

Revenue) Notification G.S.R. No. 1079, dated the 15th November, 1958, publishing an amendment in Government Notification S.R.O. No. 1295, dated the 22nd April, 1957. [Placed in Library. See No. LT-1085/58.]

NOTIFICATIONS UNDER SEA CUSTOMS ACT
1878

SHRI B. R. BHAGAT: Sir, I also beg to lay on the Table, under sub-section (4) of section 43B of the Sea Customs Act, 1878, a copy each of the following Notifications of the Ministry of Finance (Department of Revenue):—

(i) Notification G.S.R. No. 1103, dated the 22nd November, 1958, relating to the allowance of drawback in respect of duty-paid foreign materials used in the manufacture of public address equipment.

(ii) Notification G.S.R. No. 1104, dated the 22nd November, 1958, publishing the Customs Duties Drawback (Public Address Equipment) Rules, 1958.

[Placed in Library. See No. LT-1084/58 for (i) and (ii).]

TENTH REPORT OF THE PUBLIC
ACCOUNTS COMMITTEE (1958-59)

SHRI M. GOVINDA REDDY (Mysore): Sir, I beg to lay on the Table a copy of the Tenth Report of the Public Accounts Committee (1958-59) on the Excesses over Voted Grants and Charged Appropriations disclosed in the Appropriation Accounts (Civil) 1955-56.

SUPPLEMENTARY DEMANDS FOR
GRANTS FOR EXPENDITURE OF
THE CENTRAL GOVERNMENT
(EXCLUDING RAILWAYS) IN
1958-59

THE DEPUTY MINISTER OF FINANCE (SHRI B. R. BHAGAT): Sir, I

beg to lay on the Table a statement showing the Supplementary Demands for Grants for Expenditure of the Central Government (excluding Railways) in the year 1958-59.

MESSAGE FROM THE LOK SABHA

THE ASSAM RIFLES (AMENDMENT)
BILL, 1958

SECRETARY: Sir, I have to report to the House the following Message received from the Lok Sabha, signed by the Secretary of the Lok Sabha:

"In accordance with the provisions of rule 96 of the Rules of Procedure and Conduct of Business in Lok Sabha, I am directed to enclose herewith a copy of the Assam Rifles (Amendment) Bill, 1958 as passed by Lok Sabha at its sitting held on the 5th December, 1958."

Sir, I lay the Bill on the Table.

RESULT OF ELECTION TO RAJ-
GHAT SAMADHI COMMITTEE

MR. CHAIRMAN: Shri Ganga Sharan Sinha being the only candidate nominated for election to the Rajghat Samadhi Committee, I declare him to be duly elected to be a member of the said Committee.

THE CHARTERED ACCOUNTANTS
(AMENDMENT) BILL, 1958—
continued

SHRI V. K. DHAGE (Bombay): Sir, on the previous occasion I had pointed out as to how the provisions of the company law regarding the appointment of auditors had developed a particular situation. The provisions of the company law had provided that a retiring auditor shall be reappointed and that this reappointment could be in the name of a firm. This led to a concentration of the audits in the hands of a few firms and a tendency

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of hereditariness was also being developed. These circumstances, Sir, came up before a committee that was appointed by the Government of India, known as the Reviewing Committee and before I pass on to speak about the report of this Committee, I would like to point out the composition of that Committee so that we might be able to assess in that background the recommendations or the conclusions that they have arrived at. The members of this Committee were:

Shri G. Basu, former President of the Institute of Chartered Accountants,

Shri N. R. Mody, former President of the Institute of Chartered Accountants,

Shri C. S. Sastri, formerly President and now Vice-President of the Institute of Chartered Accountants,

Shri S. P. Chopra, former President of the Institute of Chartered Accountants,

Shri S. Vaidyanatha Aiyar, President of the Institute of Chartered Accountants, and

Shri C. P. Gupta, I.C.S., Member of the Council of the Institute of Chartered Accountants and Deputy Secretary in the Department of Company Law Administration.

Now, Sir, these are the people who practise in the name of firms. Mr. N. R. Mody, if I remember aright, is a partner of Fergusson and Co, practising in Bombay with various branches outside Bombay. Shri C. S. Sastri and the other gentlemen also practise in the name of firms and have partnership agreement with others. These gentlemen, Sir, have considered the various points that came before this Committee and they considered the recommendations that they had to make and, at that time, the considerations that came before them were the points which I had raised last time in my speech. I shall point out to

you Sir, what they have said and I would point out also—as it appears to my mind—as to whether their conclusions seem to fit in with the other conclusions that they have arrived at. The point that came before them was whether the work of the auditors should be rationed or not. They have said this:

“There is a general desire amongst the members of the profession to free the Institute entirely from State supervision. On the other hand, a large number of witnesses that have appeared before us, especially those from amongst the junior members of the profession, have advocated some form of rationing of work, if not nationalisation of the profession.”

They further say that they do not agree with the points that have been urged before them and they come to a certain conclusion and say that this is not possible. The reasons that they advance are these:

“... but in so far as the concepts of nationalisation or rationing of professional work are concerned, we would like to say that the strength of any profession and its evolution depend on the individual ability of its members.”

I would like to emphasise the words “individual ability of its members.” Further, they say:

“As with the legal and medical professions, individual talent should be the primary consideration if the profession has to advance and serve the public in the best possible manner. The public who employ the services of accountants, should be at liberty to go to one who in their judgment can render the best service. In all other countries, where the accountancy profession has made the greatest strides, individual talent has been the only basis on which the profession has developed; and this applies equally to all other professions.”

They further say:

"In a profession founded on knowledge and integrity, the public should be free to choose the accountant for whom it has the necessary confidence."

Now, Sir, so far as the rationalisation of the work is concerned, they have laid stress upon the individual ability of the person and secondly they have also said that the client or the public should have the right to choose any person they want in order that they may carry out the work. But before this Committee the question also came whether the appointment should be made in the name of the firms and they say:

"The system of practising firms of accountants has also been commented on in connection with the inequitable distribution of work. It has been said that this system enables the concentration of practice in the hands of a few accountants who practise through the so called large firms."

Now, they do not agree with this. I do not know how they are able to reconcile the argument with the conclusion that they have arrived at. The argument they were able to advance was:

"A large firm is nothing but a combination of a number of Chartered Accountants who have pooled their resources and knowledge to practise together in a body as opposed to an individual or two or three individuals."

Here, Sir, the emphasis was that in order that the profession may improve, it should be the 'individual ability' of a person. That should be encouraged or that should be looked into. They have also stated that individual talent should be the primary consideration as in the case of the medical profession or any other profession which they have pointed out. Then, they say:

"The system of practising firms ensures that experience once gain-

ed is not lost, as would be the case with individual practitioners."

I do not know how experience that has been gained by an individual will be lost, but it will not be lost if it is gained in a firm. I cannot understand this argument at all. I cannot understand this logic. Further, they have dealt with this proposition and, because many of the younger people have raised before them the questions which I raised in my speech last time, they say this:

"It has also been stated in evidence that the conditions of employment of the members of the Institute in professional and other spheres are far from satisfactory and new entrants to the profession do not get a fair chance as they have not the same scope, access or facilities to attract work as their senior brethren have. It is this feeling which has been mainly responsible for demands such as the abolition of partnership firms, the appointment of auditors in individual names, the abolition of the practice of purchase and sale of goodwill, etc."

The question that they have raised in this is with regard to the new entrants to the profession getting practice in the profession, but the solution that they point out is something different:

"We have already discussed the merits of the system of practice through firms. In order to increase the employment opportunities"—not practice—"for the junior members of the profession . . ."

They are not considering the practice of the junior people, nor of people who newly come to the profession, but they are thinking in terms of providing employment in order to get over the difficulty which the new entrants have been pointing out. And then they say this in order to increase the employment opportunities for the junior members of the profession. They do not want them to come into practice. They say further:

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"however, it has been suggested that the senior members of the profession should associate the junior members with their work, specially when undertaking audits of large concerns. We have considered this suggestion carefully and feel that it would be impractical in view of the concept of joint and several responsibility in audit. Further, whether an audit should be performed by one or more auditors is a matter entirely within the province of the client. We therefore do not support this suggestion. In order to help the junior members of the profession, however, and to improve the quality of service rendered by the profession we suggest that the Council should recommend to the members of the Institute to maintain a reasonable proportion between qualified and unqualified assistance employed by them, and thereby offer increased employment to members of the Institute. We would also suggest that the Council should recommend to the members of the Institute that the senior amongst them, e.g., members with 15 years' standing or over, should not accept professional work below a certain fee."

Now, this is the solution. There is a demand from the members of the profession to say that partnership should not be allowed, that the appointment of auditors in the name of the firm should not be allowed, that the practice of purchasing and selling goodwill should not be allowed. The solution to this is that the seniors should maintain a certain proportion. When they employ in their services the audit clerks, they should be qualified people as far as possible and not unqualified people. On the question which has been placed before them by the members, how could they say anything else, because they represent a vested class of interest, the same people who practise in the name of firms, who have paid goodwill and got into the firm, and who are practising in the name of the firms which have earned a name? The founders of

these firms had probably disappeared from the scene about 30 or 40 years ago. This is one point which I have to make.

In the matter of articled clerks and audit clerks—as pointed out by Shri Perath Narayanan Nair the other day and I agree with him—I feel that a good bit of exploitation takes place. The audit clerks and articled clerks are two types of people. The articled clerk is a person who signs an agreement with a practising auditor that he shall undergo training under him for a particular period, namely, three years or four years. There are also people known as audit clerks who also enter into an agreement to undergo training, but who are already in the service of the firm which trains them, or in the service of the auditor who trains them. But the period of training of an audit clerk is double the period of an articled clerk. If the articled clerk is required to serve for 3 or 4 years, the audit clerk is required to serve 6 years or 8 years. In this matter a good bit of abuse has been going on, because I know some of the Chartered Accountants have not been accepting them as articled clerks but have required them to serve as audit clerks, so that they can serve them for more number of years, half the period as audit clerks and half the period as articled clerks. This question also, Sir, came up before the Committee and they pointed out:

"In actual practice the full permissible amount of Rs. 3,000 is charged in many cases, and complaints have been made that some of the employers do not actually refund the premium to the articled clerks. We have also been told that not only are the articled clerks not paid anything for the services they render to their employer during the period of training but in fact in a few cases employers have even been known to employ prospective articled clerks as unpaid clerks in their offices for prolonged periods while waiting for a vacancy

in the permissible limit of articled clerks allowed to the employer, and it is alleged that some even realise extras over and above the principal which is not refundable. That such a system of training should be considered pernicious by the public at large is but natural."

This is the state of affairs in which the firms, some of the established firms, render service to the public and also render training to the articled clerks.

With regard to the audit clerks, this Committee had to state:

"Apart from the intrinsic drawbacks of this system of training mentioned in the para above, the opponents of this system told us that in some cases audit clerks were employed without remuneration thus negating the whole basis of this system of training, viz., that promising but poor youth should also be given a chance to qualify for the profession. Indeed we were informed that the restrictions on the number of articleships available had led to an increase of this practice."

Now, Sir, this is the thing which the committee have found from their evidence before them, and yet their recommendations are not quite in keeping with the distress that has been placed before them. Not only this, but I find as a person interested in education that more restrictions are being placed upon the training and upon the qualification of the people who want to enter this profession. As was pointed out by Mr. Narayanan Nair and my friend Mr. Sinha, the results of the examinations every year are very meagre; not even 10 per cent or 13 per cent. or 6 per cent., I do not know exactly.

SHRI PERATH NARAYANAN NAIR (Kerala): Six to 13 per cent. during the last nine years.

SHRI V. K. DHAGE: That is the case during the last nine years. I am not

able to say very correctly because I have not checked on that point. But I find that many of the young men who have entered the course are completely frustrated because they have not been able to get through the examination, and if they have got through the examination in one part, they have not been able to get through the examination in the other part, and the rule requires that if they do not get through the second part of the examination in four consecutive examinations, they have to appear again in both the parts of the examination.

Sir, in 1930 when this course was started, there was the minimum qualification of matriculation to enter this profession, and there was a three year period of training under a practising accountant with one examination for theory, and there were just six papers. In 1932 or 1933 this underwent a change, and there was another examination added besides the Final Examination, that is to say, the Intermediate Examination. More papers were added, and the period of articleship was extended to five years, but at that time there was a concession available for those who were graduates; and a further concession was available for those who had passed the B.Com. examination with Advanced Accountancy which was that the period of articleship was only three years, and they could pass the examination any time either during the time of articleship or after the period of articleship. Now under the Chartered Accountants Examination further restrictions were added in 1949, and in 1956 more restrictions were added and more papers were added, and the concession that was made available to those who had graduated in Commerce with Advanced Accountancy has been taken away. Now, the period of articleship of three years has been made into one of four years. Besides other papers have been added and now it has been proposed, as stated in the Committee report, that an articled clerk should also have a training known as the industrial training, so

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that he will be useful to any industrial concern in which he is employed. These are the restrictions that are being increased and these are the difficulties that are being placed even if one gets through the examination.

SHRI PERATH NARAYANAN NAIR: Fifty per cent marks also in particular groups.

SHRI V. K. DHAGE: So far as the percentage of marks is concerned, it is 50 per cent, but there has been no change with regard to the percentage of marks that a student is required to obtain because even from the beginning, since 1930 or 1931, the year in which I qualified myself, the percentage of marks has been 50. But the results have been rather very devastating.

It was also pointed out, Sir, that the same kind of people get themselves elected to the Council of Chartered Accountants.

[MR. DEPUTY CHAIRMAN in the Chair.]

This has been the case because the system of election was by a first preference vote, and the voting would be not by poll, but by a registered letter of election having been sent to a person who is to give the vote; after having voted, he could send the voting paper to the Council. What happened was that many of these established firms had with them about 30 or 40 chartered accountants employed in their service as their assistants, and these people being entitled to vote, the papers were collected from them, and they, the employers, wrote their own names and sent them up, and in this way the election of that person became sure. Not only the 30 or 40 people under their employ, but the chartered accountants in the employ of the concerns in which they are the auditors also were made to vote for them. This matter was taken up very seriously and now the condition has changed to a certain extent.

The condition with regard to voting does not remain as it used to be before, and the result has been, because of that change in the matter of voting, a large number of younger people have been able to get into the Council. Shri Deshmukh had said, when I had raised this point at the time of the Company Law debate, that he had referred the question to the Regional Council in Bombay. When I asked him as to how the voting went, Mr. Deshmukh replied that he was not concerned with the manner in which the voting took place. I am now able to say as to how the voting did take place, and I am very sorry to say that the voting there took place in the same manner as it would take place in a joint stock company where the votes are collected. I found that the established firms had gathered all their chartered accountants round them, and they numbered not less than 125, and voting at that time went by the show of hands, and certainly by the show of hands all the flock of sheep round them did vote in the manner that the established firms wanted. When a demand was made for a poll, the poll was denied. This is the manner in which the established firms in Bombay function in order to keep their vested interests completely safe. I am very sorry about this, and I was very sadly disappointed that even intelligent people, people who are working in the profession, should resort to practices which are resorted to by, and which are taken objection to in the case of, joint stock companies. Sir, now I come to clause 20 of the Bill. It lays down as follows:

"After section 30 of the principal Act, the following section shall be inserted, namely:—

'30A. (1) Where the Central Government considers it expedient so to do, it may, by order in writing, direct the Council to make any regulations or to amend or revoke any regulations already made within such period as it may specify in this behalf.

