

The Aftermath of the Emperor-Organ Incident: the Tōdai Faculty of Law 天皇機関説事件の余波一東大法学部

Richard Minear

Introduced by Richard H. Minear

Translator's Introduction:

The Emperor-Organ Incident, 1935-36.

Minobe Tatsukichi (1873-1948), professor of constitutional law on the Tōdai Faculty of Law, was one of prewar Japan's foremost legal scholars. The emperor-organ theory is the doctrine with which his name is associated; it held that the emperor was an organ of the state; the repository of sovereignty, he was still a constituent part of the larger entity, the state. Hozumi Yatsuka (1860-1912) and Uesugi Shinkichi (1878-1929), both also professors on the Faculty of Law, provided the theoretical underpinning for an alternate doctrine. Citing conservative European legal theorists (and paraphrasing France's Louis XIV), they argued that the emperor *was* the state. The two positions framed the legal debate under the Meiji Constitution.



Minobe Tatsukichi

For most of the years before 1935, Minobe's theory held sway, virtually unquestioned: on law faculties, on the civil service examination, in public debate. But in 1935 and 1936, right-wing politicians and publicists rose to attack both the emperor-organ theory and Minobe himself. The key figure in the attack was the editor of the journal *Genri Nihon*, Minoda Muneki (1894-1946). In his attacks on Minobe (and on virtually every non-conservative professor on the Tōdai Faculty of Law), Minoda quoted copiously from his targets, then piled on

the invective and questioned their patriotism. Think the early William F. Buckley rallying the forces against mainstream constitutional wisdom—and winning; think Glenn Beck, Rush Limbaugh, and Fox News (except that Minoda was himself a graduate of the Tōdai Faculty of Law). In 1946, shortly after the end of the war, Minoda committed suicide.

The attack on Minobe’s constitutional theory was part of the larger anti-intellectual and xenophobic trend of the 1930s. Here is Tachibana (from the preface to *Emperor and Tōdai*):

With the Emperor-Organ Incident, all Japan became hostage in the blink of an eye to the concept of the *kokutai*, and an era arose in which, by black magic, the *kokutai* concept controlled Japan. That great era of change in values contained within itself all the seeds of the later destruction of Japan.

Tōdai was the chief stage on which this great change—black-magical control by the *kokutai* concept—arose. In the era just before, attacks from the left on the emperor-system state had held sway, and the advent of an age of revolution had been clamored for. Then, too, Tōdai was the chief stage. In reaction, an attack on the left wing began, led by right-wing nationalists, and soon the right-wing nationalists turned to terror. The right-wing student movement spawned terrorists and therewith a great drama that shook the age. Tōdai was its stage, too. This is why Tōdai is the best place to comprehend the trends of the time.

This is the biggest reason I changed the title of this book from

“My Tōdai” to *Emperor and Tōdai*. The key figures in this great historical change in the Japan of that day were the emperor, the imperial (or anti-imperial) ideologues, the imperial (or anti-imperial) ideologists. And Tōdai was the center stage where this conflict over views of the emperor arose most fiercely.

The attack on Minobe and Tōdai is a case study of xenophobic anti-intellectualism; as such, it merits our close attention.

Having reached sixty, mandatory retirement age, Minobe had retired from Tōdai and become a member of the House of Peers. The ideological attack led Minobe to respond formally, then resign from the House of Peers; he was also attacked physically by right-wing thugs and sent to the hospital. The fact that Minobe was no longer an active member of the Faculty of Law in a sense let that faculty off the hook. For that and other reasons, the Faculty of Law offered no serious defense of Minobe: that is the taboo and the disgrace to which Tachibana points. The only noteworthy defense of Minobe came from the Faculty of Economics, which until 1919 had been part of the Faculty of Law.

Why the taboo and disgrace of the Faculty of Law? The following chapter, from Tachibana Takashi’s *Emperor and Tōdai (Tennō to Tōdai: Dainihon teikoku no sei to shi*; Bungei shunjū, 2005), discusses the Faculty of Law following the incident.¹

Tachibana Takashi

Tachibana Takashi was born in Nagasaki on May 28, 1940. Japan was already at war on the Chinese mainland. Tachibana’s father taught in a girls’ school. His family was Christian. In 1942 the family moved to Beijing, then under Japanese occupation; his father became

assistant principal of Beijing Normal School, an institution for the training of teachers. The family returned to Japan only after the war, in 1946, so the five-year-old Takashi did not experience the climactic war years in Japan or the atomic bombing of Nagasaki.

Tachibana's Tōdai ties are long and involved. On enrolling at Tōdai, he hoped to study the physical sciences, but slight color-blindness led to his rejection by the Faculty of Science, and he turned to the Faculty of Letters. He did his senior thesis on the French philosopher and spiritualist, Maine de Biran (1766-1824). For two years after graduating, he worked for *Bungei shunjū*. Then he quit and went back to Tōdai for graduate work in philosophy. The Tōdai unrest of 1968-69 interrupted his graduate work but provided fodder for his pen: he published a number of essays about the Tōdai unrest. When he sought to resume his graduate work in 1970, he ran into bureaucratic demands that he pay tuition retroactively, and he refused. Twenty-five years later, beginning in 1996, Tachibana taught in Tōdai's General Studies Division, and his writings on science led to appointments in 2005 and since.

As a writer, Tachibana has covered a wide range of topics, often attracting great attention and even lawsuits. The topics include Prime Minister Tanaka Kakuei, the Lockheed bribery scandal, near-death experiences, space travel, cancer.



Tachibana Takashi

His books number in the many dozens. He has also been a figure in radio and TV journalism and has even acted in TV animations. The following is a translation of Chapter 51 of *Emperor and Tōdai*.

1. The Tōdai Faculty of Law: Taboo and Disgrace.

Hiraizumi Kiyoshi² was far from the only Tokyo Imperial University professor to go with the times (or act out of conviction) and cooperate actively with the military and the war. But there were also Tokyo Imperial University professors—albeit a minority—who stood at the opposite pole. The men who deserve to be at the top of this list are Kawai Eijirō and Yanaihara Tadao of the Faculty of Economics. Because of their fierce critical spirit, both lost their positions as professors at Tokyo Imperial University (Yanaihara in 1937, Kawai in 1939). Kawai died during the war (1944), but Yanaihara was reinstated right after the war; after serving as dean of the Faculty of Economics and head of the General Studies Division, he became president of Tōdai and held that post for six years (1951-57).

