

8-1926

C. P. A. Legislation

Lewis G. Fisher

Follow this and additional works at: <https://egrove.olemiss.edu/jofa>



Part of the [Accounting Commons](#)

Recommended Citation

Fisher, Lewis G. (1926) "C. P. A. Legislation," *Journal of Accountancy*. Vol. 42 : Iss. 2 , Article 5.
Available at: <https://egrove.olemiss.edu/jofa/vol42/iss2/5>

This Article is brought to you for free and open access by the Archival Digital Accounting Collection at eGrove. It has been accepted for inclusion in Journal of Accountancy by an authorized editor of eGrove. For more information, please contact egrove@olemiss.edu.

C. P. A. Legislation*

BY LEWIS G. FISHER

The relation of the committee on state legislation to its work and to the Institute which created it varies materially from that of the other standing committees of the Institute. The other standing committees, excepting perhaps that on federal legislation, have to do with matters mainly relating to and affecting the Institute as a national organization and its members, while the committee on state legislation is concerned with matters involving to a considerable extent the interests of organizations and persons other than Institute members. In not a few cases the feeling exists in the minds of those resident in the vicinity directly affected that any attempt to secure new or modified state legislation is a private fight in which neither the Institute, through its committee, nor any other organization or person is entitled to interfere. This idea is a natural one and would be justifiable if only it were based upon fact.

The Institute is interested primarily in advancing the interests of the accounting profession as a whole and believes that this object can best be attained by upholding proper ideals and standards in accountancy. It is with those standards as they may be affected by state legislation that the committee on state legislation concerns itself. It is obvious that the work of the committee can be only advisory, and that care must be exercised to avoid any appearance of lobbying, with the undesirable reputation which is usually attached to those against whom this charge is brought. In earlier years the committee was able to render a more direct service in the states where the first accountancy laws were enacted. A model or skeleton law was drawn and used in several states as the foundation on which was built the bill later enacted. With a law based upon that model and fairly administered, there can be little occasion for complaint.

Accountancy laws have been enacted and are now in force in all states and with perhaps a few exceptions are sound and fairly administered. However, as the conditions surrounding the work of the public accountant are constantly changing, as increasing demands are made upon him for service of a character which only a few years ago was not thought of, the need, real or fancied, of

*Address delivered at a regional meeting of the American Institute of Accountants, Cleveland, Ohio, May 22, 1926.

some change in the laws that to a degree control the practice of public accountancy becomes apparent. Then we are confronted with a danger which, in my opinion, is worthy of the most careful consideration by every accountant who is interested in the real rather than the apparent progress of his profession.

It has been my observation that there exists in the minds of legislators a belief that any proposed change in existing accountancy laws, whether in the form of a new law or an amendment of statutes already in force, has for its sole purpose the protection of the public accountant, even to the extent of creating a monopoly. Perhaps some public accountants have cherished a more or less secret hope that some change in the law might so far legislate troublesome competition out of existence as to result in a continuous flow of business to their own offices. I have never believed that the passage of a law would make men moral, nor do I believe that any business which might be created as a result of legislation would bring any lasting benefit. It may be conceded that as a citizen the public accountant has certain rights, in the enjoyment of which he is entitled to the protection of our laws. The same may be said of any citizen in any walk of life and I know of no valid reason which justifies the public accountant in asking our lawmakers for any special form of law, having for its purpose protection to him in the practice of his profession.

Why, then, are accountancy laws? The answer is simple. Accountancy laws, carefully drawn and wisely administered, are both desirable and necessary, but for the sole purpose of protecting the business public from so-called accountants who, to use the most charitable term, are unqualified. If such laws can be written into our statute books and their administration properly safeguarded, the qualified public accountant will have all the protection he needs or has any right to expect.

Our friends in Michigan have set us an example which we may well take to heart. I do not propose to enter into any discussion of the bill which became a law in that state a little more than a year ago, but the campaign which resulted in its passage is worthy of comment. This bill when introduced had received the support of chambers of commerce and associations of bankers and business men and I think also of the bar association. It became a law because it was demanded by the business public. It is in these quarters, rather than in the state legislatures, that we should, in my opinion, create and encourage a demand for better account-

ancy laws. When we have accomplished that, we need have no doubt that the bill so endorsed will be passed.

During the early part of 1925 all state legislatures, with five exceptions, were in session, and in about half of them accountancy legislation in some form was under consideration. Time does not permit a discussion of the results, much less the suggestions submitted and discussed, but a brief summary will be found in the report of the committee on state legislation, published in the Institute's year book for 1925. An outstanding feature of nearly all the proposed legislation was the evident desire of the non-certified accountant to obtain a certificate through the operation of a waiver clause. As accountancy laws have been in effect for some years in all states, the Institute has consistently opposed any further extension of this privilege except when it was coupled with restrictive legislation, of which further mention will be made.

In most states the state board of accountancy is appointed by and is responsible to the governor. In a few states the appointive power is vested in the state educational authorities. It is not my purpose to oppose the latter method, but it is my opinion that no one is so well qualified to pass judgment on questions arising within the profession and between the profession and the business public as are the members of the profession, and that the best results will be attained by the elimination as far as possible of any outside control except the universal right of appeal to the courts.

Perhaps the outstanding feature of accountancy laws, as the situation has developed during the past three years, is what is termed the "restrictive clause." Its form is not yet clearly defined and perhaps will not be for several years. Its purpose is too well known to require any discussion. I have always felt and still believe that the time will come, and should come, when no one will be permitted to practise as a public accountant without having first given some evidence of proper qualification. Whether that time has yet arrived is perhaps open to question, but the condition is now with us and must be met. The Institute's counsel, in a very exhaustive opinion which many of you have read, has stated that a restrictive clause can be so carefully drawn as to stand the test of both federal and state courts, with the possible exception of a few states in which constitutional provisions may be found which would serve as a bar. Restrictive laws have already been passed in eight states and in two of them the courts have declared them to be unconstitutional. I do not think,

C. P. A. Legislation

however, that either case constitutes a fair test of the principle. Perhaps the wise course to take at this time is to keep in touch with the conditions in our own states and watch the outcome in states where the restrictive clause is still law.

Of less general interest perhaps, but still of considerable importance to the accountant, are the privileged-communication clause and a clause providing that all working papers shall be and remain the property of the accountant.

In 1924 the committee on state legislation devoted a considerable amount of time to the collection of opinions from practising accountants in all states, to serve as a foundation upon which it might build a new model law to replace the one adopted by the Institute some years ago, which would be more nearly in harmony with conditions of the present day. Those to whom letters were sent responded generously and with naturally a wide diversity of opinion. It was no small task to harmonize and coördinate the many suggestions received by the committee, but a complete summary of its work may be found in the report submitted to the council in September, 1924. The duty of framing the new law devolved upon the present committee, and to those who may never have undertaken a task of this kind I am in a position to say positively that it is easier by far to discuss and criticize an existing law than to write a new one. It is hoped that the form of the bill, now practically complete, and the provisions it contains may prove helpful in states where new or amended legislation is contemplated.