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**EMERGING REGULATORY ISSUES
OF THE MID-80's**

**CO-KEYNOTE ADDRESS
BY
HERMAN J. LOWE, CHAIRMAN
AMERICAN INSTITUTE OF CPAs**

**AICPA-NASBA NATIONAL CONFERENCE ON
STATE REGULATION OF THE PROFESSION**

**JANUARY 6, 1986
DALLAS, TEXAS**

When I was asked to be a co-keynote speaker at this conference, I was delighted by the invitation because state legislation has been a continuing interest of mine for many years.

I have had a long involvement with the Louisiana Society's legislative program, served on the Institute's State Legislation Committee, and debated legislative issues at meetings of the Board of Directors and Council.

I've also viewed legislation issues from the vantage point of an elected legislator, for I served in both houses of the Louisiana legislature. Proposed legislation often looks dramatically different when your responsibility is to vote upon it in the public interest, as opposed to being its advocate or lobbyist.

I am pleased by the theme of this conference -- Emerging Regulatory Issues of the mid-80s. This idea of identifying and dealing with issues as early as possible is in line with current thinking and efforts at the Institute to change from a reactive posture to that of being pro active. We are striving at the Institute to move from the task of putting out fires to that of lighting our own fires -- and I am not implying acts of arson that could burn down the house of accountancy in which we all dwell.

At the outset of this conference we should keep in mind that state accountancy legislation is of such significance

to our profession that Council has reserved to itself the determination of legislative policy. Proposed amendments to that policy are debated by Council with the same fervor and intensity applied to proposals affecting by-laws or the code of ethics.

The Institute's legislative policy has five points and is published in the Model Public Accountancy Bill. Those five points are, of necessity, phrased in legalistic language. So that they are readily understandable, let me give you the gist of them in my own words.

1. The public interest warrants the licensing of experts to perform professional accounting services which include expression of opinions on financial statements.
2. There is no compelling need to license persons offering bookkeeping and elementary accounting services for either employers or clients. Nor is licensing of tax return preparers needed.
3. The practice of professional accountancy should ultimately be restricted to CPAs who pass the CPA examination and meet other entry requirements, and who continue to meet professional standards.

4. The enactment of a regulatory law is not intended to deprive persons who are practicing public accounting for their livelihood. They should be permitted to register as PAs, but all licensing in the future should be limited to CPAs.

5. There should be uniform licensing and regulatory requirements among the jurisdictions. Unnecessary local restrictions should be avoided.

Those points are intended to be the basis for uniform state laws and state board regulations to license and regulate CPAs.

Indeed, the provisions of the Model Public Accountancy Bill are grounded on those points.

Uniformity of state laws and regulations is in the public interest because artificial barriers to interstate commerce are eliminated and the public has a measure of assurance as to the professional competence of those who are designated as CPAs.

I have refreshed your memory on those five points because they will likely bear upon the emerging issues to be discussed here today and tomorrow, and they should provide guidance for charting actions.

The program committee that organized this conference asked Tom Iino and me, as co-keynote speakers, to offer our ideas as to what are the emerging issues. I have the benefit of the deliberations of the Institute's State Legislation Committee at its November meeting when it identified nine issues as emerging and significant.

Drawing upon that committee's ideas, I believe the emerging issues are the following:

1. The need for vigorous and effective programs to maintain the quality of professional practice, and to discipline those found guilty of grievous departures from professional standards.

These programs are needed to continue to assure the public as to the competence of CPAs and to forestall growing criticism from the federal sector, notably the Dingel and Brooks Committees and federal agencies relying upon CPA audit reports.

This conference is likely to devote much time to this issue, and properly so because of its importance.

2. The need for dealing with proposed legislation at the state level to license personal financial planners and a proposal at the federal level to

establish a Self Regulatory Organization for regulation of personal financial planners.

At its December meeting, the Institute's Board of Directors endorsed the recommendation of the State Legislation Committee that state licensing of personal financial planners be opposed and it will address the issue of the proposed federal SRO at its meeting in February.

Those who organized this conference recognized the importance of this issue, and gave it a prominent position on your agenda.

3. The need for relief from the crushing effect upon CPAs, other professionals, and, indeed, upon our entire society resulting from professional liability exposure and the cost of insurance protection.

