



Bombay Government Gazette.

Published by Authority.

THURSDAY, 26TH MARCH 1885.

Separate paging is given to this Part, in order that it may be filed as a separate compilation.

PART VI.

BILLS OF THE GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 13th March 1885, and was referred to a Select Committee:—

Bill No. 5 of 1885.

A Bill to amend the Petroleum Act, 1881.

VIII of 1881. WHEREAS it is expedient to amend the Petroleum Act, 1881, in manner hereinafter appearing; It is hereby enacted as follows:—

1. (1) This Act may be called the Petroleum Act, 1885; and
 Short title and commencement. (2) It shall come into force at once.

VIII of 1881. 2. In section 3 of the Petroleum Act, 1881, in the explanation to the definition of "petroleum", "petroleum" in section 3 for the last thirteen words the following words shall be substituted, namely:—

"in accordance with the directions contained in the schedule hereto annexed, with an apparatus which has been stamped and certified as provided by section 17A, within a period of five years immediately preceding the date on which the apparatus is used for the testing, and after the corrections (if any) which the certificate declares are to be applied to the results of the testing have been made."

3. In section 3 of the said Act, in the definition of "dangerous petroleum", for the word "seventy-three" the word "seventy-six" shall be substituted; and to the same definition the following words shall be added, namely:—

"Provided that, when all or any of the petroleum on board a ship, or in the possession of any dealer, is declared by the master of the ship, or the consignees of the cargo, or by the dealer, as the case may be, to be of one uniform quality, the petroleum shall not be deemed to be dangerous if the samples selected from such petroleum, when tested as aforesaid, have their flashing points, on an average, at or about seventy-three degrees of Fahrenheit's thermometer and if no one of the said samples has its flashing point below seventy degrees of that thermometer."

4. In the proviso to section 5 of the said Act, the word "glass" shall be repealed.

5. In section 6 of the said Act, for the last seventeen words the following words shall be substituted, namely:—

"have attached thereto a label in conspicuous characters stating the description of the petroleum, with the addition of the words 'highly inflammable' and with the addition—

"(d) in the case of a vessel kept, of the name and address of the consignee or owner;

“(e) in the case of a vessel transported, of the name and address of the sender; and

“(f) in the case of a vessel sold or exposed for sale, of the name and address of the vendor.”

New sections substituted for section 7 of the same Act.

6. For section 7 of the said Act the following sections shall be substituted:—

“7. (1) The Local Government may, from time to time, make rules as to the importation of petroleum, and in particular—

“(a) to determine the ports at which only petroleum may be imported;

“(b) to ascertain the quantity and description of any petroleum on board a ship;

“(c) to determine the places at which and the conditions on and subject to which petroleum may be landed, stored or transhipped;

“(d) to fix the fees to be paid for the storage of petroleum at such places;

“(e) to provide for the selection by an officer appointed by the Local Government in this behalf, and for the delivery to him by the consignees of samples of all petroleum so landed and stored; and

“(f) to provide, in the case of each consignment which is stated to be of one uniform quality, for the averaging of the results of testing the selected samples.”

“(2) In this section ‘ship’ includes anything made for the conveyance by water of human beings or property.

“7 A. (1) Petroleum landed and stored in accordance with rules made under the last foregoing section shall not be removed from the place at

which it is stored until the samples selected therefrom in accordance with the said rules have been tested by an officer appointed by the Local Government in this behalf in the manner described in the schedule hereto annexed with an apparatus which has been stamped and certified as provided by section 17 A, and until such officer has given a certificate that the petroleum is not dangerous petroleum.

“(2) If the said officer after testing the said samples refuses to give the said certificate in respect of any petroleum, the Local Government may permit the consignee within a time to be fixed by the Local Government in this behalf—

“(a) to rectify the petroleum,

“(b) to apply for a license to import the petroleum as dangerous petroleum, or

“(c) to re-export the petroleum.

“(3) If the consignee does not within the time fixed under sub-section (2) avail himself of the permission granted under that sub-section, the Local Government may order the petroleum to be destroyed.”

7. After section 17 of the said Act the follow-

New section to be inserted after section 17. ing section shall be inserted, namely:—

“Test-apparatus.

“17 A. Whereas a model of the apparatus for testing petroleum under Model test-apparatus. this Act constructed in accordance with the description contained in the schedule hereto annexed has been deposited in the office of the Chemical Examiner to Government, Calcutta, and has been marked with the words ‘Model test-apparatus;’ It is hereby enacted as follows:—

[cf. 42 & 43 Vic., c. 47, s. 3.]

“(1) The Chemical Examiner with whom the Verification of test-said model test-apparatus. apparatus. tus is deposited may, on payment of such fee as the Governor General in Council may, from time to time, by notification in the *Gazette of India*, prescribe, compare with the said model and verify every apparatus for testing petroleum which is submitted to him for the purpose.

[cf. 42 & 43 Vic., c. 47, s. 3.]

“(2) If any apparatus for testing petroleum, when compared and verified as provided by this section, is found correct, or correct subject to certain corrections to be applied to the results of the tests, the Chemical Examiner shall stamp the same with a special number, and shall further give a certificate in writing under his hand to the effect that the apparatus has been compared and verified by him and found to be correct, or correct subject to certain specified corrections to be applied to the results of the tests.

“(3) Every certificate granted under this section shall, until the contrary is proved, be deemed to be conclusive proof of the matters stated therein.

“(4) Subject to the payment of such fees as the Governor General in Council may, by notification in the *Gazette of India*, prescribe in this behalf, the said model test-apparatus shall be at all reasonable times open to inspection by any person desiring to inspect it.”

8. For the Schedule to the said Act the following schedule shall be substituted, namely:—

New schedule substituted for the schedule to the same Act.

THE SCHEDULE.

“THE SCHEDULE.

“I.—Nature of the Test-apparatus.

“The apparatus consists of the following parts:—

- (1) the oil-cup;
- (2) the cover, withslide, test-lamp, and clock-work arrangement for opening and closing the holes in the cover, and for dipping the test-flame;
- (3) the water-bath or heating vessel;
- (4) the tripod stand, with jacket, and spirit-lamp for heating the water-bath;
- (5) the thermometer for indicating the temperature of the oil in the oil-cup;
- (6) the thermometer for indicating the temperature of the water in the water-bath;
- (7) the thermometer for indicating the temperature of the oil before it is poured into the oil-cup;
- (8) the dropping bottle, for replenishing the test-lamp;
- (9) the forceps, for adjusting the wick of the test-lamp.

“The oil-cup is a cylindrical flat-bottomed vessel, made of gun-metal or brass, and tinned or silvered inside. A gauge is fixed to the inside

of the cup to regulate the height to which it is to be filled with the sample under examination.

"The cup is provided with a close fitting overlapping cover, which carries the thermometer, the test-lamp, and the adjuncts thereto. The test-lamp is suspended upon two supports by means of trunnions, which allow it to be easily inclined to a particular angle and restored to its original position. The socket in the cover, which is to hold a round bulb thermometer for indicating the temperature of the oil during the testing operation, is so adjusted that the bulb of the latter is always inserted in a definite position below the surface of the liquid.

"The cover is provided with three holes, one in the centre and two smaller ones close to the sides. These are closed and opened by means of a pivoted slide. When the slide is moved so as to uncover the holes, the suspended lamp is caught by a projection fixed on the slide, and tilted in such a way as to bring the end of the spout just below the surface of the lid. As the slide moves back so as to cover the holes, the lamp returns to its original position. Upon the cover, in front of and in a line with the nozzle of the lamp, is fixed a white bead, the diameter of which represents the size of the test-flame to be used.

"The water-bath or heating vessel is so constructed that, when the oil-cup is placed in position in it, an air-space or air-chamber intervenes between the two; consequently, in applying the test under ordinary circumstances, the heat is transmitted gradually to the oil from the hot water through the air-space. The water-bath is fitted with a socket for receiving a long bulb thermometer, to indicate the temperature of the water. It is also provided with a funnel, an overflow-pipe and two handles.

"The water-bath rests upon a tripod stand, which is fitted with a copper cylinder or jacket, so that the bath is surrounded by an enclosed air-space, which retains and regulates the heat. One of the legs of the stand serves as a support for a spirit-lamp, which is attached to it by a small swing bracket.

"The clockwork arrangement, by which during the operation of testing the slide is withdrawn, and the test-flame dipped into the cup and raised again as the slide is replaced, is provided with a ratchet key for setting it in action for each test, and with a trigger for starting it each time that the test-flame is applied.

"II.—Directions for drawing the Sample and preparing it for Testing.

"1. *Drawing the sample.*—In all cases the testing officer shall personally superintend the drawing of the sample from an original unopened tin.

"An opening sufficiently large to admit of the oil being rapidly poured or syphoned from the tin shall be made.

"Two bottles, each of the capacity of about 40 fluid ounces, are to be filled with the oil. One of these, the contents of which is intended to be preserved for reference in case of need, is to be carefully corked, the cork being well driven home, cut off level with the neck, and melted sealing-wax worked into it. The other bottle may be either stoppered or corked.

"2. *Preparing the sample for testing.*—About ten fluid ounces of the oil, sufficient for three tests, are transferred from the bottle into which the sample has been drawn to a pint flask or bottle, which is to be immersed in water in which ice is floating until a thermometer, introduced into the oil, indicates a temperature not exceeding 50° Fahrenheit.

"III.—Directions for preparing and using the Test-apparatus.

"1. *Preparing the water-bath.*—The water-bath is filled by pouring water into the funnel until it begins to flow out at the overflow-pipe. The temperature of the water at the commencement of each test, as indicated by the long bulb thermometer, is to be 130° Fahrenheit, and this is attained in the first instance by mixing hot and cold water, either in the bath or in a vessel from which the bath is filled, until the thermometer, which is provided for testing the temperature of the water, gives the proper indication; or the water is heated by means of the spirit-lamp (which is attached to the stand of the apparatus) until the required temperature is indicated.

