SAORSTÁT EIREANN.

BILLE UM SCRUDOIREACHT FHOILLSEACHAN, 1928. CENSORSHIP OF PUBLICATIONS BILL, 1928.

Mar do ritheadh ag dhá Thigh an Oireachtais. As passed by both Houses of the Oireachtas.

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[No. 41e of '28.]

SAORSTAT EIREANN.

BILLE UM SCRUDOIREACHT FHOILLSEACHAN, 1928. CENSORSHIP OF PUBLICATIONS BILL, 1928.

BILL

entitled

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AN ACT TO MAKE PROVISION FOR THE PROHIBITION OF THE SALE AND DISTRIBUTION OF UNWHOLESOME LITERATURE AND FOR THAT PURPOSE TO PROVIDE FOR THE ESTABLISHMENT OF A CENSORSHIP OF BOOKS AND PERIODICAL PUBLICA- 10 TIONS, AND TO RESTRICT THE PUBLICATION OF REPORTS OF CERTAIN CLASSES OF JUDICIAL PROCEEDINGS AND FOR OTHER PURPOSES INCIDENTAL TO THE MATTERS AFORESAID.

BE IT ENACTED BY THE OIREACHTAS OF SAORSTAT 15 EIREANN AS FOLLOWS:—

PART I.

PRELIMINARY.

Short title.

1.—This Act may be cited as the Censorship of Publications 20 Act, 1929.

Definitions.

2.- In this Act-

the word "Minister" means the Minister for Justice;

the expression "periodical publication" includes any newspaper, magazine, journal, or other printed publication which is published periodically or in parts or numbers;

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the word "book" includes every printed publication which is not a periodical publication and, save where the context otherwise requires, includes every edition of such book;

neither the expression "periodical publication" nor the word "book" shall include a journal, book, or other publication 30 which is certified by the Board to be published bona fide for the information or instruction of members of the medical or legal profession:

the word "indecent" shall be construed as including suggestive of, or inciting to sexual immorality or unnatural vice or likely 35 in any other similar way to corrupt or deprave.

PART II.

CENSORSHIP OF PUBLICATIONS.

Establishment of Censorship of Publications Board.

- 3.—(1) There shall be established a board to be called and known as the Censorship of Publications Board (in this Act referred to as the Board) consisting of five members appointed under this section.
- (2) The Minister shall, as soon as may be after the passing of this Act and from time to time thereafter as occasion requires, appoint five fit and proper persons to be the members of the 45 Board.
- (3) Such member of the Board as the Minister shall from time to time nominate for the purpose shall be the Chairman of the Board.
- (4) Subject to the provisions of this section in relation to per- 50 sons appointed to fill casual vacancies, every member of the Board

shall, unless he sooner dies, resigns or is removed, hold his office as such member for the term of three years reckoned, in the case of the first members, from the date of his appointment, and in the case of every subsequent member, from the expiration of the term 5 of office of his predecessor.

- (5) A member of the Board appointed to fill a casual vacancy in the Board shall, unless he sooner dies, resigns or is removed, hold office for the residue of the term for which the member whose death, resignation, or removal occasioned the vacancy would have 10 held office if he had not died, resigned or been removed.
 - (6) A member of the Board may at any time resign his office as such member by letter addressed to the Minister.
- (7) The Minister may remove from membership of the Board any member of the Board who is absent (otherwise than on 15 account of illness) from four consecutive meetings of the Board or who becomes unfit in the opinion of the Minister to be a member of the Board.
 - (8) Every member of the Board shall on the cesser of his membership by effluxion of time be eligible for re-appointment.
- 4.—The Minister may appoint such and so many fit and proper Officers and persons to be officers and servants of the Board as, subject to the servants. consent of the Minister for Finance, he may consider necessary for the purposes of this Act, and the officers and servants so appointed shall hold office upon such terms and shall be remuner-25 ated at such rates and in such manner as the Minister for Finance shall sanction.

5.-(1) The first meeting of the Board shall be held at such Meetings and time as the Minister shall appoint, and subsequent meetings of procedure of the Board shall be held at such times as the Board shall appoint 30 either generally or in respect of any particular meeting.

