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The Registered Accountants' Journal

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(a) The Chartered Accountants Bill 1948.

We had occasion to comment in one of our earlier issues on the proposal of the Government of India to regulate the profession of Accountants. The Bill has now been introduced in the Constituent Assembly. A perusal of the bill which is published in extenso as a supplement to this issue belies the satisfaction expressed by us earlier. The autonomy of the profession for which the Registered Accountants have strived for so long and which was an integral part of the proposals made earlier, is now seen to be only a mirage. We are constrained to remark that the public assurances given by the Hon'ble Ministers on several occassions have not been kept up. The Central Government are introducing certain provisions whereby they now withhold from the autonomous council, the council's inherent right of sitting in judgment on the professional conduct of the members of the institute. Explanation 2 of clause 20 of the bill is a vivid example of the way in which the Government have tried to skip over their earlier assurances. The result is that the proposed institute of Chartered Accountants is just another name for the present Indian Accountancy Board.

2. We note further that appeals aganist the decision of the Council or Government are provided only upto High Court stage and there is no provision whatsoever for appeal to Federal Court. We would urge that the highest Tribunal in the land should be given the final authority over this central subject. We would point out in this connection with gratification the privilege conferred on the members of the Institute in being enabled to argue on behalf of other members in all misconduct proceedings before High Court. This is perhaps the first instance where non-advocotes are permitted to appear before High Court and we should congratulate the makers of the bill on their bold step.

3. The bill now provides that no Chartered Accountant shall carry on any other business without the permission of the Council. This is a matter over which conflicting opinion exists amongst the profession and we question the wisdom of prohibition of business activities side by side with the practice of the profession by the members of the institute. Although the profession is growing important it cannot yet be said that all members make any considerable income, nor is it a fact that they are engaged for an abnormal number of hours every day in their business and professional activities. The modern trend is to stress on more and more production. If the right to do business is put an end to, it means that another vital source of engaging the unemployed is sapped. After all it should be further pointed out that the Bill has not clearly defined whether the words "business or occupation", will also mean and include the posts of internal auditors, Secretaries and Directors of companies, and accepting accountancy work. We venture to state that if a referendum is taken among the practising members on this question the verdict will not support the present proposals of the Government.

Another ill conceived provision in the bill relates to the maintenance of branch offices. We do not see the necessity for such a provision as we are not aware of any complaint from any source that the opening of more branches by a firm than the number of qualified accountants in that firm, has at any time detracted from the quality of service rendered to the public. In a way this also goes counter to the right of any member of the public to choose his or their own auditor. It is not clear on what grounds it has been judged that any individual Chartered Accountant aided by suitable staff and organized auditing porcedure cannot cope with the

work of more than one branch. We are strongly of opinion that no case now exists for the introduction of this provision since there are no complaints from the affected parties, namely the public.

(b) **Question of Depreciation.**

One of the current topics of discussion in any gathering of Accountants centres round the question of Depreciation. The ancient system of providing depreciation on cost, is giving place to ascertainment of depreciation based upon the replacement value of fixed assets. We publish elsewhere in this issue an extract from the Editorial of the Accountant's Magazine of August 1948 which will be of profound interest to our readers.

(c) **Internal Audits.**

The subject of internal audits affects the profession to a very great extent. The modern trend in big business is the adoption of the system of internal audits. The statement, of the Institute of the Internal Auditors Inc., published in the July issue of the Canadian Chartered Accountant is reproduced by us in this issue for the benefit of our readers.

War Against Inflation.

BY

K. B. RAMASUBRAMANIAN, B.A., R.A.,

"Money will be spent only where it will result in further production early". This is the prime moto underlying the measures taken by the Government of India to combat the threat of growing inflation.

Any citizen social or anti social who studies the present economic situation of our great country will finally suggest making "more money or more goods" to set aright the crisis. After careful consideration and extensive consultation with public and private personalities, the Government has announced their anti-inflationery measures which are expected to fetch more money and help produce more goods. Reducing their own expenditure and augmenting reserve by taxation are the two methods by which the Government expects to get more finance. Though the incentive that is given to Industries to produce more goods is not so enthusiastic as to invigirate the main factors of production it will go a long way to meet the desired objective. A Cabinet Committee has been appointed by the Government to study all Central & Provincial development plans with a view to avoid expenditure on non-productive schemes which may suitably be deferred or dropped. Presentation of deficit budget in the past which is one of the factors that is responsible for the present inflatious situation will be avoided and the Government has decided to reduce the gap between revenue and expenditure on the budget as far as possible and provide surplus budgets in the future. The Provincial Governments are advised to increase their revenues by implementing the tax on agricultural income wherever it is not prevalent. It is also proposed to expedite the Estate Duty bill which is now in discussion before the

Central Ligislature. The Government proposes to make the public save more by giving them wider facilities to exhaust the scheme of small savings. The Government has also decided to conserve money by limiting payment of dividends to average of two years ending 31st March 1948 or 6 per cent on paid up capital whichever is higher Postponement of repaying E. P. T. refunds and deposits is also another means which is employed to check inflations. It also deserves appreciation that the Government decides to exempt newly started undertakings from Incometax for a specified period, to grant relief in respect of customs duty for raw materials and Plant and Machinery imported and to adopt more liberal regulations in respect of depreciation on Plant and Machinery for Incometax purposes.

Extensive consulations have taken place and each and every citizen of the public has been given every opportunity to arrive at a decision, frame an immediate policy to bring down the high prices and evolve short as well as long term plans to ensure plentiful future. Economists, Industrialists and labour leaders all over the country submitted the reports at the request of the Government of India. Though in some respects, the suggestions might vary, all are unanimous in one thing *i.e.*, production must be stepped up. It is time because only if we increase our production and have more goods, we will be devoid of all these evils of inflation. How can we increase production? Though it is a fact that we have not got the requisite capacity to satisfy our entire requirements without imports from foreign countries, the stock further remains that our factories are not producing as in the pre-war days. What is the reason for this?