"2. *Preparing the test-lamp.*—The test-lamp is fitted with a piece of cylindrical wick of such thickness that it fills the wick-holder, but may readily be moved to and fro for the purpose of adjusting the size of the flame. In the body of the lamp, upon the wick, which is coiled within it, is placed a small tuft of cotton wool, moistened with petroleum, any oil not absorbed by the wool being removed. When the lamp has been lighted, the wick is adjusted by means of a pair of forceps until the flame is of the size of the bead fixed on the cover of the oil-cup; should a particular test occupy so long a time that the flame begins to get smaller, through the supply of oil in the lamp becoming exhausted, three or four drops of petroleum are allowed to fall upon the tuft of wool in the lamp from the small open orifice of the bottle provided for that purpose. This can be safely done without interrupting the test.

"3. *Filling the oil-cup.*—The oil-cup having been previously cooled, by placing it bottom downwards in water at a temperature not exceeding 50° Fahrenheit, is to be rapidly wiped dry, placed on a level surface in a good light, and the oil to be tested is poured in very slowly, without splashing, until its surface is level with the point of the gauge which is fixed in the cup. The round bulb thermometer is inserted into the lid of the cup, care being taken that the projecting rim of the collar touches the edge of the socket; the test-lamp, prepared as already described, is placed in position, and the cover is then put on to the cup and pressed down so that its edge rests on the rim of the cup.

"4. *Application of the test.*—The water-bath, with its thermometer in position, is placed in some locality where it is not exposed to currents of air, and where the light is sufficiently subdued to admit of the size of the entire test-flame being compared with that of the bead on the cover. The cup is carefully lifted without shaking it, and placed in the bath, the test-lamp is lighted, and the clockwork wound up by turning the key. The thermometer in the oil-cup is now watched, and when the temperature has reached 56° Fahrenheit the clockwork is set in motion by pressing the trigger.

STATEMENT OF OBJECTS AND REASONS.

THE object of this Bill is to amend the Petroleum Act, 1881, in certain points in which experience has shown that its amendment would be desirable.

2. "Dangerous petroleum" is defined by the Act (section 3) as petroleum having its flashing point below seventy-three degrees of Fahrenheit's thermometer. The Government of India does not see any reason for changing the standard so fixed, but in view of the possibility of variations in the application of the test, which, according to the opinions of the experts, may, even with the utmost care, cause deviations of 2° or 3° in the results, it is of opinion that the nominal legal minimum standard for non-dangerous petroleum may be slightly raised. Accordingly, section 3 of the Bill fixes the standard for dangerous petroleum at 76° instead of 73°, but to this enhanced standard a proviso is added to the effect that a consignment represented to be of one uniform quality shall not be deemed to be dangerous when on an average of tests the oil does not fall below that standard by more than 3°, and no one sample has a flashing point below 70°.

3. Section 5 of the Act permits small quantities of dangerous petroleum to be kept in "glass," among other, vessels, if each vessel does not contain more than a pint and is securely stopped. Looking to the comparatively fragile nature of glass vessels and to the possibility of such vessels, when filled with the highly volatile liquids included under the head of "dangerous petroleum," bursting even if "securely stopped," when exposed to powerful sunlight for a brief period, the prudence of including glass vessels among those specified in the section is, as has been pointed out to the Government of India, doubtful. Section 4 of the Bill therefore amends the section by the omission of the word "glass."

4. The object of section 5 of the Bill is to bring the provisions of section 6 of the Act, which relate to the marking of the vessels containing dangerous petroleum, and which declare that all such vessels "shall bear an indelible mark on a label in conspicuous characters, stating the nature of the contents thereof" into accordance with the English law (34 & 35 Vic., cap. 105, section 6), which lays down that the label shall state in conspicuous characters the description of the petroleum with the addition of the words "highly inflammable" and with the addition of the name and address of the consignee or owner or of the sender or vendor.

5. As the Act now stands, not only is the importation of "dangerous" petroleum subjected to a strict system of licensing, but no petroleum may be landed from any ship until samples of the petroleum on board thereof have been delivered for the purpose of the petroleum being tested.

While considering that the importation of dangerous petroleum should continue to be thus regulated, the Government of India is of opinion that the restrictions at present placed on the importation of other petroleum may be somewhat relaxed. It seems to it that, instead of requiring the delivery of samples before any oil is landed, it would be sufficient to give the Local Government power to determine the places at which, and the conditions on and subject to which, petroleum may be landed and stored. The necessary power is conferred by section 6 of the Bill, which substitutes a new section for section 7 of the Act. There would thus be nothing to prevent petroleum, other than dangerous petroleum, being in future landed and stored at once. But, in order to protect the public, no petroleum should be allowed to be removed from the place where it is stored until it has been tested and declared to satisfy the legal standard. Section 7A therefore provides this, and further declares that, when petroleum which has been so landed and stored is found not to come up to the legal standard, the Local Government may direct the consignees either to rectify it or to import it as dangerous petroleum or to re-export within a fixed period, and that, on the consignees failing to do whichever of these things they may be directed to do, the Local Government may order the petroleum to be destroyed.

In addition to re-producing clauses (a) and (c) of the present section 7, the new section 7 further empowers the Local Government to make rules to fix the fees to be paid for the storage of petroleum at places appointed for the purpose, and to regulate the selection of samples and the averaging the results of testing selected samples.

6. Section 7 of the Bill introduces certain new provisions in the Act as to the test-apparatus to be used. As the Act at present stands the schedule contains a specification explanatory of the test-apparatus. As it is, however, proposed by this Bill to substitute a new schedule for the present one, in which a new description of the test-apparatus is inserted, it seems desirable, for the convenience of the public, to provide for the deposit of a model test-apparatus, which shall be open to inspection, and after which all the instruments to be used under the Act shall be constructed. This is what the new section 17 A, which section 7 of the Bill adds to the Act, does. This section also provides for the verification of each test-apparatus which it is proposed to use for the purposes of the Act. Each apparatus when verified is to be marked with a special number, and the officer making the verification is to give a certificate in which shall be noted any corrections which must be applied to the results of the test made with the apparatus. This last provision is necessary, because it is practically impossible to construct instruments which will not need corrections of this sort. The certificate granted is declared to be conclusive proof of the matters stated therein.

7. Section 8 of the Bill substitutes a new schedule for the schedule at present appended to the Act, the instructions contained in which it is now generally admitted require modification.

8. This schedule has been prepared mainly by Sir F. Abel in conjunction with Mr. Redwood and Dr. Warden, the Professor of Chemistry in the Medical College, Calcutta, and Chemical Examiner to

Government, and Dr. Lyon, the Chemical Analyser in Bombay, and it has also been examined and considered by Professor Pedler of the Presidency College, Calcutta. It embodies very definite directions regarding the sampling and testing of petroleum, and it lays down in a most detailed manner the procedure to be adopted. The Governor General in Council believes that the adoption of this schedule will meet all the difficulties which have been found to occur under the present law in regard to the sampling and testing of petroleum, and that, if the procedure therein described is carefully followed, there is every reason to hope that trustworthy and generally concordant results will be obtained.

9. Lastly, the new provisions as to the deposit of a model test-apparatus and the verification of all other test-apparatus therewith has necessitated the amendment of the *explanation* of the term "flashing point" which is appended to the definition of "petroleum" in section 3. It is necessary that, in order to ascertain the true flashing point, the petroleum should be tested with a verified and certificated apparatus, and after the corrections (if any) to be applied to the results of the testing have been made. Moreover, it would appear to be necessary that every apparatus used for the testing of petroleum should be verified at least once in every five years. All these points are provided for in the amendment made by section 2 of the Bill.

(Signed) J. GIBBS.

The 10th March 1885.

R. J. CROSTHWAITE,
Offg. Secretary to the Government of India.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 13th March 1885, and was referred to a Select Committee :—

Bill No. 6 of 1885.

A Bill to amend the law relating to Government Securities.

WHEREAS it is expedient to amend the law relating to Government securities in manner herein-after appearing; It is hereby enacted as follows :—

Short title and commencement. 1. (1) This Act may be called the Indian Securities Act, 1885; and

(2) It shall come into force at once.

2. In this Act, unless there is something repugnant in the subject or context, Definitions.

The expression "Government securities" includes promissory notes, debentures, stock-certificates, and all other securities issued by the Government of India or by any Local Government, in respect of any loan issued under notification in the official Gazette, whether before or after the passing of this Act : and

"prescribed" means prescribed by rules made from time to time by the Governor General in Council in this behalf.

3. (1) Notwithstanding anything contained in the Indian Contract Act, section 45, when a Government security is payable to two or more persons jointly and any of them dies, the security shall be payable to the survivor or survivors of those persons.

(2) Nothing herein contained shall affect any claim which the representative of the deceased person may have against the survivor or survivors in respect of the security jointly payable to them and the deceased.

(3) This section shall apply whether the death of the person to whom the security was jointly payable occurred or occurs before or after this Act comes into force.

4. Any person to whom a Government security is payable may, on payment of the prescribed fee and on delivering the security duly receipted to the prescribed officer, obtain from the officer a renewed security payable to himself.

5. (1) When a Government security has been wholly or partly lost or destroyed the person to whom it was payable at the time of the loss or destruction or his representative may, on application to the prescribed officer, and on producing proof to his satisfaction

of the loss or destruction, obtain from him an order for—

- (a) the payment of interest in respect of the security said to be lost or destroyed pending the issue of a duplicate security; and
- (b) the issue of a duplicate security payable to such person.

(2) An order shall not be passed under sub-section (1) until after the issue of the prescribed notification of the loss or destruction and after the expiration of the prescribed period, nor until the applicant has given the prescribed indemnity against the claims of all persons deriving title under the security lost or destroyed.

(3) A list of the securities in respect of which an order is passed under sub-section (1) shall be published in the *Gazette of India* at such times as the Governor General in Council may, from time to time, direct.

6. When a renewed security has been issued under section 4, or a duplicate security has been issued under section 5, the Government shall be discharged of all liability in respect of the original security of which such, renewed or duplicate security has been issued—

- (a) in the case of a renewed security, after the lapse of six years from the date of the issue of the renewed security.
- (b) in the case of a duplicate security, after the lapse of six years from the date of the publication under section 5, sub-section (3), of the list in which the security is first mentioned, or from the date of the last payment of interest on the original security, whichever date is latest.

