; and those of the initial rank down to the undistinguished, 10 *chō*. However, district chieftains and second-level managers of the district shall be able to open 30 *chō*, and their administrative officers and secretaries, 10 *chō*. If there are cases in which a person was allotted land previously, and if his or her holdings exceed these limits, those holdings should immediately be returned [to the government]. If land is illegally accumulated and the fact hidden, the crime should be judged according to the penal law. All land opened by provincial governors during their terms of office will be subject to earlier supplementary legislation.”[[8]](#footnote-8)

The version of the edict in the *Shoku Nihongi* (Continued Chronicle of Japan, 797 CE) quotes the law but leaves out details about the process of land opening that are included in another version of the edict recorded in the tenth-century *Ruijū sandai kyaku* (Categorized Regulations of the Three Eras, late 11th century)*.* There it says: “Those who take land for the purpose of opening it shall first petition the provincial authorities and then open the land. One cannot request to open land in a way that will cause trouble for cultivators. If three years have passed since the land was received and the landowner has yet to open it, another person shall be allowed to open the land.” Although it includes these details, the version in the *Ruijū sandai kyaku* leaves out the rank-based limitations on the amount of land that could be opened, likely because it was based on a version in the *Kōnin kyaku* (Supplementary Legislation of the Kōnin Era)from the 820s, by which time the limitations were no longer in force.

The point is, since fields that had passed the three-generations or one-lifetime limit would be confiscated in the next allotment year, cultivators made little efforts on them as the year of confiscation approached, so the fields tended to go to ruin.[[9]](#footnote-9) That is why the limitation was removed in the Kōnin-era version, although by then it had become necessary to petition the provincial governor before opening fields. Moreover, if three years had passed and the cultivator had failed to open the land, another person was allowed to do so. As a result of the 743 law, a new concept of permanent personal land tenure had developed: newly-opened fields, including those held by official temples, were seen to be personally-held land, in contrast with allotted fields that were by then considered government land.

It is notable too that this law of 743 is quoted in the late-Heian-period compilation of courtier law known as the *Hōssōshiyōshō* (Essential Extracts for Legal Specialists, ~1130):

**Document 3**

The person who opens uncultivated land shall be the proprietor.

The supplementary law of Kōnin 10 (819), 11th month 5th day, orders: newly opened land shall go to the one who wants it (to open it). From now on, let this be the policy for uncultivated land that becomes regularly cultivated. But should the person given the land fail to open it in two years, it should be given to someone else. This means that the person who makes it productive should be the permanent landlord. As the royal edict of Tenpyo 15 (743), fifth month twenty-seventh day, says: the person who makes the land productive is to have it as a personal holding continuously through time.[[10]](#footnote-10)

That means that the law was seen by then as fundamental for elites [and religious institutions] who had developed into estate (*shōen*) proprietors. That continued to be the case well into medieval times and beyond.

The Significance of the Law on Permanent Private Land Tenure of Newly-opened Fields

The law of 743 that recognized newly-opened lands as personally held has been understood as one stage in the collapse of the *ritsuryō*-based polity based on “government lands and government people,” but Yoshida Takashi’s revolutionary research challenges this idea. He brought a new perspective to the picture, namely, a consideration of the expanded official control of newly cultivated fields. His argument goes like this: in Tang China (618-907) the Equal Fields Law allotted each adult male up to 100 *se* (a *se* was roughly 100 square meters), which was a very small amount. In practice, only about half of this amount was actually distributed. It was inconceivable that cultivators could exceed this amount even if they were adding to their allotments through small-scale land opening – all land was seen as government land, and therefore even newly opened land was understood to belong to the monarch. In this way, the Tang equal fields system incorporated an element of fiction [it was not really about distributing small amounts of land to ordinary cultivators]. Its actual function was to regulate the possession of large amounts of land by elites in the countryside.

In contrast, the Japanese field allotment laws did not adopt the binary of allotted fields versus permanent-tenure lands as in Tang China. Instead, only the allocated field system was adopted, while the Tang permanent-tenure land system was not incorporated into the codes. Furthermore, the Japanese administrative code mandated distributing two *tan* (a *tan* was roughly 1000 square meters) of fields to men and two-thirds of that amount to women from fields already in cultivation. Newly-opened fields were not included in this original system at all.