(2) If the Council fails or neglects to comply with such order within the specified period, the Central Government may make the regulations or amend or revoke the regulations made by the Council, as the case may be, either in the form specified in the order or with such modifications thereof as the Central Government thinks fit."

Sir, the hon. Deputy Minister began his speech by laying emphasis upon the fact that they had to create an autonomous body in order to conduct the affairs of this profession. This matter has been considered by the various associations and the association in Hyderabad also presented a memorandum to the hon. Minister who was good enough to do us the honour of meeting us. And it is viewed that this encroaches upon the autonomy of the body. This really goes counter to the real objective with which the Institute of Chartered Accountants has been created. I understand that there has been a difference of opinion between the Government and the Institute of Chartered Accountants and if I am wrong, I should be corrected. The only difference that came between the Government and the Institute of Chartered Accountants was with regard to the recognition of the qualification acquired by people outside India. For instance, if a person qualified himself as a chartered accountant in England, that qualification should automatically be recognised as a qualification required under the Chartered Accountants Act, that is to say, that he shall have equal rights with a chartered accountant who has passed the examination and qualified himself under the above Act. The Institute of Chartered Accountants did not agree with the proposition which the Government placed before it, the reason being that the Institute wanted that there should be some reciprocal arrangement with the other Institute in England so that we might be able to recognise their qualification here. Now, the Institute of Chartered Accountants there or

whatever the organisation of chartered accountants in England may be, does not recognise a qualified person in India, that is to say, the Indian chartered accountant to have the same rights as the chartered accountants in England. Then, they said, we shall not be able to recognise the chartered accountant from England to practise in India. This seems to be a very reasonable thing. The Government of India, for some reason or other, wants that, irrespective of the fact whether the chartered accountants of India are recognised in England or not, we in India should recognise the chartered accountants qualified in England. I do not know how far that would be fair and there seems to be no other proposition which seems to have come from the Government to which they have not agreed except this. If this be the case, I do not understand why the Government is taking the power to make regulations with regard to the chartered accountants if the Institute of Chartered Accountants does not agree with them. And in the speech which the hon. Deputy Minister made, he did not elucidate the point as to why this clause 30A is being introduced and what the difficulties that they faced were when they thought of introducing this amendment in the Act. I would like the hon. Minister to point out to us what exactly are the difficulties that the Government of India face with regard to the Institute of Chartered Accountants so that we may be able to appreciate the provision that is being introduced here. And if my information is correct, as I have disclosed, the provision seems to be not just and fair to the Institute of Chartered Accountants.

Sir, I find that the fees that are prescribed both for examination purposes and for registration and certificate of practice seem to be rather very heavy. Even in the matter of the medical profession or the legal profession, the fees are not so excessive as those in the case of the Institute of Chartered Accountants. They

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have by now not only become self-sufficient as the hon. Deputy Minister said in his opening speech, but also have been able to amass a reserve of about Rs. 10 lakhs, as was pointed out by Mr. Sinha the other day in his speech. If that be the case, I do not understand why the fees should continue to be so high. There is certainly a very strong case for the reduction of the fees and for being able to help the new entrants in the profession to register themselves from year to year.

There is one thing on which I must speak and then I will finish. That is with regard to the appointment of the Reviewing Committee. This Reviewing Committee is not looked upon with favour by many of the chartered accountants. Last night, I received a very lengthy telegram, not from the Bombay region or from the Hyderabad region, but from the Madras region and this telegram states:

"Members of constituency no two views with keen disappointment and dissatisfaction the manner in which the reviewing committee appointed by Government of India in September last reviewed working of the Institute of chartered accountants of India without making any reference to most members of the region and without consulting Southern India Regional Council and is therefore of opinion that this lack of confidence is derogatory to the autonomy and dignity of the profession and their report cannot represent the views of Members of Profession consequently Bill for amending Chartered Accountants Act be sent to a Select Committee of the Sabha for eliciting views of public and profession."

Sir, this is the view which is expressed by the chartered accountants practising in the region of Southern India. There seems to be really a very great defect in this regard which this Reviewing Committee itself seems to be alive to. They were appointed on the 6th of October, 1958. They sent a

questionnaire to the chartered accountants on or about the same day, but required their replies by the 18th of October.

SHRI M. P. BHARGAVA (Uttar Pradesh): The meeting was held on the 6th October, and they were appointed on the 27th September.

SHRI M. P. BHARGAVA (Uttar Pradesh): They posted the questionnaire on the 6th October and wanted the replies by the 18th October and that the report was to be submitted by the 24th November. I will read out to you from the report so that the House will be able to appreciate what I say:

"Complaints were made to us, specially in Calcutta, that our circular letter"

—I am sorry. Mr. Bhargava is right. It is the letter that was circulated—

"of the 6th October 1958 was not received by many members of the Institute till ten or twelve days later. It is a matter of regret that due to Puja holidays, the circular letter appears to have, in a few cases, been delayed in the post office. There was also a general complaint that very little time had been allowed to the members of the profession to formulate and express their views. We have already mentioned above the circumstances necessitating quick action. Some haste on our part was unavoidable."

—please note the words "Some haste on our part was unavoidable"—

"The amending Bill having already been introduced in Parliament, it was expected to come up for consideration during its current session. If any further changes in the Act were to be made in the Bill, it was necessary that the report of the Committee should be submitted to the Government by the 24th November 1958."

Look at the time that was at their disposal to be able to come to any conclusion in this regard which could be considered to be a fair representation of the views of the people in the

profession. Now, note this. This question was taken up by the Council of the Institute of Chartered Accountants and the Government seems to have made a promise to this Institute to say that the members of the Institute of Chartered Accountants or the Council of the Institute of Chartered Accountants will be consulted in this matter. But there has been no opportunity given to the Council of the Institute of Chartered Accountants to give any opinion with regard to the report of the Reviewing Committee. This Committee itself pointed out:

"At that time, an assurance was also given that Government would give an opportunity to the Council of the Institute to offer its comments on the report of the Committee before Government considered the report."

Now, this assurance having been given, look at the conclusion, Sir, this Report arrives at.

"In view of this assurance we considered it unnecessary to invite the views of the Council as a whole."

It is really very surprising, Sir, that an Institute, which has been created by the Government to be an autonomous body, is not consulted by this body at all, and they have come to certain conclusions. It appears to me that this Reviewing Committee Report is nothing but a command performance by the Government, because it does not seem to have considered the various aspects dispassionately. I therefore feel, Sir, that whatever recommendations this Reviewing Committee has made with regard to the facilities to be given for the purpose of practising should be taken with a grain of salt.

I shall speak in detail when the amendments come up before the House, but before I close, Sir, I should like to refer to the First Schedule included in the Bill, which gives power to the Institute of Chartered Accountants to try and punish a chartered account-

ant guilty of misconduct under the rules.

Now, if you examine these rules, you will see that these rules of misconduct will, really, in practice, mostly work against the new entrants in the profession; it will not affect those firms which are established for a number of years, because there will be no need for them to resort to some of the conducts laid down here, which conducts will be punishable under the rules. I shall just point out to you, Sir, how they are:

"(1) allows any person to practise in his name as a chartered accountant, unless such person is also a chartered accountant and is in partnership with or employed by himself;"

I am not disputing the nicety of the rule; I am trying to point out as to how these rules, in practice, will really work against the new entrants in the profession.

THE DEPUTY MINISTER OF COMMERCE AND INDUSTRY (SHRI SATISH CHANDRA): These rules are already there; they are not being introduced now.

SHRI V. K. DHAGE: The rules are there, but there are very many amendments also. Now what you are doing is to give the power to punish to the Institute of Chartered Accountants if any default is committed under these rules. That is my point, and what will happen is that the new entrants will be at the mercy of those people who have been established, who are practising as partners in the established firms. That is my point.

MR. DEPUTY CHAIRMAN: He is saying that both the power and the rules are there.

SHRI V. K. DHAGE: No, Sir, there was no power of punishment given to the Institute of Chartered Accountants before; the power of punishment only remained with the High Court before; it did not remain with the Institute

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of Chartered Accountants. Now, they have bifurcated the rules of misconduct into two classes; one will be primarily tried by the High Court and the other will be primarily tried by the Institute of Chartered Accountants. I am not going into detail, but these are the two broad bifurcations that have been made.

SHRI SATISH CHANDRA: Appeal lies to the High Court.

SHRI V. K. DHAGE: That is a different thing. Appeal may lie to the High Court but I am trying to point out the hardships to the new entrants in the profession. This I have been doing from the very beginning. Even in the year 1955 I pointed out as to how the new entrants are completely shut out in the profession. From the very beginning I have been making out that case and am doing so also today, and now the rules go further to strengthen that position.

SHRI AMOLAKH CHAND (Uttar Pradesh): What is the remedy that the hon. Member suggests?

SHRI V. K. DHAGE: My remedy is that the powers that were given to the High Court must remain with the High Court, and the power to punish the chartered accountants should not be given to the Institute of Chartered Accountants.

SHRI AMOLAKH CHAND: What the hon. Member suggests is that disciplinary action should be taken only by the High Court and not by the Council itself.

SHRI V. K. DHAGE: Yes, that is the present position so far as the present Act is concerned.

SHRI PERATH NARAYANAN NAIR: The original Chapter V must remain.

SHRI V. K. DHAGE: That is my point. Now, Sir, the second rule on misconduct is this:—

“(2) pays or allows or agrees to pay or allow, directly or indirectly, any share, commission or brokerage in the fees or profits of his professional business, to any person other than a member of the Institute or a partner or a retired partner or the legal representative or the widow or dependents of a deceased partner whether such partner had retired from practice or not at the date of his decease;”

Sir, I have already commented on it before; so I do not go over it again. This also will certainly be a thing which will affect the juniors or the new entrants.

Then the next rule is this:

“(3) accepts or agrees to accept any part of the profits of the professional work of a lawyer, auctioneer, broker or other agent who is not a member of the Institute.”

Mostly again the juniors will be affected. Now, the juniors do not have an established partner to enter into partnership as it is provided in the next rule:

“(4) enters into partnership with any person other than a chartered accountant or a person resident without India who but for his residence abroad would be entitled to be registered” etc.

A new thing is now being introduced by which the partnership can be entered into by a practising chartered accountant in India with a practising chartered accountant in South Africa or East Africa or anywhere else. Now, again the new entrants will hardly be in a position to have partnership of the kind provided for in the rules.

Then comes the next rule which reads:

“(5) secures, either through the services of a person not qualified to be his partner or by means which are not open to a chartered accountant, any professional business;”

The next rules reads:

"(6) solicits clients or professional work either directly or indirectly, by circular, advertisement, personal communication or interview or by any other means;"

Now, Sir, it has been spoken here throughout that the profession of a chartered accountant is a business and the expressions "business of the partnership", "any professional business" have been used; it is all thought of in terms of business. Now, if you think in terms of business, then the methods of business ordinarily should be allowed to be followed and I do not understand why the rules of the profession are laid down in a manner to shut out a business of this type to some. Not that I am in favour of it, but I am trying to argue out the case. Now if this "solicits clients" etc. is to be done who will be the person who will do it? It is the new entrants. Now the new entrants will not be known to another person and he certainly, sitting at home, will not be able to get professional work, and I know it is impossible to get work unless and until a person goes himself and points out what work he is capable of doing. This rule (6) which is provided for is followed mostly in the breach by practically every chartered accountant in the profession and the only people who are benefited by this rule (6) are the people who are in firms established over a period of, say, forty years and so on, and who are practising in the names of the old firms, firms which do not bear their own names.

SHRI AMOLAKH CHAND: It is the case with lawyers also. It is not that only the chartered accountants cannot do so. It applies to the legal profession also to some extent.

SHRI V. K. DHAGE: My hon. friend Mr. Amolakh Chand has forgotten my point; my point is that you are permitting practice in the name of the firm, you are permitting reappointment of the auditors in the name of the firm, and then you are also fram-

ing these rules. How does it really help? In the case of the lawyers there is no such thing as partnership in India, outside India too. Here the point is that the business firms seem to continue from year to year. Take the case of Ferguson and Co. although I do not want to name any one. I take the case of Ferguson and Co. in order to explain the point to my friend. Mr. Ferguson, I think ceased to be a partner in 1930 or even earlier. But even today the name of Ferguson and Co. goes on, and so far as I know, no concern of the Tatas has any other auditor except Ferguson and Co. for the last 30 years.

SHRI AMOLAKH CHAND: I think my friend is aware that there are firms of solicitors run on partnership basis; they are the firms which practise only on the legal side, and they are also barred by such rules.

SHRI V. K. DHAGE: I understand, Sir, that that difficulty is also being agitated against so far as the legal profession is concerned, and there also a point is being raised. But I am not defending the legal profession; I am trying to make out a case for the new entrants, for the new chartered accountants in the profession, and the rules as such, in practice, are going really to work against the new entrants. That is what I am trying to say.

Now, comes another rules which says:

"(7) advertises his professional attainments or services, or uses any designation . . ."

MR. DEPUTY CHAIRMAN: You need not read all the clauses.

SHRI V. K. DHAGE: Well, Sir, I stop at that. Now, my general point is that if you just read through these rules, these rules will really, in practice, work against the new entrants to the profession and shut them out completely from establishing themselves as practising accountants. I therefore feel, Sir, that the hon. the Minister will give due consideration

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to this and I urge, in view of the telegram that I have received and the views that have been expressed that this matter be considered very dispassionately and thoroughly. I support the mover in the appointment of a Select Committee in this regard.

Thank you.

SHRI M. P. BHARGAVA: Mr. Deputy Chairman, Sir, the original Bill was introduced in the Constituent Assembly in the beginning of 1949. The Constituent Assembly referred the Bill to a high-powered Select Committee. I call it 'high-powered' because of its personnel which consisted of Dr. B. R. Ambedkar, Shri K. C. Neogy, Shri H. P. Mody, Shri K. Santhanam, our present Speaker, Shri Ananthasayanam Ayyangar, Shri Mahavir Tyagi, Shri T. T. Krishnamachari, Pandit Thakur Das Bhargava, Shri Frank Anthony, Shri A. C. Guha, Shri Miherlal Chattopadhyaya and Shri M. Tirumala Rao. Sir, this Select Committee deliberated for several days and fixed certain principles, and it presented its Report in March 1949. The Act came into force in 1949. Since the time the Act has been working, certain difficulties have been experienced. It was brought to the notice of the Government that there were certain difficulties and deficiencies in its working, and the Council of the Institute of Chartered Accountants of India has, from time to time, brought to the notice of the Government certain practical difficulties experienced by it in administering the Act. In the course of a debate on the Chartered Accountants (Amendment) Bill in the Lok Sabha in September 1955, in reply to some suggestions made by some Members of Parliament, the then Minister for Revenue and Civil Expenditure had given an assurance that the Government would, in due course, bring in a comprehensive amending Bill. The present proposals for amending the Chartered Accountants Act, which seek to give effect to that assurance, have been fully examined.

The Bill was introduced in this House in September, 1958. After the

introduction of the Bill the Government took an extraordinarily precautionary step, and that was to appoint a Reviewing Committee in September, 1958, and the following terms of reference were given to the Reviewing Committee:—

"To review the working of the Institute of Chartered Accountants in order to assess to what extent the constitution and functions of the Council of the Institute as laid down in the present Chartered Accountants Act and the regulations framed under it have succeeded in achieving the objects underlying the Chartered Accountants Act, with particular reference to the rapidly increasing role which the Chartered Accountants are being called upon to play in the economic activities of the country."

As you will observe from the terms of reference, they were very wide and no limitations were placed on the working of the Reviewing Committee. The Reviewing Committee has done a good work and has done it speedily as will be seen from the following details.

