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# C. P. A. Bulletin, No. 9, July 20, 1922

National Association of Certified Public Accountants

# The C. P. A. Bulletin



No. 9 | The National Association of Certified Public Accountants | July 20, 1922
WM. DE LAROCHE ANDERSON, Acting Editor

# Harassing Program Meets Third Defeat
## Institute Complainant Beaten In Illinois Court
## Supreme Court Again Sustains National Association

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STATE OF ILLINOIS }
COUNTY OF COOK } ss.

IN THE CIRCUIT COURT OF COOK COUNTY
IN CHANCERY

EDWARD E. GORE,
Complainant
vs.
NATIONAL ASSOCIATION OF CERTIFIED PUBLIC ACCOUNTANTS a Corporation, and
C. R. CARPENTER,
Defendants.

No. B 83081

Be it remembered that heretofore, to wit, on the 10th day of July, A. D., 1922, before the Honorable Huge H. Friend, one of the judges of said court, the following proceedings were had:

APPEARANCES:

Messrs. McKinney, Lynde & Grear
By Mr. Cornelius Lynde,
appeared for the Complainant.

Mr. George E. Dierssen, Assistant Attorney-General,
appeared for the Attorney-General.

Messrs. Maddock, Jaffe & Green,
By Mr. Thomas H. Maddock, and
Mr. Charles H. Bryce,
appeared for the defendants.

MR. DIERSSEN: If it please the Court this matter comes up on motion of the Attorney General for leave to file an intervening petition in this case. Your Honor undoubtedly remembers sufficient of the facts, it is the suit brought by Edward F. Gore against the National Association of Certified Public Accountants and C. R. Carpenter, one of the officers.

Mr. Gore alleges in his bill that he is a resident of the State, took the examination and duly qualified as a Certified Public Accountant under the laws of the State of Illinois, and words to the effect that it is of the very highest importance to a man who is a public accountant to have the title of, or the certificate or diploma of, a Certified Public Accountant, because it shows a very high degree of efficiency in that profession, and to permit any one to come into this State and give examinations and issue such certificates would deprive him of certain rights he has and would be against public policy of the State and also against the public interest. A temporary injunction on that petition was issued by this court and I think subsequently the matter came up on motion to dissolve the injunction.

The Attorney General takes the position this being a matter of public interest and statutory to such an extent, the public policy of this State is such, that we could not permit anyone to come into this State and to issue certificates of this kind, because it would be a fraud not only upon the people of the State, but also upon those who have the necessary qualifications and who took the necessary examination and went through the proper procedure as required by our statutes to obtain that certificate.

THE COURT: As I remember it that question did not come up directly in this proceeding, it was a question of whether the defendants should be restrained from holding examinations—

MR. DIERSSEN: Issuing certificates is a result of these examinations.

THE COURT: Of course the issuing of the certificates would not take place unless—

MR. DIERSSEN: It would be based upon that examination.

THE COURT: This is a Washington corporation?

MR. DIERSSEN: It is incorporated as a corporation not for profit under the laws of the District of Columbia. Every State as I have alleged in the intervening petition has laws governing Certified Public Accountants. Of course the District of Columbia did not, but they have incorporated as a corporation not for pecuniary profit; but since the filing of this bill as I have alleged in the intervening petition the United States Attorney for the District of Columbia has filed in the Supreme Court of the District of Columbia a bill asking for an injunction to restrain this corporation from operating in the manner alleged in the Bill of Complaint in this case, alleging further that under the laws of the District of Columbia they were not authorized to issue certificates because the corporations that are authorized to issue certificates and diplomas are organized under a different section of their statutes. Then, of course, they allege the point and set it up in detail with various copies of instruments showing this corporation does not in good faith conduct its examinations, they do not require the individual to possess the requirements which would generally be asked of men who are public accountants before such certificates would be issued to them.

Now it is purely within the discretion of the Court as to whether the petition of intervention should be allowed in this case. Here is a case which is pending in this Court brought by one of the individuals who may perhaps be regarded as damaged by conduct such as has taken place in this case and with the public interest involved I think the people of the State could very readily be regarded as necessary parties in this proceeding so there should be a full and proper hearing of the case.

THE COURT: Would that change the legal aspects of the case in any way, the bringing by the Attorney General as an intervener into these proceedings?

MR. DIERSSEN: It would be practically the same thing, the law governing would be the same. The only question which might be raised here would be whether the individual situated as the complainant in this case it has a right to bring such action. I am not passing upon that at all, I have not looked into it, but I do feel it is of sufficient importance to see that the Court has the assistance of the State as well as of the individual in a case of this kind.

THE COURT: What is the defendant's position on that?

MR. DIERSSEN: I might read one case if the Court cares to hear it about giving leave to file an intervening petition—

(Reads from 79th Ill., 385. From page 387.)

THE COURT: I guess there is no question about the general proposition that the Court may allow interveners to come in.

MR. DIERSSEN: If they have an interest in the proceeding.

