

PARLIAMENT OF INDIA
RAJYA SABHA

THE COST AND WORKS
ACCOUNTANTS BILL, 1958

(Report of the Joint Committee)

Presented on the 9th February, 1959



RAJYA SABHA SECRETARIAT
NEW DELHI
FEBRUARY, 1959

CONTENTS

	PAGES
1. Composition of the Joint Committee	i-ii
2. Report of the Joint Committee	iii-vii
3. Minutes of Dissent	viii-xii
4. Bill as amended by the Joint Committee	{ xiii-xiv I-27
APPENDIX I—	
Motion in the Rajya Sabha for reference of the Bill to Joint Committee	28
APPENDIX II—	
Motion in Lok Sabha	29
APPENDIX III—	
Statement of memoranda/representations received by the Joint Committee	30
APPENDIX IV—	
List of Organisations/individuals who tendered evidence before the Joint Committee	31
APPENDIX V—	
Minutes of the Sitzings of the Joint Committee.	32-54

THE COST AND WORKS ACCOUNTANTS BILL, 1958

Composition of the Joint Committee

Members

RAJYA SABHA

1. Shri Santosh Kumar Basu—*Chairman*.
2. Shri T. S. Pattabiraman
3. Shri Babubhai M. Chinai
4. Shri P. T. Leuva
5. Shri Trilochan Dutta
6. Sardar Raghbir Singh Panj hazari
7. Shri V. K. Dhage
8. Shri J. V. K. Vallabharao
9. Shri Rohit M. Dave
10. Shri M. P. Bhargava.

LOK SABHA

11. Shri Nibaran Chandra Laskar
12. Shri Etikala Madhusudan Rao
13. Shri Bholi Sardar
14. Shrimati Jeyaben Vajubhai Shah
15. Shri Radhelal Vyas
16. Shri C. R. Narasimhan
17. Shri S. A. Agadi
18. Shri Satis Chandra Samanta
19. Lala Achint Ram
20. Shri Rudheshyam Ramkumar Morarka
21. Swami Ramanand Shastri
22. Shri Padam Dev
23. Shri Sunder Lal
24. Shri Prabhat Kar
25. Shri Rajendra Singh
26. Shri Jaipal Singh

27. Shri Karsandes Parmar
28. Pandit Braj Narayan "Brajesh"
29. Shri Satish Chandra, and
30. Shri Lal Bahadur Shastri.

Draftsman

Shri V. N. Bhatia, Deputy Draftsman, Ministry of Law.

Secretariat

Shri S. S. Bhalerao, Deputy Secretary.

REPORT OF THE JOINT COMMITTEE

I, the Chairman of the Joint Committee to which the Bill* to make provision for the regulation of the profession of cost and works accountants was referred having been authorised to submit the Report on their behalf, present this their Report, with the Bill as amended by the Committee annexed thereto.

2. The Bill was introduced in the Rajya Sabha on the 24th September, 1958. The motion for reference of the Bill to a Joint Committee of the Houses (*vide* Appendix I) was moved on the 9th December, 1958 by Shri M. P. Bhargava and was adopted by the House on the 10th December, 1958.

3. The Lok Sabha discussed the said motion on the 20th December, 1958 and concurred in it on the same day (*vide* Appendix II).

4. The message from the Lok Sabha was read out to the Rajya Sabha on the 22nd December, 1958.

5. The Committee held six sittings in all.

6. The first sitting of the Committee was held on the 24th December, 1958. The Committee at this sitting decided to request all recognized Institutes and Organizations of Cost Accountants and Chartered Accountants as well as representatives of trade and industry to submit their memoranda, if any, incorporating their views on the provisions of the Bill.

7. Thirteen Memoranda/Representations on the Bill were received by the Committee from different associations and individuals as mentioned in Appendix III.

8. At the second, third and fourth sittings of the Committee, held on the 22nd, the 23rd and the 24th January, 1959 the Committee heard the evidence tendered by the five organisations and two individuals specified in Appendix IV.

The Committee have decided to lay the whole of the evidence tendered before them on the Tables of the Houses.

*Published in Part II, Section 2, of the *Gazette of India Extraordinary*, dated the 24th September, 1958.

9. The Committee considered the Bill, clause by clause, at their sitting held on the 27th January, 1959.

10. The Committee considered and adopted the Draft Report on the 7th February, 1959.

11. The principal changes proposed by the Committee in the Bill and the reasons therefor are set out in the following paragraphs:—

Enacting Formula and Clause 1.—The amendments made are formal.

Clause 2.—The definition of the expression “cost accountant” has been amended. As it stands, the designation of “cost accountant” is available only to persons who are members of the Institute of Cost and Works Accountants, in practice. The Committee thought it desirable that this designation should be available to all cost accountants, whether in practice or not. Hence on the analogy of clause 3(i) of the Chartered Accountants (Amendment) Bill, 1958, as passed by the Rajya Sabha, sub-clause (1) (b) has been amended.

As a consequence of this change, a differentiation has been made throughout the Bill and the Schedules, wherever necessary, between a ‘cost accountant in practice’ and a ‘cost accountant simpliciter’.

The Committee feel that costing or pricing of goods and of services should go together; hence necessary change has been made in sub-clause 2 (ii).

The Committee also feel that a whole-time salaried employee, who is also a member of the Institute, would not be responsible under the code in the same manner as a practising cost accountant, and moreover, as the training of articled clerks is not visualised under the scheme of this Bill, the Committee have substituted the Explanation occurring after sub-clause (2) to make it clear that a member of the Institute who is a whole-time salaried employee of any person should not be deemed to be in practice within the meaning of this sub-clause.

Clause 4.—The Committee note that no student member is an associate of the existing Institute. Necessary changes have, therefore, been made in sub-clause 1(i).

Clause 5.—The Committee feel that for the purpose of sub-clause (4), a person should be deemed to have practised in India for any period for which he holds a certificate of practice under clause 6 notwithstanding that he did not actually practise during that period. An Explanation to that effect has been added after sub-clause (4).

In the opinion of the Committee, in computing the continuous period during which a person has been an associate of the Institute, any continuous period during which the person has been an associate of the dissolved company immediately before he became an associate of the Institute, should be included. Another Explanation to that effect has been added after sub-clause (4).

Clause 6.—The amendment made in sub-clause (1) is a drafting amendment.

In view of the amendment made in clause 19(4), sub-clause (2) has been amended by deleting certain words therefrom as they were considered superfluous.

Clause 7.—The amendment made in this clause is on the lines of Clause 6 of the Chartered Accountants (Amendment) Bill, 1958, as passed by the Rajya Sabha.

Clause 9.—Sub-clause 2(a) has been amended so as to provide for the election of twelve persons instead of eight by the members of the Institute, to the Council.

Clause 10.—The amendment made in sub-clause (2) and the addition of a new sub-clause (3) are on the lines of clause 9 of the Chartered Accountants (Amendment) Bill, 1958, as passed by the Rajya Sabha.

Clause 11.—The Committee are of the opinion that specific provision should be made to the effect that if the members of the Institute fail to elect any member to the Council under sub-clause (2) (a) of clause 9 of the Bill, from any of the regional constituencies that may be specified under that clause, the Government should nominate a duly qualified person from that constituency only, to fill the vacancy.

