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The C. P. A. Bulletin

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No. 1. Vol. 2

The National Association of Certified Public Accountants
WM. DE LAROCHE ANDERSON, Acting Editor

Jan. 1, 1923

STATE C. P. A. LAW

Declared Unconstitutional By Court

LOUISIANA ACT HELD NULL AND VOID.

Similar to C. P. A. Acts of other States

The Criminal District Court for the Parish of Orleans, Section C. State of Louisiana has recently rendered a decision in which the State C. P. A. act was declared unconstitutional, null and void.

The Louisiana Act follows along the lines of the C. P. A. Acts passed by the various States and generally the ruling of the Louisiana Court would seem to be equally applicable to all such laws. This decision raises, in no uncertain way, a grave question as to any value or right whatsoever being attached to any "State" certificate.

The points made by the court were that the section, which authorizes the State Board to make and enforce rules and regulations, gives to the Board an arbitrary and czar-like power to say who shall and who shall not be certified; that the section which allows the charge of a fee to pay the expenses and compensation of the Board, with no expense to be charged to the State, has the effect of allowing certain citizens (members of the Board) to levy a tax on other citizens for their own benefit and not for the benefit of the State; and, that the section which allows the Board to accept or reject the holders of certificates from other states attempts to give the Board a judicial power, vested, under the constitution, only in the courts, which would have the effect of a discretionary power to select favorites to secure a monopoly of the practice of accountancy within the State.

The National Association of Certified Public Accountants have all along contended that the State C. P. A. laws were either unconstitutional, if they actually carried an arbitrary and exclusive power, or, if they did not, that these laws did not prohibit to others than "State" C. P. As. the use of any designations testimonials or credential in the practice of the profession of Accountancy, to which they were rightly entitled. The New York Court heretofore has supported the second National Contention, the Louisiana court now supports the first.

1923

Membership Drive

Every good man that can be secured as a member of the National Association is a distinct asset to the Association and to each member—a poor one is a liability. Let us all on this basis begin the New Year with a united effort to build up our assets by securing as many good members during 1923 as possible.

The Bulletin will supply the ammunition—it is for you to shoot it. We should have 10,000 members, at least—Let's get them.

Louisiana Case Charge.

That on the 5th day of October 1922, in the Parish of Orleans aforesaid, and within the jurisdiction of the Criminal District Court, one, Ed. J. de Verges did then and there wilfully & unlawfully represent himself to the Public as having received a certificate as provided by law and did assume to practice as a Certified Public Accountant without having received a registration Certificate as provided by law in violation of Act 125 of 1908.

Contrary to the form of the Statute of the State of Louisiana in such case made and provided and against the peace and dignity of the same.

Sworn to and subscribed before me this 5th day of October 1922.

Signed Elkin Moses.

State Witnesses:

Elkin Moses 610 Maison Blanche.

Demurrer.

Now into Court in his own proper person, aided and assisted by counsel comes the defendant and without pleading to the information respectfully demurs: and says that the information filed herein by the State, does not charge any offense known to the law and your defendant should not be compelled to answer to the charge herein for the following reasons to wit:-

-1-

Act 125 of the Session of 1908 is unconstitutional, null and void, as it violates Article 155 of the Constitution of La. of 1898 in that the Legislature did not grade the offense.

-2-

Act 125 of 1908 violates Section 4 of Article 4 of the Constitution of 1921 and the Articles of the Constitutions of 1898 (Article 48) and 1913 (Article 48) in that it is a special law regulating labor and discriminating against all except certain people of the same class, and in favor of giving unto a certain set of men full and arbitrary power and allowing certain men to collect any emoluments for their own personal benefit, and not to be paid into the State treasury.

-3-

It violates Article 1 of the Constitution of Louisiana and seeks to deprive of his liberty without due process of law.