THE COURT: The only thing in my mind is this, whether the granting of the motion to allow the Attorney General to intervene would in any way change the legal aspects of the case. We argued the matter rather fully on the motion to dissolve the injunction. I read sometime ago, I do not remember exactly all the points that were made, except I know I came to the conclusion that I thought the injunction ought to be dissolved, principally on the ground that the complainant has no property right. I do not believe there is such a thing as a property right in a profession of that kind, any more than there is any right to practice law or medicine, and I think this is very much in the same class. In that situation I doubt whether filing an intervening petition and argument on it would change the situation. One or two other points were argued about, one or two other points the defendant made I thought had a rather important bearing on the proceeding, but the briefs are in here and I can refresh my memory.

MR. DIERSSEN: That would be one of the things in this case, whether the complainant has sufficient property right in the degree so that he can file a petition in the Court and have anyone else restrained from operating, but that of course could not be true of the State of Illinois. I think if there is anyone who has the right to bring a proceeding of this kind it would be the State, particularly where fraud is practiced as we claim in granting and issuing certificates of this kind by this corporation.

MR. BRYCE: I do not wish to interrupt, but your intervening petition does not set up an act of fraud but says someone else has.

MR. DIERSSEN: I set up this fact, that the United States Attorney has filed a bill, giving the name and number of the case, in which he made certain allegations, and the bill was sworn to, and because under that bill a temporary injunction was issued.

MR. BRYCE: That rule to show cause which has not been disposed of—

MR. DIERSSEN: After argument however because the matter was argued before the Court before the injunction was issued. A number of allegations were set up there which I am frank to say at the present time I would not be in a position to prove showing how certificates were issued to people who took no examination whatsoever.

MR. BRYCE: May I say to Your Honor there is one case in the books very similar to this. It was a case where the Attorney General of Illinois sought to intervene in same private litigation. The private litigation was the foreclosure of a mortgage on the Chicago and Northern Pacific Railroad Company by the Farmers' Loan & Trust Company. There was a defense set up by the company and I think by an intervening body of stockholders that the Farmers' Loan & Trust Company had not complied with the statutes of Illinois authorizing foreign trust companies to do business in this State. As in this case they procured the co-operation of the Attor-

ney General. I say that the intervention of the Attorney General was procured in this case because the petition is written on the stationery of the solicitors for the complainant in this case and typed by the same machine apparently. The water marks are the same and I am informed by Mr. Maddock the copy was served by the office of the solicitor of the complainant.

MR. DIERSSEN: If the Court please that would be immaterial in this question because I was too busy myself and I asked them to write it up and we went over it together.

MR. BRYCE: The Attorney General in this Farmers' Loan & Trust Company case sought to intervene setting up that the Farmers' Company had not complied with the laws of Illinois and was not entitled to do business and was not entitled to foreclose, taking the same position that the company and its allied interests were taking.

I am reading from the 68 Federal, the case of the Farmers' Loan & Trust Company versus Chicago & Northern Pacific Railroad Company, 68 Federal 412 and I shall read from page 417. (Reading.)

The subject matter of the controversy here can only be the property rights of Edward E. Gore. We have tried to demonstrate to Your Honor that Edward E. Gore has no property rights. I do not believe he has any. If he has any they are so remote as not to come within the purview of the Courts' injunctive jurisdiction; but if Edward E. Gore has any property right what interest has the State of Illinois in that property right of Edward E. Gore? It cannot have any.

THE COURT: Is there any provision in this Act for any penalty for practicing as a Certified Public Accountant without a proper certificate?

MR. DIERSSEN: Yes. It says anyone practicing as a Certified Public Accountant or holding himself out as such, which is what these people claim they have a right to issue these diplomas for. It is alleged in the other case and we have adopted that bill.

MR. BRYCE: The last paragraph of the Act provides that anyone holding a C. P. A. from this State, authorized by this Act, or from any other State, may come in here and practice as a C. P. A.

THE COURT: You mean that provision of the Statute there?

MR. BRYCE: Yes, but ahead of that there is a penal clause for one not authorized, section 6 of the act. (Reading.)

THE COURT: That is really the recourse of the State.

MR. DIERSSEN: To a certain extent I will grant that, if anyone would who has no certificate of any kind, hold himself out to be a C. P. A. he can be punished, but in this case what recourse has an individual to fight a corporation which claims they have the right to issue diplomas? When they have no such right and are perpetrating a fraud upon the people.

MR. MADDOCK: You can test that out under the statute here, when they are arrested.

MR. BRYCE: Even if we go the whole length and say Your Honor has the right to allow them to intervene, what would you be doing? What would be changed? You would be changing a proceeding brought by Edward E. Gore to protect his own property interest *into* an information in fact of quo warranto to test out the powers of foreign corporations, to go after the internal management of foreign corporations, and that is inhibited in a court of equity.

THE COURT: That appeals to me as a statement of the situation.