Japan’s sudden turn to the right and the establishment of political control by the military took place after the February 26 Incident.³ Kawai Eijirō was the only person in the entire world of commentators to criticize the military head-on for the Incident. In “On the February 26 Incident” in the *Imperial University News*⁴ of March 9, right after the Incident, he wrote:

First of all, we feel a duty to express deep condolences on the deaths of Privy Seal Saitō, Finance Minister Takahashi, and Chief of Military Training General Watanabe, slain by the cruel bayonets. Quite a few politicians have fallen victim to the violence of the last several years—Hamaguchi Osachi, Inoue Junnosuke, Inukai Tsuyoshi, and others; but when these people were felled, it was unclear what the anti-ideology was. So their deaths were literally unforeseen. But since the May 15 Incident, fascism—particularly fascism within the military—has become an open fact that cannot be covered up. The men who met disaster this time made opposition to this fascist trend their conscious goal and likely foresaw that the result might be their own deaths; yet they faced head-on the deaths that were coming and sought with their bodies to stem the tide of fascism.⁵

Who Is to Blame for Defying the Emperor’s Order?

Kawai was a militant liberal, and when he first made his debut in the media, he was known as a champion in the fight against Marxism; but after the May 15 Incident of 1932, fascism and statism/state socialism bore the brunt of his

criticism. From that perspective, after 1933 he published essays on current events, one after the other, in *Bungei shunjū*, *Keizai ōrai*, *Kaizō*, the *Imperial University News*, *Chūō kōron*, and the like; in 1934 he collected them into the book *Critique of Fascism*.⁶ This book sold well, one printing after another. The infamous Minoda Muneki deluged him with criticism—Kawai was an “early proponent of the tactic of the Popular Front,” a “collaborator with social democratic revolution,” a “proponent of bald-faced intervention in the prerogative of supreme command,” an “anti-military, anti-war” thinker, a “proponent of dependence on England and the U.S., in the style of the Chinese.”⁷ The Home Ministry, too, told Kawai through intermediaries that it wouldn’t ban his books but asked him to withdraw them voluntarily. Kawai refused to do so, saying, “If you want to ban them, be my guest!”



Eijirō boldly criticized the military. He really hung in there.



Nambara Shigeru

Maruyama: The students too were astonished that he hung in. And Japan plunged ahead into the fascist era...

Nambara: [...Kawai's critique of Marxism, too, was amazing], not to mention that when he turned to fascism as target, the debate took on a different tone. In particular, right after the February 26 Incident, he attacked it in the *Imperial University News* and then elaborated in essays he published in various magazines.

Maruyama: His was a fierce critique of statism: if the army has a greater voice than the nation as a whole because it has weapons, you can't say that speech has been publicly guaranteed unless you give weapons to the entire nation. Statism exists at the root of the

evil that allowed this terror to go unchallenged....

Nambara: At the time, no one else was making that criticism. That's how resolute he was. On that point you have to give him very high marks....And for that he incurred the displeasure of the military.

Why did so few critical voices arise from Tōdai? At the time, quite strong rumors had it that if something happened, Tōdai would be hit by right-wing terror. In terms of time, the emperor-organ incident of Minobe Tatsukichi and the February 26 Incident were virtually contiguous; in content, too, they had deep links. In a word, both issued from the idea that Japan was in essence an emperor-centered divine state, so it should be reconstructed accordingly (the clarification of the *kokutai*); the emperor-organ issue took the form of attacking a legal scholar who distorted the *kokutai* in his emperor-organ theory, and the February 26 Incident took the form of the trend, via *coup d'état*, toward a state actually ruled directly by the emperor.¹³

Throughout this period the attacks on the Tōdai Faculty of Law by Minoda Muneki, who touched off this issue, continued unabated. The Tōdai faculty of law traditionally took an "academic tone antipathetic to the *kokutai*," aroused China's "anti-Japan, scorn-Japan, resist-Japan" ideas, spread anti-*kokutai* ideas that would turn Japan into a democracy (since emperor-centered politics was Japan's original *kokutai*, democracy was anti-*kokutai*), and rejected and despised the national spirit of its own country. The Faculty of Economics had become the general headquarters of the Comintern's Popular Front tactic, so Minoda called for the dissolution of Tōdai.

In virtually every issue, Minoda's *Genri Nihon* named Tōdai's famous professors—Takagi Yasaka, Yokota Kisaburō, Kawai Eijirō,

Miyazawa Toshiyoshi, Rōyama Masamichi, Suehiro Gentarō, Yabe Teiji, and others—and attacked them as enemies of the state. In fact, via such attacks, Minobe Tatsukichi was consigned to oblivion as a scholar, and he was set upon by right-wing thugs riding that wave of agitation. The rumor that the Tokyo University Faculty of Law would be attacked couldn't be dismissed as crazy.

Maruyama: Just before the February 26 Incident, Minobe was attacked by the right wing.

Nambara: Yes. February 21, 1936. Thugs stormed into his house, Minobe was shot, and he was taken to the Tōdai Hospital.

Maruyama: For some time before then, there had been talk that if something happened, the Tōdai Faculty of Law too would be attacked; was there talk within the Faculty of Law about the February 26 Incident—consultation or talk about what came next?

Nambara: There was a big snowstorm before dawn. Right off, I went to the university: snow was falling, there were serious news reports, and there was almost no one at the university.... I too had encountered political incidents my whole life, but the morning of the February 26 Incident was in some sense graver than the later day, December 8, when war was declared. That's my feeling.

Maruyama: Among the students, reports flew that Tōdai might be shut down. I also heard rumors that Police Headquarters had telephoned several Tōdai professors—they couldn't

guarantee their safety, so please hide somewhere....

Nambara: That sort of thing apparently did happen. Indeed, I went to my study, and it was still dark. Snow was falling; no one was around. By chance I met only Takagi; I don't know about the younger faculty, but no other professors showed up. The two of us talked, then phoned former president Onozuka and asked him to seek refuge somewhere. And then we thought that Yasaka and Miyazawa—those two were always in the crosshairs of the right wing and the military—

should do something. Gossip was flying, and reports came in that the *Asahi* newspaper and the Tōdai Faculty of Law were targets. In fact, they did hit the *Asahi*. So we did in fact make contact with both those people.