It was appointed on the 27th September. It held its first meeting on 6th October and issued a circular. They wanted the replies to be received by 18th October. Then they held their second meeting and decided their procedure of work. And immediately they started taking evidence on the 25th October. They had another meeting on 1st November in Delhi and another meeting at Kanpur on 2nd November. Then they again met in Delhi on 3rd November. From 4th to 6th November they met in Bombay. From 7th to 8th November they again met in Delhi. On 12th and 15th November again they held their meetings. And they finally met on the 20th November and signed their report. Now, Sir, in the report they have mentioned certain things which, if properly considered, will do a lot of good to the Chartered Accountants. Well, Sir, I fully share the views expressed by Shri R. P.

Sinha and also his anxiety for proper training to chartered accountants. As far as their training is concerned, there is much to be desired still. The Reviewing Committee themselves, in their report, have expressed certain things and I will invite your attention to pages 40 and 41 where they have made certain recommendations which run as follows:

"We therefore consider it desirable that the Institute should encourage the writing of suitable text books by authors having wide knowledge of Indian conditions."

So, Sir, their first recommendation is about suitable text books because there is so much dearth of them. Then further they say:

"We also recommend that in addition to the study papers and text books the attention of students should be invited to useful literature appearing elsewhere including that available in the articles appearing in various professional journals. Besides, the subject of accountancy is a dynamic one and is affected by legislation as well as by the constantly changing pattern of economic organisation."

Now, you will remember that four of them were ex-Presidents of the Council. The fifth is the present President of the Council and the sixth is the Member-Secretary, who is an official and who has to deal with these matters from day to day. I think no better Committee could have expressed any opinion about the working of the Council than this Committee. Then further it goes on to say:

"We consider it desirable therefore that suitable notes for guidance should be issued to the students as and when necessary clarifying the latest enactments and rules etc. that would be of interest and use to the students."

Now, this shows that they are quite aware that those who get training are fully conversant with the rules and enactments, and therefore they have

made this recommendation. Then, Sir, they further say:

"Though the postal tuition introduced by the Institute shows promise and is generally appreciated, it has been represented to us that postal tuition is at best only a substitute for oral tuition. It was only because of the vastness of the country and the scattering of the students that a postal course of training had to be introduced. We recognise that arrangements for oral tuition cannot possibly be made for all the students and that it would also not be feasible to arrange for the practical training of the students in the bigger cities to enable them to attend a coaching institution. Nevertheless we are of the view that arrangements for compulsory oral tuition should be made at least in the bigger cities, where the regional headquarters are located, and there is a sufficient concentration of students so that at least a portion of the students can benefit from it. The oral tuition should be imparted throughout the year and should supplement the postal tuition. For about three weeks prior to each examination a short but intensive course of revisional lectures should also continue to be arranged, as at present."

Now, Sir, no legislation can impose anything. Everything has got to be developed by convention. The Reviewing Committee have felt some difficulties in the training of candidates for chartered accountants' posts and they have suggested certain ways of overcoming those difficulties. What is required is the enforcement of what is already there and not the new rules and regulations. If we can properly enforce what is already there, probably we will be able to achieve the results that Mr. R. P. Sinha and others desire to achieve. I hope the Council will benefit by the good suggestions made in the Reviewing Committee's report for providing better training to the newcomers and thus

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improve efficiency by reducing wasteful methods and practices.

MR. DEPUTY CHAIRMAN: You will continue in the afternoon.

The House stands adjourned till 2-30 P.M.

The House then adjourned for lunch at one of the clock.

The House reassembled after lunch at half-past two of the clock, MR. DEPUTY CHAIRMAN in the Chair.

SHRI M. P. BHARGAVA: Mr. Deputy Chairman, Sir, before lunch, I was referring to the demand for a Select Committee made by hon. Mr. Sinha and also supported by Shri Perath Narayanan Nair. The present amending Bill does not alter the principles accepted by the Constituent Assembly and embodied in the Act. It is only intended for varying in certain details and not on principle a few of the provisions of the original Act in the light of the experience gained after nearly 10 years of its working. Even these changes are few, the majority of the amendments being in the nature of clarifications or rectification. There is therefore no principle involved in this amending Bill which would require the House to have the benefit of the advice of the Select Committee.

If you would permit me, I would like to go through the changes proposed in the Bill. In clause 2 they want to add the words 'other than cost and works accountants'. That has become necessary because of the second Bill before the House, namely, the Cost and Works Accountants Bill. Clause 3 only lays down the procedure for non-practising members to become fellows and thus be eligible to become members of the Council under Section 9 (2) (a). Clause 4 is more or less a verbal amendment. Mr. Amolakh Chand during his speech suggested that in place of 'in India or elsewhere' it should be 'within India

or outside'. That of course sounds better and I hope the Deputy Minister will accept the amendment.

Coming to clause 5, it is only a verbal change from 'no person' to 'no member'. One omission I find in the Bill is that nowhere a member has been defined. It would have been much better if in the definition clause a member could also be defined.

Clause 6 deals with persons of unsound minds and the emphasis here is on the words 'stands so adjudged.' This is a better phraseology than what is in the original Bill. Clause 7 is only a limiting clause about the constitution of the Council. As at present the elected members of the Council of the Institute of Chartered Accountants are elected on the basis of one representative for 150 members of the Institute. Now, as the number of members goes on, the persons to be elected will go on increasing if the present provision is adhered to. Therefore what has been done is that it is proposed that the elected members be only 24 and nominated members, as hitherto be one-fourth of 24, namely six. Mr. Sinha in his speech wanted deletion of the nominated members. I personally feel that the nominated members have been doing good work on the Council and in this connection I should like to read out the view of the Reviewing Committee who have also said that the presence of the nominated members has been very helpful. It says:

"In spheres touching upon the public interest, therefore, the logical concept of self-governance would, in our view, be one of autonomy within the framework of the policy of the State. While a professional body should be autonomous, therefore, its autonomy should inevitably be subject to some degree of State supervision. This aspect, we are afraid, is not properly appreciated at times. At the same time it is equally necessary that the extent of supervision which the State exercises is guided solely

by considerations of public interest.”

Then they say:

“There has been general recognition of the very useful role the nominated members of the Council, particularly those from Government, have played in guiding the Institute, and we are therefore of the view that such nominations on the Council should continue for the time being.”

That gives support to the provision made in the amending Bill.

The next clause is only a procedural clause and fixes the time-limit of 20 days. In clause 9 it has been said that casual vacancies occurring before six months of a new Council being formed should not be filled. That finds place in almost all election laws. Therefore I see no objection in this clause regarding 6 months being fixed for non-election to fill vacancies. Shri Sinha wants this period to be reduced to 3 months. It will be unnecessary expense if elections are allowed to be held for casual vacancies which occur in less than 6 months.

SHRI AMOLAKH CHAND: Followed by election petitions.

SHRI M. P. BHARGAVA: The next clause is only a provision for continuing the Council if there is any gap between two Councils—the old Council and the new Council to be elected. Clause 11 has added the words ‘audit clerks’ side by side with ‘articled clerks’ and that is one of the difficulties experienced in the working of the Act and so if this addition is made, there should be no difficulty for anybody to accept the same.

Clause 12 is about the Secretary being given the power to participate in the meetings of the Council. The Secretary is the person who has to deal with the questions in the Council almost everyday and it will be a very healthy thing if this provision is accepted. In this connection Mr. Sinha has said that in addition to the meetings of the Council, he should also be

eligible to attend the meetings of the Committees of the Council. That is a very healthy suggestion and I hope it will be possible for the Minister to consider it favourably.

Clause 13 only deals with the power of co-option for Committees formed by the Council. That again will enable these Committees to have the experience of those people who have not been elected but whose presence in the various Committees will be desirable. So that is a very healthy provision and I think nobody in the House will object to that provision.

Clause 14 deals with the list of members and how it should be published every year. Shri Satish Chandra himself has brought up an amendment improving, on the wording and if that new amendment is accepted, it will considerably improve things and that should also be acceptable to the House.

Next I come to the main clauses of the Bill in Chapter V. As far as these clauses are concerned, they deal with the misconduct of the members. Under the existing provision, any complaint or information received against a member of the Institute is first considered by the Council and is referred to the Disciplinary Committee for enquiry. Only if the Government is of the opinion that the member concerned is guilty of misconduct, the above procedure does not apply. A complaint made by the Central Government has to be referred directly to the Disciplinary Committee under the provisions of the Act. The report of the Disciplinary Committee is then considered by the Council and the finding of the Council is forwarded in every case to the High Court for final orders. It was felt that instead of having to forward these findings in every case to the High Court, it should have the power to file the proceedings or dismiss the complaint as the case may be. If it was found on enquiry that no case has been made out against the member concerned, the Council

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desired that in certain cases it should be empowered to punish the member concerned, subject to the right to appeal to the High Court.

As far as sections 21, 22 and 22A are concerned, they deal with these provisions and they, I think, are healthy provisions in view of the experience gained by the working of the Council for the last 10 years. And some of them seem to be very necessary if proper discipline is to be maintained by the Council among its members. In this connection, I would like to invite the attention of the House to what the Reviewing Committee had to say on this point. It is on page 29 of their report where they have said:

"We have carefully considered the procedure adopted in dealing with disciplinary cases, as it will be altered by the Chartered Accountants (Amendment) Bill. In our view, the altered procedure would be a definite improvement. Some objections have, however, been expressed whether it would be desirable to give to the Council of the Institute the powers to suspend or remove a member from the Register for any period. The manner in which the Council has functioned during the last ten years in this respect gives us no ground to sustain this doubt at the present juncture. In any case, the provision in the amending Bill relating to the Reviews and Appeals, provides ample safeguard. We are of the view, therefore, that the wider powers proposed in the amending Bill may be given a fair trial."

In view of this opinion expressed by the expert committee, I think it would be much better if these provisions are accepted by the House and they are given a fair trial, as mentioned in the Reviewing Committee's Report.

Clause 17 says that:

"For the purpose of advising it on matters concerning its functions,

the Council may constitute such Regional Councils."

Here Shri Amolakhji has suggested an amendment—that is amendment No. 34—where he wants the word "assisting" to be added after the word "advising". That again improves matters and I hope the hon. Deputy Minister will view it favourably.

Clause 18 is self-explanatory and needs not much of comment.

Coming to clause 20, I have already read out the views of the Reviewing Committee and this clause has become necessary because of the amendment to section 15 in clause 11 of this amending Bill.

We have been hearing about complaints against the Council and I do feel that the provision made in section 30A gives power to the Central Government to interfere in cases where they have some sort of genuine complaint against the Council and its working. This point has been stressed too much by the previous speakers and I hope that in view of all that they have said about the working of the Council, they should have no objection in accepting this provision, in section 30A.

Then we come to the Schedules. To the Schedules also some amendments have been given notice of and if amendments Nos. 37, 38, 39 and 40, given notice of by Shri Amolakhji, are accepted, they will slightly improve matters.

After this review, may I ask Shri R. P. Sinha and Shri Nair to tell me why and for what clause a Select Committee is required. Shri Nair wanted a Select Committee to talk freely about the malpractices of the chartered accountants. It sounded a little odd to me. It would have been better to have given some concrete examples rather than adopt this sort of argument for having a Select Committee. It is a coincidence that this Bill and the Costs and Works

Accountants Bill were introduced at the same time. The two Bills stand on different footings. While the one under consideration is only an amending Bill, the other is entirely a new thing. I may inform the House that it was not the intention of the Government to have a Select Committee for either of these two Bills. But when all the implications of the Costs and Works Accountants Bill were brought to the notice of the hon. Minister of Commerce and Industry, he agreed to refer it to a Joint Committee of both Houses. I would like to take this opportunity of thanking Shri Lal Bahadur Sastri for this. In view of what I have said, there seems to be no case for referring the present Bill to a separate Select Committee or to the one being appointed for the other Bill.

Shri Dhage has been talking of heredity in the profession of chartered accountants. But is it something new to this profession? Don't you find the same kind of thing in other professions, especially in business? Do we not see people flocking to old doctors, neglecting new ones? Do we not go to well-known lawyers? Do we not like to have our business dealings with the well-established firms? Where is the harm then if the well-established firms of chartered accountants also flourish? I strongly oppose reference of this Bill to a Select Committee and commend to the House the official amendments and some amendments moved by the previous speakers and mentioned by me. The Bill, with all these amendments, should be able to regulate the profession of chartered accountants and help us in utilising them fully and properly in the new atmosphere of rapid industrialisation of the country.

Thank you, Sir.

DR. P. J. THOMAS (Kerala): Mr. Deputy Chairman, I welcome this Bill. The chartered accountants, to my mind, are carrying out very important

duties in the country which can be compared with the duties of lawyer or engineer or medical man. At the present moment, it is even more important because we are just now carrying out very vigorously a policy of industrialisation and industrialisation means the setting up of several companies. We have already got over 20,000 companies in the country and they have employed a very large capital, the paid-up capital alone being Rs. 1100 crores. I suppose the total capital may be even double this amount; that is to say, a very large part of our capital is locked up in these companies. Who own these companies? Many are under some managing agents but are owned by a large number of small people, widows and orphans, people who have invested probably ten rupees or even five rupees and so on. Their interests have got to be safeguarded and this cannot be done properly unless we have competent men to do that job. Government cannot do it and, therefore, we want the special profession of chartered accountants. They are to be employed, of course, under certain regulations, to look into those companies and their accounts from year to year, from a given period to period and to rectify any errors that may have crept in either voluntarily or involuntarily. For this purpose, therefore, the chartered accountants have got to be employed and they have got a responsibility to the country, to the Government and most important of all, to the shareholders. That is why we all welcome a very powerful Institute to regulate the profession of chartered accountants, both firms and individuals, so that all may be kept controlled by one set of rules. There are said to be certain unauthorised organisations working along with this body, and the Government has done well in ruling them out, in preventing such organisations so that the whole thing could be centralised in one Institute for the whole of the country. Therefore, I welcome the powers given to this Institute. Appeals should, however, lie to the High Court. After all, this Insti-

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tute of Chartered Accountants may be very good, may be doing things very well but even then, in a country like ours with such differences of interests, differences on account of regions and sections, etc., it is necessary that the High Court should have this appellate authority over this body however ably that body may be functioning. I, therefore, support the provision dealing with appeals either to a High Court or to any other Government authority. I do not mind. What I mean is that the final authority should not be the Institute in all matters. There should be appeals against the decisions of this Institute. When anybody has got any complaint—and complaints are bound to be there—it is necessary to provide for some higher authority at the top to whom such appeals may be sent

Sir, certain points have been raised against the working of this system and those have been elaborately explained by three speakers from this side, Mr. Dhage, Mr. Narayanan Nair and Mr. Sinha. I am not competent to go into this question very fully but I think two of these matters should be looked into by the Institute of Chartered Accountants and also by the Government. The first is regarding the monopolistic tendencies which, they say, are being worked out by some of these concerns, some of them very big ones, and the fact that they are not helping others to come up. Some of them are able to carry out auditing of very large number of concerns. This is more or less common also in the legal profession. In any town or High Court area, you will find certain lawyers getting a large number of cases, the biggest cases. This cannot be prevented, but even then some provision has got to be made for the junior accountants. I hope this will be done voluntarily by the firms themselves by taking on younger men into their firms and giving them opportunities to rise. This can be done gradually. This can be done in the legal firms also. Young

men, given the opportunity, should be able to and should be in a position to come up by sheer ability to the standard of the senior men and either join the existing firms or start new ones. That is to say, nothing should prevent them from coming up. All monopolistic tendencies, tendencies of a similar character, must be looked into and discouraged by the Institute. I do not think it is going on very much but it is natural in other departments like medicine, legal, etc., etc. It is in our interests to control such tendencies. After all, in this country we are trying to curtail the size of land holdings. We have even given a very small figure as the total income possible for a landholder. In a country like that, to allow the firms of chartered accountants to audit very large number of concerns and get big incomes is not good. There is something against this kind of thing. I do not say that this should be stopped. Certain companies may be audited by them but then this Institute should establish certain precedents and work it out amongst its members by self-direction and keep this tendency under control. This should enable younger people to come into the field and establish themselves in good positions.