Indstrials give an answer to the above question. According to these the present downward trend in business activity resulting in this inflationary crisis, is due to the lack of confidence in the minds of the public by the vacillating Government policies threats of nationalisation and frequent conflicting pronouncements by the Ministers both Central and Provincial.

To relieve the investing public of such lack of confidence industrialists were for the abolition of the Capital Gains tax and for utilising the resources of the Government in productive schemes instead of the social services. They also want the Government to put a ceiling to wages, prices and profits and welcome bringing down the existing level by gradual steps. Limitation of dividends is quite agreable to them. They suggest for improving industrial production;

(1) Uniform labour legislation throughout the country.

(2) Removal of transport restrictions

(3) Introduction of three shifts in factories especially in Cotton textile industry.

(4) Allowance of special depreciation to meet the high replacement cost of plant and machinery.

(5) Relief to new undertakings from Incometax.

(6) Nationalisation of labour.

(7) Vigorous campaign for savings etc.

The Government has surely adopted the suggestion made by the industrialists as far as possible in many respects.

Report submitted by the Economists contain many suggestion, which, if adopted will set at rest even the existing level of production. They are of the opinion that continuous deficit budgets, increase inactive money due to transfer of cash and balances and large scale conversion of capital into cash and balances as a result of migration movements, addition to money supply by open market operations by Reserve Bank of India in support of Government securities and money got out of black market operations all contribute to the present situation. The remedies suggested by them are postponement of E. P. T. refunds and deposits and capital expenditure on non-productive schemes, increasing taxation by introducing surcharge on incometax, enhancing B.P.T. from 16.2/3 percent to 25 percent increasing the rate of personal supertax to the 1947-48 level and instituting death duties. On the monetary side they suggest limiting the maximum of the total value of notes issued by the Reserve Bank of India to the existing amount and that all Banks should be required to hold Government Securities to the extent of 25 percent of their total demand liabilities subject to the permission of the Reserve Bank in special cases. They also mention methods of stepping up production. It can be clearly seen that they are more in favour of following the exchange of the Government by increased taxation. How far the policy of further taxation will succeed can be understood from the reaction to the Liaquat Ali Budget which destroyed the business confidence already.

Bankers also had something to voice their feelings and give suggestions as they form a vital section of the money market. They subscribe to the view that the country requires a radical revision of the financial policy of the Government. They also advocate methods for improving productions and defeating the purchasing power in the hands of a few. In order to tap such reserves, they suggest issuing Bearer Bills by prominent Banks in convercent denominations ranging from Rs. 10 to Rs. 1,00,000 payable after 5 years. They are of the opinion that it would be possible to draw about Rs. 200 crores from currency circulation if proper publicity is given to this scheme.

They are also various other suggestions by the prominent leaders. Mr. Jai Prakash Narayan says that Agricultural production drive should be launched through village panchayats and help in all possible ways should be given to agriculturists through organized co-operative societies to enable them to purchase implements, manure, bullocks etc., He also suggests that labour will play its proper part if machinery is set up to settle disputes quickly and workers are allowed to participate in management at least in nationalised industries. He is also of opinion that it will be encouraging labour if proper provision is made for fair wages and profits for housing and for avoiding rivalry in trade industries.

Thus there is agreement among all sections of the public that balancing budgets deficits the resources in the hands of the spenders by borrowing or taxation or by compulsory savings and making an attach on the problem of short period production. The government has wisely adopted the measures suggested by the various groups as far as possible. In the circumstances, as is commented upon by eminent personalities of the type of Mr. G. D. Birla and Dr. Alagappa Chettiar, this is the best that could be done. It is indeed a shrewed feature that the Government turned down the fantastic proposals of devaluation of currency notes, the freezing of Bank deposits and so on. The assurance given by Pandit Nehru to the effect that no such methods would be resorted to gladdened the hearts of panich stricken public and infused confidence in them.

There are some inherent defects also in the working of the Provincial Governments which are responsible in a way to the present crisis. The divergent policies in different provinces affect the industries to a great extent and are proving a serious deterrent to fresh industrial enterprise. One province taxes agricultural income and another does not chose to do it. For example while Bihar, Assam, U. P. Orissa and West Bengal resort to tax on agricultural income as a source of revenue, others do not adopt that. Had the Government of Madras carried out their proposal of taxation on agricultural income it would have realised Rs. 1 crore on account of that in 1947-48 Different rates and divergent methods of taxation must be avoided and a uniform structure must be approved. Madras abolished betting altogether out of which it was getting a sum of 35.35 lakhs whereas

West Bengal still continues it taxing at the rate of 20% Provincial Government could easily enhance the taxes on entertainment and get more revenue. No one can realise any wise step in the action of the Madras Government inpassing Prohibition and making every endeavour to pass the Zamindari abolition bill at a time, when the Central Government is trying to find ways and means to tackle the inflation problem. Mr. A. D. Shroff has rightly said that "it is unfortunate that some of the provinces have already decided to ignore the advise and continue to flitter away large chunks of revenue in pursuit of idealogical policies". C. P. Government has to be congratulated for their decision to postpone prohibition to be in consonance with policy of centre. However much the provincial Government may try to look after themselves without asking help from the Centre in their anxiety to carry out their own policies, they must also study the situation of the country as a whole and cooperate with the centre. They rather deem it "a question of prestige and are not showing the courage and determination to revenue policies which cannot be pursued without causing serious repercussions on the economic and financial situation of the country as a whole."