Even the police were worried about the safety of the professors, so at this time people knew you couldn't get away with spouting anti-rightist, anti-military words. So even though the incident happened, everyone kept silent.

At the end of the previous essay, Kawai shoots his critical arrows at the intellectual class that kept silent about February 26: "Today the nation stands at a crossroads and must pick one of two futures: the will of the nation or the violence of one group.... At this time one often hears the intellectual class whispering: how powerless we are in the face of this violence! But in this sense of powerlessness lurks a dangerous psychology of praising violence. This is the hotbed that breeds fascism."

When we look back on history, we can say that after the February 26 Incident the intellectual

class became as Kawai described it. Engrossed in their sense of powerlessness, doing nothing at all, they either were pulled along by the trend of the time or, perceiving the trend of the times early on, worked to ingratiate themselves with that trend. No matter which route they took, they constructed the hotbed that bred fascism.

Minobe's Prime Disciple Reflects

I'll talk later about those who ingratiated themselves with the age; I want to say something now about those who gave in to a sense of powerlessness and were swept along. There were two types of people who were swept along: the minority who long after the war reflected deeply on what they did and wrote something about it, and the large majority who didn't reflect at all (or merely exercised a bit of reflection and logical self-rationalization in their own heads) and wrote nothing at all.

As representative of those who reflected, I offer Miyazawa Toshiyoshi, constitutional scholar and Minobe Tatsukichi's prime disciple. Miyazawa was a legal scholar who started his career as T. A. to Minobe, became assistant professor in 1925, and in 1934, when Minobe reached mandatory retirement age and retired, became professor and succeeded to Minobe's chair. While Minobe was healthy, he was of course the leading advocate of the emperor-organ theory, so on the emperor-organ issue he continued to be attacked fiercely by Minoda Muneki and the anti-emperor-organ people. Hence, at the time of the February 26 Incident, both friends and officials warned him to hide.

And when Minobe's books were banned and the emperor-organ theory disappeared simultaneously from the constitution course at every university, Miyazawa too jettisoned the emperor-organ theory. The Tōdai constitution course continued to exist but avoided virtually anything related to the emperor system, even the constitution's basic stipulations about the

emperor system. It was so striking that Minoda's *Genri Nihon* wondered whether Miyazawa deserved the title of professor of constitutional law at Tōdai:

In the last several years, Miyazawa Toshiyoshi, who succeeded to Minobe Tatsukichi's constitution chair at the Faculty of Law of Tokyo Imperial University, *has published virtually no study—even in the Law Faculty's own Law Association Journal—on the imperial constitution that is his specialty* but publishes vacuous critiques of the day in low-brow magazines; worse than that, most recently he has written mainly film criticism and occasional pieces and published a collection of these essays. Especially in this time, can we say that with such an attitude Miyazawa is fulfilling his scholarly duties?

In the *Program of Lectures on the Constitution*¹⁴ that Miyazawa used for his university course in 1937, of a total of eight pages on the emperor, five concern succession, and one each concerns reign names and imperial landholdings. On Article 1, the fundamental principle of the imperial constitution, he simply posts its text and gives not one word of explanation. On Article 4, he doesn't even post its text. By contrast, in dealing with the Imperial Diet, once past the introduction he divides it into nine parts and allots it seventy pages, but not one word refers to the legal relation between emperor¹⁵ and Diet. *Although he exhibits such ignorance of the Imperial*

Constitution's principles, he does occupy this chair, yet he wastes his time on criticism of film prizes and prides himself on publishing it. Domestically, inauspicious events continue to occur abroad, from the Manchurian Incident down to today's China Incident; when it comes to Japan's internal and foreign crises of the last several years, does he have a scholarly conscience? (Italics in original.)

In short, until the war ended, Miyazawa fled completely from the constitution and the emperor system. After the war ended, he was once again active as the professor of constitutional law at Tōdai, and until his retirement (in 1959—afterwards he served as professor at Rikkyō University), he was considered the chief interpreter of the new constitution.

For Miyazawa the issue of the emperor-organ theory (and his own flight from it) seems to have remained a lifelong trauma, and immediately after he retired from Rikkyō University in 1969, he published the huge two-volume *Emperor-Organ Theory Incident*¹⁶ that collected all the materials concerning the issue. In the summation of its final chapter, Miyazawa writes: “People who look back on this incident now will surely be shocked at the nature of the attack on the emperor-organ theory, filled with the craziness that was expressed in the attack, and at the spinelessness of the officials and party leaders in the face of it. Moreover, they’ll think it strange that the resistance of the scholarly world and the journalistic world was so weak. On the one hand, it means that the fascist forces propelled by the leaders of the ‘real power’—the military—were *so strong that they suppressed not only opposition argument, of course, but all criticism*; on the other hand, it likely means that *love of ‘liberty’ had not sunk its roots very deeply into the Japanese society*

of the day.”

It wasn’t only in the conclusion; in the text, too, he says this of his own spinelessness at the time:

At just that time I was asked to write a column “Comments on Current Events in Journalism” in the *Tōkyō Nichinichi* newspaper, and I skimmed the pages of various magazines. I happened on Sasa Hirō’s article “On Minobe Tatsukichi.”¹⁷ I was struck by his view of Minobe—“standing tall like a towering tree, withstanding even the gale, not afraid of the blizzard...fearing nothing, believing in the right, expressing what he has decided is the truth—it certainly never comes from the superficiality of the intellectual who wishes to make a display of his ideas,” and irritated by events in the House of Peers, I wrote the following: “In the Diet some members are criticizing Minobe’s theory as infringing the *kokutai*. I think they are simply buying into this slander by a group that has ulterior motives; but these were speeches in the Imperial Diet, so they had considerable impact. Probably for that reason, Professor Minobe attempted ‘A Personal Explanation’ from the dais of the Upper House and attempted *at great length* to enlighten some of the critics. As I listened to Minobe’s explanation, which he reduced to the simplest terms possible, I thought that if there were any who still thought Minobe’s explanation infringed our *kokutai*, they were either ignoramuses beyond redemption or

people seeking to wreak personal harm using the term kokutai. No matter which, there was no difference between them insofar as the grave poisoning they administered.” (These emphases were not in the original but were added by Miyazawa himself when I was putting this book together.)

