

22

STANDING COMMITTEE ON FINANCE

FOURTEENTH LOK SABHA

MINISTRY OF FINANCE
(DEPARTMENT OF ECONOMIC AFFAIRS)

THE GOVERNMENT SECURITIES BILL, 2004

TWENTY SECOND REPORT



LOK SABHA SECRETARIAT
NEW DELHI

August, 2005/Sravana, 1927 (Saka)

TWENTY SECOND REPORT

STANDING COMMITTEE ON FINANCE

(FOURTEENTH LOK SABHA)

**MINISTRY OF FINANCE
(DEPARTMENT OF ECONOMIC AFFAIRS)**

THE GOVERNMENT SECURITIES BILL, 2004

Presented to Lok Sabha on 4th August, 2005
Laid in Rajya Sabha on 4th August, 2005



**LOK SABHA SECRETARIAT
NEW DELHI**

August, 2005/Sravana, 1927 (Saka)

CONTENTS

COMPOSITION OF THE COMMITTEE

INTRODUCTION

REPORT

MINUTES OF THE SITTINGS OF THE COMMITTEE HELD ON 10TH MARCH,
4TH JULY, 13TH JULY AND 1ST AUGUST, 2005

APPENDIX

THE GOVERNMENT SECURITIES BILL, 2004.

COMPOSITION OF STANDING COMMITTEE ON FINANCE – 2004-2005

Maj. Gen (Retd.) B.C. Khanduri - Chairman

MEMBERS

LOK SABHA

2. Shri Jaswant Singh Bishnoi
3. Shri Gurudas Dasgupta
4. Shri Bhartruhari Mahtab
5. Shri Shyama Charan Gupta
6. Shri Gurudas Kamat
7. Shri A. Krishnaswamy
8. Shri Bir Singh Mahato
9. Dr. Rajesh Kumar Mishra
10. Shri Madhusudan Mistry
11. Shri Rupchand Pal
12. Shri Danve Raosaheb Patil
13. Shri Shrinivas D. Patil
14. Shri K.S. Rao
15. Shri Jyotiraditya Madhavrao Scindia
16. Shri Lakshman Seth
17. Shri G.M. Siddeshwara
18. Shri Ajit Singh
19. Shri M.A. Kharabela Swain
20. Shri Vijoy Krishna
21. Shri Magunta Sreenivasulu Reddy

RAJYA SABHA

22. Shri Murli Deora
23. Shri R.P. Goenka
24. Shri Jairam Ramesh
25. Shri M. Venkaiah Naidu
26. Shri Yashwant Sinha
27. Shri Chittabrata Majumdar
28. Shri S.P.M. Syed Khan
29. Shri Amar Singh
30. Shri C. Ramachandraiah
31. Shri Mangani Lal Mandal

Secretariat

- | | |
|-----------------------------|----------------------|
| 1. Shri John Joseph | Secretary |
| 2. Dr (Smt.) P.K. Sandhu | Additional Secretary |
| 3. Shri R.K. Jain | Deputy Secretary |
| 4. Shri T.G. Chandrashekhar | Under Secretary |

INTRODUCTION

1. Chairman of the Standing Committee on Finance having been authorised to submit the Report on their behalf present this Twenty Second Report on the Government Securities Bill, 2004.

2. The Government Securities Bill, 2004, introduced in Lok Sabha on 21st December, 2004, was referred to the Committee on 23rd December, 2004 for examination and report thereon, by the Hon'ble Speaker, Lok Sabha under Rule 331 E of the Rules of Procedure and Conduct of Business in Lok Sabha.

3. The Committee obtained written information on various provisions contained in the aforesaid Bill from Ministry of Finance, Department of Economic Affairs, who also briefed them at their sitting held on 10th March, 2005.

4. Written views/memoranda were received from: (i) Indian Banks' Association (IBA), (ii) PNB Gilts Limited and (iii) Fixed Income Money Market and Derivative Association of India (FIMMDA).

5. The Committee at their sitting held on 4th July, 2005 heard the views of the representatives of (i) Indian Banks' Association (IBA), (ii) PNB Gilts Limited, (iii) Fixed Income Money Market and Derivative Association of India (FIMMDA) and (iv) Reserve Bank of India (RBI).

6. The Committee took oral evidence of the Ministry of Finance, Department of Economic Affairs on 13th July, 2005.

7. The Draft Report was circulated to Members on 29th July, 2005. The Committee considered and adopted the draft report at their sitting held on 1st August, 2005.

8. The Committee wish to express their thanks to the officers of the Ministry of Finance, Department of Economic Affairs, representatives of the (i) Indian Banks' Association (IBA), (ii) PNB Gilts Limited, (iii) Fixed Income Money Market and Derivative Association of India (FIMMDA) and (iv) Reserve Bank of India (RBI) for their co-operation in placing before them their considered views and perceptions on the provisions of the Bill and for furnishing written notes and information that the Committee had desired in connection with the examination of the Bill.

9. For facility of reference, recommendations/observations of the Committee have been printed in thick type.

NEW DELHI;
3rd August, 2005
12 Sravana,1927(Saka)

(MAJ. GEN. (RETD.) B.C. KHANDURI)
Chairman,
Standing Committee on Finance

Report

Management of Government securities involves issue and servicing of Government securities. Servicing of Government securities includes payment of interest and principal to the holders of Government securities and settlement of claims on the death of the holder or holders.

2. The Indian Securities Act, 1920 governed the securities issued by both the Central and the then Provincial Governments until April 1946. Since May 1946, the legal framework for dealing with Government Securities came to be regulated, in stages, by the Public Debt Act, 1944 (18 of 1944) and the Rules framed thereunder. The servicing of the Government Securities is required to be undertaken within the framework of the Public Debt Act and Rules.

3. Though the expression 'public debt' seems to cover all the debts of Government including Public Provident Fund, Senior Citizens Savings Scheme, Indira Vikas Patra, Kisan Vikas Patra, etc, Section 2(2) of the Public Debt Act, 1944 defines the expression, 'Government security' as a security created and issued by the Government for the purpose of raising a public loan and having one of the forms specified therein namely, stock, promissory note, bearer bond or such other form as may be prescribed by rules. Public Provident Fund, Senior Citizens Savings Scheme, Indira Vikas Patra, Kisan Vikas Patra, etc. are not covered within the scope of the expression 'Government security' as defined in the Public Debt Act, 1944. Thus, the Public Debt Act, 1944 relates only to marketable debt.

4. The issue of Government Securities and their servicing is attended to by the Reserve Bank on a 'decentralised' basis, through the Public Debt Offices. The branches of State Bank of India/Associate banks and the district treasuries/sub-treasuries are also involved in the servicing of public debt.

5. As the provisions of the Public Debt Act had not undergone any substantial change in spite of the tremendous increase in the volume of the public debt and other changes in the external environment, some of the provisions of the Act have been found to be proving to be onerous. A number of rigidities and deficiencies came to notice in the Public Debt Act, 1944 and the Rules framed thereunder over the years. Also, some of the Rules had ceased to be relevant in the changing context. Consequently, the Reserve Bank of India, the agency banks and

the treasuries were also handicapped in improving customer services, especially in the wake of very substantial increase in the volume of public debt.

6. Some of the areas where rigidities noticed in the legal framework for dealing with Government Securities that are proposed to be removed by way of enacting the Government Securities Bill and thereby improve customer service and enable a better management of Government securities are as under :

- (a) Accepting orders of courts and other authorities in addition to probate, letters of administration and succession certificate for recognizing the title of the heirs of the deceased holders of Government securities. {cl 7(2)}
- (b) Empowering RBI to settle the claims of the heirs of deceased holders of Government securities up to one lakh rupees and empowering the Government of India to increase the said limit to one crore rupees through delegated legislation, which is expected to save the customers of the expenditure and loss of time involved in routine court proceedings. {cl 7(3)}
- (c) Facilitating nomination in respect of all Government securities including existing Government securities, even by joint holders. (cl 9).
- (d) Both the mother and father may act as guardians of minors irrespective of the personal law thereby making it easier for either parent to invest in Government securities on behalf of minors. {cl 10}
- (e) Enabling creation of pledge, hypothecation and lien on Government securities and thereby providing the required liquidity to the investors. {cl 28}

7. The Reserve Bank of India had, with a view to simplifying and rationalizing the rules and procedures relating to Management of Government Securities, constituted a Committee on March 12, 1985 under the chairmanship of Shri T. N. Iyer. The committee, which consisted of representatives of the Reserve Bank of India, the Ministry of Finance, the Ministry of Law and Justice and the State Governments of Madhya Pradesh, Maharashtra, Tamil Nadu, Uttar Pradesh and West Bengal undertook a thorough and comprehensive review of the entire gamut of Government securities management and made certain recommendations. As the

recommendations required extensive amendments to the Public Debt Act, 1944, it was considered desirable to enact a new legislation viz. Government Securities Bill, 2004 in its place.

8. The Government Securities Bill, 2004 which was introduced in the Lok Sabha on 21 December, 2004 and referred to the Standing Committee on Finance for examination and report on 23.12.2004, seeks to replace the Public Debt Act, 1944 and to repeal the Indian Securities Act, 1920.

9. The salient features of the proposed Bill are to:

- (a) provide for opening and maintaining of subsidiary general ledger account, constituent's subsidiary general ledger account and bond ledger account with the Reserve Bank of India subject to such conditions and restrictions as may be specified and in such form and on payment of such fee as may be prescribed;
- (b) provide for the Reserve Bank of India to prescribe the form for transferring Government securities;
- (c) provide for holding of Government promissory notes by Trusts;
- (d) provide for summary procedure for recognizing title for Government Securities up to rupees one lakh with enabling power to the Central government to enhance the said limit up to rupees one crore and enhancing of the monetary limit in other related circumstances also;
- (e) provide for micro films, facsimile copies of documents, magnetic tapes and computer print outs to be admissible as evidence;
- (f) provide for suspension of the holders of subsidiary general ledger account from trading with the facility of that account in the event of misuse of the said facility;
- (g) enable creation of pledge, hypothecation or lien in respect of Government securities;
- (h) empower the Reserve Bank of India to call for information, cause inspection and issue directions; and
- (i) empower the Reserve Bank of India to make regulations with the previous approval of the Central Government for carrying out the purposes of the Bill.