One cannot pull on without food, clothing and shelter and to day we are in want of all these things, By the position of our country, which is very sad portion of our history, in addition to our trials and tribulations, we were deprived of major portion of food producing areas such as Sind, West Punjab, which became part of Pakistan. To combat the food problem, Central as well as Provincial Governments have launched big schemes like the Damodar Valley Corporation and other projects; Workers state insurance Corporation inaugurated recently by H. E. Sri C. Rajagopalachari is one of the many methods by which the Government is trying to ameliorate the conditions of working classes. Though this scheme extends only to a small fraction of the population and has also some other limitations it is a prudent rogramme heralded by our Government. This proves to satisfy to some extent the need for social security. It does not cover the agricultural population but yet, as the Labour Minister has pointed out, a very different type of scheme is required and the problem requires careful study in all its bearings. No one can deny the agriculturists claim to relief "because on their sweat and toil depended the life of the community." The problem of clothing can be solved to some extent by introducing three shifts in cotton textiles industries. Industrialists and labour must feel the situation and come to the rescue shedding of all their selfish interests. Fortunately strikes and lock outs have disappeared and with complete confidence, the factors of production must cast their full strength to meet the countrys' needs since, after all, it is our own Government. It is only by the Industrial cooperation of all sectors of the public and the Government machinery that all problems affecting the country can be solved. Our Government is run by representatives of people and so unless the public have pure and incurrupted minds it is not possible to enjoy the prints of the Indenpendence that we got after such herculion efforts. Provincial Governments can cumulate the example of Bombay in solving the problem of housing.

The Government measures for fighting inflation do not mention anything about the much discussed topic of Profit sharing in industry by labour. One should thank God if this proposal does not succeed. Evils associated with this are many. In our country not many undertakings get such large profits as to share it with the working class after a basic return on capital. Students of Economics will very well understand how far this scheme is workable and the psychological consequences arising out of this. It will cause discontent among labour and so under conditions prevailing in the country this scheme is not fesable and if it is enforced, it will seriously affect the capital market thus giving chance to the vicious circle again.

Engrossed with political problems such as partition, Kashmir, and Hyderabad etc., so far our Government has determined to take up the economic problems now. We hope that the success achieved in the political front will be repeated in the economic front also. If anti-social elements are cubbed, a smooth under standings between capital and labour is established and every citizen realises his or her responsibility in the discharge of his or her duties for the sake of our country, we need have no fear of inflation and in the words of our dear Rajaji there is nothing to "get frightened as if inflation were a bacillary disease." Let us all enconrage with our full might the measures taken by the Government and pray Him to relieve the country of all these evils and to make India a "Land of Peace, Plenty and Pleasure."

Gleanings from Accountancy Journals.

(By Courtsy of respective Journals)

(a) The Canadian Chartered Accountant. July 1948, Issue.

Responsibilities of Internal Auditors.

Nature of Internal Auditing.

Internal auditing is the independent appraisal activity within an organization for the review of the accounting, financial and other operations as a basis for protective and constructive service to management. It is a type of control which functions by measuring and evaluating the effectiveness of other types of control. It deals primarily with accounting and financial matters but it may also properly deal with matters of an operating nature.

Objectives and Related Activities.

The over all objective of internal auditing is to assist management in achieving the most efficient administration of the operations of the organization. This total objective has two major phases, as follows :—

(1) The protection of the interests of the organization including the pointing out of existing deficiencies to provide a basis for appropriate corrective action.

The attainment of this objective involves such activities of the internal auditors as :

(a) Ascertaining the degree of reliabiliy of accounting and statistical data developed within the organization.

(b) Ascertaining the extent to which the Company assets are properly accounted for and safeguarded from losses of all kinds.

(c) Ascertaining the extent of compliance with established policies, plans, and procedures.

(2) The furtherance of the interests of the organization, including the recommendation of changes for the improvement of the various phases of the operations.

The attainment of this objective involves such activities of the internal auditor as :

(a) Reviewing and appraising the policies and plans of the organisation in the light of the related data and other evidence.

(b) Reviewing and appraising the internal records and procedures of the organization in terms of their adequacy and effectiveness.

(c) Reviewing and appraising performance under the policies, plans, and procedures.

Scope and Authority and Responsibility.

Internal auditing is a staff or advisory function rather than a line or operating function. Therefore the internal auditor does not exercise direct authority over other persons in the organization.

The Internal auditor should be free to review and appraise policies, plans, and procedures but his review and appraisal does not in any way relieve other persons in the organization of the primary responsibilities assigned to them.

Independence.

Independence is basic to the effectiveness of the internal auditing program. This independence has two major aspects, as follows:

(1) The head of the internal auditing department should be made responsible to an officer of sufficient rank in the organization as will assure adequate consideration and action on the findings or recommendations. The organizational status of the internal auditor and the support accorded to him by management are major determinants of the range and value of the services which management will obtain from the internal auditing function.

(2) Internal auditing should not include responsibilities for procedures which are essentially a part of the regular operations of a complete and adequate accounting system or of a properly organized operating department. In some instances management may assign current operating responsibilities to the internal auditing department, but in such cases the execution of the current operating responsibilities should be performed by separate personal and be subjected to the same review and appraisal as is accorded other operations.

(b) The Accountants' Magazine August Issue.

Depreciation - Accountant V. Economist.

Economists disagree over many things. They are at one, however, over the need to see that British Industry is adequately supplied with uptodate capital equipment. The size of the national income, and consequently the share which falls to each of us, is very much dependent upon the level of capital expenditure and the type of equipment obtained thereby. If we are not to lose our place in the production race we must at least be sure that we are setting aside sufficient sums each year to maintain intact existing capital assets. Real progress will involve net additions to capital. To day the cost of capital equipment is very much higher than in pre war days. The economist avers that unless depreciation allowances are sufficient to cover these increased prices, then adequate provision is not being made for capital replacement. Herein the tax collector and some accountants differ from the economist. For Inland Revenue purposes, and in accordance with normal accounting practice, depreciation allowances are commonly calculated on the basis of original cost. Price fixing, having regard to the need to cover the cost of production both direct and indirect, will also follow the same principle. In computing profits the permitted depreciation allowance relates to values which are now much less than the cost of replacing the equipment in question at current prices. It follows that where tax is computed after allowing depreciation on orginal cost, it is in practice being levied on part of the cost of capital replacement - and this at a time when there is every need to maintain and improve capital equipment. Were any firm constrained to pay out the whole of its profits it would, these days, be dissipating its Capital. Fortunately, in practice, the economist and the accountant are really agreed, for most companies are endeavouring to set aside reserves to meet the extra cost of capital replacement. This factor must, therefore, be borne in mind when comparing present day and pre war industrial profits.