This *Asahi* essay was *the only thing* Miyazawa wrote in support of Minobe. After writing it, he became increasingly spineless: “Right after I delivered this manuscript to the *Asahi*, I was summoned by Dean Suehiro. The dean warned me kindheartedly: this latest incident in the House of Peers was a political issue with very deep roots, so it’s best for you to very careful what you say or do. When I mentioned this manuscript, he said, well, if you’ve already submitted it, there’s nothing to be done.

“When the essay ran in the newspaper, I immediately received several letters calling it ‘disgraceful.’ I thought, yes, indeed, this incident goes deep. When my essay ended, the *Tokyo Asahi* immediately ran an essay by Imaizumi Teinosuke. I don’t recall the details, but it was an attack on constitutional theory of the Minobe stripe. I hear they had to run something like it because of the criticism of my essay.

“Thereafter, spineless, I kept silent. Of course, under such conditions, I stopped getting commissions for essays from any outlet. I wrote journalism only as requests came in, so since there were no requests, you might say it was natural for me to stay silent; but at the same time it’s also true I didn’t take the initiative myself to write.” What did Miyazawa do in this period in which he was spineless and stayed silent? Believe it or not, he became an avid ballroom dancer and frequented dance halls: he confesses so in *Testimony on Shōwa Intellectual History*. (A commentator in the press found out about it and ridiculed him

mercilessly.)

Here I’d like to note that Dean Suehiro of the Faculty of Law kept Miyazawa from further writing. For one thing, even before the Minobe issue, Minoda and his crowd had painted Suehiro as a Marxist who stressed “Communist-style expropriation of land without compensation,” “teaching the tactics of fierce dispute as substitute for communist revolution,” “the military as parasite,” “the acceptance of crimes committed by the property-less,” and the like, and had made fierce attacks on him, and the issue had been taken up in the Diet by members of the House of Peers affiliated with Minoda; so he probably didn’t want to exacerbate things. For another, it was likely related to another situation that I’ll speak about later.

For Miyazawa the trauma from the emperor organ incident seems to have been large, so before completing his book, he spoke as follows in the *Asahi Journal’s* “University Autonomy—Events and People:” “Professor Minobe was no longer at the university, so this incident didn’t involve the university immediately. But for a university, myself included, not to do anything, to hunker down, and withdraw without saying what needed to be said.... In retrospect, the feeling that we had no self-respect is always with me. In that sense, I reflect as a university person, couldn’t there have been a bit more action? That’s what I thought after the fact. ... We kept silent, well, we were without self-respect... As university people, we had no self-respect. It’s not an experience to be happy about, and I think it should provide material for future reflection.”¹⁸

Disciples Who Jettisoned Minobe

Among those who, like Miyazawa, felt a strong sense of guilt and often talked of it is Nambara Shigeru, first postwar president of Tōdai. Here’s what he says in *Nambara Shigeru Recollected*:

Tsuji Kiyooki¹⁹: Next, the emperor-organ issue. This, too, we can call a showdown between the military and the university. The starting point was criticism of Minobe in the Army Ministry's pamphlet, "The Fundamentals of National Defense and its Strengthening."

Nambara: When I think of the trouble Minobe encountered for the emperor-organ theory, I confess, I'm struck by a feeling of very great remorse. Why didn't I defend his theory? Was there no way to do so? He was already then an emeritus professor and had left the university—but how could those of us who were direct disciples not defend him? We in the Tōdai Faculty of Law, colleagues, disciples of his, weren't able to give him a bit of protection. To this day, it's a source of absolutely unending regret.

After all, the only thing we did—I'm embarrassed to say this—was give a dinner party to console him. The sympathizers in the Faculty of Law, including also Ōuchi and others from the Faculty of Economics, invited Minobe to dinner at a Chinese restaurant in Ueno. There were about ten of us. We consoled him, trying in that inadequate way to make it okay. No, we consoled each other—that's all it amounted to. Minobe said not a word about his own anguish and of course not one word of resentment; without seeking our aid, he conversed with us lightly and calmly. I thought it was noble of him. That's stuck in my memory to this day. Inside lay truly sorrowful feelings, feelings he

couldn't acknowledge himself. In a sense, that's how grave the situation was. We didn't make a formal issue of it; we could only console him vaguely.

Was this truly all they could have done? Nambara himself says he was "embarrassed," and it's the greatest disgrace of the Tōdai Faculty of Law that this was all they did.

The tale continues with deference to the anguish of Miyazawa Toshiyoshi:

Tsuji: When Professor Miyazawa reached retirement age and left Tōdai, at his final Faculty Meeting he recalled those days. It sounded as if he was speaking for the first time of the anguish he had been living with as the direct inheritor of Minobe's constitutional theory. It was very moving.

Nambara: I think his attitude was truly splendid. It wasn't just Professor Miyazawa; the rest of us bear the same guilt. It's something unconscionable we've been living with. What was it Miyazawa said?

Maruyama: He'd been called in by Hozumi Shigeto, then dean of the Faculty of Law, who said, "If you become an issue, please resign. Don't involve the Faculty of Law." What he meant was that earlier, Minister of Education Matsuda Genji had responded to questions in the House of Peers as follows: "In the Imperial University there's virtually no professor left who believes in the emperor-organ theory. If there is a problem, it's only Miyazawa." Probably it was

just after that that Hozumi spoke. Miyazawa replied, “Of course I’ve no intention of involving the Faculty of Law.”



Maruyama Masao

Tsuji: In short, it may be strange to say he laid down his pen, but if he himself kept silent, the peace of the Tōdai Faculty of Law would be maintained, and if anyone asked him about this attitude, he’d resolved to keep silent. Since then, Miyazawa said, he’d always held to that resolve.

Nambara: So what happened between him and Minobe...?

Maruyama: He said nothing explicitly....

Tsuji: As for the details, he didn’t want to cause trouble. About

Minobe, nobody ever said anything to me. It was precisely as if it was a taboo at the Tōdai Faculty of Law, wasn’t it? Hadn’t it become an issue at Faculty Meeting?