MR. LYNDE: May I say that the Farmers' Loan & Trust Company case with which I am familiar has nothing to do with this, it was a foreclosure for securities and has no other phase. If the court applies the well recognized rule, we are not desiring here or arguing against the fact that there must be an interest in the intervener. The subject matter there was a proceeding in rem. The Court properly held the State of Illinois had no interest in that proceeding. Furthermore by a little analysis it will be seen that Judge Jenkins held that here the Farmers' Loan & Trust Company was before the Court properly in a representative capacity, representing the holders of the securities and they were practically before the court and the court would not enforce the strict formal rule as set forth in the statute against the holders of those securities. It appealed to the Court's conscience in that manner. If that case had been fraud in Illinois the Court under the decisions in this state, the Court's decision would have been otherwise, because the provisions of the Illinois statute are perfectly clear that the execution of securities as shown in that case are void, but Judge Jenkins refused to adhere to that rule by reason of the difficulties in the situation.

Now that has nothing to do with this case here. We are proceeding against individuals not in rem. We are seeking to estop these individuals from proceeding in certain acts set forth in the bill, which the Attorney General says is up to the good faith of this State to direct. That is the averment that shows the interest of the Attorney General. The degree this complainant has is given by this state and is worth something according to the affidavits submitted. There is no evidence against that you will observe.

I have this thought, that this defendant corporation comes into this State doing things that are reprehensible. They claimed they had certain rights under their charter. We have presented a decision, not a final one, that they have no corporate authority —that is in the District of Columbia —no authority to do these things. That must be the basis of the temporary injunction in the proceeding in Washington and the records are here to show by examination if necessary.

That is the situation. They have no defense or justification for these acts. Your Honor has intimated the only doubt in this situation is as to the property right. We have offered evidence to show the property right. We have submitted and we have other. I submit under this situation where there is no possible harm, inasmuch as they are enjoined in Washington anyway, this injunction should not be dissolved. If there is a final decision in Washington that they have corporate authority to do these things that situation must be presented here, but until the Washington Court has ruled they have some property authority to do these things which are clearly against our rights and against public policy of this State, the injunction should continue.

That is the situation before Your Honor as a practical one. The only difference is whether we have to go up with a decree without the injunction or with the injunction, or whether Your Honor continues the matter until there is a disposition of the Washington bill.

THE COURT: Is that set out in your intervening petition, all these things?

MR. BRYCE: Half of the facts as to the Washington suit are set out. We are talking now about what is before this Court and not the Washington bill.

Mr. LYNDE: We present the Washington bill, if there is any doubt about that I will offer on behalf of the Complainant a certified copy of the petition for injunction.

MR. BRYCE: We will object to that of course as not proper now.

THE COURT: What does the injunction here restrain the defendant from doing.

MR. LYNDE: Holding examinations in this State to serve as a basis for certificates.

MR. BRYCE: The prayer of the bill for injunction goes further than that.

MR. LYNDE: The prayer is for an injunction as prayed and that is the order. The bill of complaint has a prayer for a general injunction and also for a preliminary injunction.

THE COURT: It is just general in terms of the language in the bill.

MR. BRYCE: What I would say about the 217 Illinois, page 371. I am reading from page 377 where the Court discusses the right of intervention and says, beginning on page 375. (Reading.)

Assuming they could be brought in, were the people of the State of Illinois ever proper parties in this suit, ever have any interest in this suit, any property interest? It is all right to say in-

terest. Yes the people of the State of Illinois have a sort of fatherly interest which is getting wider and wider every day over all of us, but have they any property interest in this suit?

Suppose there was a statute in this State allowing people to be sued. If people were sued in this State, what interest have they? Their interest is only in the enforcement of criminal law. That is their only interest in this case, and we argued and demonstrated in this case that a plea in equity will not lie to prevent a criminal act. It is not a criminal act under this statute to be issuing degrees. It may be beyond its power, ultra vires, but that is nothing to the State of Illinois, that is something for the District of Columbia to consider. That is something they say the District of Columbia is considering and issued a temporary injunction. That temporary injunction was issued without answer filed just as this one was.

THE COURT: This is the way it would work out, isn't it? Supposing the reviewing court in Washington or this Court would say that the injunction would be made permanent or the decree confirmed on the ground that the corporation under its charter has no power to issue certificates. Then if any accountant who got a certificate under the charter came into Illinois and tried to practice on the ground he had a certificate from the National Association in Washington, then he would be practicing without any license because the Court there holds there is no authority to issue licenses and he could be prosecuted then under the penal clause of our statute, because he would be in the same position as a man who comes in without any license of any kind and holds himself out as a certified public accountant, and is subject to all the penalties of that Act.

It seems to me if the contention of the defendant is right and this Court would refuse to dissolve the injunction that the reviewing Court would hold that it was error. I feel very well satisfied on that point.

This is a proper proceeding and is based on the ground the Court has jurisdiction and it is an equitable matter and the complainant Gore has a property right here and is properly in equity and the case is argued on that basis. Now if you are going by this intervening petition to change the entire complexion of this proceeding and make a public matter out of it then you have again the question of whether a Court of equity can hear and entertain an intervener's petition here on the point counsel has made, that by the very intervening petition here the Court is now out of it. The State has come in and says we want to know by what right these people are issuing licenses. It seems to me that makes an entirely different proposition out of it, and it is on that basis, on that question, that I do not believe a Court of equity would have jurisdiction to entertain it.