"Financial Statements are no longer company property. They go to stock holders; they go to senators and representatives; they go to labour leaders; they go to newspaper columnists, they go to College professors."

Society of Auditors Notes.

(A Letter to The President published for the information of members).

A. No. 28.

Incometax Office, Circle II,
Madras City, Dated 23—9—48.

From
P. Madhava Rao, Esq., B.A., B.L.,
Incometax Officer.

To
The President, Society of Auditors,
Y. M. I. A. Buildings, Armenian Street, Madras.

Sir,

It has been found that in some cases, Registered Accountants and Incometax Practitioners are appearing before the Incometax Officers without filing proper letters of authority. This is causing some inconvenience. It is therefore proposed that the following procedure should be adopted in future and I shall be glad if you will communicate it to all the members of your Association.

Any petitions or applications or other correspondence addressed by an Incometax Practitioner or a Registered Accountant will not be taken notice of unless a proper power of attorney is filed. Pasting a printed form of power of attorney on a stamped paper is not strictly valid, but in cases where such a procedure is adopted, it is essential that the assessee should, in addition to his signing on the printed form, sign across both the printed form and the stamped paper as in the case of bills of exchange. Any corrections or alterations and in particular insertion in manuscript of the name of a Registered Accountant or Incometax Practitioner should invariably be attested by the assessee.

Thanking you,

Yours faithfully,

23—9—48. (Sd.) P. MADHAVA RAO.

R. A. Supplementary Final Results.

NEW DELHI, Oct. 6.

The following candidates have passed the Registered Accountants' supplementary Final Examination held in August:

K. Ramalinga Aiyar, S. Venkatarama Aiyar, Amerendra Kisor Banik, Sasthipada Bhattacharya, Gopal S. Borkar, Dara H. Captain, Amalendu Chatterjee, Santilal C. Dalal, Radhey Shyam Dani, Kanti Bikas Datta, Amrit H. Desai, Homi B. Dhondy, Mohan Lall Dikshit, Anant Narayan Ghangurde, Devidas Madhavrao Gonge, Surendra Vishvanath Gupte, Bajrang Lal Jaju, A. P. Jaya[illegible]ndas Bhogilal Mehta, Chimanlal Tribhuvandas Mody, M. [illegible] L. Narasimha R[illegible] R. Natarajan, Prabhakar M. Phene, T. T. Rangasw[illegible] Venkat Rao, Dines[illegible] Chandra Sen Gupta, Shantilal P. Shah, Jethanand S[illegible], Rutton D. Shroff, Santoshmoy Sirkar, P. Visvanathan, V. Visvanathan, S[illegible]antilal P. Vora.

NOTIFICATIONS.

A

BILL

To make provision for the regulation of the profession of accountants

Whereas it is expedient to make provision for the regulation of the profession of accountants and for that purpose to establish an Institute of Chartered Accountants;

It is hereby enacted as follows:—

CHAPTER I

Preliminary.

1. Short title, extent and commencement.—(1) This Act may be called the Chartered Accountants Act, 1948.

(2) It extends to all the Provinces of India and also to any Acceding State for which the Dominion Legislature has for the time being the power to make laws as respects the profession of accountants.

(3) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint.

2. Interpretation.—(1) In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "associate" means an associate member of the Institute;

(*b*) "chartered accountant" means a person who is a member of the Institute and who is in practice;

(*c*) "Council" means the Council of the Institute;

(*d*) "holder of a restricted certificate" means a person holding a permanent or temporary restricted certificate granted by a Provincial Government under the Restricted Certificates Rules, 1932;

(*e*) "Institute" means the Institute of Chartered Accountants of India constituted under this Act;

(*f*) "prescribed" means prescribed by regulations made under this Act;

(*g*) "Register" means the Register of Members maintained under this Act;

(*h*) "registered accountant" means any person who has been enrolled on the Register of Accountants maintained by the Central Government under the Auditors' Certificates Rules, 1932;

(*i*) "year" means the period commencing on the 1st day of April of any year and ending on the 31st day of March of the succeeding year.

(2) A chartered accountant is said "to be in practice", when individually or in partnership with other chartered accountants, he—

(*i*) engages himself in the practice of accountancy in consideration of remuneration received or to be received; or

(*ii*) offers to perform or performs services involving the auditing or verification of financial transactions, books, accounts, or records or the preparation, verification or certification of financial accounting and related statements or holds himself out to the public as an accountant; or

(*iii*) renders professional services or assistance in or about matters of principle or detail relating to accounting procedure or the recording, presentation or certification of financial facts or data; or

(*iv*) subject to such conditions as may be specified by the Council in this behalf, acts as liquidator, trustee, executor, arbitrator, receiver or adviser or as representative for costing financial and taxation matters; or

(*v*) renders such other services as are usually rendered by a chartered accountant;

and the words "to be in practice" with their grammatical variations and cognate expressions shall be construed accordingly.

CHAPTER II

The Institute of Chartered Accountants of India.

3. Incorporation of the Institute.—(1) All persons whose names are deemed to be entered in the Register at the commencement of this Act and all persons who may hereafter have their names entered in the Register under the provisions of this Act, so long as they continue to have their names borne on the said Register, are hereby constituted a body corporate by the name of the Institute of Chartered Accountants of India, and all such persons shall be known as members of the Institute.

(2) The Institute shall have perpetual succession and a common seal and shall have power to acquire, hold and dispose of property, both movable and immovable, and shall by its name sue or be sued.

4. Entry of names in the Register.—(1) Any of the following persons shall be entitled to have his name entered in the Register, namely,—

(*i*) any person who is a registered accountant or a holder of a restricted certificate at the commencement of this Act;

(*ii*) any person domiciled in India who has passed such examination and completed such training as may be prescribed for members of the Institute;

(*iii*) any person domiciled in India who has passed such other examination and completed such other training without India as is recognised by the Council as equivalent to the examination and training prescribed for members of the Institute, and, who, in addition, fulfils any other conditions which may be prescribed for any such person;

(*iv*) any person domiciled in India, who at the commencement of this Act is studying for any foreign examination and is at the same time undergoing training whether within or without India, or, who, having passed such foreign examination, is at the commencement of this Act undergoing training, whether within or without India.

