

P U B L I C H E A R I N G

before

SENATE COMMITTEE ON STATE GOVERNMENT
AND FEDERAL AND INTERSTATE RELATIONS

on

SENATE BILL NO. 662
(Regulation of Accountancy Profession)

Held:
June 14, 1972
Senate Chamber
State House
Trenton, New Jersey

MEMBERS OF COMMITTEE PRESENT:

Senator Frank C. Italiano (Chairman)
Senator Jerome M. Epstein
Senator Joseph P. Merlino

* * * *

I N D E X

	<u>Page</u>
Edmund D. Bowman, President N. J. State Board of Certified Public Accountants	1
Joseph L. Kaufmann, Treasurer N. J. Assoc. of Public Accountants	10
LeRoy Layton, President Nominee American Institute of Certified Public Accountants	17
Rudolph J. Passero, President National Society of Public Accountants	30
Robert D. Hunter, President N. J. Society of Public Accountants	32
George V. Churchin Certified Public Accountant Long Branch, New Jersey	39
Warren L. Ress, Chairman Committee on Legislation N. J. Society of Certified Public Accountants	44
Joel H. Sterns Attorney N. J. Assoc. of Public Accountants	44
Elmer Matthews Attorney N. J. Society of Certified Public Accountants	48
Samuel Leopold Certified Public Accountant	48

SENATE, No. 662

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 14, 1972

By Senator BATEMAN

Referred to Committee on State Government and Federal and
Interstate Relations

AN ACT to amend the title of "An act to regulate the practice of the profession of certified public accounting in this State and repealing chapter 2 of Title 45 of the Revised Statutes," approved June 15, 1965 (P. L. 1965, c. 99), so that the same shall read "An act to regulate the practice of the accountancy professions in this State," and to amend and supplement the body of said act and to repeal section 24 of said act.

1 BE IT ENACTED by the Senate and General Assembly of the State
2 of New Jersey:

1 1. The title of P. L. 1965, c. 99 is amended to read as follows:
2 An act to regulate the practice of the [profession of certified public
3 accounting] *accountancy professions* in this State [and repealing
4 chapter 2 of Title 45 of the Revised Statutes].

1 2. Section 1 of P. L. 1965, c. 99 (C. 45:2A-1) is amended to read
2 as follows:

3 1. As used in this act (a) "board" means the New Jersey
4 State Board of [Certified Public Accountants] *Accountancy*; (b)
5 "certified public accountant" means the holder of a certificate
6 issued by the board pursuant to the provisions of this act[.];
7 (c) "*public accountant*" means any person who has registered
8 with the board as a public accountant and who holds a valid permit
9 for the practice of public accountancy pursuant to the provisions
10 of this act; (d) "*practice of public accounting*" means the offering
11 to the public to perform for compensation as an independent con-
12 tractor, any of the following services:

13 *The making of appropriate adjustments of transactions in books*
14 *of accounts, the preparation of financial statements, schedules of*
15 *reports, auditing, devising and installing systems or methods of*
16 *bookkeeping, internal controls of financial data or the recording*

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill
is not enacted and is intended to be omitted in the law.

17 of financial data, and such other activities as the board may define
18 and promulgate in the New Jersey Administrative Code.

1 3. Section 2 of P. L. 1965, c. 99 (C. 45:2A-2) is amended to
2 read as follows:

3 2. The New Jersey State Board of Public Accountants created
4 and established by an act entitled "An act to regulate the practice
5 of the profession of public accountants," approved April 5, 1904
6 (P. L. 1904, c. 230), as amended and supplemented, and continued
7 pursuant to R. S. 45:2-1, is further continued, and shall hereafter
8 be known as the New Jersey State Board of [Certified Public
9 Accountants] *Accountancy*.

1 4. Section 3 of P. L. 1965, c. 99 (C. 45:2A-3) is amended to
2 read as follows:

3 3. The board shall consist of [five] *nine* members, [each] *five* of
4 whom shall be [a] certified public accountants and [a] residents
5 of this State, and shall have been engaged in practice as [a]
6 certified public accountants in this State for at least 10 years
7 immediately preceding the date of [his] *their* appointment to
8 the board[.], two of whom shall be public accountants and residents
9 of this State, and shall have been engaged in practice as public
10 *accountancy in this State for at least 3 years immediately preced-*
11 *ing the date of their appointment to the board, one public member*
12 *and one State Government member appointed as provided pur-*
13 *suant to the provisions of P. L. 1971, c. 60 (C. 45:1-2.2). The three*
14 *persons constituting the New Jersey State Board of Public Ac-*
15 *countants on the effective date of this act shall continue in office*
16 *as members of the New Jersey State Board of Certified Public*
17 *Accountants until the expiration of the terms for which they were*
18 *appointed. Two additional members shall be appointed by the*
19 *Governor, one for a term expiring on April 29, 1967, and one for*
20 *a term expiring on April 29, 1968. Upon the expiration of the*
21 *term of office of any member, his successor shall be appointed by*
22 *the Governor for a term of 3 years. No member of the board shall*
23 *serve more than two successive terms in addition to any unexpired*
24 *term for which he has been appointed. However, any member*
25 *who has served two successive terms may be reappointed after*
26 *an intervening period of 1 year. Each member shall hold office*
27 *until his successor is appointed and has qualified. Any vacancy*
28 *in the membership of the board shall be filled for the unexpired*
29 *term in the manner provided for an original appointment. Except*
30 *as hereinafter provided, the members of the board shall serve*
31 *without compensation. Each of the two public accountants shall*

32 *be appointed by the Governor for the term prescribed for the other*
 33 *members of the board and until the appointment of his successor.*

1 5. Section 6 of P. L. 1965, c. 99 (C. 45:2A-6) is amended to
 2 read as follows:

3 6. The board shall have the power:

4 a. To provide for and regulate the issuance of certificates of
 5 certified public accountant *and permits of public accountant* to
 6 **[any]** persons (1) who meet the general qualifications and specific
 7 education requirements in the field of accountancy and related
 8 professional courses and experience requirements provided herein
 9 and, *in the case of certified public accountants*, who pass the
 10 examination given by the board; or (2) who meet the requirements
 11 for the issuance of a certificate *or a permit* by reciprocity;

12 b. To prescribe the subject matter, manner, time and place of
 13 examination for the certificate of certified public accountant;

14 c. To suspend or revoke the certificate of any certified public
 15 accountant *or the permit of any public accountant* or to censure
 16 the holder of such certificate *or permit* as provided in this act;

17 d. To hold hearings, issue subpoenas and administer oaths as
 18 hereinafter provided;

19 e. To adopt rules, regulations and bylaws to govern its proceed-
 20 ings and the examination and registration of applicants desiring
 21 to practice the profession of certified public accounting *and to*
 22 *govern its proceedings and regulations and registration of ap-*
 23 *licants desiring to practice the profession of public accounting;*

24 f. To adopt and enforce rules and regulations of professional
 25 conduct in the practice of certified public accounting *and public*
 26 *accounting*, subject to the approval of the Attorney General.

27 The board shall, immediately upon the adoption, repeal or
 28 modification of any rule, regulation or bylaw file a copy of the same
 29 with Secretary of State.

1 6. Section 9 of P. L. 1965, c. 99 (C. 45:2A-9) is amended to
 2 read as follows:

3 9. Except as otherwise provided in section 12, the board shall
 4 issue to any person who has complied with the provisions of this
 5 **[section]** *act* and who has passed the examination provided for
 6 by this act, a certificate authorizing him to practice as a certified
 7 public accountant, and such person shall be styled and known as
 8 a "certified public accountant." *The board shall also issue to any*
 9 *person who has complied with the provisions of this act as it*
 10 *pertains to public accountants, a permit authorizing him to prac-*
 11 *tice as a public accountant, and such person shall be styled and*

12 known as a "public accountant." The fee for the issuance of such
13 certificate or permit shall be \$6.00.

1 7. Section 10 of P. L. 1965, c. 99 (C. 45:2A-10) is amended to
2 read as follows:

3 10. The board may, in its discretion, waive the examination of,
4 and recommend the issuance of a certificate to any person who,
5 at the time of his application, holds a valid and unrevoked cer-
6 tificate as a certified public accountant issued by or under the
7 authority of any state which grants similar privileges to certified
8 public accountants of this State, and has education and experience
9 requirements which are substantially equivalent to the require-
10 ments of this act for the issuance of a certificate as a certified
11 public accountant. *The board may also, in its discretion, recom-*
12 *mend the issuance of a permit to any person who, at the time of*
13 *his application, holds a valid and unrevoked permit, license or*
14 *other authorization as a public accountant issued by or under the*
15 *authority of any state which grants similar privileges to public*
16 *accountants of this State, and has requirements which are sub-*
17 *stantially equivalent to the requirements of this act for the issu-*
18 *ance of a permit as a public accountant. Every application for a*
19 *reciprocity certificate or permit shall be accompanied by a fee of*
20 *\$100.00.*

1 8. Section 11 of P. L. 1965, c. 99 (C. 45:2A-11) is amended to
2 read as follows:

3 11. Every individual to whom a certificate or a permit shall
4 have been issued engaged in the practice of certified public account-
5 ing or public accounting within the State shall biennially during
6 September pay to the board a registration fee of \$20.00.

7 Notice of the failure to pay such biennial registration fee shall
8 be given to the person so failing, which notice shall state that,
9 upon the continued failure to pay such fee, the certificate issued
10 to such person will be declared forfeited by the board at the time
11 and place stated therein unless such fee is sooner paid. The board
12 may make rules and regulations regarding the reissue of a cer-
13 tificate to any person whose certificate has been forfeited under
14 this section, and fixing the fee to be paid for the reissue of said
15 certificate.

16 Unless he has given notice thereof in some previous application
17 to the board, an individual paying his biennial registration fee
18 shall state in his application whether any certificate as certified
19 public accountant or any charter as a chartered accountant or any
20 license to practice or registration or enrollment as a public ac-

21 countant ever issued to or made for him by any state or political
22 subdivision of the United States or by any foreign country or
23 political subdivision thereof or by an accounting society of a
24 foreign country has been revoked or suspended, and, if so, such
25 facts relating to such revocation or suspension as the board may
26 require. No certified public accountant *or public accountant* of
27 this State, who has not registered pursuant to the requirements
28 of this section for a particular biennial registration period, shall,
29 during such period, hold himself out to be engaged in practice as
30 a certified public accountant *or a public accountant* within this
31 State, or use in connection with his name any title or designation
32 tending to imply that he is engaged in practice as a certified public
33 accountant *or a public accountant* within this State.

1 9. Section 12 of P. L. 1965, c. 99 (C. 45:2A-12) is amended to
2 read as follows:

3 12. The board may refuse to admit an applicant to the examina-
4 tion or may refuse to issue a certificate to an applicant who has
5 passed the examination *or refuse to issue a permit to an applicant*
6 or may suspend or revoke any certificate *or permit* issued under
7 the provisions of this act, upon proof to the satisfaction of the
8 board that the applicant or certificate or license holder, as the
9 case may be,

10 a. has obtained a certificate or admission to the examination
11 *or permit* by misrepresentation or fraud; or

12 b. has violated a rule or regulation of professional conduct
13 promulgated by the board; or

14 c. has engaged in any conduct of a character likely to deceive or
15 defraud the public; or

16 d. has been convicted of a crime involving moral turpitude; or

17 e. has committed an offense under this act; or

18 f. has committed acts in the course of his practice as an ac-
19 countant amounting to gross negligence or recklessness; or

20 g. has failed to pay his biennial registration fee as required by
21 section 11; or

22 h. has engaged in conduct discreditable to the accounting
23 profession.

1 10. Section 13 of P. L. 1965, c. 99 (C. 45:2A-13) is amended
2 to read as follows:

3 13. Before any certificate *or permit* shall be suspended or
4 revoked, the board shall afford the certificate *or permit* holder
5 a hearing at which he shall be entitled to be present and repre-
6 sented by counsel. The board shall give the certificate *or permit*

7 holder 10 days' prior written notice of the hearing and such notice
8 shall contain a statement of the charges against the certificate
9 or permit holder.

1 11. Section 14 of P. L. 1965, c. 99 (C. 45:2A-14) is amended to
2 read as follows:

3 14. A person who has been denied admission to an examination
4 or having passed the examination, has been denied a certificate
5 or a person who has been denied a permit shall have a right to a
6 hearing before the board, provided that he makes a written demand
7 upon the board for such hearing within 15 days after receipt of
8 notice from the board that his application has been denied or that
9 he will not be issued a certificate or permit.

