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Editorial; Elijah Watt Sells

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ELIJAH WATT SELLS

[After the time for closing the forms for the April issue of THE JOURNAL OF ACCOUNTANCY word has come of the death of Elijah Watt Sells, past president of the American Association of Public Accountants (the body which preceded the American Institute of Accountants), one of the great leaders of the accountancy profession and a splendid friend of all those who made for the advancement of the profession in America. The exigencies of printing do not permit more than a brief note in this issue of the magazine, but we have asked J. E. Sterrett, another past president and a close friend of Mr. Sells, to prepare a brief reference to the sad event.—Editor, The Journal of Accountancy.]

Elijah Watt Sells is dead. These words carry a message of sorrow to every member of the accounting profession and to an unusually wide circle of friends outside of it—for one of the high gifts of this man was his capacity for winning and holding discriminating friends. Born in Muscatine, Iowa, on March 1, 1858, he died at his home in New York March 19, 1924. He was one of the pioneers and a stalwart leader in his profession. To its service he gave gladly and wisely of himself and all that he had. It is too soon and the emotions are too deeply stirred by his passing to attempt a statement of his aims and accomplishments; the hour is one in which the heart speaks in loving tones and in unison with the reverberating chords of memory. A friend has gone, a genial, kindly friend, an earnest man of large vision, diligent, considerate, a seeker after justice, ready in praise, cautious in censure, always gracious.

Thus was he known through the years that have gone and thus will he be remembered and cherished through the years that are to come.

J. E. Sterrett.
Prize Competition

Some months ago the American Institute of Accountants’ Foundation offered a number of prizes for the best papers to be submitted upon the following subject: *The Principles Which Should Govern the Determination of Capital and the Amounts Available for Distribution of Dividends in the Case of Corporations, with Special Reference to the System of Capital Stocks without a Par Value.* The competition was widely advertised and has received much favorable comment in the press of this country and of Great Britain. The subject is one upon which little has been written and many accountants, lawyers and others concerned with it have been groping more or less in the dark in a search for the true effect and the proper treatment of the question. It was with this thought in mind that the Foundation made the offer, rendered possible by the generosity of a prominent member of the profession. The time for acceptance of competitive essays closed October 1, 1923. Since that date the theses submitted have been under consideration and the jury has now completed its labors. In the last issue of this magazine we announced that the winner of the first prize was S. Gundelfinger. Since the first prize was allotted the jury has made a further report in which it is announced that only one other prize is to be given and that is to go to the member of the American Institute of Accountants whose essay was considered best among those submitted by members. The winner of this prize is Charles B. Couchman, New York. We are permitted to publish the following text of the jury’s report which is to be presented to the Institute:

February 14, 1924.

To the American Institute of Accountants:

We have examined the papers submitted to us in connection with the competition for the prize offered by your Institute for the best paper on the subject of

The principles which should govern the determination of capital and the amounts available for distribution of dividends in the case of corporations, with special reference to the system of capital stocks without a par value.

We recommend that the prize be awarded to the paper submitted under the name of Francis Parker Elliott.

We do not find that any of the papers are of exceptional merit and think that the paper which we have selected as the winning paper does not merit more than the minimum prize which you offered, namely, $1,000. Nor do we find that any of the other papers submitted deal with any phase of the question in so meritorious a way as to call for the awarding of subsidiary prizes which we were authorized under the offer to award.

We have felt that it was desirable to make the general awards without any indications whether the papers were submitted by members of the
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Institute or by others, and we are not in a position therefore at this time to make any award of the prize for the best paper submitted by a member of the Institute.

Attached hereto is a list of the papers submitted in the competition as reported to us by the secretary of the Institute.

**Julius H. Barnes**
**Wesley C. Mitchell**
**Frederick Strauss**
(By Albert Strauss)
**George O. May**

*J urors.*

Mr. Nicholas Kelley, who was appointed as a substitute for Mr. Albert Rathbone owing to the latter's absence from the United States was himself called abroad, before the report was ready for signature, but had approved the findings before sailing.

March 1, 1924.

*To the American Institute of Accountants:*

Supplementing our report of February 14th, we have been furnished with a list, a copy of which is attached hereto, of the competitors in your prize competition who are members of your Institute, and recommend that the first prize be awarded to the author of the paper submitted under the nom de plume of "7654321."

**Julius H. Barnes**
**Wesley C. Mitchell**
**Frederick Strauss**
(By Albert Strauss)
**George O. May**

*J urors.*

The theses were submitted under the following noms de plume:

The opinion expressed by the jury that the theses submitted did not sufficiently cover the subject will probably induce the Foundation to adopt some other measure for bringing out a more or less complete and authoritative pronouncement on the subject at issue. It is felt that in view of the great importance of the subject it is most desirable that there should be made available
for general use a text which can be regarded as representing the best thought of the accountant and the lawyer as to all the important phases of the question. We hope that the purposes which the Foundation has in mind will be carried into effect and that in addition to the winning theses, which will be published in The Journal of Accountancy, much further treatment of the subject will appear in the near future.