The clause has, therefore, been re-drafted accordingly.

Clause 12.—The Committee feel that the President and the Vice-President should hold office for one year only from the date of their election to that office, but this period should not extend beyond their terms of office as members of the council. The Committee also feel that the President should continue to hold office at the time of the expiration of the duration of the Council, until a new Council is constituted. Necessary changes have, therefore, been made in, and a new proviso has been added after sub-clause (3).

Clause 13.—The Committee have amended the proviso to sub-clause (3) on the lines of clause 11 of the Chartered Accountants (Amendment) Bill, 1958, as passed by the Rajya Sabha.

Clause 15.—The Committee observe that the scheme of the Bill does not contemplate any provision regarding engagement and training of articled clerks, as practical training of the accountants would be in factories and such other places. Hence para (c) of sub-clause (2) has been deleted.

Clause 17.—The Committee feel that a provision should be made for the constitution of a Training and Educational Facilities Committee which should have a certain amount of flexibility in its composition. Hence sub-clause (2) has been amended to that effect.

Amendments made in sub-clauses (1), (5), (6) and (8) are either consequential or drafting amendments.

Clause 19.—The Committee are of the opinion that a copy of the list of Members of the Institute published by the Council each year should be sent to the Members of the Institute only if a request to that effect is received from them. Necessary changes have, therefore, been made in sub-clause (3). The Committee also feel that different amounts of annual membership fee should be prescribed for enrolling as an associate or a fellow of the Institute. Provision to that effect has been made in sub-clause (4). These amendments are on the lines of clause 17 of the Chartered Accountants (Amendment) Bill, 1958, as passed by the Rajya Sabha.

Clause 21.—The Committee are of the opinion that the Central Government should not have any power in matters relating to enquiries regarding the misconduct of Members of the Institute, and that these powers should vest in a High Court. Hence necessary amendments have been made in the clause on the lines of section 21 intended to be inserted in the Chartered Accountants Act, 1949, by clause 19 of the Chartered Accountants (Amendment) Bill, 1958, as passed by the Rajya Sabha.

Clause 22.—The amendment made is a drafting amendment.

Clause 23.—The amendments made are on the lines of clause 20 of the Chartered Accountants (Amendment) Bill, 1958, as passed by the Rajya Sabha, read with section 23 of the Chartered Accountants Act, 1949.

Clause 25.—The Committee have added a new sub-clause (2), providing for penalties for contravention of the provision of sub-clause (1).

Clause 26.—The Committee think it desirable to provide for penalties for contravention of the provisions of the clause. Hence a new sub-clause (2) has been added.

Clause 28.—As clause 26 does not apply to firms, necessary drafting change has been effected in the Explanation to this clause.

Clause 33.—In view of the decision taken in amending clause 21, the Committee have consequentially substituted the existing clause by a provision similar to that of section 22 intended to be inserted in the Chartered Accountants Act, 1949 by clause 19 of the Chartered Accountants (Amendment) Bill, 1958, as passed by the Rajya Sabha.

Clause 39.—Para (k) of sub-clause (2) has been deleted for the same reasons as are recorded for deletion of para (c) in clause 15(2) above.

Amendments made in para (v) as re-numbered of sub-clause (2) are of drafting nature.

The First Schedule—

Parts I, II and III of the Schedule have been amended on the lines of Parts I, II and III intended to be inserted in the Chartered Accountants Act, 1949 by clause 26 of the Chartered Accountants (Amendment) Bill, 1958, as passed by the Rajya Sabha.

Item 2 of Part I of the Schedule has been amended on the lines of item 2 of Part I of the First Schedule intended to be inserted in the Chartered Accountants Act, 1949, by Clause 26 of the Chartered Accountants (Amendment) Bill, 1958, as passed by the Rajya Sabha.

Original Item 9 of Part I.—The Committee note that at present there is no statutory compulsion regarding appointment of cost accountants as has been laid down in the case of Chartered Accountants, by sections 224 to 226 of the Companies Act, 1956. The Committee, therefore, feel that provision of such an item is superfluous and hence item 9 has been deleted.

The Second Schedule—

The Committee have amended the Schedule and added a new Part II to it on the lines of the Second Schedule intended to be inserted in the Chartered Accountants Act, 1949 by clause 26 of the Chartered Accountants (Amendment) Bill, 1958, as passed by the Rajya Sabha.

12. The Joint Committee recommend that the Bill as amended be passed.

NEW DELHI;
February 7, 1959.

SANTOSH KUMAR BASU,
Chairman of the Joint Committee.

MINUTES OF DISSENT

I

We are sorry that we have not been able to agree with our colleagues in the Committee to many of the amendments made in the Bill. We think that the Government, having agreed to recognise Cost Accountants as a separate profession should ensure that the management of the autonomous Institute of Cost and Works Accountants should be in the hands of qualified Cost Accountants. In the Bill, no statutory provision has been made to ensure that none, other than the qualified Cost Accountants, should be eligible for membership of the Council. Our apprehension is that in the absence of such a statutory provision there is likelihood of this specialised Institute for Cost Accountants being controlled by persons who are not qualified as such.

2. We also feel that in order to encourage students to join Cost Accountant's profession and study under the Indian Institute, some safeguards should be ensured. The Institute, as we understand, has debarred foreign qualified Cost Accountants to become associates or fellows of the present Institute, unless they again undergo study here. We feel that this position should not be changed. We would have liked that provision should have been made in the Bill giving right to this Institute to issue licences for such foreign qualified Cost Accountants to practice in India, without making them associates or fellows automatically.

3. We feel that in the Council of an autonomous body like the present one, less interference should be there by the Government. Being a body to develop Cost Accountant's profession and impart proper specialised knowledge of Cost Accountancy only one nominee from the Government would have been sufficient, because we feel that the management of this body should be left in the hands of persons who are specially qualified in this profession. The present proportion of the nominated and elected members in the Council is different from what existed in the Chartered Accountants' Act. We do not agree with the present proportion. We feel that it is imperative that the President and the Vice-President of the Council should not be any one else than those who have acquired specialised knowledge in Cost Accountancy. The Head of the Council of an institution of specialised profession cannot be a person who is not qualified.

We want the statutory provision for the same. We feel some statutory provisions to call extraordinary general meetings of the Institute should have been there, because it is necessary particularly at the formative stage to provide opportunity for the general members to meet and discuss problems and make recommendations to the Council. The absence of such a provision would deprive the Council the benefit of suggestions from the General Body. We feel that these changes should have been made in the Bill so as to raise hopes in the minds of Cost Accountants, whose profession has been neglected for a long time and whose necessity has now been felt by the Government.

BANGALORE;
February 6, 1959.

PRABHAT KAR.
J. V. K. VALLABHARAO.

II

It appears to me that the Government does not seem to pursue a definite policy in regard to the legislation that is placed before the Parliament. While a Socialistic Pattern of Society is aimed at, Laws are made which do not conform to that aim. Eradication of unemployment is spoken of and yet Laws are framed which go to concentrate work in fewer hands. It is claimed that ours is a Welfare State but legislation is made altogether in a different way. And one such legislation is the Cost and Works Accountants Bill, 1958. This Bill has been bodily lifted section for section, para for para and word for word from the Chartered Accountants Act, 1949. All the defects experienced in the working of that Act are not taken into consideration to effect improvement in this new Bill.

