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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 10th October 1889:—

Bill No. 15 of 1889.

A Bill to prevent the Disclosure of Official Documents and Information.

WHEREAS it is expedient to prevent the disclosure of official documents and information; It is hereby enacted as follows:—

1. (1) This Act may be called the Indian Official Secrets Act, 1889; and
- Title, extent and appli-
cation. 1889; and
- (2) It extends to the whole of British India, and applies—
- (a) to all subjects of Her Majesty within the dominions of Princes and States in India in alliance with Her Majesty, and
- (b) to all Native Indian subjects of Her Majesty without and beyond British India.
2. In this Act, unless there is something repugnant in the subject or context,—
- Definitions.
- (1) any reference to a place belonging to Her Majesty includes a place belonging to any department of the Government, whether the place is or is not actually vested in Her Majesty;
- (2) expressions referring to communications include any communication, whether in whole or in part, and whether the document, sketch, plan, model or information itself or the substance or effect thereof only be communicated:

- (3) "document" includes part of a document;
- (4) "model" includes design, pattern and specimen;
- (5) "sketch" includes any photograph or other mode of representation of any place or thing; and
- (6) "office under Her Majesty" includes any office or employment in or under any department of the Government.

3. (1) (a) Where a person for the purpose of Disclosure of inform. wrongfully obtaining information—

- (i) enters or is in any part of a place belonging to Her Majesty, being a fortress, arsenal, factory, dockyard, camp, ship office or other like place, in which part he is not entitled to be, or,
- (ii) when lawfully or unlawfully in any such place as aforesaid, either obtains any document, sketch, plan, model or knowledge of anything which he is not entitled to obtain, or takes without lawful authority any sketch or plan, or,
- (iii) when outside any fortress, arsenal, factory, dockyard or camp belonging to Her Majesty, takes or attempts to take without authority given by or on behalf of Her Majesty any sketch or plan of that fortress, arsenal, factory, dockyard or camp, or
- (b) where a person knowingly having possession of, or control over, any such document, sketch, plan, model or knowledge as has been obtained or taken by means of any act which constitutes an offence

against this Act at any time wilfully and without lawful authority communicates or attempts to communicate the same to any person to whom the same ought not, in the interest of the State, to be communicated at that time, or

- (c) where a person after having been entrusted in confidence by some officer under Her Majesty with any document, sketch, plan, model or information relating to any such place as aforesaid, or to the naval or military affairs of Her Majesty, wilfully and in breach of such confidence communicates the same when, in the interest of the State, it ought not to be communicated,

he shall be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

(2) Where a person having possession of any document, sketch, plan, model or information relating to any fortress, arsenal, factory, dockyard, camp, ship, office or other like place belonging to Her Majesty, or to the naval or military affairs of Her Majesty, in whatever manner the same has been obtained or taken, at any time wilfully communicates the same to any person to whom he knows the same ought not, in the interest of the State, to be communicated at that time, he shall be liable to the same punishment as if he committed an offence under the foregoing provisions of this section.

(3) Where a person commits any act declared by this section to be an offence, he shall, if he intended to communicate to a foreign State any information, document, sketch, plan, model or knowledge obtained or taken by him, or entrusted to him as aforesaid, or if he communicates the same to any agent of a foreign State, be punished with transportation for life or for any term not less than five years, or with imprisonment for a term which may extend to two years.

4. (1) Where a person, by means of his holding or having held an office under Her Majesty, has lawfully or unlawfully either obtained possession of or control over any document, sketch, plan or model, or acquired any information, and at any time corruptly or contrary to his official duty communicates or attempts to communicate that document, sketch, plan, model or information to any person to whom the same ought not, in the interest of the State, or otherwise in the public interest, to be communicated at that time, he shall be guilty of a breach of official trust.

(2) A person guilty of a breach of official trust shall—

(a) if the communication was made or attempted to be made to a foreign State, be punished with transportation for life or for any term not less than five years, or with imprisonment for a term which may extend to two years, and

(b) in any other case be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

(3) This section shall apply to a person holding a contract with any department of the Government, or with the holder of any office under Her Majesty as such holder, where such contract involves an obligation of secrecy, and to any person employed by any person or body of persons holding such a contract who is under a like obligation of secrecy, as if the person holding the contract and the person so employed were respectively holders of an office under Her Majesty.

5. A prosecution for an offence against this Act shall not be instituted except by or with the consent of the Local Government or of the Governor-General in Council.

STATEMENT OF OBJECTS AND REASONS.

The object of this Bill is to re-enact for India, *mutatis mutandis*, the provisions of the Official Secrets Act, 1889 (52 & 53 Vict., c. 52), which has recently been passed by Parliament. That Statute applies (see section 6) to all acts made offences by it when committed in any part of Her Majesty's dominions, or when committed by British officers or subjects elsewhere, but the working in India of criminal law enacted by Parliament has not infrequently, notwithstanding the provisions of 37 & 38 Vict., c. 27, s. 3, been found to be beset with practical difficulty. Under these circumstances it seems desirable to take advantage of the saving for laws of British possessions contained in section 5 of the Statute and re-enact it for India with such adaptations of its language and penalties as the nomenclature of the Indian Statute-book requires.

The 9th October 1889.

(Signed) ANDREW R. SCOBLE.

S. HARVEY JAMES,
Secretary to the Government of India.