7. The Governor General in Council may, from time to time, make rules—

- (a) the fees to be paid for applications under sections 4 and 5;
- (b) the form in which securities delivered for renewal are to be receipted;
- (c) the officer who is to exercise all or any of the powers and perform all or any of the duties prescribed by sections 4 and 5;
- (d) the proof which is to be produced by persons applying for duplicate securities;
- (e) the form and mode of publication of the notification mentioned in section 5 and the period after which interest may be paid or a duplicate security may be issued under that section;
- (f) the nature and amount of the indemnity to be given by a person applying under section 5 for the payment of interest or the issue of a duplicate security; and
- (g) generally all matters connected with the grant of renewed and duplicate securities.

[Cf. Act III of 1881, s. 2.]

IX of 1872.

[Cf. sec. 49 of 33 & 34 Vic., cap. 71.]

Cf. 33 & 34 Vic., cap. 71, s. 51.]

8. (1) The Governor General in Council shall before making rules under the last foregoing section, publish a draft of the proposed rules in such manner as may, in his opinion, be sufficient for the information of the public.

Publication of drafts and Rules.

(2) There shall be published with the draft a notice specifying a date at or after which the draft will be taken into consideration.

(3) The Governor General in Council shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

(4) Every rule made under the last foregoing section shall be published in the *Gazette of India*, and the publication in the *Gazette of India* of a rule purporting to be made under that section shall be conclusive evidence that it has been duly made.

STATEMENT OF OBJECTS AND REASONS.

The object of this Bill is to provide for certain matters connected with Government securities as to which legislation appears to be desirable.

2. Under the English law, on the death of one of several joint promisees or creditors, the right to sue on the contract vests in the survivors or survivor, and, on the death of the last of two or more survivors, in his personal representative. But a person receiving money under this right of survivorship may be accountable for it to the representatives of the deceased.

3. This rule has been altered in India by section 45 of the Contract Act, which provides that—

“When a person has made a promise to two or more persons jointly, then, unless a contrary intention appears from the contract, the right to claim performance rests, as between him and them, with them during their joint lives, and, after the death of any of them, with the representative of such deceased person jointly with the survivor or survivors, and, after the death of the last survivor, with the representatives of all jointly.”

4. With reference to this section, the Law Commissioners, who prepared the draft of the Act, remarked:—“In regulating the devolution of rights and liabilities, we propose, in accordance with the rule of English Courts of Equity and of the Indian Code of Civil Procedure, that joint liabilities and rights shall, after the death of one of the persons liable or entitled, go to his representative jointly with the survivor, and after the death of the survivor to the representatives of both jointly.” So far as can be ascertained, this proposal was accepted without criticism in India.

5. It appears that, both before and since the passing of the Contract Act, the practice of the Indian Public Debt Offices has been to treat the right of suing on, and giving receipts for money payable under, Government promissory notes as vesting in the survivor or survivors of two or more joint holders. But the law officers of the Government have recently given an opinion that, having regard to section 45 of the Contract Act, it is not safe to continue this practice.

6. Under these circumstances, the Government of India think that legislation is desirable both for the purpose of confirming what was been done in the past, and for the purpose of laying down a convenient rule for the future.

7. Accordingly, section 3 of the Bill declares that, notwithstanding anything contained in the Indian Contract Act, 1872, section 45, when a Government security is payable to two or more persons jointly and any of them dies, the security shall be payable to the survivor or survivors of those persons. But to this a clause is added making it clear that the section will not affect the liability of the survivor or survivors to the representative of the deceased holder of the security.

8. Lastly, sections 4 to 6 of the Bill deal with the issue of renewed and duplicate Government securities.

9. With regard to the renewal of Government securities, the holder of a security may, under existing rules, upon payment of the prescribed fee and delivering up his security properly received, obtain a clear title in the form of a renewed security in his own favour. This right is affirmed by section 4 of the Bill; but as Government by the renewal becomes liable in respect of the new note independently of any question as to legal completeness of discharge upon the original security, opportunity is taken to fix a term within which claims in respect of the original security must be made. According, section 6 of the Bill releases Government from liability in respect of the original security after the lapse of six years from the date of the issue of the renewed security.

10. With regard to duplicate securities, the practice has hitherto been, when a Government security has been lost or destroyed, to issue a notification, under the terms of the security, of the discharge of the security upon a given date, and to refuse to issue any duplicate until six years (the period fixed by the law of limitation) has elapsed from the date so fixed for discharge. If, however, the loan is not mature, no such notification of discharge can be issued, and the Government is obliged to refuse to issue any duplicate, in the face of the risk of claims being made in respect of the security alleged to be lost. The Bill adopts the existing practice in respect of the issue of duplicates, but, by applying in every case the period of limitation which under the existing law applies only in the case of securities of loans dischargeable upon notice given at any time, enables the Government to issue duplicates (under the usual safeguard of a bond of indemnity) in every case of a security proved to have been lost or destroyed.

(Signed) A. COLVIN.

The 10th March 1885.

R. J. CROSTHWAITE,

Offg. Secretary to the Government of India.

[Published with the "Bombay Government Gazette" on the 2nd April 1885.]

PART VI.

BILLS OF THE GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 13th March 1885, and was referred to a Select Committee:—

Bill No. 5 of 1885.

A Bill to amend the Petroleum Act, 1881.

VIII of 1881. WHEREAS it is expedient to amend the Petroleum Act, 1881, in manner hereinafter appearing; It is hereby enacted as follows:—

1. (1) This Act may be called the Petroleum Act, 1885; and
Short title and commencement. (2) It shall come into force at once.

VIII of 1881. 2. In section 3 of the Petroleum Act, 1881, Amendment of explanation to definition of "petroleum" in section 3 of Act VIII of 1881. in the explanation to the definition of "petroleum", for the last thirteen words the following words shall be substituted, namely:—

"in accordance with the directions contained in the schedule hereto annexed, with an apparatus which has been stamped and certified as provided by section 17A, within a period of five years immediately preceding the date on which the apparatus is used for the testing, and after the corrections (if any) which the certificate declares are to be applied to the results of the testing have been made."

3. In section 3 of the said Act, in the definition of "dangerous petroleum", for the word "seventy-three" the word "seventy-six" shall be substituted; and to the same definition the following words shall be added, namely:—

"Provided that, when all or any of the petroleum on board a ship, or in the possession of any dealer, is declared by the master of the ship, or the consignees of the cargo, or by the dealer, as the case may be, to be of one uniform quality, the petroleum shall not be deemed to be dangerous if the samples selected from such petroleum, when tested as aforesaid, have their flashing points, on an average, at or about seventy-three degrees of Fahrenheit's thermometer and if no one of the said samples has its flashing point below seventy degrees of that thermometer."

4. In the proviso to section 5 of the said Act, the word "glass" shall be repealed.
Repeal of word "glass" in section 5 of same Act.

5. In section 6 of the said Act, for the last seventeen words the following shall be substituted, namely:—
Substitution of certain words in section 6 of the same Act.

"have attached thereto a label in conspicuous characters stating the description of the petroleum, with the addition of the words 'highly inflammable' and with the addition—

"(d) in the case of a vessel kept, of the name and address of the consignee or owner;

"(e) in the case of a vessel transported, of the name and address of the sender; and

"(f) in the case of a vessel sold or exposed for sale, of the name and address of the vendor."

6. For section 7 of the said Act the following sections shall be substituted:—
New sections substituted for section 7 of the same Act.

"7. (1) The Local Government may, from time to time, make rules consistent with this Act to regulate the importation of petroleum, and in particular—
Power for Local Government to make rules as to importation of petroleum.

- "(a) to determine the ports at which only petroleum may be imported;
- "(b) to ascertain the quantity and description of any petroleum on board a ship;
- "(c) to determine the places at which and the conditions on and subject to which petroleum may be landed, stored or transhipped;
- "(d) to fix the fees to be paid for the storage of petroleum at such places;
- "(e) to provide for the selection by an officer appointed by the Local Government in this behalf, and for the delivery to him by the consignees of samples of all petroleum so landed and stored; and
- "(f) to provide, in the case of each consignment which is stated to be of one uniform quality, for the averaging of the results of testing the selected samples."

"(2) In this section 'ship' includes anything made for the conveyance by water of human beings or property.

"7 A. (1) Petroleum landed and stored in accordance with rules made under the last foregoing section shall not be removed from the place at which it is stored until the samples selected therefrom in accordance with the said rules have been tested by an officer appointed by the Local Government in this behalf in the manner described in the schedule hereto annexed with an apparatus which has been stamped and certified as provided by section 17 A, and until such officer has given a certificate that the petroleum is not dangerous petroleum.

"(2) If the said officer after testing the said samples refuses to give the said certificate in respect of any petroleum, the Local Government may permit the consignee within a time to be fixed by the Local Government in this behalf—

- "(a) to rectify the petroleum,
- "(b) to apply for a license to import the petroleum as dangerous petroleum, or
- "(c) to re-export the petroleum.

"(3) If the consignee does not within the time fixed under sub-section (2) avail himself of the permission granted under that sub-section, the Local Government may order the petroleum to be destroyed."

7. After section 17 of the said Act the following section shall be inserted, namely:—

"Test-apparatus.

"17 A. Whereas a model of the apparatus for testing petroleum under this Act constructed in accordance with the description contained in the schedule hereto annexed has been deposited in the office of the Chemical Examiner to Government, Calcutta, and has been marked with the words 'Model test-apparatus'; It is hereby enacted as follows:—

"(1) The Chemical Examiner with whom the said model test-apparatus is deposited may, on payment of such fee as the Governor General in Council may, from time to time, by notification in the *Gazette of India*, prescribe, compare with the said model and verify every apparatus for testing petroleum which is submitted to him for the purpose.

"(2) If any apparatus for testing petroleum, when compared and verified as provided by this section, is found correct, or correct subject to certain corrections to be applied to the results of the tests, the Chemical Examiner shall stamp the same with a special number, and shall further give a certificate in writing under his hand to the effect that the apparatus has been compared and verified by him and found to be correct, or correct subject to certain specified corrections to be applied to the results of the tests.

"(3) Every certificate granted under this section shall, until the contrary is proved, be deemed to be conclusive proof of the matters stated therein.

"(4) Subject to the payment of such fees as the Governor General in Council may, by notification in the *Gazette of India*, prescribe in this behalf, the said model test-apparatus shall be at all reasonable times open to inspection by any person desiring to inspect it."

New schedule substituted for the schedule to the same Act.

8. For the Schedule to the said Act the following schedule shall be substituted, namely:—

"THE SCHEDULE.