The second point is about the new entrants. This is very important in my view and that is why I thought of making a speech on this matter. This is a country where a large number of people are unemployed. We expect to employ 8 million in the Second Five Year Plan. I do not think this is going to be done. The figure is going to be less than that and here is a field where a large number of young men can be employed. Indian accountants, particularly in some parts of the country, have shown that they can stand on their own anywhere in the world, not only here. Such people must be given the opportunity and proper training. Unfortunately, various criticisms have been levelled against the system of training. For one thing, the premium

wanted from them is already high, Rs. 3000, but the allegation is that certain firms are even demanding a larger figure. Of course, it has not been established but there have been cases where a larger premium has been demanded. There are also cases where the premium amount is not returned. After all, this premium is not a contribution but is meant to be returned. This is not done generally and it is fully or partly retained by the firms. That is also another important point. The attention given to the new entrants is very limited. They are not given sufficient training and attempts are not made by these concerns to give them help. They have to do hard work and at times they have to work like bullocks in their offices getting nothing in return at all. This is a social evil and I have heard much about this in the different parts of the country. I hope this and other matters will be looked into very carefully by the Institute and particularly by the non-official members, the Government members and others, who have a duty to this country, especially at this juncture when we are trying to push up our people in different lines. The profession of chartered accountancy is an important one and if it becomes the preserve of certain persons, certain class of people, I think it will be very dangerous because this will result in a lot of discontentment amongst the younger people. Finally,

I must say that we have a right
3 P.M. to congratulate ourselves on one point, we have in this country, so far as I am able to gather, abler chartered accountants than anywhere in Asia, probably than in many parts of Europe. Our accountants, judging from the persons I have seen in Madras and South India generally, are in a position to hold their own against anyone in the world. Such people, I am sure, should be given an opportunity in the near future of doing this work in other parts of Asia, even in other parts of the world. It may be possible; anyway we have great opportunities. Therefore, our chartered accountants and this Institute particularly must come to equip

a large number of able accountants and also see to the opportunities of their going abroad, outside in parts of Africa, perhaps parts of Western or Eastern Asia, where competent accountants are not available, and thus utilise themselves throughout the country, throughout the Asian continent and in other parts of the world. I feel that there are intelligent people in this country, particularly in certain parts of the country, where the people can rise to the highest levels of competency in the matter of accountancy and audit. And these people must have the opportunity not only to do work in their own limited State or area, or even the sub-continent of India, but throughout Asia and the whole world. For this, again the Institute must become responsible. That is to say, the Institute under the control of the Government must devise means of stepping up our activity, increasing the number of chartered accountants and increasing their area of operation and helping them to get work outside, Ceylon, all over the East and so on. This is a very important matter and I do hope that the concerned department in the Ministry of Commerce and Industry will look into this carefully and direct the Institute to carry out these big purposes, which I am sure will be taken care of by the Government.

Thank you.

MR. DEPUTY CHAIRMAN: Shri Lal Bahadur will intervene now. The reply will be by Mr. Satish Chandra.

THE MINISTER OF COMMERCE AND INDUSTRY (SHRI LAL BAHADUR): Mr. Deputy Chairman, I am sorry that the discussions rather took a somewhat strange turn in the sense that there has been severe criticism of the senior, if I may say so, chartered accountants, on how they have been carrying on their profession, and there has been also some criticism of the working of the Institute. Well, Sir, I personally think that the chartered accountants are performing a very important duty and in the present

[Shri Lal Bahadur.]

situation when new factories, new workshops, new concerns, and heavy and big industries are coming up, the responsibility of the chartered accountants has become all the greater. They are, in fact, the watchdogs as to how the industry is functioning financially especially and I would not, therefore, like that we should be unnecessarily hard on them. There should be justifiable criticism. I do not deny that privilege, but nothing should be done to demoralise the people who are engaged in that important profession. It has been said that the chartered accountants have not been very careful in performing their duties. Even the names of Dalmia and Mundhra were mentioned. Well, I do hope that the House will realise that the chartered accountants have to function in a limited context. They cannot examine the accounts of the companies or the accounts of other industries in a general way. They have to confine themselves to the balance sheet which is furnished to them, the profit and loss account, and they have to confine themselves within those financial matters . . .

SHRI RAJENDRA PRATAP SINHA (Bihar): Sir, may I just suggest that what the hon. Minister is saying, to my knowledge, is not correct? Probably if he refers to the provisions under the Companies Act, a chartered accountant is not supposed only to look into the balance sheet and the profit and loss account presented to him by the company accountants, but he is expected to go into the details, check each and every voucher and every financial transaction and report to the shareholders and to the Company Law Administration the true and correct financial picture as is evinced from the detailed scrutiny of the accounts and the vouchers not only of the head office, but even of the branches. And branch inspection is also provided for by a specific provision in the company law.

SHRI PERATH NARAYANAN NAIR: Omission of it is chargeable.

SHRI LAL BAHADUR: I am sorry the hon. Member has unnecessarily intervened, because I agree with what he has said and I do not think I said something different from what he has said just now. It is true that he can call for papers in regard to other branches or subsidiary industries. But if there is an inter-company investment, he has no right to see whether the inter-company investment has been done properly or not, whether there has been any fraud. He is not empowered to do that.

SHRI RAJENDRA PRATAP SINHA: I beg to differ from the hon. Minister. That is exactly . . .

MR. DEPUTY CHAIRMAN: Order, order.

SHRI LAL BAHADUR: Let the hon. Member differ. If I am wrong, well, I shall try to correct myself. But at the present moment what I know is this that there are many matters concerning investments, etc. with which the chartered accountant is not concerned. He simply cannot go into these matters. And, therefore, I say that he has to function within a limited context, within the framework of the law which furnishes him the necessary rights. So, I was only going to say that if cases of Mundhra or Dalmia are quoted, they are not relevant in the present context. Of course, those things have to be examined in a different manner altogether—why it was necessary for a separate Commission to be set up to go into the matters concerning Dalmia, or why it was found necessary to prosecute Mr. Mundhra and conduct a case in the Sessions Court or High Court. In that larger context the chartered accountant is not expected to function. Government will have to take separate action in those matters. But I merely wanted to suggest that while criticising the chartered accountants, we have to be more charitable and generous. That was what I wanted to suggest. The general efficiency of the management or of the industry is not directly their concern. It will have to be gone into by some other body,

either by Government or some other authority.

Then there was a lot of criticism about the senior chartered accountants, and almost a charge has been laid that the new entrants are not given enough opportunities to function and prosper freely. I am somewhat inclined to agree with this view.

SHRI RAJENDRA PRATAP SINHA: Thank you.

SHRI LAL BAHADUR: I do not want to suggest that all these things have been done deliberately, but the Institute of Chartered Accountants have been functioning for many years under a different context altogether. The situation was different, the background was different. It has not been possible to completely change their outlook and approach. I shall put it in that way, but I do think that the time has come when the Institute will have to consider this matter carefully as to what steps should be taken so that the new entrants get full opportunity to carry on their work, to expand their work, to progress and to prosper. There are difficulties no doubt in the way. After all it will be said that in other professions there is no restriction. Some hon. Member suggested that the work should be distributed amongst the senior accountants and the newcomers, that a limited number of concerns should be audited by senior chartered accountants and other concerns should be distributed amongst the newcomers. I do not know how that kind of proposition will work. I am also inclined to agree that there will be some difficulty about that.

Similarly, you will say, why not ask the senior accountants to restrict their number of cases so that the juniors might also get clients and some cases. The same argument could be applied to the profession of medicine. Doctors of repute might also be asked not to take up all the major cases, important cases, and thereby earn big incomes. I mean there is some form

of competition in this field also as there is in the other fields.

Naturally, the other aspect of the question is also to be borne in mind. The people also have to be given some freedom in this matter. Those who have to engage lawyers, those who have to send for doctors, should have the freedom to choose the doctors or the lawyers they want. You cannot compel a man to send for any doctor. If he is not satisfied with a particular doctor, naturally he would like to have the best doctor he has in his mind in the city. In the same way in the matter of auditing of the accounts of a company or concern, the company or concern should be to some extent free to choose the firm of chartered accountants they like to employ, because if they have faith in a particular firm of accountants, they will naturally engage that firm.

Even when I agree that the newcomers should get wider opportunities, we cannot ignore the other side of the picture about which I have just now said. There will have to be some freedom given to the companies and concerns to employ the firm of chartered accountants they choose. So, how to do it is the point. You cannot make a different law altogether for one profession and another law for other professions. Chartered accountants are of course regulated to some extent by our law. Yet they are a practising institution. The chartered accountants are free to function almost as they like within the framework of this law. They are almost free, and even the Institute is an autonomous Institute. Therefore, how to impose any restriction is not an easy matter to decide. It will have to be considered very carefully, but in the present circumstances the best thing would be for the senior chartered accountants to voluntarily see to it that the newcomers do not have any complaint or grievance against their senior partners. It is really very unfortunate that there is so much of grievance and heart-burning amongst the newcomers. It is possible these days that sometimes

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we overdo also in putting forward our grievances, but whatever may be said, even supposing it is somewhat exaggerated, I say it is time for the Chartered Accountants Institute as well as for the senior chartered accountants to seriously ponder over this matter as to why there should be this amount of grievance, this amount of heartburning and this amount of anger, and they must think of ways and means of how they can pacify them, not just merely a psychological pacification, but in fact they have to be given some work so that they get full opportunity to function, as I said, and prosper in the future.

What is necessary also is that the newcomers have also to see to it that they are efficient, that they have specialised fully in their subject, and that they create a place for themselves. If they do this, naturally the senior partners should help them. But if the juniors merely depend upon getting aid from others, they will never be able to rise, they will never be able to advance. So, it is essential that when the hon. Members lay emphasis on the fact that the senior chartered accountants should give necessary assistance to the juniors, they have also to emphasize the fact that the juniors or the newcomers also have to make their need felt in the country, and if they are not there on merits, if they are not able, if they are not adequately qualified, naturally they will not be required, they will not be wanted. So, I have to appeal to the newcomers also that they must try to build up and almost force the senior partners to give way to them. That situation has to be created from their side also. To the senior chartered accountants I have merely to suggest that they have also to build up a tradition. In these matters laws always do not play an important role. A new tradition has to be built up by the senior chartered accountants, and the tradition should be such that there are friendly relations between the new-

comers and the old people, and the old hands should, in fact, encourage the newcomers because the newcomers are the people who will take their place. If I do not ask my colleague to do some of my work, if I do not entrust any work to him, the matter ends there. I have the power not to delegate any power to my colleague. Fortunately I take pleasure, I take delight in that, because my junior colleague is the person who will take over from me. That kind of spirit has to be there amongst the senior chartered accountants.

Sir, about the training of the chartered accountants, I must say that some steps have been taken by the Institute. They have established a coaching board. And also at the regional headquarters level, lectures are given and practical training is also given to the newcomers to take their practical training with the senior accountants. All these things are there. But I have somehow got a feeling that that is not enough. I mean, the way the training is being imparted is not sufficient and something much more than that has to be done. In the same connection, Mr. Dhage and other friends have referred to the high fee that is charged from articled clerks and others. I am told that a premium of Rs. 3,000 is charged. Well, these are matters which do deserve consideration. The Institute has to find money for its working no doubt. But it has worked for a fairly long time and I can understand that the Institute in the beginning should have tried to find money for its working and for itself through the realisation of high fees, etc. But whether . . .

SHRI RAJENDRA PRATAP SINHA: I think that the fee is not charged by the Institute. This is charged by the senior accountants to whom these articled clerks are attached.

SHRI V. K. DHAGE: That is the premium.

SHRI RAJENDRA PRATAP SINHA: I am talking of the premium.

SHRI LAL BAHADUR: The premium is charged by the senior chartered accountants and the examination fee and other things go to the Institute.

So, what I would suggest is that we should appoint a committee to go into all these matters—what should be the course, what should be the fee, whether we should have a Central Institute for training, what kind of institutes we should have at the regional headquarters, how to arrange for imparting practical training to new-comers and so on. All these are important matters which have to be considered by the committee. Sir, when this Bill has been passed in this House and the other House, I propose to appoint a committee on which naturally we will have the representatives of the profession, the Institute and I also propose to have a few Members of Parliament on it so that the committee is able to go through every aspect of this question and submit its report. When that report has been received, we can go ahead on the basis of the recommendations of that committee.

Sir, about the question of disciplinary cases, well, it has been said that all the cases will not be referred to the High Courts. As the Deputy Minister said this morning, an appeal lies with the High Court in every case. But our difficulty is that we have been referring very minor cases to the High Courts and even the Home Ministry had suggested to me that we should try to lighten the burden of the High Courts. They being very busy, it was not considered advisable to refer each and every disciplinary case for decision to the High Courts. Hence, we have divided it into two parts. Disciplinary cases of an important nature will be referred to the High Courts and they will be decided by them. Cases of a minor nature will be dealt with by the Institute. I personally think that we should not unnecessarily have some kind of suspicion or doubt

against the Institute. Most of the cases that the Institute has decided have been upheld by the High Courts. The Institute has so far received 235 information and complaints against the members of the Institute of which 155 were filed by the Council after preliminary enquiry as no *prima facie* case was established. The other 80 cases together with 12 complaints made by the Government which should be enquired into in any case, making a total of 92 cases, were enquired into by the Disciplinary Committee. Fiftyeight of these have so far been disposed of by the High Courts in one of which the accountant having died, the case was filed. In the other 57 cases, the Council had found the members guilty in 38 cases and the High Court had upheld the finding in 31 cases. And in 19 cases, the Council found the members not guilty, in all of which the High Court had agreed with the Council. So, in a few cases, the High Court took a different view. Well, I mean, legitimately the High Court could differ from the Council. But to say or suggest that there was any deliberate intention to victimise a certain person would be hardly justified. So, as I said at some other place, there should be a finality about these matters. If there was a higher court than the Supreme Court, many people would like to appeal to that higher body. But after all, when the Supreme Court has made a decision, whether the person concerned considers it a right judgment or not, well, he has to abide by it. After all, the chartered accountants will have to depend on their Institute and on those senior people. It should not be considered that by victimising some of the chartered accountants, they will create more work for themselves and it would rather be stretching it too far. If out of 89 or 90 cases they take action against 36 or 37 and give them some punishment, well, it does not mean that they are trying to bar their way or put a ban on others in order to prosper themselves. As I said, it will not be fair to take that view. Hence, I think

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that we should not oppose this provision which has been made in the Bill.

I was thinking of something else about this matter. But there is hardly any time and therefore, I do not want to indicate what I was thinking about in this particular matter. But there will be ample opportunities. Let us see how it works. If we should receive a large number of complaints, if we really feel that injustice is being done in several cases, it is always open to the Government to come to this House and put forward an amendment. So, in the present circumstances, I would appeal to the House that this provision should be accepted as it exists.