Provided that any such examination or training was recognised before the commencement of this Act for the purpose of conferring the right to be registered as an accountant under the Auditors' Certificates Rules, 1932, and provided further that such person passes the examination or completes the training within five years after the commencement of this Act;

(*v*) any person not domiciled in India who fulfils the conditions prescribed for the entry of his name in the Register and his otherwise entitled to have his name entered therein.

(2) Every person belonging to the class mentioned in clause (*i*) of sub-section (1) shall be deemed to have had his name entered in the Register at the commencement of this Act without the payment of any entrance fee.

(3) Every person belonging to any of the classes mentioned in clauses (*ii*), (*iii*), (*iv*) and (*v*) of sub-section (1) shall have his name entered in the Register on application being made and granted in the prescribed manner and on payment of the prescribed fee.

5. Fellows and Associates.—(1) The members of the Institute shall be divided into two classes designated respectively as associates and fellows.

(2) Any member of the Institute shall, on his name being entered in the Register, be deemed to have become an associate of the Institute and be entitled to use the letters A.C.A. after his name, to indicate that he is an associate of the Institute of Chartered Accountants.

(3) An associate who has been in continuous practice in India for at least five years, whether before or after the commencement of this Act, or whether partly before and partly after the commencement of this Act, shall, on payment of the prescribed entrance fee and on application made and granted in the prescribed manner be entered in the Register as a fellow of the Institute and shall be entitled to use the letters F.C.A after his name to indicate that he is a fellow of the Institute of Chartered Accountants:

Provided that any associate who has been in continuous practice in India for not less than five years at the commencement of this Act, shall be entered in the Register as a fellow of the Institute without the payment of any entrance fee.

6. Certificate of practice.—(1) No member of the Institute shall be in practice unless he has obtained from the Council a certificate of practice.

(2) Every such member shall pay such annual fee, differing in amount according as he is an associate or a fellow, for his certificate as may be prescribed, and such fee shall be due on the 1st day of April in each year.

7. Members to be known as Chartered Accountants.—Every member of the Institute in practice shall be designated as a chartered accountant and no person practising the profession of accountancy in India shall use any other designation, whether in addition thereto or in substitution therefor:

Provided that nothing contained in this section shall be deemed to prohibit any such person, if so entitled, to add any other letters to his name to indicate membership of any other Institute of accountancy, whether in India or elsewhere, or any other qualification that he may possess.

8. Disabilities.—Notwithstanding anything contained in section 4, a person shall not be entitled to have his name entered in or borne on the Register if he—

(*i*) has been adjudged by a competent Court to be unsound mind; or

(*ii*) is an undischarged insolvent: or

(*iii*) being a discharged insolvent, has not obtained from the Court a certificate stating that his insolvency was caused by misfortune without any misconduct on his part; or

(*iv*) has been convicted by a competent Court whether within or without India, of an offence involving moral turpitude and punishable with transportation or imprisonment or of an offence, not of a technical nature, committed by him in his professional capacity unless in respect of the offence committed he has either been granted a pardon or, on an application made by him in this behalf, the Central Government has, by an order in writing, removed the disability; or

(v) has been found on inquiry held by the Council to have been guilty of conduct which in the opinion of the Council renders him unfit to be a member of the Institute.

CHAPTER III

Council of the Institute.

9. Constitution of the Council of the Institute.—(1) There shall be a Council of the Institute constituted by the Central Government for the management of the affairs of the Institute and for discharging the functions assigned to it under this Act.

(2) The Council shall be composed of the following persons, namely,—

(*a*) persons elected by members of the Institute from amongst themselves from the five regional constituencies specified as under, namely,—

(*i*) Bombay, the United State of Saurashtra, Baroda, Kolhapur and Kutch.

(*ii*) Madras, Travancore, Cochin, Mysore and Hyderabad.

(*iii*) West Bengal, Assam, Tripura, Cooch Bihar and Orissa.

(*iv*) The United Provinces, Bihar, Central Provinces and Rajputana.

(*v*) Delhi, East Punjab and Kashmir;

(*b*) one person nominated by the Federation of Indian Chambers of Commerce and Industry; and

(c) three persons nominated by the Central Government.

(3) The number of persons to be elected under clause (*a*) of sub-section (2) from each constituency shall be determined on the basis of one person for every hundred members of the Institute in the constituency, fractions exceeding half being counted as one and fractions equivalent to or less than half being omitted:

Provided that each constituency shall have at least one person elected therefrom to the Council.

10. Mode of election to Council.—(1) Elections under clause (*a*) of sub-section (2) of section 9 shall be conducted in the prescribed manner.

(2) Where any dispute arises regarding any such election, the matter shall be referred to a Tribunal appointed by the Central Government in this behalf and the decision of such Tribunal shall be final.

11. Nomination in default of election or nomination.—If any body of persons referred to in section 9 fails to elect or nominate any of the members of the Council which it is empowered under that section to elect or nominate, the Central Government may nominate a person duly qualified to fill the vacancy, and any person so nominated shall be deemed to be a member of the Council as if he had been duly elected or nominated, as the case may be.

12. President and Vice-President.—(1) The Council at its first meeting shall elect two of its members to be respectively the President and the Vice-President thereof and so often as the office of the President or the Vice-President becomes vacant the Council shall choose another person to be the President or the Vice-President, as the case may be:

Provided that on the first constitution of the Council a member of the Council nominated in this behalf by by the Central Government shall discharge the functions of the President, until such time as a President is elected under the provisions of this sub-section.

(2) The President shall be the Chief Executive Officer of the Council.

(3) 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:

Provided that whenever the Council is dissolved the President shall continue to hold office and discharge such functions as may be prescribed until the election of the President of the new Council.