"I.—Nature of the Test-apparatus.

"The apparatus consists of the following parts:—

- (1) the oil-cup;
- (2) the cover, with slide, test-lamp, and clock-work arrangement for opening and closing the holes in the cover, and for dipping the test-flame;
- (3) the water-bath or heating vessel;
- (4) the tripod stand, with jacket, and spirit-lamp for heating the water-bath;
- (5) the thermometer for indicating the temperature of the oil in the oil-cup;
- (6) the thermometer for indicating the temperature of the water in the water-bath;
- (7) the thermometer for indicating the temperature of the oil before it is poured into the oil-cup;
- (8) the dropping bottle, for replenishing the test-lamp;
- (9) the forceps, for adjusting the wick of the test-lamp.

"The oil-cup is a cylindrical flat-bottomed vessel, made of gun-metal or brass, and tinned or silvered inside. A gauge is fixed to the inside of the cup to regulate the height to which it is to be filled with the sample under examination.

"The cup is provided with a close fitting overlapping cover, which carries the thermometer, the test-lamp, and the adjuncts thereto. The

test-lamp is suspended upon two supports by means of trunnions, which allow it to be easily inclined to a particular angle and restored to its original position. The socket in the cover, which is to hold a round bulb thermometer for indicating the temperature of the oil during the testing operation, is so adjusted that the bulb of the latter is always inserted in a definite position below the surface of the liquid.

"The cover is provided with three holes, one in the centre and two smaller ones close to the sides. These are closed and opened by means of a pivoted slide. When the slide is moved so as to uncover the holes, the suspended lamp is caught by a projection fixed on the slide, and tilted in such a way as to bring the end of the spout just below the surface of the lid. As the slide moves back so as to cover the holes, the lamp returns to its original position. Upon the cover, in front of and in a line with the nozzle of the lamp, is fixed a white bead, the diameter of which represents the size of the test-flame to be used.

"The water-bath or heating vessel is so constructed that, when the oil-cup is placed in position in it, an air-space or air-chamber intervenes between the two; consequently, in applying the test under ordinary circumstances, the heat is transmitted gradually to the oil from the hot water through the air-space. The water-bath is fitted with a socket for receiving a long bulb thermometer, to indicate the temperature of the water. It is also provided with a funnel, an overflow-pipe and two handles.

"The water-bath rests upon a tripod stand, which is fitted with a copper cylinder or jacket, so that the bath is surrounded by an enclosed air-space, which retains and regulates the heat. One of the legs of the stand serves as a support for a spirit-lamp, which is attached to it by a small swing bracket.

"The clockwork arrangement, by which during the operation of testing the slide is withdrawn, and the test-flame dipped into the cup and raised again as the slide is replaced, is provided with a ratchet key for setting it in action for each test, and with a trigger for starting it each time that the test-flame is applied.

"II.—Directions for drawing the Sample and preparing it for Testing.

"1. *Drawing the sample.*—In all cases the testing officer shall personally superintend the drawing of the sample from an original unopened tin.

"An opening sufficiently large to admit of the oil being rapidly poured or syphoned from the tin shall be made.

"Two bottles, each of the capacity of about 40 fluid ounces, are to be filled with the oil. One of these, the contents of which is intended to be preserved for reference in case of need, is to be carefully corked, the cork being well driven home, cut off level with the neck, and melted sealing-wax worked into it. The other bottle may be either stoppered or corked.

"2. *Preparing the sample for testing.*—About ten fluid ounces of the oil, sufficient for three tests, are transferred from the bottle into which the sample has been drawn to a pint flask or bottle, which is to be immersed in water in which ice is

floating until a thermometer, introduced into the oil, indicates a temperature not exceeding 50° Fahrenheit.

"III.—Directions for preparing and using the Test-apparatus.

"1. *Preparing the water-bath.*—The water-bath is filled by pouring water into the funnel until it begins to flow out at the overflow-pipe. The temperature of the water at the commencement of each test, as indicated by the long bulb thermometer, is to be 130° Fahrenheit, and this is attained in the first instance by mixing hot and cold water, either in the bath or in a vessel from which the bath is filled, until the thermometer, which is provided for testing the temperature of the water, gives the proper indication; or the water is heated by means of the spirit-lamp (which is attached to the stand of the apparatus) until the required temperature is indicated.

"2. *Preparing the test-lamp.*—The test-lamp is fitted with a piece of cylindrical wick of such thickness that it fills the wick-holder, but may readily be moved to and fro for the purpose of adjusting the size of the flame. In the body of the lamp, upon the wick, which is coiled within it, is placed a small tuft of cotton wool, moistened with petroleum, any oil not absorbed by the wool being removed. When the lamp has been lighted, the wick is adjusted by means of a pair of forceps until the flame is of the size of the bead fixed on the cover of the oil-cup; should a particular test occupy so long a time that the flame begins to get smaller, through the supply of oil in the lamp becoming exhausted, three or four drops of petroleum are allowed to fall upon the tuft of wool in the lamp from the small open orifice of the bottle provided for that purpose. This can be safely done without interrupting the test.

"3. *Filling the oil-cup.*—The oil-cup having been previously cooled, by placing it bottom downwards in water at a temperature not exceeding 50° Fahrenheit, is to be rapidly wiped dry, placed on a level surface in a good light, and the oil to be tested is poured in very slowly, without splashing, until its surface is level with the point of the gauge which is fixed in the cup. The round bulb thermometer is inserted into the lid of the cup, care being taken that the projecting rim of the collar touches the edge of the socket; the test-lamp, prepared as already described, is placed in position, and the cover is then put on to the cup and pressed down so that its edge rests on the rim of the cup.

"4. *Application of the test.*—The water-bath, with its thermometer in position, is placed in some locality where it is not exposed to currents of air, and where the light is sufficiently subdued to admit of the size of the entire test-flame being compared with that of the bead on the cover. The cup is carefully lifted without shaking it, and placed in the bath, the test-lamp is lighted, and the clockwork wound up by turning the key. The thermometer in the oil-cup is now watched, and when the temperature has reached 56° Fahrenheit the clockwork is set in motion by pressing the trigger.

"If no flash takes place the clockwork is at once re-wound, and the trigger pressed at 57°

STATEMENT OF OBJECTS AND REASONS.

THE object of this Bill is to amend the Petroleum Act, 1881, in certain points in which experience has shown that its amendment would be desirable.

2. "Dangerous petroleum" is defined by the Act (section 3) as petroleum having its flashing point below seventy-three degrees of Fahrenheit's thermometer. The Government of India does not see any reason for changing the standard so fixed, but in view of the possibility of variations in the application of the test, which, according to the opinions of the experts, may, even with the utmost care, cause deviations of 2° or 3° in the results, it is of opinion that the nominal legal minimum standard for non-dangerous petroleum may be slightly raised. Accordingly, section 3 of the Bill fixes the standard for dangerous petroleum at 76° instead of 73°, but to this enhanced standard a proviso is added to the effect that a consignment represented to be of one uniform quality shall not be deemed to be dangerous when on an average of tests the oil does not fall below that standard by more than 3°, and no one sample has a flashing point below 70°.

3. Section 5 of the Act permits small quantities of dangerous petroleum to be kept in "glass," among other, vessels, if each vessel does not contain more than a pint and is securely stopped. Looking to the comparatively fragile nature of glass vessels and to the possibility of such vessels, when filled with the highly volatile liquids included under the head of "dangerous petroleum," bursting even if "securely stopped," when exposed to powerful sunlight for a brief period, the prudence of including glass vessels among those specified in the section is, as has been pointed out to the Government of India, doubtful. Section 4 of the Bill therefore amends the section by the omission of the word "glass."

4. The object of section 5 of the Bill is to bring the provisions of section 6 of the Act, which relate to the marking of the vessels containing dangerous petroleum, and which declare that all such vessels "shall bear an indelible mark on a label in conspicuous characters, stating the nature of the contents thereof" into accordance with the English law (34 & 35 Vic., cap. 105, section 6), which lays down that the label shall state in conspicuous characters the description of the petroleum with the addition of the words "highly inflammable" and with the addition of the name and address of the consignee or owner or of the sender or vendor.

5. As the Act now stands, not only is the importation of "dangerous" petroleum subjected to a strict system of licensing, but no petroleum may be landed from any ship until samples of the petroleum on board thereof have been delivered for the purpose of the petroleum being tested.

While considering that the importation of dangerous petroleum should continue to be thus regulated, the Government of India is of opinion that the restrictions at present placed on the importation of other petroleum may be somewhat relaxed. It seems to it that, instead of requiring the delivery of samples before any oil is landed, it would be sufficient to give the Local Government power to determine the places at which, and the conditions on and subject to which, petroleum may be landed and stored. The necessary power is conferred by section 6 of the Bill, which substitutes a new section for section 7 of the Act. There would thus be nothing to prevent petroleum, other than dangerous petroleum, being in future landed and stored at once. But, in order to protect the public, no petroleum should be allowed to be removed from the place where it is stored until it has been tested and declared to satisfy the legal standard. Section 7A therefore provides this, and further declares that, when petroleum which has been so landed and stored is found not to come up to the legal standard, the Local Government may direct the consignees either to rectify it or to import it as dangerous petroleum or to re-export within a fixed period, and that, on the consignees failing to do whichever of these things they may be directed to do, the Local Government may order the petroleum to be destroyed.

In addition to re-producing clauses (a) and (c) of the present section 7, the new section 7 further empowers the Local Government to make rules to fix the fees to be paid for the storage of petroleum at places appointed for the purpose, and to regulate the selection of samples and the averaging the results of testing selected samples.

6. Section 7 of the Bill introduces certain new provisions in the Act as to the test-apparatus to be used. As the Act at present stands the schedule contains a specification explanatory of the test-apparatus. As it is, however, proposed by this Bill to substitute a new schedule for the present one, in which a new description of the test-apparatus is inserted, it seems desirable, for the convenience of the public, to provide for the deposit of a model test-apparatus, which shall be open to inspection, and after which all the instruments to be used under the Act shall be constructed. This is what the new section 17 A, which section 7 of the Bill adds to the Act, does. This section also provides for the verification of each test-apparatus which it is proposed to use for the purposes of the Act. Each apparatus when verified is to be marked with a special number, and the officer making the verification is to give a certificate in which shall be noted any corrections which must be applied to the results of the tests made with the apparatus. This last provision is necessary, because it is practically impossible to construct instruments which will not need corrections of this sort. The certificate granted is declared to be conclusive proof of the matters stated therein.