1 12. Section 16 of P. L. 1965, c. 99 (C. 45:2A-16) is amended to
2 read as follows:

3 16. Any person whose certificate or permit has been suspended
4 or revoked shall forward his certificate or permit to the board
5 within 10 days after receiving notification of such suspension or
6 revocation and upon failure to do so shall be liable to a penalty
7 of \$50.00.

1 13. Section 17 of P. L. 1965, c. 99 (C. 45:2A-17) is amended to
2 read as follows:

3 17. In the board's discretion, it may issue a new certificate of
4 certified public accountant or a new permit of public accountant
5 to any person whose certificate or permit has been revoked or
6 may modify or remove the suspension of any certificate or permit.

1 14. Section 21 of P. L. 1965, c. 99 (C. 45:2A-21) is amended to
2 read as follows:

3 21. The Superior Court may, in an action at the suit of the
4 Attorney General or of the New Jersey State Board of [Certified
5 Public Accountants] *Accountancy* prevent and restrain the prac-
6 tice of accountancy [as a certified public accountant] in this State
7 by any person who has not first obtained the certificate or permit
8 as provided in this act or prevent and restrain the violation by
9 any person of the provisions of this act.

1 15. Every applicant for a permit as a public accountant shall
2 present to the secretary of the board a written application for
3 such permit on a form provided by the board, and satisfactory
4 proof of the following:

- 5 a. That the applicant is a citizen of the United States;
- 6 b. That the applicant is at least 21 years of age;
- 7 c. That the applicant is of good moral character;

8 d. If an application is presented within 1 year of the effective
9 date of this act, that the applicant is:

10 (a) one who has held himself out continuously to the public as
11 a full-time public accountant and who has been engaged within
12 this State for at least 3 years prior to the effective date of this act
13 in the full-time practice of public accounting as a principal occupa-
14 tion in the applicant's own account or as a member of a partner-
15 ship or as an employee of another or a firm or partnership or
16 professional corporation, engaged in the practice of public account-
17 ing; or

18 (b) one serving in the Armed Forces of the United States who
19 for 3 years immediately prior to entering such service was a
20 resident of this State or had a place of business in this State and
21 who held himself out continuously to the public as a public ac-
22 countant and who has engaged in the full-time practice of public
23 accounting as a principal occupation in the applicant's own account
24 or as a member of a partnership, or as an employee of another or
25 a firm or partnership or professional corporation engaged in the
26 practice of public accounting; or

27 (c) one who was engaged for at least 3 years on the effective
28 date of this act in an accounting or auditing position with the
29 Government of the United States, this State or a political sub-
30 division of this State for which an examination or education in
31 accountancy is required;

32 (d) If an application is presented after 1 year from the effective
33 date of this act, then the applicant must be a graduate of an
34 accredited college or university approved by the Department of
35 Higher Education of the State of New Jersey and have success-
36 fully completed 24 semester hours in accounting. An applicant
37 who has been engaged in the full-time practice of public accounting
38 as herein defined for less than 3 years on the effective date of this
39 act shall be permitted to qualify for a temporary permit under
40 such rules and regulations as the board may prescribe and shall be
41 allowed to qualify for a permit within 3 years of the effective date
42 of this act; when he has completed 3 years of the practice of public
43 accounting as defined herein.

44 (e) In the case of an applicant in the armed services on the
45 effective date of this act, the time for applying for a permit as a
46 public accountant shall be extended for a period of 12 months from
47 the time such an applicant is discharged from the service.

1 16. It shall be unlawful for any person to advertise as or issue
2 any sign, card or drawing designating himself as a public ac-

3 accountant, or to assume the title of public accountant, or to use the
4 abbreviation "P.A.," or any other words, letters and figures to
5 indicate that the person using the same is such a public accountant,
6 unless such person is the holder of a permit issued pursuant to
7 this act.

18. It shall be unlawful for any partnership to advertise as or
2 issue any sign, card or drawing designating itself as a public ac-
3 counting firm, or to assume the title of public accountant, or to
4 use the abbreviation "P.A.," or any other words, letters and figures
5 indicating that such partnership is composed of public accountants,
6 unless all partners are holders of certificates issued pursuant to
7 this act.

19. This act shall not affect the orders, rules and regulations
2 heretofore made or promulgated by the New Jersey State Board
3 of Certified Public Accountants, but such orders, rules and regula-
4 tions shall continue with full force and effect until amended,
5 modified or repealed by the board established pursuant to this act.

20. Section 24 of P. L. 1965, c. 99 (C. 45:2A-24) is repealed.

21. This act shall take effect immediately.

STATEMENT

This legislation is designated to afford the fullest protection to the public in seeking and acquiring the services of public accountants.

At present, the practice of public accounting is not regulated in any way by the State of New Jersey. There is only provision for licensing and regulating certified public accountants and reserving to those so licensed the title "Certified Public Accountant" or "C.P.A."

Any person, regardless of qualifications, can, without license, examination or notice, hold himself out as a public accountant, accountant, auditor, bookkeeper, or any title other than C.P.A., and can legally perform any and all accounting functions. Further, there is no system of accountability by which the public can hold an individual accountant answerable for negligence or incompetence.

The legislation is intended to protect the public in a variety of ways. First, only individuals who meet specific experience and educational requirements will be allowed to practice as public accountants. These individuals will be issued permits. Second, the act limits the advertising of any person engaged in public accounting so as to protect the public from deceptive promotions or claims.

Third, the legislation provides appropriate sanctions, including the revocation of permits and the levying of fines, against incompetent or unqualified public accounting practitioners. Thus, accountants will be made fully answerable to the public for any negligent or deficient services.

This proposed legislation is intended to provoke public concern and discussion with regard to the regulation of accountancy. This bill and the general question of regulation of accountancy should be the subject of thorough discussion and of public hearings by the appropriate legislative committee.

This proposed legislation, as introduced, is in general conformance with the report of the New Jersey Professional and Occupational Licensing Study Commission.

SENATOR FRANK C. ITALIANO (Chairman): Good morning. This public hearing, being conducted by the Senate State Government and Federal and Interstate Relations Committee, will come to order. We will ask those who wish to testify, if they have not already submitted their names, to please contact Mr. Horvath now so that we will know you are available and wish to testify.

We will begin by calling Mr. Bowman.

Before testifying, we would ask that you state your name, your address, and the organization that you represent.

All right, Mr. Bowman.

E D M U N D D. B O W M A N: Senator Italiano, my name is Edmund D. Bowman. I reside at 324 Browning Road, West Collingswood, New Jersey. I am President of the New Jersey State Board of Certified Public Accountants.

I believe, Senators, you all have a copy of my statement. In addition thereto, there is a statement that was prepared by Mr. Robert W. McGowan, CPA, and immediate Past President and present member of the Board. May I call to your attention a typographical error on page 5, the third paragraph from the bottom - it says "Title 4S" and it should be "Title 45". (See p. 51)

SENATOR ITALIANO: Thank you.

MR. BOWMAN: Senator, I am here to oppose the enactment of Senate Bill No. 662.

When the New Jersey Legislature enacted the Consumer Affairs Act of 1971, you placed jurisdiction of professional boards under the Division of Consumer Affairs. Doing so, you recognized a relationship between the responsibility the accounting profession owes to the general public and the responsibility a seller owes to a purchaser. The law today no longer says let the buyer beware. The law today is that we must have truth in lending, in labeling, and in many other areas; and it is most

certainly true when it comes to the relationship between an accountant and the people he serves, the need for truth in labeling is vital to the interests of the general public.

The truth in labeling that I speak about is more than truth in labeling the product, it is truth in labeling the individual who supplies the product. The label CPA lets the public know that before the label could be affixed, the CPA who wears it earned an "E" for education, an "E" for examinations, and an "E" for experience. The CPA observes established standards of performance and ethical concepts. The public knows that the CPA label tells that the individual has demonstrated evidence of basic competence and professional ability in the discipline of accounting; that he possesses a body of specialized knowledge; that he meets qualifications governing admission to the profession; and that he has imposed upon himself high standards of conduct governing his professional relationships with others. A CPA accepts the responsibilities inherent in an occupation endowed with the public interest, and he assumes full responsibility for the rendering of services on a professional level. The CPA carries these responsibilities with great pride.

You have before you today a bill which would confuse the public, would deny it the right to know with any degree of certainty that the person who performs accounting work has demonstrated competence through education, experience, and examination. If S-662 is enacted the State of New Jersey will grant a licensed status to PAs; it will place a mantle of recognition upon individuals who have not gained such recognition through a demonstration of competence measured by their education and experience and successful completion of examinations. Yet, the public will be led to believe that the individual carrying that licensed PA designation has demonstrated competence in accounting matters.

But S-662 carries no such requirement. It says of people presently engaged in various activities more or less related to the practice of accountancy that they may call themselves licensed PAs by merely asking for a license. The public would be led to believe that a PA, by reason of his licensing by the State of New Jersey, had satisfactorily demonstrated that he is perhaps, shall we say, at least 2/3rds as well qualified as a CPA. The public would have no way of knowing that the licensed PA has not satisfactorily demonstrated anything other than that he has or will have been engaged in some activities which are in some way

related to accounting for a period of three years. S-662 does not require an examination of any PAs at any time. It does not impose any educational requirements on original applicants. It would mislabel the individual. S-662 is not a good bill.

You may ask why other states have enacted "PA" legislation. For the most part, aware of the extent to which the public interest is affected by the practice of accountancy when persons other than the accountant's clients must rely upon opinions expressed by the accountant, many state legislatures have enacted legislation which contemplate that the certification of financial statements shall ultimately be performed only by Certified Public Accountants. In order to avoid any possible abridgement of the rights of uncertified accountants who at the time of enactment were earning their livelihood by the practice of accountancy, these laws permit such other persons to be registered as PAs immediately after enactment, and permit no further additions to the roster of PAs. In some cases, PAs are admitted to CPA examinations under lowered education requirements, or less demanding requirements may be placed on the individuals who receive the benefit of the PA status. In a few cases, appropriate safeguards were omitted, and the practice as public accountants licensed by the state

remained open on a continuing basis. In these last mentioned cases, it seems that all vestige of protection of the public interest has been abandoned.

On the other hand, many states, New Jersey included, do not restrict the activities of individuals who wish to call themselves Public Accountants, or Public Bookkeepers, or Tax Return Preparers, or use any similar title intended to indicate a willingness to perform specified services. Thus, the activities S-662 lists are not restricted in the State of New Jersey. Anyone wishing to engage in such activities may do so, but the State of New Jersey does not lead the public to believe that persons offering such services are qualified. Under S-662, the State would say to the public "Yes, these people are qualified." The State would affix the label, but the State would not know what the package contains.

You may ask, who is right and who is wrong. Some states, New Jersey included, have permissive legislation. New Jersey regulates the use of the CPA title. New Jersey does not deny anyone the right to engage in accounting or accounting related activities. It permits such activities by one and all. Other states, as I have indicated, regulate accounting activities. These other states reserve the right to perform

certain activities to persons who have demonstrated competence to do so.

I cannot say that one group is 100% right and the other 100% wrong , but

I do believe that the weight of the evidence is heavily in favor of the permissive type legislation we now have in New Jersey.

Permissive legislation is more easily administered. It has but one set of standards. It is more easily interpreted. It does not confuse the public. The CPA title is meaningful. There is no danger of public confusion about what it means. It means competence, reliability and responsibility. Another meaningful benefit of permissive legislation is that it does not create a monopoly for a limited group. I am convinced that, however weighed, the balance favors permissive legislation.

These few remarks I have made today tell you the nature of the problem as I see it. The subject is covered more fully in a statement have with me which Mr. Robert W. McGowan, a fellow CPA, a member of the State Board of Certified Public Accountants, and my predecessor as President of the Board, sent to Mr. Tilleman on March 13 in response to an inquiry asking for the Board's views concerning Senate Bill S-662.

With your permission, I will leave a copy of that statement with each of you. If you have any questions about it, I will be pleased to try to answer them.

In closing, I ask that you note particularly that Senate Bill 662 does violence to the conclusions reached by the New Jersey Professional and Occupational Licensing Study Commission as set forth in the Commission's report to the Governor and the Legislature of the State of New Jersey on January 7, 1971, more particularly known as The Bateman Report.