- (2) At every meeting of the Board the Chairman of the Board, if present, shall be the chairman of the meeting, or, if the Chairman of the Board is absent, such member of the Board as the members of the Board then present shall choose shall be the 35 chairman of the meeting.
 - (3) The Board may act notwithstanding a vacancy in their membership.
- 6 .- (1) Whenever a complaint is duly made under this Act to Prohibition the Minister to the effect that a book or a particular edition of a orders in 40 book is indecent or obscene or advocates the unnatural prevention books. of conception or the procurement of abortion or miscarriage or the use of any method, treatment or appliance for the purpose of such prevention or such procurement, the Minister may refer such complaint to the Board.

- (2) The Board shall consider every complaint referred to them by the Minister under this section and for the purpose of such consideration shall examine the book or the particular edition of a book which is the subject of such complaint and on the completion of such consideration the Board shall make to the Min-50 ister their report on such complaint.
 - (3) When considering a complaint referred to them under this section the Board shall have regard to all or any of the following matters, that is to say:-
 - (a) the literary, artistic, scientific or historic merit or importance and the general tenor of the book or the particular edition of a book which is the subject of such complaint,

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- (b) the language in which such book or edition is printed or produced.
- 60 (c) the nature and extent of the circulation which; in the opinion of the Board, such book or edition is intended to have,

- (d) the class of reader in Saorstát Eireann which, in the opinion of the Board, may reasonably be expected to read such book or edition, and
- (e) any other matter relating to such book or edition which appears to the Board to be relevant.
- (4) When considering a complaint referred to them under this section the Board may communicate with the author, editor, or publisher of the book or the particular edition of a book which is the subject of such complaint and may take into account any representation made in relation to such book or edition by the 10 author, editor, or publisher thereof.
- (5) The Board may at any time make to the Minister a report in respect of any book or any particular edition of a book although no complaint in regard to such book or edition has been referred to them by the Minister, and in considering the making of a report under this sub-section in respect of a book or particular edition of a book the Board may have regard to the like matters and communicate with the like persons in relation to such book or edition as they are by this section authorised to have regard to or to communicate with when considering a complaint referred to 20 them under this section.
- (6) Whenever the Board under this section makes a report, not dissented from by more than one and assented to by at least three members of the Board, stating that in the opinion of the Board the book or the particular edition of a book which is the subject of such report is in its general tendency indecent or obscene and should for that reason be prohibited or that in the opinion of the Board such book or edition advocates the unnatural prevention of conception or the procurement of abortion or miscarriage or the use of any method, 30 treatment or appliance for the purpose of such prevention or such miscarriage and should for that reason be prohibited, the Minister may by order (in this Act referred to as a prohibition order) prohibit the sale and distribution in Saorstát Eireann of such book or of such edition of a book.
- (7) Where a report is proposed to be made by the Board under this section and either one member or two members of the Board has or have not signified any opinion (whether assenting or dissenting) in regard to such proposed report and the circumstances are such that the signification by such member or members of his opinion or their respective opinions (as the case may be) in regard to such proposed report might affect the operation of such proposed report in respect of the power of the Minister to make under this section a prohibition order in consequence thereof, a copy of such proposed report shall be sent by registered post to such member or to each of such two members (as the case may be) and a report shall not be finally made by the Board until after the expiration of seven days from such posting.
- (8) A prohibition order made under this section in relation to a book shall, unless it is limited to one or more particular 50 editions of such book, apply to every edition of such book whether published before or after the date of such order save such (if any) editions thereof as may be excluded by an amending order from the application of such prohibition order.
- Prohibition orders in respect of periodical publications.
- 7.—(1) Whenever a complaint is duly made under this Act to the 55 Minister to the effect that the several issues of a periodical publication recently theretofore published have usually or frequently been indecent or obscene or have advocated the unnatural prevention of conception or the procurment of abortion or miscarriage or the use of any method, treatment or appliance for the purpose of such prevention or such procurement or have devoted an unduly large proportion of space to the publication of matter relating to crime, the Minister may refer such complaint to the Board.
- (2) The Board shall consider every complaint referred to them 65 by the Minister under this section and for the purpose of such

consideration shall examine the issues theretofore recently published of the periodical publication which is the subject of such complaint and on completion of such consideration the Board shall make to the Minister their report on such complaint.