Nambara: Minobe was never an issue in Faculty Meeting. I don’t think there was ever even a report. He was called a “scholarly renegade,” chased from the House of Peers, and accused of *lèse majesté*; truly isolated and without assistance, he fought the battle on his own.

Maruyama: In that day everyone who believed in the emperor-organ theory lost their jobs. Kanemori Tokujirō, head of the Cabinet Legislation Bureau, quit, too.

Nambara: It was the year after February 26. Before and after, the atmosphere was inexpressibly stifling. To an extent unthinkable today, in academia, among commentators, in the press, in society at large no voices were raised in protest. It’s absolutely unconscionable.

I must comment here that it’s not the case that both academy and commentariat immediately “fell silent and did not speak” about the emperor-organ theory. Even in the documents in Miyazawa’s *Emperor-Organ Theory Incident*, several distinguished commentators decried this trend of the times in roundabout or indirect fashion. Meriting particular mention here is the resounding criticism of Kawai Eijirō. It appeared in “Critique of the Minobe Issue,” in the *Imperial University News* of April 15, 1935. Unlike today’s *University News*, the *Imperial University News* was recognized widely as a paper of the first order and drew broad public attention. Kawai begins with a

general discussion of “How Legal-Theory Argument Should Be Treated,” and then proceeds in order concretely, with “Has Minobe’s Theory Been Properly Understood and Studied?” He criticizes the critics sharply: “If we stigmatize his theory merely because its words and terms go against common usage, that would be truly hasty and unfair. ... For the past thirty years this theory has gone unchallenged; it’s not something that can be erased and wiped off the earth overnight by being stigmatized. For it to be carried off, as if by high waves and regardless of merit, is not persuasive.... To think that with pressure and coercion one can eradicate a scholarly theory is a sacrilege against all learning.” Moreover, in that this issue discusses the *kokutai*, a more serious treatment is necessary. In general, critics of the emperor-organ theory assert that Minobe’s theory infringes the *kokutai*, but Minobe himself does not—why should they make this contradictory assertion? “Where does this inconsistency come from? Is it that, based on a common assumption about the *kokutai*, there is a difference in judgment of whether they infringe the *kokutai*? Or are different assumptions at work? I hold that there is no difference in belief in the *kokutai* but that there is a difference in the concept of what the *kokutai* is.”

Having framed the issue in this way, he asserts: “The reason Minobe’s theory has been accepted and gone unchallenged for thirty years is because it was thought not to infringe the *kokutai*, and one concept of the *kokutai* figures in this judgment. But suddenly this year, when it is claimed that the theory does infringe the *kokutai*, the premise is a different concept of *kokutai*. When the prime minister and cabinet ministers say in the Diet that they oppose Minobe’s theory but that it does not infringe the *kokutai*, they base themselves on the former concept of *kokutai*. Here there are two concepts, and the two are not distinguished one from the other but conflated.” Thus, first we should begin by ordering these conflated

concepts, not by standing on one and condemning the other: “The proper order is first to clarify the *kokutai* and only then judge whether the *kokutai* is infringed. Declaring that a specific theory infringes the *kokutai* and using this to clarify the *kokutai* turns that order upside down.”

Having pointed out the logically nonsensical nature of the right-wing assertions that simply shout “clarification of the *kokutai*,” he turns next to the counter-attack: “In commenting on this incident, the communists are said to smile with satisfaction that the issue of the *kokutai* has at last come to the forefront of discussion. Hearing this, I break out in a cold sweat. I’d like to believe the good intentions of some of the *kokutai* people, but if they cause people to feel even one drop of unreason or unnaturalness about belief in the *kokutai*, that is not simply their responsibility; it is a loss the nation as a whole must make good. I make bold to request sincerely that some of the *kokutai* people think again.” Here the anti-communist Kawai was able for the first time to develop splendid rhetoric.

Along with “Critique of the February 26 Incident” and other essays, this essay of Kawai was collected in *The Times and Liberalism*, published in 1937 and, as I’ve noted earlier, banned the following year. That not one essay of this sort emerged from the Faculty of Law is the disgrace of the Faculty of Law; but for this essay of Kawai, the disgrace of the Faculty of Law would have been all the greater. (The Faculty of Economics originally was a part of the Faculty of Law, and the man in the street thought of the two as one unit. Kawai was a graduate of the Faculty of Law.)

The Takigawa Incident: Behind the Scenes at Tōdai

Let me list one more disgrace of the Tōdai Faculty of Law: the Takigawa Incident.²⁰ This was the first great issue of academic freedom, and on it the Tōdai Faculty of Law virtually did

not stir. Indeed, that fact left a trail that extended all the way to the issue of the emperor-organ theory. In the *Nambara Shigeru Recollected* passage about the emperor-organ theory issue, there is the following: “To be sure, we—especially the younger people—all worried, tacitly, whether there wasn’t something that could be done. But at this time we couldn’t even get together an informal faculty gathering. At the time of the Takigawa Incident, we’d actually managed to get together an informal faculty gathering, but this incident happened after the Takigawa Incident. In less than two years after the Takigawa Incident, the times had suddenly gone straight downhill. When I think what the result might have been had we issued a joint declaration, for example...but it was nothing like the Takigawa Incident.”

What happened at the time of the Takigawa Incident? Tōdai was apathetic.

Tsuji: According to what I heard rumored, the Tōdai Faculty of Law was extremely apathetic.

Nambara: That’s right. Among the younger professors, Yokota and Miyazawa and I stirred. The issue arose of whether for the sake of Kyoto University, we should make contact and try to help. Then in Faculty Meeting, consideration was given to some formal step, but in the end we held an informal faculty gathering. The dean was Hozumi, and we younger professors led by Yokota argued fervently that the Tokyo Faculty of Law should lend its support to Kyoto University, that we couldn’t do nothing. But we were checked by our elders’ argument in favor of prudence: think of what may result if the Tokyo Faculty of Law acts;

when all is said and done, we must be prudent. We lost overwhelmingly. There was nothing more we could do.

Tsuji: Who were the senior professors at the time?