7. Section 8 of the Bill substitutes a new schedule for the schedule at present appended to the Act, the instructions contained in which it is now generally admitted require modification.

8. This schedule has been prepared mainly by Sir F. Abel in conjunction with Mr. Redwood and Dr. Warden, the Professor of Chemistry in the Medical College, Calcutta, and Chemical Examiner to

Government, and Dr. Lyon, the Chemical Analyser in Bombay, and it has also been examined and considered by Professor Pedler of the Presidency College, Calcutta. It embodies very definite directions regarding the sampling and testing of petroleum, and it lays down in a most detailed manner the procedure to be adopted. The Governor General in Council believes that the adoption of this schedule will meet all the difficulties which have been found to occur under the present law in regard to the sampling and testing of petroleum, and that, if the procedure therein described is carefully followed, there is every reason to hope that trustworthy and generally concordant results will be obtained.

9. Lastly, the new provisions as to the deposit of a model test-apparatus and the verification of all other test-apparatus therewith has necessitated the amendment of the *explanation* of the term "flashing point" which is appended to the definition of "petroleum" in section 3. It is necessary that, in order to ascertain the true flashing point, the petroleum should be tested with a verified and certificated apparatus, and after the corrections (if any) to be applied to the results of the testing have been made. Moreover, it would appear to be necessary that every apparatus used for the testing of petroleum should be verified at least once in every five years. All these points are provided for in the amendment made by section 2 of the Bill.

(Signed) J. GIBBS.

The 10th March 1885.

R. J. CROSTHWAITTE,
Offg. Secretary to the Government of India.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 13th March 1885, and was referred to a Select Committee :—

Bill No. 6 of 1885.

A Bill to amend the law relating to Government Securities.

WHEREAS it is expedient to amend the law relating to Government securities in manner herein-after appearing; It is hereby enacted as follows :—

Short title and commencement. 1. (1) This Act may be called the Indian Securities Act, 1885; and

(2) It shall come into force at once.

2. In this Act, unless there is something repugnant in the subject or context,

Definitions.

The expression "Government securities" includes promissory notes, debentures, stock-certificates, and all other securities issued by the Government of India or by any Local Government, in respect of any loan issued under notification in the official Gazette, whether before or after the passing of this Act: and

"prescribed" means prescribed by rules made from time to time by the Governor General in Council in this behalf.

3. (1) Notwithstanding anything contained in the Indian Contract Act, section 45, when a Government security is payable to two or more persons jointly and any of them dies, the security shall be payable to the survivor or survivors of those persons.

(2) Nothing herein contained shall affect any claim which the representative of the deceased person may have against the survivor or survivors in respect of the security jointly payable to them and the deceased.

(3) This section shall apply whether the death of the person to whom the security was jointly payable occurred or occurs before or after this Act comes into force.

4. Any person to whom a Government security is payable may, on payment of the prescribed fee and on delivering the security duly receipted to the prescribed officer, obtain from the officer a renewed security payable to himself.

5. (1) When a Government security has been wholly or partly lost or destroyed the person to whom it was payable at the time of the loss or destruction or his representative may, on application to the prescribed officer, and on producing proof to his satisfaction

of the loss or destruction, obtain from him an order for—

- (a) the payment of interest in respect of the security said to be lost or destroyed pending the issue of a duplicate security; and
- (b) the issue of a duplicate security payable to such person.

(2) An order shall not be passed under sub-section (1) until after the issue of the prescribed notification of the loss or destruction and after the expiration of the prescribed period, nor until the applicant has given the prescribed indemnity against the claims of all persons deriving title under the security lost or destroyed.

(3) A list of the securities in respect of which an order is passed under sub-section (1) shall be published in the *Gazette of India* at such times as the Governor General in Council may, from time to time, direct.

6. When a renewed security has been issued under section 4, or a duplicate security has been issued under section 5, the Government shall be discharged of all liability in respect of the original security of which such renewed or duplicate security has been issued—

[Cf. 33 & 34 Vic., cap. 71, s. 51.]

(a) in the case of a renewed security, after the lapse of six years from the date of the issue of the renewed security,

(b) in the case of a duplicate security, after the lapse of six years from the date of the publication under section 5, sub-section (3), of the list in which the security is first mentioned, or from the date of the last payment of interest on the original security, whichever date is latest.

7. The Governor General in Council may, from time to time, make rules to prescribe—

- (a) the fees to be paid for applications under sections 4 and 5;
- (b) the form in which securities delivered for renewal are to be receipted;
- (c) the officer who is to exercise all or any of the powers and perform all or any of the duties prescribed by sections 4 and 5;
- (d) the proof which is to be produced by persons applying for duplicate securities;
- (e) the form and mode of publication of the notification mentioned in section 5 and the period after which interest may be paid or a duplicate security may be issued under that section;
- (f) the nature and amount of the indemnity to be given by a person applying under section 5 for the payment of interest or the issue of a duplicate security; and
- (g) generally all matters connected with the grant of renewed and duplicate securities.

[Cf. Act III of 1881, s. 2.]

XX. 1872.

[Cf. sec. 49 of 23 & 34 Vic., cap. 71.]

Issue of renewed securities.

Issue of duplicate securities.

Power for Governor General in Council to make rules.

8. (1) The Governor General in Council shall before making rules under the last foregoing section, publish a draft of the proposed rules in such manner as may, in his opinion, be sufficient for the information of the public.

(2) There shall be published with the draft a notice specifying a date at or after which the draft will be taken into consideration.

(3) The Governor General in Council shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

(4) Every rule made under the last foregoing section shall be published in the *Gazette of India*, and the publication in the *Gazette of India* of a rule purporting to be made under that section shall be conclusive evidence that it has been duly made.

STATEMENT OF OBJECTS AND REASONS.

The object of this Bill is to provide for certain matters connected with Government securities as to which legislation appears to be desirable.

2. Under the English law, on the death of one of several joint promisees or creditors, the right to sue on the contract vests in the survivors or survivor, and, on the death of the last of two or more survivors, in his personal representative. But a person receiving money under this right of survivorship may be accountable for it to the representatives of the deceased.

3. This rule has been altered in India by section 45 of the Contract Act, which provides that—

“When a person has made a promise to two or more persons jointly, then, unless a contrary intention appears from the contract, the right to claim performance rests, as between him and them, with them during their joint lives, and, after the death of any of them, with the representative of such deceased person jointly with the survivor or survivors, and, after the death of the last survivor, with the representatives of all jointly.”

4. With reference to this section, the Law Commissioners, who prepared the draft of the Act, remarked:—“In regulating the devolution of rights and liabilities, we propose, in accordance with the rule of English Courts of Equity and of the Indian Code of Civil Procedure, that joint liabilities and rights shall, after the death of one of the persons liable or entitled, go to his representative jointly with the survivor, and after the death of the survivor to the representatives of both jointly.” So far as can be ascertained, this proposal was accepted without criticism in India.

5. It appears that, both before and since the passing of the Contract Act, the practice of the Indian Public Debt Offices has been to treat the right of suing on, and giving receipts for money payable under, Government promissory notes as vesting in the survivor or survivors of two or more joint holders. But the law officers of the Government have recently given an opinion that, having regard to section 45 of the Contract Act, it is not safe to continue this practice.

6. Under these circumstances, the Government of India think that legislation is desirable both for the purpose of confirming what was been done in the past, and for the purpose of laying down a convenient rule for the future.

7. Accordingly, section 3 of the Bill declares that, notwithstanding anything contained in the Indian Contract Act, 1872, section 45, when a Government security is payable to two or more persons jointly and any of them dies, the security shall be payable to the survivor or survivors of those persons. But to this a clause is added making it clear that the section will not affect the liability of the survivor or survivors to the representative of the deceased holder of the security.

8. Lastly, sections 4 to 6 of the Bill deal with the issue of renewed and duplicate Government securities.

9. With regard to the renewal of Government securities, the holder of a security may, under existing rules, upon payment of the prescribed fee and delivering up his security properly receipted obtain a clear title in the form of a renewed security in his own favour. This right is affirmed by section 4 of the Bill; but as Government by the renewal becomes liable in respect of the new note independently of any question as to legal completeness of discharge upon the original security opportunity is taken to fix a term within which claims in respect of the original security must be made. Accordingly, section 6 of the Bill releases Government from liability in respect of the original security after the lapse of six years from the date of the issue of the renewed security.

10. With regard to duplicate securities, the practice has hitherto been, when a Government security has been lost or destroyed, to issue a notification, under the terms of the security, of the discharge of the security upon a given date, and to refuse to issue any duplicate until six years (the period fixed by the law of limitation) has elapsed from the date so fixed for discharge. If, however, the loan is not mature, no such notification of discharge can be issued, and the Government is obliged to refuse to issue any duplicate, in the face of the risk of claims being made in respect of the security alleged to be lost. The Bill adopts the existing practice in respect of the issue of duplicates, but, by applying in every case the period of limitation which under the existing law applies only in the case of securities of loans dischargeable upon notice given at any time, enables the Government to issue duplicates (under the usual safeguard of a bond of indemnity) in every case of a security proved to have been lost or destroyed.

The 10th March 1885.

(Signed) A. COLVIN.

R. J. CROSTHWAITTE,
Offg. Secretary to the Government of India.

[Published with the "Bombay Government Gazette" on the 9th April 1885.]

PART VI.

BILLS OF THE GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 13th March 1885, and was referred to a Select Committee:—

Bill No. 5 of 1885.

A Bill to amend the Petroleum Act, 1881.

WHEREAS it is expedient to amend the Petroleum Act, 1881, in manner hereinafter appearing; It is hereby enacted as follows:—

1. (1) This Act may be called the Petroleum Act, 1885; and
Short title and commencement. (2) It shall come into force at once.

2. In section 3 of the Petroleum Act, 1881, in the explanation to the definition of "petroleum", for the last thirteen words the following words shall be substituted, namely:—

"in accordance with the directions contained in the schedule hereto annexed, with an apparatus which has been stamped and certified as provided by section 17A, within a period of five years immediately preceding the date on which the apparatus is used for the testing, and after the corrections (if any) which the certificate declares are to be applied to the results of the testing have been made."

