

## ACT No. V OF 1904.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.  
(Received the assent of the Governor General on the 4th March, 1904.)

An Act to amend the Indian Official Secrets Act, 1889.

WHEREAS it is expedient to amend the Indian Official Secrets Act, 1889; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Indian Official Secrets (Amendment) Act, 1904.

Addition of definition of "civil affairs" to section 2, Act XV, 1889.

2. In section 2 of the Indian Official Secrets Act, 1889, the word "and", where it occurs between clauses (5) and (6), shall be omitted, and after the latter clause the following shall be added, namely:—

"and

(7) "civil affairs" means affairs—

(a) affecting the relations of His Majesty's Government or of the Governor General in Council with any foreign State, or

(b) affecting the relations of the Governor General in Council with any Native State in India, or relating to the public debt or the fiscal arrangements of the Government of India or any other important matters of State, where these affairs are of such a confidential nature that the public interest would suffer by their disclosure."

Amendment of section 3, Act XV, 1889.

3. In section 3 of the said Act, the following alterations shall be made, namely:—

(a) in sub-section (1), sub-head (a), clause (i), the word "office" shall be omitted;

(b) in

(b) in clause (ii) of the same sub-section and sub-head,—

(i) after the word "aforesaid", the words "or in any office belonging to His Majesty" shall be inserted,

(ii) after the words "obtains", "obtain" and "takes", the words "or attempts to obtain", "or any copy of any such document, sketch, plan or model", and "or attempts to take", respectively, shall be inserted, and

(iii) for the word "anything" the words "any naval, military or civil affair of His Majesty" shall be substituted,

(c) in sub-head (c) of the same sub-section and in sub-section (2), for the words "naval or military" the words "naval, military or civil" shall be substituted,

(d) after sub-section (1), the following shall be inserted as sub-section (2), and the present sub-sections (2) and (3) shall be renumbered sub-sections (3) and (4) :—

"(2) Where a person commits any act specified in clauses (i), (ii) and (iii) of sub-section (1), sub-head (a), without lawful authority or permission (the proof of which authority or permission shall be upon him), the Court may presume that he has committed such act for the purpose of wrongfully obtaining information."; and

(e) for the words "in the interest of the State" wherever they occur, the words "in the public interest" shall be substituted.

4. In section 4, sub-section (1), of the said Act, the words "in the interest of the State or otherwise" shall be omitted.

Amendment of section 4, Act XV, 1889.

5. For section 5 of the said Act the following sections shall be substituted, namely :—

Substitution of sections for section 5, Act XV, 1889.

"5. (1) Notwithstanding

Certain offences under Act declared cognizable.

" 5. (1) Notwithstanding anything in the Code of Criminal Procedure, 1898, every offence against this Act committed in relation to any fortress, arsenal, factory, dockyard, camp or ship belonging to His Majesty, or in relation to the naval or military affairs of His Majesty, shall, for the purposes of the said Code, be deemed to be cognizable: V of 1898.

Provided that a person accused of any such offence shall not be released on bail unless on the order of a Magistrate of the first class.

(2) Every other offence against this Act shall be non-cognizable.

Procedure after arrest on charge of certain offences punishable under Act.

" 6. (1) Any person, being a public servant as defined in the Indian Penal Code, may arrest any person who in his view commits any of the offences described in section 5, sub-section (1), and any such person, or any police-officer who has arrested any person on a charge of any such offence, and any police-officer to whom any person arrested on any such charge has been made over, shall take or send him before the officer for the time being in command or charge of the fortress, arsenal, factory, dockyard, camp or ship, or of the nearest military station, or before a Magistrate of the first class. XLV of 1860.

(2) Where any person has been taken or sent before the commanding or other officer in accordance with sub-section (1), such officer may, if he think fit, discharge such person, but, if he does not discharge him, shall, without unnecessary delay, take or send him to the nearest police-station or to any Magistrate of the first class.

(3) Where any person has been taken or sent to a police-station or to a Magistrate under sub-section (2), the provisions of the Code of Criminal Procedure, 1898, shall, save as otherwise provided by section 7, apply to him as though he had been taken to such police-station or Magistrate without being taken or sent before the commanding or other officer. V of 1898.

Restriction on trial of offences.

" 7. (1) No Magistrate of the second class shall have

have jurisdiction to try any person for an offence against this Act.

(2) No Court shall proceed to the trial of any person for an offence against this Act, except with the consent of the Local Government or the Governor General in Council."

6. For the expression "Her Majesty", wherever it occurs in the said Act, the expression "His Majesty" shall be substituted.

Alteration of  
expression  
"Her Maje-  
ty".