The working of the Chartered Accountants Act has disclosed that conducting the practice in partnership and in the name of a firm has resulted in concentration of work taking place in fewer hands, thereby developing a monopolistic trend in the established firms, such that not only is this happening but even the entry of a young man into the firm means a payment of huge goodwill. It is also evident that the profession has become a regular "business" which can be inherited by descendants, the only condition being that the descendant should somehow qualify himself as a chartered accountant. All this has resulted in making it difficult for a new entrant to get into the profession. Thus employment opportunities are denied to an increasingly large number of young people. This to my mind is contrary to the aims of a Socialistic State that is in view. I am, therefore, fundamentally opposed to any provision in the Bill which makes it possible for partnerships to be entered into or for conducting practice in the name of a firm.

It will be noticed from the rules of misconduct in the First and the Second Schedule that they weigh very heavily against the new entrant in the profession, and all these go virtually to safeguard the interests of seniors and well established firms. In fact, these rules, practically, bar a new entrant in the profession. For instance, one of the rules requires that no work shall be accepted in a manner which will amount to undercutting. And another requires that no professional man should solicit work either directly or indirectly, and yet another requires that a cost accountant should not accept any work without first communicating with the previous cost accountant.

It is said that these rules are framed with the intention of maintaining a high standard in the profession. But virtually, under that guise, the new entrants get shut out from the profession. It might have been alright when these rules were framed in U.K. (from which we have copied them) some three centuries ago and when the economic system of the society was not such as is envisaged now. It is possible that a "Feudal Society" could justify these rules, but, these are inconsistent with the present day realism, and, as such, are followed more in breach.

It may also be noticed that the rules can be exploited by the seniors in the established firms to their advantage. This can happen because responsibility for any statement or certificate signed is that of the individual signing and not that of the firm. A junior partner, for an insignificant share, can be made to sign the certificates, so that the entire responsibility will be his, while the benefits accruing from it are enjoyed by all the seniors in the firm. It is a curious thing that the rules make it possible that responsibility for a wrong is on the individual alone but the fruits are to be enjoyed by all the members of the firm. This anomaly must be done away with and put an end to.

While all the civil wrongs have a period of limitation, the rules of misconduct framed under this Bill, in the First and the Second Schedule, have no end of time save death. This is unfair. If a cost accountant commits a wrong, he will be answerable in a Court of Law. And in addition, he will also be liable for disciplinary action for the same wrong. Thus a cost accountant can be punished twice for the same offence. In view of this, I am of opinion that there should be a period of three years fixed for any disciplinary action to be taken against a cost accountant.

As I have said, the Bill is more in favour of the seniors in the profession than the juniors. This will be further clear from the fact that a student having passed the qualifying examination of the Cost

and Works Accountants Institute, will be required to pay up to Rs. 300 if he wishes to enrol himself as an Associate of the Institute under sub-clause (3) of clause 4. But an Associate, who has been in continuous practice for at least 5 years, will be required to pay up to Rs. 200 only, if he enrolls himself as a Fellow under sub-clause (4) of clause 5. I find that the fees kept are very high. This is further evident from the huge profits of the "dissolved company". These fees must be considerably reduced—particularly in the case of the new entrants to the profession.

It will be noticed that under item (2) Part I of the First Schedule, it is possible to enter into a partnership with a legal representative, namely, the son or the widow of a retiring partner or a deceased partner in the firm of the Cost & Works Accountants. The reason given for this is that it is desirable to make provision for the maintenance of the dependants or the widow of a deceased or retiring partner. But the Bill does not take the same view into consideration in making provision for assistance to be given to necessitous members in the profession itself, even though clause (f) of the Memorandum of Association of the dissolved company makes a provision in that regard and when the Bill envisages in Chapter VIII to take over all the assets and liabilities of the dissolved company. I am unable to understand the logic in not including similar clauses as those in the Memorandum of Association in the Bill itself. This also shows that the necessitous members of the profession, who are living, are not thought of but the widows and the dependants of the deceased partner are. This further evidences the fact that the Bill provides facilities only for the well established in the profession.

Clause 35 of the Bill empowering the Central Government to issue directions to the Council of the Cost and Works Accountants Institute from time to time, is similar to the provision in the Chartered Accountants (Amendment) Bill, 1958. This rule strikes at the autonomy of the Institute to promote which appears to be the object of the Bill. The words "under general guidance and supervision of the Government" in the Statement of Objects and Reasons attached to the Bill reminds one of the Dyarchical Form of Government under the British Rule under Montagu/Chelmsford Reforms. I am of opinion that clause 35 should be deleted entirely.

Clause 9 of the Bill provides for nomination of members to the Council by the Central Government. The evidence tendered before the Joint Committee by the various Institutions drove one to the conclusion that nominations by the Government were not desirable. I feel that this also should be done away with.

The witnesses that appeared before the Joint Committee, particularly the representatives of the Federation of Chambers of Commerce and the Chartered Accountants from Bombay, Madras and Delhi made it clear that there was no need for a separate Institute for Cost and Works Accountants, the reason being that till now the chartered accountants used to certify costing statements etc., and that they had rendered this service very efficiently. But since the Parliament has agreed to the creation of a separate Institute, it is but proper that the chartered accountants should continue to certify costing statements and that they should, *ipso facto*, be enrolled as members of this Institute and should be entitled to practise as cost and works accountants as well.

NEW DELHI;
February 7, 1959

V. K. DHAGE.

THE COST AND WORKS ACCOUNTANTS BILL, 1958

ARRANGEMENT OF CLAUSES

CHAPTER I

PRELIMINARY

CLAUSES

1. Short title, extent and commencement.
2. Definitions and interpretation.

CHAPTER II

THE INSTITUTE OF COST AND WORKS ACCOUNTANTS

3. Incorporation of the Institute.
4. Entry of names in the Register.
5. Fellows and Associates.
6. Certificate of practice.
7. Members to be known as cost accountants.
8. Disabilities

CHAPTER III

COUNCIL OF THE INSTITUTE

9. Constitution of the Council of the Institute.
10. Mode of election to Council.
11. Nomination in default of election.
12. President and Vice-President.
13. Resignation of membership and casual vacancies.
14. Duration and dissolution of Council.
15. Functions of the Council.
16. Staff, remuneration and allowances.
17. Committees of the Council.
18. Finances of the Council.

CHAPTER IV

REGISTER OF MEMBERS

19. Register.
20. Removal from the Register.

CHAPTER V
MISCONDUCT

CLAUSES

21. Procedure in inquiries relating to misconduct of members of institute.
22. Misconduct defined.

CHAPTER VI
REGIONAL COUNCILS

23. Constitution and functions of Regional Councils.

CHAPTER VII
PENALTIES

24. Penalty for falsely claiming to be a member, etc.
25. Penalty for using name of the Council, awarding degrees of cost accountancy, etc.
26. Companies not to engage in cost accountancy.
27. Unqualified persons not to sign documents.
28. Offences by companies.
29. Sanction to prosecute.