Given this context, we can see that the Law on Permanent Private Tenure of Newly-opened Fields supplemented and developed the original codal allotment system. The rank-based limitations on the amount of land that could be opened were essentially the same as those prescribed by the equal fields regulations in Tang China: officials could take over uncultivated, un-owned land according to their status, and request to open it and make it into permanent-tenure land. On the Japan side, even those without rank could transmit up to 10 *chō* of newly opened fields to heirs, making the system similar to the Tang equal fields provisions that allowed cultivators to add to their allotments through small-scale land opening. In this sense, the core of the Law on Permanent Private Tenure of Newly-opened Fields of 743 represented the adoption of the Tang equal fields law. It strengthened and enriched the court government because the authorized newly-opened fields were to be registered on field charts as owing land taxes.

Yoshida’s argument—that the Law on Permanent Private Ownership of Newly Opened Fields actually represented the maturing and expansion of the *ritsuryō* system rather than its collapse—gave historians a jolt. But it did not resolve all issues. For example, when the *tennō*’s ministers made the *ritsuryō* codes the basis of their government, they also established a unique system of distributing fields, the purpose of which was different from that in Tang China. As we see in the 646 royal order that abolished “old ways” (Lecture 1), “The tax paid in goods and the labor tax for officials at markets, guards on major roads, and ferrymen are all abolished, and these officials shall be given rice fields. In the agricultural months, all people from the innerprovinces and all the provinces in the four directions shall begin work in the fields early.”[[11]](#footnote-11)

This was a policy to create new cultivator subjects by allotting fields even to people engaged in commerce and transportation. Not only was the relationship between existing farmers and the land they were cultivating confirmed; but also, fields were given to those whose livelihood was not based on wet-rice cultivation, such as merchants and people living in eastern provinces (where the growing season was significantly shorter than in western Japan). The purpose of these policies was to strongly encourage the people of the realm to engage in wet rice agriculture while attaching them to their fields. In effect, the government wanted to use the people’s livelihood to make their movement from place to place less likely. [It wanted a sedentary population that it could register and control.]

The Epidemic of 737

There is another way to look at the changes in land holding in mid-eighth-century Japan. In 735 and 737 there were realm-wide smallpox epidemics. Conditions were so horrific that five of seven members of the Council of State died in the capital, including four sons of the great minister Fujiwara no Fuhito (659-720). Given that this epidemic struck the high nobility that generally lived in more fortunate circumstances, the suffering of commoners is not hard to imagine. In 737 the death rate is estimated to have been 25%-35% of the population. Judging by the patterns of epidemic infectious diseases from abroad, the greatest toll would have been in the western and central provinces where the population was densest—the impact of abandoned corpses on rice fields and in public waterways would have been significant.

Moreover, Yoshikawa Shinji has argued that if we add the damage of the 734 earthquake and 735 crop failure to that caused by this epidemic, it is clear that a series of unprecedented calamities struck the archipelago at the time, and that the urgent task facing the new Council of Stateled by Tachibana no Moroe (684-757, Great Counselor 737->) was the revival of a severely weakened society. In addressing this reality, we can see the Law on Permanent Private Tenure of Newly-opened Fields of 743 as an attempt to revive society and rehabilitate the power of the realm. Newly-opened fields were made eligible for taxation, and the increase in taxable fields that came from re-opening fallow fields and opening new land could be used to stabilize food supplies and employ people who had lost their fields. The official temple Tōdaiji’s estates in Echizen province are a representative model of resulting early estates.[[12]](#footnote-12) Their opening started in 744, the year after the new land tenure law was promulgated. The plan was for these early estates to open and then lease new fields to residents of neighboring areas. The objective was to create the means to secure local food supplies, thereby avoiding the tendency to depend on surpluses in the area around the capital.