- (3) Whenever the Board under this section makes in reference to a complaint a report not dissented from by more than one and assented to by at least three members of the Board stating that in the opinion of the Board the issues recently theretofore published of the periodical pub-10 lication which is the subject of such complaint have usually or frequently been indecent or obscene and should for that reason be prohibited or that in the opinion of the Board such issues have advocated the unnatural prevention of conception or the procurement of abortion or misearriage or the use of any method, 15 treatment or appliance for the purpose of such prevention or such procurement and should for that reason be prohibited or have devoted an unduly large proportion of space to the publication of matter relating to crime, and should for that reason be prohibited, the Minister may by order (in this Act 20 referred to as a prohibition order) prohibit the sale and the distribution in Saorstát Eireann of any issue of such periodical publication published after the day on which such order comes into operation.
- (4) Where a report is proposed to be made by the Board under this section and either one member or two members of the Board has or have not signified any opinion (whether assenting or dissenting) in regard to such proposed report and the circumstances are such that the signification by such member or members of his opinion or their respective opinions (as the case may be) 30 in regard to such proposed report might affect the operation of such proposed report in respect of the power of the Minister to make under this section a prohibition order in consequence thereof, a copy of such proposed report shall be sent by registered post to such member or to each of such two members (as the case may 35 be) and a report shall not be finally made by the Board until after the expiration of seven days from such posting.
- (5) A prohibition order made under this section in respect of a periodical publication in respect of which no such prohibition order has previously been made shall, unless previously revoked 40 under this Act, continue in force for three months from the day on which it comes into operation and shall then expire.
 - 8 .- (1) The Minister may at any time after consultation with Revocation and the Board by order revoke any prohibition order theretofore amendment of made by him under this Act.
 - (2) Where a prohibition order has been made by the Minister under this Act in relation to a book, the Minister may at any time, after consultation with the Board, by order amend such prohibition order by excluding from the application thereof any particular edition of such book whether published before or after the date of such prohibition order.

9 .- Every prohibition order and every order made by the Min- Publication of ister under this Act revoking or amending any such prohibition order shall be published in the Iris Oifigiúil as soon as may be after it is made and shall come into operation and have effect as 55 on and from the Cay on which it is so published.

prohibition

orders.

- 10 .- (1) It shall not be lawful for any person, otherwise than Offences in under and in accordance with a permit in writing granted to him under this section-
 - (a) to import into Saorstát Eireann for sale or distribution,
 - (b) to sell, or expose, offer, advertise or keep for sale, or
- (c) to distribute or offer or keep for distribution, any book or any particular edition of a book or any issue of a periodical publication the sale and distribution of which in 65 Saorstát Eireann is for the time being prohibited by a prohibition order.

relation to prohibited pu lications.

- (2) Every person who acts in contravention of the foregoing sub-section shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding fifty pounds or, at the discretion of the court, to imprisonment with or without hard labour, for any term not exceeding six 5 months or to both such fine and such imprisonment and, in any case, to forfeiture of the book, edition, or issue in respect of which such offence was committed.
- (3) The Minister may if he thinks fit for reasons which appear to him sufficient grant to any person a permit in writing to sell and keep for sale or to distribute and keep for distribution and (where appropriate) to import into Saorstát Eireann any specified book or any specified edition of a book or all or any particular issues of a specified periodical publication the sale and distribution of which in Saorstát Eireann is for the time being prohibited by a prohibition order, and the Minister may grant any such permit subject to such (if any) conditions and limitations as he may think fit to impose and shall specify in such permit.

Register of prohibited publications.