10. The Committee received written views/suggestions on the various provisions of the Bill from (a) Indian Banks' Association (IBA), (b) Fixed Income Money Market and Derivative Association of India (FIMMDA), and (c) PNB Gilts Ltd. The Committee also had personal hearings of the views of the representatives of these organizations and the Reserve Bank of India.

11. The Committee took oral evidence of the representatives of the Ministry of Finance (Department of Economic Affairs) and the Reserve Bank of India to further enlighten themselves on various aspects of the proposed legislation.

12. Upon examining the various provisions of the Government Securities Bill, the Committee are generally in agreement with the broad objectives envisaged. They agree that the enactment of this legislation will give a greater scope for creation of a liquid Government securities market and also bring forth considerable improvement in the securities transactions.

13. In their deliberations with representatives of various organizations such as Indian Banks' Association (IBA), PNB Gilts Ltd., Fixed Income Money Market and Derivative Association of India (FIMMDA) as well as the Reserve Bank of India (RBI) and the Ministry of Finance, certain provisions came to the notice of the Committee, which they felt, could be recast to serve the purposes of the Bill in a better way. Such provisions and the recommendations and observations of the Committee thereon, which are aimed at enabling a better management and servicing of Government Securities are dealt with in detail in the subsequent paragraphs.

Clause 7 (Recognition of title to the Government security of a deceased sole holder or joint holders):

Clause 7 states as under:

14. “ (1) Subject to the provisions of sub-sections (2) and (3), if on the death of a sole holder or death of all the joint holders of a Government security there is no nomination in force, the executors or administrators of the deceased sole holder or all the deceased joint holders, as the case may be, or the holder of a succession certificate issued under Part X of the Indian Succession Act, 1925 shall be the only person who may be recognised by the Bank and having any title to the Government security.

(2) Nothing contained in this section shall bar the recognition by the Bank of any person as having a title to a Government security on the basis of a decree, order or direction passed by a competent court declaring the person as having title to the Government security or appointing a receiver to take possession of a security or on the basis of a certificate issued or order passed by any other authority who might have been empowered under a statute to confer on any such person a title to the Government security or on the basis of such other documents as may be prescribed.

(3) Notwithstanding anything contained in this section or in any other law for the time being in force, where the outstanding value of Government security held by a deceased sole holder or deceased joint holders, as the case may be, does not exceed an amount of rupees one lakh or such higher amount not exceeding rupees one crore as may be fixed by the Central Government by notification in the Official Gazette from time to time, the Bank may recognise a person as having title to such Government security of the deceased sole holder or deceased joint holders in such manner and subject to such conditions as may be prescribed.”

15. The following suggestion has been received from PNB Gilts Ltd., with respect to this Clause:

“Section 7 (2) permits RBI to recognise any person as having the title to a Government security of a certificate issued under statute to confer on any such person a title to the Government security. There may not be Act specially empowering any authority to confer on any person a title to the Government security. Keeping this in view, the section requires modification.

One more provision is necessary to give discharge to the bank by payment to the person who is recognised by the bank as having any title to Government security.”

16. In response to this suggestion, the Ministry in their written submission stated as below:

“There may not be any Act specifically empowering any authority to confer on any person a title to Government security. However, the authorities having jurisdiction over the entire estate and the properties of the deceased do at times pass orders or issue certificates in respect of the entire estate which may cover Government Securities also. The reference is to the certificate or orders of statutory authorities recognising a person or persons as the heir or heirs of a deceased who may also be holding Government securities. However, to make the intention more clear, for the words, ‘confer on any such person a title to the Government Security’ the words ‘recognise a person as the heir of a deceased’ may be substituted. Clause 18 of the

Bill gives adequate protection to the Bank. As such, no further provision is considered necessary.”

17. The Committee observe that Clause 7 seeks to provide for the recognition of title to the Government Security on the death of the sole-holder or a joint-holder of the Security. Sub-clause (2) thereof entitles RBI to recognise any person as having the title to a Government security on the basis of a certificate issued or order passed by an authority, 'who might have been empowered under a statute to confer on any such person a title to the Government security'. They have been informed that there may not be any Act separately empowering any authority to confer on any person a title to the Government security. The Committee take note of the response furnished by the Government wherein it has been inter alia informed that the intended reference in clause 7(2) was to the statutory authorities entitled to recognize a person or persons as the heir or heirs of a deceased and whose orders or certificates may, at times, apart from covering the entire estate of the deceased, include Government Securities also. With a view to make the intended reference to the authorities concerned unambiguous, the Committee feel that the part of clause 7(2), which reads as, 'authority who might have been empowered under a statute to confer on any such person a title to the Government Security' needs to be rephrased as 'authority who might have been empowered under the statute to recognise a person as a heir of the deceased'. Hence, they want that this sub-clause (2) should be amended accordingly.

Clause 12 (Summary determination by the Bank of title to Government security in case of dispute)

18. Clause 12 reads as Under:

“(1) If the Bank is of opinion that a doubt exists as to the title to a Government security, it may proceed to determine, in accordance with such regulations as may be made, the person who shall for the purposes of the Bank be deemed to be the person entitled thereto.

(2) For the purpose of making any order which it is empowered to make under this Act, the Bank may request a District Magistrate to record or to have recorded the whole or any part of such evidence as any person whose evidence the Bank requires may produce and the District Magistrate so requested may either himself record, or may direct any Magistrate of the first class subordinate to him or any Magistrate of the second class subordinate to him and empowered in this behalf by general or special order of the State Government to record the evidence, and shall forward a copy thereof to the Bank.

(3) For the purpose of making a vesting order under this Act, the Bank may direct one of its officers to record the evidence of any person whose evidence the Bank requires or may receive evidence upon affidavit.

(4) A Magistrate or an officer of the Bank acting in pursuance of this section may administer an oath to any witness examined by him.”

19. While giving their suggestions on various provisions of the Bill, the representative of the Indian Banks' Association (IBA) during the course of oral evidence stated as follows in respect of aforesaid clause:

“The first suggestion that we are making is in relation to sub-Clause (2) of Clause 12. This clause is making a provision about deciding a title to the Government security by the Reserve Bank of India. In connection with this power, the Reserve Bank of India is given the power to ask a District Magistrate to record evidence. In this Clause there is a reference to the Magistrate of the First Class and Magistrate of the Second Class subordinate to the District Magistrate. The Magistrates of First Class and Second Class are actually Judicial Magistrates. The District Magistrate is an Executive Magistrate. Magistrates subordinate to him are Sub-divisional Magistrates. They are known by different names in different States. The Criminal Procedure Code contains the

hierarchy of Judicial Magistrates as well as Executive Magistrates. The reference to First Class and Second Class in this Clause needs to be actually corrected.”

20. Questioned, whether the hierarchy, as shown in the Clause was not correct, the representative of IBA further stated:

“That is right. Instead of Magistrate of First Class and Magistrate of Second Class, it will have to be ‘Sub-divisional Magistrate subordinate to the District Magistrate’. Or, instead of giving specific designations, it would be better to say ‘any other Magistrate subordinate to the District Magistrate’.”

21. The Ministry, in their written reply on the aforesaid viewpoint as suggested by IBA stated as below:

“The reference in sub-clause (2) of clause 12 is to the Magistrates subordinate to the District Magistrate, namely, Executive Magistrates subordinate to him. The reference is not to cover Judicial Magistrates. Determination of title to Government securities in case of dispute, being a matter of civil nature, would be determined by civil courts. Magistrates, Metropolitan or otherwise, set up for trying criminal cases may not be the appropriate authorities to determine the title to Government securities in the case of dispute.”

22. When asked during oral evidence, as to why this Clause does not clearly make a reference to Executive Magistrates, the representative of the Ministry stated:

“Sir, because the word used is ‘subordinate to him’, we felt that it is clear that it cannot be a Judicial Magistrate who will be subordinate to him.”

23. In response to a further query, the Ministry submitted as follows:

“It is submitted that the words, ‘subordinate to him’ make it abundantly clear that the reference is not to judicial magistrates as they are not subordinate to the District Magistrates. However, if it is considered desirable, for the words, ‘Magistrate of the First Class subordinate to him or any Magistrate of the Second Class’ the words “Executive Magistrate” may be substituted in sub-Clause (2) of Clause 12.

24. Clause 12 lays down the procedure for summary determination of title to Government Security by the Reserve Bank of India in case of dispute. Clause 12(2) entitles the Bank to determine the title to a Government Security in case of dispute on the basis of evidence recorded by a District Magistrate or a Magistrate of the first class or of the second class subordinate to him. The Committee take note of the contention of the Indian Banks' Association (IBA) that terming the Magistrates subordinate to the District Magistrate as Magistrates of the first class or of the second class in Clause 12(2) may not be in consonance with the hierarchy of Executive Magistrates who are subordinate to the District Magistrate. The District Magistrate being an Executive Magistrate, the Committee feel that it would be more appropriate to term the Magistrates subordinate to the District Magistrate, who may be entitled to record evidence in terms of Clause 12(2) as Executive Magistrates instead of Magistrates of the first class or the second class. The Committee, therefore, recommend that Clause 12(2) be amended accordingly.

Clause 15 (Power of Bank to require bonds)

25. Clause 15 reads as follows:

“(1) Before making any order which it is empowered to make under this Act, the Bank may require the person in whose favour the order is to be made to execute a bond with one or more sureties in such form as may be prescribed or to furnish security not exceeding twice the value of the subject-matter of the order, to be held at the disposal of the Bank, to pay to the Bank or any person to whom the Bank may assign the bond or security in furtherance of sub-section (2) the amount thereof.

(2) A Court before which a claim in respect of the subject-matter of any such order is established may order the bond or security to be assigned to the successful claimant who shall thereupon be entitled to enforce the bond or realise the security to the extent of such claim.”

26. In this regard, a suggestion received from the Fixed Income Money Market and Derivative Association of India (FIMMDA) has been that the power of Bank to require bonds, as provided by Clause 15 should be changed as power of Bank to require indemnity. The following reason was attributed in support of this change:

“The amendment is suggested to differentiate the meaning between “surety” and the meaning of “Bond” used in this Bill. Therefore the word “Bond” appearing in this Clause may be replaced with “Indemnity”.

