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The Law Reports. The Public General Statutes, passed in the 52nd and 53rd years of the reign of Her Majesty Queen Victoria, 1889 v. 26. Chapter 52. pp. 269-272

An Act to prevent the Disclosure of Official Documents and Information. (26 August 1889)

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and the Commons, in this present Parliament assembled, and by the authority of the same, as follows.

1. - (1) (a.) Where a person for the purpose of wrongfully obtaining information-
- (i) enters or is in any part of a place belonging to Her Majesty the Queen, 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 any thing 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 the Queen, 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 the Queen 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 guilty of a misdemeanor, and on conviction be liable to imprisonment, with or without hard labour, for a term not exceeding one year, or to a fine, or to both imprisonment and a fine.

(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

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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 guilty of a misdemeanour, and be liable to the same punishment as if he committed an offence under the foregoing provision of this section.

(3) Where a person commits any act declared by this section to be a misdemeanour, 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 guilty of a felony, and on conviction be liable at the discretion of the court to penal servitude for life, or for any term not less than five years, or to imprisonment for any term not exceeding two years with or without hard labour.

2. - (1.) Where a person, by means of his holding or having held an office under Her Majesty the Queen, 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 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, to be guilty of a felony, and on conviction be liable at the discretion of the court to penal servitude for life, or for any term not less than five years, or to imprisonment for any term not exceeding two years, with or without hard labour; and
- (b.) in any other case be guilty of a misdemeanor, and on conviction be liable to imprisonment with or without hard labour, for term not exceeding one year, or to a fine, or to both imprisonment and a fine.

(3.) This section shall apply to a person holding a contract with any department of the Government of the United Kingdom or with the holder of any office under Her Majesty the Queen 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 the Queen.

3. Any person who incites or counsels, or attempts to procure, another person to commit an offence under this Act, shall be guilty of a misdemeanor, and on conviction be liable to the same punishment as if he had committed the offence.

4. The expenses of the prosecution of a misdemeanor under this act shall be defrayed in like manner as in the case of a felony.

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5. If by any law made before or after the passing of this Act by the legislature of any British possession provisions are made which appear to Her Majesty the Queen to be of the like effect as those contained in this Act, Her Majesty may, by Order in Council, suspend the operation within such British possession of this Act or of any part thereof, so long as such law continues in force there, and no longer, and such order shall have effect as if it were enacted in this Act.

Provided that the suspension of this Act, or any part thereof in any British Possession shall not extend to the holder of an office under Her Majesty the Queen who is not appointed to that office by the Government of that possession.

The expression "British possession" means any part of Her Majesty's dominions not within the United Kingdom.

6. - (1.) This act shall apply to all acts made offences by this Act when committed in any part of Her Majesty's dominions, or when committed by British Officers or subjects elsewhere.

(2.) An offence under this Act, if alleged to have committed out of the United Kingdom, may be inquired of, heard, and determined, in any competent British court in the place where the offence was committed, or in Her Majesty's High Court of Justice in England or the Central Criminal Court, and the Act of the forty-second year of the reign of King George the Third, chapter eighty-five, shall apply in like manner as if the offence were mentioned in that Act, and the Central Criminal Courts as well as the High Court possessed the jurisdiction given by that Act to the Court of King's Bench.

(3.) An offence under this Act shall not be tried by any court of general or quarter sessions, nor by the sheriff court in Scotland, nor by any court out of the United Kingdom which has not jurisdiction to try crimes which involve the greatest punishment allowed by law.

(4.) The provisions of the Criminal Law and Procedure (Ireland) Act, 1887 shall not apply to any trial under the provisions of this Act.

7. - (1.) A prosecution for an offence against this Act shall not be instituted except by or with the consent of the Attorney-General.

(2.) In this section the expression "Attorney-General" means the Attorney or Solicitor General for England, and as respects Scotland, means the Lord Advocate, and as respects Ireland, means the Attorney or Solicitor General for Ireland, and if the prosecution is instituted in any court of the United Kingdom, means the person who in that court is Attorney-General, or exercises the like functions as the Attorney-General in England.

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

Any reference to a place belonging to Her Majesty the Queen includes a place belonging to any department of the Government of the United Kingdom or of any of Her Majesty's possessions, whether the place is or is not actually vested in Her Majesty,

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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,

The expression "document" includes part of a document,

The expression "model" includes design, pattern, and specimen,

The expression "sketch" includes any photograph or other mode of representation of any place or thing,

The expression "office under Her Majesty the Queen" includes any office or employment in or under any department of the Government of the United Kingdom, and so far as regards any document, sketch, plan, model, or information relating to the naval or military affairs of Her Majesty, includes any office or employment in or under any department of the Government of any of Her Majesty's possessions.

9. This Act shall not exempt any person from any proceeding for an offence which is punishable at common law, or by military or naval law, or under any Act of Parliament other than this Act, so, however, that no person be punished twice for the same offence.

10. This Act may be cited as the Official Secrets Act, 1889.