Elsewhere in this issue of The Journal of Accountancy we publish a statement prepared by Homer S. Pace at our request relative to the bill which has been introduced in the legislature at Albany, dealing with the practice of public accountancy in the state of New York. Other bills have been introduced bearing upon the same subject but the bill which is discussed by Mr. Pace is one that has been approved by representatives of the state educational department and is supported by the New York State Society of Certified Public Accountants, acting on legal advice that such a measure would be constitutional. We are confident that all readers of The Journal of Accountancy throughout the country will be much interested in this attempt to enact legislation, which if effective will limit the practice of accountancy to those who are registered and approved by the state authorities. From the beginning it has been felt that there were constitutional and various other objections to the limitation of practice as an accountant. Many opinions have been given both for and against the idea that state legislatures have the right to limit practice in this way. Accountancy is a vocation whose operations have a vital effect upon civic and commercial health and it may therefore be argued that the practice should be restricted quite as narrowly as is the practice of law. On the other hand we believe that there is no law inhibiting the giving of legal advice for a fee. The regulation of legal practice concerns the right to appear before courts but does not extend to the giving of advice. It is quite possible and altogether desirable that the practice of accountancy before such bodies as the bureau of internal revenue should be subject to consent of the bureau or other administrative body, but many people believe that any attempt to prevent the rendering of accounting service in the capacity of financial advisor or auditor is not a subject falling
within the jurisdiction of the state or within the police powers. One or two of the British colonies have successfully established the restrictive right and public accountancy is entirely under control of the colonial governments or their appointed agents. Attempts have been made in several of the United States to effect a similar restriction, but so far without satisfactory results. It is quite certain that something should be done to protect the public from the operations of unqualified or unscrupulous practitioners, and the only question which is arguable is the possibility under the constitution of enforcing restriction. At any rate the effort now being made in New York is one which will be watched with the utmost interest and if successful the example will doubtless be followed by every state in the union. New York was the first state to have certified public accountant legislation and in a period of twenty-five years the movement has spread throughout the land; therefore it is not unlikely that any further satisfactory development of regulation will also be adopted in every other state. In the case of this particular bill it may be said that while the phraseology and probable effect of such a law are not all that heart could wish they represent something in the nature of a compromise. If effort is to be made to restrict accounting practice it should be done with the advice and approval of the board of regents and of the New York State Society of Certified Public Accountants rather than by individual and possibly misdirected personal effort.

In Kentucky a bill has been introduced to

And in Kentucky the following effect:

No public accountant or firm of public accountants shall be employed by the commonwealth of Kentucky or by any branch or department of the state government or by any commission or committee thereof or by any county within the commonwealth of Kentucky or by any fiscal court, commission, board or officer thereof for the purpose of auditing, investigating or otherwise working upon any official business for the commonwealth of Kentucky or any county thereof, unless such public accountant or firm of public accountants shall have been, previous to his or their employment, duly licensed to practise accountancy by the state board of accountancy, provided, however, that nothing herein shall affect contracts of employment on state or county business at the time of the passage of this act.

This is another expression of the effort to establish restrictive legislation. In the case of Kentucky the situation differs somewhat from that of New York as there has been much criticism of
the administration of the law and several practising accountants there have not sought certification by the C. P. A. board. Such a measure as that quoted should be adopted only in states in which there is general agreement among the accountants in regard to the excellence of administration of the law.

The 1923 Utah state legislature passed a law making it the duty of elective boards in that state controlling counties, cities, towns or school districts, to have an audit made, at least biennially, of the accounts and records of all officers having the collection, management or disbursement of public funds. This law was to become effective beginning with the calendar year 1922. The audit or investigation is in each case to be "by or under the immediate direction and supervision of a competent accountant." The audit must be begun within twelve months of the close of the period to be covered by it. Reports shall be rendered, and copies of these must be filed with the state auditor; also, in the case of schools, a copy must be filed with the state superintendent of public instruction.

As might be expected, however, the law has met with certain difficulties in its administration. The most important point has seemed to relate to determining who, under the provisions of the statute, is a "competent accountant." In some cases the so-called report has been submitted to the state auditor signed by members of the city council; these gentlemen gave no figures or other data, but merely asserted that the various funds had been audited by the committee and, in the opinion of its members, found correct. Still worse, from a certain city there has been filed with the state auditor a copy of a report to the city council of an audit conducted by the city recorder. It is highly improbable that the lawmakers contemplated that a city recorder should pass on his own accounts, although, because the city council objected to the additional expense of having the accounts audited by a certified public accountant, it was necessary for him to do so.