3. In section 3 of the said Act, in the definition of "dangerous petroleum", for the word "seventy-three" the word "seventy-six" shall be substituted; and to the same definition the following words shall be added, namely:—

Amendment of definition of "dangerous petroleum" in section 3 of Act VIII of 1881.

"Provided that, when all or any of the petroleum on board a ship, or in the possession of any dealer, is declared by the master of the ship, or the consignees of the cargo, or by the dealer, as the case may be, to be of one uniform quality, the petroleum shall not be deemed to be dangerous if the samples selected from such petroleum, when tested as aforesaid, have their flashing points, on an average, at or about seventy-three degrees of Fahrenheit's thermometer and if no one of the said samples has its flashing point below seventy degrees of that thermometer."

4. In the proviso to section 5 of the said Act, the word "glass" shall be repealed.

5. In section 6 of the said Act, for the last seventeen words the following shall be substituted, namely:—

"have attached thereto a label in conspicuous characters stating the description of the petroleum, with the addition of the words 'highly inflammable' and with the addition—

"(d) in the case of a vessel kept, of the name and address of the consignee or owner;

"(e) in the case of a vessel transported, of the name and address of the sender; and

"(f) in the case of a vessel sold or exposed for sale, of the name and address of the vendor."

6. For section 7 of the said Act the following sections shall be substituted:—

7. (1) The Local Government may, from time to time, make rules consistent with this Act to regulate the importation of petroleum, and in particular—

Repeal of word "glass" in section 5 of same Act.

Substitution of certain words in section 6 of the same Act.

New sections substituted for section 7 of the same Act.

Power for Local Government to make rules as to importation of petroleum.

- "(a) to determine the ports at which only petroleum may be imported ;
- "(b) to ascertain the quantity and description of any petroleum on board a ship ;
- "(c) to determine the places at which and the conditions on and subject to which petroleum may be landed, stored or transhipped ;
- "(d) to fix the fees to be paid for the storage of petroleum at such places ;
- "(e) to provide for the selection by an officer appointed by the Local Government in this behalf, and for the delivery to him by the consignees of samples of all petroleum so landed and stored ; and
- "(f) to provide, in the case of each consignment which is stated to be of one uniform quality, for the averaging of the results of testing the selected samples."

"(2) In this section 'ship' includes anything made for the conveyance by water of human beings or property.

"7 A. (1) Petroleum landed and stored in accordance with rules made under the last foregoing section shall not be removed from the place at which it is stored until the samples selected therefrom in accordance with the said rules have been tested by an officer appointed by the Local Government in this behalf in the manner described in the schedule hereto annexed with an apparatus which has been stamped and certified as provided by section 17 A, and until such officer has given a certificate that the petroleum is not dangerous petroleum.

"(2) If the said officer after testing the said samples refuses to give the said certificate in respect of any petroleum, the Local Government may permit the consignee within a time to be fixed by the Local Government in this behalf—

- "(a) to rectify the petroleum,
- "(b) to apply for a license to import the petroleum as dangerous petroleum, or
- "(c) to re-export the petroleum.

"(3) If the consignee does not within the time fixed under sub-section (2) avail himself of the permission granted under that sub-section, the Local Government may order the petroleum to be destroyed."

7. After section 17 of the said Act the following section shall be inserted, namely :—

"Test-apparatus.

"17 A. Whereas a model of the apparatus for testing petroleum under this Act constructed in accordance with the description contained in the schedule hereto annexed has been deposited in the office of the Chemical Examiner to Government, Calcutta, and has been marked with the words 'Model test-apparatus ;' It is hereby enacted as follows :—

"(1) The Chemical Examiner with whom the said model test-apparatus is deposited may, on payment of such fee as the Governor General in Council may, from time to time, by notification in the *Gazette of India*, prescribe, compare with the said model and verify every apparatus for testing petroleum which is submitted to him for the purpose.

"(2) If any apparatus for testing petroleum, when compared and verified as provided by this section, is found correct, or correct subject to certain corrections to be applied to the results of the tests, the Chemical Examiner shall stamp the same with a special number, and shall further give a certificate in writing under his hand to the effect that the apparatus has been compared and verified by him and found to be correct, or correct subject to certain specified corrections to be applied to the results of the tests.

"(3) Every certificate granted under this section shall, until the contrary is proved, be deemed to be conclusive proof of the matters stated therein.

"(4) Subject to the payment of such fees as the Governor General in Council may, by notification in the *Gazette of India*, prescribe in this behalf, the said model test-apparatus shall be at all reasonable times open to inspection by any person desiring to inspect it."

New schedule substituted for the schedule to the same Act.

8. For the Schedule to the said Act the following schedule shall be substituted, namely :—

"THE SCHEDULE.

"I.—Nature of the Test-apparatus.

"The apparatus consists of the following parts :—

- (1) the oil-cup ;
- (2) the cover, withslide, test-lamp, and clock-work arrangement for opening and closing the holes in the cover, and for dipping the test-flame ;
- (3) the water-bath or heating vessel ;
- (4) the tripod stand, with jacket, and spirit-lamp for heating the water-bath ;
- (5) the thermometer for indicating the temperature of the oil in the oil-cup ;
- (6) the thermometer for indicating the temperature of the water in the water-bath ;
- (7) the thermometer for indicating the temperature of the oil before it is poured into the oil-cup ;
- (8) the dropping bottle, for replenishing the test-lamp ;
- (9) the forceps, for adjusting the wick of the test-lamp.

"The oil-cup is a cylindrical flat-bottomed vessel, made of gun-metal or brass, and tinned or silvered inside. A gauge is fixed to the inside of the cup to regulate the height to which it is to be filled with the sample under examination.

"The cup is provided with a close fitting overlapping cover, which carries the thermometer, the test-lamp, and the adjuncts thereto. The

test-lamp is suspended upon two supports by means of trunnions, which allow it to be easily inclined to a particular angle and restored to its original position. The socket in the cover, which is to hold a round bulb thermometer for indicating the temperature of the oil during the testing operation, is so adjusted that the bulb of the latter is always inserted in a definite position below the surface of the liquid.

"The cover is provided with three holes, one in the centre and two smaller ones close to the sides. These are closed and opened by means of a pivoted slide. When the slide is moved so as to uncover the holes, the suspended lamp is caught by a projection fixed on the slide, and tilted in such a way as to bring the end of the spout just below the surface of the lid. As the slide moves back so as to cover the holes, the lamp returns to its original position. Upon the cover, in front of and in a line with the nozzle of the lamp, is fixed a white bead, the diameter of which represents the size of the test-flame to be used.

"The water-bath or heating vessel is so constructed that, when the oil-cup is placed in position in it, an air-space or air-chamber intervenes between the two; consequently, in applying the test under ordinary circumstances, the heat is transmitted gradually to the oil from the hot water through the air-space. The water-bath is fitted with a socket for receiving a long bulb thermometer, to indicate the temperature of the water. It is also provided with a funnel, an overflow-pipe and two handles.

"The water-bath rests upon a tripod stand, which is fitted with a copper cylinder or jacket, so that the bath is surrounded by an enclosed air-space, which retains and regulates the heat. One of the legs of the stand serves as a support for a spirit-lamp, which is attached to it by a small swing bracket.

"The clockwork arrangement, by which during the operation of testing the slide is withdrawn, and the test-flame dipped into the cup and raised again as the slide is replaced, is provided with a ratchet key for setting it in action for each test, and with a trigger for starting it each time that the test-flame is applied.

"II.—*Directions for drawing the Sample and preparing it for Testing.*

"1. *Drawing the sample.*—In all cases the testing officer shall personally superintend the drawing of the sample from an original unopened tin.

"An opening sufficiently large to admit of the oil being rapidly poured or syphoned from the tin shall be made.

"Two bottles, each of the capacity of about 40 fluid ounces, are to be filled with the oil. One of these, the contents of which is intended to be preserved for reference in case of need, is to be carefully corked, the cork being well driven home, cut off level with the neck, and melted sealing-wax worked into it. The other bottle may be either stoppered or corked.

"2. *Preparing the sample for testing.*—About ten fluid ounces of the oil, sufficient for three tests, are transferred from the bottle into which the sample has been drawn to a pint flask or bottle, which is to be immersed in water in which ice is

floating until a thermometer, introduced into the oil, indicates a temperature not exceeding 50° Fahrenheit.

"III.—*Directions for preparing and using the Test-apparatus.*

"1. *Preparing the water-bath.*—The water-bath is filled by pouring water into the funnel until it begins to flow out at the overflow-pipe. The temperature of the water at the commencement of each test, as indicated by the long bulb thermometer, is to be 130° Fahrenheit, and this is attained in the first instance by mixing hot and cold water, either in the bath or in a vessel from which the bath is filled, until the thermometer, which is provided for testing the temperature of the water, gives the proper indication; or the water is heated by means of the spirit-lamp (which is attached to the stand of the apparatus) until the required temperature is indicated.

"2. *Preparing the test-lamp.*—The test-lamp is fitted with a piece of cylindrical wick of such thickness that it fills the wick-holder, but may readily be moved to and fro for the purpose of adjusting the size of the flame. In the body of the lamp, upon the wick, which is coiled within it, is placed a small tuft of cotton wool, moistened with petroleum, any oil not absorbed by the wool being removed. When the lamp has been lighted, the wick is adjusted by means of a pair of forceps until the flame is of the size of the bead fixed on the cover of the oil-cup; should a particular test occupy so long a time that the flame begins to get smaller, through the supply of oil in the lamp becoming exhausted, three or four drops of petroleum are allowed to fall upon the tuft of wool in the lamp from the small open orifice of the bottle provided for that purpose. This can be safely done without interrupting the test.

"3. *Filling the oil-cup.*—The oil-cup having been previously cooled, by placing it bottom downwards in water at a temperature not exceeding 50° Fahrenheit, is to be rapidly wiped dry, placed on a level surface in a good light, and the oil to be tested is poured in very slowly, without splashing, until its surface is level with the point of the gauge which is fixed in the cup. The round bulb thermometer is inserted into the lid of the cup, care being taken that the projecting rim of the collar touches the edge of the socket; the test-lamp, prepared as already described, is placed in position, and the cover is then put on to the cup and pressed down so that its edge rests on the rim of the cup.