-4-

Wherefore, the charge herein, is contrary to the Constitution of the United States, The Constitution of the State of Louisiana and is illegal and without warrant in law and respondent prays that the charge herein be dismissed and that he be discharged without date.

(Signed) Wm. R. Kensella

Attorney for Respondent.

Ruling on Demurrer.

-1-

Considering the demurrer filed in this case the Court will say that the answer to the first proposition must be no. The Supreme Court has held that inasmuch as Revised Statute 982 fixed the maximum penalty in a mis-demeanor case, wherever the penalty of fine and imprisonment was at the discretion of the Court, that the blanket act constituted Grading of all misdemeanors not otherwise graded by the Legislature, and in effect made every law of the State, relative to misdemeanors constitutional as to the ground, i. e. "Grading."

State vs Button 144 La. 121

State vs Bailey 124 La. 152

State vs Hageman 123 La. 802

State vs Pearson 110 La. 387

The first paragraph of demurrer is therefore over-ruled.

-2-

The next paragraph deals with a more vital subject—that is granting unto this board certain arbitrary power. In order to ascertain whether this is true or not we must refer to the act itself:-

Section 3 reads:- Be it further enacted etc., That the Louisiana State Board of Accountants is hereby authorized and empowered to adopt and enforce all necessary rules, regulations, by-laws etc.. to govern its proceedings and to regulate the mode of conducting examinations to be held under this Act, provided said examinations shall cover a knowledge of the "Theory of Accounts," "Practical Accounting" "Auditing" "Commercial Law as Affecting Accountancy", and such other branches of knowledge as the Board may deem necessary to maintain the highest standard of proficiency in the profession of public accounting. The Board shall have the power and authority to issue certificates under their official seal and signatures, as provided in this act.

This certainly gives arbitrary and czar-like power to this Board and makes them sole judges of the qualifications of members; to let in whom they please and to arbitrarily exclude others.

Section 4 reads:- Be it further enacted, etc., That the Louisiana State Board of Accountants shall be authorized to charge each applicant for a certificate a fee, not to exceed Twenty-Five Dollars (\$25) same to be paid when the application is filed, except, that the fee for each application filed within ninety (90) days after the passage of this Act shall not exceed Ten Dollars (\$10). Out of the funds collected under this Act shall be paid the expenses of the Louisiana State Board of Accountants including mileage, and an amount not exceeding \$15 per day, for the time expended in conducting examinations and issuing certificates, provided no expense incurred by said Board shall ever be charged to the funds of the State.

This Court believes that this section is clearly unconstitutional as it in effect allows certain citizens, (Members of this Board) to levy a tax on other citizens for their own benefit, and not for the benefit of the State of Louisiana.

-3-

Section 5 Reads:- Be it further enacted etc., That the Louisiana State Board of Accountants may in its discretion register the certificates of any certified public accountant who is the lawful holder of a certified public accountant's certificate issued under the law of another State and may issue to such certified public accountant a certificate which shall entitle the holder to practice as such certified public accountant and to use the abbreviation "C. P. A." in this State. The fee for such registration shall not exceed Twenty-Five Dollars (\$25).

This section, particularly the words "may in its discretion", makes it discretionary with the Board and makes it the sole Judge as to whether to admit a man on a Foreign Certificate or not. This is an arbitrary power and is clearly contrary to the Constitution of Louisiana Article 1—and also Article 4 Section 4., as no Board can be given the power of a Court, nor can it be given the power to discriminate in favor of certificate from one State and against those of another, and in effect in favor of certain favored citizens and against certain un-favored citizens: and which would allow the Board and its favorites to get a monopoly of this business in the State.

-4-

The Supreme Court of Louisiana in the case of State vs. Gantz 124 La. 535, clearly upheld this contention.

This has been recently again upheld in the case of City of New Orleans vs. Palmisano, 146 La. 518.

The Supreme Court said "an ordinance that purports to confer upon any officer or tribunal the arbitrary control over all citizens in the exercise of a Legitimate Occupation or business is not a law, but an attempt to make the arbiter in such case a law unto himself."