CHAPTER VIII

**DISSOLUTION OF THE INSTITUTE OF COST AND WORKS ACCOUNTANTS
REGISTERED UNDER THE COMPANIES ACT, 1956 (1 OF 1956)**

30. Dissolution of the Institute of Cost and Works Accountants registered under the Companies Act, 1956.
31. Transfer of assets and liabilities of the dissolved company to the Institute.
32. Provisions respecting employees of the dissolved company.

CHAPTER IX
MISCELLANEOUS

33. Appeals.
34. Alteration in the Register and cancellation of Certificate.
35. Directions of the Central Government.
36. Protection of action taken in good faith.
37. Maintenance of branch offices.
38. Reciprocity.
39. Power to make regulations.

THE FIRST SCHEDULE

THE SECOND SCHEDULE

APPENDIX I

(Vide para 2 of the Report)

Motion in the Rajya Sabha for reference of the Bill to a Joint Committee

“That the Bill to make provision for the regulation of the profession of cost and works accountants, be referred to a Joint Committee of the Houses consisting of 30 members; 10 from this House, namely:—

1. Shri Santosh Kumar Basu
2. Shri T. S. Pattabiraman
3. Shri Babubhai M. Chinai
4. Shri P. T. Leuva
5. Shri Trilochan Dutta
6. Sardar Raghbir Singh Panjhzari
7. Shri V. K. Dhage
8. Shri J. V. K. Vallabharao
9. Shri Rohit M. Dave, and
10. Shri M. P. Bhargava

and 20 members from the Lok Sabha;

that in order to constitute a meeting of the Joint Committee the quorum shall be one-third of the total number of members of the Joint Committee;

that in other respects the Rules of Procedure of this House relating to Select Committees will apply with such variations and modifications as the Chairman may make;

that this House recommends to the Lok Sabha that the Lok Sabha do join in the said Joint Committee and communicate to this House the names of members to be appointed by the Lok Sabha to the Joint Committee; and

that the Committee shall make a report to this House by the first day of the next session.”

APPENDIX II

(Vide para 3 of the Report)

Motion in the Lok Sabha

"That this House concurs in the recommendation of Rajya Sabha that the House do join in the Joint Committee of the Houses on the Cost and Works Accountants Bill, 1958, made in the motion adopted by Rajya Sabha at its sitting held on the 10th December, 1958 and communicated to this House on the 12th December, 1958, and resolves that the following members of Lok Sabha be nominated to serve on the said Joint Committee, namely:—

1. Shri Nibaran Chandra Laskar
2. Shri Etikala Madhusudan Rao
3. Shri Bholi Sardar
4. Shrimati Jayaben Vajubhai Shah
5. Shri Radhelal Vyas
6. Shri C. R. Narasimhan
7. Shri S. A. Agadi
8. Shri Satis Chandra Samanta
9. Lala Achint Ram
10. Shri Radheyshyam Ramkumar Morarka
11. Swami Ramanand Shastri
12. Shri Padam Dev
13. Shri Sunder Lal
14. Shri Prabhat Kar
15. Shri Rajendra Singh
16. Shri Jaipal Singh
17. Shri Karsandas Parmar
18. Pandit Braj Narayan "Brajesh"
19. Shri Satish Chandra, and
20. Shri Lal Bahadur Shastri."

APPENDIX III

(Vide paras 7 and 8 of the Report)

Statement showing particulars of memoranda/representations etc. received by the Joint Committee and the action taken thereon

Sl. No.	From whom received	Action taken
1	Federation of the Indian Chambers of Commerce and Industry, New Delhi.	Circulated to Members and evidence of the Federation taken on the 22nd January 1959.
2	Institute of Cost and Works Accountants, Calcutta.	Circulated to Members and evidence of the Institute taken on the 22nd and 23rd January, 1959.
3	Institute of Chartered Accountants of India, New Delhi.	Circulated to Members and evidence of the Institute taken on the 24th January, 1959.
4	Shri Sunil Chakraborty and 200 others.	Circulated to Members and evidence of Shri Chakraborty and another signatory was taken on the 23rd and 24th January, 1959.
*5	Shri W. N. S. Chari, Madras	Circulated to Members. Shri Chari was invited to tender evidence before the Committee but he could not appear before it.
6	Society of Auditors, Madras,	Circulated to Members and the evidence of the Society was taken on the 23rd January, 1959.
7	Shri S. V. Ayyar, Calcutta	Circulated to Members. Shri Ayyar was invited to tender evidence before the Committee but he could not appear before it.
8	Bombay Chartered Accountants' Society.	Circulated to Members and the evidence of the Society was taken on the 24th January, 1959.
9	Shri N. T. Dalal, Bombay	Circulated to Members.
10	The Members of the Eastern India Region. The Institute of Chartered Accountants of India.	Circulated to Members.
11	Shri S. Suryanarayan, Madras	Circulated to Members and the evidence of Shri Suryanarayan was taken on the 23rd January, 1959.

*Submitted three separate memoranda.

APPENDIX IV

(Vide para 8 of the Report)

List of Organisations/individuals who tendered evidence before the Joint Committee

Name of Organisation/individuals	Names of Representatives	Date
I. The Federation of Indian Chambers of Commerce and Industry, New Delhi.	(1) Shri G. P. Kapadia (2) Shri J. S. Lodha (3) Shri P. Chentsal Rao (4) Shri N. Krishnamurthi	} 22-1-59
II. The Institute of Cost and Works Accountants, Calcutta.	(1) Shri G. Basu* (2) Shri N. K. Roy (3) Shri Nanabhoy (4) Shri D. D. Kalra (5) Shri V. K. Srinivasan (6) Shri K. Mookerjee (7) Shri S. N. Ghosh	} 22-1-59 and } 23-1-59
III. (i) Society of Auditors, Madras and (ii) Mysore State Chartered Accountants' Association.	} Shri S. Suryanarayan	} 23-1-59
IV. Institute of Chartered Accountants, New Delhi.	(1) Shri C. S. Shastri (2) Shri C. C. Chokshi (3) Shri S. N. Desai (4) Shri E. V. Srinivasan	} 24-1-59
V. Bombay Chartered Accountants, Society.	(1) Shri N. M. Shah (2) Shri A. S. Thakkar (3) Shri M. P. Chitale	} 24-1-59
VI. (1) Shri Sunil Chakraborty (2) Shri N. K. Bose	}	} 23-1-59 and } 24-1-59

*Only on 23rd January 1959.

APPENDIX V

Minutes of the meetings of the Joint Committee on the Cost and Works Accountants Bill, 1958

I

FIRST MEETING

The Committee met from 12-15 P.M. to 1-2 P.M. on Wednesday, the 24th December, 1958.

PRESENT

Shri Santosh Kumar Basu—*Chairman*.

Members

RAJYA SABHA

1. Shri T. S. Pattabiraman
2. Shri P. T. Leuva
3. Shri Trilochan Dutta
4. Sardar Raghbir Singh Panj hazari
5. Shri V. K. Dhage
6. Shri Rohit M. Dave
7. Shri M. P. Bhargava.

