

SENATE & ASSEMBLY JUDICIARY COMMITTEES IN JOINT SESSION  
FOR THE PURPOSE OF HEARING TESTIMONY ON SENATE BILL 13 WHICH WOULD  
PROHIBIT THE PRIVATE PRACTICE OF LAW AFTER A CERTAIN DATE BY THE  
ATTORNEY GENERAL AND CERTAIN DISTRICT ATTORNEYS.

February 1, 1971, 10:10 a.m., Senator Monroe as Chairman.

Judiciary Committee Members of the Assembly present: Miss  
Foote, Messrs. Fry, Olsen, Kean, Torvinen, McKissick, May and Dreyer.  
Absent: Mr. Lowman.

Senator Young gave introductory remarks on the bill, stating  
that he felt the salaries of the deputies would have to be up-graded  
to get top men. He posed two questions: Whether the county commission-  
ers would set higher salaries, and whether a limitation of private  
practice would be a factor in recruiting of deputies.

Mr. Fry stated there is a bill in the Assembly to take all of  
the salary setting in the county offices from the Legislature and  
turn it over to the county commissioners. Senator Dodge stated he  
thought it would take a constitutional amendment to do so.

Speaking as proponents of the bill:

JAMES GUINAN, representing the Board of Governors of the State  
Bar Association: Mr. Guinan stated that the State Bar is in favor of  
the bill and would also be against private practice by deputies, for  
the reason that there may be a possible conflict of interest, and the  
fact that in the two populous counties, it is a full time job.

ROBERT ROSE, WASHOE COUNTY DISTRICT ATTORNEY: Mr. Rose stated  
he is for the spirit of the bill, but had some questions. Will the  
bill apply to deputies? The bill does not refer to them specifically.  
He states there is a problem of adequately compensating the deputies  
if they are denied private practice. He feels the bill should be  
amended to include deputies, but providing for an increase in their  
salaries. The problem is that the Legislature would be taking away  
the private practice, but it is the county commissioners who would  
set the salaries. Rose stated that if this happened, he would not  
reduce his staff as it now stands, but would prevent any increase in  
deputies on his staff in the future. Rose would recommend that the  
county commissioners increase the salaries of the deputies.

ROY WOOFER, CLARK COUNTY DISTRICT ATTORNEY: Mr. Woofter  
agreed with the statements of Mr. Rose. He stated that it does  
not get to the source of the problem unless the deputies are  
included, and reiterated the fact that the commissioners should  
increase the deputies' salaries. Mr. Woofter suggested putting the  
deputies' salaries under state control rather than county control.  
There is a problem in recruiting good attorneys to serve as deputies  
without adequate compensation, if private practice is removed.

JAMES H. THOMPSON, CHIEF DEPUTY ATTORNEY GENERAL, on behalf of ROBERT LIST, ATTORNEY GENERAL: The Attorney General is not opposed to the bill. He favors enactment of the bill if higher salaries are set for the deputies. He stated that other considerations to allowing private practice by deputies are that with private practice, the attorneys can participate in social security coverage, and can deduct small business expenses, such as payment of State Bar dues. The Attorney General, as a policy matter, has favored outside offices for the deputies who continue the private practice of law, and has also issued a policy statement that any court appearances by deputies will require the deputies to take annual leave or leave without pay for the time spent in Court. The Attorney General is concerned that the bill does not cover his deputies as well as himself. The Legislature sets the salaries, by department, of the Deputy Attorneys General.

Speaking in opposition to the bill:

ROBERT GAYNOR BERRY, as a former deputy district attorney and now a private practitioner of law: Mr. Berry sees no conflict in deputy district attorneys practicing privately. He states that if there is a conflict, this can be taken care of by the bar association rules. The bill does not take care of the real problem, that of adequate salaries of deputy district attorneys. He feels the district attorneys of the large counties should make from \$35,000 to \$40,000 per year.

Senator Monroe acknowledged that there was a problem within the various county commissions setting salaries, wherein the small counties couldn't keep up with the large counties in salaries. He was firmly in favor of keeping control of the salaries in the legislature.

Joint session recessed at 11 a.m.

Joint session in hearing at 11:35 a.m.

Continuation of testimony of ROBERT GAYNOR BERRY:

Mr. Berry stated that the assumption that the problem would be automatically taken care of by the counties after the legislature passed the bill was unrealistic. He said there are now adequate protections regarding conflict of interest through the State Bar Board of Governors, Local Administrative Committees, and in the statutes themselves. He felt the problems of keeping the deputies to a full time job of serving the people would be handled better administratively by the district attorneys themselves.

MICHAEL FONDI, DISTRICT ATTORNEY OF CARSON CITY:

Mr. Fondi stated that he is opposed to the bill in its present form. Even though the bill as written applies only to district attorneys in counties over 30,000 or more, Carson City will probably soon approach that population. Mr. Fondi would like the bill amended to raise the population limitation to something more substantial because Carson City is faced with the peculiar problem of the district attorneys office having to compete with the attorney general's office in recruiting deputies, and the state can pay more for qualified deputies. Mr. Fondi would encourage a return to the salary range system rather than specific salary settings, so the county

commissioners would have a range to work within. Mr. Fondi also noted that some six years ago the legislature changed the law to allow the attorney general to have private practice, and the Clark County district attorney to have private practice, and now they are introducing a bill to take this away.

BILL McDONALD, DISTRICT ATTORNEY OF HUMBOLDT COUNTY:

Mr. McDonald opposes the bill, even though at this time it doesn't apply to his county. He states there are studies by the National Association of District Attorneys which would be available to the committee, regarding this problem. He states that California handles each county on a separate county bill basis. In the small counties of Nevada the deputy district attorney often makes more money than the district attorney. This is the only way to recruit deputies in the small counties, and the amount earned in private practice of law makes up the difference.

The point was made in committee that the legislature could well end up setting county official salaries above that of the Governor. MR. FONDI pointed out that the Governor has additional perquisites of office such as free housing, utilities, and automobiles besides his salary.

MR. WOOFER asked if the bill specifically provided for just the District Attorneys, or did it also provide for abolishment of private practice by the deputies.

SENATOR MONROE stated that as it now stands, it only applies to the Attorney General, and to the District Attorneys in those counties with a population of 30,000 or more, but it could be amended to include deputies.

There being no further testimony, the joint session adjourned at 12:00 Noon.

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