I was somewhat surprised that, when we want to give power to the Institute in this matter, Shri Dhage vehemently opposes it, does not like it. And if we take powers to issue directions to the Institute, he does not like that either.

I mean it is almost taking a contradictory position—either the hon. Member has faith in the Institute or has not, and we have taken a middle course. In small matters, in minor matters we say disciplinary cases should be referred to the Institute, and there again adequate care is taken. There is a Disciplinary Committee. The Disciplinary Committee goes through the disciplinary cases, and then that Disciplinary Committee refers the cases to the whole Council, and then they come to a decision. So, adequate care has been taken in regard to the investigation and inquiry into disciplinary cases. The hon. Member said: What is this direction? Why is Government taking power to issue directions to the Institute? Well, I personally consider that to be absolutely essential; because it is an enabling clause. I do not say that Government will every time be issuing directions to the Institute or that Government will like

to interfere or intervene in each and every matter. But that enabling power should be there. If in case we find that certain directions or certain regulations have to be issued in the interest of the profession itself, in the interest—as the hon. Member said—of the juniors or the newcomers in the profession, Government should have the right if the Institute will not agree, if they do not accept our advice. Certainly we will, rather the Secretary in the Company Law Administration will discuss the matters first with the President of the Institute. He can also discuss it with the Council but ultimately, if they do not see their way to agree to our proposals and Government comes to the conclusion or is firmly of the opinion that those things should be put into effect in the larger interest of the profession, well, naturally Government will then ultimately have to issue the directions. As I said just now, we are appointing a committee to go into the question of the training of chartered accountants. Suppose the committee makes certain recommendations which, say, are not acceptable to the Institute. I don't say that it will happen, but suppose it is not acceptable, how is the Government going to implement those recommendations? It is therefore essential that in very special cases, when it is not possible for the Government and the Institute to come to an agreement, then, at least that power should be there so that Government might be able to function effectively.

Well, Sir, I do not want to take more of your time; it is because the Deputy Minister has to reply in detail, I shall not go into other matters. I simply wanted to refer to some of the general points which were made in this House. I have only to say this. There are firms, I mean, there are firms of chartered accountants, and the charge was levelled that these are becoming monopolies—some of the firms of chartered accountants—that they will pass on from father to son, that the firms might become hereditary.

Well, as regards these firms, if you will permit me to say, Sir,—I am merely expressing my own opinion—somehow I am not inclined to favour the formation of such firms or concerns in respect of these professions although there are firms in other professions also. For example, there are the firms of solicitors in the legal profession. So that thing is there and has been there for a long time. In U.K. there is no law at all, I mean, the Accountancy profession is functioning in an independent manner altogether. In U.S.A. too—I am informed—there is no such law. So there is almost complete freedom and there are the firms also functioning in those countries. But I gave some thought to it, and felt that if we have to consider this matter, we cannot consider it in the context of the present Bill. It is a very basic question, a question of high policy. But I must thank the House for bringing up that matter before us so that it might receive our consideration in future. In any case we do not want that it should become a hereditary affair, and I hope our Deputy Minister will give the House an idea as to how we propose not to make it a hereditary sort of thing.

In the end, Sir, I have only to say that the question of code of conduct is very important in regard to the working of our professional accountants, and howsoever strict we may be, we have to depend on the standard of the accountants and they have also to some extent to depend on the standards that prevail in the society. A chartered accountant does not function in isolation; he is functioning in a society, in which he should naturally function in the same way as others are functioning, and it is true that we do not want merely a code of conduct for the chartered accountants. In fact, I said the other day in Calcutta that we politicians or administrators or businessmen should also have some form of code of conduct, and we must abide by that code of conduct. So our chartered accountants have also to remember

that they cannot rise if they will not stick to a certain code of conduct, and when I mention about this I say that there is a great opportunity for our new-comers to play their role, for those who are men of conscience, men of integrity, even if they are a little less efficient than others, even if they are a little less qualified than others. I say, if they are honest, if they do their duty in a straightforward manner, I have no doubt they will be not only liked but loved, and I would therefore appeal especially to the new-comers and also to the senior accountants that they must set up a high standard if they want to build up a high tradition in so far as their profession is concerned.

In the circumstances, Sir, I hope Mr. Sinha will like to withdraw his motion for reference to a Select Committee. While saying so I can further assure him and the other Members of this House that many matters have been raised which are fairly important, which deserve further consideration, and I want to make a suggestion that I would very much like the hon. Members of this House who are interested in it, and Members of the other House also if they so desire, to meet that Secretary and other officers of the Company Law Administration. We can also invite the office-bearers of the Institute, the Council, I mean, we can have a small conference or a meeting where we can thrash out the various points raised in this House. The hon. Members will get an opportunity to hear the other side also—it is just possible we may not be taking a correct view of every matter. So I would like, whenever the hon. Members so desire, to hold such a meeting or conference, where these matters could be thrashed out, and we will then again tell the hon. Members as to what has been the result of the discussion, how we want to proceed in regard to those matters which are discussed in that body.

SHRI RAJENDRA PRATAP SINHA:
The hon. Minister himself could take

[Shri Rajendra Pratap Sinha.]
the initiative in calling such a conference.

SHRI LAL BAHADUR: I shall gladly take that initiative, Sir, and would convene such a meeting. Therefore I would make an appeal that that motion of the Select Committee might be withdrawn.

श्री राम सहाय (मध्य प्रदेश) : उपसभा-पति महोदय, चार्टर्ड एकाउन्टेन्ट्स अमेंडमेंट बिल के बारे में मैं समर्थन करने के लिए खड़ा हुआ हूँ। जैसा कि अभी मन्त्री महोदय ने बताया, मेरे खयाल से भी इस बिल को सिलेक्ट कमेटी में जाने की कोई वजह नहीं है और न इसमें कोई ऐसा लम्बा चौड़ा विषय ही है जिसके लिए इसको सिलेक्ट कमेटी में जाना चाहिये।

मुझे तो सिर्फ एक सजेशन पेश करना है जिसको मैं हाउस के सामने रखना चाहता हूँ। वह अगर उपयुक्त समझा जाय तो उस पर अवश्य विचार किया जाय। अभी मैंने देखा कि हमारे मिनिस्टर महोदय और मिस्टर सिन्हा में चार्टर्ड एकाउन्टेन्ट्स के फंक्शन के बारे में थोड़ा सा मतभेद था। लेकिन जो दोनों साहेबान ने सजस्ट किया है मैं उससे ज्यादा दूर जाना चाहता हूँ। इसलिये मैं कुछ बातें हाउस के सामने रखना चाहता हूँ। आजकल जैसा कि अभी मन्त्री महोदय ने फर्माया बहुत से उद्योग, व्यापार, कारखाने इत्यादि खुल रहे हैं। इतना ही नहीं है बल्कि शिक्षा के सम्बन्ध में जो एड गवर्नमेंट की ओर से दी जाती है और सोशल रिफार्म या हरिजन इत्यादि के लिए जहाँ कहीं भी, जिस प्रकार की भी, गवर्नमेंट से सहायता दी जाती है या लोनस दिये जाते हैं वहाँ मैंने यह देखा है कि चार्टर्ड एकाउन्टेन्ट्स जहाँ उस हिमाव को पाम कर देते हैं, उन लोगों को सहाय्यता मिल जाती है, उनके द्वारा वे आगे की कार्यवाही कर लेते हैं और सहायता या लोन प्राप्त कर लेते हैं। चार्टर्ड एकाउन्टेन्ट्स जिस प्रकार से

हिस्साब किताब की जाच करते हैं उसमें मैंने यह देखा है कि अक्सर वे कागजी जाच करते हैं। जो वाउचर्स उनके सामने आते हैं या एकाउन्ट्स बुक में जिस तरह से चीजें दर्ज होती हैं उसमें वे केवल इतना ही देखते हैं कि रेजोल्यूशन इत्यादि में जो खर्च करने का जिक्र होता है उसके मुताबिक खर्चा हुआ या नहीं हुआ। मेरे खयाल से केवल इतना देखना पर्याप्त नहीं है। मेरा यह निवेदन है कि चार्टर्ड एकाउन्टेन्ट्स के जो फंक्शन हैं उनमें यह बात अवश्य होनी चाहिये कि जो वाउचर्स उनके सामने आते हैं उनका वेरिफिकेशन वे अवश्य करावें जैसा कि ओरिजिनल ऐक्ट की धारा २, ज़िमत २ में बताया गया है कि वेरिफिकेशन आफ फाइनेंशियल ट्रांजेक्शंस का काम उनका है। तो मेरा यह निवेदन है कि कुछ परमेंटेज इस बारे में अवश्य कायम होना चाहिये, जिसके द्वारा उनको इस बात के लिए मजबूर किया जाय कि जितने वाउचर्स वगैरह उनके सामने आयें उनमें से किसी परमेंटेज से वे वेरिफाई करावें चाहे वह दस पांच फी मदी ही क्यों न हो। वे इस तरह पर वेरिफाई करावें कि जिन परसन्स के द्वारा वे लिये गये हों उनके बारे में वे देखें कि दरअसल वे ठीक हैं या नहीं। एक कालेज का सेक्रेटरी होने के नाते और एक पोलीटेकनीक इंस्टीट्यूट का सेक्रेटरी होने के नाते, चार्टर्ड एकाउन्टेन्ट्स की जिस प्रकार से रिपोर्ट आती है उसका मुझे थोड़ा सा अनुभव है। जो गवर्नमेंट एड सोशल वेलफेयर और हरिजन इत्यादि के कामों के बारे में दी जाती है उसके सम्बन्ध में भी मैंने जो देखा है उसमें इस नतीजे पर पहुँचा हूँ कि बहुत से, बहुत से तो नहीं कह सकता, यह तो मे गलत कह रहा हूँ, कुछ सज्जन इस तरह से हिस्साब तैयार करते हैं जिस तरह से चार्टर्ड एकाउन्टेन्ट्स उस हिस्साब को देखना चाहते हैं या देखते हैं। वे फर्जी रसीदों के जरिये महज बोझ हिस्साब तैयार करके रखते हैं और अच्छे से अच्छा सार्टिफिकेट उनको मिल जाता है बल्कि एक प्रकार का लाइसेंस उनको मिल जाता है कि वे आगे गवर्नमेंट से सहायता,

या कर्जा हासिल करे। तो मेरा यह निवेदन है कि जो महत्वपूर्ण काम चार्टर्ड एकाउंटेंट्स के सुपुर्द है उसमें जब तक हम उनको ज्यादा बारीकी से देखने के लिये मजबूर न करें तब तक उनके हिसाब को सही मानना या यह मानना कि उन्होंने निहायत अच्छी तरह से देख करके लिखा है, यह बहुत उपयुक्त नहीं है। अगर उनके कागजात पर भरोसा करके गवर्नमेंट को आगे लोन्स या सहायता देनी हो, तो यह अवश्य ही होना चाहिये कि वाउचर्स रसीदे, इत्यादि जो हैं उनके बारे में खास तौर पर वे देखभाल करें। या तो जिस संस्था के हिसाब किताब की वे जांच करते हैं उस पर यह जिम्मेदारी डाली जाय कि चार्टर्ड एकाउंटेंट्स जिसको मुनासिब समझे या जिन रसीदों की वेरिफाई करना चाहें उनसे सम्बन्धित व्यक्तियों को वे संस्थाएं खुद पेश करें वा चार्टर्ड एकाउंटेंट्स खुद किसी प्रकार से ऐप्रोच करके उन व्यक्तियों से यह तस्नीम करायें कि वे रसीदें उनकी हैं या नहीं। यह साधारण सी बात नहीं है। मैं यह देखता हू कि इसमें गवर्नमेंट का बहुत सा मनी वेस्ट जाता है, बेकार जाता है और इस प्रकार की सहायता का लोग दुरुपयोग करते हैं। इसलिये मेरा यह निवेदन है कि ऐसी कोई चीज अवश्य होनी चाहिये जिससे ऐसी बातें न हों।

ओरिजिनल ऐक्ट सन् १९४६ में कास्टिट्यूट एसेम्बली (लेजिसलेटिव) के द्वारा तैयार किया गया था। इन नौ सालों में जो अनुभव गवर्नमेंट को हुये और जो दिक्कतें इस्टिट्यूट के सामने आई, उनके आधार पर यह बिल हमारे सामने लाया गया है। इसके द्वारा जो तरमीमें ओरिजिनल ऐक्ट में की गई हैं उनसे अवश्य ही बहुत कुछ सहूलियतें पैदा की गई हैं। नियम इत्यादि बनाने के बारे में जो कायदे हैं, उनके बारे में खास अधिकार गवर्नमेंट ने अपने पास सुरक्षित रखा है। गवर्नमेंट ने यह रखा है कि अगर कौंसिल कोई बात या कोई नियम नहीं बनाती है तो गवर्नमेंट उनको मजबूर कर सकती है कि वे बनाये।

अगर गवर्नमेंट की हिदायत के मुताबिक वे न बनायें। तो गवर्नमेंट उन नियमों को स्वयं बना कर के जारी कर सकती है जैसा कि हम अमेंडमेंट बिल में धारा २० में जो तरमीम की गई उसमें देखते हैं। तो मैं समझता हू कि शायद मेरी बात मौजूदा सूरत में किसी नियम के तहत न आती हो, लेकिन आगे जो नियम बनने वाले हैं उनमें इस तरह का प्राविजन अवश्य ही रखा जा सकता है।

इसके अतिरिक्त इस बिल की धारा १३ के तहत ओरिजिनल ऐक्ट के मेक्शन १७ में तरमीम की गई है। इन तीन एडिजक्चुटिव कमेटी, एक्जामिनेशन कमेटी, डिसिप्लिनरी कमेटी के बनाने के अलावा, जो तरमीम की गई है उसमें और कमेटीज बनाने के बारे में भी गवर्नमेंट ने अपनी तजवीज रखी है। तो जब इतना विशाल हम इस बिल को बना रहे हैं और हमारे भारत-वर्ष में गवर्नमेंट की तरफ से बहुत सी सहायता दी जा रही है, तो फिर हम चार्टर्ड एकाउंटेंट्स से यह उम्मीद करें, यह आशा करें कि उनकी जो जांच हो और उस जांच की जो रिपोर्ट गवर्नमेंट के सामने आये उससे गवर्नमेंट को यह बिल्कुल इत्मीनान हो जाय कि जो गवर्नमेंट का पैसा किसी प्रकार से दिया जा रहा है उसका किसी प्रकार से दुरुपयोग नहीं हो रहा है। तो मेरा निवेदन यह है कि इन सब बातों पर खास तौर पर विचार होने की आवश्यकता है। वैसे तो मिसकांडक्ट का जो चैप्टर था वह सारा चैप्टर ही इसमें बदल दिया गया है, शेड्यूल्स में भी काफी तब्दीली कर दी गई है और जो मेन सेक्शन २ है उसमें जब वेरिफिकेशन की बात आती है तो इन सब बातों को देखते हुए मेरा जो निवेदन है वह किसी तरह से भी अनुपयुक्त नहीं है।

बड़े बड़े सिद्धान्तों के तहत चाहे मेरी बात न आती हो लेकिन मैं यह निश्चयात्मक रूप से कह सकता हू कि प्रैक्टिकल अनुभव के द्वारा जो बात मैं आपके सामने रख रहा हू उसमें किसी प्रकार का संदेह करने की गुजाइश नहीं।

[श्री राम सहाय]

है। इस प्रकार के दो चार कसेज तो मेरी पर्सनल नोटिस में ही हैं। जब एक छोटे से जिले में ऐसे दो चार कसेज नोटिस में आ सकते हैं तब सारे भारतवर्ष में जहां करोड़ों नहीं बल्कि अरबों रुपया सहायता के रूप में, कर्ज के रूप में, समाज-सुधार के लिये, हरिजनो-द्धार के लिये, तिजारत के लिये शिक्षा के लिये सब प्रकार से खर्च किया जा रहा है उसमें किस प्रकार का दुरुपयोग होता होगा उसका अंदाजा नहीं लगाया जा सकता है। तो मेरा निवेदन है कि इस बात पर हमारे मिनिस्टर महोदय जरूर गौर करें और जैसा कि उन्होंने फर्माया है कि वह एक कमेटी के बारे में सोच रहे हैं तो मैं समझता हूं कि उस कमेटी में भी इस प्रश्न पर वह अवश्य विचार करेंगे।

बस मुझे अपना यही एक सजेशन रखना था, अधिक कुछ कहना नहीं है।

SHRI SATISH CHANDRA: Mr. Deputy Chairman, Sir, I have very little to say after the speech of the Minister of Commerce and Industry. While moving the motion for consideration of this Bill I had referred briefly to the history and growth of the Institute of Chartered Accountants. I had ventured to point out its successes and achievements as well as some of its shortcomings and failures. I had briefly touched upon these matters in order to convince the hon. Members that we were aware to some extent of the problems which they had in mind. Several things have been said against the Institute and its senior members. I might say that though there might be grounds for grievance against certain section of the Institute, it has, on the whole, functioned well and has advanced the cause of the accountancy profession in India. There are certain shortcomings which must be removed. This Bill empowers the Government to make regulations in consultation with the Council of the Institute and if necessary, to issue directions. It shall be our endeavour to do away with these shortcomings and remove them as far as possible carrying with us the senior members of the Institute,

so that the defects and deficiencies which have been pointed out in this House can be removed with the good will of everybody concerned.