LOK SABHA

8. Shri Nibaran Chandra Laskar
9. Shri Etikala Madhusudan Rao
10. Shri Satis Chandra Samanta
11. Shri Padam Dev
12. Shri Sunder Lal
13. Shri Prabhat Kar
14. Shri Rajendra Singh
15. Shri Jaipal Singh
16. Pandit Braj Narayan "Brajesh"
17. Shri Satish Chandra
18. Shri Lal Bahadur Shastri

REPRESENTATIVES OF THE MINISTRIES

Ministry of Law

Shri V. N. Bhatia, Deputy Draftsman.

Ministry of Commerce and Industry

Shri D. L. Mazumdar, I.C.S., Secretary.

Department of Company Law Administration

Shri T. S. Menon, Under Secretary.

SECRETARIAT

Shri S. S. Bhalerao, Deputy Secretary.

1. The Committee held preliminary discussion on the programme and the procedure to be adopted by it. It was proposed that the Committee should visit the Institute of Cost and Works Accountants at Calcutta, but after some discussion the matter was dropped.

2. It was decided that a circular should be issued to all recognized Institutes and Organisations of Cost Accountants and Chartered Accountants as well as to representatives of trade and industry through the usual channel requesting them to submit their memoranda, if any, by the 10th of January 1959, together with 60 copies of the same. It was also decided that if these Organisations desire to give evidence before the Committee, they should be prepared to send their representatives at their own cost, if they receive an invitation to that effect.

3. The Committee further decided to hold the next meeting of the Committee on Thursday, the 22nd January, 1959, the time of the meeting to be notified later on.

4. The Committee adjourned at 1-02 P.M.

II

SECOND MEETING

The Committee met from 3 P.M. to 6-30 P.M. on Thursday, the 22nd January, 1959.

PRESENT

Shri Santosh Kumar Basu—*Chairman*.

Members

RAJYA SABHA

1. Shri Babubhai M. Chinai
2. Shri P. T. Leuva
3. Shri Trilochan Dutta
4. Sardar Raghbir Singh Panjhazari
5. Shri V. K. Dhage
6. Shri J. V. K. Vallabharao
7. Shri Rohit M. Dave
8. Shri M. P. Bhargava.

LOK SABHA

9. Shri Nibaran Chandra Laskar
10. Shri Etikala Madhusudan Rao
11. Shrimati Jayaben Vajubhai Shah
12. Shri Radhelal Vyas
13. Shri C. R. Narasimhan
14. Shri Satis Chandra Samanta
15. Lala Achint Ram
16. Swami Ramanand Shastri
17. Shri Padam Dev
18. Shri Sunder Lal
19. Shri Prabhat Kar
20. Shri Rajendra Singh
21. Shri Jaipal Singh
22. Shri Karsandas Parmar

23. Shri Satish Chandra and
24. Shri Lal Bahadur Shastri.

REPRESENTATIVES OF THE MINISTRIES

Ministry of Law

Shri V. N. Bhatia, Deputy Draftsman.

Ministry of Commerce and Industry (Department of Company Law Administration)

Shri D. L. Mazumdar, I.C.S., Secretary.

Shri C. P. Gupta, I.C.S., Deputy Secretary.

Shri T. S. Menon, Under Secretary.

SECRETARIAT

Shri B. N. Banerjee, Deputy Secretary.

Shri S. S. Bhalerao, Deputy Secretary.

WITNESSES

I

The Indian Chambers of Commerce and Industry, New Delhi

1. Shri G. P. Kapadia
2. Shri J. S. Lodha
3. Shri P. Chentsal Rao
4. Shri N. Krishnamurthi

II

The Institute of Cost and Works Accountants, Calcutta

1. Shri N. K. Roy
2. Shri D. D. Kalra
3. Shri R. Nanabhoy
4. Shri V. K. Srinivasan
5. Shri K. Mookerjee.

The Committee at the outset discussed generally the mode of procedure and the nature of the questions that may be put to the witnesses.

The Committee then heard the evidence tendered by the representatives of the Federation of Indian Chambers of Commerce and Industry, New Delhi and the Institute of Cost and Works Accountants, Calcutta. The evidence tendered by the Institute of Cost and Works Accountants, Calcutta was not concluded when the Committee rose for the day.

The Committee adjourned at 6-30 p.m. to meet again at 3 p.m. on Friday, the 23rd January, 1959.

III

THIRD MEETING

The Committee met from 3 P.M. to 7-5 P.M. on Friday, the 23rd January, 1959.

PRESENT

Shri Santosh Kumar Basu—*Chairman.*

Members

RAJYA SABHA

1. Shri T. S. Pattabiraman
2. Shri Babubhai M. Chinai
3. Shri P. T. Leuva
4. Shri Trilochan Dutta
5. Sardar Raghbir Singh Panjhzari
6. Shri V. K. Dhage
7. Shri J. V. K. Vallabharao
8. Shri Rohit M. Dave
9. Shri M. P. Bhargava

LOK SABHA

10. Shri Nibaran Chandra Laskar
11. Shri Etikala Madhusudan Rao
12. Shrimati Jayaben Vajubhai Shah
13. Shri Radhelal Vyas
14. Shri C. R. Narasimhan
15. Shri Satish Chandra Samanta
16. Shri Radheshyam Ramkumar Morarka
17. Shri Padam Dev
18. Shri Prabhat Kar
19. Shri Rajendra Singh
20. Shri Jaipal Singh
21. Shri Karsandas Parmar
22. Shri Satish Chandra
23. Shri Lal Bahadur Shastri

REPRESENTATIVES OF THE MINISTRIES

Ministry of Law

Shri V. N. Bhatia, Deputy Draftsman

Ministry of Commerce and Industry (Department of Company Law Administration)

Shri D. L. Mazumdar, I.C.S., Secretary

Shri C. P. Gupta, I.C.S., Deputy Secretary.

Shri T. S. Menon, Under Secretary.

SECRETARIAT

Shri S. S. Bhalerao, Deputy Secretary.

WITNESSES

I

The Institute of Cost and Works Accountants, Calcutta

1. Shri G. Basu
2. Shri N. K. Roy
3. Shri D. D. Kalra
4. Shri R. Nanabhoy
5. Shri V. K. Srinivasan
6. Shri K. Mookerjee.

II

Society of Auditors, Madras and Mysore State Chartered Accountants Association

Shri S. Suryanarayan, Madras

III

1. Shri Sunil Chakraborty, Calcutta.
2. Shri N. K. Bose, Calcutta.

The Chairman suggested members to send their amendments, if any, to the Rajya Sabha Secretariat by 12 noon, on Saturday, the 24th January, 1959.

The Committee heard the evidences tendered by the representatives of the Institute of Cost and Works Accountants, Calcutta and by Sarvashri S. Suryanarayan, Sunil Chakraborty and N. K. Bose, Calcutta. The evidence tendered by the last two witnesses was not concluded when the Committee rose for the day.

The Committee adjourned at 7-5 P.M. to meet again at 9-30 A.M. on Saturday, the 24th January, 1959.