"4. *Application of the test.*—The water-bath, with its thermometer in position, is placed in some locality where it is not exposed to currents of air, and where the light is sufficiently subdued to admit of the size of the entire test-flame being compared with that of the bead on the cover. The cup is carefully lifted without shaking it, and placed in the bath, the test-lamp is lighted, and the clockwork wound up by turning the key. The thermometer in the oil-cup is now watched, and when the temperature has reached 56° Fahrenheit the clockwork is set in motion by pressing the trigger.

"If no flash takes place the clockwork is at once re-wound, and the trigger pressed at 57°

Fahrenheit, and so on, at every degree rise of temperature, until the flash occurs, or until a temperature of 95° Fahrenheit has been reached.

“If the flash takes place at any temperature below 77° Fahrenheit the temperature at which it occurs is to be recorded. Two fresh portions of the sample are then to be successively tested in a similar manner and the results recorded. If no greater difference than 2° Fahrenheit exists between any two of the three recorded results, each result is to be corrected for atmospheric pressure, as hereafter described, and the average of the three corrected results is the flashing point of the sample. In the event of there being a greater difference than 2° Fahrenheit between any two of the results, the series of tests is to be rejected and a fresh series, of three, similarly obtained, and so on until a sufficiently concordant series is furnished, when the results are to be corrected and the average taken in the manner already described.

“If a temperature of 76° Fahrenheit has been reached without a flash occurring, the application of the test-flame is to be continued at every degree rise of temperature until a temperature of 95° Fahrenheit has been reached. If no flash has occurred up to this point, the oil-cup is to be removed from the water-bath, and the temperature of the water in the water-bath is to be reduced to 95° Fahrenheit by pouring cold water into the funnel (the hot water escaping by the overflow-pipe). The air-chamber is then to be filled to a depth of 1½ inches with water at a temperature of about 95° Fahrenheit, the oil-cup is to be replaced in the water-bath and the spirit-lamp attached to the water-bath is to be lighted and placed underneath. The test-flame is then to be again applied, from 96° Fahrenheit, at every degree rise of temperature as indicated by the thermometer in the oil-cup until a flash takes place or until a temperature of 200° Fahrenheit has been reached. If during this operation the test-flame appears to diminish in size, the lamp is to be replenished in the manner prescribed at (2) without interrupting the test.

“If a flash occurs at any temperature between 76° and 200° Fahrenheit the temperature at which it occurs, subject to correction for atmospheric pressure, is the flashing point of the sample.

“In repeating a test, a fresh sample of oil must always be used, the tested sample being thrown away, and the cup must be wiped dry from any adhering oil and cooled, as already described, before receiving the fresh sample.

“5. *Correction for atmospheric pressure.*—As the flashing point of an oil is influenced by changes in atmospheric pressure to an average extent of 1.6° Fahrenheit for every inch of the barometer, a correction of the observed flashing point may become necessary. For this purpose a table is appended to this schedule, giving the flashing points of oils ranging from 65° to 80° Fahrenheit under pressure ranging from 27 to 31 inches of mercury.

“The table is used in the following manner:—

“*Example.*—An oil has given a flashing point of 71°, the barometer being at 28.6 inches; take the nearest number to 71° in the vertical column headed 28.6. This number is 70.8. Substitute

for this the number in the same horizontal line in the column headed 30 (the normal height of the barometer). The substituted number, that is, the true flashing point of the oil, is 73°.

“Table for correction of Flashing Points indicated by the Test for Variations in Barometric Pressure on either side of Thirty Inches. Barometer in Inches.

	27	27.2	27.4	27.6	27.8	28	28.2	28.4	28.6	28.8	29	29.2	29.4	29.6	29.8	30	30.2	30.4	30.6	30.8	31
60.2	60.5	61.5	60.8	61.2	61.5	61.8	62.1	62.4	62.8	63.1	63.4	63.7	64	64.4	64.7	65	65.3	65.6	66	66.3	66.6
60.2	61.5	62.5	61.8	62.2	62.5	62.8	63.1	63.4	63.8	64.1	64.4	64.7	65	65.4	65.7	66	66.3	66.6	67	67.3	67.6
62.2	63.5	64.5	63.8	64.2	64.5	64.8	65.1	65.4	65.8	66.1	66.4	66.7	67	67.4	67.7	68	68.3	68.6	69	69.3	69.6
63.2	64.5	65.5	64.8	65.2	65.5	65.8	66.1	66.4	66.8	67.1	67.4	67.7	68	68.4	68.7	69	69.3	69.6	70	70.3	70.6
64.2	65.5	66.5	65.8	66.2	66.5	66.8	67.1	67.4	67.8	68.1	68.4	68.7	69	69.4	69.7	70	70.3	70.6	71	71.3	71.6
65.2	66.5	67.5	66.8	67.2	67.5	67.8	68.1	68.4	68.8	69.1	69.4	69.7	70	70.4	70.7	71	71.3	71.6	72	72.3	72.6
66.2	67.5	68.5	67.8	68.2	68.5	68.8	69.1	69.4	69.8	70.1	70.4	70.7	71	71.4	71.7	72	72.3	72.6	73	73.3	73.6
67.2	68.5	69.5	68.8	69.2	69.5	69.8	70.1	70.4	70.8	71.1	71.4	71.7	72	72.4	72.7	73	73.3	73.6	74	74.3	74.6
68.2	69.5	70.5	69.8	70.2	70.5	70.8	71.1	71.4	71.8	72.1	72.4	72.7	73	73.4	73.7	74	74.3	74.6	75	75.3	75.6
69.2	70.5	71.5	70.8	71.2	71.5	71.8	72.1	72.4	72.8	73.1	73.4	73.7	74	74.4	74.7	75	75.3	75.6	76	76.3	76.6
70.2	71.5	72.5	71.8	72.2	72.5	72.8	73.1	73.4	73.8	74.1	74.4	74.7	75	75.4	75.7	76	76.3	76.6	77	77.3	77.6
71.2	72.5	73.5	72.8	73.2	73.5	73.8	74.1	74.4	74.8	75.1	75.4	75.7	76	76.4	76.7	77	77.3	77.6	78	78.3	78.6
72.2	73.5	74.5	73.8	74.2	74.5	74.8	75.1	75.4	75.8	76.1	76.4	76.7	77	77.4	77.7	78	78.3	78.6	79	79.3	79.6
73.2	74.5	75.5	74.8	75.2	75.5	75.8	76.1	76.4	76.8	77.1	77.4	77.7	78	78.4	78.7	79	79.3	79.6	80	80.3	80.6
74.2	75.5	76.5	75.8	76.2	76.5	76.8	77.1	77.4	77.8	78.1	78.4	78.7	79	79.4	79.7	80	80.3	80.6	81	81.3	81.6
75.2	76.5	77.5	76.8	77.2	77.5	77.8	78.1	78.4	78.8	79.1	79.4	79.7	80	80.4	80.7	81	81.3	81.6	82	82.3	82.6

STATEMENT OF OBJECTS AND REASONS.

The object of this Bill is to amend the Petroleum Act, 1881, in certain points in which experience has shown that its amendment would be desirable.

2. "Dangerous petroleum" is defined by the Act (section 3) as petroleum having its flashing point below seventy-three degrees of Fahrenheit's thermometer. The Government of India does not see any reason for changing the standard so fixed, but in view of the possibility of variations in the application of the test, which, according to the opinions of the experts, may, even with the utmost care, cause deviations of 2° or 3° in the results, it is of opinion that the nominal legal minimum standard for non-dangerous petroleum may be slightly raised. Accordingly, section 3 of the Bill fixes the standard for dangerous petroleum at 76° instead of 73°, but to this enhanced standard a proviso is added to the effect that a consignment represented to be of one uniform quality shall not be deemed to be dangerous when on an average of tests the oil does not fall below that standard by more than 3°, and no one sample has a flashing point below 70°.

3. Section 5 of the Act permits small quantities of dangerous petroleum to be kept in "glass," among other, vessels, if each vessel does not contain more than a pint and is securely stopped. Looking to the comparatively fragile nature of glass vessels and to the possibility of such vessels, when filled with the highly volatile liquids included under the head of "dangerous petroleum," bursting even if "securely stopped," when exposed to powerful sunlight for a brief period, the prudence of including glass vessels among those specified in the section is, as has been pointed out to the Government of India, doubtful. Section 4 of the Bill therefore amends the section by the omission of the word "glass."

4. The object of section 5 of the Bill is to bring the provisions of section 6 of the Act, which relate to the marking of the vessels containing dangerous petroleum, and which declare that all such vessels "shall bear an indelible mark on a label in conspicuous characters, stating the nature of the contents thereof" into accordance with the English law (34 & 35 Vic., cap. 105, section 6), which lays down that the label shall state in conspicuous characters the description of the petroleum with the addition of the words "highly inflammable" and with the addition of the name and address of the consignee or owner or of the sender or vendor.

5. As the Act now stands, not only is the importation of "dangerous" petroleum subjected to a strict system of licensing, but no petroleum may be landed from any ship until samples of the petroleum on board thereof have been delivered for the purpose of the petroleum being tested.

While considering that the importation of dangerous petroleum should continue to be thus regulated, the Government of India is of opinion that the restrictions at present placed on the importation of other petroleum may be somewhat relaxed. It seems to it that, instead of requiring the delivery of samples before any oil is landed, it would be sufficient to give the Local Government power to determine the places at which, and the conditions on and subject to which, petroleum may be landed and stored. The necessary power is conferred by section 6 of the Bill, which substitutes a new section for section 7 of the Act. There would thus be nothing to prevent petroleum, other than dangerous petroleum, being in future landed and stored at once. But, in order to protect the public, no petroleum should be allowed to be removed from the place where it is stored until it has been tested and declared to satisfy the legal standard. Section 7A therefore provides this, and further declares that, when petroleum which has been so landed and stored is found not to come up to the legal standard, the Local Government may direct the consignees either to rectify it or to import it as dangerous petroleum or to re-export within a fixed period, and that, on the consignees failing to do whichever of these things they may be directed to do, the Local Government may order the petroleum to be destroyed.

In addition to re-producing clauses (a) and (c) of the present section 7, the new section 7 further empowers the Local Government to make rules to fix the fees to be paid for the storage of petroleum at places appointed for the purpose, and to regulate the selection of samples and the averaging the results of testing selected samples.

