Restrictive Legislation in New York: A Review of The C.P.A. Bill Recently Introduced into the New York Legislature

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By Homer S. Pace

Accountancy may soon move forward to a new status—to a status in which practice, in the interest of the public, is forbidden except to accredited practitioners. For twenty-five years or more accountancy has had, in New York, official recognition of a limited kind. Similar recognition has been accorded in the other states and in the District of Columbia. The practising accountants of the country, during this probationary period, have amply justified this recognition by their services to the public. We have come now to a time when the public interests and the state of the profession, in the judgment of many accountants, justify full professional recognition and standing. They believe that the present conditions, under which any person, regardless of qualifications, may hold himself out to the public as qualified to audit accounts and certify statements, are unfortunate and inimical to the interests of the public and of accredited accountants. Therefore, the New York State Society of Certified Public Accountants has introduced in the New York legislature a bill which, if enacted into law, will create new standards of practice and regulation.

The first legislation in this country with respect to the practice of accountancy, as is well known, was enacted by the state of New York in 1896. The statute, which was very brief, provided for the recognition of practitioners by the issuance of the certificate of certified public accountants by the regents of the university, and it conferred power upon the regents to conduct examinations and to provide regulations for the issuance of the certificate. The original law has been slightly modified, but even as amended it does not provide regulation that is satisfactory from the viewpoint of the public, the regents and the accredited accountants. Notwithstanding this fact, high standards of preliminary and professional education have been maintained for a quarter of a century and more, and the enforcement of the law has, in the main, been satisfactory. The defects have been more in the matter of the statute itself than in enforcement.

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From the time of the passage of the original law in 1896 until the present time 1,365 certified public accountants have received their certificates from the state of New York. These certificates have been issued, with the exception of a relatively small number issued under an original waiver clause, to candidates who have met the high academic and professional requirements early established by the regents. Many of the accountants to whom certificates were granted have died, others have removed to distant parts of the country, and still others are engaged in occupations other than the public practice of accountancy. The exact number of certified public accountants authorized under the laws of New York who are in public practice in that state is not definitely known. It is evident, however, that the number in actual practice is considerably less than the total number of those to whom certificates have been granted.

During the years in which the law has been in force in New York many accountants who have not been accredited, either by New York or by other states, have developed accountancy practices in New York. Still other accountants, accredited by other states or countries, have come to New York and engaged in practice. Many of the latter, until recently, used the title "certified public accountant" or "C.P.A.," indicating the origin of their certificates. Others have used such credentials without disclosing their origin. A comparatively recent decision restricts the use of the title "certified public accountant," or the abbreviation "C.P.A." to those persons who hold certificates of certified public accountant issued by the state of New York.

Similar conditions have developed in other states. The result of these conditions is that, among the large number of accountants holding themselves out to the public as qualified practitioners, there are many who have made no adequate preparation for the work, and there are others who are competent to perform the work but have not, for one reason or another, qualified for the certificate of certified public accountant under the New York statute. No effective control is obtained over the certification of statements with respect to financial conditions and results, and the public, which can not be expected to be fully informed with respect to the various distinctions that have grown up, is more or less confused in the matter of determining who is and who is not a qualified and accredited practitioner. Many individuals and
concerns, it is true, are able to make their selection of an accountant upon a proper basis—they determine, in a particular instance, whether the individual holds the certified public accountant certificate or is a member of the Institute. The public at large, however, is not fully informed. As an example of this lack of understanding the New York Times, in a recent editorial, referred to the public accountant as a "chartered accountant," the writer evidently being under the impression that the term "chartered accountant" was the accepted and official description of the accountant practising in New York.

For several years the unfortunate aspects of these conditions have been apparent and the legislation committee of the New York Society of Certified Public Accountants has from time to time attempted to obtain legislation that would provide for the recognition in New York of all reputable and qualified accountants in practice. Many differences of opinion have arisen in the discussions that have taken place. The problem, however, has been defined and gradually a consensus of opinion has been obtained as to its solution. Several bills have been introduced in the state legislature without the approval of the society or the regents, and these bills have been defeated. The society has now finally perfected a draft of a bill the provisions of which have been approved by representatives of the division of the state education department which, under the supervision of the regents, directs the enforcement of the laws with respect to the conduct of the professions. The bill also has the approval of the New York State Society of Certified Public Accountants, of many accountants who are not qualified under the New York law and of many business men. The outstanding features of this bill, in its present form, will now be discussed.

The bill provides for the restriction of the public practice of accountancy, in New York, to accountants who hold the certified public accountant certificate of the state of New York and have taken out a license, issued on a yearly basis, to engage in practice. The restriction is based on a definition of public practice which has been formulated by the committee expressly for this legislation, as follows:

"A person engages in the public practice of accountancy within the meaning and intent of this article who, holding himself or herself out to the public as a qualified practitioner of account-
any offers for compensation to perform, or who does perform, on behalf of clients, a service that requires the audit or verification of financial transactions and accounting records; the preparation, verification and certification of financial, accounting and related statements for publication or credit purposes; or who in general and as an incident to such work renders professional assistance, in any or all matters of principle and detail relating to accounting procedure and the recording, presentation, and certification of financial facts."