IV
FOURTH MEETING

The Committee met from 9-45 A.M. to 1-10 P.M. and 3 P.M. to 6-30 P.M. on Saturday, the 24th January, 1959.

PRESENT

Shri Santosh Kumar Basu—*Chairman*

Members

RAJYA SABHA

1. Shri T. S. Pattabiraman
2. Shri Babubhai M. Chinai
3. Shri P. T. Leuva
4. Shri Trilochan Dutta
5. Sardar Raghbir Singh Panj hazari
6. Shri V. K. Dhage (in the Chair from 9-45 A.M. to 10-25 A.M.)
7. Shri J. V. K. Vallabharao
8. Shri Rohit M. Dave
9. Shri M. P. Bhargava

LOK SABHA

10. Shri Nibaran Chandra Laskar
11. Shri Etikala Madhusudan Rao
12. Shrimati Jayaben Vajubhai Shah
13. Shri Radhelal Vyas
14. Shri C. R. Narasimhan
15. Shri Satish Chandra Samanta
16. Shri Radheshyam Ramkumar Morarka
17. Shri Padam Dev
18. Shri Sunder Lal
19. Shri Prabhat Kar
20. Shri Rajendra Singh
21. Shri Jaipal Singh

22. Shri Karsandas Parmar
23. Shri Satish Chandra
24. Shri Lal Bahadur Shastri.

REPRESENTATIVES OF THE MINISTRIES

Ministry of Law

Shri V. N. Bhatia, Deputy Draftsman.

*Ministry of Commerce and Industry (Department of Company Law
Administration)*

Shri D. L. Mazumdar, I.C.S., Secretary
Shri C. P. Gupta, I.C.S., Deputy Secretary
Shri T. S. Menon, Under Secretary.

SECRETARIAT

Shri S. S. Bhalerao, Deputy Secretary.

WITNESSES

I

Institute of the Chartered Accountants of India, New Delhi

- (1) Shri C. S. Sastri
- (2) Shri C. C. Chokshi
- (3) Shri S. N. Desai
- (4) Shri E. V. Srinivasan

II

- (1) Shri Sunil Chakraborty, Calcutta
- (2) Shri N. K. Bose, Calcutta.

III

Bombay Chartered Accountants' Society

- (1) Shri N. M. Shah
- (2) Shri A. S. Thakkar
- (3) Shri M. P. Chitale.

1. The Committee heard the evidences tendered by the representatives of the Institute of Chartered Accountants of India New Delhi, Shri Sunil Chakraborty and Shri N. K. Bose and the representatives of the Bombay Chartered Accountants' Society. A verbatim record of the evidences tendered by the witnesses was taken.

2. The Committee then held a general discussion on the principles underlying the Bill.

3. The Committee adjourned at 6-30 P.M. to meet again at 10 A.M. on Tuesday, the 27th January, 1959.

V

FIFTH MEETING

The Committee met from 10-5 A.M. to 1-35 P.M. and 2-45 P.M. to 8 P.M. on Tuesday, the 27th January, 1959.

PRESENT

Shri Santosh Kumar Basu—*Chairman*

Members

RAJYA SABHA

1. Shri Babubhai M. Chinai
2. Shri P. T. Leuva
3. Shri Trilochan Dutta
4. Sardar Raghbir Singh Panjhzari
5. Shri V. K. Dhage
6. Shri Rohit M. Dave
7. Shri M. P. Bhargava.

LOK SABHA

8. Shri Nibaran Chandra Laskar
9. Shri Etikala Madhusudan Rao
10. Shrimati Jayaben Vajubhai Shah
11. Shri Radhelal Vyas
12. Shri C. R. Narasimhan
13. Shri Satis Chandra Samanta
14. Lala Achint Ram
15. Shri Padam Dev
16. Shri Sunder Lal
17. Shri Prabhat Kar
18. Shri Jaipal Singh
19. Shri Karsandas Parmar
20. Shri Satish Chandra
21. Shri Lal Bahadur Shastri.

REPRESENTATIVES OF THE MINISTRIES

Ministry of Law

Shri S. K. Hiranandani, Additional Draftsman

Shri V. N. Bhatia, Deputy Draftsman.

Ministry of Commerce and Industry (Department of Company Law Administration)

Shri D. L. Mazumdar, I.C.S., Secretary

Shri C. P. Gupta, I.C.S., Deputy Secretary

Shri T. S. Menon, Under Secretary.

SECRETARIAT

Shri S. S. Bhalerao, Deputy Secretary.

The Committee took up Clause by Clause consideration of the Bill.

Clause 2.—The following amendments were accepted:—

- (1) Page 1, lines 14-15, *delete* “and who is in practice as a cost and works accountant”.
- (2) Page 2, line 18, *after* “goods” *insert* “or services,”
line 20, *after* “accountant” *insert* “in practice; or”
- (3) line 26, *after* “accountant” *add* “in practice”.
- (4) lines 29-32, the Draftsman was directed to re-draft the Explanation to sub-clause (2).

The Clause as amended was adopted subject to the drafting changes that might be made by the Draftsman in the Explanation to sub-clause (2) in view of the change made in the definition of the expression ‘cost accountants’ in sub-clause (1) (b).

Clause 3.—The Clause was adopted without any amendment.

Clause 4.—The Clause was adopted subject to the following amendment:—

Page 3, line 10, *omit* “or a student member”.

Clause 5.—(1) It was agreed that sub-clause (4) be re-drafted if necessary to bring out the intention of the Committee that so long as a person holds a certificate of practice, he should be deemed to be in continuous practice even if for some reason like bad health or absence abroad there is a break in actual practice.

(2) The following explanation after sub-clause (4) was also added namely:—

“Explanation.—In computing the continuous period during which a person has been an associate of the Institute,

there shall be included any continuous period during which the person has been an associate of the dissolved company immediately before he became an associate of the Institute."

The Clause as amended was adopted subject to the drafting changes that might be made in sub-clause (4).

Clause 6.—(1) The Committee adopted the Clause subject to the following amendments :—

- (1) Page 5, line 2, for "within or without India" substitute "in India or elsewhere".
- (2) lines 5-6, omit "differing in amount according as he is an associate or a fellow of the Institute".

Clause 7.—The Committee substituted lines 16 to 19 of the existing Clause by the following, namely :—

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

The Clause as thus amended was adopted.

Clause 8.—The Clause was adopted without any amendment.

Clause 9.—The Committee adopted the clause subject to the following amendment :—

Page 6, line 21, for "eight" substitute "twelve".

Clause 10.—The Committee adopted the clause subject to the following amendments, namely :—

Page 6, in,

- (1) lines 34 and 38 for "Central Government" substitute "Council".
- (2) line 35 for "it" substitute "the Central Government."
- (3) line 39 after "from the" insert "date of".
- (4) A new sub-clause (3) be added as follows, namely :—

"(3) The expenses of the Tribunal shall be borne by the Council".

Clause 11.—The draftsman was directed to re-draft the Clause if necessary, to bring out clearly the intention of the Committee that nomination should be from the same region in which the vacancy occurs.

Clause 12.—The Committee felt that the President and the Vice-President should hold office for one year only. The draftsman was directed to re-draft sub-clause (3) accordingly. If any further consequential change was involved that might also be made. The clause was adopted subject to the above changes.