That report emphasizes the need for public assurance of initial and continuing professional ability in all professions; that report condemns grandfathering of the type called for by S-662; that report rejects entry into a profession without an examination; and that report recommends greater, not lesser, emphasis on educational requirements for those who would enter a profession. As all of you know, that report is the product of many months of attention to the problems it considers. Please read it, and only then make up your minds on what to do about S-662.

Senators, I thank you for this opportunity to express our views.

SENATOR ITALIANO: Thank you.

Mr. Bowman, just a couple of questions. On page 6 of your statement you say that permissive legislation does not confuse the public. Does it protect the public?

MR. BOWMAN: Well, today we have, as you probably realize, I don't know how many PAs. We have a lot of Tax Preparers and we have many others who do enter into the public accounting practice. The CPA is known all over and has the training, the experience and has passed an examination.

I think it was in March of this year, the

Commissioner of Internal Revenue either appeared before a House Committee or a Senate Committee and at that time was questioned about regulating the practice of those who prepared the tax returns. He admitted that there was some problem with those who were not CPAs who did prepare these tax returns and did not mention names. But the final part and the part I think that we all overlook is, the Commissioner said that his Department could not regulate the practice of those tax preparers if such legislation was passed by the Congress.

Now, if he couldn't regulate the practice, how do you expect this Board to regulate the practice of PAs.

SENATOR ITALIANO: Well, that's just exactly what I have in mind.

Don't you agree that there should be some regulation on these people who hold themselves out to the public that they are qualified when in fact they are not?

MR. BOWMAN: I don't know how we in New Jersey could do it. I really mean it.

SENATOR ITALIANO: We're trying to find this out, if we can and how we can.

MR. BOWMAN: What I'm saying now is, we have problems --

SENATOR ITALIANO: I understand the distinction with the CPA; I think I'm aware of that. Now we have the problem, which this bill is apparently designed to control, of those people who have not qualified under any State examination who hold themselves out to the public. Now you've stated the differences between the State and that the permissive aspect of the legislation does more to protect the public, and I'm not quite sure that it does.

MR. BOWMAN: I think we have a problem and I don't want to minimize the problem, Senator, but I want to say again if the Federal Government cannot regulate the practice of their own tax preparers and cannot formulate a program, I don't think we have the answer to

that at the present time.

SENATOR ITALIANO: Well, I am going to take issue with you because the fact that the Federal Government cannot do something does not mean that the State Legislature is incapable of doing it. I think we have enough resources and enough intelligence in our Legislature to devise systems that perhaps maybe the Federal Government can't do. So I think, if we have to, we can. But, in any event, it would appear to me that one of the biggest objections is the grandfather clause. Am I correct in that conclusion?

MR. BOWMAN: That is correct. If this bill is enacted, this means that anybody even if he has only started and opened his office for one day he will be licensed as a public accountant. And you must remember that the day you place a label of dignity upon him you say he has certain professional competence. I say, Senator, this bill does not accomplish what you would like to do and does not permit the regulation of PAs as it is drawn at the present time.

SENATOR ITALIANO: Just one other question.

On page 3, at the bottom, you state: "S-662 does not require an examination of any PAs at any time." Does that also apply to any new ones, say after the grandfather clause is ineffective?

MR. BOWMAN: That is correct.

SENATOR ITALIANO: Now you say: "It does not impose any education requirements on original applicants." I think I read here somewhere where they establish a minimum of a college diploma, or something of that kind, a minimum of so many hours in accounting. Isn't that in the bill somewhere?

MR. BOWMAN: I think that applies to CPAs. I don't think that applies to the PAs. Here again I will have to bow to legal counsel as to whether that applies in this bill. (discussion off record.)

Senator, may I say that I have just been informed that under the grandfather clause there is no

requirement as to education or experience, and there is a requirement as to education after the enactment of the grandfather clause. But there is still no requirement as to experience nor any requirement as to taking an examination.

SENATOR ITALIANO: I recognize that but I thought there was a requirement for education.

MR. BOWMAN: I was incorrect on that.

SENATOR ITALIANO: Thank you very much.

MR. BOWMAN: Thank you very much, Senator Italiano.

SENATOR ITALIANO: Mr. Kaufmann, please.

J O S E P H L. K A U F M A N N: Good morning, Senators Italiano and Epstein. I am Joseph L. Kaufmann and I reside at 101 Park Circle, Absecon, New Jersey. I am Treasurer of the New Jersey Association of Public Accountants. I have been a practicing Public Accountant for the past 25 years, with offices in Egg Harbor City, Atlantic County.

The organization that I represent has chapters throughout New Jersey and we are affiliated with the National Society of Public Accountants.

You have a copy of my statement which I will cover at this time.

I deeply appreciate the opportunity to appear before you today to discuss Senate Bill 662. As the statement on the Bill indicates, this legislation is designed to afford the fullest protection to the public in utilizing the services of public accountants. The practice of public accounting is not regulated in any way in the State of New Jersey today. There is only provision for licensing and regulating Certified Public Accountants and reserving to those so licensed the title "Certified Public Accountant", or "CPA".

Any person, regardless of qualifications, can without license, examination or notice hold himself out as a public accountant or use any title other than "CPA" and can legally perform any and all accounting functions. Furthermore, there is no system of accountability by which the public can hold an individual accountant answerable for negligence or incompetence. In New Jersey today a convicted embezzler or an extortionist may hold himself out as a public accountant.

By this legislation, the State would exercise some control and supervision over the accounting profession beyond the reservation of the title "CPA" and would begin to offer to the public adequate protection from fraud and dishonesty by setting standards of professional competence. The Bill would give the Board the authority to regulate public accounting only to that extent. It is no way intended to limit access to the profession or artificially restrict membership, or fees.

For this reason, no examination is contemplated for qualification as a public accountant--only the requirement that an individual successfully complete 24 academic credits in accounting in any College recognized by the New Jersey Department of Higher Education. This proposal is in conformance with the report of the New Jersey Professional and Occupational Licensing Study Commission which recommended that education and experience requirements be emphasized and further recommended that education and experience entry requirements be clearly related to the purposes for which professions or occupations are regulated. May I state further that we are wholeheartedly in support of continuing education requirements for members of the accounting profession and would

welcome such required programs under the supervision of the Accounting Board as provided in this legislation.

Opposition to this legislation has centered on the charge that the Bill would establish two classes of accountants in New Jersey, and that it would water down the "CPA" requirements. Nothing could be further from the truth. This is not the Bill's intent, its purpose nor its effect. In the first place, we have two classes of accountants in New Jersey today, but the second class is wholly unregulated, and therefore the State is not able to prevent properly the abuses which may be perpetrated by the incompetent and unscrupulous practitioner. Those abuses, particularly in the area of Federal Income Tax preparation, have been well documented by Congressional Committees. The New Jersey citizen who avails himself of the services of one who holds himself out as a public accountant has the right to expect that he will be dealing with someone who is qualified to perform the services required, and we believe State regulations can insure that standard.

Secondly, rather than water down the CPA requirements, this legislation goes out of the way to enhance the significance of the CPA certification. If this legislation is enacted, five of the nine members of the State Board will be Certified Public Accountants, and only two will be public accountants--so that in a real sense, far from watering down their responsibilities, the Certified Public Accountants of this State, through their majority on the Board, will be in a position to enforce ethical standards and procedures on a group heretofore unregulated. In order to protect the interests of the public, and to upgrade the accounting

profession as a whole, the public accountants of New Jersey are willing to submit to such regulation, believing that it will not be administered in an arbitrary, capricious or unreasonable way.

This legislation in no way changes the requirements for Certified Public Accountants nor affects the standards which the Board may set for Certified Public Accountants, nor the examinations which shall be given for Certified Public Accountants.

It recognizes that there remains a continuing need for sophisticated services and analyses which the CPA by virtue of the more rigorous certification requirements may be better equipped to handle. But it also recognizes that the every-day accounting and tax preparation needs of New Jersey's small businessmen and wage-earners can be handled competently and honestly by the State's qualified public accountants.

These needs would not be met by restricting the practice only to Certified Public Accountants. CPA exams are highly restrictive and have been considered by many as a device to limit entry into the profession and keep the number of practitioners small.

The public accountant's fee schedule is generally somewhat less and definitely more competitive than the CPA's. In fact, the U. S. Department of Justice has just cited the American Institute of Certified Public Accountants for illegal fixing of fees. The Federal Government recognizes the need in areas such as the preparation of tax returns for other than CPA's to do the work.

There are simply not sufficient CPA's to meet New Jersey's accounting needs. At present between 3,000 and 5,000 individuals other

than CPA's practice accounting in New Jersey on a full or part-time basis, and the need for skilled accountants is growing all the time.

The medical profession is increasingly recognizing the need for trained, skilled people who do not have the same requirements as surgeons or specialists. These people can do most of what the doctor does, but not everything.

In the same vein, the public accountant seeks to do those things for which he is qualified by education and experience, while leaving some significant functions to the CPA.

Speaking for our organization, I want to assure you that we are willing to discuss this legislation and agree to any changes that will strengthen it, making even clearer the status of CPA's relative to public accountants. Our organization is willing to agree at this time to eliminate the attest function for future public accountants.

It should be clear for the record that it has been the New Jersey Association of Public Accountants which has attempted over the years to have a meaningful dialogue with Certified Public Accountants and to have passed meaningful legislation regulating the practice of public accounting in New Jersey. CPA's have not once come forth with any proposals for the welfare of the general public. Everything they have said has been negative. They have talked only in terms of fighting the legislation, not bettering it. They have been unwilling over the years to sit down and come to reasonable procedures.

It should be clear to this Committee that there is no personal advantage involved for the public accountant in the passage of this

legislation, and it was not proposed with personal advantage in mind. It should be understood that today's practicing public accountant, regardless of character or qualification, may perform any and all functions of the CPA including certification of financial statements.

There is no impediment to the practice of public accounting in New Jersey today by myself or my fellow public accountants. There has been no request that we limit ourselves in any way in the practice of accounting, such as the limits we have voluntarily proposed today. Based on the experience of the past half century, there is every reason to believe that we could go on in our practice without concern of State authorities or the CPA Board.

Why then do we come forward and voluntarily seek regulation--regulation, may I point out again, of a Board dominated by CPA's? Simply because we want to keep the venal and incompetent out of our profession because we wish to preserve the reputation that we have built up in all parts of the State from those who would deceive the public.

If we had not raised these issues, they would not have been raised. We feel it is our duty to do so.

In closing I would like to thank the committee for the time you have afforded us to be heard on this matter. We respectfully request that this Bill be voted out of committee and on to the floor of the Senate for passage during this coming session of the legislature.

Thank you, Senator.

SENATOR ITALIANO: Mr. Kaufmann, as a matter of clarification, on page 5, top paragraph, last sentence: "Our organization is willing to agree at this time to eliminate the attest function for future public accountants." What exactly do you mean by that?

MR. KAUFMANN: Well the attest function, Senator, is the function that we certify to a statement. At this time, because this is a permissive state, the CPAs - you normally see a certification on a statement, well a Public Accountant can also perform this function. We have this right now and we, as Public Accountants now, are not willing to give this right up. However, we are saying that for the future Public Accountants, the ones who will come in under the education requirement in the future, this can be eliminated and over a period of time, as the Public Accountants who are presently in existence die off, there will be a definite distinction between the CPAs and the Public Accountants. And speaking for myself, I feel that this is the biggest roadblock as far as the CPAs are concerned to this legislation, that we can actually perform this, which we are permitted to do now.

SENATOR ITALIANO: Do you have any recommendations that would alter in any way the grandfather clause that the CPAs are objecting to?

MR. KAUFMANN: This attest function, the one that we would eliminate for the future. You are saying the grandfather clause at present.

SENATOR ITALIANO: Under S-662.

MR. KAUFMANN: Yes. This was discussed with Senator Bateman, and he reviewed the bill in quite detail when he sponsored it and, as I understand, this met all the requirements put out by the Licensing Committee, the New Jersey Professional and Occupational Licensing Study Committee. We feel, Senator, if a man is conducting a

practice and making a living that it's not possible to take anything away from him that he presently has. We are willing to look to the future and reduce what can be done in the future.

SENATOR ITALIANO: Any questions, Senator?

SENATOR EPSTEIN: No.

SENATOR ITALIANO: Thank you.

MR. KAUFMANN: Thank you very much, Senator.

SENATOR ITALIANO: Mr. Layton.

L e R O Y L A Y T O N, JR.: My name is LeRoy Layton and I reside at 667 Navaho Trail Drive, Franklin Lakes, New Jersey. I am a member of the New Jersey Society of Certified Public Accountants and am President Nominee of the American Institute of Certified Public Accountants. The American Institute is the national, professional organization of CPAs, which was established in 1887, and currently has more than 85,000 members.