Any unauthorized person who holds himself out to the public as competent and willing to perform the work of a public accountant as defined above will be subject to practically the same penalties as would be a person who undertakes to practise medicine or dentistry without authorization by the state. The society has been advised by counsel that the state may constitutionally regulate, under its police powers, the practice of accountancy in this manner. Similar regulation is found in the engineering bill, which has been in effect for a year or more, under which the practice of mechanical engineering, civil engineering and surveying is restricted under severe penalties to engineers and surveyors who are licensed.

The bill gives the regents authority to issue the certificate of certified public accountant, without examination, to accredited practitioners of other states whose qualifications are satisfactory to the regents; to accountants engaged in practice in the state of New York at the time the act becomes effective, who have been engaged in practice for three years or more and whose qualifications are satisfactory to the regents; and also to accountants who are engaged in practice in New York on a staff of an accountant or firm of accountants and, for a period of three years or more, have been in responsible charge of accounting engagements.

Under the foregoing provisions it is expected that certificates will be issued, without examination, to a large number of qualified and reputable practitioners without examination. In this way the number of certified public accountants will be largely increased. No one can accurately estimate the number, but it is within the possibilities that the number of accountants thus accredited may reach 2,000 or 2,500. The importance, from the practitioner's viewpoint, of a professional body as large as this can be judged by a comparison with the number of dentists, approximately 5,000,
who are now engaged in practice in the state of New York. This large number will overcome to some extent the common objection that the number of practitioners is too small to warrant the giving of restrictive privileges—that the accountants are a mere handful of practitioners who practise largely through employees.

Many additional provisions that seem necessary under the peculiar conditions of accountancy practice are included in the bill. For example, practitioners in other states and jurisdictions are to be permitted to handle engagements in the state of New York which arise as an incident to their practice in other states. Thus, if a public accountant in Pennsylvania should find it necessary to audit the accounts of a branch of a concern that was being audited in Pennsylvania, or to undertake any other temporary work in New York, he would be permitted, under this provision, to do the work. It would be obviously unwise and impracticable to enact a law that would prevent the free performance of the accountant’s duties in this manner. Such an accountant, however, would not be permitted to hold himself out to the public in New York as an accredited practitioner, and his engagements within the state must not constitute continuous practice.

The bill contains a provision permitting the use of any firm name or style, duly registered under the laws of the state. This clause would permit the use of a name or style that contains names of accountants who are deceased or of those who are not accredited under the state law. The law requires, however, that there must be at least one local partner who is a New York certified public accountant, that all local partners must hold certificates under the New York law, and that each other firm member must be an accredited accountant in the state or country of his domicile.

Provision is made for an annual registration fee of $2. In each year, in December, the accountant who wishes to engage in practice, whether as an individual or as a member of a firm, must take out a license. The bill provides for the distribution of a list of practising accountants to the individuals authorized to practise and to certain state and county officers. An accurate list of all those persons who engage in practice will thus be obtained yearly, and the license to practise can be withheld from any person whose acts are questioned. Provision is also made for the revocation, in certain circumstances, of the certified public accountant certificate.
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It should be understood that the bill as drafted may be subject to substantial revision before it becomes a law. If enacted in accordance with the present provisions, as outlined above, and if the essential provisions are upheld by the courts, the law will have a far-reaching effect and will establish accountancy on a plane almost identical with that of the older professions. In the course of time, if the law is enacted and proves successful, it is likely that similar legislation will be passed in other states.

Many conservative accountants have hesitated to advise restrictive legislation, and even yet there are many difficult problems that have not been completely solved. However, the present conditions of practice in New York, as far as regulation is concerned, are undesirable; the public is not properly protected; and there seems to be a demand for the better control of the presentation and dissemination of financial facts and information.

In view of all these conditions, the members of the New York society, upon whom the principal burden of shaping this legislation falls, are definitely committed to a programme which seeks the establishment of accountancy practice on a fully regulated and professional basis. They have approached the matter in the liberal spirit of providing means by which the way will be made easy for reputable practitioners to qualify and to join their ranks. This step has not been an easy one to take in view of the fact that the majority of the present practitioners have specifically, and in many cases laboriously, met every academic, professional and experience requirement that has been set by the regents. They are now willing, however, under proper restrictions, to increase their number without examination. This privilege, however, will be limited to a period of six months following the passage of the act, after which no one will be able to obtain the certificate in New York except by the ordinary method of conforming to the academic and professional qualifications heretofore established, or by the recognition by the regents of a certificate obtained from another state.

The certified public accountants of New York are thus undertaking, in a broad and liberal spirit, constructive work based upon long and thorough consideration of all the problems involved. The results of their efforts will be followed with great interest by accountants throughout this country, and throughout other countries as well. A new era in accountancy is dawning—the era of a Greater Accountancy.