27. When the Ministry were asked to respond to this suggestion, they replied as under:

“The reference is to indemnity bond. It is felt that the context clarifies the same. Further, the form of bond is to be prescribed by regulations. However, there may be no objection to substituting ‘bond’ with ‘indemnity bond’ to make the difference amply clear.”

28. The Committee observe that Clause 15 inter alia aims to empower the Reserve Bank to require the person in whose favour the order of vesting a Government Security is to be made to execute a bond with one or more sureties. They are of the opinion that the reference to 'bond', as provided in the Clause is ambiguous as it does not specifically provide for the type of bond viz. indemnity bond or surety bond. They take note of the suggestion received from Fixed Income Money Market and Derivative Association of India (FIMMDA) in this regard that the Clause should specifically provide for empowering the bank to require a person to execute an indemnity bond. They are not convinced with the reply of the Government in this regard that the reference is to indemnity bond and the context clarifies the same. They feel that if the intention of the Government is so, there is no reason why it cannot be specifically provided for. They, therefore, want that the term 'bond' as occurring in Clause 15(2) should be substituted with 'indemnity bond'.

Clauses 21 and 23 (Discharge in respect of interest on Government securities and Period of limitation of Government's liability in respect of interest)

29. Clause 21 which seeks to provide for discharge of the Reserve bank in respect of interest on Government Securities after the maturity thereof states:

“Save as otherwise expressly provided in the terms of a Government security, no person shall be entitled to claim interest on such security in respect of any period which has elapsed after the earliest date on which demand could have been made for the payment of the amount due on such security.”

30. Clause 23 which limits the period of liability of the Government in respect of interest payable on the Government security provides:

“Where no shorter period of limitation is fixed by any law for the time being in force, the liability of the Government in respect of any interest payment due on a Government security shall terminate on the expiry of six years from the date on which the amount due by way of interest became payable.”

31. In response to a query on the total unclaimed amount in respect of Government securities, the Ministry furnished the following reply:

“As on June 30, 2005 there are 6,23,790 Government securities in respect of Central and State Government loans which have matured and remain unpaid. Their aggregate value is Rs. 354.56 crore.”

32. Further, the representative of the Ministry of Finance stated as follows before the Committee while tendering oral evidence:

“The amount that is borrowed by the Government through issue of securities, after it is matured is paid back. If it is not paid at that point of time, then that amount remains outstanding in the books for next 20 years. He can claim that for the next 20 years. After 20 years also if he comes to claim and it is written off, still the Government's liability is there to pay that and it is paid.”

33. On the issue of non-payment of interest beyond the maturity date and utilisation of money by the Government, the representative of the Ministry of Finance stated as follows before the Committee:

“The repayment of loan is normal because the Government of India is incurring a regular fiscal deficit and it is financed through fresh borrowing. But the point made by you that the money remains with the Government is absolutely correct. But if you look at actually the subscribers to the Government securities and what is the amount which is not claimed, subsequently that amount is there, if we are talking of the Government securities per se.

The other relief bonds and those kinds of instruments like saving bonds, there the issue is different and there the point that there should be a provision for post-maturity interest is well taken. In the case of the normal Government securities which are traded in the market where the 99 per cent of the investment is by the financial institutions including banks, there the possibility of providing for post-maturity interest would be very difficult. On the issue of what does the Government do to make the investors aware about this, the date of the maturity in the case of a physical document is mentioned on top of that. The instrument itself is known by the name of the year in which it to mature. Suppose, if 10.25 percent Government Security, 2021 is a security, then it is known in the market and that is how it is traded. So, it is known that it is going to mature in 2021. So, the instrument is known by the very name of its maturity. The Government of India issues the Press Release almost about two months before the actual date of maturity which is put on the website. The Reserve Bank does the same exercise and the Public Debt Offices of the Reserve Bank put out a notice in this regard that the date of the maturity is known.”

34. When asked whether a holder of Government security could be informed of the maturity date before-hand, the Secretary, Economic Affairs, Ministry of Finance stated as below:

“ We can put in place a system whereby say two months or three months before, he can be informed...it will not be possible to individually inform each person that this security is going to mature because apart from the large numbers, the security could have changed hands in that period of 10 to 12 years. Not as a part of the Bill, but what one can conceive of as an administrative instruction that let us say two months before all such securities are going to mature, an advertisement generally informing everybody, all holders of such securities that the security is going to mature in the next two months, can be brought out by way of informing everybody so that we can take care of that aspect.”

35. With regard to a query on specifying in Clause 23, a six year period limitation for claiming the interest, the representative of the Ministry of Finance stated as follows before the Committee:

“If somebody has not claimed interest during the maturity as it was due to him, he can make that claim for six years after from the date on which his interest was due. If somebody has bought a security and his first year’s interest was to be paid on 1.1. 2005, then he can make his claim up to 2011. After that he cannot make his claim.”

36. On being asked as to why the interest was payable only for six years while the principal could be paid even after 20 years, he said:

“Sir, some kind of time limitation is to be there...Sir, I would like to submit one thing here. I face one problem in that I handle the budgetary provision for the interest payment in Government of India as well as repayment of debt. What happens is that we have to make an estimate of how much of interest is going to be paid during the current year which the Government brings before Parliament. It is a charged expenditure. But, nonetheless, it is there. What happens is, if there is no limitation then estimating that expenditure in respect of interest payment and all, it becomes very difficult. Every year we actually come before the PAC to explain as to why we have had either savings or excess in respect of this expenditure. Some kind of limitation actually helps.”

37. Further in reply to a query on fixing too short a period of six years for payment of interest, which appeared to be inappropriate as the RBI is sought to be empowered to recognise titles as also settling claims which can be challenged in the Court, the Ministry in their written submission replied as under:

“In case of a challenge of the Bank’s decisions and the Court of Law decides that principal and interest has to be paid for a specific number of years then the Bank has to make the payment. However under normal circumstances, allowing for post maturity interest for an indefinite period would weaken the very concept of maturity which is essential to market discovery of interest rate. The settlement of claims could become difficult if there is no strict maturity period. The debt portfolio of the Government would become unwieldy and management of public debt would be adversely affected and budgetary discipline in respect of Repayment of Debt Appropriation would become difficult. Briefly stated a general provision allowing for post-maturity interest on marketable securities (as distinct from non-marketable debt) is not desirable and also not readily implementable.”

38. When asked whether a dedicated account could be created for depositing the unclaimed amounts, the Secretary, Economic Affairs, stated as follows:

“We will consider this point.”

39. The Committee note that while Clause 21 discharges the Reserve Bank of India of the responsibility of paying interest beyond the maturity thereof, Clause 23 seeks to limit the liability of the Government in respect of interest payable on a Government Security to a six year period in situations where a shorter period of limitation is not fixed by law. The Committee further observe that presently the unclaimed amount in respect of Government Securities totals to Rs. 354.56 crore.

40. In the course of their interaction with the representatives of the Reserve Bank of India and the Ministry of Finance, the Committee learnt that the principal component of amounts involved in Government Securities was kept alive in the record books for a period of 20 years. However, the interest component on such amounts ceases to be payable beyond the six year period limitation. The Committee are of the opinion that keeping the principal component in respect of Government Securities alive for 20 years but limiting the liability on interest payment to a maximum period of six years may prove to be too stringent, particularly to those who may not claim the amounts on the due dates owing to bonafide reasons. The Committee, while taking note of the fact that allowing payment of post maturity interest would weaken the very concept of maturity also feel that legitimate space needs to be given to ensure that persons who may not claim the amounts involved by the due dates owing to genuine reasons are not deprived of their dues. The Committee, therefore, desire that the government explore the possibility of creating a dedicated fund wherein the unclaimed amounts of Government Securities could be kept, and accruals under which could be utilized for enabling post maturity interest payments in bonafide cases. The Committee expect the Government to give serious consideration to this issue and bring forth such changes in Clause 23 for enabling post maturity interest payments in legitimate cases.

41. In response to the Committee's contention that the onus of informing the individuals or Government Security holders before-hand of the maturity dates of the securities should also rest with the Government, the Secretary, Economic Affairs, acquiesced before the Committee that a system could be put in place, whereby an advertisement could be issued before-hand informing the holders of Government Securities of the maturity dates. The Committee desire that though not by way of law, necessary administrative instructions need to be issued for mandatorily releasing advertisements in the print and electronic media informing the general public or the Government Security holders of the maturity dates atleast two months in advance.

Such a measure, the Committee feel would help in ensuring that people are not unnecessarily deprived of their legitimate dues.

Clause 25 (Micro films, facsimile copies of documents, magnetic tapes and computer print outs as documents of evidence)

42. The Explanation of this Clause states:

Explanation – For the purposes of this section,-

- (a) "computer" means any device that revives, stores and processes data, applying stipulated processes to the information and supplying results of these processes;
- (b) "computer print out" shall include ledgers, day-books, account books and other records maintained in the ordinary course of business of the Bank; and
- (c) any reference to information being derived from other information shall be a reference its being derived there from by calculation, comparison of any other process.

43. The suggestion received from the Indian Banks' Association (IBA) in this regard is stated below:

"Clause 25 of the Bill is making elaborate provisions in regard to electronic records and computer print-outs as documents of evidence etc. Explanation (a) to (c) below Sub Clause 5 of Clause 25 defines the expressions 'Computer', 'Computer Print-out' and 'information derived'.

In this connection your kind attention is invited to the provisions contained in Section 2 (1) (l) of the Information Technology Act, 2000 which defines the expression 'computer' which is different from the definition contained in the explanation referred to above. Further Section 2 (1) (t) of the Information Technology Act defines the expression 'Electronic Record' which is more elaborate, rather than the definition of 'computer print-out' as contained in this Bill. In our view the provisions contained in Clause 25 need to be in conformity with the provisions contained in the Information Technology Act, 2000."

44. The provisions of Section 2 (1) (i) and (t) of the IT Act, 2000 are shown below:

Section 2 (1) (l): 'computer' means any electronic magnetic, optical or other high-speed data processing device or system which performs logical, arithmetic and memory functions by manipulations of electronic, magnetic or optical impulses, and includes all input, output, processing, storage, computer software, or communication facilities which are connected or related to the computer in a computer system or computer network.