MR. DIERSSEN: We have done that in insurance cases where a private individual has gone in and the State has gone in and filed an intervening petition because it is claimed insurance is a public interest, for the protection of the policy holders.

THE COURT: You will find in some proceedings the State has a real interest and under the statutes has a right. For instance in your security law if a person undertakes to sell securities without permission the Attorney General under the exact language of the statute can file an information and estop them because that is a matter in which the State is really interested and is only interested by virtue of the wording of the statute. Otherwise it probably would not come in.

But here is a purely personal proceeding between two persons, an individual and a corporation, and you are trying to come in on that as an intervener and thereby claim that you are a necessary party, for that would be the only theory upon which you could intervene.

MR. DIERSSEN: We are a proper party for this reason. If the Court would hold these people have a right and dismiss the bill, they would say in Illinois they were given permission, tacit permission, to hold these examinations.

MR. BRYCE: That is the trouble with the complainant's case, presuming certain things are true because they have been done.

THE COURT: The only angle which the Court can consider is the legal right of the Attorney General to intervene here. Whether the Court might have power to permit him to intervene is a matter of discretion, but I think it would be an abuse of discretion. I really do not think the Attorney General is a necessary or proper party to this proceeding.

MR. DIERSSEN: To protect the public.

THE COURT: No, I think the Attorney General's recourse is under another statute, the penal sections of the statute. Whenever the matter is determined in Washington as to whether or not the defendant here has a right to issue licenses. Then the Attorney General if that Court holds they have no right to issue licenses and they come in here without a license and tries to practice public accountancy then the Attorney General may step in and prosecute. Until that time this is not a public matter in the sense the Attorney General might be permitted to intervene in litigation between two private persons.

MR. LYNDE: If Your Honor please, I submit the Court has not quite got, undoubtedly due to my inefficiency, the position of the complainant, and I submit of the people of Illinois in this case. Your Honor talked in the beginning of the remarks you have just made of the right of the complainant to keep other people from practicing here.

That is not what we are here to argue. I had a transcript prepared of the argument before and in that Your Honor made similar statements, and I referred to it in the bill. I want to show just what Your Honor had in mind because to me it is the basic situation here.

There was some discussion in the argument before as to an Illinois case, the Lincoln Protective Bureau case, and Your Honor made this comment:

"That is an unfair competition case, in other words, the Court decides there that these people had, the Lincoln Protective Bureau, had built up a business and some one else was trying to take it and appropriate it."

I said, "That is very possible here," and Your Honor said, "There is nothing like that here, etc."

Now, Your Honor, they are talking about other people coming to practice this profession. This is a trade designation and very important here, given here to people who complied with certain statutory requirements and is of value.

THE COURT: It would be the same as a lawyer.

MR. LYNDE: No, Your Honor, the distinction is this, no one can practice law without going through certain formalities which vary in the different States, and no one can practice law and do the things required without getting a certain basis required before the courts. Anybody can practice public accounting if desired, no preliminary requirement of any kind by law or anything else. Just sell your services.

THE COURT: It comes down to this, in order to be a petitioner in equity you must show a property right and you are contending this is a property right. I think that would be stretching the question pretty far to say that a Certified Public Accountant has such a property right, statutory property rights in his profession.

MR. LYNDE: No, Your Honor, let me please emphasize the distinction. A public accountant has a right to practice his profession whether a Certified Public Accountant or not. There is nothing in the statute that gives him that right. The only thing he gets by the statute is to be entitled to hold himself out as a Certified Public Accountant and use that designation. That is all this statute does and it does not do anything more than that. It says if some one wants to rate himself as a Certified Public Accountant by complying with the statute he can do it.

THE COURT: However, he gets his right through the statute of claiming it, not any other way is he given the name, Certified Public Accountant.

MR. LYNDE: It is a trade-mark, not a license to practice but a trade-mark indicating he has certain business capacity and experience.

THE COURT: You have called it

a trade-mark but it is not some personal individual right he has, not the same as a trade-mark—

MR. LYNDE: Take the Minneapolis flour case—

THE COURT: He is in quite a different position it seems to me, but he is not in any different position than a plumber or anyone else.

MR. LYNDE: Just take the plumber's case then. No one can be a plumber without getting a license. That is not the situation. Anyone can be a public accountant and do whatever things a Certified Public Accountant does, without any statutory designation; but if he wants to use the trade designation of Certified Public Accountant, that is a trade designation and an accepted one, and he must comply with the statute in manner set forth.

The question therefore in the Court's mind is this. If that statute said one individual had a right to that particular trade designation there would be no question of our right to intervene in equity; it would be like any other trade mark, if we had it registered for a particular brand and have it up under some statutory or other authority, no one would contentd I am sure that we did not have a right to come into equity and ask the Court to enjoin others from using that brand or designation. Without question I think the other people should have done the same thing we have and gained the right to use that designation. Then it would keep us from coming in to protect our rights.