6. Section 7 of the Bill introduces certain new provisions in the Act as to the test-apparatus to be used. As the Act at present stands the schedule contains a specification explanatory of the test-apparatus. As it is, however, proposed by this Bill to substitute a new schedule for the present one, in which a new description of the test-apparatus is inserted, it seems desirable, for the convenience of the public, to provide for the deposit of a model test-apparatus, which shall be open to inspection, and after which all the instruments to be used under the Act shall be constructed. This is what the new section 17 A, which section 7 of the Bill adds to the Act, does. This section also provides for the verification of each test-apparatus which it is proposed to use for the purposes of the Act. Each apparatus when verified is to be marked with a special number, and the officer making the verification is to give a certificate in which shall be noted any corrections which must be applied to the results of the tests made with the apparatus. This last provision is necessary, because it is practically impossible to construct instruments which will not need corrections of this sort. The certificate granted is declared to be conclusive proof of the matters stated therein.

7. Section 8 of the Bill substitutes a new schedule for the schedule at present appended to the Act, the instructions contained in which it is now generally admitted require modification.

8. This schedule has been prepared mainly by Sir F. Abel in conjunction with Mr. Redwood and Dr. Warden, the Professor of Chemistry in the Medical College, Calcutta, and Chemical Examiner to

Government, and Dr. Lyon, the Chemical Analyser in Bombay, and it has also been examined and considered by Professor Pedler of the Presidency College, Calcutta. It embodies very definite directions regarding the sampling and testing of petroleum, and it lays down in a most detailed manner the procedure to be adopted. The Governor General in Council believes that the adoption of this schedule will meet all the difficulties which have been found to occur under the present law in regard to the sampling and testing of petroleum, and that, if the procedure therein described is carefully followed, there is every reason to hope that trustworthy and generally concordant results will be obtained.

9. Lastly, the new provisions as to the deposit of a model test-apparatus and the verification of all other test-apparatus therewith has necessitated the amendment of the *explanation* of the term "flashing point" which is appended to the definition of "petroleum" in section 3. It is necessary that, in order to ascertain the true flashing point, the petroleum should be tested with a verified and certificated apparatus, and after the corrections (if any) to be applied to the results of the testing have been made. Moreover, it would appear to be necessary that every apparatus used for the testing of petroleum should be verified at least once in every five years. All these points are provided for in the amendment made by section 2 of the Bill.

(Signed) J. GIBBS.

The 10th March 1885.

R. J. CROSTHWAITT,
Offg. Secretary to the Government of India.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 13th March 1885, and was referred to a Select Committee:—

Bill No. 6 of 1885.

A Bill to amend the law relating to Government Securities.

WHEREAS it is expedient to amend the law relating to Government securities in manner herein-after appearing; It is hereby enacted as follows:—

Short title and commencement.

1. (1) This Act may be called the Indian Securities Act, 1885; and

(2) It shall come into force at once.

2. In this Act, unless there is something repugnant in the subject or context,

Definitions.

The expression "Government securities" includes promissory notes, debentures, stock-certificates, and all other securities issued by the Government of India or by any Local Government, in respect of any loan issued under notification in the official Gazette, whether before or after the passing of this Act: and

"prescribed" means prescribed by rules made from time to time by the Governor General in Council in this behalf.

3. (1) Notwithstanding anything contained in

Right of survivors of joint payees of Government securities.

the Indian Contract Act, section 45, when a Government security is payable to two or more persons jointly and any of them dies, the security shall be payable to the survivor or survivors of those persons.

(2) Nothing herein contained shall affect any claim which the representative of the deceased person may have against the survivor or survivors in respect of the security jointly payable to them and the deceased.

(3) This section shall apply whether the death of the person to whom the security was jointly payable occurred or occurs before or after this Act comes into force.

4. Any person to whom a Government security is payable may, on

Issue of renewed securities.

payment of the prescribed fee and on delivering the security duly received to the prescribed officer, obtain from the officer a renewed security payable to himself.

5. (1) When a Government security has been

Issue of duplicate securities.

wholly or partly lost or destroyed the person to whom it was payable at the time of the loss or destruction or his representative may, on application to the prescribed officer, and on producing proof to his satisfaction

of the loss or destruction, obtain from him an order for—

- (a) the payment of interest in respect of the security said to be lost or destroyed pending the issue of a duplicate security; and
- (b) the issue of a duplicate security payable to such person.

(2) An order shall not be passed under sub-section (1) until after the issue of the prescribed notification of the loss or destruction and after the expiration of the prescribed period, nor until the applicant has given the prescribed indemnity against the claims of all persons deriving title under the security lost or destroyed.

(3) A list of the securities in respect of which an order is passed under sub-section (1) shall be published in the *Gazette of India* at such times as the Governor General in Council may, from time to time, direct.

6. When a renewed security has been issued

Period after which Government is released from liability in respect of original security.

under section 4, or a duplicate security has been issued under section 5, the Government shall be discharged of all liability

in respect of the original security of which such renewed or duplicate security has been issued—

[Cf. 33 & 34 Vic., cap. 71, s. 51.]

- (a) in the case of a renewed security, after the lapse of six years from the date of the issue of the renewed security,
- (b) in the case of a duplicate security, after the lapse of six years from the date of the publication under section 5, sub-section (3), of the list in which the security is first mentioned, or from the date of the last payment of interest on the original security, whichever date is latest.

Power for Governor General in Council to make rules.

7. The Governor General in Council may, from time to time, make rules to prescribe—

- (a) the fees to be paid for applications under sections 4 and 5;
- (b) the form in which securities delivered for renewal are to be receipted;
- (c) the officer who is to exercise all or any of the powers and perform all or any of the duties prescribed by sections 4 and 5;
- (d) the proof which is to be produced by persons applying for duplicate securities;
- (e) the form and mode of publication of the notification mentioned in section 5 and the period after which interest may be paid or a duplicate security may be issued under that section;
- (f) the nature and amount of the indemnity to be given by a person applying under section 5 for the payment of interest or the issue of a duplicate security; and
- (g) generally all matters connected with the grant of renewed and duplicate securities.

[Cf. Act III of 1881, s. 2.]

[IX. of 1872.

[Cf. sec. 49 of 33 & 34 Vic., cap. 71.]

8. (1) The Governor General in Council shall before making rules under the last foregoing section, publish a draft of the proposed rules in such manner as may, in his opinion, be sufficient for the information of the public.

(2) There shall be published with the draft a notice specifying a date at or after which the draft will be taken into consideration.

(3) The Governor General in Council shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

(4) Every rule made under the last foregoing section shall be published in the *Gazette of India*, and the publication in the *Gazette of India* of a rule purporting to be made under that section shall be conclusive evidence that it has been duly made.

STATEMENT OF OBJECTS AND REASONS.

THE object of this Bill is to provide for certain matters connected with Government securities as to which legislation appears to be desirable.

2. Under the English law, on the death of one of several joint promisees or creditors, the right to sue on the contract vests in the survivors or survivor, and, on the death of the last of two or more survivors, in his personal representative. But a person receiving money under this right of survivorship may be accountable for it to the representatives of the deceased.

3. This rule has been altered in India by section 45 of the Contract Act, which provides that—

“When a person has made a promise to two or more persons jointly, then, unless a contrary intention appears from the contract, the right to claim performance rests, as between him and them, with them during their joint lives, and, after the death of any of them, with the representative of such deceased person jointly with the survivor or survivors, and, after the death of the last survivor, with the representatives of all jointly.”

4. With reference to this section, the Law Commissioners, who prepared the draft of the Act, remarked:—“In regulating the devolution of rights and liabilities, we propose, in accordance with the rule of English Courts of Equity and of the Indian Code of Civil Procedure, that joint liabilities and rights shall, after the death of one of the persons liable or entitled, go to his representative jointly with the survivor, and after the death of the survivor to the representatives of both jointly.” So far as can be ascertained, this proposal was accepted without criticism in India.

5. It appears that, both before and since the passing of the Contract Act, the practice of the Indian Public Debt Offices has been to treat the right of suing on, and giving receipts for money payable under, Government promissory notes as vesting in the survivor or survivors of two or more joint holders. But the law officers of the Government have recently given an opinion that, having regard to section 45 of the Contract Act, it is not safe to continue this practice.

6. Under these circumstances, the Government of India think that legislation is desirable both for the purpose of confirming what has been done in the past, and for the purpose of laying down a convenient rule for the future.

7. Accordingly, section 3 of the Bill declares that, notwithstanding anything contained in the Indian Contract Act, 1872, section 45, when a Government security is payable to two or more persons jointly and any of them dies, the security shall be payable to the survivor or survivors of those persons. But to this a clause is added making it clear that the section will not affect the liability of the survivor or survivors to the representative of the deceased holder of the security.

8. Lastly, sections 4 to 6 of the Bill deal with the issue of renewed and duplicate Government securities.

9. With regard to the renewal of Government securities, the holder of a security may, under existing rules, upon payment of the prescribed fee and delivering up his security properly received obtain a clear title in the form of a renewed security in his own favour. This right is affirmed by section 4 of the Bill; but as Government by the renewal becomes liable in respect of the new note independently of any question as to legal completeness of discharge upon the original security opportunity is taken to fix a term within which claims in respect of the original security must be made. Accordingly, section 6 of the Bill releases Government from liability in respect of the original security after the lapse of six years from the date of the issue of the renewed security.

10. With regard to duplicate securities, the practice has hitherto been, when a Government security has been lost or destroyed, to issue a notification, under the terms of the security, of the discharge of the security upon a given date, and to refuse to issue any duplicate until six years (the period fixed by the law of limitation) has elapsed from the date so fixed for discharge. If, however, the loan is not mature, no such notification of discharge can be issued, and the Government is obliged to refuse to issue any duplicate, in the face of the risk of claims being made in respect of the security alleged to be lost. The Bill adopts the existing practice in respect of the issue of duplicates, but, by applying in every case the period of limitation which under the existing law applies only in the case of securities of loans dischargeable upon notice given at any time, enables the Government to issue duplicates (under the usual safeguard of a bond of indemnity) in every case of a security proved to have been lost or destroyed.

The 10th March 1885.

(Signed) A. COLVIN.

R. J. CROSTHWAITE,
Offg. Secretary to the Government of India.