Section 2 (1) (t): 'electronic record' means data, record or data generated, image or sound stored, received or sent in an electronic form or micro film or computer generated micro fiche.

45. Further during the course of oral evidence, the representative of the IBA stated as follows before the Committee:

"This Clause makes the provision in regard to computer, computer printouts accepted as evidence in the proceedings. At the end of the clause, in the 'Explanation', there is a definition of computer, computer printout and information derived from computer, etc. All these provisions actually need to be brought in conformity with the Information Technology Act, 2000. The definition of computer given here is different from the definition already contained in the Information Technology Act, which is much wider and elaborate as compared to this definition. In regard to acceptance of computer printout as an evidence, the Information Technology Act makes detailed provisions about that. Even the Evidence Act, Indian Penal Code and all other relevant provisions have been amended by the Information Technology Act for giving evidentiary value to computer printouts, etc. This clause, in fact, needs to be reconciled with the Information Technology Act, which has become a general law relating to e-commerce and authenticity to computer records."

46. In their written reply, the Ministry furnished as follows with regard to definitions of the expressions 'computer', 'computer print-out' etc:

"The definition of the expression 'computer' under the Government Securities Bill, 2004 serves the purpose. However the definition under Section 2(1)(i) of the Information Technology Act, 2000, being more comprehensive, may be adopted. The expression 'computer print out' as defined in explanation (b) to

Clause 25 is suitable to the administration of the Government Securities Bill. No change is considered necessary.”

47. When asked during the course of oral evidence whether Clause 25 could be modified to bring the definitions in harmony with those of IT Act, 2000, the representative of the Ministry of Finance stated as follows :

“Sir we will modify.”

48. The Committee find that the definitions of 'computer', 'computer print-outs' and 'information derived' as given in Clause 25 of the Bill are not in conformity with the definitions of these terms, as provided under the Information Technology (IT) Act, 2000. The Committee understand that the definitions contained in the IT Act, 2000 are more comprehensive and if substituted with, in the proposed legislation, the Government securities market would be reflected better. They observe that the Government was wary to accede to this suggestion on the premise that the definitions in the Bill served the purpose but later on agreed to amend the definitions to make them in consonance with the provisions of the IT Act, 2000. They feel that the making the provisions of the Bill in conformity with those of the IT Act, 2000 will not only make it more comprehensive but also obviate the chances of litigation on account of two different meanings of the same terms in the two enactments. Hence, they want the definitions of 'computer', 'computer print-outs' and 'information derived' should be amended accordingly.

NEW DELHI;
3rd August, 2005
12 Sravana, 1927(Saka)

(MAJ. GEN. (RETD.) B.C. KHANDURI)
Chairman,
Standing Committee on Finance

Minutes of the Eighteenth sitting of Standing Committee on Finance

The Committee sat on Thursday, 10th March, 2005 from 1530 to 1615 hrs.

PRESENT

Maj. Gen (Retd.) B.C. Khanduri - Chairman

MEMBERS

LOK SABHA

2. Shri Bhartruhari Mehtab
3. Shri Shyama Charan Gupta
 1. Shri K.S. Rao
 2. Shri M.A. Kharabela Swain
 3. Shri Vijoy Krishna
 4. Shri Magunta Sreenivasulu Reddy

RAJYA SABHA

5. Shri M. Venkaiah Naidu
6. Shri Mangani Lal Mandal

Secretariat

1. Shri. P.D.T. Achary - Secretary
3. Shri R.K. Jain - Deputy Secretary
4. Shri R.C. Kakkar - Deputy Secretary

WITNESSES

Ministry of Finance (Department of Economic Affairs)

1. Dr. Rakesh Mohan, Secretary (Economic Affairs)
2. Shri V.S. Chauhan, Deputy Secretary (Budget)

Reserve Bank of India

1. Shri B.B. Sangma, General Manager (DGBA), Mumbai
2. Shri G.S. Hegde, Joint Legal Adviser

2. At the outset, the Chairman welcomed the representatives of Ministry of Finance (Department of Economic Affairs) and the Reserve Bank of India to the sitting of the Committee and invited their attention to the provisions contained in the Direction 55 of the Directions by the Speaker.

3. Then the representatives of the Ministry of Finance (Department of Economic Affairs) and Reserve Bank of India briefed the Committee on the various provisions contained in the Government Securities Bill, 2004. The Members asked clarificatory questions which were replied to by the representatives. The Chairman, then, directed the representatives of the Ministry that the information with regard to queries of the Members which were not readily available with them might be furnished to the Committee later on.

4. A verbatim record of proceedings has been kept.

The witnesses then withdrew

The Committee then adjourned.

Minutes of the Thirty-Fifth sitting of Standing Committee on Finance

The Committee sat on Monday, 4th July, 2005 from 1030 to 1230 hrs and 1500 to 1630 hours.

PRESENT

Maj. Gen (Retd.) B.C. Khanduri - Chairman

MEMBERS

LOK SABHA

32. Shri Jaswant Singh Bishnoi
33. Shri Gurudas Dasgupta
34. Shri Bhartruhari Mahtab
35. Shri A. Krishnaswamy
36. Shri Bir Singh Mahato
37. Dr. Rajesh Kumar Mishra
38. Shri Rupchand Pal
39. Shri Shrinivas D. Patil
40. Shri K.S. Rao
41. Shri Jyotiraditya Madhavrao Scindia
42. Shri M.A. Kharabela Swain

RAJYA SABHA

43. Shri R.P. Goenka
44. Shri Yashwant Sinha
45. Shri S.P.M. Syed Khan
46. Shri C. Ramachandraiah
47. Shri Mangani Lal Mandal

Secretariat

1. Shri R.K. Jain - Deputy Secretary
2. Shri T.G. Chandrasekhar - Under Secretary

WITNESSES

Indian Banks' Association

Shri M.R. Umarji, Chief Advisor-Legal

Fixed Income Money Market and Derivatives Association of India

1. Shri Sudhir Joshi, Chairman and Managing Director
2. Shri C.F.S. Azariah, Chief Executive officer

PNB Gilts Limited

Shri I.D. Singh, Managing Director

2. At the outset, the Chairman welcomed the witnesses from Indian Banks' Association, Fixed Income Money Market and Derivatives Association of India and PNB Gilts Limited to the sitting of the Committee and invited their attention to the provisions contained in the Direction 55 of the Directions by the Speaker.

3. Then the Committee heard the views of the witnesses on the various provisions of the Government Securities Bill, 2004. Members asked clarificatory questions which were replied to by the witnesses. The Chairman, then directed them that the information with regard to queries of the Members which was not readily available might be furnished to the Committee later on.

4. The evidence was concluded

5. A verbatim record of proceedings has been kept.

The witnesses then withdrew
Part – II
(1500 to 1630 hours)

WITNESSES

Reserve Bank of India

1. Shri B. Mahapatra, Chief General Manager-in-Charge, Internal Debt Management Deptt.
2. Shri B.B. Sangma, General Manager, Department of Government and Bank Accounts
3. Shri G.S. Hegde, Joint Legal Advisor, Legal Department

2. At the outset, the Chairman welcomed the witnesses from the Reserve Bank of India to the sitting of the Committee and invited their attention to the provisions contained in the Direction 55 of the Directions by the Speaker.

3. Then the Committee heard their views on the various provisions contained in the Government Securities Bill, 2004. Members asked clarificatory questions which were replied to by the witnesses. The Chairman, then directed them that the information with regard to queries of the Members which was not readily available might be furnished to the Committee later on.

4. The evidence was concluded

5. A verbatim record of proceedings has been kept.

The witnesses then withdrew

MINUTES OF THE THIRTY- SEVENTH SITTING OF STANDING COMMITTEE ON FINANCE

The Committee sat on Wednesday, 13 July, 2005 from 1030 to 1300 hours.

PRESENT

Maj. Gen. (Retd.) B.C. Khanduri - Chairman

MEMBERS

LOK SABHA

1. Shri Jaswant Singh Bishnoi
2. Shri Bhartruhari Mahtab
3. Shri Bir Singh Mahato
4. Shri Rupchand Pal
5. Shri K.S. Rao
6. Shri Lakshman Seth
7. Shri G.M. Siddeshwara
8. Shri Ajit Singh
9. Shri Magunta Sreenivasulu Reddy

RAJYA SABHA

10. Shri R.P. Goenka
11. Shri M. Venkaiah Naidu
12. Shri Yashwant Sinha
13. Shri Chittabrata Majumdar
14. Shri C. Ramachandraiah
15. Shri Mangani Lal Mandal

SECRETARIAT

1. Dr. (Smt.) P.K. Sandhu - Additional Secretary
2. Shri R.K. Jain - Deputy Secretary
3. Shri T.G. Chandrasekhar - Under Secretary

Part I (1030 to 1200 hours)

XX	XX	XX	XX
XX	XX	XX	XX

Part II

(1215 to 1300 hours)

WITNESSES

Ministry of Finance (Department of Economic Affairs)

1. Shri A.K. Jha, Secretary (Economic Affairs)
2. Smt. L.M. Vas, Joint Secretary (Budget)
3. Shri V.S. Chauhan, Deputy Secretary (Budget)

Reserve Bank of India

1. Shri B.B. Sangma, General Manager (DGBA), RBI, Mumbai
2. Shri G.S. Hegde, Joint Legal Adviser, RBI

2. At the outset the Chairman welcomed the representatives of the Ministry of Finance (Department of Economic Affairs) and the Reserve Bank of India to the sitting of the Committee and invited their attention to the provisions contained in the Direction 55 of the Directions by the Speaker.

3. The Committee then took oral evidence of the above representatives on the provisions of the Government Securities Bill, 2004.

4. Thereafter the members raised queries which were replied to by the witnesses. The Chairman directed the witnesses to send written replies to some of the queries on which replies were not readily available with them during the evidence.

5. The evidence was concluded.

6. A verbatim record of the proceedings has been kept.

The witnesses then withdrew.

The Committee then adjourned

MINUTES OF THE FORTIETH SITTING OF STANDING COMMITTEE ON FINANCE

The Committee sat on Monday, 1st August, 2005 from 1500 to 1615 hours.