Now take the Minneapolis flour case, that is an analagous situation. They have a number of manufacturers but the bill does not even say "all." The Court said that no one else in Minneapolis could use that name, and yet they enjoined someone else from wrongfully using it, no question about that if it is wrongfully taken. We are not enjoining some one person, we are going to the source of this thing. The statute does prevent individuals and who are not before this Court from doing those things and makes their acts criminal. We are trying to stop the source of this proposition. We have before this Court as it seems to me a clear right to protect the trade designation.

Your Honor must remember that the woods are full of public accountants practicing public accountancy doing the same things as the complainant here, but they have not the right to use that particular designation at all until they have complied with the requirements of the statute or a similar statute in other States. We have presented affidavits that this particular thing is of value. It is recognized as having a particular value by the United States Government. I have here the requirements of the Civil Service Accountants, they have Junior Accountants and Senior Accountants, etc. In order to be a Senior Accountant you must show yourself to be a Certified Public Accountant. If that is not conclusive proof of the value of the designation I do not know what is.

MR. BRYCE: The real issue gets down to this section 8 of the Bill of Complaint. (Reading.) There is nothing in the law of Illinois to prevent them from doing it. It is the persons who attempt to practice who will damage them.

THE COURT: That brings you back to the section of the statute which says that nothing herein contained which shall prevent a certified public accountant who is the lawful holder, etc. That is the proposition you have in mind?

MR. BRYCE: I have the prayer of their bill, it is the action of the persons who may take this examination—"such persons will attempt to practice public accounting in the State of Illinois to the great damage of the complainant, etc."

MR. LYNDE: Counsel has interrupted, I am not finished, I am attempting to point out to the Court that this statute is entirely different from a statute that requires an examinaion, requires a license. It does not require a license to carry on the business, but it does this—it recognizes that this proposition is important, to the extent the State has taken jurisdiction over it by this statute and that shows the public interest. It says by that statute, and that is the plain declaration of it, that the public ought to be protected so they can recognize those who are competent. That is clear—assuming it is within the power of the Legislature to determine that there is public interest in the things practiced by that profession, and it is clearly within the power of the Legislature to state in what way our public shall be protected.

They have determined the particular way. It happens to be unique, it is not the ordinary way. What they do is this—they say we will let anybody practice this profession that wants to. That is clearly the meaning of that statute, no question about that; but for the protection of the public we will pick out special ones and give them a special designation, first finding out whether they are qualified and only those properly qualified shall be permitted to use that designation.

That is what that statute says and it creates that particular designation. Now why would an individual go to the trouble of obtaining that designation except to use it in a professional way? They desire to obtain that designation set apart by the Legislature for the protection of the public because it is of value, it is a business proposition. It is not sentimental or patriotic but is strictly a business proposition. A man must comply with that statute to obtain that title so he may use it in that way.

Now any individual in the United States has a right to come in and do the things involved, sell their services just as the other men who have a right to use that designation, but they cannot hold themselves out to the public as having by statute the use of that designation except by complying with the statute.

My contention is that that is a trade designation shown to be of value by the statute itself and it is incompetent for anyone to argue before the Court in the face of that that the statute or designation is not of value. We are here to protect that showing that there is a business value.

MR. BRYCE: May I ask if it is necessary to reargue or discuss the motion to dissolve, or whether we are confining ourselves to the matter before the Court here of the Attorney General's petition.

THE COURT: I understand your position, Mr. Lynde, but I do not see that the question of whether the statute requires a public accountant to take out a license when it does require other professional men to take out licenses, is the determining point. The mere fact it creates that trade name, it does not seem to me that creates a public right in that man which would permit him to come into a court of equity and prohibit anyone else except those qualified to pursue that profession in this State. I read your brief and I read quite a number of cases and I have thought that over and I cannot bring myself to feel that the complainant has such a property right as would entitle him to maintain his bill. That is the conclusion I have definitely come to. I feel it would be stretching the powers of the Court in equity a long way to permit that.

That brings us to the question of whether there is any different situation here on the motion of the Attorney General to file his intervening petition. I think about all that has been said on that—I do not know whether you gentlemen care to add anything but it seems to me clear that the Attorney General by asking to file his intervening petition is trying to change or would change the nature of the proceeding entirely. He was not a necessary party in the first place and therefore could not be made so by the filing of his intervening petition.

You can say that anything is of public interest in a sense, and whatever the public interest there is it is here defined in the act, and if the Attorney General feels these people—any of them who are not in here properly—then under the penalty clause the Attorney General could or should prosecute them, but that is as far as the public interest goes, and I do not think there is any further public interest than that, that is how it seems to me.

MR. DIERSSEN: That would not help the situation at all, forty-eight States have laws governing that but the District of Columbia has not.

THE COURT: It will be determined by the District of Columbia shortly whether or not this corporation under its powers and charter has a right to issue licenses. That will determine it, they cannot come in and practice. If they decide they have then I think you will agree that the Attorney General could not prosecute them under that penal clause.

MR. DIERSSEN: I am not prepared to say whether he would or not.