-5-

It is contended by the State that the regulation of this occupation by the Legislature in the way it is done by this Act is a legitimate exercise of the Police Power of the State.

This Court does not agree with that contention, for the reason that we cannot by the farthest stretch of the imagination conceive how the practice of accountancy, which is the only another name for book-keeping, can in any way involve either the health, safety or comfort of the public.

For the reasons herein stated this Court now declares Act 125 of 1908 un-constitutional, null and void, and sustains the demurrer filed herein.

And orders the accused herein discharged without delay.

(Signed) Richard A. Dowlins.

Judge.

Criminal District Court for the Parish of Orleans, Section C.

The Responsibilities of the Accountant.

By Julius Spiegel, Ph. D., C. P. A. N. A.

The responsibility shouldered by the dutiful accountant is limitless, in that it embodies services that are as a rule unlooked for and usually untimely. The relation of the accountant, however, to the business man is such as to place the accountant in a favorable light, depending upon the services rendered and the thoroughness and alacrity with which he renders them. The foregoing explains in a way why the profession of accountancy has been so long misunderstood by the average business man.

Before dwelling upon the responsibility of the accountant I shall attempt to bring to light the importance of the accountant to general business. The rapidly growing wealth of this country and great extension of business, has made the need of the accountant imperative, which in turn increased his responsibilities. To begin with, the accountant is responsible for a service that is the personification of efficiency and thoroughness. So much so, that unless the work of the accountant is of a high standard and thoro in every respect, the danger of the financial ruin of the establishment is not remote.

While there is no legal responsibility attached to an accountant in the United States, his responsibilities are so vast as to practically make them equivalent to such. Giving efficient service does not fully cover the responsibilities of the accountant, for aside from that service he must continually bear in mind his responsibility to his employer and others connected with the establishment, all of whom are duly entitled to absolute truth regarding the business on which he is working. It is the duty of the accountant to show no partiality whatever, to hide nothing, and to disclose everything. Such are the duties of the accountant who would serve best and serve most.

It is understood of course that the relationship between the accountant and his employer are confidential, since the accountant is placed in close touch with the innermost facts regarding the employer's business, and it is his duty, therefore, to be absolutely secretive regarding those facts. To willingly or accidentally disclose any part of this information, is a direct breach of confidence and honesty.

Diplomacy is an art the accountant would do well to develop, since there are times, when he must use keen judgment and diplomatic tactics, in order to ward off any attempt on the part of some person or persons who may not be entitled to that information. This is indeed an instance when the accountant is put to a severe test. One instance in which an accountant would be justified in disclosing valuable information is when a prospective buyer of the business he is working on, applies to him for information regarding vital statistics of that business. In such a case the accountant is justified in disclosing the important facts and figures at his command.

Where an accountant is engaged by the management of an establishment solely to assist and advise in the management of the business, the accountant need not be so secretive regarding disclosures of any kind, since it is more or

less expected of him to bring to light conditions, tho they be detrimental to the general management. In this case it is his duty to disclose all deficiencies and weakness regardless of whom the blame will fall upon.

Great care must be taken with the manner with which the reports of his investigations is made. The report must be carefully and accurately arranged, and must embrace every little detail that may be of interest to the management. By the foregoing, however, is not meant that an unduly and burdensome statement should be offered. On the contrary, the average client does not have the time to spend in going over unnecessary details, but I do not maintain that as complete and concise a report as is possible to arrange, should be presented.

The responsibilities of the accountant seem numberless when it is considered that there is no limit to his duties. He is expected to locate errors, to discover frauds, to disclose facts that may be missing from the books, to say nothing of putting the books in tip-top shape. Whether the accountant is directly responsible for the discovery of facts or conditions that may not appear on the books or statements, is a question that is open for discussion. It is my belief that the responsibility lies with the accountant in so far as working in the right direction, and conscientiously looking for such important conditions, is concerned.