The Institute and many other organized bodies are seeking avenues for relief from those overwhelming burdens. While the solution has not yet been found, it is likely to be in federal and state legislation that could

- o Limit frivolous law suits.
- o Put a ceiling on punitive damages.
- o Reform tort law to limit damage awards and the fees of plaintiffs' attorneys.

4. The need for amending RICO laws, both at the federal and state level, to control suits against CPAs and other professionals on outlandish charges that they are engaged in a pattern of racketeering activity.

Joe Moraglio in his talk today will provide an update on current efforts to obtain that relief.

5. Another issue is the continuing problem of state centralized agencies usurping the autonomy and authority of state boards of accountancy. As a result of legislation in recent years favorable to the state boards in Connecticut, Rhode Island, and Washington, there are hopeful indications that unfavorable trend can be reversed.

Again, the agenda for this conference wisely provides for this matter.

6. The need for model state board rules to accompany the Model Public Accountancy Bill. I feel that we all realize that the benefits gained from uniform enactment of the provisions of the Model Bill can be lost by diverse state board interpretative rules in the absence of model rules.

I understand that NASBA is progressing on its project

to develop these model rules and will have a draft available for comment in the foreseeable future.

7. The need to repel attacks on mandatory CPE requirements. In recent years there have been serious attempts in several states to repeal mandatory CPE, and there is a major effort underway now in one state.

I cannot understand why anyone would want to repeal laws that require professionals to stay current on the state of the art in their chosen profession, but that seems to be the case, and the profession must be prepared to deal with those efforts.

Your kit of materials for this conference contains the Institute's position paper on mandatory CPE which was approved by the Board of Directors this past summer for publication.

8. Another issue is the enactment of a 150-hour education requirement into state law. This is cited because of the efforts of the Post Baccalaureate Education Committee to have it enacted in more states than the three where it is now in effect, or soon will be.

This is not a new issue, but it is certainly an important one.

9. My last issue is the deplorable lack of effective legislative programs in some states. I've made this the last issue only because I wanted to comment on it at length.

In this day of sophisticated legislative techniques it is hard to believe that the accounting profession in some states is not organized to deal with hostile legislative attacks or to enact favorable legislation.

Despite the fine examples set by better organized states, there continue to be states that

- o Have no means for becoming aware of pending legislation impacting the accounting profession.
- o Have no key man program.
- o Have no PAC.
- o Have no programs to keep legislators aware of CPAs' concern for good legislation.
- o Have little contact with state boards on legislative matters.

Those deficiencies are characterized often by poorly organized or disinterested legislation committees.

As a consequence, in some states there is little effort to update their accountancy laws. Of equal importance is that those states are usually surprised by hostile legislation and, because of their lack

of organization, may be unable to mount successful opposition to it.

Those states seem unaware of, or cannot organize the substantial resources available within their memberships for they usually cave in to small pressure groups with much less in the way of resources.

The Institute stands ready at the national level to provide guidance and assistance for state legislative proposals and actions. But the first and primary responsibility for dealing with state legislation is, and always has been, at the state level. Carrying out that responsibility, of necessity, entails a well-organized state function which regrettably is lacking in some states.

I hope my comments have not created the impression that I am disillusioned or dissatisfied with our profession's legislative accomplishments. Such an attitude on my part would be grossly unfair to those who have worked so diligently to bring us to our present high level of achievement.

Our profession can take great pride in its legislative accomplishments. Let me mention some of them:

- o All 54 jurisdictions use the Uniform CPA Examination and adhere to its grading standards.
- o 47 jurisdictions have enacted mandatory CPE requirements and some of the remaining 7 jurisdictions are considering its enactment.

- o 37 jurisdictions have enacted regulatory laws patterned after the profession's Model Bills.
- o Educational entry requirements continue to be upgraded.
- o Without needless opposition, legislative trends are being accommodated such as dropping entry requirements for age, citizenship and the like, and accepting public members on boards of accountancy.

Those legislative accomplishments were achieved through the cooperative efforts of the state societies and state boards at the state level, and the Institute and NASBA at the national level. It is inconceivable that there could have been that extent of accomplishment in the absence of cooperation.

My final thought is to urge the continuation of that spirit of cooperation. The Institute is firmly committed to working in a cooperative manner with NASBA and others concerned with state legislation and subscribing to the legislative policies espoused by the Institute and NASBA.

I have enjoyed bringing these thoughts to you and extend my best wishes for a successful conference.