Mr. Chairman, I deeply appreciate the courtesy of the Committee in receiving this testimony on Senate Bill No. 662. As a member of the New Jersey Society and the American Institute, I am naturally disturbed about a bill which would adversely affect the interests of businessmen, stockholders, bankers and others who rely heavily upon the competence of those engaged in the professional practice of accounting. I am particularly concerned about the effect this measure would have on the accounting profession in this State and am apprehensive that its enactment might influence accounting standards throughout the Country.

It is significant that the bill has been referred to the Committee on State Government and Federal and Interstate Relations, for the nature of the professional practice of accounting, to an extent much greater than that of other professions, has become truly interstate. The development of interstate commerce has made necessary the ability of qualified accountants to move across state borders in

response to the needs of their clients and, in recognition of this fact, state laws provide for the reasonable freedom of out-of-state accountants to conduct accounting services. The Legislature, then, in being asked to approve Senate Bill No. 662, will want to bear in mind the fact that it affects not only the people of the State of New Jersey but many of those of the nation as well.

Senate Bill No. 662 Would Lower Professional Standards

This bill creates a licensed class of public accountants, authorized to perform the same services as certified public accountants, but who would qualify on the basis of lower standards.

Its effect on the accounting profession would be comparable to creating two classes of lawyers, with the second class being qualified on the basis of easier requirements than those presently met by persons seeking admission to the Bar. Since this second class would be licensed to practice law to the full extent now permitted to lawyers, it might be expected that most candidates would prefer the easier path, and the high admission standards of the Bar would gradually wither away.

There is no logic in dividing any profession into two permanent classes, both licensed to do exactly the same thing, but each meeting different requirements for admission. The public, which has become accustomed to existing high standards, would be confused and misled.

In short, the bill would grant professional status to persons who are not prepared or willing to satisfy the present requirements for accreditation as professional accountants.

Senate Bill No. 662 Materially and Directly Violates the Public Interest

Currently, all persons licensed by the State of New Jersey as professional accountants are required to pass the Uniform CPA Examination, a test prepared by the Board of Examiners of the American Institute of Certified Public Accountants with the assistance of a full-time, salaried director, himself a CPA with a doctorate degree. The examination is used by all states, the District of Columbia, Guam, Puerto Rico and the Virgin Islands. In preparing and appraising the examination, the Institute's Board of Examiners has the cooperation of the National Association of State Boards of Accountancy (composed of members of State Boards of Accountancy throughout the United States); the American Accounting Association (a national organization representing university professors and instructors of accounting); and professional technicians in the field of testing and examinations.

It is the policy of the Board to set the examination at a level which measures the basic competence of professional quality in the discipline of accounting. Content is designed largely to test the candidates' knowledge of auditing standards and procedures, accounting theory, financial reporting problems and commercial law as related to accounts.

The proposed legislation, while it advocates the licensure of public accountants, authorized to perform the same services as CPAs, including auditing, makes no provision for their examination. This omission, creating, as it does, a double standard of professional accounting qualifications, affords no public protection whatever.

Licensure carries with it an inference that the licensed individuals have met qualifications and standards necessary for the protection of the public. Clearly, the bill in question provides no such assurance. It would invite the public to believe that all persons licensed under it are thoroughly qualified when, in fact, no test of competence is required.

The area of public accounting most directly charged with the public interest is that of the auditing and certification of financial statements on which bankers, credit grantors, stockholders and other "third parties" rely. Surely, then, one seeking licensure to perform the audit function should demonstrate, through examination, his ability to do so.

So significantly is the audit function regarded that the Comptroller General of the United States has recommended, in a letter to the heads of federal departments and agencies dated September 15, 1970, that after 1975 only CPAs and licensed public accountants who obtained their licenses on or before December 31, 1970 (that is, those licensed on a "grandfather" basis), be allowed to perform federally initiated audits. The purpose of the recommendation is to ultimately restrict the performance of such audits to certified public accountants, professionals whose competence has been tested by a nationally utilized examination.

Because of its broad definition of the "practice of public accounting," the bill would appear to allow, for a period of one year following enactment of the proposal, the licensure as a public accountant of any person who, for three years, had performed as his principal occupation, the most elementary financial record keeping function. Persons so licensed might well number in the thousands, thereby creating substantial difficulties for both the board of accountancy and for the citizens of New Jersey.

Other State Legislatures Have Rejected Bills Providing for the Licensure of a Second, Continuing Class of Accountants

In 1970, bills sponsored by non-certified accountants were introduced in Florida, Maryland and Kentucky, all of which called for licensing a continuing class of accountants in addition to CPAs. None were enacted.

In 1971, such bills were introduced in Arkansas, Colorado, Florida, Hawaii, Illinois, Iowa, Michigan, Missouri, ^{Rhode Island} and West Virginia. None were enacted.

In 1972, similar measures were introduced once again in Missouri and West Virginia. Neither was enacted.

The non-enactment of these bills demonstrates the state legislatures' determination that such measures clearly do not serve the public interest.

The New Jersey Legislature has performed with distinction in advancing the consumer public's interests by providing sound accountancy statutes. The bill in question, however, is dangerously incomplete, with numerous flaws and omissions. As a past chairman of the Accounting Principles Board, the senior rule-making body of the accounting profession, I am concerned that, at this point in time, when the public is more reliant than ever on sound accounting and auditing standards, legislation should be proposed which would pull the props out from under consumers in the interest of a self-serving title and recognition.

Conclusions

The statement accompanying Senate Bill No. 662 contains numerous, fallacious declarations.

Assertion: "This legislation is designated to afford the fullest protection to the public in seeking and acquiring the services of public accountants."

Fact: Few provisions can be cited to illustrate that the bill in question is designed to protect the public interest. Rather, it appears to be a self-serving measure designed to provide a group of persons meeting substandard qualifications with public recognition.

Assertion: "Any person, regardless of qualifications, can without license, examination or notice, hold himself out as a public accountant, auditor, bookkeeper, or any title other than CPA, and can legally perform any and all accounting functions. Further, there is no system of accountability by which the public can hold an individual accountant answerable for negligence or incompetence."

Fact: The statement deplores a situation in which an unexamined person may perform accounting services, yet the proposal makes no provision for an examination of competence for the persons it would license. In addition, the contention that there is no system by which the public can hold an individual accountant answerable for negligence or incompetence is erroneous. Through the judicial system, the public can and does.

Assertion: "...only individuals who meet specific experience and educational requirements will be allowed to practice as public accountants."

Fact: Perhaps thousands of persons meeting no education requirements at all would be licensed during the one year period following enactment of the proposal. Furthermore, the bill would repeal existing law by deleting Section 2A of Chapter 2 of Title 45 of the New Jersey Revised Statutes which states:

"This act shall not affect the right of any person, partnership or corporation to engage in the practice of public accountancy, or to use in any manner whatsoever the title of "Public Accountant," or the abbreviation of "P. A.," provided that such person, partnership or corporation does not use the title of "certified public accountant" or the abbreviation "C. P. A."

To summarize, Mr. Chairman, the proposed legislation is clearly not in the public interest.

It would seriously lower the state's professional accounting standards.

There is no reason to divide the accounting profession into two classes, each licensed by the State to do the same thing, with similar titles, but qualified under different standards.

If the present requirements for the CPA certificate are unreasonably difficult, they should be modified for all, not supplemented by substitute requirements for some which are less difficult.

Present legislation does not bestow special privileges on CPAs, nor interfere with the earning of a livelihood by non-certified accountants.

Before I end by thanking you, I would like to enter one more thought.

The previous speaker made a statement that I am sure you believe was accurate but really is not at all accurate and that was that the Institute had been charged with illegally fixing fees. The facts are this: About five or six years ago the American Institute was informed by its legal counsel that the provision in its code of ethics barring competitive bidding might be in violation of the Sherman Anti-Trust Law. Immediately it was announced, both orally and in writing, that the American Institute would no longer enforce this provision in the code of ethics.

For the past two years a Committee has been working on a complete revision of the code of ethics to remove any bar to competitive bidding. This action was passed at Council meetings last month. It must now go to its membership for vote but it has not as yet.

In spite of this, the Justice Department did file a complaint saying that the code of ethics in effect, due to this provision, restricted trade. The AICPA having no quarrel with this position has entered into a consent decree. And that, gentlemen, is a far cry from illegally fixing prices or fees, which was not done.

Thank you for the courtesy that you have extended to me today.

SENATOR ITALIANO: Senator Merlino, any questions?

SENATOR MERLINO: No.

SENATOR ITALIANO: Mr. Layton, on page 2 of your statement, the caption: Senate Bill No. 662 would

lower professional standards - you state: "This bill creates a licensed class of public accountants, authorized to perform the same services as certified public accountants, but who would qualify on the basis of lower standards." Isn't that in effect today anyway? I mean, without this bill, right now, don't public accountants perform the same services as CPAs?

MR. LAYTON: The main concern is with the attest function which was mentioned before.

SENATOR ITALIANO: You mean the labeling of a person? Is that your main concern?

MR. LAYTON: Yes.

SENATOR ITALIANO: But actually don't public accountants today perform the same functions and services as CPAs?

MR. LAYTON: They perform, probably to a limited extent, the attest function.

SENATOR ITALIANO: I mean, there is nothing to prohibit them from doing the same things that a CPA does.

MR. LAYTON: Yes. New Jersey is a permissive State; that is correct.

SENATOR ITALIANO: That's what I thought. And this bill, in itself, does not create this; it exists today without the bill.

MR. LAYTON: This bill would create an LPA rather than a CPA.

SENATOR ITALIANO: The point I am trying to make is your statement that the bill would authorize public accountants to perform the same services as certified public accountants. The bill does not authorize that; that's being done today, isn't it?

MR. LAYTON: The bill would lend authenticity or recognition or a distinctive title.

SENATOR ITALIANO: The labeling, once again. It's not that it authorizes it to be done; it is being done today.

MR. LAYTON: Well, maybe it's being done in an unauthorized fashion.

SENATOR ITALIANO: Well, I don't know. You tell me. Are there any restrictions on public accountants regarding the functions they may perform that a CPA can only perform?

MR. LAYTON: Only in the marketplace.

SENATOR ITALIANO: Only in the marketplace. But by law there are none.

MR. LAYTON: That's correct.

SENATOR ITALIANO: In other words, actually a public accountant is considered a professional person today whether he's a CPA or not.

MR. LAYTON: You would have to ask a banker.

SENATOR ITALIANO: Ask who?

MR. LAYTON: Your banker or your stockbroker.

SENATOR ITALIANO: Well that's something else that I'm concerned about because you do refer to that in here on page 4, bankers, credit grantors, stockholders, you know. We're concerned about the public, too, at large, you know, the average guy who just can't go to a CPA. Shouldn't he have some protection? How would you regulate the fellow who prepares these small tax returns for a working man? I know that bankers and credit grantors and stockholders will go into the background and capability of an accounting firm or an individual; but the average man on the street who has to prepare some small tax return, or some small accounting service is needed, shouldn't he be protected too?

MR. LAYTON: Well, let me add, I am not part of New Jersey's planning or legislative policy. I am not functioning in that capacity.

SENATOR ITALIANO: Well, let's forget New Jersey.

MR. LAYTON: That's what I'm getting at. I'm going to get at other states. Therefore, I cannot speak to legislative policy in New Jersey. There will be

speakers who will follow me who can.

Now the American Institute has recommended a dying class type of legislation in which those representing the PAs now would continue the right to the attest function, putting their names on the report, so long as they should continue, but there would be absolutely no continuing class or continuation of this second class that this bill would provide. Now New Jersey is a permissive state.

Now I spoke for the moment as a member of the AICPA as next year's President; now I will speak personally.

I grew up in Pennsylvania. I moved to New Jersey nine years ago; I work in New York. Pennsylvania is also a permissive state. I know how they feel in Pennsylvania; I know the climate that existed when I was there. They felt that the public would be better protected by staying permissive because they felt that the public accountant that did practice the attest function was an ever-diminishing group, that they would really die out faster unrecognized than they would recognized, and they had statistics to prove this was happening. I do not know the statistics for New Jersey. For example, any number of public accountant firms, quite well known, had sons and partners come in there. The son said: "Dad, this isn't the way. I'm going to become certified." And any number of public accountant firms became certified public accountant firms. We felt, in Pennsylvania, that the public was better protected in that area, that this condition would die out sooner.