Another question that has been discussed quite frequently is the responsibility of the author in taking inventory. I have always maintained that the accountant should not be expected to assume full responsibility in this instance, since it would be unfair and unjust to assume that the accountant possesses a thoro knowledge of the amount and classification of the merchandise on hand. The accountant is thoroly justified in enlisting the services of some one connected with his client since in this manner he can make certain of arranging a more perfect inventory. The reason for this move is evident. The employee assisting him will be capable of accurately determining prices and grades of goods that are to be listed. It is the responsibility of the accountant, however, to make absolutely certain that the inventory and all facts concerning it are thoroly accurate.

It is quite common, that we are responsible for our utterances or writing. While this holds good in general business, it does not, however, fully cover the accountant because of the position his work places him in. Should he intentionally or unintentionally disclose any part of the vast important information that he possesses, it is doubtful as to whether a clear case of intent can be proved.

Practical experience is the greatest asset in the stronghold of an accountant; include with that, a thoro education and you have the essential qualities that almost assure one's success as an accountant. A sound education in accounting is especially productive of success if that education is applied in the right direction. By that I mean not necessarily, a college education; for it is a fact that many of our greatest accountants have not been college men. Still, however, a college education means so much more in the hope-chest of opportunities for the accountant. I especially recommend the study of English, commercial law, mathematics, political economy and the like to all students about to undertake the profession of accountancy.

Losses by Fire.

In the case of loss by fire a properly authenticated balance sheet prepared by a public accountant is a material aid in the adjustment of claims. All business men anticipate the possibility of a fire, but few of them consider just how they would collect their insurance. During the progress of an audit the auditor will ascertain the methods of bookkeeping in force, and whether, in case of fire the records would be properly protected.

"Other Losses."

Losses caused by ignorance are enormously greater than losses caused by dishonesty. Correct accounts are not necessarily complicated accounts. All depends upon the ability and experience of the designer and, as with all professional work, the greater the skill the greater the simplicity.

The majority of public accountants find themselves mainly employed in the Analytical or auditing branch of accountancy for Corporations, firms and individuals and as auditors they are perhaps the best known.

There is not a person, nor a combination of persons, from a day laborer to the federal government, who cannot make an economic gain by employing a competent accountant to group his items of receipts and disbursements in a way to enable him to economize, where he can get better economic results from his efforts, and a profit over the true entire cost of his living, or the products or services he sells. Here, more surely than anywhere else, can the fact be demonstrated that money expended for correct education, correct accounting, is put to its highest economic use.

At this point the accountant or auditor is perhaps most valuable. Where the man entitled to know all the facts contained in a Balance Sheet cannot and will not understand this method of presentation it is the duty of the accountant to try another form and keep on trying until the results of his business become as interesting reading to the client as the daily trade reports. Where the accountant possesses a broad vision and has the advantage of long and varied experience, the business man finds the value received so greatly exceeds the cost of the service that the relation becomes a continuing one.

The Truth.

The truth sometimes hurts-but there is a moral.

Jobless bookkeepers without number, auditors of individual companies—seeing other fields of advancement closed—and cost clerks, certain that their grasp of the one particular business with which they are familiar has given them a grasp of all businesses and a knowledge of all manufacturing problems, have started out in the professional field as full fledged auditors, accountants, systematizers, and business experts, when, if experienced at all, their ex-

perience is confined to but one limited business. In some cases, at least, these auditors have about the same right to be known as professional accountants as a hospital orderly would have to palm himself off as a skilled physician.