- 11.—(1) The Minister shall prepare and keep a register to be called and known as "The Register of Prohibited Publications" (in this section referred to as the register) in such form as shall be prescribed by the Minister by regulations made under this Act.
- (2) Whenever a prohibition order is made there shall forthwith be entered in the register—
 - (a) if such order relates to a book, the name of such book, the edition or editions of such book to which such order applies, the names of the author and the publisher of such book if and as stated in such book, the date of such order and the date of the publication 30 thereof in the Iris Oifigiúil, and
 - (b) if such order relates to a periodical publication, the name of such publication, the names of the proprietor and the publisher of such publication if and as stated in such publication, the date of such order and the date 35 of the publication thereof in the Iris Oifigiúil.
- (3) Whenever a prohibition order is revoked by the Minister under this Act the entry in the register of the book or periodical publication to which such order relates shall be erased and whenever a prohibition order is amended by the Minister under this 40 Act the particulars of such amending order and of the amendment effected thereby shall be entered in the register opposite the entry of such book or perodical publication.
- (4) The Minister shall cause the register to be printed, published and made available to the public in such manner and at 45 such times as he shall think proper.
- (5) It shall be the duty of every Customs official examining the baggage of incoming travellers to exhibit on demand a list of all books which are at the time being the subject of a prohibition order.
- (6) The register shall be open to inspection free of charge by any person at such place in the City of Dublin and at such hours as shall be prescribed by the Minister by regulations made under this Act and a copy of any entry in the register certified by an officer of the Minister to be a true copy shall be furnished by the 55 Minister to any person on payment of such charge as shall be fixed from time to time by the Minister with the consent of the Minister for Finance.
- (7) A document purporting to be a copy of an entry in the register and to be certified by an officer of the Minister to be a 60 true copy shall, without proof of the signature of such officer or of the fact that he is such officer, be accepted in all courts of justice as evidence until the contrary is proved of the terms of such entry and that the same was contained in the register at the date on which such certificate purports to have been given. 65

(8) The fact that a book or a periodical publication is at any particular time entered in the register shall be conclusive evidence that a prohibition order has been made in regard thereto and that such order is then still in force and the terms of such entry 5 in the register shall be conclusive evidence of the editions of such book or issues of such periodical publication to which such order

12 .- (1) Where a Justice of the District Court is satisfied on Search warrant the information on oath of an officer of the Gárda Síochána not in respect of prohibited books, etc. ground for suspecting that in any specified building, land, premises or other place there are kept for sale or distribution any books, or periodical publications the sale and distribution of which in Saorstát Eireann are then prohibited by a prohibition 15 order, such Justice may issue to such officer such search warrant as is mentioned in the section.

(2) A search warrant issued by a Justice of the District Court under this section shall be expressed and shall operate to authorise a named officer of the Gárda Síochána not below the rank of superintendent, accompanied by such other members of the Gárda Síochána as such officer shall think proper, at any time within forty-eight hours after the issue of the search warrant, and if needs be by force, to enter and search the specified building, land, premises, or other place aforesaid (which place 25 shall be also specified in the warrant) for books, or periodical publications the sale and distribution of which in Saorstát Eireann is then prohibited by a prohibition order and to seize and remove all such books and periodical publications found on such search.

13.—(1) Where a prohibition order has been made in rela- Customs and tion to a book or a particular edition of a book or a periodical postal publication, then so long as such order is in operation the importation (otherwise than under and in accordance with a permit in writing granted under this Act) of any edition of such book or issue of such perodical publication (as the case may be) to which such order for the time being applies shall be added to and included in the table of prohibitions and restrictions inwards contained in section 42 of the Customs Consolidation Act, 1876 and that section shall have effect accordingly.

restrictions.

(2) The Minister for Posts and Telegraphs may by order under 40 this section make regulations for the purpose of preventing the sending or delivery by post (otherwise than under and in accordance with a permit in writing granted under this Act) of any edition of a book or any issue of a periodical publication to which a prohibition order for the time being applies and for the delivery to the Minister for Justice of any such edition or issue intercepted in course of transmission by post.

PART III.

REPORTS OF JUDICIAL PROCEEDINGS.

14.-(1) It shall not be lawful to print or publish or cause Restrictions on or procure to be printed or published in relation to any judicial publication of proceedings-

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(a) any indecent matter the publication of which would be proceedings. calculated to injure public morals, or

(b) any indecent medical, surgical or physiological details the publication of which would be calculated to injure public morals.