I cannot speak for New Jersey in this area. And the American Institute really believes that a dying class would be the answer where eventually only CPAs would pursue the attest function.

Is that responsive to your question, sir?

SENATOR ITALIANO: You've cited for us the

states which did not enact this legislation; do you have any idea what states have enacted it?

MR. LAYTON: To the best of my knowledge only one state in this period, and I don't know which year, and I think it was New Hampshire, has enacted legislation but I understand it is considerably different than this; it would be considered a better piece of legislation. But there may be others who can testify on that with much more knowledge than I.

SENATOR ITALIANO: There is only one state in the nation that has this type of legislation?

MR. LAYTON: Oh, no. Excuse me. I thought you were referring to page 5. These are states that rejected bills in the last three years.

SENATOR ITALIANO: Well, what states presently have it, this type of a law?

MR. LAYTON: A continuing of the second class --

SENATOR ITALIANO: Regulating other classes than CPA's. Do you happen to know that?

MR. LAYTON: You have to distinguish here between a dying class, where the second class dies and will not be renewed, or one where there is a continuing second class. This bill would give you a continuing second class. As I understand it, there are only about 14 states that have a continuing second class, but I believe their standards, in one respect or another, are considerably greater than the standards you have set up here. Now as to the states that have a dying class recognition of public accountants, that's much greater.

SENATOR ITALIANO: Were you here earlier when I discussed with Mr. Bowman the education requirements and the testing?

MR. LAYTON: I was here for the entire testimony.

SENATOR ITALIANO: Would you clear that up? Your statement doesn't apparently take that into consideration. In other words, there is an educational

requirement and a testing, after the grandfather clause is effective.

MR. LAYTON: The grandfather clause would wrap in anyone regardless of education.

SENATOR ITALIANO: Yes. But what I'm saying is, after the grandfather clause.

MR. LAYTON: As I read it, a college degree would be necessary.

SENATOR ITALIANO: Any other questions?

SENATOR EPSTEIN: I think you have exhausted them all.

SENATOR ITALIANO: All right. Thank you.

MR. LAYTON: Thank you.

SENATOR ITALIANO: Mr. Passero.

R U D O L P H J . P A S S E R O : Mr. Chairman, my name is Rudolph J. Passero and I am appearing here today as President of the National Society of Public Accountants. Accompanying me is Mr. Jon Bednerik, our Director of Government Affairs. I am a resident and a native of the City of Rochester, New York, and I was issued the first certificate as a Public Accountant in that state. I served on the New York State Board for Public Accountancy, having been appointed to that position by the Board of Regents. For some nine years prior to this I was a member of the New York State Committee on Grievances in Public Accountancy. I was elected President of the National Society in August of 1971.

The Society was founded in 1945 and has worked diligently through the years to bring increasing degrees of professional responsibility and competence to the public accounting profession.

Quite frankly, we believe it to be in the interest of the public that persons engaged in rendering accounting services to the general public be subject to scrutiny and disciplinary sanctions. Our members are pledged to adhere to a strict Code of Ethics which prohibits advertising, the engaging in any business activities of an incompatible nature, the absolute requirement of confidentiality of any information learned in the course of the engagement and similar provisions.

In the area of professional skills, our members are bound by the generally accepted auditing principles which apply to CPAs as well. In fact, we adopted the American Institute's standards on auditing procedure sometime ago.

Licensing is actively under consideration in a number of states where no regulation or outmoded provisions apply to the accounting profession.

The list of fifteen states which provide for future licensing of accountants other than CPAs includes: Alaska,

Arizona, Georgia, Indiana, Maine, Montana, New Hampshire, New Mexico, Ohio, Oklahoma, Oregon, South Carolina, South Dakota, Tennessee and Vermont.

Most recent of these changes was in the State of New Hampshire - the change was effective last spring - and the State of Indiana and South Carolina, both in the year 1969.

The State of West Virginia considered the matter favorably during its short session this year, but time expired before the legislation was enacted into law.

By way of additional information, some eleven jurisdictions currently are permissive; that is, have no regulation of the accountancy profession other than CPAs. It is interesting to note that in this report of the activities of this committee to date, a prominent member of the American Institute of CPAs had this to say about accountancy legislation, and I quote: "Eleven jurisdictions, including such large states as Pennsylvania and New Jersey still have permissive accountancy laws. In those jurisdictions it is legal for anyone to perform an audit and render an opinion. CPAs should seek enactment of regulatory accountancy laws in the eleven jurisdictions which now have only permissive legislation." (End of quote.)

The National Society of Public Accountants urges that reasonable and effective state regulation of the profession of public accountancy be adopted in New Jersey.

Our purpose in testifying here today is to lend our support to the views of those groups who feel that the public interest can best be served by establishment of a sound state law governing the practice of public accountancy.

We are available to respond to any questions from the Committee and appreciate the opportunity to aid in this important inquiry in any appropriate manner.

SENATOR ITALIANO: Any questions? (No response.)
Thank you very much.

Mr. Hunter.

R O B E R T D. H U N T E R:

My name is Robert D. Hunter. I am a Certified Public Accountant in the State of New Jersey and the senior partner of the firm that bears my name and is located at East 122 Ridgewood Avenue, Paramus. I am also president of the New Jersey Society of Certified Public Accountants, the membership of which comprises some 3,600 CPAs.

It is as president of our State Society that I appear before this Committee to speak in opposition to S-662. I very much appreciate the opportunity to state the reasons why the New Jersey Society of Certified Public Accountants most strenuously objects to this attempt to create and impose a two-class system for licensing those engaged in the practice of public accounting in New Jersey. My own personal view, based on 23 years' experience as an accounting professional, is that S-662 would serve only to benefit a small group of individuals at the expense of the public interest.

The purported purpose of S-662, as specified in the Statement attached to the bill, is "to afford the fullest protection to the public in seeking and acquiring the services of public accountants." I submit that the bill, as proposed, fails to achieve this objective.

If enacted, S-662 would not provide any meaningful regulation of accounting services. In no way would the public interest be served if the State of New Jersey were to license two separate classes to perform the same professional function on the basis of widely differing standards of experience and competence.

Yet this is precisely the purpose of S-662 -- to provide a new designation of professional status, based on minimal qualifications, to confuse the public under the guise of regulating the profession.

As you know, S-662 seeks to replace the present New Jersey State Board of Certified Public Accountants, the five professional members of which must be State-licensed CPAs for at least 10 years, with a new State Board of Accountancy that would include two members who have practised accounting without CPA licensing for a period of three years. This new State Board would continue to license CPAs under the same exacting standards now in force but would also issue "public accountant permits" on the basis of minimal professional experience. Significantly, there is no provision in this bill that the applicant for the "public accountant permit" be required to take any examination or that there be any testing of his professional qualifications.

In contrast, those who seek to become CPAs in New Jersey must successfully complete a formal examination that is used uniformly in the 54 U.S. jurisdictions as a test of professional knowledge and competence.

While S-662 would enlarge the present State Board, it would also continue the voting procedure now specified whereby a majority of members present at a meeting determines the vote. Under these circumstances, it is conceivable that professional qualifications could be adjudged and determined with only one Certified Public Accountant present.

As provided by S-662, Certified Public Accountants and the newly devised "public accountants" would each be permitted, as independent contractors, to offer the following services to the public:

" The making of appropriate adjustments of transactions in books of accounts, the preparation of financial statements, schedules of reports, auditing, devising and installing systems or methods of bookkeeping, internal controls of financial data or the recording of financial data, and such other activities as the Board may define and promulgate in the New Jersey Administrative Code."

This is certainly a broad range of services -- from simple bookkeeping to the audit function. It is especially surprising that this attempt to establish a second class of State-licensed accountants, authorized to perform the same duties as the CPA -- including the audit function -- should occur at a time when the auditor's responsibility is becoming ever heavier.

A recent editorial in the Wall Street Journal, commenting on the subject of generally accepted accounting principles, makes this very point. "Auditors are charged with the difficult responsibility for insuring 'full and fair disclosure' of information that gives the public a consistent chronology of the financial successes and failures of public corporations. There is no reason to expect that the job will become less complex or that the special and narrow demands will diminish." *

* WALL STREET JOURNAL, MAY 23, 1972

In order to become licensed as a "public accountant" under this proposed legislation, all that any individual would have to do initially would be to apply to the State Board for a permit. This permit would be granted if the applicant has had three years of experience in the practice of public accounting on his own account or in the employ of another. Lacking three years of experience, he would be entitled to a temporary permit to practice as a "public accountant" which could be changed into a permanent permit when he attained the required three years of experience.

S-662 further provides that after the expiration of one year from the effective date of the act, the application to become a "public accountant" would be restricted to those who are college or university graduates with 24 semester hours in accounting. Again, no examination is necessary nor is any prior experience in accounting practice necessary. The applicant may hold himself out as supposedly qualified to perform the audit function on the day after his college graduation.

At the same time that S-662 would permit a new group of accountants to offer the audit function as a service to the public, the bill would also appear to limit employment opportunities in accounting for those who do not aspire to become a CPA or wish to obtain the "public accountant permit."

Under our present law, no one is restrained from seeking to earn his living in accounting so long as he does not hold himself out to be a Certified Public Accountant unless so certified by the State. As proposed in S-662, however, anyone could be restrained from the practice of accounting by the State Attorney General unless he has qualified as a CPA or has applied for and received the "public accountant permit". Otherwise he might be compelled to limit his employment opportunities to a corporation or business concern.

The New Jersey Society of Certified Public Accountants takes as a fundamental obligation the need to maintain the highest possible standards in the accounting profession for the benefit of those who must rely on the quality of the services its members provide. Effective regulation of the entire broad range of accounting activities, however, cannot be achieved by encouraging two standards of professional competence and knowledge and by conferring on each class equal recognition by the State.

In contrast to the nationally recognized and generally uniform requirements which the Certified Public Accountant designation connotes, the term "public accountant" carries no such general acceptance. The purpose of the "public accountant permit" would appear to be no more than an attempt to gain the color of authority for a new professional designation which, in fact, requires little, if any experience and no objective demonstration of professional ability.

The confidence of the public in the professional knowledge and competence of the New Jersey Certified Public Accountant is -- in all modesty -- justified by the rigorous standards of qualification, including the formal CPA examination. However, although the CPA qualifications are certainly demanding, they are not impossible to meet, for the number of New Jersey CPAs has constantly grown over the years.

Moreover, if the present requirements for admission to any profession are more difficult than necessary to protect the public interest, then they should be modified, but if the present requirements are not more difficult than necessary to protect the public interest, and there is no evidence to suggest that they are, then no one should be permitted to cloak himself with authority without satisfying those requirements.

It is, after all, the stringency of qualification that assures the quality of service of any professional practitioner.

The public interest is not served, nor is the standing of a profession enhanced by any action that tends to lower its standards of performance. Yet this is precisely what two-class licensing of accountants would accomplish. In this regard it is curious that the Statement attached to S-662 should claim that the proposed bill is "in general conformance with the report of the New Jersey Professional and Occupational Licensing Study Commission."

The Commission's report states that entry requirements into a profession "should be designed to provide a reasonable assurance of initial professional occupational ability." S-662 provides no such assurance in the case of "public accountants." To the contrary, after the expiration of one year after the effective date of the Act, no experience whatsoever is necessary to be licensed.

The Commission's report also recommends that the Legislature and licensing agencies "be concerned primarily with education, experience and examination" The experience requirement of this bill is so minimal as to be almost non-existent and there is no provision whatever for an examination of competence even though the same report notes that "The use of national board examinations is increasing and the Commission encourages this development." As noted earlier, the generally recognized examination for the accounting profession which now exists is the test which must be successfully completed by every applicant who seeks to be licensed as a New Jersey Certified Public Accountant.

To my mind there is one fundamental philosophical objection to any bill like S-662 which merits the serious consideration of this Committee because of the effect on the practice of all professions .

To permit two classes of accountants to perform essentially the same services is , by implication, to persuade the public that no important differences exist in the licensing .

By extension it would be just as reasonable for building contractors in New Jersey to call themselves "practical architects" and seek State recognition via licensing for this designation. Those who fail to qualify as licensed physicians should by the same logic be entitled to seek licensing as "Doctors of First Aid." Those unable to pass the State Bar Examination should also be entitled to offer their services to the public as "Graduates of Law" or perhaps "Attorneys in Progress."

Such designations are not as far-fetched as they may seem to be. As the standards of any profession are successfully attacked, so inevitably must all others be compromised.