PRESENT

Maj. Gen (Retd.) B.C. Khanduri - Chairman

MEMBERS

LOK SABHA

2. Shri Jaswant Singh Bishnoi
3. Shri Bhartruhari Mahtab
4. Shri Shyama Charan Gupta
5. Shri A. Krishnaswamy
6. Dr. Rajesh Kumar Mishra
7. Shri Madhusudan Mistry
8. Shri Rupchand Pal
9. Shri K.S. Rao
10. Shri G.M. Siddeshwara

RAJYA SABHA

11. Shri S.P.M. Syed Khan

SECRETARIAT

- | | | | |
|----|-------------------------|---|----------------------|
| 1. | Dr. (Smt.) P.K. Sandhu | - | Additional Secretary |
| 2. | Shri R.K. Jain | - | Deputy Secretary |
| 3. | Shri T.G. Chandrasekhar | - | Under Secretary |

WITNESSES

1. Shri A.K. Jha, Secretary (Economic Affairs)
2. Shri G.C. Chaturvedi, Joint Secretary (Banking & Insurance)
3. Shri Lalit Kumar, Deputy Secretary (Insurance)

2.	XX	XX	XX	XX
	XX	XX	XX	XX
3.	XX	XX	XX	XX
	XX	XX	XX	XX
4.	XX	XX	XX	XX
	XX	XX	XX	XX

5.	XX	XX	XX	XX
	XX	XX	XX	XX
6.	XX	XX	XX	XX
	XX	XX	XX	XX

The witnesses then withdrew

7. Thereafter, the Committee considered and adopted the draft Report on the Government Securities Bill, 2004 without any modification/amendment. The Committee authorised the Chairman to present the Report in both the Houses of Parliament.

The Committee then adjourned.

THE GOVERNMENT SECURITIES BILL, 2004

Arrangement of Sections

CLAUSES

1. Short title, application and commencement
2. Definitions
3. Forms of Government securities
4. Subsidiary general ledger account
5. Transfer of Government securities
6. Holding of Government securities by holders of public offices
7. Recognition of title to the Government security of a deceased joint holder or joint holders
8. Right of survivors of joint holders or several payees
9. Nomination by holders of the Government securities
10. Government securities belonging to a minor or an insane person
11. Issue of duplicate securities and of new securities on conversion, consolidation, sub-division, renewal, stripping or reconstitution
12. Summary determination by the Bank of title to Government security in case of dispute
13. Law applicable in regard to Government securities
14. Postponement of payments and registration of transfers pending the making of a vesting order
15. Power of Bank to require bonds

16. Publication of notices in Official Gazette
17. Procedure and scope of vesting order
18. Legal effect of orders made by the Bank
19. Stay of proceedings on order of Court
20. Cancellation by the Bank of vesting proceedings
21. Discharge in respect of interest on Government securities
22. Discharge in respect of bearer bonds
23. Period of limitation of Government's liability in respect of interest
24. Inspection of documents
25. Micro films, facsimile copies of documents, magnetic tapes and computer print outs as documents and as evidence
26. The Bank and its officers to be deemed public officers
27. Misuse of subsidiary general ledger account facility
28. Pledge, hypothecation or lien
29. Powers to call for information, inspection and issue of directions
30. Contravention and penalties
31. Certain laws not to apply to Government securities
32. Power to make regulations
33. Construction of references to laws not in force in Jammu and Kashmir
34. Power to remove difficulties
35. Repeal and saving

THE GOVERNMENT SECURITIES BILL, 2004

A

BILL

to consolidate and amend the law relating to Government securities and its management by the Reserve Bank of India and for matters connected therewith or incidental thereto

WHEREAS it is expedient to consolidate and amend the law relating to Government securities and its management by the Reserve Bank of India;

AND WHEREAS Parliament has no power to make laws for the States with respect to any of the matters aforesaid except as provided in articles 249 and 250 of the Constitution;

AND WHEREAS in pursuance of clause (1) of article 252 of the Constitution, resolutions have been passed by the Houses of the Legislatures of all the States, except the Legislature of the State of Jammu and Kashmir, to the effect that the matters aforesaid should be regulated in those States by Parliament by law;

BE it enacted by Parliament in the Fifty-fifth Year of the Republic of India as follows:-

(1) This Act may be called the Government Securities Act, 2004.

Short title, Application and commencement

(2) This Act applies to Government securities created and issued whether before or after the commencement of this Act by the Central Government or a State Government.

(3) It applies in the first instance to whole of the States, except the State of Jammu and Kashmir, and to all the Union territories and it shall also apply to the State of Jammu and Kashmir which adopts this Act by resolution passed in that behalf under clause (1) of article 252 of the Constitution.

(4) It shall come into force in all the States, except the State of Jammu and Kashmir, and in the Union territories on such date as the Central Government may, by notification in the Official Gazette, appoint and in the State of Jammu and Kashmir which adopts this Act under clause (1) of article 252 of the Constitution, on the date of such adoption; and any reference in this Act to the commencement of this Act shall, in relation to any State or Union territory, means the date on which this Act, comes into force in such State or Union territory.

2. Definitions.

In this Act, unless the context otherwise requires,--

(a) "agent" means, a scheduled bank within the meaning of clause (e) of section 2 of the Reserve Bank of India Act, 1934(2 of 1934), or any other person specified as such;

(b) "Bank" means the Reserve Bank of India constituted under section 3 of the Reserve Bank of India Act, 1934(2 of 1934);

(c) "bond ledger account" means an account with the bank or an agent in which the Government securities are held, in a dematerialised form at the credit of the holder;

(d) "constituents' subsidiary general ledger account" means a subsidiary general ledger account opened and maintained with the Bank by an agent on behalf of the constituents of such agent;

(e) "Government", in relation to any Government security, means the Central or State Government issuing the security;

(f) "Government security" means a security created and issued by the Government for the purpose of raising a public loan or for any other purpose as may be notified by the Government in the Official Gazette and having one of the forms mentioned in section 3;

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

(h) "promissory note" includes a treasury bill;

(i) "specified" means specified by the Bank in the Official Gazette.

3. Forms of Government securities.

A Government security may, subject to such terms and conditions as may be specified, be in such forms as may be prescribed or in one of the following forms, namely:--

(i) a Government promissory note payable to or to the order of a certain persons;

or

(ii) a bearer, bond payable to bearer; or

(iii) a stock; or

(iv) a bond held in a bond ledger account.

Explanation.--For the purpose of this section, "stock" means a Government security,--

(i) registered in the books of the Bank for which a stock certificate is issued; or

(ii) held at the credit of the holder in the subsidiary general ledger account including the constituents subsidiary general ledger account maintained in the books of the Bank, and transferable by registration in the books of the Bank.

4. Subsidiary general ledger account.

(1) A subsidiary general ledger account including a constituents' subsidiary general ledger account and a bond ledger account may be opened and maintained by the bank subject to such conditions and restrictions as may be specified and in such form and on payment of such fee as may be prescribed.

(2) Notwithstanding anything contained in the Benami Transactions (Prohibition) Act, 1988(45 of 1988), or any other law for the time being in force, the Government securities may be held on behalf of a constituent in a constituents' subsidiary general ledger account under sub-section (1) and the holder of such account shall be deemed to be the holder of the securities held in that account:

Provided that the constituted as a beneficial owner of the Government security shall be entitled to claim from the holder all the benefits and be subjected to all the liabilities in respect of the Government securities held in the constituents' subsidiary general ledger account.

(3) The holder of a constituents' subsidiary general ledger account shall maintain such records and adopt such procedure for safeguarding the interests of the constituents as may be specified.

5. Transfer of Government securities.

(1) No transfer of a Government security shall be valid if it does not purport to convey the full title to the security.

(2) The transfer of the Government securities shall be made in such form and in such manner as may be prescribed.

(3) Any document relating to a Government security or any endorsement on a promissory note issued by the Government may, on the demand of a person who for any reason is unable to write, shall be executed on his behalf in such manner as may be prescribed.

(4) Nothing in this section shall affect any order made by the Bank under this Act, or any order made by a Court upon the Bank.

6. Holding of Government securities by holders of public offices.

(1) In the case of any public office to which the Government may, by notification in the Official Gazette, declare this sub-section to apply, a Government security may be held in the name of the office.

(2) When a Government security is so held, it shall be deemed to be transferred without any or further endorsement or transfer deed from each holder of the office to the succeeding holder of the office on and from the date on which the latter takes charge of the office.

(3) When the holder of the office transfers to a party not being his successor in office where a Government security so held, the transfer shall be made by the signature of the holder of the office and the name of the office in the manner laid down in section 5.

(4) Where the holder of the office is temporarily absent for more than a fortnight from his office for any reason, he may authorise in writing such other person, who would be in charge of this office during the period of such absence, to effect transfer of the Government securities.

(5) This section applies as well to an office of which there are two or more joint holders as to an office of which there is a single holder.

7. Recognition of title to the Government security of a deceased joint holder or joint holders.

(1) Subject to the provisions of sub-sections (2) and (3), if on the death of a sole holder or death of all the joint holders of a Government security there is no nomination in force, the executors or administrators of the deceased sole holder or all the deceased joint holders, as the case may be, or the holder of a succession certificate issued under Part X of the Indian Succession Act, 1925(39 of 1925) shall be the only person who may be recognised by the Bank as having any title to the Government security.

(2) Nothing contained in this section shall bar the recognition by the Bank of any person as having a title to a Government security on the basis of a decree, order or direction passed by a competent court declaring the person as having title to the Government security or appointing a receiver to take possession of a security or on the basis of a certificate issued or order passed by any other authority who might have been empowered under a statute to confer on any such person a title to the Government security or on the basis of such other documents as may be prescribed.

(3) Notwithstanding anything contained in this section or in any other law for the time being in force, where the outstanding value of Government security held by a deceased sole holder or deceased joint holders, as the case may be, does not exceed an amount of rupees one lakh or such higher amount not exceeding rupees one crore as may be fixed by the Central Government by notification in the Official Gazette from time to time, the Bank may recognise a person as having title to such Government security of the deceased sole holder or deceased joint holders in such manner and subject to such conditions as may be prescribed.