13. Resignation of membership and casual vacancies.—(1) Any member of the Council may at any time resign his membership by writing under his hand addressed to the President, and the seat of such member shall become vacant when such resignation is notified in the official Gazette.

(2) A member of the Council shall be deemed to have vacated his seat if he is declared by the Council to have been absent without sufficient excuse from three consecutive meetings of the Council or if he becomes subject to any of the disabilities specified in section 8.

(3) A casual vacancy in the Council shall be filled by fresh election from the constituency concerned or by nomination by the appropriate authority, as the case may be, and the person

elected or nominated to fill the vacancy shall hold office until the dissolution of the Council.

(4) No act done by the Council shall be called in question on the ground merely of the existence of any vacancy in, or defect in the constitution of, the Council.

14. Duration and dissolution of Council.—The Council once constituted under this Chapter shall last for three years from the date of its first meeting whereafter it shall stand dissolved and a new Council shall be constituted in accordance with the provisions of this Chapter.

15. Functions of the Council.—(1) The duty of carrying out the provisions of this Act shall be vested in the Council.

(2) In particular, and without prejudice to the generality of the foregoing power, the duties of the Council shall include—

(*a*) the examination of candidates for enrolment and the prescribing of fees therefor;

(*b*) the regulation of the engagement and training of articled clerks;

(*c*) the prescribing of qualifications for entry in the Register;

(*d*) the recognition of foreign qualifications and training for purposes of enrolment;

(*e*) the granting or refusal of certificates of practice under this Act;

(*f*) the maintenance and publication of a Register of persons qualified to practice as chartered accountants;

(*g*) the levy and collection of fees from chartered accountants, associates, members, examinees and other persons;

(*h*) the removal of names from the Register and the restoration to the Register of names which have been removed;

(*i*) the regulation and maintenance of the status and standard of professional qualifications of chartered accountants;

(*j*) the carrying out, by financial assistance to persons other than members of the Council or in any other manner, of research in accountancy;

(*k*) the maintenance of a library and publication of books and periodicals relating to accountancy; and

(*l*) the exercise of disciplinary powers conferred by this Act.

16. Staff, remuneration and allowances.—(1) For the efficient performance of its duties, the Council may—

(*a*) appoint a Secretary who may also, if so decided by the Council, act as Treasurer;

(*b*) appoint such other officers and servants as it deems necessary;

(*c*) require and take from the Secretary or from any other officer or servant of the Council such security for the due performance of his duties, as the Council considers necessary; and

(*d*) with the previous sanction of the Central Government, fix the fees and allowances of the President, Vice-President, and other members of the Council and the salaries, fees, allowances and other conditions of service of the other officers and servants of the Council.

(2) Notwithstanding anything contained in sub-section (1), on the first constitution of the Council the Secretary shall be a person appointed by the Central Government in consultation with the Council, and he shall hold office during the pleasure of the Central Government but so as not to exceed a period of three years from the date of his appointment.

17. Committees of the Council.—(1) The Council shall constitute from amongst its members the following Standing Committees, namely,—

(*i*) an Executive Committee,

(*ii*) an Examination Committee, and

(*iii*) a Disciplinary Commitee.

(2) The Council may also form such other committees from amongst its members as it deems necessary for the purpose of carrying out the provisions of this Act.

(3) Each of the Standing Committees shall consist of the President and the Vice-President, *ex officio*, and three other members of the Council elected by the Council.

(4) The President and the Vice-President of the Council shall be the Chairman and Vice-Chairman respectively of each of the Standing Committees.

(5) Every member of the Standing Committee other than the Chairman and the Vice-Chairman shall hold office for one year from the date of his election, but, subject to being a member of the Council, he shall be eligible for re-election.

(6) The Standing Committees shal exercise such functions and be subject to such conditions in the exercise thereof as may be prescribed.

18. Finances of the Council.—(1) There shall be established a fund under the management and control of the Council into which shall be paid all monies received by the Council and out of which shall be met all expenses and liabilities properly incurred by the Council.

(2) The Council may invest any money for the time being standing to the credit of the fund in any Government security or in any other security approved by the Central Government.

(3) The Council shall keep proper accounts of the fund distinguishing capital from income.

(4) The annual accounts of the Council shall be subject to audit by a chartered accountant to be appointed annually by the Council:

Provided that no member of the Council or a person who is in partnership with such member shall be eligible for appointment as an auditor under this sub-section.

(5) As soon as practicable at the end of each year, the Council shall forward to the Central Government and also publish in the official Gazette a copy of the audited accounts of the Council for that year.

(6) The Council may borrow from a scheduled bank, as defined in the Reserve Bank of India Act, 1934 (II of 1934), or from the Central Government—

(*a*) any money required for meeting its liabilities on capital account on the security of the fund or on the security of any other assets for the time being belonging to it, or

(*b*) for the purpose of meeting current liabilities pending the receipt of income, by way of temporary loan or overdraft.

CHAPTER IV

Register of Members

19. Register.—(1) The Council shall maintain in the prescribed manner a Register of the Members of the Institute.

(2) The Register shall include the following particulars about every member of the Institute, namely,—

(*a*) his full name, date of birth, domicile, residential and professional addresses;

(*b*) the date on which his name is entered or deemed to have been entered in the Register;

(*c*) his qualifications;

(*d*) whether he holds a certificate of practice; and

(*e*) any other particulars which may be prescribed.

(3) A list of members of the Institute as on the 1st day of April each year shall be published in the official Gazette.

(4) Every member of the Institute shall, on his name being entered in the Register, pay such annual membership fee as may be prescribed.

20. Removal from the Register.—(1) The Council may remove permanently or temporarily from the Register the name of any member of the Institute—

(*a*) from whom a request has been received to that effect;

(*b*) who has not paid any prescribed fee required to be paid by him; or

(*c*) who is found to have been subject at the time when his name was entered in the Register or who at any time thereafter has become subject to any of the disabilities mentioned in section 8; or

(*d*) who has been found, on inquiry held by the Council, to have been guilty of conduct which in the opinion of the Council, renders him unfit to be a member of the Institute.