After having said this, I will refer to a few points raised by hon. Members. The responsibilities and the obligations of the chartered accountants to our society, where industrialisation is progressing at a fast pace and companies are being formed in large numbers year after year, are quite onerous. It is absolutely necessary that the standards of this profession should conform to the objectives before us, not only the limited objectives embodied in the Act but the larger socio-economic objectives, to which I referred in my opening remarks. I am glad that as far as that matter is concerned, we have the support of every Member of this hon. House and the observations made here will certainly impress on the profession the need for greater vigilance in that respect. While we are entitled to expect from the profession high standards for the furtherance of the socio-economic objectives, we must also be clear about its proper role and functions. The hon. Minister has already referred to this matter. I think there is some confusion on this issue. The responsibility of a chartered accountant *vis-a-vis* the company is to verify the correctness of the accounts as they stand in the books. It is his function to make such enquiries as he possibly can from the management and to present to the shareholders as correct a picture as possible of its state of affairs and to see that there are no mistakes in the accounts, that the balance sheet has been drawn up in conformity with the law, that the profit and loss account has been properly prepared and so on. It is however, not the function of the chartered accountant to question the management about the technique of production. There may be some economy in his opinion, if a particular technique is followed for manufacturing an article but it is not the function of the chartered accountant to point it out. He is not, by his own training, entitled to make such suggestions. It is not for a chartered accountant to suggest to

the management, the managing agents or a managing director that company funds should be invested in a particular manner. He can only see whether the funds have been invested and if they have been invested whether they have been brought into the books. Whether they have been invested rightly or wrongly or whether the investment is sound or unsound is not a matter for him so long as investment has been made according to the law. Those who make these investments are careful enough to see that they remain within the four corners of law.

4 P.M. Therefore, the chartered accountant cannot and does not point out to the shareholders these inter-company investments which may sometimes lead to losses. If investments are made according to the law, they are not objected to by the chartered accountant. So, while we may criticise the profession—and some of the criticism may be quite legitimate—we must clearly understand the real role and the limited responsibilities and functions of the profession. Only then can we properly appreciate the progress made by the Institute or the manner in which duties have been discharged by the chartered accountants. We may try to evaluate their work against a proper background and in proper context. I would like to leave the matter here.

My hon. friend, Shri Dhage, and also other hon. friends, Shri Nair and Shri Sinha, emphasized rules of conduct which should be observed by the chartered accountants. It was observed that they are followed more in the breach than in compliance. Instances were cited in this connection and several suggestions were made. It was asked: 'Why not introduce compulsory audit of business concerns with an income above a certain limit?' I think Mr. Sinha, said that. The suggestion is a good one *prima facie*. It has been examined quite a few times. Prof. Kaldor made certain recommendations in that connection. The Income-tax Enquiry Commission also considered that subject. It has been examined by the Central Board of

Revenue in the Ministry of Finance. There are practical difficulties in implementing this proposal. Prof. Kaldor examined three suggestions in this connection. He thought that if chartered accountants were to be made responsible for accounts for income-tax purposes, that could be done only in three ways. One is to nationalise the profession. Failing that, there should be compulsory audit by the Government auditors, in addition to the auditors appointed by the company. The third is that the appointment of auditors by the company should be approved by the Auditor-General and the Government should share with the company the fees paid to such auditors. These suggestions were made by Prof. Kaldor and examined in detail by the Taxation Enquiry Committee and the Central Board of Revenue which came to the conclusion that they were not practicable.

It is easy to impose statutory obligations on somebody, but it is entirely a different thing to secure an effective discharge of those obligations. Suppose the profession is nationalised. Even if the profession is nationalised, it is not clear how such irregularities as the keeping of two sets of accounts, one for income-tax purposes and for being shown to the auditors and another kept secretly can be overcome. How can that evil be dealt with by the nationalisation of the profession of chartered accountants? It is also difficult to detect cash transactions which are kept outside the books and brought in at some appropriate time through surreptitious entries. How can that be remedied by merely changing the chartered accountant, or by nationalising the profession? There are many other evil practices. The remedy lies, perhaps, in arousing public opinion so that such practices by company managements become impossible, or in taking stringent action under the Income-tax Law or other taxation laws or under the Indian Companies Act. The Chartered Accountants Act is surely not the place for considering these issues which are much more

[Shri Satish Chandra.] complicated. The Direct Taxation Administration Enquiry Committee is studying the problem of tax evasion and I am sure that it will look into this problem. So these suggestions appear to be outside the scope of the provisions contained in the Chartered Accountants (Amendment) Bill.

My hon. friend, Shri P. Narayanan Nair, referred to shady deals by several business houses in this country and he charged the chartered accountants with failure in their responsibility because they did not detect them in time. I have already dealt with this matter briefly. There are already powers of investigation under the various Acts which the Government already possess. The Commission of Enquiry Act, the Industries (Development and Regulation) Act, the Companies Act confer these powers. There are several other Acts where specific provisions are made for enquiry into such deals. But so long as they are shady and so long as the managements do not show them in account books, they are not covered by the responsibilities of the chartered accountants. If at any time the auditor is found to abet in these transactions or fraudulent acts, if he is party to it or if he suppresses facts which come to his knowledge, well, he can always be taken to task under the law.

SHRI PERATH NARAYANAN NAIR: If I may interrupt, if the man does not call for the necessary papers, is that not chargeable? Is he not responsible?

SHRI SATISH CHANDRA: Yes, but all these shady deals take place outside the papers. That is the difficulty. If the transactions were recorded in the books, then that would certainly be the responsibility of the chartered accountant. But they take place outside and are not brought on to the books. Securities disappear. At the time of the audit they are brought back and put into the safe and shown to the auditor and they again disappear for one year. They reach the speculation market. What I am sub-

mitting is, so long as they are not in the books, that is not the responsibility of the chartered accountants

SHRI V. K. DHAGE: Correct.

SHRI SATISH CHANDRA: If they abet in the performance of these things, if they deliberately conceal facts which come to their notice, they will certainly be responsible and they can be punished for professional misconduct.

I need not go into the details of disciplinary cases because the hon. Minister has already referred to this matter. There were about 92 cases in which a *prima facie* case was established. They were referred to the Disciplinary Committee and on the recommendation of that Committee, 58 cases went to the High Courts. The hon. Minister has already given the number of cases in which punishments were meted out.

My hon. friend, Shri Dhage, said something about under-cutting by senior members of the profession in order to prevent younger men from getting business. The under-cutting has now been included in the schedule as one of the items so that it can be treated as professional misconduct.

Mr. Sinha said that the Reviewing Committee have not taken into consideration the difficulties of the junior members. I will request him to look once again into the recommendations of the Reviewing Committee. The Reviewing Committee consisted of eminent persons from the profession. They were the senior men and have produced a document in which they have done a lot of self-criticism. We must appreciate the spirit in which they have prepared the report instead of saying that they have not been fair to the younger people. Mr. Dhage said just now that because the senior men were on the Reviewing Committee, they have recommended something which looks as if it has come from the vested interests. It is not at all correct. There is a lot of self-criticism in

the Reviewing Committee's Report. The senior members, the leaders of the profession, have themselves pointed out the difficulties experienced by the junior members of the profession, the need for improvement in the arrangements for training, the lack of opportunities for the young men and so on. They have more or less reflected the feelings of the friends opposite who have criticised them and said that the senior members have not been fair.

SHRI RAJENDRA PRATAP SINHA: I have relied on the report of the Reviewing Committee to criticise the Institute's training facilities.

SHRI SATISH CHANDRA: My hon. friend. Shri Dhage, read out the names of the members of the Reviewing Committee one by one and said that some of the recommendations made by them appeared as if they were recommendations made in their own interests, not in the interests of the younger members. When I read the report of the Reviewing Committee, I somehow get a different impression. I read it as a document which has done a lot of self-criticism, which leaves the impression on my mind that it is a document produced in an honest spirit. That is the impression on my mind. It may be that my impression may differ but there are many things in this report on which action has to be taken. These recommendations relate to training, to fees, to professional ethics and so on.

There is another question. Where should the dividing line be drawn at which the senior members should stop and leave the field to young men? These things can best be controlled by the senior members themselves or alternatively through regulations. These cannot be included in the Act. There are no sections in the Act dealing with such matters. They come under the regulation-making powers of the Council. My own impression is that the Council, after reading the report of the

Reviewing Committee in which there is a lot of self-criticism, will try earnestly to correct the shortcomings. If it is not able to do so or there is difficulty, Government can bring its influence to bear upon the Council. We will request the Council or try to persuade it under our regulation-making powers to make such improvements as are considered necessary for the achievement of larger objectives. It is only with that end in view the regulation-making power is being taken and I am quite sure that the difficulties, which the hon. Members have pointed out or the Reviewing Committee has pointed out, will be remedied in due course. We shall welcome suggestions from the hon. Members. The Minister has already said that he will consult them in regard to what can be done.

There are many other points raised by hon. Members but I think they can be dealt with when we discuss the clauses. I need not go into each one of them now because it will be a repetition again when we take up the clause by clause consideration of the Bill.

I request my hon. friend Shri Sinha to withdraw his motion for referring the Bill to a Select Committee. There are many amendments, official as well as non-official, which the House will be considering just now. I think some of them will improve the texture of this Bill.

I would like, with the permission of the House, to move an amendment of which notice has not been given. If the House permits . . .

MR. DEPUTY CHAIRMAN: We can take that up when we take up the clause by clause consideration of the Bill.

SHRI SATISH CHANDRA: I just want to mention it so that the hon. Members may think over it. It relates only to the deletion of a few words which will improve a clause.

MR. DEPUTY CHAIRMAN: When we take up the clause by clause consideration of the Bill . . .

SHRI RAJENDRA PRATAP SINHA: Let the hon. Minister mention the text, Sir. He can generally point out so that we can think about it.

MR. DEPUTY CHAIRMAN: Just mention the amendment.

SHRI SATISH CHANDRA: I will just mention it. In part I of the First Schedule, on page 9, line 34, the words "or the widow or dependents" should be omitted; on page 9, lines 35-36, the words "whether such partner had retired from practice or not at the date of his disease" should be omitted. These amendments are being moved in order to meet the objection of Mr. Dhage who said that this profession was being converted into a business by making these emoluments permanent. The idea is that if a chartered accountant who is a member of a firm has retired or dies suddenly, there should be some provision for his widow or children at the time of his death. Otherwise, a firm of chartered accountants is purely a partnership of the working auditors. I am suggesting that amendment to . . .

SHRI V. K. DHAGE: But my amendment is also of a similar nature.

SHRI SATISH CHANDRA: We have got it examined. The wording I am suggesting for the consideration of the House covers what we have in view and also concedes what the hon. Member has in view. It is only a question of wording and I think we can leave the wording to the legal draftsmen.

Sir, I have done. I thank the House for having welcomed this Bill except for some differences on matters of detail many of which are being covered by the amendments.

Thank you, Sir.

SHRI RAJENDRA PRATAP SINHA: Sir, in view of the very good assurance given by the hon. Minister that he is going to appoint a high-powered committee to look into the detailed working of the Institute, particularly the training part of it, and also, Sir, in view of the fact that he has agreed to take the initiative to call a miniature conference of Members of Parliament, of both the Houses, of the Administration and the Council to meet together round a table, I beg leave of this House to withdraw my motion.

The motion* was, by leave, withdrawn.

MR. DEPUTY CHAIRMAN: The question is:

"That the Bill further to amend the Chartered Accountants Act, 1949, be taken into consideration."

The motion was adopted.

MR. DEPUTY CHAIRMAN: We shall now take up clause by clause consideration of the Bill.

Clause 2—Amendment of preamble

SHRI SATISH CHANDRA: Sir, I move:

41. "That at page 1, for the existing clause 2, the following be substituted, namely:—

"2. Amendment of long title and preamble:—In the long title of and the preamble to, the Chartered Accountants Act, 1949 (38 of 1949, hereinafter referred to as the principal Act), for the words 'profession of accountants' the words 'profession of chartered accountants', shall be substituted."

I am not moving my amendment No. 15.

MR. DEPUTY CHAIRMAN: The question is:

*For text of motion see col. 1173 of 4th December, 1958 *supra*.

41. "That at page 1, for the existing clause 2, the following be substituted, namely:—

"2. *Amendment of long title and preamble.*—In the long title of, and the preamble to, the Chartered Accountants Act, 1949 (38 of 1949, hereinafter referred to as the principal Act), for the words 'profession of accountants' the words 'profession of chartered accountants' shall be substituted."

The motion was adopted.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 2, as amended, stand part of the Bill."

The motion was adopted.

Clause 2, as amended, was added to the Bill.

New Clause 2A

SHRI SATISH CHANDRA: Sir, I move:

42. "That at page 1, after line 9, the following new clause be inserted, namely:—

"2A. *Amendment of section 2.*—In section 2 of the principal Act—

(i) in clause (b) of sub-section (1), the words 'and who is in practice' shall be omitted;

(ii) in sub-section (2)—

(a) after the words 'chartered accountants' or 'chartered accountant', wherever they occur, the words 'in practice' shall be inserted;

(b) for the words 'a firm of chartered accountants', the words 'a firm of such chartered accountants' shall be substituted."

MR. DEPUTY CHAIRMAN: New clause 2A is before the House.

SHRI RAJENDRA PRATAP SINHA: I welcome this amendment very much.

MR. DEPUTY CHAIRMAN: The question is:

42. "That at page 1, after line 9, the following new clause be inserted, namely:—

"2A. *Amendment of section 2.*—In section 2 of the principal Act—

(i) in clause (b) of sub-section (1) the words 'and who is in practice' shall be omitted;

(ii) in sub-section (2)—

(a) after the words 'chartered accountants' or 'chartered accountant', wherever they occur, the words 'in practice' shall be inserted;

(b) for the words 'a firm of chartered accountants', the words 'a firm of such chartered accountants' shall be substituted."

