

## On “Prosecutorial Substitute” in Japanese Colonial Taiwan

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### ABSTRACT

In Japanese Colonial Taiwan, a “prosecutorial substitute” played the role of a functionally acting prosecutor. It was an adjunct position for the chief inspector or court clerk who held the chief inspector post concurrently. This article explores the establishment, development, and operation of the prosecutorial substitute system in Taiwan under Japanese rule through the review of 108 cases in district court and district public prosecutors’ office from 1896 to 1930 with sources from official archives and newspapers.

Owing to financial straits in early colonial rule, Taiwan Sotokufu (the Government-General of Taiwan) restricted the prescribed number of prosecutors and had assigned the chief inspector as the prosecutorial substitute since 1896. This expedient reflected not only the expanding executive power under colonial rule, but also the legacy of an outdated viewpoint that the police were part of the judiciary. As a result, it was difficult to raise objection, based on the separation of powers, against the police having jurisdiction in the legal realm. However, by 1902, the lack of chief inspectors serving dual roles caused Taiwan Sotokufu to adopt the suggestion from the prosecutor general to assign the clerk of district public prosecutors’ office as chief inspector who also served as prosecutorial substitute.

Prosecutorial substitutes were nominated by Taiwan Sotokufu, the procuratorate, and the local government; hence, any staffing change of prosecutorial substitutes would imply either cooperation or dissension among these three official departments. Moreover, in legal practice, the prosecutorial substitute was regarded as a regular prosecutor. While there were prosecutorial substitutes involved in malfeasant corruption; there were also those forming a professional identity in the judicial system distinct from their original position as court clerk.

**Keywords:** Prosecutorial Substitute, Chief Inspector, Clerk of District Court (/District Public Prosecutors’ Office), District Court, Japanese Colonial Taiwan