Buying and Selling Fields and Residential Land

In principle, *ritsuryō* law forbade permanent sales or purchases of rice fields. In addition, residential land and gardens were regulated by the Yōrō Laws on Rice Fields, Article 17. The article states that people needed the permission of local officials to buy and sell land: “Regarding the sale and purchase of residential land, all shall be reported through the relevant local officials, and sale shall be permitted afterward.” Following the 723 Law of Three Generations or One Lifetime and the 743 Law on Permanent Private Tenure of Newly-opened Fields, the sale and purchase of the newly-opened fields was allowed, but that too required the approval of officials. If the person concerned lived in the capital, they were to go to their urban ward chief; and if they were in the provinces, they were to go to the head of the township to submit their request. Once the request was received, two copies would be made by the official, and then it was taken to either the Capital Office or to the district chieftain in the provinces. Those officials were to sign the document and retain one copy in their office, while returning the other copy to the buyer. In some cases, the document would receive the seal of the province. This process was called “official confirmation of sale,” and it concluded the sale. We can see what a bill of sale looked like in the following document from the Shōsōin archives, dated 751, seventh month, seventh day.[[13]](#footnote-13)

**Document 4**

Ōmi Province, Kōga District, Kurabe Township - Certification of Sale of Newly Opened Fields and Meadow Land

The District Chieftain of Kōga reports:

that newly-opened fields and meadowland have been sold, and we submit this certification of sale.

Altogether, there are 21 *chō* of newly opened fields and 3 *chō* of meadowland. {The

land is bounded by a valley to the east, a ditch to the south, a river to the west, and

Sachi Valley’s boundary on the north.} The land is said to be in Kurabe Township.

Regarding the above, these are the fields of Junior Fifth Rank Upper Abe no Ason Shimamaro, a residence unit head in the Left Capital’s Fifth Ward Third File.

The report previously submitted by Shimamaro said: “My newly-opened fields and meadowland have been sold to the Great Sutra-reading Group in Takechi District, Yamato Province. The value of the sale was 230 strings of cash. For the record, both the buyer and seller have signed. In keeping with the rules, this is the certification of sale. So have the circumstances been recorded. The messenger is Beginning Rank Upper Takakai no Kimi Yasumaro, and he will report the matter. Such is my report.

 Signed

Seller: Junior Fifth Rank Upper Abe no Ason [Shimamaro]

Buyer: Gufukuji Great Sutra-reading Group

Great Temple Administrator and Great Elder Teacher of the Law [Renshō]

Lesser Temple Administrator, Monk [Eiyō]

Abbot [Rinzō]

Monastic Superintendent [Eishū]

Rector & Director of Studies [Eikō]

Junior Director of Studies [Zenshō]

Tenpyō Shohō 3 (752) 07/27

District Scribe Without Rank Kawa no Atai [Momoshima]

Provisional Senior District Chief Outer Senior Seventh
Rank Koga no Omi [Otomaro]

Junior District Office Clerk Without Rank Kōga no Omi [Otoko]

*Sealed with the provincial seal, as requested[[14]](#footnote-14)*

*Second-level Manager in the Provincial Office, Junior Fifth Rank Lower, Kumagori no Ason [Imomoshima]*

*Provisional Junior Secretary Senior Sixth Rank Upper, Harimi no Ason [Okubito]*

*Extra-codal Fourth-level Manager in the District Office, Senior Seventh Rank Upper, Ana no Fubito [Rō]*

*Doctor Junior Beginning Rank Upper, Monobe I no Muraji [Ken]*

*Tenypō Shōhō 3 (752) 08/02*

*Ōmi Province seal*

We see here that the Kōga district chieftain reported to the Ōmi Provincial Office that an official named Abe no Ason Shimamaro, who was a resident of the Nara capital, had sold his newly-opened fields and meadowland to a group of monks at the official temple Gufukuji, and that this transaction was being certified by officials. In the second half of the document we find the signatures of the seller, Abe no Ason Shimamaro, and the buyers, who were temple administrators. The signature of the Kōga district chief follows. Still later, three members of the provincial government staff all signed, and added the provincial seal, as requested.

Notably, Article 26 of the Yōrō Laws on Rice Fields forbade giving or selling land to temples: “Neither officials nor commoners shall sell or give their fields, paddies, residential land, or gardens to temples.” In actuality, however, we see occasional certification of such sales by local officials from the Nara period on. This sort of activity was evidently continuing in 783, as it was once again firmly forbidden by a royal edict:

 **Document 5**

A royal order was issued: “There is a limit to the number of officially recognized temples of the capital and central provinces.[[15]](#footnote-15) Undertaking personal construction has already been forbidden [by royal order]. Recently, officials of the capital and provinces have been negligent [about such construction] and have not conducted investigations. As time passes, we can imagine that there will be no place that is not occupied by a temple. This should be strictly forbidden. From now on, the punishment for personally building places for [Buddhist] practice, for donating rice fields or residential land or gardens, or for selling land to a temple shall be, for those posted as fourth-level managers and above, the loss of one’s current appointment plus 80 strokes of the light stick. There shall be no discussion of shadow [privileges] or redemption. Those officials who know of such offences and do not stop them shall be considered to have committed the same crime.”[[16]](#footnote-16)