8. Right of survivors of joint holders or several payees.

Notwithstanding anything contained in section 45 of the Indian Contract Act, 1872(9 of 1872) and subject to the provisions of sections 7 and 10,--

(a) when a Government security is held by two or more persons jointly, and either or any of them dies, the title to the Government security shall vest in the survivor or survivors of those persons; and

(b) when a Government security is payable to two or more persons severally and either or any of them dies, the Government security shall be payable to the survivor or survivors of those persons or to the representative of the deceased or to any one of them:

Provided that nothing contained in this section shall affect any claim which any representative of a deceased joint holder or deceased holders of a Government security or a surviving joint holder or holders of a Government security, as the case may be, may have against the survivor or survivors or representatives under or in respect of any Government security to which this section applies.

Explanation.--For the purposes of this section, a body incorporated or deemed to be incorporated under the Companies Act, 1956(1 of 1956), or the Co-operative Societies Act, 1912(2 of 1912), or any other enactment for the time being in force relating to the incorporation of associations of individuals, shall be deemed to die when it is dissolved.

9. Nomination by holders of the Government securities.

(1) Notwithstanding anything contained in sections 7 and 8 or any other law for the time being in force, except the provisions of sub-section (2),--

(a) where a Government security other than in the form of promissory note or bearer bond is held by a person in his name or jointly with any other name or names, as the case may be, the sole holder or all the joint holders of the Government security together may nominate one or more persons in such form and in such manner as may be prescribed, who in the event of the death of the sole holder or the death of all the joint holders, as the case may be, would become entitled to the Government security and to payment thereon to the exclusion of all other persons, unless the nomination is varied or cancelled in the prescribed manner;

(b) where a nomination in respect of a Government security has been made in favour of two or more nominees and either or any of them is dead, the surviving nominee or nominees, as the case may be, shall be entitled to the Government security and payment thereon;

(c) where the nominee is a minor, it shall be lawful for the sole holder or all the joint holders of a Government security, as the case may be, to appoint in the prescribed manner any person in whom the Government security would be deemed to have vested in the event of death of such holder or joint holders of the Government security during the minority of the nominee;

(d) the recognition of right and claim of the nominee or nominees to the Government security held by a sole holder or joint holders, as the case may be, and any payment made by the Government or the Bank to the nominee or nominees shall constitute a full discharge and shall absolve the Government or the Bank of its liability in respect of the said Government security.

(2) Any nomination or appointment made under sub-section (1) shall become void if the nominee predeceases, or where there are two or more nominees, if all the nominees predecease the holder or joint holders of the Government security making the nomination.

(3) Where the amount due for the time being on a Government security is payable to two or more nominees and either or any of them dies, the title to the Government security shall vest in the survivor or survivors of those nominees and the amount for the time being due thereon shall be paid accordingly.

(4) A transfer of a Government security made in accordance with sub-section (2) of section 5 shall automatically cancel the nomination previously made:

Provided that where a Government security is in the possession of a person either as a pledge or by way of security for any purpose, such possession shall not have the effect of cancelling the nomination, but the right of the nominee shall be subject to the right of the person so possessing it.

(5) The Government may, on the recommendation of the Bank, by notification in the Official Gazette extend the facility of nomination to any Government security as may be specified therein.

(6) Nothing contained in sub-section (1) shall affect the right or claim which any person may have against the person whose right and title to a Government security is recognised by the Government or the Bank or to whom the payment of the amount due on the Government security is made by the Government or the Bank under sub-section (1).

(7) No notice of any claim of any person, other than the person or persons in whose name a Government security is held or the nominees thereof, shall be receivable by the Bank or Government, nor shall the Bank or Government be bound by any such notice even though expressly given to it:

Provided that where any decree, order, certificate or other authority from a court of competent jurisdiction relating to such Government security is produced before the Bank or the Government, the Bank or the Government shall take due note of such decree, order, certificate or other authority.

10. Government securities belonging to a minor or an insane person.

(1) Where any Government security is held on behalf of a minor the payment of the same for the time being due on a Government security either by way of outstanding principal or interest thereon may be made to the father or mother of such minor and where neither parent is alive or where the living parents are or only living parent is incapable of action, a person entitled under the law for the time being in force to have care of the property of the minor.

(2) When a Government security belongs to a minor or a person who is insane and incapable of managing his affairs and the outstanding principal value of the Government security does not in the aggregate exceed rupees one lakh or such higher amount not exceeding rupees one crore as the Central Government may, by a notification in the Official Gazette from time to time, fix, the Bank may make such order as it thinks fit for the vesting of such Government security in such person as it considers represents the minor or insane person.

11. Issue of duplicate securities and of new securities on conversion, consolidation, sub-division, renewal, stripping or reconstitution.

(1) If the person entitled to a Government security applies to the Bank alleging that the Government security has been lost, stolen or destroyed, or has been defaced or mutilated, the Bank may, on proof to its satisfaction of the loss, theft, destruction, defacement or mutilation of the Government security, and subject to such conditions and on payment of such fees as may be prescribed, order the issue of a duplicate Government security to the applicant.

(2) If the person entitled to a Government security applies to the Bank to have the Government security converted into a Government security of another form, or into a Government security issued in connection with another loan or to have it consolidated with other like Government securities, or to have it sub-divided, or to have it renewed, stripped or reconstituted, the Bank may, subject to such conditions and on payment of such fees as may be prescribed, cancel the Government security and order the issue of a new Government security or Government securities.

Explanation.--A Government security may be stripped separately for interest and principal or reconstituted on the application of the holder subject to such terms and conditions as may be specified.

(3) The person to whom a duplicate Government security or a new Government security is issued under this section shall be deemed for the purposes of section 18 to have been recognised by the Bank as the holder of the Government security; and a duplicate Government security or new Government security so issued to any person shall be deemed to constitute a new contract between the Government and such person and all persons deriving title thereafter through him:

Provided that the issue of new security under this section shall not affect the interest of third parties in whose favour a charge or other interest was lawfully created and was subsisting at the time of issue of the new security.

12. Summary determination by the Bank of title to Government security in case of dispute.

(1) If the Bank is of opinion that a doubt exists as to the title to a Government security, it may proceed to determine, in accordance with such regulations as may be made, the person who shall for the purposes of the Bank be deemed to be the person entitled thereto.

(2) For the purpose of making any order which it is empowered to make under this Act, the Bank may request a District Magistrate to record or to have recorded the whole or any part of such evidence as any person whose evidence the Bank requires may produce and the District Magistrate so requested may either himself record, or may direct any Magistrate of the first class subordinate to him or any Magistrate of the second class subordinate to him and empowered in this behalf by general or special order of the State Government to record the evidence, and shall forward a copy thereof to the Bank.

(3) For the purpose of making a vesting order under this Act, the Bank may direct one of its officers to record the evidence of any person whose evidence the Bank requires or may receive evidence upon affidavit.

(4) A Magistrate or an officer of the Bank acting in pursuance of this section may administer an oath to any witness examined by him.

13. Law applicable in regard to Government securities.

Notwithstanding that as a matter of convenience, the Government may have arranged for payments on a Government security to be made elsewhere than in India, the rights of all persons in relation to Government securities shall be determined in connection with all such questions as are dealt with by this Act by the law and in the Courts of India.

14. Postponement of payments and registration of transfers pending the making of a vesting order.

Where the Bank contemplates making an order under this Act to vest a Government security in any person, the Bank may suspend payment of interest on or the maturity value of the Government security or postpone the making of any order under section 7, section 10, section 11 or section 12 or the registration of any transfer of the Government security, as the case may be, until the vesting order has been made.

15. Power of Bank to require bonds.

(1) Before making any order which it is empowered to make under this Act, the Bank may require the person in whose favour the order is to be made to execute a bond with one or more sureties in such form as may be prescribed or to furnish security not exceeding twice the value of the subject-matter of the order, to be held at the disposal of the Bank, to pay to the Bank or any person to whom the Bank may assign the bond or security in furtherance of sub-section (2) the amount thereof.

(2) A Court before which a claim in respect of the subject-matter of any such order is established may order the bond or security to be assigned to the successful claimant who shall thereupon be entitled to enforce the bond or realise the security to the extent of such claim.

16. Publication of notices in Official Gazette.

Any notice required to be given by the Bank under this Act may be served by post, but every such notice shall also be published by the Bank in the Official Gazette or the Official Gazette of a State, according as the notice relates to a Government security,

issued by the Central Government or a State Government, and on such publication shall be deemed to have been delivered to all persons for whom it is intended.

17. Procedure and scope of vesting order.

(1) The Bank shall, while making a vesting order under section 7, section 10, section 11 or section 12, follow such procedure as may be prescribed.

(2) An order made by the Bank under this Act may either confer full title to a Government security or a title only to the accrued and accruing interest on the Government security pending a further order vesting full title.

18. Legal effect of orders made by the Bank.

No recognition by the Bank of a person as the holder of a Government security, and no order made by the Bank under this Act shall be called in question by any Court so far as such recognition or order affects the relations of the Government or the Bank with the person recognised by the Bank as the holder of a Government security or with any person claiming an interest in such security; and any such recognition by the Bank of any person or any order by the Bank vesting a Government security in any person shall operate to confer on that person a title to the security subject only to his personal liability to the rightful owner of the security for money had and received on his account.

19. Stay of proceedings on order of Court.

Where the Bank contemplates making with reference to any Government security any order which it is empowered to make under this Act, and before the order is made the Bank receives from a Court in India an order to stay the making of such order, the Bank shall either--

(a) hold the security together with any interest unpaid or accruing thereon until further orders of the Court are received; or

(b) apply to the Court to have the security transferred to the Official Trustees appointed for the State in which such Court is situated, pending the disposal of the proceedings before the Court.

20. Cancellation by the Bank of vesting proceedings.

Where the Bank contemplates making an order under this Act vesting a Government security in any person, the Bank may, at any time before the order is made, cancel any proceedings already taken for that purpose and may, on such cancellation, proceed anew to the making of such order.

21. Discharge in respect of interest on Government securities.

Save as otherwise expressly provided in the terms of a Government security, no person shall be entitled to claim interest on such security in respect of any period which has elapsed after the earliest date on which demand could have been made for the payment of the amount due on such security.