THE COURT: I do not know, but that is the way it looks to me. Suppose the District of Columbia should decide the defendant corporation has power under its charter to issue licenses and one of the persons to whom the license is issued should come into Illinois and hold himself out as a public accountant, I think under the wording of that act, I do not think the Attorney General could enforce as against that person the penal clause of the statute.

MR. LYNDE: I think they could but I would like to be heard on that when the time arrives. But if Your Honor please, we have this defendant enjoined by temporary injunction in the District of Columbia from doing these things there, so there is no possible damage to the defendant from this injunction so long as the injunction there is in force.

THE COURT: There is possible damage, they cannot hold examinations.

MR. LYNDE: They are enjoined from doing that by the Washington Courts.

MR. BRYCE: We are not enjoined from issuing diplomas from examinations held. . . . . I was going to suggest that has nothing to do with the Attorney General's right to intervene.

THE COURT: It does not seem to me as anything this court should consider any more than a reviewing court would. The reviewing court would look at this question, whether or not the injunction was properly issued and if not whether it should be dissolved, that is the only thing this court has a right to look at. As a practical matter it might be advisable for you gentlemen to agree that this matter be determined in Washington before you proceed here, but that is not our situation. They are asking this injunction be dissolved, that is the only thing this court has a right to look at. It was issued without notice and I think under the construction this court would want to place on that Act under the allegations in the Bill and the situation generally, I think the injunction should be dissolved. I do not think the Court has any right to let this injunction remain in force.

MR. LYNDE: If the court please I want to give the court what the temporary injunction in Washington is—

MR. BRYCE: Let me read this, it is Whiteman versus Yarre, from page 378—(Reading).

Original proceedings are all that are left for the Attorney General.

THE COURT: I doubt whether or not the Attorney General in an original proceeding here could restrain these defendants.

MR. DIERSSEN: I can see that is the point in Your Honor's mind, that the court feels if the Attorney General had made an original proceeding it would be different. The relief sought is the same and the parties are the same. The relief sought would be the test. In this injunction in the Supreme Court of the District of Columbia, it reads—(Reads).

MR. LYNDE: Now, Your Honor, we have this practical situation. There is the injunction. There are individuals in this state who have these certificates and are mis-using them in this state and the defendant is enjoined in Washington. I submit it is more fair and equitable to everyone concerned that this injunction now pending continue in force until the Washington injunction is decided. Otherwise we are left without protection here, are left without protection against the individuals who are really dupes of the criminal conspiracy here.

MR. MADDOCK: That is an unfair inference.

THE COURT: I do not think this court has any concern or should consider what they are doing in Washington, the question is as to the statutes of Illinois.

MR. LYNDE: But it shows their claim of justification as to what they are doing is denied, it certainly is pertinent to that extent.

THE COURT: I cannot see it. No, I think the motion to dissolve ought to be granted and the motion to file an intervening petition of the Attorney General is denied, and you can draw up an order to that effect.

MR. BRYCE: May we have leave to file our suggestion of damages? I do not want to bring them up at the present time but ask for leave to file them.

THE COURT: I do not think you would be entitled to any damages.

MR. BRYCE: As to solicitors' fees surely.

THE COURT: I just went into that question the other day and it comes up in this way, the injunction was issued in the first instance and the motion to dissolve denied and it went up to the Appellate Court—it was from another court here. The Appellate Court said the injunction should be dissolved and the matter came up on the question of damages. You can look it up in 151 Appellate, Seass vs. Monroe, before you take up the question of damages. That says where there was cause for issuing the injunction in the first instance no damages should be allowed under the statute.

MR. BRYCE: May we incorporate in the order leave to file?

THE COURT: Yes, that would be all right.

MR. LYNDE: I suggest we have some form of final decree disposing of the matter because I think it will be the intention of the people I represent to appeal.

THE COURT: I think so, put it in such shape as to take care of the entire matter.

MR. DIERSSEN: So far as the intervening petition is concerned it will be merely an order denying leave, and not have anything to do with the decree.

THE COURT: Yes, you can have a final order here.

MR. BRYCE: That, Your Honor, we might take up later. Perhaps since they have been very insistent about the Washington court they may like to file a supplemental bill, I do not know. I think the proper thing to do now is to dissolve the injunction and let it go at that.

MR. LYNDE: Whatever the disposition of this petition I want this record to show—

THE COURT: Mr. Lynde's point is this practically determines the proceeding and the record should be put in such condition they can go up on it.

MR. LYNDE: The court has heard the matter on primarily the motion to dispose of the injunction. I would be perfectly willing to go into a hearing and could offer ample evidence, but what we want is a determination. I think the facts are before the court. I want the record to show that irrespective of this petition of the Attorney General on behalf of the complainant and on the general issue to dissolve the injunction I am offering the Bill in the Washington case.

MR. BRYCE: I object because it was not made at the time. We have a transcript of what transpired and can find out what was offered, and that should be in your certificate and nothing else, I do not believe in nunc pro tunc offers.

MR. MADDOCK: That was not before the court when the injunction was granted.