The true purpose of State licensing of professionals is , after all, not to provide a monopoly of practice , but to assure those who require professional service in any field that the person entitled to assume his particular professional designation is qualified to do so on the basis of education , experience and a formal demonstration of knowledge and ability. It is because S-662 ignores the vital role of experience and examination in qualifying for professional licensing that the proposed bill actually works against the public interest and for this reason should not be enacted.

SENATOR ITALIANO: Any questions? (No response.)

Thank you.

Mr. Antonella. (Mr. Antonella not present.)

Mr. Curchin.

G E O R G E V. C U R C H I N:

My name is George V. Curchin. I am a Certified Public Accountant in the State of New Jersey with offices at 620 Broadway, Long Branch. I wish to thank you for this opportunity to appear before the Senate Committee on Federal, State and Interstate Relations to give my views in opposition to the proposed legislation to create two-class licensing of accountants in New Jersey.

When I learned that such a proposal had been introduced as Senate Bill 662, I naturally sought to determine from a reading of the bill itself the possible benefits and drawbacks of so major a change in New Jersey's traditional approach to the regulation of the accounting profession. As an individual practitioner, I was especially concerned with the impact of a two-class licensing system on the many small businesses and businessmen that I serve.

My role as an individual practitioner differs markedly from that of a Certified Public Accountant who is associated with a large national accounting firm with a roster of major corporate clients. Simply because of the scope of a major corporation's activities, the CPA-client relationship is some-

what impersonal and it is difficult to relate the financial information under review to the lives and livelihood of employees except in a general sense.

In contrast, as a CPA who is an individual practitioner, I necessarily have a close personal relationship with my clients, so that I constantly see at first hand the results of their successes and setbacks in business in terms of their own private lives. However, although their bottom line figures may be smaller in amount than a single line item on the balance sheet of a corporate giant, their need for quality and reliability of accounting service is precisely the same.

Please bear in mind that most Certified Public Accountants in New Jersey are people like myself -- practicing as individuals or as members of small accounting firms. On the basis of a survey conducted a few years ago by our State Society, the CPAs who were individual practitioners or members of small accounting firms represented about 65 per cent of the entire membership at that time. Although the membership has grown since then, my impression is that the proportion has remained the same.

The thousands of New Jersey Certified Public Accountants who fit the category of small practitioners serve a very real and basic need for the other small businessmen and professionals who represent the bedrock of the State's economy. The diversity of occupations served by the small CPA firm literally ranges from womb to tomb -- from obstetricians to morticians -- and encompasses all the occupations in between. In terms of the

regional economy within which we work, our role is that of the financial GP for the community. Hence, the CPA's reputation for third party reliability assumes a special significance in the community in which he lives and works.

That reputation is based on stringent requirements of education, experience and examination. If these requirements are substantially weakened in order to make it easier to achieve professional designation, then the reputation of quality that is supported by the requirements for State licensing must also be diminished. And this, in my opinion, is exactly what would occur if the State of New Jersey were to establish two separate classes, with far differing qualifications, for the practice of the same professional function.

The State of New Jersey does not permit lawyers to practise their profession except on a uniform basis of qualification. Individual quality may vary, but the entry requirements are the same for every member of the bar. The same uniform requirements must be met by physicians in New Jersey.

Should not the same principle be continued unchanged for the profession charged with the responsibility of objectively assessing the financial well-being of the community?

The purpose of licensing any group, after all, is not to confer the privilege of monopoly on its members but to assure the public that those so licensed have formally

demonstrated that they are qualified through education, experience and examination to offer their professional services.

Moreover, as with any profession, continuing education plays an important part in the life of the CPA. I need hardly point out that fiscal regulations become more precise and complex. New laws on all levels of government are enacted annually which affect financial reporting and require proper understanding by the Certified Public Accountant if he is to provide the quality of service to which his clients are entitled and which they expect to receive.

For this reason alone, I oppose any measure, like S-662, which would only result in a weakening of the accounting profession's standards of performance. It is surely not in the public interest to encourage a confusion of standards simply to accommodate the desire of any one group to obtain the authority conferred by State licensing in exchange for a minimum of professional qualifications. Moreover, in my opinion, the term "public accountant" is a designation without a distinction which would, if recognized by law, serve to limit arbitrarily opportunities for employment in accounting to those who hold the "public accountant" permit and those who have fully qualified as Certified Public Accountants.

New Jersey's CPAs do not seek to obtain any monopoly of practice nor do they believe it would be in the best interest

of the State to encourage any attempt to establish a monopoly. As the law now stands, anyone can earn his living in accounting so long as he does not identify himself falsely as a Certified Public Accountant. The standards required to qualify for the CPA designation have been designed to assure the public that high minimum standards of professionalism must be met in order to achieve State licensing.

I have been a Certified Public Accountant for 19 years. During this time, the profession has become increasingly complex. During this time, too, the number of Certified Public Accountants has substantially increased, indicating that the standards for State certification -- though certainly exacting -- are by no means unrealistic.

If, however, it were possible to obtain the authority of State licensing for the practise of this profession on the basis of minimum qualification, I am certain that there are many individuals who would choose this easier route . . . to the genuine detriment of the public. How valuable would the third party judgment of an audit be, if it were given by someone who lacks thorough experience and had himself given no formal indication through examination of his professional competence?

— As proposed in S-662, however, eventually anyone could apply for a "public accountant" permit and perform the

audit function the day after his college graduation.

I sincerely and respectfully submit to this committee that S-662 is a bad bill. It fails to protect the public interest in any real way. It encourages a lowering of standards in what is and must always be an exacting profession. It runs counter to the trend for uniform qualification that, quite properly, governs all professions.

The only thing that S-662 would do is to permit people to obtain for a minimum effort the doubtful distinction of a second-class license. Thank you.

SENATOR ITALIANO: Any questions? (No response.)

Thank you, sir.

Mr. Ress.

W A R R E N L. R E S S: My name is Warren L. Ress. I reside at 385 Edgewood Avenue, Teaneck, New Jersey. I am currently the Chairman of the New Jersey Society of Certified Public Accountants' Committee on Legislation.

In view of the lateness of the hour and by reason of the fact what I would have to say has already been said by the opponents to this bill, I should at this time like to withdraw as a witness.

SENATOR ITALIANO: Thank you.

Mr. Sterns.

J O E L H. S T E R N S: My name is Joel Sterns. I am an attorney of New Jersey and the attorney for the New Jersey Association of Public Accountants.

I believe that the issues have been well drawn today and it is not my desire to prolong the hearing with any statement of any great length. But I do believe in order for the record to be fully complete, some things have to be added as to the intent and effect of the bill.

First of all, the arguments of the opponents to the bill today seem to proceed from one basic factor and that is that there is no such thing as a public accountant today, that public accountants don't exist. But the fact

of the matter is that public accountants do exist by the thousands, have existed for some time, and that they have every right to perform every function that the CPA in New Jersey does today under the bill.

These people won't go away. It is nice to throw out analogies about doctors and lawyers, etc., but the fact is you can see in this city or any city of the State people who hold themselves out as public accountants who have the name Public Accountant, etc.

Now it is implied that somehow the public accountants are attempting to seek legitimacy from the State without doing something else. Over and over again today we have heard the word "licensed" public accountant and what they are seeking is licensing which will in effect mislead the public.

The fact of the matter is, if you will examine the legislation, it does not call for licensing. It talks about the issuance of a permit. I suppose you could stretch your imagination and say that all of a sudden a public accountant is going to put on his card "permitted public accountant" and that this is somehow going to make a difference. But I submit to you that it seems to me incredible that a public accountant would call himself anything other than a public accountant or that he should want to go to these lengths to get the right to call himself "permitted public accountant."

The fact is there is no such thing as a license - there is no license to be issued. It is simply a permit to do business in New Jersey.

The second major question is: What is that permit based on? We have heard a lot of talk here today that it is based on nothing. And I submit to you that is not true.

In the first place, let's talk about those new people who would be coming into the profession and who would be subject to these laws. They would be subjected

to educational requirements amounting to a Major in Accounting in an accredited college or university. They would certainly take exams and be qualified in order to graduate with that Major in Accounting.

What about the people who would be "grandfathered" in? It has been alleged that they will be "grandfathered" in simply on the basis that they have been practicing accounting and that there is nothing that anybody can do about this. But the bill plainly states otherwise. The bill plainly provides that the Board of CPAs - I say CPAs because the CPAs will make up the majority of five and I have every reason to believe that there will not be too many meetings where only one CPA shows up and could be outvoted -- it gives to the Board certain basic rights. I call your attention to page 5 of the bill and section 12 of the bill: "The Board may refuse to admit an applicant to the examination or may refuse to issue a certificate to an applicant who has passed the examination or refuse to issue a permit to an applicant or may suspend or revoke any certificate or permit issued under the provisions of this act" upon a number of bases, (a) through (h). I will indicate them: (a) has obtained a certificate. . . by misrepresentation or fraud; (b) has violated a rule or regulation of professional conduct promulgated by the board; or (c) has engaged in any conduct of a character likely to deceive or defraud the public; or (d) has been convicted of a crime involving moral turpitude; or (e) has committed an offense under this act; or (f) has committed acts in the course of his practice as an accountant amounting to gross negligence or recklessness; or (g) has failed to pay his biennial registration fee; or (h) has engaged in conduct discreditable to the accounting profession.

Now can it by any stretch of the imagination be said that the board has no control over public accountants or their permit when it has all these authorities, authorities which it does not have now? The public accountants of

New Jersey are not subject to any of these things now. They come in, in the interest of accounting responsibility, and agree to submit to these things. I think it should be clear that this is no mere formality or clerical issuing of a permit. The board has powers and the powers have teeth in them.

Next, much has been made of the fact that there are going to be substantially equal duties performed by the public accountant and by the CPA and I believe the President of the National Institute of Certified Public Accountants made much of the attest function. Yet you have on the record today the testimony by the New Jersey Association of Public Accountants that they are willing to consider a compromise to give up the attest function in the future. Why not give it up today? There are a number of reasons. The basic reason is that the law of New Jersey would not authorize a law taking away a right that present practitioners have today. But they are willing to give this up in the future. And if this seems to be the issue that the CPAs are most concerned about, then I would submit that there is no issue and it should be easy to work this thing out.

Secondly, the statement of the President of the state organization, as read today and as submitted on behalf of the organization, makes it plain that the organization is willing and anxious for continuing educational requirements to be promulgated by the Board. Continuing education is a recognized fact of professional life in any profession today. I point out to you that that was specifically covered.

There are numerous other points that could be made, but in the interest of time, I would submit to you that these are the basic facts that should be kept in mind to understand the complete controversy in question here.

I don't believe there is a sense of economic competition here. I believe it is really far-fetched to

say that the public doesn't know the difference between a CPA and a public accountant today any more than it will know the difference between a CPA and a public accountant if the board of CPAs and public accountants takes jurisdiction over the ethics of this profession. I think it is far-fetched. I think the people of New Jersey are sophisticated enough to know the difference. If they are not, then it is all the more reason for the passage of this bill.

I thank you for the opportunity of appearing.

SENATOR ITALIANO: Any questions? (No response.)

Thank you, Mr. Sterns.

MR. MATTHEWS: Senator.

SENATOR ITALIANO: Go ahead.

E L M E R M A T T H E W S: May I identify myself. My name is Elmer Matthews. I am known to some of you as an attorney practicing in Newark and the attorney for the State Society of CPAs.

I don't want to burden the record with a rebuttal or surrebuttal, but I would like the privilege of submitting to the Committee a summation in behalf of my client in written form within ten days.

SENATOR ITALIANO: This apparently exhausts the list of witnesses whose names have been submitted to us. Are there any other persons here who wish to be heard who have not previously registered? Yes, sir.

S A M U E L L E O P O L D: My name is Samuel Leopold. I am a member of the New Jersey Society of CPAs and the New York State Society of CPAs and a member of the American Institute of Accountants. I have held my certificate from New Jersey for over 50 years and I have witnessed the beginnings of this profession up until the present time. I want to thank you, incidentally, for letting me speak.

I want to address myself to several issues that were raised today.

Number one is the matter of education. To me, the most important thing is not education, is not even the examination; it is the training that a person gets under an experienced certified public accountant. To me, that is of paramount importance. I have seen any number of young people coming out of schools who had even cum laude diplomas and whom we had to chip the rough corners off and it took several years to make them first-class, competent accountants and prepare them to take the CPA examination. That is the first thing I want to say.