We see here that the personal building of temples and the donation or sale of rice fields, residential land, and gardens to temples was once again forbidden, and that officials who failed to control these actions were to be severely punished. And yet again in 805 there was still another order, and there are quite a few other documents recording the sale of land to temples.[[17]](#footnote-17)

In 788, we also have a bill of sale recording the sale and purchase of land within the new capital under construction at Nagaoka, northwest of Nara:

 **Document 6**

Report from the Head of the Sixth Ward, certifying the sale of residential land:

 One residential lot (length 15 *jō;* width 10 *jō*) in the third file of the Nagaoka capital

In this regard, Senior Sixth Rank Upper Ishikawa no Ason Kibihito, a member of the residence unit headed by Junior Eighth Rank Lower Ishikawa no Ason Imanari of the Left Capital Sixth Ward First Column, has received a report that says: “Having assigned a value of 5 *kan* and 600 *mon* in cash to this residential lot, I have sold it to Ōyama Shōama[jo], a woman from the residence unit of the Right Capital Fourth Ward Third Column, Residence Unit Head Ōyama Taisei. According to standard procedure, we humbly request certification of the sale.

Per the petition, the facts have been investigated and both parties have signed.

Thus reported (and signed),

Seller, Senior Third-Level Manager in the Ministry of Military Affairs, Senior Sixth Rank Upper Ishikawa no Ason [Kibihito]

Buyer, Ōyama no Miyatsuko Shōama[jo]

Guarantors

Senior Inspector of the Board of Censors, Senior Sixth Rank Lower Ishikawa no Ason [Daishō]

Third-level Manager in the Hayato Office, Senior Seventh Rank Upper Ishikawa no Ason [Kyōo]

Enryaku 7 (788) 11/14

*Right Capital Office, two copies (of the certification with seal)*

 *1 copy, for the Capital Office*

 *1 copy, given to buyer*

*[Executed according to the original certification]*

*(signed)*

*Senior Sixth Rank Upper, Over-ranked, Third-Level Manager, 11th merit grade, Ōtomo no Sukune [Manao]*

*Senior Sixth Rank Upper, Over-ranked, Third-Level Manager, 11th merit grade, Saeki no Sukune [Ryūmaro]*

*Senior Sixth Rank Upper, Over-ranked, Senior Fourth-Level Manager, 7th merit grade, Iitaka no Sukune [Shinobitari]*

*Senior Sixth Rank Upper, Over-ranked, Junior Fourth-Level Manager, Wake no Omi [Sōmaro]* [[18]](#footnote-18)

According to this record, the mid-level official Ishikawa Kibihito sold residential land to Ōyama Shōama, whose residence unit is also indicated, for 5 *kan* and 600 *mon* in cash. The chief in charge of the area where this residential land was located reported the sale to the Capital Office and received permission. The last half of the document contains signatures of the buyer and seller, as well as two guarantors. There are usually no guarantors on Nara-period documents like this, [so their inclusion here is] perhaps because they were members of the same noble lineage. There is no signature by the Sixth Ward column chief, but we do see the signatures of four officials from the Right Capital Office at the end of the certificate. Of the two copies of the bill that the Right Capital officials signed, one was to be kept in the Capital Office and one went to the buyer. By mid-Heian times, however, official participation in the creation and certification of such documents ceased, and the exchange of the bill of sale took place directly between the parties involved.

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* William Wayne Farris. *Population, Disease, and Land in Early Japan, 645-900*. Cambridge, Mass.: Council on East Asian Studies, Harvard-Yenching Institute, distributed by Harvard University Press, 1995.
* Mikael S. Adolphson. “Institutional Diversity and Religious Integration: The Establishment of Temple Networks in the Heian Age.” In *Heian Japan, Centers and Peripheries*, 212–44. Honolulu: University of Hawai’i Press, 2007.