(2) It shall not be lawful to print or publish or cause or procure to be printed or published any report, statement, com-60 mentary or other matter of or in relation to any judicial proceedings for divorce, nullity of marriage, judicial separation, or restitution of conjugal rights save and except all or any of the

following particulars of such proceedings, so far as the same can be printed and published without contravening any other subsection of this section, that is to say:—

- (a) the names, addresses, and occupations of the parties and witnesses,
- (b) the court in which and the Judge before whom the proceedings were tried and the names of the solicitors and counsel professionally engaged in the proceedings,
- (c) a concise statement of the charges, defences, and 10 counter-charges in support of which evidence was given.
- (d) particulars of any point of law raised and discussed in the proceedings and the decision of the court thereon,
- (e) the summing-up of the Judge and the findings of the jury 15 or the decision of the court and the observations of the Judge when pronouncing his decision.
- (3) Nothing in this section shall apply to-
 - (a) the printing of any pleading, transcript of evidence, or other document for use in connection with any judicial 20 proceedings or the communication thereof to persons concerned in the proceedings, or
 - (b) to the printing and publishing of any order, notice, or report in pursuance of the directions of the court, or
 - (c) to the printing or publishing of any matter in any 25 separate volume or part of any bona fide series of law reports which does not form part of any other publication and consists solely of reports of proceedings in courts of law, or in any publication of a technical character bona fide intended for circulation among 30 members of the legal profession or medical professions.

Offences in relation to the publication of reports of judicial proceedings.

- 15.—(1) If any person being the proprietor, editor or publisher of any book or periodical publication or being a master printer engaged in the printing of such book or publication 35 prints or publishes or causes, procures or permits to be printed or published therein in contravention of any of the provisions of this Part of this Act any matter, details, or particulars in relation to any judicial proceedings such person shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding five hundred pounds or at the discretion of the court to imprisonment with or without hard labour for any term not exceeding six months or to both such fine and such imprisonment.
- (2) Every prosecution for an offence under this section shall 45 be brought at the suit and in the name of the Attorney-General.

PART IV.

MISCELLANEOUS AND GENERAL.

Prohibition of publications advocating contraceptives.

- 16.—(1) It shall not be lawful for any person, otherwise than under and in accordance with a permit in writing granted to him 50 under this section—
 - (a) to print or publish or cause or procure to be printed or published, or
 - (b) to sell or expose, offer, or keep for sale, or
- any book or periodical publication (whether appearing on the register of prohibited publications or not) which advocates or which might reasonably be supposed to advocate the unnatural

prevention of conception or the procurement of abortion or miscarriage or any method, treatment, or appliance to be used for the purpose of such prevention or such procurement.

- (2) Every person who acts in contravention of this section 5 shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding fifty pounds, or, at the discretion of the court, to imprisonment for any term not exceeding six months or to both such fine and such imprisonment.
- (3) A book or periodical publication containing an advertisement relating to a book or periodical publication which advocates or might reasonably be supposed to advocate within the meaning of sub-section (1) of this section one or more of the matters mentioned in that sub-section shall not, by reason only of its contain-15 ing such advertisement, be deemed itself to advocate any of such matters, provided such advertisement is inserted for reward and is not and could not reasonably be supposed to be itself an advocacy of any such matter.
- (4) Where a person who carries on the business of selling or 20 distributing books or periodicals or other publications is charged with an offence under this section it shall be a good defence to such charge to prove that he committed the act alleged to constitute such offence in the ordinary course of his said business, and that he could not by the exercise of reasonable care have 25 known or ascertained the contents of the book or other publication in respect of which such act was committed.
- (5) The Minister may if he thinks fit for reasons which appear to him sufficient grant to any person a permit in writing to do all or any of the following things, that is to say, to print, publish, 30 import, sell, keep for sale, distribute, or keep for distribution any book or periodical publication the printing, publishing, selling, or distributing of which without such permit would be a contravention of this section and the Minister may grant any such permit subject to such (if any) conditions and limitations as he may think fit to impose and shall specify in such permit.
 - (6) The Minister for Posts and Telegraphs may by order under this section make regulations for the purpose of preventing the sending or delivery by post (otherwise than under and in accordance with a permit in writing granted under this Act) of any book or periodical publication the distribution of which is prohibited by this section.
- 17 .- (1) The reference contained in section 3 of the Indecent Amendment of Advertisements Act, 1889, to printed matter which is of an in- the Indecent decent or obscene character shall be deemed to include advertisements which relate or refer or may be reasonably supposed to relate or refer to any disease affecting the generative organs of either sex, or to any complaint or infirmity arising from or relating to sexual intercourse, or to the prevention or removal of irregularities in menstruation, or to drugs, medicines, appliances, 50 treatment, or methods for procuring abortion or miscarriage or preventing conception.
- (2) Any person summarily convicted of an offence under section 3 of the Indecent Advertisements Act, 1889 shall, in lieu of the punishments mentioned in that section, be liable to a fine not 55 exceeding ten pounds or, at the discretion of the court, to imprisonment for any term not exceeding three months.
- (3) Any person summarily convicted of an offence under section 4 of the Indecent Advertisements Act, 1889 shall, in lieu of the punishments mentioned in that section, be liable to a fine not 60 exceeding twenty-five pounds or, at the discretion of the court, to imprisonment for any term not exceeding six months.
- 18 .- (1) It shall not be lawful for any person to sell or offer, Prohibition of expose, or keep for sale, or import for sale any indecent picture sale of indecent and every person who sells or offers, exposes, or keeps for pictures. 65 sale or imports for sale any indecent picture in con-

