

New Zealand.

ANALYSIS.

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1891, No. 3.

AN ACT to prevent the Disclosure of Official Documents and Information. Title.

[4th August, 1891.]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. The Short Title of this Act is "The Official and Colonial Defences Secrets Act, 1891." Short Title.

2. In this Act, unless the context otherwise requires,— Interpretation.

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

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:

"Document" includes part of a document:

"Model" includes design, pattern, and specimen:

"Sketch" includes any photograph or other mode of representation of any place or thing:

"Office under Her Majesty the Queen" includes any office or employment in or under any department of the Government of the United Kingdom in the colony, or in or under any department of the Government of the colony.

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

(i.) Enters or is in any part of a place belonging to Her Majesty the Queen, being a fortress, fort, 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, fort, 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, fort, 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 intrusted 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 misdemeanour, 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, fort, 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 guilty of a misdemeanour, and 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 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 intrusted to him as aforesaid, or if he communicates the same to any agent of a foreign State, be guilty of 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.

4. (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, 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 guilty of 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 misdemeanour, 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.

(3.) This section shall apply to a person holding a contract with any department of the Government of the colony, 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.

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

Punishment for incitement or counselling to commit offence.

6. A prosecution for an offence against any of the preceding provisions of this Act shall not be instituted except by or with the consent of the Attorney-General or Solicitor-General of the colony.

Restriction on prosecution.

7. If any person shall commit any of the offences hereinafter mentioned,—

Penalty for trespassing upon any fort, battery, &c.

(1.) Be found loitering in the immediate vicinity of any defences, and with sketching, drawing, photographic, or printing materials or apparatus in his possession, with the intention or apparent intention of committing an offence against the provisions of this Act;

(2.) Without authority or permission of the person in charge of any defences enter upon or trespass on any defences, or any part thereof, or on any land reserved for or forming part of such defences, and whether any erection, fortification, or work of any kind may be standing thereon or not;

(3.) Refuse to depart from the vicinity of such defences, or to quit or leave such defences or any part thereof, or any land reserved for or forming part of any such defences or used in connection therewith, on being requested by the person in charge thereof to do so,—

every such person shall be liable to a penalty not exceeding twenty pounds, or, at the discretion of the Court before which he shall be convicted, to be imprisoned for any period not exceeding one month.

(4.) For the purposes of this section,—

“Defences” mean any fort, battery, field-work, or fortification, and any vessel of any kind and any place or erection of any kind which is armed with artillery or other means intended to repel hostile aggression, and include any magazine or store in which arms, ammunition, or warlike material is stored or kept, or which is intended for such purposes as aforesaid, or any of them, and also any mine (on land or in or under water), torpedo, or torpedo-boat, and any guns, arms, weapons, or warlike implements or machinery of any kind used, placed, or being in any such fort, battery, field-work, fortification, vessel, torpedo-boat, mine, place, or erection as aforesaid.

Trespassers,
loiterers about fort,
battery, &c., may
be apprehended.

8. Any officer or non-commissioned officer of the Defence Forces of the colony, or any constable, may, without any warrant or other authority, arrest any person found offending against the last-preceding section, and may take or cause him to be taken, as soon as conveniently may be, before a Justice of the Peace, to be dealt with under this Act.

Sketching-tools,
apparatus, &c.,
may be seized.

9. Any officer or non-commissioned officer or constable as aforesaid may seize and take possession of any drawing or any tools, implements, materials, or apparatus in the possession of any person found committing an offence against this Act, and the same shall be forfeited to Her Majesty, and may be destroyed, sold, or otherwise disposed of as the Governor shall direct.

Penalties recover-
able summarily.

10. All penalties imposed by this Act, except where the offence is declared to be a felony or a misdemeanour, shall be recovered in a summary way before a Resident Magistrate or two or more Justices of the Peace in the manner provided by “The Justices of the Peace Act, 1882.”

Members of the
Defence Force may
be dealt with under
“The Defence Act,
1886,” or this Act.

11. If any person liable to the provisions of “The Defence Act, 1886,” or any Act or articles of war for the time being incorporated with such first-mentioned Act, shall be guilty of an offence against this Act, he may be tried and dealt with either under the said Acts or articles, or any of them, in like manner as if such offence were one for which he was liable to be so tried, or may be charged and dealt with under this Act, and in either case, if convicted, shall be liable to the punishment provided by this Act: Provided that no such person shall be liable to be punished twice for the same offence.

Saving.

12. 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.