Clause 13.—The Clause was adopted subject to the following amendments:—

- (1) *Page 7, line 29, for "this Act" substitute "section 20".*
- (2) *The existing proviso to sub-clause (3) be substituted by the following:—*

"Provided that no election shall be held to fill a casual vacancy occurring within six months prior to the date of the expiration of the duration of the Council, but such a vacancy may be filled by nomination by the Central Government after consultation with the President of the Council."

Clause 14.—The Clause was adopted without any amendment.

Clause 15.—The Clause was adopted with the omission of para (c) of sub-clause (2).

Existing Paras (d) to (m) were consequentially re-numbered.

Clause 16.—The Clause was adopted without any amendment.

Clause 17.—The Clause was adopted subject to the following amendments, namely:—

- (1) *Page 9, line 23, for "an Examination Committee" substitute "a Disciplinary Committee".*
- (2) *Line 24, for "a Disciplinary Committee" substitute "an Examination Committee".*
- (3) *line 25, after "form" insert "a Training and Educational Facilities Committee and"*
- (4) *line 35, for "Each of the other Standing Committees" substitute "The Examination Committee".*
- (5) *Page 10, lines 3-4, for "Standing" substitute "any".*
- (6) *line 12, after "Committees" insert "and other Committees formed under this section".*

Clause 18.—The Clause was adopted subject to the amendment that at page 10, line 25, after "accountant" the words "in practice" be inserted.

Clause 19.—The Committee made the following amendments, namely :—

- (1) Page 11, lines 23-24, for "a copy of such list shall be sent to each member of the Institute" substitute "shall, if requested to do so by any such member, send him a copy of such list."
- (2) line 26, after "fee" insert "differing in amount according as he is an associate or a fellow,"

The Clause as amended was adopted.

Clause 20.—The Clause was adopted without any amendment.

Clause 21.—The Committee made the following amendments, namely :—

- (1) Page 12, line 35, for "it appears to the Council" substitute "the Council is of opinion".
- (2) line 37, after "years", insert "or permanently".
- (3) line 39, for "Central Government" substitute "High Court".
- (4) Page 13, lines 4, 7 and 16, for "Central Government" substitute "High Court".
- (5) lines 8-9, for "member of the Institute and the Council, and shall afford the member and the Council" substitute "member of the Institute concerned, the Council and to the Central Government, and shall afford such member, the Council and the Central Government."
- (6) the existing sub-clause (7) be re-numbered as sub-clause (8) and a new sub-clause (7) be inserted as follows:—

"(7) Where it appears to the High Court that the transfer of any case pending before it to another High Court, will promote the ends of justice or tend to the general convenience of the parties, it may so transfer the case, subject to such conditions, if any, as it thinks fit to impose, and the High Court to which such case is transferred shall deal with it as if the case had been forwarded to it by the Council.

Explanation 1.—In this section 'High Court' means the highest civil court of appeal, not including the Supreme Court, exercising jurisdiction in the area in which the person whose conduct is being inquired into carries on business, or has his principal place of business at the commencement of the inquiry :

Provided that where the cases relating to two or more members of the Institute have to be forwarded by the Council to different High Courts, the Central Government shall, having regard to the ends of justice and the general convenience of the parties, determine which of the High Courts to the exclusion of others shall hear the cases against all the members.

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.”

(7) page 13, lines 28 to 31 be deleted.

The Clause as amended was adopted.

Clause 22.—The Committee adopted the Clause subject to the amendment that in line 34, for “the First and the Second Schedule” substitute “any of the Schedules”.

Clause 23.—The Committee made the following amendments, namely :—

- (1) Page 14, line 3, after “advising” insert “and assisting”.
- (2) line 4, for “a Regional Council”, substitute “such Regional Councils”.
- (3) line 5, for “each of the regional constituencies specified” substitute “one or more of the regional constituencies that may be specified”.

The Clause as amended was adopted.

Clause 24.—The Clause was adopted without any amendment.

Clause 25.—The Committee made the following amendments, namely:—

- (1) Page 14, line 32, after “cost” insert “and works”.
- (2) After the existing sub-clause (1), a new sub-clause (2) be added as follows :—

“(2) Any person contravening the provisions of sub-section (1) shall, without prejudice to any other proceedings which may be taken against him, be punishable with fine which may extend on first conviction to one thousand rupees and on any subsequent conviction with imprisonment which may extend to six months, or with fine which may extend to five thousand rupees, or with both.”

- (3) The existing sub-clause (2) be re-numbered as sub-clause (3) consequentially.
- (4) The Draftsman was asked to examine whether a provision regarding exemption of diplomas or certificates in accounting etc. awarded by certain bodies could be made either in the Bill itself or in the Regulations to be framed thereunder provided such diplomas or certificates did not indicate the position or attainment of any qualification or competence similar to that of a member of the Institute. Subject to the above the clause was adopted.

Clause 26.—The Committee re-numbered the existing Clause as sub-clause (1) and adopted the following as sub-clause (2) namely :—

- “(2) If any company contravenes the provisions of sub-section (1), the company, and where it is proved that the offence has been committed with the consent or connivance of, or that the commission of the offence is attributable to any neglect on the part of, such director, manager, secretary or other officer, shall be punishable with fine which may extend on first conviction to one thousand rupees, and on any subsequent conviction to five thousand rupees.”

The Clause as amended was adopted.

Clause 27.—The Committee adopted the Clause subject to the following amendment, namely:—

- Page 15, line 4, for “or a firm of” substitute “in practice or a firm of such”

Clause 28.—The Committee adopted the Clause subject to the following amendment, namely:—

- Page 15, line 12, for “this Act” substitute “section 24, section 25 or section 27,”

Clauses 29 to 32.—The Clauses were adopted without any amendment.

Clause 33.—The existing Clause was substituted by the following:

- Appeals. “33(1) Any member of the Institute aggrieved by any order of the Council imposing on him any of the penalties referred to in clause (a) or clause (b) of sub-section (4) of section 21, may, within 30 days of the

date on which the order is communicated to him, prefer an appeal to the High Court:

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.

- (2) The High Court may, on its own motion or otherwise, after calling for the records of any case, revise any order made by the Council under sub-section (2) or sub-section (4) of section 21 and may—
 - (a) confirm, modify or set aside the order;
 - (b) impose any penalty or set aside, reduce, confirm or enhance the penalty imposed by the order;
 - (c) remit the case to the Council for such further enquiry as the High Court considers proper in the circumstances of the case;
 - (d) pass such other order as the High Court thinks fit:

Provided that no order of the Council shall be modified or set aside unless the Council has been given an opportunity of being heard and no order imposing or enhancing a penalty shall be passed unless the person concerned has been given an opportunity of being heard.

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

Clauses 34 to 36.—The Clauses were adopted without any amendment.

Clause 37.—The Committee adopted the clause subject to the following amendment, namely:—

- (1) Page 19, line 1, for “or a firm of” substitute “in practice or a firm of such”
- (2) lines 5 and 7, for “or a firm of” substitute “in practice or firm of such”.

Clause 38.—The Clause was adopted without any amendment.