MR. LYNDE: I would like Your Honor to rule on that. I am making that offer now at this stage of the proceeding as additional evidence in opposition to the motion to dissolve the injunction. I submit it is in the discretion of the court to permit evidence to be admitted at any time.

THE COURT: I will permit you to file that.

MR. BRYCE: The record will show that the offer was made after Your Honor had announced his decision.

THE COURT: You have a reporter here—the record will show.

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Which were all the proceedings had on the hearing of said motion.

STATE OF ILLINOIS } ss:
COUNTY OF COOK }

IN THE CIRCUIT COURT OF COOK COUNTY.

EDWARD E. GORE

vs.

NATIONAL ASSOCIATION OF CERTIFIED PUBLIC ACCOUNTANTS OF WASHINGTON, D. C., A CORPORATION, and C. R. CARPENTER.

No. B-83081

ORDER

This day, coming on to be heard, the motion of The People of the State of Illinois on relation of Edward J. Brundage, Attorney General of said State for leave to file its intervening petition herein, and the parties to this cause appearing by their counsel and the Attorney General, also appearing and the Court having considered the proposed intervening petition and having considered the pleadings herein and having heard the arguments of counsel;

IT IS ORDERED that the motion of The People of the State of Illinois on relation of Edward J. Brundage, Attorney General of said State for leave to file said intervening petition be and the same is hereby denied.

Done in open Court this 13th day of July, A. D. 1922.

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STATE OF ILLINOIS } ss:
COUNTY OF COOK }

IN THE CIRCUIT COURT OF COOK COUNTY.

EDWARD E. GORE

vs.

NATIONAL ASSOCIATION OF CERTIFIED PUBLIC ACCOUNTANTS OF WASHINGTON, D. C., A CORPORATION, and C. R. CARPENTER.

ORDER

This cause having heretofore come on to be heard upon the motion of solicitors for the defendants that the temporary injunction heretofore entered herein be dissolved and the Court having read the bill of complaint and the joint and several answer of the said defendants and having read the affidavits submitted by the parties and having heard the arguments of counsel for all parties and considered the briefs heretofore submitted by them;

IT IS ORDERED that the temporary injunction heretofore and on the 3rd day of March, A. D. 1922, granted and issued in this cause be and the same is herewith dissolved; and

IT IS FURTHER ORDERED that the said defendants and each of them be and they are herewith granted leave to file their suggestion of damages herein within five days.

Done in open Court this 13th day of July, A. D. 1922.

## ANNOUNCEMENTS

Howard W. Lee, Certified Public Accountant, N. A., announces the opening of his office at 848 Broadway, New York, N. Y., for the general practice of public accounting.

Edward Roseman & Co. announces the removal of their offices to 661 Lexington Building, Phone Plaza 0725, Baltimore, Md.

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Washington, D. C., June 17, 1922.

To the Board of Governors,
National Association of Certified Public Accountants,
Washington, D. C.

Gentlemen:—

In accordance with your instructions, we have made an examination of the financial records of the National Association of Certified Public Accountants and submit herewith the results.

The period under examination was from June 4th, 1921, to May 31st, 1922, inclusive.

The receipts for the above period were:

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|---|---|
| Initiation Fees, full members | $36,265.00 |
| Junior Members | 260.00 |
| Dues from members | 8,716.00 |
| Subscription to C. P. A. Bulletin | 1,420.00 |
| Sale of Furniture and Fixtures | 28.50 |
| Repayment of Dishonored Checks | 185.00 |
| Refund of Exchange | 6.78 |
| Refund account of Certificate Expense | 3.25 |
| Refund account of Traveling Expenses advanced | 196.35 |
| Refund of Chamber of Commerce U. S. A. Initiation Fee | 60.00 |
| Advertising and Printing | 7.20 |
| Total Receipts | $47,148.08 |

The disbursements for the above period were:

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|---|---|
| Salaries | $24,071.67 |
| General Expenses, including rent and traveling | 5,979.58 |
| Advertising and Printing | 3,417.87 |
| Mail and Express | 1,307.03 |
| Certificates including forwarding of same | 6,137.42 |
| Furniture and Fixtures | 1,116.89 |
| Legal Expenses | 2,780.00 |
| Exchange | 33.18 |
| Chamber of Commerce Initiation Fee | 60.00 |
| Returned Checks and Refunded Intiation Fees | 1,155.00 |
| Petty Cash, not accounted for at this time | 115.87 |
| Total Disbursements | $46,174.51 |
| Balance | $ 973.57 |

## BOARD TAKES ACTION

Meeting of the Board of Governors of the National Association of Certified Public Accountants held in the office of the association July 15, 1922.

The members of the Board of Governors passed a resolution and forwarded it to Attorneys Messrs. Maddock, Jaffe and Green, of Chicago, instructing them to file in the name of the association damages against the plaintiff, Edward E. Gore, in the sum of $50,000.00 for damages sustained and business losses caused by the issuance of the temporary injunction.