Advertisements Act, 1889.

travention of this section shall be guilty of an offence under this section and shall be liable on summary conviction thereof, in the case of a first offence, to a fine not exceeding fifty pounds and, in the case of a second or any subsequent offence, to a fine not exceeding one hundred pounds or, at the discretion of the court, 5 to imprisonment with or without hard labour for any term not exceeding six months and, in any case, to forfeiture of every indecent picture so sold or offered, exposed, or kept for sale by him.

(2) The word "indecent" where the same occurs in section 42 of the Customs Consolidation Act, 1876 shall have the same 10 meaning and construction as it has in this Act and the said section 42 shall be construed and have effect accordingly.

Search warrant in respect of indecent pictures.

- 19.—(1) Where a Justice of the District Court is satisfied on the information on oath of an officer of the Gárda Síochána not below the rank of chief superintendent that there is reasonable ground for suspecting that in any specified building, land, premises or other place there are kept for sale any indecent pictures, such Justice may issue to such officer such search warrant as is mentioned in this section.
- (2) A search warrant issued by a Justice of the District Court under this section shall be expressed and shall operate to authorise a named officer of the Gárda Síochána not below the rank of superintendent, accompanied by such other members of the Gárda Síochána as such officer shall think proper, at any time within forty-eight hours after the issue of the search warrant, and 25 if needs be by force, to enter and search the specified building, land, premises, or other place aforesaid (which place shall be also specified in the warrant) for indecent pictures and to seize and remove all such pictures found on such search.
 - (3) The Obscene Publications Act, 1857 is hereby repealed.

Regulations.

- 20.—(1) The Minister may by order make regulations prescribing all or any of the following matters and things, that is to say :-
 - (a) the manner and form in which complaints are to be made to the Minister under this Act,
 - (b) the procedure of the Censorship of Publications Board and the forms to be used by them for the purposes of this Act,
 - (c) any matter or thing referred to in this Act as prescribed or to be prescribed by the Minister by regulations made 40 under this Act.
- (2) Every regulation made under this section shall be laid before each House of the Oireachtas as soon as may be after it is made, and if a resolution is passed by either such House within the next subsequent twenty-one days on which such House has sat after such regulation is laid before it annulling such regulation, such regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done under such regulation.

Expenses.

21.—All expenses incurred in carrying this Act into execution shall, to such extent as shall be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas.

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BILLE UM SCRUDOIREACHT FHOILL-SEACHÁN, 1928.

CENSORSHIP OF PUBLICATIONS BILL,

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Rithte ag dhá Thigh an Oireachtais, 11adh Iúl, 1929.

BAILE ATH CLIATH: FOILLSITHE AG OIFIG AN TSOLATHAIR.

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An Act to make provision for the prohibition Act to make provision for the prohibition of the sale and distribution of unwholesome literature and for that purpose to provide for the establishment of a censorship of books and periodical publications, and to restrict the publication of reports of certain classes of judicial proceedings and for other purposes incidental to the matters afore. purposes incidental to the matters aforesaid.

Passed by both Houses of the Oireachtas, 11th July, 1929.

DUBLIN: PUBLISHED BY THE STATIONERY OFFICE

To be purchased through MESSRS. EASON & SON, LTD., 40 and 41 Lower O'Connell Street, Dublin.

Printed by CAHILL & Co., LTD [Threepence Net.]