The initial work which usually falls to the lot of the self-styled accountant on his first incursion into the professional field is usually in a line of business somewhat of the same nature as the one he has recently left. With the nerve which was necessary to start out for himself, and with his practical experience in that particular line, he is often able to render valuable service to his client. As time goes on, however, and his business is extended into other lines, his difficulties increase; for unconsciously the effort is made to conform all business to the methods and the systems of the one concern with which he was most familiar. As a result, ludicrous situations usually arise and the usual experience is that after heroic efforts of a few years he is glad to accept some permanent position at an assured salary with an established concern.

In his trail, however, are usually left scores of business men with the well-grounded belief that their own bookkeepers know all that any professional accountant does, and with the conviction that the paying to the accountant of the fees which he demands is only foolishness, as they are certain that the same services can be as well rendered by their own employees.

Moral: See that your accountant is identified with the
National.

Books of Account.

Every taxpayer carrying on the business of producing, manufacturing, purchasing, or selling any commodities or merchandise, except the business of growing and selling products of the soil, shall for the purpose of determining the amount of income under the Revenue act of 1921, keep such permanent books of account or records, including inventories, as are necessary to establish the amount of gross income and deductions, credits, and other information required by an income tax return. The taxpayer shall produce such books of account or records for the inspection of revenue officers duly authorized by law to inspect the same at such time and in the manner provided by law.

Approved November 2, 1922.

1-46-597

T. D. 3408

Service Rendered.

The Editor takes this opportunity to acknowledge the helpful assistance and suggestions in connection with the C. P. A. Bulletin rendered by R. C. Pinkham, C. P. A. (N. J. & N. A.) of Flushing, N. Y.

Proper Cost Accounting.

Less than 2 per cent. of the 12,801 manufacturers of men's and women's outer clothing, including coats, suits and overcoats, know how to figure their production and distribution costs accurately, according to A. F. Allison, Secretary of the International Association of Garment Manufacturers, who bases his statement on results of an exhaustive investigation just completed by the association.

"This lack of knowledge," Mr. Allison said yesterday, "leads to the waste of millions of dollars annually. More than a year ago, when business conditions became such that it was necessary for manufacturers to find some way to reduce prices, if they were to remain in business, the International Association of Manufacturers began its cost standardization work. In a word, it recognized the leak which is held responsible for many of the business failures that have occurred in the last two years. Since that time the association has, with the assistance of a number of the best cost experts in the country, studied the situation very carefully, and has worked out a system which has been proved to be equally applicable to all manufacturers in the industry. So far, more than seventy-five manufacturers have installed this system.

The system has now been in operation in some plants for as long as six months. A report made recently to the association by one of its first users say that in the six months he has employed the system he has saved \$42,000 in his overhead expenses alone."

Assistance to the Merchant.

Statements certified to by a reputable accountant are particularly valuable as a basis for bank loans. All leading bank managers recognize the assistance rendered to them in the course of their business by public accountants, and even if a business man is in the happy position of not requiring occasional aid from his banker, yet his financial rating is considerably higher if he is thoroughly up-to-date in the care of his books and accounts.

The moral effect of an audit extends also to that very desirable result of keeping the work of the office staff sharply up to date. This might be classed as a constructive object.

Depreciation.

Depreciation of fixed assets continues whether a taxpayer earns an income or suffers a loss, and its earned surplus should be reduced on account of depreciation, although it sustained a loss for the taxable year. In determining invested capital for subsequent years, the paid-in capital and surplus of the taxpayer are not affected by such depreciation, but if this depreciation has more than exhausted the earned surplus, the deficit thus caused must be made good out of the earnings of the company before any earned surplus can be included in invested capital.

I-36-494
I. T. 1440

Internal Revenue Items.

Payment of Additional Taxes

The amount of income and excess profits tax must be determined and assessed by the Commissioner within five years after the return was filed, where additional assessments are made under the provisions of the Revenue Acts of 1916-1917-1918 or this act, the taxpayer shall be notified by registered mail and be allowed 30 days after notice is mailed in which to file an appeal and show cause why the additional tax should not be paid. Opportunity for hearing shall be granted and the additional tax determined to be due after this hearing shall be assessed and paid within 10 days after notice and demanded by the collector. In such cases no claim for abatement of the amount so assessed shall be entertained.