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## REPLACEMENTS

The Connecticut Chapter has an idea for bringing up our Juniors in the way they should go, to replace the "old boys" who drop out of line. Here's the idea:

Reference or Home Study Courses have won their place in the field of education. Many of our successful practicing accountants today owe to these Correspondence and Home Study Courses the education that they would have otherwise been unable to acquire.

In my opinion, a Reference or Home Study Course has many advantages over a residential school; the principal one being that there is no limit to the research and supplemental study that a student can give to his subject, and he takes up the study as the spirit moves him, thus absorbing more knowledge than he would in the daily routine of a residential school.

The ideal course of instruction, however, is a Correspondence or Home Study Course, where the student absorbs the theory, combined with class discussion on the same subjct.

The Connecticut Chapter of the National Association of Certified Public Accountants is about to inaugurate such a course.

At the present time this Chapter is composed of eighty or more successful practicing public accountants who have determined to take accountancy out of the class of contracting business and put it in the class of professions, where it properly belongs. In this class at their monthly meetings, every activity of the accountant will be covered by general discussion, as will also special lines of business and the auditing and accounting thereof.

## THE WASHINGTON CASE

The injunction hearing, Equity No. 40086, pending before Justice Hoehling, restraining the National Association from issuing the C. P. A. Degree, has been appealed by the defendants to the Court of Appeals and Review of the District of Columbia.

## DEFENSE FUND

At the annual meeting, it was recommended by the members present that a Defense Fund be raised to take care of all pending suits and litigation that may hereafter arise. It was the concensus of opinion of the members present, that each member of the Association be invited to contribute $5.00 for this special Defense Fund. It takes money, a great deal of money, to fight these cases through the Supreme Court and in order to accomplish our purposes, if you have not yet contributed your $5.00, the committee on Defense Fund would like to have you do so at once. This is for a good cause, and if the 3,000 members will come forward with their $5.00 each, the Defense Committee will have sufficient funds to carry all cases to a satisfactory conclusion.

## NEW JERSEY ORGANIZES

The New Jersey State Chapter the National Association of Certified Public Accountants was organized on Tuesday, July 12, at 635 Broad Street, Newark, N. J.

Constitution and By-Laws were adopted and the following officers elected for the coming year:

William W. Williams, President.

F. J. Smith, Vice-President.

H. M. Hardie, Vice-President.

B. E. Antinoph, Vice-President.

A. E. Vickers, Secretary and Treasurer.

And a Board of Governors consisting of above named officers and four additional members, namely:

Arthur Terry.

A. B. Crummy.

E. W. Schuler.

Ana J. Miller.

The condition of the profession in the State is to be thoroughly gone into by the Chapter.

## FEES AND DUES

The fee for full membership in the National Association of Certified Public Accountants has been advanced to $25.00, and the annual dues to $10.00.

The following resolution was recommended by the members at the annual meeting and adopted by the Board of Governors:

*Resolved,* That the initiation fee for full members from July 1, 1922, will be $25.00, and that the said $25.00 initiation fee shall be divided as follows: If a Chapter is in formation or has been formed in the State from which the application comes, then said Chapter shall receive $10.00 of said initiation fee. If no Chapter is in formation or has been formed, the entire initiation fee shall be retained by the Washington office, and $10.00 of the same shall be used to promote the formation of a Chapter in that State.

*Further,* That the annual dues shall be for new members from July 1, 1922, $10.00 per annum.

## IN GENERAL

The National Association will issue from the Washington office, three forms of certificates, namely:

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|---|---|
| Junior Membership: | |
| Initiation fee | $10.00 |
| Annual dues | 5.00 |
| Fellow Membership: | |
| Initiation fee | 25.00 |
| Annual dues | 10.00 |
| Full Membership: | |
| Initiation fee | 25.00 |
| Annual dues | 10.00 |

*Junior Members* will be furnished a course of practical training in Accountancy which should enable them after completing the course, to pass to that of a Fellow Member.

*Fellow Members* will be known as that class of accountants who have had several years' experience as a public accountant, but as yet are not qualified to pass the C. P. A. examination. This class of members will be given an intense course in Accountancy problems and auditing which should enable them to pass any C. P. A. examination.

*Full Membership* will be issued to accountants who hold a C. P. A. Certificate; C. A. Certificate; Licensed Accountant; Auditor who has passed the Civil Service Examination (highest grade); Accountants who pass the National Association examination, and have had three years or more experience as a public accountant.

## C. P. A. BULLETIN

The C. P. A. Bulletin will be known as the official publication of the National Association of Certified Public Accountants, its number of pages will be increased from time to time, it will endeavor to publish matters of interest to Accountants, it will carry a line of advertisements that will be in keeping with the professional Accountant, and it will be issued monthly. Rates for advertisements will be made known on application. Subscription price, $5.00 per year, payable in advance.

## CLIPPINGS

All newspaper clippings or other printed matter for or against the Association should be forwarded to the Washington office.

## IDENTIFICATION CARD

If you have not received your Identification Card for 1922, you should remit for your annual dues and receive this card at once before you are dropped from the National roll. Dues for 1922 for applicants who became members prior to July 1, 1922, are $5.00. Your Identification Card will show you are in good standing.