22. Discharge in respect of bearer bonds.

The Government shall be discharged from all liability on a bearer bond or on any interest coupon of such a bond on payment to the holder of such bond or coupon on presentation on or after the date when it becomes due of the amount expressed therein, unless before such payment, an order of a Court in India has been served on the Government restraining it from making payment.

23. Period of limitation of Government's liability in respect of interest.

Where no shorter period of limitation is fixed by any law for the time being in force, the liability of the Government in respect of any interest payment due on a Government security shall terminate on the expiry of six years from the date on which the amount due by way of interest became payable.

24. Inspection of documents.

No person shall be entitled to inspect, or to receive information derived from any Government security in the possession or custody of the Government or from any book register or other document kept or maintained by or on behalf of the Government in relation to Government securities or any Government security, save in such circumstances and manner and subject to such conditions as may be prescribed.

25. Micro films, facsimile copies of documents, magnetic tapes and computer print outs as documents and as evidence.

(1) Notwithstanding anything contained in any other law for the time being in force,--

(a) a micro film of a document or the reproduction of the image or images embodied in such micro film (whether enlarged or not); or

(b) a facsimile copy of a document; or

(c) a statement contained in a document and included in a printed material produced by a computer, magnetic tape or any other form of mechanical or electronic data retrieval mechanism (hereinafter referred to a computer print

out), if the conditions mentioned in sub-section (2) and the other provisions contained in this section are satisfied in relation to the statement and the computer in question, shall be deemed to be also a document for the purposes of this Act and the regulations made thereunder and shall be admissible in any proceedings thereunder, without further proof or production of the original, as evidence of any contents of the original or of any fact stated therein of which direct evidence would be admissible.

(2) The conditions referred to in sub-section (1) in respect of a computer print out shall be the following, namely--

(a) the computer print out containing the statement was produced by the computer during the period over which the computer was used regularly to store or process information for the purposes of any activities regularly carried on over that period by the person having lawful control over the use of the computer;

(b) during the said period, there was regularly supplied to the computer in the ordinary course of the said activities, information of the kind contained in the statement or of the kind from which the information so contained is derived;

(c) throughout the material part of the said period, the computer was operating properly or, if not, then any respect in which it was not operating properly or was out of operation during that part of that period was not such as to affect the production of the document or the accuracy of the contents; and

(d) the information contained in the statement reproduced or is derived from information supplied to the computer in the ordinary course of the said activities.

(3) Where over any period, the function of storing or processing information for the purposes of any activities regularly carried on over that period as mentioned in clause (a) of sub-section (2) was regularly performed by computers, whether--

(a) by a combination of computers operating over that period; or

(b) by different computers operating in succession over that period; or

(c) by different combinations of computers operating in succession over that period; or

(d) in any other manner involving the successive operation over that period, in whatever order, of one or more computers and one or more combinations of computers, all the computers used for that purpose during that period shall be

treated for the purposes of this section as constituting a single computer; and references in this section to a computer shall be construed accordingly.

(4) In any proceeding under this Act and the regulations made thereunder where it is desired to give a statement in evidence by virtue of this section, a certificate doing any of the following things, that is to say,--

(a) identifying the document containing the statement and describing the manner in which it was produced;

(b) giving such particulars of any device involved in the production of that document as may be appropriate for the purpose of showing that the document was produced by a computer;

(c) dealing with any of the matters to which the conditions mentioned in sub-section (2) relate, and purporting to be signed by a person occupying a responsible official position in the Bank in relation to the operation of the relevant device or the management of the relevant activities (whichever is appropriate) shall be evidence of any matter stated in the certificate; and for the purposes of this sub-section it shall be sufficient for a matter to be stated to the best of the knowledge and belief of the person stating it.

(5) For the purposes of this section,--

(a) information shall be taken to be supplied to a computer if it is supplied thereto in any appropriate form and whether it is so supplied directly or (with or without human intervention) by means of any appropriate equipment;

(b) whether in the course of activities carried on by any official, information is supplied with a view to its being stored or processed for the purposes of those activities by a computer operated otherwise than in the course of those activities, that information, if duly supplied to that computer, shall be taken to be supplied to it in the course of those activities;

(c) a document shall be taken to have been produced by a computer whether it was produced by it directly or (with or without human intervention) by means of any appropriate equipment.

Explanation.--for the purposes of this section,--

(a) "computer" means any device that receives, stores and processes data, applying stipulated processes to the information and supplying results of these processes;

(b) "computer print out" shall include ledgers, day-books, account books and other records maintained in the ordinary course of business of the Bank; and

(c) any reference to information being derived from other information shall be a reference its being derived therefrom by calculation, comparison of any other process.

26. The Bank and its officers to be deemed public officers.

For the purposes of section 124 of the Indian Evidence Act, 1872(1 of 1872), the provisions of Part IV of the Code of Civil Procedure, 1908(5 of 1908) relating to suits by or against public officers in their official capacity, and the provisions of rule 27 of Order V, and rule 52 of Order XXI of the said Code, the Bank and any officer of the Bank acting in his capacity as such shall be deemed to be a public officer.

27. Misuse of subsidiary general ledger account facility.

Where a subsidiary general ledger account is opened by the Bank in favour of any holder of a Government security in terms of section 4 and,--

(a) it comes to the notice of the Bank that the said account is being operated contrary to the terms and conditions subject to which the account was opened; or

(b) the subsidiary general ledger account transfer form has bounced due to insufficiency of Government security or funds; or

(c) the Bank is of opinion that the account is being operated contrary to the banking practice or in a manner prejudicial to the interests of the holders of Government securities in general; or

(d) the subsidiary general ledger account is being misused in any manner, the Bank may, by order in writing, after giving an opportunity of being heard debar the holder of such account from trading with the subsidiary general ledger account facility temporarily or permanently as it deems fit.

28. Pledge, hypothecation or lien.

(1) Subject to such terms and conditions as may be prescribed, the holder of a Government security may create a pledge or hypothecation or lien in respect of such security.

(2) On receipt of notice of pledge or hypothecation or lien from the holder of the Government security, the Bank or any agent maintaining the account in respect of such security shall make necessary entry in its record and such entry shall be evidence of the pledge, hypothecation or lien thereof, as the case may be.

29. Powers to call for information, inspection and issue of directions.

(1) The Bank may at any time, for the purposes of this Act, call for such information as it deems necessary in relation to a Government security from any agent, or holder of subsidiary general ledger account including constituents' subsidiary general ledger account and cause an inspection or security to be made by one or more of its officers or other persons, of any agent or holder of a subsidiary general ledger account including constituents' subsidiary general ledger account.

(2) The Bank may, if it considers necessary so to do, issue such directions as it thinks fit, in relation to a Government security,--

(i) to the holders of the subsidiary general ledger accounts including constituents' subsidiary general ledger account;

(ii) to the agents maintaining bond ledger account; and

(iii) to any other person dealing with the Government securities, for carrying out the purposes of this Act.

30. Contravention and penalties.

(1) If any person, for the purpose of obtaining for himself or for any other person any title to a Government security, makes to any authority in any application made under this Act or in the course of any inquiry undertaken in pursuance of this Act any statement which is false and which he either knows to be false or does not believe to be true, he shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

(2) No Court shall take cognizance of any offence under sub-section (1) except on the complaint of the Bank.

(3) Without prejudice to any other action which the Bank may deem fit to take, the Bank, after giving a reasonable opportunity of being heard, may impose on any person who contravenes any provision of this Act, or contravenes any regulation, notification or direction issued under this Act, or violates the terms and conditions for opening and maintenance of a subsidiary general ledger account, including Constituents' subsidiary general ledger account, a penalty, not exceeding five lakh rupees and where such contravention is a continuing one, further penalty which may extend to five thousand rupees for every day after first day during which the contravention continues.

31. Certain laws not to apply to Government securities.

(1) The Public Debt Act, 1944(18 of 1944) shall cease to apply to the Government securities to which this Act applies and to all matters for which provisions have been made by this Act.

(2) Notwithstanding such cessation anything done or any action taken in the exercise of any power conferred by or under that Act shall be deemed to have been done or taken in the exercise of the powers conferred by or under this Act as if this Act was in force at all material times.

(3) Nothing contained in the Depositories Act, 1996(22 of 1996) or the regulations made thereunder shall apply to Government securities covered by this Act unless an agreement is executed to the contrary by any depository under the Depositories Act, 1996 with the Government or the Bank, as the case may be.

32. Power to make regulations.

(1) The Bank may, with the previous approval of the Central Government, by notification in the Official Gazette, make regulations to carry out the purposes 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, namely:--

(a) the form in which and the terms and conditions subject to which the Government securities may be issued under section 3;

(b) the form in which and the fee to be charged for opening and maintenance of subsidiary general ledger account including constituents' subsidiary general ledger account and bond ledger account by the Bank under sub-section (1) of section 4;

(c) the form and manner in which Government securities shall be transferred under sub-section (2) of section 5 and the manner in which any document relating to any Government security or any endorsement on a promissory note may be executed on behalf of a person who is unable to write under sub-section (3) of that section.

(d) the documents to be produced for recognition of title to the Government security of a deceased sole holder or all deceased joint holders under sub-section (2) of section 7 and the manner in which and the conditions subject to

which the Bank may recognise title to a Government security under sub-section (3) of that section;

(e) the form and the manner in which a nomination may be made, varied or cancelled and the manner in which any person may be appointed in whom the Government security would be deemed to have vested in the event of death of holder or joint holders of Government security during the minority of a nominee under section 9;

(f) the conditions governing the issue of duplicate Government securities and the fees to be paid therefor under section 11;

(g) the manner in which the Bank may determine title to a Government security under section 12;

(h) the form of bond under sub-section (1) of section 15;

(i) the procedure for making vesting order referred to in sub-section (1) of section 17;

(j) the circumstances and the manner in which and the conditions subject to which inspection of Government securities, books, registers and other documents may be allowed or information therefrom may be given under section 24;

(k) the terms and conditions subject to which pledge or hypothecation or lien be created under sub-section (1) of section 28.

(3) Every regulation made by the Bank under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the regulation or both Houses agree that the regulation should not be made, the regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation.