Explanation.—Without prejudice to the generality of the power conferred on the Council by clause (*d*), any act or omission specified in the Schedule shall be deemed to be conduct, which, being proved, shall render a person unfit to be a member of the Institute.

(2) Where a member of the Institute in practice is accused of conduct in, or arising out of, any income-tax proceeding which, if proved, will render him unfit to be a member of the Institute, the inquiry shall, notwithstanding anything to the contrary in clause (*d*) of sub-section (1), be conducted by the Central Government and any order passed thereon by the Central Government shall, if so directed by the Central Government, be carried out by the Council.

(3) A person whose name has been removed from the Register under clause (*d*) of sub-section (1) or under sub-section (2) may, within thirty days from the date of intimation to him of such removal, appeal to the High Court, and shall be entitled to appear before the High Court in person or be represented by an advocate or a chartered accountant in support of such appeal.

Explanation.—"High Court" in this section means the highest civil Court of appeal, not including the Federal Court, exercising jurisdiction in the area in which the person whose name has been removed from the Register carried on business or had his permanent place of business at the commencement of the inquiry.

(4) The decision of the High Court on such appeal shall be final.

CHAPTER V

Regional Councils

21. Constitution of Regional Councils.—(1) The Council may constitute such Regional Councils as and when it deems fit for one or more of the Regions specified in clause (*a*) of sub-section (2) of section 9.

(2) Each Regional Council shall consist of the following persons namely,—

(*a*) members of the Council in the Region or Regions, *ex officio*, and

(*b*) persons elected by the members of the Institute from amongst themselves in the Region on the basis of one for every fifty members of the Institute, fractions exceeding half being treated as one and fractions equivalent to or less than half being omitted.

22. Mode of election.—(1) Election under the last preceding section shall be conducted in the prescribed manner.

(2) Where any dispute arises regarding any such election, the matter shall be referred to the Council whose decision thereon shall be final.

23. Provisions of sections 12, 13 and 14 to apply to Regional Council with modifications.—Sections 12, 13 and 14 shall apply to the Regional Councils constituted under this Chapter as if for ther word "Council" wherever it occurs therein, the words "Regional Council" were substituted.

24. Functions of Regional Councils.—The Regional Councils shall exercise such functions as may be prescribed.

CHAPTER VI

Penalties

25. Penalty for falsely claiming to be a member, etc.—Any person who, not being a member of the Institute,—

(*a*) represents that he is a member of the Institute, or

(*b*) uses the designation chartered accountant, or

(*c*) uses in connection with his name or title any words or letters reasonably calculated to suggest that he is a member of the Institute, or a chartered accountant, or an associated or a fellow,

shall be punishable on first conviction with fine which may extend to one thousand rupess and on any subsequent conviction with imprisonment which may extend to six moths or with fine which may extend to five thousand rupees, or with both.

26. Companies not to engage in accountancy.—(1) No company or body corporate shall practise as chartered accountants.

(2) Any company or body corporate contravening the provisions of this section shall, without prejudice to any other proceedings which may be taken against it, be punishable with fine which may extend on first conviction to one thousand rupees and any subsequent conviction to five thousand rupees.

27. Unqualified persons not to sign documents.—(1) No person other than a member of the Institute shall sign any document on behalf of a chartered accountant or a firm of chartered accountants in his or its professional capacity.

(2) Any person contravening the provisions of this section 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.

28. Maintenance of branch offices.—(1) A chartered accountant shall not maintain more than one office unless each one of such offices is in the separate charge of a member of the Institute:

Provided that the Council may in suitable cases exempt any chartered accountant from the operation of this section.

(2) Every chartered accountant maintaining more than one office shall send to the Council a list of offices and the persons in charge of such offices and shall keep the Council informed of any changes in relation thereto.

29. Sanction to prosecute.—No person shall be prosecuted under this Act except on a complaint made by or under the order of the Council or of the Central Government.

CHAPTER VII

Miscellaneous

30. Reciprocity.—(1) Notwithstanding anything contained in this Act, no subject of any country which prevents persons of Indian domicile from becoming members of any institution similar to the Institute of Chartered Accountants of India or from practising the profession of accountancy in that country or subjects them to unfair discrimination shall be entitled to become a member of the Institute or practise the profession of accountancy in India.

(2) Subject to the provisions of sub-section (1), the Council may prescribe the conditions, if any, subject to which foreign qualifications relating to accountancy shall be recognised for the purposes of entry in the Register.

31. Power to make regulations.—(1) The Council may, by notification in the official *Gazette*, make regulations for the purpose of carrying out the objects of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters :—

(*a*) the standard and conduct of examinations under this Act;

(*b*) the qualifications for the entry of the name of any person in the Register as a member of the Institute;

(*c*) the conditions under which any examination or training may be treated as equivalent to the examination and training prescribed for members of the Institute, or any foreign qualification may be recognised;

(*d*) the conditions under which the name of any person not domiciled in India may be entered in the Register;

(*e*) the manner in which and the conditions subject to which applications for entry in the Register may be made;

(*f*) the fees payable for membership of the Institute and the annual fees payable by associates and fellows of the Institute in respect of their certificates;

(*g*) the manner in which elections to the Council and the Regional Councils may be held;

(*h*) the particulars to be entered in the Register;

(*i*) the functions of Regional Councils;

(*j*) the training of articled clerks and the fixation of limits within which premia may be charged from such clerks and the cancellation of articles for misconduct or for any other sufficient cause;

(*k*) the regulation and maintenance of the status and standard of professional qualifications of members of the Institute;

(*l*) the carrying out of research in accountancy.

(*m*) the maintenance of a library and publication of books and periodicals on accountancy;

(*n*) the management of the property of the Council and the maintenance and audit of its accounts;

(*o*) the summoning and holding of meetings of the Council, the times and places of such meetings, the conduct of business thereat and the number of members necessary to form a quorum;

(*p*) the powers, duties and functions of the President and the Vice-President of the Council;

(*q*) the functions of the Standing and other committees and the conditions subject to which functions shall be discharged;

(*r*) the terms of office, and the powers, duties and functions of the Secretary and other officers and servants of the Council;

(*s*) the exercise of disciplinary powers conferred by this Act; and

(*t*) any other matter which is required to be or may be prescribed under this Act.