Nambara: Minobe, Nakada Kaoru, Makino Eiichi, Nomura Keiji, Mitsuma Shinzō, Sugiyama Shinjirō. We younger men were a tiny minority. At the time Minobe as senior professor swung to their side, against the younger professors who wanted to support Kyoto University. In addition to Minobe, Onozuka Kiheiji (political science), then president of the university, swung against the younger professors. In *Onozuka Kiheiji: The Man and the Accomplishments*,²¹ there’s this: “The issue was what Tōdai’s stance toward this incident was to be. In the Faculty of Law, an informal faculty gathering was convened, but in the end the senior professors’ argument for prudence held a large majority, and no action ensued. The words of Minobe, published later, that ‘Its main cause was concern lest Tōdai too be drawn into the whirlpool, that professors would resign *en masse*, that students would be led to jeopardize their futures,’ can be taken to represent the argument for prudence....”

When one compares this with events of years past (TT: In the Sawayanagi Incident (1913-14), the Tōdai faculty cooperated with the Kyoto University faculty and prevailed against the Ministry of Education), one senses in the

attitude of the Tōdai Faculty of Law toward the Takigawa Incident a wholly different world. That's how much it speaks of the gravity of the times, and on this point the previous opinion represented by Minobe probably matches with reality; but the author and others today still doubt and rue the fact that the Faculty of Law was unable to issue even a declaration.

What was President Onozuka's frame of mind and policy toward this incident? Popular opinion seems to have expected something of Tōdai, and especially of Onozuka; but frankly speaking, he likely had his hands full defending Tōdai.

What did this "hands full defending Tōdai" mean? Already at this time the fierce assault on the Tōdai Faculty of Law by Minoda and his ilk had begun, it was taken up in the Diet and the Home Ministry, and a movement had begun to fire problematic professors. That is, it would not have been strange had a second and third Takigawa Incident arisen at Tōdai, and Onozuka, operating behind the scenes, was attempting to prevent that from happening: "The next spring after the Incident, in the president's speech to the university on University Commemoration Day March 1, 1934, he said, 'I don't believe it appropriate to speak to you of the details, but I am doing everything I can.' From this statement one can see his satisfaction and confidence that he was fulfilling his own duty in this Incident. Therefore in the same speech he could say also, 'In order for the university to fulfill its destiny faithfully, it does not flatter power, it does not bow to tangible or intangible violence, it does not go astray in propaganda, and I feel acutely the necessity to maintain a dauntless attitude that does not curry favor with the trend of the

times.'"

In concrete terms, what did Onozuka do? The same book introduces this episode: "...the Ministry of Education made an issue of a foreign-language economics textbook that then-Assistant Professor Arisawa of the Faculty of Economics was using and investigated it. At that time, fortunately, nothing came of it, but several years later, recalling that time, Onozuka said, 'What caused me the greatest worry in my time as president was being able to keep the Takigawa Incident from spreading to Tōdai. At that time it was good that nothing happened to Arisawa.'"

President Onozuka Kiheiiji's Secret Pact

But were Onozuka's all-out efforts behind the scenes to stop the spread of the Takigawa Incident to Tōdai so great? In order to beef up military training, the military had arbitrarily increased the trainers sent by the military, so Onozuka protested strongly, even threatening to resign as president, and got the army to back down. On that issue, when the talk of resigning or not resigning took place, he said in University Council (Tōdai's highest decision-making body) that some things in the course of the Takigawa Incident still hadn't become public. The record says:

On the Kyoto University issue, Onozuka said, "That issue isn't wholly resolved yet, and there is some concern that in some form it will cause problems for university officials hereafter, so I'll mention the secret steps I have taken," and he mentioned especially the following two points:

- 1) At appropriate times I have advised the Minister of Education directly or indirectly via the chief secretary (honest counsel concerning the Ministry's actions

and proposed solution).

2) Via the chief cabinet secretary I have advised Prime Minister Saitō (arguing the universality and the importance of the Kyoto University issue, I said that it was not proper to use force to shut down the Kyoto University Faculty of Law and warned him in advance that even if it came to that eventuality, Tōdai was utterly unable for several reasons to admit the Kyoto Law students).

This account is not comprehensible by itself, but the unclear parts become clear in *Nambara Shigeru Recollected*. Nambara is speaking: “At just that time—1933 to January 1936—I was elected to the University Council.... So I had a good many chances to speak with Onozuka. Onozuka was confident that he had done what he had to do. What that was—the prime minister of the time was Saitō Makoto, and Onozuka had acted preemptively, meeting with Saitō and reaching an agreement. First, Tōdai would not allow such an incident to arise. The Office of Instruction in the Ministry of Education had a list of those to be fired after Takigawa. At Tōdai it was Minobe, Ōuchi, Yokota, Suehiro, in that order. He got them to withdraw that list. Second, even if because of this incident they shut down the Kyoto University Faculty of Law, Tōdai would not accept those students. The sense was, Don’t send the Kyoto students to study at Tōdai; so he supported Kyoto University indirectly. Professor Onozuka was close to both Prime Minister Saitō and Minister of Education Hatoyama, and he knew them well, so he made that preemptive move in good conscience.” In short, what Onozuka did was to conclude a secret pact between the government and Tōdai. Tōdai would not do what it had done in the earlier Sawayanagi Incident—join with Kyoto University and cause the Ministry of Education

to utterly lose face. In return, the government wouldn’t start a second Takigawa Incident that would draw its victims from Tōdai.

How widely was this pact known? To judge from the record of the University Council meeting and from Nambara’s testimony, it was known at the level of the University Council. And this pact lay in the background of the action Miyazawa Toshiyoshi testified about earlier, Suehiro’s taking steps to prevent bad things from happening; Suehiro must have known of it.

Yanaihara Tadao’s Critique of February 26

In the light of history, was entering into this secret pact really the right thing to do? After all, because of this pact (well, not merely because of it; chicken-heartedness and lack of courage probably factored in, too), even as the trend of the times turned more and more in a strange direction, the prominent professors who served on the University Council all kept their mouths shut and didn’t raise their voices in protest. And in the February 26 Incident, both Prime Minister Saitō Makoto and the former prime minister—the government officials who were party to the pact—were assassinated, so the pact too went extinct, and for a long time Tōdai continued to fear a second Takigawa Incident.