The motion was adopted.

MR. DEPUTY CHAIRMAN: The question is:

"That new clause 2A stand part of the Bill."

The motion was adopted.

New clause 2A was added to the Bill.

Clause 3 was added to the Bill.

Clause 4.—*Amendment of section 6*

SHRI SATISH CHANDRA: Sir, I move:

16. "That at page 2, for lines 9 to 13, the following be substituted, namely:—

"(ii) for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) Every such member shall pay such annual fee for his

certificate as may be prescribed, and such fee shall be payable on or before the 1st day of April in each year.'"

MR. DEPUTY CHAIRMAN: The clause and the amendment are before the House. I take it that nobody is speaking.

The question is:

16. "That at page 2, for lines 9 to 13, the following be substituted, namely:—

'(ii) for sub-section (2), the following sub-section shall be substituted, namely:—

(2) Every such member shall pay such annual fee for his certificate as may be prescribed, and such fee shall be payable on or before the 1st day of April in each year.'"

The motion was adopted.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 4, as amended, stand part of the Bill."

The motion was adopted.

Clause 4, as amended, was added to the Bill.

Clause 5—Amendment of section 7

SHRI SATISH CHANDRA: Sir, I move:

43. "That at page 2, for the existing clause 5, the following be substituted, namely:—

'5. Amendment of section 7.—In section 7 of the principal Act, for the words beginning with 'Every member of the Institute' and ending with 'in substitution therefor', the following shall be substituted, namely:—

Every member of the Institute in practice shall, and any other member may, use the designation of a chartered accountant and no member using such designation shall use any other description, whether in addition thereto or in substitution therefor.'"

MR. DEPUTY CHAIRMAN: The clause and the amendment are before the House. Since nobody is speaking, I will put the amendment to the House.

The question is:

43. "That at page 2, for the existing clause 5, the following be substituted, namely:—

'5 Amendment of section 7.—In section 7 of the principal Act, for the words beginning with 'Every member of the Institute' and ending with 'in substitution therefor', the following shall be substituted, namely:—

Every member of the Institute in practice shall, and any other member may, use the designation of a chartered accountant and no member using such designation shall use any other description, whether in addition thereto or in substitution therefor.'"

The motion was adopted.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 5, as amended, stand part of the Bill."

The motion was adopted.

Clause 5, as amended, was added to the Bill.

Clause 6 was added to the Bill.

Clause 7—Amendment of section 9

SHRI RAJENDRA PRATAP SINHA: Sir, I move:

17. "That at page 3, lines 1 and 2 be deleted."

MR. DEPUTY CHAIRMAN: The clause and the amendment are before the House.

SHRI RAJENDRA PRATAP SINHA: Mr. Deputy Chairman, the hon. Minister while moving this Bill for consideration of this House has not stated anything to justify the amendment of this clause. I may explain to you what is the significance of this clause. Now, on the Council at the present moment probably the number is not fixed. It is fixed by regulation but not by statute, as far as I know. Now, it is being fixed that there will be only 24 members of the Council and out of this 24, it is being provided that six will be nominated by the Government. As far as I know, at the present moment probably the strength of the Council is 25, or something like that. But the relevant part is this that the Government is empowered to nominate only five members of the Council. It is stated here in the Reviewing Committee's report that out of these five members, two are nominated by the Government in consultation with the two major commercial organisations in the country—the Federation of Indian Chambers of Commerce and Industry and the Associated Chambers of Commerce. These nominees are invariably chartered accountants. Three others represent the Central Board of Revenue, the Comptroller and Auditor-General of India and the Ministry of Commerce and Industry. Now, what is the justification for increasing this strength from five to six? No justification has been put forward. I would like to say at this stage that you are going to raise it from 25 to 26. Now, it has come to my notice—how far it is correct, I do not know, but I hope it is a fact, and the hon. Minister will contradict me if I am in the wrong—that these nominated members are taking active interest and part in the elections. There is nothing wrong, but to dabble in elections of this sort, I do not think, is correct on the part of the Government nominees. Generally I would say that they should be the watchdogs. They should watch

how the proceedings are going on and they should not encourage factions. On the other hand, the effort of the Government should be that the factions are suppressed. Now, what is happening today is this. There may be different parties or sections, and these nominated members try to support one or the other. I do not know whether they get some type of direction or support from the Government or what happens. Generally, Sir, a convention should be established—I would like to put it before the House and before the hon. Minister for their consideration—that in these elections of the President or the Vice-President, the nominated members should not as a rule take part. There should be no legal bar to their taking part, I grant that. In case the Government feels that they should take part, they should take part, but as a rule they should not take part in these elections. The President and the Vice-President should be elected by the elected elements in the Council itself. That will encourage, Sir, a healthy practice, and that will show that the Government is not siding one section or one side or one party against the other side in professional interests. It leaves a bad taste behind. Some of the members feel that the Government is lending its support to one section or the other. The Government should, I feel, hold the balance, and they should hold the balance not by voting but otherwise by their moral standing in the Council. Therefore, Sir, I suggest that the healthy practice should be normally that the nominated members should be directed not to take part in the elections.

MR. DEPUTY CHAIRMAN: They may also act as a corrective. Just now you made the allegation that the senior members are making it into a clique. They may act as a corrective.

SHRI RAJENDRA PRATAP SINHA: What I said was normally they should not encourage these factions to develop in the Council.

MR. DEPUTY CHAIRMAN: They may act as a buffer.

SHRI RAJENDRA PRATAP SINHA: If the Government feels that such an occasion will arise—but I am not talking of the day-to-day administration, I am only talking so far as the elections are concerned.

MR. DEPUTY CHAIRMAN: They cannot make nominations only for the purpose of elections.

SHRI RAJENDRA PRATAP SINHA: I say for the purpose of elections as a rule the nominated members need not use their votes. I merely say this. In many cases there is such a healthy convention. In my State, at least in the District Board, the nominated members do not take part in the election of Chairman and Vice-Chairman. I am talking of my State. Here, I do not bar them, but such a convention should be established. Sir, I would like to know what the idea is of increasing the strength of nominated members from five to six. I have already read out that all the Government interests are represented there. The Government is nominating members of the two Chambers. What is the idea, to whom do they want to give the sixth seat? Even the three officials would serve the purpose if it is not the purpose of controlling the votes for elections. If that is not the purpose, even the three members should be able to do.

SHRI SATISH CHANDRA: The hon. Member happens to be feeling strongly on the subject. There are five nominated members of Government even now on the Council, and they are not all Government officers. Some members are from industry representing various federations and others.

MR. DEPUTY CHAIRMAN: He wants to know why you want the sixth.

SHRI SATISH CHANDRA: There is no attempt to change the proportion. The present strength of the Council is 25, which is now being raised to 30. Instead of five, the Government nominees are being increased to six.

MR. DEPUTY CHAIRMAN: Five is one-fifth of 25. You want to keep the proportion. So it is six.

SHRI SATISH CHANDRA: At present there are five Government nominees and 20 others. There is no restriction under the present Act. The Council can go on increasing the number as the membership increases. We are laying down a maximum limit above which the number cannot go. Fixing that number at 30, the Government nominees will be 6 and others will be 24. There is no attempt to change the balance in the present set-up.

Sir, I oppose the amendment.

SHRI RAJENDRA PRATAP SINHA: Sir, in view of the hon. Minister's statement, I beg leave to withdraw my amendment.

*Amendment No. 17 was, by leave, withdrawn.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 7 stand part of the Bill."

The motion was adopted.

Clause 7 was added to the Bill.

Clause 8 was added to the Bill.

New Clause 8A

SHRI RAJENDRA PRATAP SINHA: Sir, I beg to move:

44. "That at page 3, after line 16, the following new clause be inserted, namely:—

'8A. Amendment of section 12—

In section 12 of the principal Act, in sub-section (4), for the words 'On the dissolution of the Council, the President of the Council at the time of such dissolution' the words 'On the expiration of the duration of the Council, the President of the Council at the time of such expiration' shall be substituted."

Sir, I have just moved the amendment and I do not want to make any speech.

*For text of amendment, vide col. 1486 *supra*.

MR. DEPUTY CHAIRMAN: The clause and the amendment are before the House.

SHRI SATISH CHANDRA: The existing provision is that the Council shall stand dissolved on the constitution of the new Council. This is only a clarificatory amendment to provide that the President of the Council at the time of the expiration of the duration of the Council shall continue to hold office till actual dissolution. I can accept that amendment.

MR. DEPUTY CHAIRMAN: The question is:

44. "That at page 3, after line 16, the following new clause be inserted, namely:—

'8A. Amendment of section 12.—In section 12 of the principal Act, in sub-section (4), for the words, 'On the dissolution of the Council, the President of the Council at the time of such dissolution' the words 'On the expiration of the duration of the Council, the President of the Council at the time of such expiration' shall be substituted.'"

The motion was adopted.

New clause 8A was added to the Bill.

Clause 9—Amendment of section 13

SHRI V. K. DHAGE: Sir, I beg to move:

1. "That at page 3, lines 22-23, for the words, 'after consultation with the President of the Council' the words 'on the recommendation of the Council' be substituted."

SHRI RAJENDRA PRATAP SINHA: Sir, I beg to move:

19. "That at page 3, line 20, for the word 'six' the word 'three' be substituted;"

20. "That at page 3, line 22, for the words 'after consultation' the

words 'in consultation' be substituted."

SHRI AMOLAKH CHAND: Sir, I beg to move:

30. "That at page 3, line 21, for the words 'dissolution of the Council' the words 'expiration of the duration of the Council' be substituted."

MR. DEPUTY CHAIRMAN: The clause and the amendments are before the House.

SHRI V. K. DHAGE: Sir, my point is merely this. This clause gives power to the Government to make a nomination after consultation with the President of the Council. My amendment merely means this that it should be on the recommendation of the Council, and it should not be merely the discretion of the President to say as to who is to be nominated. Since there is a Council which is functioning, I would like that the Council should be consulted and on the recommendation of that Council the nomination should be made by Government when a vacancy arises.

SHRI RAJENDRA PRATAP SINHA: Sir, we are pleading for petty mercies, and if you look at my amendment, you will see that I have merely said that instead of "after consultation" it should be "in consultation". Let them be consulted. They are after all a prominent body, a respected profession. Why always overrule them and just keep them under the thumb? In amendment No. 19, I have suggested three months in which the election is to be held. Of course, we can postpone the election. But six months is a long period. And I would like you to appreciate the fact that the life of the Council is only three years and the life of the president and the vice-president is only one year. If you make it six months, it is too long a period. Therefore, I have suggested three months.

MR. DEPUTY CHAIRMAN: Anything to say, Mr. Amolakh Chand?

SHRI AMOLAKH CHAND: I am not going to make any particular speech in this matter except to say that my amendment says that for the word "dissolution of the Council", the better expression would be "expiration of the duration of the Council" and that will meet some of the objections that have been raised by my two friends there.

SHRI SATISH CHANDRA: Sir, the election process takes more than three months. We have fixed the time of six months and we have no objection in principle to accept Mr. Sinha's amendment. But it is not practical because the election procedure usually takes four or five months with voters scattered all over the country and elections taking place by ballot and so on. There are practical difficulties there. I can accept Mr. Amolakh Chand's amendment.

MR. DEPUTY CHAIRMAN: Do you accept that?

SHRI SATISH CHANDRA: Yes.

MR. DEPUTY CHAIRMAN: Others you don't?

SHRI SATISH CHANDRA: No, Sir.

SHRI V. K. DHAGE: Sir, I beg leave to withdraw my amendment.

*Amendment No. 1 was, by leave, withdrawn.

SHRI RAJENDRA PRATAP SINHA: Sir, I beg leave to withdraw my amendments.

*Amendments Nos. 19 and 20, were, by leave, withdrawn.

MR. DEPUTY CHAIRMAN: The question is:

30. "That at page 3, line 21, for the words 'dissolution of the Council' the words 'expiration of the duration of the Council' be substituted."

*For texts of amendments, vide cols. 1491-1492 *supra*.

The motion was adopted.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 9, as amended, stand part of the Bill."

The motion was adopted.

Clause 9, as amended, was added to the Bill.

Clause 10—Amendment of section 14

SHRI RAJENDRA PRATAP SINHA: Sir, I move:

21. "That at page 3, line 25, for the words 'and, after sub-section (1) as so renumbered' the following be substituted, namely:—

'and,—

(a) in sub-section (1) as so renumbered, the words 'on the expiry of which it shall stand dissolved' shall be deleted; and

(b) after sub-section (1) as so renumbered."

MR. DEPUTY CHAIRMAN: The clause and the amendment are now before the House.

SHRI RAJENDRA PRATAP SINHA: Just a word, Sir.

Through this amendment, I suggest that the words "on the expiry of which it shall stand dissolved" shall be deleted. Sir, I will draw your attention to the original section—section 14—which says:

"Duration and dissolution of Council.—The duration of any Council constituted under this Act shall be three years from the date of its first meeting, on the expiry of which it shall stand dissolved and a new Council constituted in accordance with the provisions of this Act."

Sir, this means, according to my understanding, that automatically at the end of the three years after the election, the Council is dissolved. Automatically. This is one provision.

Now, what we are going to do is this that we are adding another sub-section to this section which reads as follows:—

“(2) Notwithstanding the expiration of the duration of a Council (hereinafter referred to as the former Council), the former Council shall continue to exercise its functions until a new Council is constituted in accordance with the provisions of this Act, and on such constitution, the former Council shall stand dissolved.”

My difficulty is this. This is, of course, for the Legal Department of the Government to consider. As the original provision stands, it will say that it will automatically end on the expiry of this period, whereas in the other section it will say ‘No, this can continue till the next elections are held.’ So, I am just keeping up the spirit of the new sub-clause (2) that you are having and it will not materially matter if in the original section 14, you drop the words “on the expiry of which it shall stand dissolved” because it will be governed by sub-section (2). If for any reasons the elections are not held, then it will not automatically get dissolved, but will continue to exist according to sub-section (2) till the new elections are held.

SHRI SATISH CHANDRA: Sir, the amendment is purely of a verbal and grammatical nature. I will go by the advice of the draftsmen in this matter. It won’t make any difference if the amendment is accepted. I do not accept it.

SHRI RAJENDRA PRATAP SINHA: No, no. You can accept it now.

SHRI SATISH CHANDRA: I do not accept it.

SHRI RAJENDRA PRATAP SINHA: I beg leave to withdraw the amendment.

*Amendment No. 21 was, by leave, withdrawn.

*For text of amendment, vide col. 1494 *supra*.

MR. DEPUTY CHAIRMAN: The question is:

“That clause 10 stand part of the Bill.”

The motion was adopted.

Clause 10 was added to the Bill.

Clause 11 was added to the Bill.

Clause 12—Amendment of section 16

SHRI RAJENDRA PRATAP SINHA: Sir, I move:

22. “That at page 4, line 8, after the words ‘meetings of the Council’ the words ‘and committees of the Council’ be inserted.”

MR. DEPUTY CHAIRMAN: The clause and the amendment are now before the House.