Clause 39.—The following amendments were accepted:—

- (1) Page 20, delete para (k) of sub-clause (2) and re-numbered consequentially the subsequent paras.
- (2) Page 21, for para (v) so re-numbered, substitute “the registration and training of students and the fees to be charged therefor; and”

The Clause as amended was adopted.

The First Schedule.—The following amendments were adopted:—

- (1) Page 22, line 4, for "Misconduct in relation to cost accountants" substitute "Professional misconduct in relation to cost accountants in practice."
- (2) lines 5, 8 and 21, after "cost accountant" insert "in practice"
- (3) line 14, delete "or the widow or dependents"
- (4) lines 15 and 16 be deleted.
- (5) after line 16, the following be added, namely:—

Explanation.—In this item 'partner' includes a person residing outside India with whom a cost accountant in practice has entered into partnership which is not in contravention of item (4) of this Part."

- (6) Page 23, lines 14, 26 and 32, after "accountant" insert "in practice".
- (7) lines 16 to 19 be deleted.
- (8) line 34, after "Institute" insert "in practice"
- (9) Page 24, for lines 2-5, substitute the following:—

"Professional misconduct in relation to members of the Institute in service.

A member of the Institute (other than a member in practice) shall be deemed to be guilty of professional misconduct, if he being an employee of any company, firm or person—"

- (10) Page 24, line 6, delete "or allow"
- (11) line 8, for "engaged into" substitute "undertaken"
- (12) for lines 9—12, substitute the following:—
 - "(2) accepts or agrees to accept any part of fees, profits or gains from a lawyer, a cost accountant or broker engaged by such company, firm or person, agent or customer of such company, firm or person by way of commission or gratification;"
- (13) line 17, for "Misconduct" substitute "Professional misconduct"
- (14) line 18, after "Institute" insert "whether in practice or not"

The first schedule as amended was adopted.

The Second Schedule.—The following amendments were made in the schedule.

- (1) Page 25, lines 3-4, be substituted by the following:

"PART I

Professional misconduct in relation to cost accountants in practice requiring action by the High Court"

- (2) Lines 5 and 15, after "accountant" insert "in practice"

- (3) lines 24—26, be substituted by the following:—

"(5) fails to disclose a material fact known to him, which is not disclosed in a cost or pricing statement, but disclosure of which is necessary to make such a statement not misleading;"

- (4) Page 26, delete lines 10-12.

- (5) after line 9 add the following new Part II

"PART II

Professional misconduct in relation to members of the Institute generally requiring action by the High Court.

A member of the Institute, whether in practice or not, shall be deemed to be guilty of professional misconduct if he

- (i) contravenes any of the provisions of this Act or the Regulations made thereunder; or
- (ii) is guilty of such other act or omission as may be specified by the Council in this behalf, by notification in the Gazette of India."

The Schedule was adopted as amended.

Preamble.—The Committee adopted the preamble subject to the substitution of the word 'Tenth' for 'Ninth'.

Clause 1.—The Clause was adopted without any amendment.

The Committee decided to meet again at 4 P.M. on Saturday the 7th February, 1959 to consider the draft report. It was also decided that Members may give their minutes of dissent, if any, by 12 noon on Sunday the 8th February, 1959.

The Committee tentatively decided that a few copies of the evidence tendered by the various witnesses before the Committee, be placed in the Library for the use of the Members of Parliament.

The Committee adjourned at 8 P.M.

VI

SIXTH MEETING

*The Committee met from 4-10 P.M. to 6 P.M. on Saturday, the
27th February, 1959*

PRESENT

Shri Santosh Kumar Basu—*Chairman*

Members

RAJYA SABHA

1. Shri Babubhai M. Chinai.
2. Shri P. T. Leuva.
3. Sardar Raghbir Singh Panjhzari.
4. Shri V. K. Dhage.
5. Shri J. V. K. Vallabharao.
6. Shri M. P. Bhargava.

LOK SABHA

7. Shri Nibaran Chandra Laskar.
8. Shri Etikala Madhusudan Rao.
9. Shri matī Jayaben Vajubhai Shah.
10. Shri Radhelal Vyas.
11. Shri Satis Chandra Samanta.
12. Shri Padam Dev.
13. Shri Sunder Lal.
14. Shri Jaipal Singh.
15. Shri Karsandas Parmar.
16. Shri Satish Chandra, and
17. Shri Lal Bahadur Shastri.

REPRESENTATIVES OF THE MINISTRIES

Ministry of Law

Shri V. N. Bhatia, Deputy Draftsman.

Ministry of Commerce and Industry (Department of Company Law Administration)

Shri D. L. Mazumdar, I.C.S., Secretary.

Shri C. P. Gupta, I.C.S., Deputy Secretary.

Shri T. S. Menon, Under Secretary.

SECRETARIAT

Shri S. S. Bhalerao, Deputy Secretary.

Shri M. A. Amladi, Under Secretary.

2. The Joint Committee considered and approved the following amendments, drafting or otherwise, made by the Draftsman on the directions of the Committee, given at its meeting held on the 27th January, 1959.

Clause 2.—For the Explanation occurring after sub-clause (2) the following was substituted:—

“Explanation:—A member of the Institute who is a wholetime salaried employee of any person shall not be deemed to be in practice within the meaning of this sub-section.”

Clause 5.—After sub-clause (4) the following Explanation was inserted as Explanation I:—

“Explanation I:—For the purposes of this sub-section, a person shall be deemed to have practised in India for any period for which he has held a certificate of practice under section 6, notwithstanding that he did not actually practise during that period.”

and the Explanation approved by the Committee on the 27th January was numbered as Explanation II.

Clause 11.—The clause was substituted by the following:—

“If the members of the Institute fail to elect any member under clause (a) of sub-section (2) of section 9 from any of the regional constituencies that may be specified under that clause, the Central Government may nominate any duly qualified person from such constituency to fill the vacancy, and any person so nominated shall be deemed to be a duly elected member of the Council.”

Clause 12.—Sub-clause (3) was adopted in the following form:—

(1) *“The President or the Vice-President shall hold office for a period of one year from the date on which he is chosen but so as not to extend beyond his term of office as a member of the Council, and, subject to his being a member of the Council at the relevant time, he shall be eligible for re-election.”*

(2) After sub-clause (3), the following proviso was added, namely:

“Provided that the President of the Council at the time of the expiration of its duration shall continue to hold office until a new Council is constituted in accordance with the provisions of th's Act.”

3. The Committee also made certain minor changes in clauses 26 and 28 and all the above clauses, as amended, were adopted.

4. The Committee adopted the Bill as amended.

5. The Committee then considered the draft Report and adopted the same with minor corrections.

6. The Committee authorised its Chairman to present the Report on their behalf. The Committee also authorised its Chairman to lay the evidence on the Table of the Rajya Sabha on the same day, after the presentation of the Report.

7. The Committee also authorised Shri Satish Chandra Samanta to lay the Report of the Committee, as well as the evidence, on the Table of the Lok Sabha on the 9th February, 1959.

8. The Chairman announced that the Report would be presented to the Rajya Sabha on the 9th February, 1959.

9. The Committee then adjourned at 6 P.M.