The second thing I want to say: It has always been a wonder to me why these so-called public accountants do not think enough of their profession to qualify themselves to become certified public accountants. The obstacles are not so great. I had to go to school at night. I didn't get my diploma from college until I was married and had a child. And it was five years until I passed my CPA examination because I wanted to make sure that I wouldn't have any difficulty with it.

Another thing, a few years ago when I was President of the Mercer Chapter of the Certified Public Accountants, I had as a matter of public service to prepare a good many applications for disadvantaged people who wanted to apply to the Small Business Administration for loans. The Small Business Administration required certain statements, income tax returns and other information, and the things that they brought into my office were just appalling. Even the tax returns prepared by so-called public accountants - most of them didn't even add up properly. They were improperly prepared.

Now there is no assurance in this bill that I know of that these men who hold themselves out to be public accountants are competent to do the job. And that is my chief objection to this bill. Thank you.

SENATOR ITALIANO: Thank you, sir. Is there

anyone else who wishes to be heard? (No response.)

Is there anything further from the Committee? (No response.)

We will adjourn this public hearing, but honor the request of Mr. Matthews for permission to submit a written summation in behalf of the CPAs within ten days. In view of our granting this to him, we will also permit anyone else who wishes to submit further written statements in behalf of their position to the Committee to do so within the same period of ten days.

This meeting is now adjourned.

(Hearing Concluded)

- - -



5-602

George F. Kuzler, Jr.
ATTORNEY GENERAL

State of New Jersey
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
BOARD OF CERTIFIED PUBLIC ACCOUNTANTS
1100 RAYMOND BLVD., NEWARK, NEW JERSEY 07102
ROOM 333
648-3240

Charles J. Irwin
Director
JEROME M. FIEN
SECRETARY

March 13, 1972

Mr. Emille Tilleman
Legislative Services
New Jersey Professional and
Occupational Licensing Study
Commission
State House
Trenton, New Jersey 08625

Dear Mr. Tilleman:

In accordance with your telephone request, the New Jersey State Board of Certified Public Accountants, at its regularly scheduled meeting held on February 17, 1972, reviewed the Senate Bill No. S-662, introduced February 14, 1972, entitled:

An act to amend the title of 'An act to regulate the practice of certified public accounting in this State, and repealing chapter 2 of Title 45 of the Revised Statutes,' approved June 15, 1965 (P.L. 1965, c.99), so that the same shall read 'An act to regulate the practice of the accountancy professions in this State,' and to amend and supplement the body of said act and to repeal section 2 of said act."

This letter discusses the basis for legislation governing licensing of "Public Accountants," and reports our conclusion that the "PA" licensing provisions of Senate Bill No. S-662 do not protect the public interest.

SUMMARY STATEMENT CONCERNING CERTAIN SIGNIFICANT DEFICIENCIES OF SENATE BILL NO. S-662

The appropriate purposes of licensing legislation and the licensing criteria to be observed are described in the January 7, 1971 Report of the Professional and Occupational Licensing Study Commission to the Governor and Legislature of

Mr. Emille Tilleman

Page 2

March 13, 1972

the State of New Jersey. That report holds, among other things, that education, experience and examination are the prime requirements for entry into a profession, and that where, upon adoption of licensing legislation, practicing professionals are granted licenses automatically without having to meet entry requirements, all practitioners so licensed under such "grandfather clauses" should be subject to entry requirements within a reasonable time; that where examinations are required, such examination should be required for both practicing professionals and new applicants, and that no exemption from examination be granted. Senate Bill No. S-662 is deficient both because it does not provide for examination, and because it does not provide that all licensees should be subject to entry requirements.

Licensing legislation may restrict what an individual may call himself, or it may restrict what an individual may do to earn a living. The usual purpose of "public accounting" licensing legislation is to protect the rights of existing practitioners when the right to express an opinion on financial statements or other financial information (with any wording indicating that the individual expressing the opinion has expert knowledge in accounting or auditing) is to be thereafter reserved to CPAs and to the newly licensed group, usually called PAs. In the usual case, the only individuals who thereupon attain the right to be called PAs are those who at such time are practicing in their own right (not as employees), the theory being that they might otherwise be deprived of existing rights to an already attained status; this class of licensees is then closed, and becomes a "dying class" of licensees. Senate Bill No. S-662 does not reserve any rights to CPAs, and does not enlarge upon the rights of existing (but unlicensed) PAs. It would restrict what an individual may call himself, not what he may do.

ADDITIONAL INFORMATION

The remaining portion of this letter supplies additional information about the nature of the problem, the background, recent legislation in other states, the attest function, essential elements of a sound form of regulating public accountancy legislation, reasons why Senate Bill No. S-662 would not accomplish its stated objectives, viz: to afford protection to the public, the need to conform with the standards described in the Report of the New Jersey Professional and Occupational Licensing Study Commission, regulation of CPAs, and a summary statement of the opinion of the New Jersey State Board of Certified Public Accountants concerning the lack of a public need for licensure of public accountants.

THE NATURE OF THE PROBLEM

One of the reasons for the existence of two class accounting legislation in a number of states is that persons in practice as public accountants as principals when a licensing

law is enacted must not be deprived of their means of livelihood; yet the public welfare requires that persons signing financial statements should be individuals who are readily recognizable as having demonstrated competence and responsibility to the extent necessary to permit third party reliance upon such statements to arrive at business decisions.

There are seemingly valid arguments for and against the contention that a person in practice as a public accountant as a principal would be deprived of his means of livelihood upon enactment of a licensing law which restricts previously unrestricted activities. At the present time, such arguments are purely academic in New Jersey, which does not restrict the activities of public accountants, and does not limit a person's right to call himself a public accountant. However, the problem has been encountered in many other states which have enacted legislation which limits an accounting practitioner's right to sign financial statements using any words indicating that he has expert knowledge in accounting or auditing, and would be encountered in New Jersey if similar legislation were to be proposed here.

The arguments "for" hold that a person in practice as a public accountant as a principal should not be deprived of his constitutionally protected means of livelihood. These arguments look to the nature of the work the practitioner has performed in the past but will not be permitted to perform in the future, unless he passes examinations and meets certain educational standards, not previously required. The conclusion proponents reach is that such legislation must carve out an exemption for such practitioners.

The arguments "against" hold that as the needs of the business community call for ever increasing sophistication in the presentations of financial information, the public interest does not permit continuation of an existing practice whereby the ranks of individuals who "attest" to financial statements include some who are uninformed, ill-informed, and misinformed. The conclusion these opponents reach is that constitutional rights of existing practitioners are adequately protected if the legislation includes appropriate safeguards, as for example, provision for admission to CPA's examinations without meeting normal minimum education requirements, or the grant of a limited period of time for practice as a "PA" while attempting to qualify as a "CPA."

Faced with the conflict between the need to protect the public welfare and the need to avoid infringement upon the rights of persons earning their living as accountants when a licensing law is enacted, many states enacted legislation which licenses practice as "Public Accountants" by individuals who were engaged in practice on the date of enactment. All but a

few of those laws are "dying class" legislation permitting no subsequent additions to that class of licensees.

This type of legislation contemplates that ultimately all professional accounting work should be performed by "Certified Public Accountants" who have satisfied specified educational and experience requirements and have demonstrated competence by passing examinations. Such legislation also contemplates that only Certified Public Accountants (CPAs) or Public Accountants (PAs) subject to control under licensing provisions should be permitted to sign financial statements which carry any wording indicating that the person who has signed the statements has expert knowledge of accounting or auditing.

The limitation on further registration of PAs incorporates the belief that the public would be confused by the perpetual licensing of two classes of professional accountants under similar titles but with different standards.

This limitation does not prevent any one from doing accounting work for more than one employer, provided he does not hold himself out as a CPA or PA; or does not sign financial statements in a manner intended to add to their credibility.

It does not bar the rendering of accounting services. It merely bars holding oneself out to the public as an individual who has demonstrated that he has the competence, education and experience required to be certified or licensed under the terms of the controlling law. It is concerned with what people call themselves; with precluding use of potentially deceptive nomenclature. It is, in fact, a certification provision rather than a licensing provision, because it does not attempt to regulate all individuals who choose to think of themselves as accountants, but merely provides accreditation for those qualified individuals who hold themselves out to the public as rendering services under a specific title or designation (See: National Psychological Association v. New York, 188 N.Y.S. 2d 151; Sup. Ct. N.Y. Co. 1959, for an exposition of this view.)

Thus, the basic question to be considered may be stated in terms of one extremely limited concept, i.e., should the State give the indicia of a specific competence to an individual who has not demonstrated that specific competence in a manner established by law, with due regard to education, experience and, where advisable or necessary, to the results of examinations designed to ascertain the extent of the individual's knowledge of the matters to be dealt with upon attainment of the title he seeks.

BACKGROUND INFORMATION

There are two nationwide membership organizations

Mr. Emille Tilleman
Page 5
March 13, 1972

composed of individuals who do accounting work for the general public. They are the American Institute of Certified Public Accountants (AICPA), and the National Society of Public Accountants (NSPA).

The AICPA is composed of Certified Public Accountants who have attained the right to the CPA designation by meeting reasonably uniform standards throughout the United States. The requirements in New Jersey include demonstration of competence by passing examinations in practical accounting, theory of accounts, auditing, and commercial law; submission of proof that the applicant has graduated with a baccalaureate degree from a college or university approved by the Department of Education of the State of New Jersey and has successfully included specified semester hours in courses in accountancy and related professional courses; and submission of proof of having had significant and specified types of qualifying experience in accounting work requiring intensive diversified application of accounting and auditing principles and procedures.

The AICPA devotes a major portion of its efforts to the establishment of accounting rules and procedures which will protect the public right to be fully and truthfully informed. It disseminates accounting information, and engages in other activities intended to improve the quality of the work of its members and to assure the reliability of financial statements. Its members are held to high standards of ethical and professional conduct. It enhances the "CPA" title.

The NSPA is composed of individuals who practice as Public Accountants (PAs) or under some similar title intended to be indicative of a certain degree of competence in accounting matters. In some states the title used is a self-designation. In others, it is obtained by qualification under state laws which impose requirements which are, at best, must less severe than the requirements applicable to CPAs.

In New Jersey, the title "Public Accountant" is self-designated. With respect thereto, Section 24 of Chapter 2 of Title 4S of the Revised Statutes now provides:

"This act shall not affect the right of any person, partnership or corporation to engage in the practice of public accountancy, or to use in any manner whatsoever the title of "Public Accountant," or the abbreviation "P.A.", provided that such person, partnership or corporation does not use the title of "certified public accountant" or the abbreviation "C.P.A."

Section 19 of Senate Bill No. S-662 would repeal the above quoted section of existing law.

The NSPA of necessity devotes a major portion of its efforts to accounting legislation. In May, 1964, the NSPA adopted a legislative policy which included a comprehensive scheme under which the performance of all accounting services would be regulated, a continuing licensing program would be established for accounting practitioners, these accounting practitioners would be restricted from issuing professional opinions or financial representations resulting from audit, and, for a limited period, persons presently rendering accounting services to the public would be admitted to the CPA examination without satisfying existing education and experience requirements.

Significantly, the September, 1964 NSPA position paper accompanying it published policy noted that it was:

/// "...extremely difficult to justify provisions in a state accountancy law which would authorize two separate written examinations of varying difficulty to license two categories of public accountants with different titles (CPA and PA) to perform exactly the same services. In no other licensed profession do we find two regulated groups for whom different qualifications and requirements are set forth in the law but who occupy the same status and enjoy the same rights and privileges. To insist on complete equality under law, but with different requirements, only invites opposition." ///

The position paper noted, accordingly, that under the new legislative policy licensed PAs should become a transitional group only, and that the new licensed group, under a title selected and promoted by the state organization, could offer all accounting services except for the expression of professional opinions.

More recently, the NSPA has expanded its legislative push to include vigorous support for legislation, such as is now advanced in Senate Bill No. S-662, which would provide for a continuing class of PAs, licensed under minimal standards, or, as would be the case for anyone who engages in any type of full time accounting activity for more than one employer within one year after the effective date of the act, without meeting any educational standards, without examinations of any type, but merely upon completion of previously gained or subsequently attained three years of activity in the full time practice of public accounting as a principal occupation, as a practitioner or as an employee of a practitioner.

In 1970, the NSPA was successful in having legislation introduced in Florida, Maryland and Kentucky. In each of these states, the legislation failed to pass.