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* *Shoku Nihongi*. 6 vols. SNKBT 12-16.
* SNKBT. *Shin Nihon koten bungaku taikei*. 6 vols. Tokyo: Iwanami shoten, 1989-2000.
* *Dai Nihon komonjo Shōsōin monjo* 25 vols. Tokyo: Tōkyō Daigaku shuppanbu, 1901-1940.
1. See, for instance, Luke Roberts, *Mercantilism in a Japanese Domain: The Merchant Origins of Economic Nationalism in 18th-Century Tosa* (Cambridge; New York: Cambridge University Press, 1998), p. 6-7. [↑](#footnote-ref-1)
2. In other words, this was an example of inventing a classical precedent to support a modern project. The idea that a “government land, government people” system had existed in classical Japan served as a precedent for Meiji government efforts to reclaim large amounts of land that was held personally in 1868. [↑](#footnote-ref-2)
3. The character 私 is often translated “private,” but I have chosen to use the term “personal” to help create distance from the modern notion of private ownership. [↑](#footnote-ref-3)
4. For an English-language discussion of land-holding systems in the Nara period, see Torao Toshiya, “Nara Economic and Social Institutions,” in *The Cambridge History of Japan* vol. 1, ed. Delmer Brown et al., trans. William Wayne Farris, Cambridge Histories Online (Cambridge: Cambridge University Press, 1993), 415–52. [↑](#footnote-ref-4)
5. Torao, “Nara Economic and Social Institutions,” 438-440. [↑](#footnote-ref-5)
6. This document is found in the *Shoku Nihongi* (Continued Chronicle of Japan, 797 CE). Translation by Nadia Kanagawa. For the original Japanese, see *Shoku Nihongi* II (SNKBT):130-135 [Yōrō 7 (723) 4/17]. [↑](#footnote-ref-6)
7. 1 *chō* was roughly 2.94 acres, or 14229.6 yards (approximately 2.5 football fields). [↑](#footnote-ref-7)
8. The new fields were permanently heritable fields, i.e. the tenure was considered permanent. *Shoku Nihongi* II:424-427 [Tenpyō 15 (743) 5/27]. Translation by Nadia Kanagawa. [↑](#footnote-ref-8)
9. The allotment process was to take place once every six years. [↑](#footnote-ref-9)
10. *Hōssōshiyōshō* (Essential Extracts for the Legal Profession) was compiled around 1130. For a brief abstract, see Joan Piggott et al. *Dictionary of Sources of Classical Japan* (2006). Francine Hérail has discussed the text in French, and her essay has been translated by Aileen Gatten. See it on the Legal Resources page of the website of the Project for Premodern Japan Studies <uscppjs.org>. A translation of clauses concerning gender relations by Cassandra Dierolf, as one part of her Master’s Thesis, can also be found there. [↑](#footnote-ref-10)
11. The translation here is by Nadia Kanagawa. William Aston has: “The dues payable to market commissioners, …for main roads, and to ferrymen, are abolished and lands are granted instead. / Beginning with the Home Provinces, and embracing the provinces in all four quarters, during the agricultural months let everyone apply himself early to the cultivation of the rice land.” See Aston, *Nihongi*, p. 223. [↑](#footnote-ref-11)
12. For an English-language discussion of early estates (*shoki shōen*), see Elisabeth Sato, “The Early Development of Shōen,” in *Medieval Japan: Essays in Institutional History*, ed. Jeffrey P. Mass and John W. Hall (Stanford, Calif.: Stanford University Press, 1988), 91–108. [↑](#footnote-ref-12)
13. *Dai Nihon komonjo Shōsōin monjo* vol. 3, 513-514. [↑](#footnote-ref-13)
14. This section is in italics to indicate that it was appended to the original text later. [↑](#footnote-ref-14)
15. For a thorough discussion of the history, structure, and purpose of certified temples, see Mikael Adolphson, “Institutional Diversity and Religious Integration,” in *Heian Japan: Centers and Peripheries*, p. 212~228. [↑](#footnote-ref-15)
16. Translation by Nadia Kanagawa. See *Shoku Nihongi* V:173-175 [Enryaku 2 (783) 06/10]. [↑](#footnote-ref-16)
17. It is worth noting that the majority of extant documents from this period are those of major temples and shrines. As institutions that abided over the centuries, their documents were much more likely to be systematically preserved and handed down than the documents of families or individuals. [↑](#footnote-ref-17)
18. Takeuchi Rizō, ed. *Heian ibun* (Tōkyōdō), vol. 1, Document 4. [↑](#footnote-ref-18)