33. Construction of references to laws not in force in Jammu and Kashmir.

Any reference in this Act to a law which is not in force in the State of Jammu and Kashmir shall, wherever, necessary, be constructed as including a reference to the corresponding law, if any, in force in that State.

34. Power to remove difficulties.

(1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, not inconsistent with the provisions of this Act, remove the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

35. Repeal and saving.

(1) The Indian Securities Act, 1920(10 of 1920) is hereby repealed.

(2) Notwithstanding such repeal anything done or any action taken in the exercise of any power conferred by or under the Act shall be deemed to have been done or taken in the exercise of the powers conferred by or under this Act as if this Act was in force on the day on which such thing was done or action was taken.

STATEMENT OF OBJECTS AND REASONS

The law relating to Government Securities and their management by the Reserve Bank of India is laid down in the Public Debt Act, 1944 (18 of 1944). Over the years, a number of rigidities and deficiencies have been noticed in the Public Debt Act, 1944 and the rules framed thereunder and some of the provisions had ceased to be relevant in the present context. The Reserve Bank of India, the agency banks and the treasuries were also handicapped in improving customer services, especially in the wake of very substantial increase in the volume of public debt.

2. The Reserve Bank of India constituted a Committee consisting of representatives of the Reserve Bank of India, the Ministry of Finance, the Ministry of Law and Justice and the State Governments of Madhya Pradesh, Maharashtra, Tamil Nadu, Uttar Pradesh and West Bengal for a thorough and comprehensive review of the entire gamut of Government securities management with a view to simplifying and rationalizing the rules and procedures. The Committee made certain recommendations requiring amendment to the Public Debt Act, 1944.

3. In view of the various amendments that might be required to be carried out in the Public Debt Act, 1944, it was considered desirable to enact a new legislation in its place and to repeal the Indian Securities Act, 1920 (10 of 1920).

4. The salient features of the proposed Bill are to--

(a) provide for opening and maintaining of subsidiary general ledger account constituent's subsidiary general ledger account and bond ledger account with the Reserve Bank of India subject to such conditions and restrictions as may be specified: and in such form and on payment of such fee as may be prescribed;

(b) provide for the Reserve Bank of India to prescribe the form for transferring; Government securities;

(c) provide for holding of Government promissory notes by Trusts;

(d) provide for summary procedure for recognizing title for Government Securities up to rupees one lakh with enabling power to the Central Government to enhance the said limit up to rupees one crore and enhancing of the monetary limit in other related circumstances also;

(e) provide for micro films, facsimile copies of documents, magnetic tapes and computer print outs to be admissible as evidence;

(f) provide for suspension of the holders of subsidiary general ledger account from trading with the facility of that account in the event of misuse of the said facility;

(g) enable creation of pledge, hypothecation or lien in respect of Government securities;

(h) empower the Reserve Bank of India to call for information, cause inspection and issue directions; and

(i) empower the Reserve Bank of India to make regulations with the previous approval of the Central Government for carrying out the purposes of the Bill.

5. The Bill includes provisions to remove existing rigidities and deficiencies in the Public Debt Act, 1944 and to streamline some of the existing provisions for better management of the Government securities.

6. The Bill seeks to achieve the above objects.

P. CHIDAMBARAM.

NEW DELHI;

The 2nd December, 2004.

NOTES ON CLAUSES

Clause 1 of the Bill, provides for the name of the Act, its application and the commencement thereof.

Clause 2 seeks to define the various expressions used in the Bill. Clause 3 seeks to provide for different forms of Government Securities.

Clause 4 seeks to provide for the opening and maintenance of subsidiary general ledger account, constituent's subsidiary general ledger account and bond ledger account by the Reserve Bank.

Clause 5 seeks to provide for the Transfer of Government securities and the form to be prescribed by the Reserve Bank.

Clause 6 seeks to provide for the holding of Government securities by holders of public offices, transfer of succeeding holders of such offices and transfer to a party not being a successor to his office.

Clause 7 seeks to provide for the recognition of title to the Government security on the death of the sole-holder or a joint holder of the security on the basis of the order passed inter alia, by courts and other authorities.

Clause 8 seeks to provide for vesting of the title to Government security in the survivors of joint holders in the case of death of any of the joint holder and for payment when the Government security is payable to two or more persons severally.

Clause 9 seeks to provide for the nomination in respect of Government securities.

Clause 10 seeks to provide for payment in respect of Government security held on behalf of minor to the father or mother of such minor or where neither parent is alive or where the living parents are or only living parent is incapable of acting, to a person entitled under the law for the time being in force to have care of the property of the minor. It also seeks to empower the Reserve Bank to make an order for vesting of such Government security in such person as it considers represents the minor or insane person, when a Government security belongs to a minor or a person who is insane and incapable of managing his affairs and when the outstanding principal value of the Government security does not in the aggregate exceed rupees one lakh or such higher amount, not exceeding rupees one crore as the Central Government may, by notification in the Official Gazette, from time to time, fix.

Clause 11 seeks to provide for issue of duplicate securities and of new securities on conversion, consolidation, sub-division, renewal, stripping or reconstitution of Government security.

Clause 12 seeks to lay down the procedure for summary determination by the Reserve Bank of title to Government security in case of dispute.

Clause 13 seeks to lay down the law applicable in regard to Government securities.

Clause 14 seeks to provide for suspension or postponement of, or payment and registration of transfer, pending the making of a vesting order.

Clause 15 seeks to empower the Reserve Bank to require the person in whose favour the order is to be made to execute a bond with one or more sureties in such form as may be prescribed or to furnish security.

Clause 16 seeks to provide for the publication of notice, in Official Gazette or Official Gazette of a State.

Clause 17 seeks to provide for the procedure for making the vesting order to be prescribed by the Reserve Bank and the scope of such order.

Clause 18 seeks to lay down that legal recognition by the Reserve Bank of any person as holder of Government security or any order made by the Reserve Bank vesting a Government security in any person shall operate to confer on that person a title to the security subject only to the personal liability to the rightful owner of the security for money had and received on his account.

Clause 19 seeks to lay down the steps to be taken by the Reserve Bank on receipt of an order of stay from a court.

Clause 20 seeks to provide for cancellation of vesting proceedings by the Reserve Bank and proceeding a new.

Clause 21 seeks to provide for discharge of the Reserve Bank in respect of interest on Government securities after the maturity thereof.

Clause 22 seeks to provide for discharge in respect of bearer bonds on payment to the holder on presentation.

Clause 23 seeks to lay down the period of limitation for the liability of the Government in respect of interest payable on the Government security.

Clause 24 seeks to lay down that no person shall be entitled for inspection of documents in relation to Government securities except to the extent prescribed by the Reserve Bank.

Clause 25 seeks to lay down that micro films, facsimile copies of documents, magnetic tapes and computer print outs are documents and may be admitted in evidence.

Clause 26 seeks to lay down that the Reserve Bank and its officers are to be deemed to be public officers.

Clause 27 seeks to empower the Reserve Bank of debar the holder of Subsidiary general ledger account from trading with the subsidiary general ledger account facility temporarily or permanently.

Clause 28 seeks to provide for creation of pledge, hypothecation of lien in respect of Government security.

Clause 29 seeks to empower the Reserve Bank to call for any information in relation to Government security, to cause inspection of the offices of any agent or holder of subsidiary general ledger account including constituent subsidiary ledger account and to issue directions regarding Government security.

Clause 30 seeks to provide for punishment with imprisonment or fine for making false statements in the course of an inquiry, etc., imposition of penalties by the Reserve Bank for contravention of the provisions of the Act, regulation, notification, etc.

Clause 31 seeks to lay down that the Public Debt Act, 1944 (18 of 1944) and the Depositories Act, 1996 (22 of 1996) shall not apply to Government securities.

Clause 32 seeks to empower the Reserve Bank to make regulations with the previous approval of the Central Government to carry out the purposes of this Act.

Clause 33 seeks to provide that any reference in this Act to a law which is not in force in the State of Jammu and Kashmir shall, wherever necessary, be construed as including a reference to the corresponding law if any, in force in that State.

Clause 34 seeks to empower the Central Government to make order for removing any difficulty, which may arise in giving effect to the provisions of this Act and every such order made under this clause to be laid before each House of Parliament.

Clause 35 seeks to repeal the Indian Securities Act, 1920 (10 of 1920) and to save any action taken thereunder.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 32 of the Bill seeks to empower the Reserve Bank of India to make regulations with the previous approval of the Central Government for carrying out the purpose of this Act. The matters in respect of which such regulations may be made relate, inter alia, to the form in which and the terms and conditions subject to which the Government Securities may be issued, the form of and the fee to be charged for opening and maintenance of, subsidiary general ledger account including constituent's subsidiary general ledger account and bond ledger account, the form and manner in which Government securities shall be transferred, the manner in which any document relating to any Government security shall be transferred, the manner in which any document relating to any Government security or any endorsement on a promissory note may be executed on behalf of a person who is unable to write, the documents to be produced for recognition of title to the Government security of a deceased sole holder or all deceased joint holders, the manner in which and the conditions subject to which the Reserve Bank of India may recognize title to a Government security, the form and the manner in which a nomination may be made, varied or cancelled and the manner in which any person may be appointed in whom the government security would be deemed to have vested in the event of death of holder or joint holders of Government security during the minority of a nominee, the fee for and conditions governing the issue of duplicate Government securities, the manner in which the Bank may determine title to a Government security, the form of bond that may be required to be executed by the person in whose favour an order is to be made by the Bank, the procedure for making vesting order, the circumstances and the manner in which and the conditions subject to which inspection of Government securities, books, registers and other documents may be allowed or information there from may be given, and the terms and conditions subject to which pledge or hypothecation or lien may be created.

2. Clause 34 of the Bill relates to power to remove difficulties. The provisions of the said clause empower the Central Government to make orders for removing any difficulty, which may be arise in giving effect to the provisions of the proposed legislation. It is also being provided that no such order shall be made after the expiration of two years from the date of commencements of the proposed legislation and every such order shall be laid before each House of Parliament.

3. The matter in respect of which the regulations may be made under Clause 32 of the Bill are all matters of procedure and administrative details and it is not practicable to provide for them in the proposed legislation itself. The regulations have to be laid before Parliament. The delegation of the legislative power is of a normal character.