

Kanamori Tokujiro's interpretation of the prewar Japanese constitution

by *SHIMOMURA Mitsutoshi*

Kanamori Tokujiro, who is best known as Minister of State for Constitutional Reform in the 1st Yoshida Shigeru Cabinet, was also regarded in Japan's prewar era as a constitutional scholar active in the offices of the bureaucracy dealing with legal institutions; however, due a lack of detailed analysis in the research to date on the history of Japan's constitution in general and on the history of Imperial Institution Incident (25 Feb 1935) in particular, Kanamori's rightful place in the events of that time has yet to be established. In light of such cursory treatment of Kanamori by historians, the present article aims as examining Kanamori's ideas about such institutions as the Diet, cabinet and Emperor, focusing on his collected works other than his best known *Teikoku Kenpo Yoko* 帝国憲法要綱 (General Outline of the Imperial Constitution), in order to better clarify his interpretation of Japan's prewar constitution. The treatises chosen by the author for study enable a more detailed analysis of the subject matter than *General Outline*, because they reflect the political situation at the time of their publication. The article also provides a comparison of the ideas expressed by the other leading constitutional scholars of the day, in order place Kanamori in the political and constitutional history of prewar Japan.

The author makes clear from the politically relevant sources he has chosen that Kanamori was of the opinion that the Diet was an advisory body to the emperor, that the cabinets acted in the role of independent counselor to the emperor on affairs of state, and regarding the emperor himself, Kanamori adhered to the principle of political dualism, consisting of a national polity (*kokutai* 国体) and a governmental regime (*seitai* 政体). All these views were based on accurate interpretations of the articles of the Imperial Constitution. Therefore, within the history of constitutional thought, Kanamori should be

placed alongside Minobe Tatsukichi in his imperial institution view of the Constitution (*tenno kikan-setsu* 天皇機関説; that the emperor was the highest placed organ in the governance of the national polity), and while not playing as proactive a role as Minobe in the dissemination of those views, he was certainly more enthusiastic than Constitutional Scholar Shimizu Toru, earning him a place in the ranks of those who regarded the emperor as an independent authority in the governance of the nation. Through the lens provided by Kanamori's orthodox, mainstream ideas, which needed no constitutional revisions to be consistent, the way in which the Constitution was enforced up through the year 1935 stands out in prominent relief.