The following, however, are exceptions to the rule;

- (1) Upon consent in writing by the Taxpayer and Commissioner to a later determination.
- (2) In the case of income received during the lifetime of a decedent, etc.
- (3) In the case of failure to file a return.
- (4) In the case of false or fraudulent return with intent to evade tax.
- (5) In cases of Amortization coming within the scope of Section 234 of the Rev. Acts of 1918 and 1921, etc.

The Commissioner however is authorized to extend the time for payment of additional taxes to a period "not in excess of eighteen months from the passage of this Act" (May 23rd, 1923), where it is shown that an earlier payment would result in undue hardship to the taxpayer.

In connection with deferred payments, it may be necessary to furnish bond, and interest at the rate of 2-3 per cent per month will attach during time of extension. If payment is not made at end of extended time, the 5% penalty, together with interest at 1% per month are added.

Partnership Accounts.

Partnership books should always be adjusted by a professional accountant if for no other reason than that he will act impartially and comply fully with the articles of co-partnership. These accounts are peculiarly liable to disturbances by causes from which corporations on the whole are exempt. Disputes occur as to salaries, division of profits, partner's overdrawings, inattention to business; and many other things which would to a large extent be obviated if the books were regularly audited by a competent outsider. A partner dies and there is trouble with the administrator as to the division and withdrawals of the decedent's capital, in many cases resulting in expensive lawsuits and the permanent crippling of the business. A partnership goes into bankruptcy, perhaps through misconduct of a trusted partner. Had a continuous audit been in force the fraud might have been nipped in the bud. Again, for the protection of the limited or special partner and a silent or dormant partner a periodical independent audit is essential.

Clearing House Service OF Accountancy

By R. C. Pinkham, C. P. A. (N. J. & N. A.)

Clearing Houses have been in existence for many years in the business centres of the world. Banks, Stock, Cotton, Produce and other Markets, Stock Raisers, Fruit Growers and many industries have recognized the value of clearance in one form or another. They have saved and made money through their connections with such institutions.

The National Association has Clearing House ideas, which are now operating in Washington, D. C. for the benefit of its Members.

Members of the National may arrange to take work practically anywhere. It will be done through arrangements with fellow members of the Association, who reside and have business not only in the United States, but in almost every country of the World.

The advantages to the client are several. Through co-operation of the Clearing House, an accountant, who is an expert in the particular line in view, and whose place of business is near the work, may be engaged to make the Audit or Examination of one or more Branches, Agencies, Subsidiaries, etc. He will render his report direct to the Principal accountant in charge at the main office or headquarters of the company investigated.

That man, having his office near the work and being skilful in the line, need not ride several days on the trains or boats. Nor does he pile up unnecessary expenses incidental to such travel.

His fee - rate is known and limited by the rates on file. The work is completed and on the way, the same as the work of the other accountants at the various branches, in the time that the ordinary traveler would take to do one branch or subsidiary.

A National man would substitute for one of the accountant's own men located near the work, if the principal would desire, or would function as an agent in such places as the accountant would not have a branch office of his own.

The important recommendation for National Accountants in this co-operative service is the responsibility they take in their agreement with the Association based upon endorsements of previous engagements satisfactorily concluded.

National Members in Every Town.

In order to give the widest and most valuable National co-operative service it will be necessary to have accountant members of the National Association not only in every State of the Union but in every town of any importance in each State.

State Executives, or State members, should see to it that not only is there numerical strength within their States but that State membership is distributed so as effectively to cover all important municipalities.

*Cut this out and send to National Association of Certified Public Accountants,
945 Pa. Ave., N. W. Washington, D. C.*

Kindly send me blank application form for Membership in the National Association of Certified Public Accountants.

Signed Street..... City State