(3) All regulations made by the Council under this Act shall be subject to the condition of previous publication and to the approval of the Central Government.

(4) Notwithstanding anything contained in sub-section (1) and (2) the Central Government may frame the first regulations for the purposes mentioned in this section and such regulations shall be deemed to have been made by the Council and shall remain in force from the date of the coming into force of this Act, until they are amended, altered or revoked by the Council.

32. References to registered accountants, etc., to be construed as references to chartered accountants.—Any reference to a registered accountant or a certified or qualified auditor in any law for the time being in force or in any document whatsoever shall be construed as a reference to a chartered accountant as defined in this Act.

33. Amendment of section 144, Indian Companies Act, 1913.—In section 144 of the Indian Companies Act, 1913 (VII of 1913), for sub-sections (1), (2), (2A) and (2B), the following shall be substituted, namely :—

"(1) No person shall be appointed to act as an auditor of any company other than a private company, not being the subsidiary company of a public company, unless he is a chartered accountant within the meaning of the Chartered Accountant Act, 194 .

SCHEDULE

[*See Explanation* to Section 20(*1*)]

1. A chartered accountant shall be deemed to be guilty of conduct rendering him unfit to be a member of the Institute, if he—

(*a*) 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;

(*b*) pays or allows or agrees to pay or allow, directly or indirectly, to any person other than a member of the Institute or a retired partner or the legal representative of such partner, any share, commission or brokerage in the fees or profits of his professional services;

(*c*) accepts or agrees to accept any part of the profits of the professional work of a lawyer, auctioner, broker or other agent who is not a member of the Institute;

(*d*) enters into partnership with any person other than a chartered accountant or secures, either through the services of a person not qualified to be a chartered accountant or by means which are not open to a chartered accountant, any professional business;

(*e*) solicits clients or professional work either directly or indirectly, by circular, advertisement, personal commuuication or interview or by any other means;

(*f*) advertises his professional attainments or services, or uses any designation or expression other than chartered accountant on professional documents, visiting cards, letterheads or sign-boards, unless it be a degree of a University established by law in India or recognized by the Central Government or a title indicating membership of the Institute of Chartered Accountants of India or of any other institution that has been recognized by the Central Government or may be recognized by ths Council;

(*g*) discloses information acquired in the course of his professional engagement to any person other than his client, without the consent of his client or otherwise than as required by any law for the time being in force;

(*h*) accepts a position as auditor previously held by another chartered accountant without first communicating with him in writing;

(*i*) accepts an appointment as auditor of a company without first ascertaining from it whether the requirements of section 144 of the Indian Companies Act, 1913 (VII of 1913) as respects the appointment of auditors or, if the company is registered in an Acceding State, the provisions of any similar law for the time being in force in that State, have been duly complied with;

(*j*) certifies or submits in his name or in the name of his firm a report of an examination of financial statements unless the examination of such statements and the related records has been made by him or by a Partner or an employee in his firm or by another chartered accountant;

(*k*) permits his name or the name of his firm to be used in connection with an estimate of earnings contingent upon future transactions in a manner which may lead to the belief that he vouches for the accuracy of the forecast;

(*l*) expresses his opinion on financial statements of any business or any enterprise in which he, his firm or a partner in his firm has a substantial interest, unless he discloses the interest also in his report;

(*m*) charges in respect of any professional employment fees which are based on a percentage of profits or which are contingent on results;

(*n*) engages in any business or occupation other tham the profession of chartered accountants unless permitted by the Council so to engage;

(*o*) fails to disclose a material fact known to him which is not disclosed in a financial statement, the non-disclosure of which makes the statement misleading;

(*p*) fails to report a material misstatement in a financial statement with which he is concerned in a professional capacity;

(*q*) is grossly negligent in the conduct of his professional duties;

(*r*) fails to obtain sufficient information to warrant the expression of an opinion or his exceptions are sufficiently material to negate the expression of an opinion;

(*s*) fails to invite attention to any material departure from the generally accepted procedure of audit applicable to the circumstances;

(*t*) fails to keep monies of his client in a separate banking account or to use such monies for pusposes for which they are intended;

(*u*) includes in any statement, return or form to be submitted to the Council any particulars knowing them to be false;

(*v*) misconducts himself in any income-tax proceeding;

(*w*) is guilty of such other act or omission as may be specified by the Council in this behalf, by notification in the official Gazette, which is likely to bring she Institute into disrepute.

2. Without prejudice to anything contained in the foregoing provisions, a member of the Institute shall be deemed to be guilty of conduct rendering him unfit to be a member thereof, if he does any act which is likely to bring the Institute into disrepute.

STATEMENT OF OBJECTS AND REASONS

The accountancy Profession in India is at Present regulated by the Auditors Certificates Rules framed in 1932 in exercise of the powers conferred on the Government of India by section 144 of the Indian Companies Act, 1913, and the the Indian Accountancy Board advises Government in all matters relating to the profession and assists it in maintaining the standards of the professional qualifications and conduct required of the members of the profession. The majority of the Board's members are elected by Registered Accountants, members of the profession from all parts of India. These arrangements have, however, all along been intended to be only transitional, to lead up to a system in which such accountants will, in autonomous association of themselves, largely assume the responsibilities involved in the discharge of their public duties by securing maintenance of the requisite standard of professional qualifications, discipline and conduct, the control of the Central Government being Confined to a very few specified matters.

2. The Bill seeks to authorise the incorporation by statute of such an autonomous professional body and embodies a scheme which is largely the result of a detailed examination of the whole position by an *ad hoc* expert body constituted for the purpose, after taking into account the views expressed by the [illegible] Governments and public [illegible] concerned.

New Delhi,
The [illegible]*th August 1948.* K. C. NEOGY