7
Mr. Emille Tilleman
Page 7
March 13, 1972

Among the many reasons which were advanced as a basis for opposition to licensing of a "second class" of accountants, the following seem to deserve special attention:

1. Attempts to license all persons performing accounting functions will always be impractical unless standards are reduced to a minimal level.
2. Creation of a "second class" of licensed accountants performing the same functions as CPAs is a source of confusion and an imposition on the public.
3. Creation of a large group of "second class" licensed accountants maintains a body with a strong interest in opposing high professional standards.
4. There is no public need for a "second class" of licensed accountants.

RECENT LEGISLATION IN OTHER STATES

Indiana, South Carolina and Montana enacted legislation in 1969 which provides for licensing of "second" and even "third" class of accountants. In all three states, membership in these other classes of accountants depends in part upon successful completion of at least two parts of the uniform examinations given to CPA candidates. The justification for giving such recognition to individuals who are evidently unable to pass one or two parts of the CPA Examination is unclear.

THE ATTEST FUNCTION

The activity performed by CPAs that most importantly affects wide segments of the public is the expression of a professional opinion on the financial statements of a company as a result of an independent audit. This is true, of course, because of the extent to which readers of the statements rely on the auditor's opinion. For this reason, the credentials of those who express such opinions must be impeccable. But the person who is authorized to perform this attest function without meeting the high standards required of CPAs does not have the best credentials.

It is of course true that upon enactment of CPA legislation, or upon amendment of existing CPA legislation to limit use of the attest function, many states have made that function available to a "second class" of practitioners. But such states did so only to prevent what could be an injustice to individuals who might otherwise be deprived of the right to continue to earn their living in their chosen profession. The more significant fact of almost all of such legislation is that the licensing provisions were made unavailable to individuals

who were not engaged in the practice of accountancy on the effective date of the legislation. In a few states existing legislation does include provision for continuing admissions to the "second class" of accounting practitioners, apparently without the benefit of attention to the protection intended to be afforded by any limitations their law places on the attest function.

Availability of the attest function is not limited under existing New Jersey law. A typical limitation provision along the lines of legislation adopted in other states would provide:

"No person shall sign or affix his name or any trade or assumed name used by him in his profession or business with any wording indicating that he is an accountant or auditor, or with any wording indicating that he has expert knowledge in accounting or auditing, to any opinion or certificate attesting in any way to the reliability of any representation or estimate in regard to any person or organization embracing (1) financial information or (2) facts respecting compliance with conditions established by law or contract, including but not limited to statutes, ordinances, regulations, grants, loans and appropriations, unless he holds a live permit..."

If New Jersey were to adopt legislation which would limit use of the attest function, it would be advisable to consider whether New Jersey should follow the lead of other states which have "grandfathered" existing practitioners on a basis which would assure their right to continue rendering the type of services they now provide. However, if second class legislation were to include provision for continuing admissions to the "second class" of accounting practitioners, such inclusion would seriously weaken the protection intended to be afforded by the limitation on the attest function.

ESSENTIAL ELEMENTS OF A SOUND FORM OF REGULATORY PUBLIC ACCOUNTANCY
BILL: LEGISLATIVE POLICY OF AICPA

The following AICPA statement of its legislative policy supplies a reasonable approach to the development of a sound form of a regulatory public accounting bill:

1. The public interest, which is affected by the activities of certified public accountants and of persons calling themselves public accountants or using similar designations, justifies the enactment of licensing laws which establish measures of control and standards of competence for professional accountants.

9

Mr. Emille Tilleman
Page 9
March 13, 1972

2. Ultimately all professional accounting services should be performed by certified public accountants who have satisfied education and experience requirements and have demonstrated competence by passage of an examination. Ultimately, all other persons should be prohibited from using the term public accountant or any other term which may be taken to mean that the person so designating himself is competent to practice accountancy at a professional level.

3. The attainment of the ultimate objective of limiting the professional practice of accountancy to certified public accountants in terms of timing and of the manner of accomplishment must be decided by each state in the light of existing circumstances and without pressure from outside the state for immediate action.

4. Persons in practice as public accountants as principals when a licensing law is enacted should not be deprived of their means of livelihood. Such persons should therefore be permitted to register, and in so doing should become subject to control and to provisions for revocation of their licenses for unprofessional conduct.

5. After the initial licensing of public accountants, no further registration should be permitted except for those who acquire the CPA certificate by meeting prescribed requirements, since the public would be confused by the perpetual licensing of two classes of professional accountants under similar titles but with different standards.

6. In the states and territories which have adopted a licensing law, reopening the registration of public accountants would be contrary to the public interest, since it would attribute professional competence to persons who had not demonstrated such competence.

7. Only a certified public accountant or public accountant subject to control under licensing provisions should be permitted to express an opinion on financial statements or other financial information with any wording indicating that he has expert knowledge of accounting or auditing.

8. No one should be prevented from doing accounting work for more than one employer, provided he does not hold himself out as a certified public accountant or public accountant, or does not express an opinion on financial statements or other financial information in a manner which adds to their credibility.

9. Free passage of certified public accountants and other licensed public accountants across state lines in response

Mr. Emille Tilleman
Page 10
March 13, 1972

to the needs of their clients should not be impeded by legislation.

10. Bookkeeping, tax return preparation and elementary accounting services are now performed by a variety of individuals, commercial enterprises and financial institutions. Since the public interest does not require regulation of these services, the licensing of a class of persons to perform them is not warranted.

SENATE BILL NO. S-662 WOULD NOT ACCOMPLISH ITS STATED OBJECTIVES
VIZ: TO AFFORD PROTECTION TO THE PUBLIC

Senate Bill No. S-662 would permit the issuance of a permit to the practice of "Public Accounting," as a licensed PA to any person performing any of the following services:

"The making of appropriate adjustments of transactions in books of accounts, the preparation of financial statements, schedules of reports, auditing, devising and installing systems or methods of bookkeeping, internal controls of financial data or the recording of financial data, and such other activities as the board may define and promulgate in the New Jersey Administrative Code."

The bill prescribes minimal pre-qualification attainments for individuals who, having engaged in any of the aforementioned activities at any time on or before the date of enactment present their applications within 1 year of the effective date of the act; and it prescribes only slightly more than minimal attainments for individuals who apply at a later date. Some of the reasons why the pre-qualification provisions of the bill do not protect the public are as follows:

1. Membership in the group entitled to the PA designation by reason of an existing status on the date of enactment is not limited to individuals who are engaged in practice on their own account or as members of a partnership. There is no basis for a contention that employees as such have attained a status which would entitle them to membership in a protected group.
2. Not all of the services which would qualify an individual for the PA designation are clearly of a professional nature. The public interest does not require regulation of individuals who perform bookkeeping and elementary accounting services. Activities subject to regulation should not, in any event, include "the making of appropriate adjustments of transactions in

books of accounts," or "the recording of financial data," which are more in the nature of bookkeeping services.

3. For reasons already set forth, if the licensed PA status is to be granted for good and sufficient reasons, it should not remain open. If it were to be decided that it should remain open, qualification should be based on examinations, such as, for example, is required in those states which require successful completion of two parts of the CPA examination.
4. With respect to persons presently engaged in the described activities, and their employees, the bill would create a new title known as "public accountant" or "PA" which will last for many years. It is conceivable that a person who is now 21 years of age, with a limited educational background, could qualify. If he remains active for another 50 years and does not expand his education, he will continue with the use of this title. This result is against the public interest.
5. The bill would clothe the members of the group to be known as PAs with a title conferred by the State, which will undoubtedly be used, in many instances, to promote an inference that members of this group have demonstrated competence equivalent to or the same as what is required of a Certified Public Accountant who has met demanding education and training requirements, and has demonstrated his preparedness for practice by passing an examination. Therefore, the title "public accountant" would give unwarranted confidence and public recognition to another group which has not earned the right to be recognized as qualified.

NEW LICENSING LEGISLATION SHOULD CONFORM TO THE STANDARDS DESCRIBED
IN REPORT OF THE NEW JERSEY PROFESSIONAL AND OCCUPATIONAL LICENSING
STUDY COMMISSION, DATED JANUARY 7, 1971

On January 7, 1971, a report entitled, "Regulating Professions and Occupations," issued by the New Jersey Professional Licensing Study Commission, was submitted to the Governor and Legislature of the State of New Jersey. This report describes the professions practiced in the State of New Jersey, and sets forth licensing criteria.

The Commission reported that groups should be licensed for the exclusive purpose of protecting the public interest when:

1. Their unregulated practice can clearly harm or endanger the health, safety and welfare of the public and when the potential for such harm is easily recognizable and not remote or dependent upon tenuous argument, and,
2. The public needs, and will benefit by, an assurance of initial and continuing professional and occupational ability; and,
3. The public is not effectively protected by other means; and,
4. It can be demonstrated that licensing would be the most appropriate form of regulation.

The Commission identified education, experience and examination as the primary requirements for entry into a licensed profession. Concerning "grandfather clauses," the Commission recommended that all practitioners of newly licensed professions be subject to entry requirements within a reasonable time after such are established. It urged that no exemption from examination be granted.

The report discusses the fact that licensure is almost always sought by the group to be regulated, which, on the face of it, would seem to indicate that licensing is desired for purposes other than protecting the public interest. However, it concluded that the source of the request for licensure is an inadequate test to determine if licensing will protect the public interest; that other tests are necessary to make this determination; that the potential for harming the health, safety and welfare of the public defines, to some degree, the public interest, and that licensing is not justified merely because a profession deals with the public.

The Commission found that as a second test for licensure, licensing is needed where the public needs, and will benefit by, an assurance of initial and continuing professional ability; where extensive higher education is required, and the public may not be readily able to judge ability.

A third test reported is whether the public is protected by other means, and a fourth, whether it can be demonstrated that licensing would be the most appropriate form of regulation.

Regulation of "public accountants" in the manner provided by Senate Bill No. S-662 does not meet the legislative

Miss Emille Tilleman
Page 13
March 13, 1972

12
/

criteria established by the Commission as a basis for licensure. The most significant failures of the Bill to meet the Commission's criteria include the fact that examination requirements are overlooked and there is no assurance that the would-be licensees have attained a measurable degree of professional ability.

The Commission's third and fourth criteria reject licensure as the most appropriate form of regulation if the public is protected by other means. At the present time, as has been hereinbefore stated, the New Jersey law specifically excludes individuals who wish to describe themselves as public accountants from the supervision of the New Jersey State Board of Certified Public Accountants. Thus, the activities of public accountants are, without need for licensing, subject to the supervision of the Office of Consumer Protection under the provision of the Consumer Protection Law. There is no evidence of a failure of that office to properly handle any "Public Accountants" complaints.

REGULATION OF CPAs

In New Jersey, CPAs have been subject to licensing provisions since 1904. The Report of the New Jersey Professional and Occupational Licensing Study Commission, having found that such regulation serves the public interest, recommends continuation of regulation of CPAs by the Board of Certified Public Accountants. (The Report recommends that regulation of Registered Municipal Accountants be transferred to the Local Finance Board, Department of Community Affairs, and that regulation of Public School Accountants be regulated by the Department of Education.)

The membership of our Board was expanded recently, as a result of the report of the New Jersey Professional and Occupational Licensing Study Commission. We now have one member representing the public.

At the present time, there are over 5,000 Certified Public Accountants registered with the New Jersey State Board of Certified Public Accountants. In addition, there were 171 candidates who successfully completed the CPA Examination held in November, 1971. These 171 candidates will be added to the total number of Certified Public Accountants upon their certification. Examinations are held in May and November of each year for the CPA Certificate, and during the past four examinations, there has been an average of 900 candidates sitting for each one of these examinations.

The members of the Board of CPAs look forward to enactment of legislation which will upgrade the profession through permissive substitution of graduate accounting degrees for a portion of the experience requirement, and, as recommended

Mr. Emille Tilleman

Page 14

March 13, 1972

by the Report of the Professional and Occupational Licensing Study Commission, requalification at regular intervals by the demonstration of continuing education and growth in the profession.

The upgrading of the CPA profession is not consistent with the result sought by enactment of "second class" legislation. The members of the Board believe that this conflict is another reason why Senate Bill No. S-662 should not be enacted.

SUMMARY

In conclusion, it is the unanimous opinion of the members of the New Jersey State Board of Certified Public Accountants that adoption of Senate Bill No. S-662 would not be in the public interest.

Respectfully submitted,

THE NEW JERSEY STATE BOARD
OF CERTIFIED PUBLIC ACCOUNTANTS

Robert W. McGowan

Robert W. McGowan
President

RWM:ln

JUN 27 1985

