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Court Decisions Affecting Accountancy

Court decisions affecting accountancy, and the regulation of the profession, have been handed down recently by the supreme court of the United States, and by the appellate court for the first district of Illinois.

The supreme court of the United States holds that the Alabama C. P. A. law is constitutional; the Illinois court dissolves an injunction restraining the National Association of Certified Public Accountants from holding an examination for the issuance of C. P. A. degrees. This latter decision is, however, of little effect because subsequent to the beginning of the action the courts of the District of Columbia ruled that the National Association has no power to confer such degrees. Furthermore, the language of the decision shows that the decision is based on defects in the form of pleadings, which means that the points of controversy were not in reality passed on, being excluded from consideration by the rules as to pleadings.

The Alabama case presented the first opportunity that the supreme court of the United States has had to pass on accountancy legislation. In this case the plaintiff had been a practising accountant prior to the passage of the C. P. A. law, had applied for and been granted a certificate by the board, and the board had later cited him to show cause why that certificate should not be revoked "for cause." The plaintiff sought to prevent action by the board on the ground that the law was unconstitutional. It was claimed that the determination by the board as to whether his certificate should be revoked, rested wholly within the arbitrary, uncontrolled and unappealable judgment of the board. The supreme court of Alabama had declared against the plaintiff on all points, but a writ of error to the supreme court of the United States had been granted by the chief justice. The supreme court of the United States affirmed the decision of the Alabama court, holding that there was no equity involved, as it could not be determined in advance of the hearing that the board would sustain the charge, and added that "official bodies would be of no use as instruments of government if they could be prevented from action by the supposition of wrongful action."

This decision by the supreme court of the United States practically places state boards of accountancy in the same category

as state boards governing the practise of medicine, law and other professions. The case is No. 170—October Term, 1923, J. Harold Lehman *vs.* State Board of Public Accountancy, *et al.*

In the Illinois case the decision of the appellate court affirms a decision of the circuit court, dissolving an injunction against the National Association of Certified Public Accountants, restraining it from conducting an examination for the award of the C. P. A. degree in Chicago in March, 1922. In its decision the court stated that the form of the pleadings was not such as to permit any other decision, which means that if a similar action were to be brought later, with proper pleadings, the result might be different. The usefulness of the case just decided lies in the discovery as to the exact form the pleadings should take in such a case.

The prime object of the proceeding was to prevent the holding of an examination by the National Association of Certified Public Accountants in Illinois, and to that extent the litigation was a complete success, even though the injunction were later dissolved. In a decision of the court of appeals of the District of Columbia, handed down in June of 1923, the court held that the National Association of Certified Public Accountants, although it assumed to have the power to issue degrees, did not as a matter of fact possess that power, and referred to the proof furnished in the record that even if it had possessed the power, it had abused that power. The District of Columbia court of appeals sustained the injunction which had been granted prohibiting the National Association of Certified Public Accountants "from exercising the power to confer the degree of certified public accountant, or any other degree, upon any person" on the ground that it had no lawful right to do so.