To mention one more thing here, at the time of the Takigawa Incident, it wasn’t the case that there was no move at Tōdai to support Takigawa. Nothing happened on the side of the professors, but on the student side a great uproar arose. At Kyoto University the students of the Faculty of Law rose up in support of Takigawa, supported the professors who made bold to resign *en masse*, and there was a major commotion in which the mass withdrawal of students was threatened. The students sent delegations to all the imperial universities in the country and called for joint struggle. At Tōdai, too, in response to this call, the students rose up, and the resulting commotion was said

to be the largest in the prewar history of the student movement.

According to the report in the *Imperial University News*, this is what happened:

FACULTY OF LAW STUDENTS
TOO RISE UP

MASS MEETING OF STUDENT
ALLIANCE CONVENED

ARRESTS CLIMB TO 38

POLICE FINALLY ENTER
CLASSROOM

21st (Wednesday): Professor Minobe's lecture in front of about 700 first and second year Law students began as usual at 10 a.m., but suddenly at 10:20, at the signal of one student, a dozen or so students stood up around the hall, rushed up onto the dais, surrounded Minobe, and proclaimed the end of the lecture; at the same time, with thick rope produced from their bags, fifty to sixty students sealed all the exits, and with a rope ladder they'd prepared, a student climbed to the second story and hung ten-foot white banners from the north windows—"Reinstate Professor Takigawa Immediately!" "Don't Disrupt Academic Freedom!"—and with a salutation by a student representative from the Faculty of Law, a student mass meeting was opened in the packed but quiet hall. As three handbills were distributed—"Defend the Moderator!" "Toward an All-Japan Boycott!" "Student Mass Meeting, *Banzai!*"—representatives from Kyoto and Tōhoku Universities

gave brief, ardent reports of what had happened and called for support; then came speeches by representatives of the higher schools, and to large applause, the following resolutions of the Student Assembly of the Faculty of Law were read out:

—Defend to the death academic freedom and the freedom of research!

—Urge professors to rise up!

—Law Faculty Student Assembly, *Banzai!*

The Takigawa Incident was five whole years after the March 15 Incident, so at Tōdai, the *Shinjinkai* organization had been crushed, the Japan Communist Party organization too had been crushed, and the student movement was as good as extinct. Makise Kōji was the leader of the Communist Youth Alliance, the only organization remaining at the university; he writes of conditions at the university shortly before the Takigawa Incident: "I remember well the first demonstration at the university in which I took part. In a lavatory on the side of the Faculty of Economics arcade, I unfurled very fearfully the red flag that had been slipped to me. Indeed, it had written on it, 'Absolute Opposition to Imperialistic War!' At the predetermined hour, one student began a speech in the arcade. It was a matter of only a minute, no more. More than a minute was dangerous. The students who were in the area, apparently nonchalantly—I too was one of them—gathered with a sudden cry, raised the red flag quickly; there wasn't time to form up, and like a strong wind we ran toward the main gate. We crossed the road, and in front of the third or fourth building that was the student co-op, came the cry, 'Run for it!' It was instantaneous. In the twinkling of an eye, a truckful of police from the Motofuji Station

drove up. We had to flee, each man for himself, as fast and as far as possible, out of the jurisdiction of the Motofuji Station.”²²

In a situation where normally it wasn't possible to give even a one-minute speech, it was absolutely unheard of that seven hundred students gathered and held a mass assembly of this order. The background factors that made possible so large a mass meeting include of course the impact of the Takigawa Incident—it was big news in the press, but also the all-out organizing activity of the entire Communist Youth. (In the previous two days, many small meetings had been held by students gathered according to the higher school from which they had graduated.) At that time in the Tōdai Communist Youth, an underground press printed the Tōdai cell organ—*Warriors of the Red Gate*²³—in mimeograph, handbill-like, and the normal run was 800 copies, but at the time of the Takigawa Incident, the run expanded to all of 1,000 copies. This, the sole medium, was most effective in assembling the students.

Inside the lecture hall sealed from inside, student leaders made impassioned speeches one after the other, and the scene was one of wild excitement—several hundred students stamping their feet on the floor, applause, cheers; but after only about thirty minutes of this mass meeting sealed in the lecture hall, police squads and guards suddenly surrounded the hall, forced the doors, peeled off the students one by one, and arrested them. This was the end of the student movement before the war; afterwards, there were simply no comparable events.²⁴

To return to our story, as I stated earlier, the only person to criticize the February 26 Incident openly was Kawai. And though not openly, one other person did criticize it severely: Yanaihara.



Yanaihara Tadao

In his privately-published magazine *Report*, Yanaihara wrote as follows of his own experience on the final day of the incident:

Feb. 29, 1936: Morning—someone told me, “Today’s the day the government will put the revolt down.” The children had set out for school but returned right away—“The trolleys aren’t running.” It will be military force against the band of young army officers who on the 26th led their units to occupy Nagata-chō after they attacked and killed or wounded important high officials and senior councilors

They acted to clarify the *kokutai*. But they themselves resisted direct orders and showed that they were great *kokutai*-unclarifiers.

Out of hatred, they killed even Takahashi (Minister of Finance), who pushed for the reconciliation of national defense and finance but whom they considered a leader in estranging military and people. However, their conduct shows that they themselves were the greatest estrangers of military and people.

Hot-blooded daring they have, but not righteousness; faith, but not knowledge; relying on violence, they seek to steer state policy. It must be the responsibility of thinking people to declare firmly in the face of this trend that they go counter to justice. But since the May 15 Incident there have been several incidents of this type, and now the assassination of Chief of Military Education General Nagata: we cannot say it sufficed to proclaim justice, to say that evil acts would inevitably be punished, and to point to the right path. There's no authority above; there's no order below; and now the situation is close to civil war. They simply cry at the top of their lungs, in a formulaic manner, "Clarify the *kokutai!*" But at a time when the conscience whereon the state rests has become empty, even the vastest military and state too must collapse from within, of their own weight and corruption. Thus those who chant the formula 'Clarify the *kokutai!*' are in reality destroyers of the *kokutai*.