SHRI RAJENDRA PRATAP SINHA: Sir, I would like to say just a few words. Under this clause, what we are doing is that we are empowering the Secretary of the Council to take part in the discussions of the meetings of the Council and he will not be in a position to vote and this is the usual practice. We permit the Secretary to participate in the meetings to point out certain things and all that. What I am merely suggesting is that he should also be made entitled to participate in the committee meetings. If there are three committees—and you have said that there are the Standing Committee, Executive Committee, Disciplinary Committee and all that—it is all the more important that the Secretary should be empowered to take part in the discussions of these committees. I have looked into the provisions of the Cost and Works Accountants Bill which is more or less identical, more or less on the lines of this Bill.

SHRI V. K. DHAGE: Based.

SHRI RAJENDRA PRATAP SINHA: I am sorry, ‘based’ on this Bill. There are identical provisions. They have provided there that the Secretary of

[Shri Rajendra Pratap Sinha.] the Council can take part both in the meetings of the Council and the Committees. What I am saying is that in this Institute also, as in the other Institute, let the Secretary be empowered to take part in the discussions both of the Council and the Committees.

SHRI SATISH CHANDRA: Sir, the Secretary helps the President and the Vice-President in the discharge of the executive and administrative functions. There are some Committees like the Research Committee or the Training Committee where the Secretary will not be very useful. The President and the Vice-President are already *ex-officio* members of these Committees and the Secretary can be a member of a committee whenever necessary. But it would not be advisable to make a specific provision.

SHRI RAJENDRA PRATAP SINHA: A member of the Committee is entitled to participate.

MR. DEPUTY CHAIRMAN: What he means is, even though he is not a member, he is always there because he helps the President.

SHRI RAJENDRA PRATAP SINHA: What is the harm in having this?

SHRI SATISH CHANDRA: There is a Coaching Committee—a special Committee of the Council. The Secretary need not be there. In the Research Committee, he need not be a member. The Secretary mainly assists the President in the discharge of the executive and administrative functions and the Technical Committee or any other Special Committee set up by the Council need not necessarily have him. There may be a Director of Coaching or a Director of Research. They would be better suited than the Secretary of the Council to serve on such committees. I oppose the amendment.

MR. DEPUTY CHAIRMAN: The question is:

22. "That at page 4, line 8, after the words 'meetings of the Council' the words 'and committees of the Council' be inserted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 12 stand part of the Bill."

The motion was adopted.

Clause 12 was added to the Bill.

Clause 13 was added to the Bill.

New Clause 13A—Amendment of section 18

SHRI SATISH CHANDRA: I move:

45. "That at page 4, after line 19, the following new clause be inserted, namely:—

'13A. In sub-section (4) of section 18 of the principal Act, after the words, "a chartered accountant", the words, "in practice" shall be inserted.'

MR. DEPUTY CHAIRMAN: The amendment is before the House.

SHRI V. K. DHAGE: It is a consequential amendment.

MR. DEPUTY CHAIRMAN: The question is:

45. "That at page 4, after line 19, the following new clause be inserted, namely;—

'13A. In sub-section (4) of section 18 of the principal Act, after the words, "a chartered accountant", the words "in practice" shall be inserted. "

The motion was adopted.

New Clause 13A was added to the Bill.

Clause 14—Amendment of section 19

SHRI SATISH CHANDRA: I move:

23. "That at page 4, for the existing clause 14, the following be substituted, namely:—

14. In section 19—

(i) for sub-section (3), the following sub-section shall be substituted, namely:—

'(3) The Council shall cause to be published in such manner as may be prescribed, a list of members of the Institute as on the 1st day of April of each year, and shall, if requested to do so by any such member, send to him a copy of such list.';

(ii) in sub-section (4), after the words 'annual membership fee', the following shall be inserted, namely:—

'differing in amount according as he is an associate or a fellow of the Institute.'

MR. DEPUTY CHAIRMAN: The clause and the amendment are before the House.

(After a pause)

The question is:

"That at page 4 for the existing clause 14, the following be substituted, namely" . . .

SHRI V. K. DHAGE: I would like to say something here, Sir.

MR. DEPUTY CHAIRMAN: Not at this stage.

SHRI V. K. DHAGE: This amendment is moved now.

MR. DEPUTY CHAIRMAN: But I have put it to the vote.

SHRI V. K. DHAGE: But I just got up; you didn't look at me.

MR. DEPUTY CHAIRMAN: Not at this stage, Mr. Dhage.

The question is:

23. "That at page 4, for the existing clause 14, the following be substituted, namely:—

14. In section 19—

(i) for sub-section (3), the following sub-section shall be substituted, namely:—

'(3) The Council shall cause to be published in such manner as may be prescribed, a list of members of the Institute as on the 1st day of April of each year, and shall, if requested to do so by any such member, send to him a copy of such list.';

(ii) in sub-section (4), after the words 'annual membership fee', the following shall be inserted, namely:—

'differing in amount according as he is an associate or a fellow of the Institute.'

The motion was adopted.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 14, as amended, stand part of the Bill."

The motion was adopted.

Clause 14, as amended, was added to the Bill.

Clause 15 was added to the Bill.

Clause 16—Substitution of new Chapter for Chapter V

SHRI V. K. DHAGE: I move:

2. "That at page 5, for the existing clause 16, the following be substituted, namely:—

16. In section 21 of the principal Act for sub-section (1), the following shall be substituted, namely:—

'21(1) Where on the receipt of information by or of a complaint made to it, the Council

[Shri V. K. Dhage.]

is *prima facie* of opinion that any member of the Institute has been guilty of any professional or other misconduct, the Council shall refer the case to the Disciplinary Committee, and the Disciplinary Committee shall thereupon hold such inquiry and in such manner as may be prescribed, and shall report the result of its inquiry to the Council.

(1A) If on receipt of such report the Council finds that the member of the Institute is not guilty of any professional or other misconduct, it shall record its finding accordingly and direct that the proceedings shall be filed or the complaint shall be dismissed, as the case may be.

(1B) If on receipt of such report the Council finds that the member of the Institute is guilty of any professional or other misconduct, it shall record a finding accordingly and the finding shall be forwarded to the High Court."

3. "That at page 5, line 35, for the words 'five years' the words 'one year' be substituted."

4. "That at page 6,—

'(i) in line 1, for the words 'where it appears to the Council' the words 'where the Council is of opinion' be substituted; and

(ii) in line 3, for the words 'five years' the words 'one year' be substituted."

5. "That at page 7, lines 7 to 10 be deleted."

SHRI RAJENDRA PRATAP SINHA: Sir, I am not moving amendment No. 28; I am moving the rest.

I move:

24. "That at page 5, line 13, after the words 'the Council' the words 'at a specially convened meeting with notice of the object' be inserted."

25. "That at page 5, line 29, after the words 'the Council' the words 'at a specially convened meeting with notice of the object' be inserted."

26. "That at page 5, line 32, after the word 'orders' the words 'by a resolution passed by a majority of not less than three-fourths of the members present and voting' be inserted."

27. "That at page 5, line 33, after the word 'reprimand' the words 'or admonish' be inserted."

SHRI AMOLAKH CHAND: I move:

31. "That at page 7, line 21, for the words 'the First Schedule and/or the Second Schedule' the words 'any of the Schedules' be substituted."

32. "That at page 7, after line 30, the following proviso be inserted, namely:—

'Provided that the High Court may entertain any such appeal after the expiry of the said period of thirty days, if it is satisfied that the member was prevented by sufficient cause from filing the appeal in time.'

33. "That at page 8, for lines 10 and 11, the following be substituted, namely:—

'Explanation.—In this section 'High Court' and 'member of the Institute' have the same meanings as in section 21.'

MR. DEPUTY CHAIRMAN: The clause and the amendments are before the House.

SHRI RAJENDRA PRATAP SINHA: Mr. Deputy Chairman, Sir, the whole idea of my first three amendments

is this that whenever the Council wants to take disciplinary action they must consider any case of complaint or of the report of the Disciplinary Committee, and they must do that in a specially convened meeting for which notice has been given to all the members of the Council saying that "we" are going to consider a complaint or "we" are going to consider a report of the Disciplinary Committee. I have said this only with that one object in view.

MR. DEPUTY CHAIRMAN: You said you won't speak on your amendments.

SHRI RAJENDRA PRATAP SINHA: Just one sentence, Sir, to get an assurance of the hon. Minister. I am just refreshing the memory of the hon. Deputy Minister only with this end in view, Sir. When you are depriving a person of his profession or passing a stricture on his conduct, it is but proper, Sir, that some provision should be made that all the members of the Council may be informed beforehand of this fact. Well, I will not press the amendments if it is possible for the hon. Minister to give some kind of an assurance. Of course if he accepts the amendments, well and good; I would like that he accepts them, but if he is not accepting, if some provision could be made in the regulations of the Council—I may not be aware; it may be that there is some regulation by which these matters can only be considered in a specially convened meeting—or if there is already a provision, I will not press for such amendments.

Then, Sir, I come to the last amendment, and on this subject I did not speak previously, and I just want to add one more word after "reprimand", and the words sought to be added are "or admonish" after the word "reprimand". These are all technical words; one may denote a greater stricture while the other may be less in intensity, a warning and all that.

I have found that these two words are used at identical places in the U.K. provisions. Therefore I have brought the suggestion to the notice of the hon. Minister to add one more word, "admonish", and the sub-clause to read "reprimand or admonish the member;".

SHRI V. K. DHAGE: Sir, I have made an elaborate speech on this subject before and I do not want to make a further speech on that subject again. The only point that I wish to make is that I have restored the *status quo*, restored it to the position as it has been now. If the Council feels that the chartered accountant is not guilty of misconduct, they can certainly file the complaint that has been made; and if guilty they shall record the finding and—my amendment comes here—the finding shall be forwarded to the High Court.

Another thing that I have pointed out is in the proviso, and where it is mentioned in the proviso "Provided that where it appears to the Council that the case is one in which"...I want it to read "Provided that where the Council is of opinion that the case is one in which"...etc. Instead of it being a question of merely "appears to the Council" it should be a question of opinion of the Council. I want that there should be something definite in the matter and therefore I want to use the words, "of opinion", because even in the proposed subsection 21(1) the words "the Council is *prima facie* of opinion" have been used. Therefore I want that the same words be used at page 6 of the Bill where they say, "it appears to the Council" etc. It should be a question of "opinion" of the Council and expressing that opinion they may refer the case to the High Court.

Another point is with regard to "Explanation II" at page 7 of the Bill according to which even a person who is dead may be tried here. This seems to be unfair and I would like the hon. Minister to say as to what

[Shri V. K. Dhage.]
exactly is the purpose of this Explanation. As it is, the Explanation reads:

"Explanation II.—For the purposes of this section "member of the Institute" includes a person who was a member of the Institute on the date of the alleged misconduct although he has ceased to be a member of the Institute at the time of the inquiry."

Now, he can cease to be a member of the Institute by death, in which case there seems to be no purpose in trying to conduct an enquiry about that man who is dead, and even if you find him guilty, what you can do is merely to remove his name from the register. I would therefore want the hon. Minister to delete those words and that Explanation, because it seems to me not quite understandable.

SHRI AMOLAKH CHAND: Sir, my amendment No. 31 is very simple. In the Bill it appears as "the First Schedule and/or the Second Schedule," and I propose that they be substituted by the words "any of the Schedules".

Then regarding appeals what I have suggested is that in case the thirty days have expired for the person to prefer an appeal within, it should not become time-barred, for which I have proposed a proviso after line 30, at page 7, which reads:

"Provided that the High Court may entertain any such appeal after the expiry of the said period of thirty days, if it is satisfied that a member was prevented by sufficient cause from filing the appeal in time."

This is also very simple. Then the third amendment reads:

"Explanation.—In this section "High Court" and "member" of the Institute" have the same meanings as in section 21."

If the hon. Minister agrees this Explanation may be substituted for the Explanation appearing in the Bill at page 8.

MR. DEPUTY CHAIRMAN: Any reply?

5 P.M.

SHRI SATISH CHANDRA: Taking the last point first, I think it is a very far-fetched argument of Mr. Dhage that even when a man is dead, he will be subjected to disciplinary proceedings under this section. A different section deals with the removal of the name from the register in case of demise, and it is the general practice that whenever a man dies all disciplinary proceedings against him are quashed or they abate. To connect the two things is a rather very far-fetched argument. It is not the idea. I do not think that any complication can arise in practice as is suspected by my hon. friend, Shri Dhage.

I have considered all these things and also what Mr. Sinha said about his amendments. I have gone into them and I find that they are all unacceptable.

MR. DEPUTY CHAIRMAN: Those of Mr. Amolakh Chand?

SHRI SATISH CHANDRA: I find that amendments Nos. 31, 32 and 33, suggested by Shri Amolakh Chand make some improvement to those sections and I accept them.

MR. DEPUTY CHAIRMAN: The question is:

2. "That at page 5, for the existing clause 16, the following be substituted, namely:—

"16. In section 21 of the principal Act, for sub-section (1), the following shall be substituted, namely:—

"21(1) Where on the receipt of information by or of a complaint made to it, the Council is *prima facie* of opinion that any member of the Institute has

been guilty of any professional or other misconduct, the Council shall refer the case to the Disciplinary Committee, and the Disciplinary Committee shall thereupon hold such inquiry and in such manner as may be prescribed, and shall report the result of its inquiry to the Council.

(1A) If on receipt of such report the Council finds that the member of the Institute is not guilty of any professional or other misconduct, it shall record its finding accordingly and direct that the proceedings shall be filed or the complaint shall be dismissed, as the case may be.

(1B) If on receipt of such report the Council finds that the member of the Institute is guilty of any professional or other misconduct, it shall record a finding accordingly and the finding shall be forwarded to the High Court."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

3. "That at page 5, line 35, for the words 'five years' the words 'one year' be substituted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

4. "That at page 6,—

(i) in line 1, for the words 'where it appears to the Council' the words 'where the Council is of opinion' be substituted; and

(ii) in line 3, for the words 'five years' the words 'one year' be substituted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

5. "That at page 7, lines 7 to 10 be deleted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: And do you press your amendments, Mr. Sinha?

SHRI RAJENDRA PRATAP SINHA: Since no assurance has come from the hon. Deputy Minister, I would like to press them.

MR. DEPUTY CHAIRMAN: The question is:

24. "That at page 5, line 13, after the words 'the Council' the words 'at a specially convened meeting with notice of the object' be inserted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: *Amendment No. 25 is barred. The question is:

26. "That at page 5, line 32, after the word 'orders' the words 'by a resolution passed by a majority of not less than three-fourths of the members present and voting' be inserted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

27. "That at page 5, line 33, after the word 'reprimand' the words 'or admonish' be inserted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

31. "That at page 7, line 21, for the words 'the First Schedule and or the Second Schedule' the words 'any of the Schedules' be substituted."

The motion was adopted.

*For text of amendment, vide col. 1502 *supra*.

MR. DEPUTY CHAIRMAN: The question is:

32. "That at page 7, after line 30, the following proviso be inserted, namely:—

'Provided that the High Court may entertain any such appeal after the expiry of the said period of thirty days, if it is satisfied that the member was prevented by sufficient cause from filing the appeal in time.'

The motion was adopted.

MR. DEPUTY CHAIRMAN: The question is:

33. "That at page 8, for lines 10 and 11, the following be substituted, namely:—

'Explanation—In this section 'High Court' and 'member of the Institute' have the same meanings as in section 21.'

The motion was adopted.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 16, as amended, stand part of the Bill."

The motion was adopted.

Clause 16, as amended, was added to the Bill.

MR. DEPUTY CHAIRMAN: We will take up the rest of the provisions tomorrow. The House now stands adjourned till 11 A.M. tomorrow.

The House then adjourned at three minutes past five of the clock till eleven of the clock on Tuesday, the 9th December 1958.