However, in commenting editorially upon the situation, the *Salt Lake Tribune* recently said:

"It is to be noted as a most encouraging sign of the times that the subdivisions of the state that are complying with the greatest alacrity, not only with the spirit of the law, but also
with its most strict interpretation, are the school districts of Utah. The school boards in Utah have control of greater public expenditures than any other group of officials. They are to be congratulated not only on the fact that they are having these examinations of their accounts made by competent accountants, and in most cases by legally certified public accountants, but also on the fact that the reports, on the whole, are disclosing such evident care in the handling of public money and such apparent intent to manage to the best advantage the large funds placed in their trust."

**Attempts to Set Aside C. P. A. Laws**

One of the most popular expressions of discontent with the regulation of the profession in this country is the attempt made to overthrow C. P. A. legislation. Many states in the past have been afflicted by efforts to overthrow legislation or to obtain court decisions declaring unconstitutional the laws referring to the certification of public accountants. These efforts are invariably unavailing but they have the merit of persistence. During the past winter there have been several instances in which persons having a grievance or, as they themselves would doubtless say, seeking the amelioration of intolerable conditions have endeavored to set aside the law. A recent experience of this kind is reported from the state of Texas. As this magazine goes to press we receive word from a member of the state board there that the court of appeals has upheld the constitutionality of the Texas law. In Alabama as our readers have already been informed the law has been upheld. There may have been other attempts to overthrow C. P. A. legislation which have not been brought to our attention, but they have certainly not been successful or their success would have been bruited far and wide. As a whole C. P. A. legislation stands firmly established and its beneficence is generally recognized. The pity of it is that persons who are unable to qualify for registration in any of the states should be permitted to express their dissatisfaction, take up the time of legislatures and involve the expense of defense when there is no good ground for complaint. If those who cannot qualify under C. P. A. laws and feel that their success depends upon the possession of a C. P. A. certificate will give the matter careful thought it may occur to them that perhaps in the choice of a profession they have erred.
Although the provisions of the federal income-tax regulations and the procedure in the preparation of returns have been simplified as compared with the war period there yet remains much for the accountant engaged in tax practice to do. He needs not only to understand the provisions of the law, and to be familiar with the more or less constant changes in the rulings and regulations of the internal-revenue department, but he should see that his clients, the taxpayers, understand and use proper methods of accounting and that they make correct returns of income in the first instance. This means, obviously, that the more or less profitable litigation work (often much more profitable to that type of practitioner who seeks the "velvet" of the war-time tax claims than it has any right to be) will gradually disappear. Even so, the worthy accountant who enables his clients to avoid trouble by making correct returns in the beginning will continue in business at a reasonable profit long after the other type of so-called accountant has ceased to do business. That the delay involved in the settlement of war-time income-tax cases has been the cause of great annoyance to taxpayers cannot be doubted. The vastness of this problem to the treasury department is perhaps little appreciated. Thus we are informed that during the government's fiscal year ended June 30, 1923, additional taxes amounting to more than $460,000,600 were assessed. During this same period more than 88,000 claims were adjusted. These made necessary the refund, credit or abatement of more than $440,000,000. Furthermore, we are informed that of these enormous amounts of additional taxes annually assessed more than sixty per cent. of such assessments are made in error. In many cases this results from incomplete tax returns or because in other ways inadequate information is furnished by taxpayers, but the responsibility for these errors rests largely upon congress, which has never provided adequate administrative machinery for the enforcement of the tax laws.

It is a spectacle to make angels weep which Washington presents today. Probably every sound man of business, whatever his party affiliation or predilection may be, will admit that we have a secretary of the treasury who actually
understands his duties and who knows as few men know the intricacies of national and international finance. This could not be said of every secretary of the treasury who has graced the office, but providentially we have today the right man in the place. At the other end of Pennsylvania avenue we have a congress which all the newspapers of the country have been vainly seeking the language adequately to describe. The warmest friend of congress, if any friends remain, would hesitate to affirm that as a body the house of representatives or even the senate has any real reason to pride itself upon financial insight. The president of the United States has recommended the adoption of much needed amendment of our federal tax laws. The detail of the plan has been worked out with infinite care and wisdom by the secretary of the treasury. On Capitol hill the many financial geniuses are now engaged in exposing to the country their absolute ignorance of the fundamentals of fiscal affairs and they have taken the plan of tax amendment, altered it, amended it, emasculated it, made it altogether disreputable in appearance, and now in the face of a growing volume of protest by the country are unwilling to adopt this thing which they have fathered. Meanwhile the long-suffering public pays its taxes for March 15th and has no idea what it will have to pay on June 15th. Business is hampered, stability is impossible and the wheels of progress are clogged. The old saying that the ideal form of government was a benevolent autocracy in these circumstances seems to have some weight. There seems to be no real reason why we should hesitate to recognize Soviet Russia. One legislative chaos should not frown upon another.