When I think of the country's present and future, my heart breaks in anger. From unfathomable depths the tears well up, and it is as if the flame in my heart dies. As I stand alone in the

great drifts of snow piled up in my yard, angry and grieving, the despairing cry "Perish!" that the young prophet among us left behind resounds like the incoming tide.²⁵

These are words that spout passion and fire. This was a private journal with a circulation of only several hundred, so the officials didn't learn immediately of its contents, and these words caused Yanaihara no problem. Yanaihara continued to write severe criticism in this private journal, but eventually, because of what he had written in this journal, he was forced to resign.

Recommended citation: Tachibana Takashi, translated and introduced by Richard H. Minear,

Richard H. Minear is the author of [Victors' Justice: The Tokyo War Crimes Trial \(1971\)](#) and [Dr. Seuss Goes to War \(1999\)](#) and the editor of [Through Japanese Eyes \(4th edition 2007\)](#). He is translator of [Requiem for Battleship Yamato \(1985\)](#), [Hiroshima: Three Witnesses \(1990\)](#), [Black Eggs \(1994\)](#), the autobiographies of [Ienaga Saburo \(2001\)](#), [Nakazawa Keiji \(2010\)](#), and [Ōishi Matashichi \(2011\)](#), and [writings of Takeyama Michio \(2007\)](#) and [Nambara Shigeru \(2010\)](#). He is a Japan Focus associate.

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Notes

¹ Tachibana's book started out as a monthly serial in *Bungei shunjū*; under the title "My Tōdai" (*Watakushi no Tōdai*), it ran for sixty-six instalments. I have translated fifteen of these chapters: *Tokyo Imperial University and the War* (forthcoming).

² Hiraizumi Kiyoshi (1895-1984), professor on the Tōdai Faculty of Law, was noted for his outspoken nationalism. Tachibana devotes the five chapters preceding this one to Hiraizumi. Hiraizumi was purged by the Occupation in 1948. This and later notes are the translator's.

³ The February 26 Incident was an Army revolt in central Tokyo, February 26-29, 1936; it involved the assassination of the three major figures mentioned below.

⁴ The *Imperial University News* (*Teikoku daigaku shimbun* [1920-44], then *Daigaku shimbun*) was a serious and respected journal.

⁵ Prime Minister Hamaguchi was attacked in 1930 and died in 1931; Finance Minister Inoue was assassinated on February 9, 1932; Prime Minister Inukai was assassinated May 15, 1932. The May 15 Incident was the revolt by young naval officers that resulted in the assassination of Prime Minister Inukai.

⁶ *Fuasshizumu hihan*, Tokyo: Nihon hyōronsha, 1934.

⁷ Minoda's phrase *shinajinteki* [literally, like Chinese people] has at least a tinge of condescension. *Shina* for China was common usage in the 1930s.

⁸ Prewar and wartime Japanese censorship

involved deleting passages but noting the fact and extent of deletion by means of such measures as this string of Xs.

⁹ Nagata was assassinated on August 12, 1935.

¹⁰ "Go-ichigo jiken no hihan," *Bungei shunjū*, November 1933

¹¹ *Kikigaki: Nambara Shigeru kaikōroku*, ed. Maruyama Masao and Fukuda Kanichi; Tokyo: Tokyo daigaku shuppankai, 1989.

¹² In other words, first the outer line of defense was demolished, then the inner.

¹³ *Kokutai*: literally, form of state/country, supposedly distinct from *seitai* (form of government), but code for Japan's supposedly unique relation between emperor and people. The demand for the "clarification of the *kokutai*" was the shibboleth of anti-liberal forces around *Genri Nihon*; it led to Emperor-Organ Incident.

¹⁴ Miyazawa Toshiyoshi, *Kempō kōgian: Kōgiyō*. 1 1938. Article 1: "The Empire of Japan shall be reigned over and governed by a line of Emperors unbroken for ages eternal." Article 4: "The Emperor is the head of the Empire, combining in Himself the rights of sovereignty, and exercises them, according to the provisions of the present Constitution."

¹⁵ To indicate respect for the emperor, Minoda leaves the space immediately above the word 'emperor' blank.

¹⁶ *Tennō kikansetsu jiken: shiryō wa kataru*, 2 vols., Tokyo: Yūhikaku, 1970-71.

¹⁷ "Minobe Tatsukichi ron," *Chūō kōron*, March 1935.

¹⁸ "Daigaku no jichi—jiken to hito," *Asahi Jyanaaru; Asahi jyanaaru henshūbu*, ed. *Daigaku no jichi*, Tokyo: Asahi shimbunsha, 1963.

¹⁹ 1913-91; political scientist. Tōdai Faculty of Law (graduated 1937); member, Tōdai Faculty of Law, 1942-73.

²⁰ 1932-33; attack on Kyoto University Faculty of Law Professor Takigawa Yukitoki by right-wing forces. The Ministry of Education instructed the Kyoto University president to fire Takigawa. Eight professors (of fifteen) and thirteen assistant professors (of eighteen) resigned in protest. The Tōdai Faculty of Law made no concerted protest.

²¹ The editors were three of Onozuka's disciples: Nambara Shigeru, Rōyama Masamichi, and Yabe Teiji.

²² *Watakushitachi no Takigawa jiken*, ed., Takigawa jiken Tōdai henshūinkai (Tokyo: Shinchōsha, 1985).

²³ One of Tōdai's main gates was the Red Gate.

²⁴ TT: Many students took part in this mass meeting, and among the authors of the book

Our Takigawa Incident, which contains the recollections of participants in a commemoration fifty years later, are these noteworthy names: Okōchi Kazuo (Tōdai president), Nakamura Akira (Hosei University president), Ōgiya Shōzō (commentator), Okakura Koshirō (Doshisha University professor, scholar of international politics), Seki Kakehiko (Toritsu University professor, politician), Tsugawa Takeichi (doctor, Communist Party Diet member), Imai Tadashi (movie director), Hata Yawara (Saitama governor), and others; and others participating in the actions of that era include Dan Kazuo (novelist), Hanamori Yasuji (counsel of the *Kurashi no techō* Research Institute), Tamiya Torahiko (novelist), Sugiura Mimpei (novelist), Hosoda Kichizō (LDP Diet representative, Minister of Transport), and others.

²⁵ The "young prophet" was Fujii Takeshi (1888-1930), close disciple of Uchimura Kanzō; the cry, "Perish," is a refrain in his poem "Perish."