

forward the license plates in his possession to the Department of Revenue, and remove the facsimile of such license plates, immediately upon the expiration of his license. In the event the license plates have been lost or destroyed, a sworn statement to that effect shall be submitted to the Department of Revenue in lieu of the license plates. Dealers' and owners' licenses shall be valid until the thirty-first day of December next following the date of their issuance, and may be renewed from year to year upon application and payment of a fee as in the case of procurement of an original license] *only for the license year April first of one year to March thirty-first of the succeeding year. Upon the renewal of a license for any subsequent year, new license plates shall be issued by the department.*

Section 9. No boat propelled by any type of internal combustion motor of one or more cylinders, including out-board motors, shall be operated on any of the inland waters unless the same is equipped with [an under-water exhaust or with a muffler having at least two baffle plates. Such muffler and baffle plates shall be in good working order and of a type approved by the board. No cut-outs or other devices shall be used to make such muffler ineffective] *a muffling device supplied by the manufacturer of the motor for that particular model, without modification, to prevent excessive or unusual noise, which shall, at all times, be maintained in good working order. No person shall operate a motor boat with the cut-out open or muffler removed: Provided,*

Muffling
device.

Proviso.

Section 4. This act shall become effective immediately upon its final enactment.

When
effective.

APPROVED—The 21st day of June, A. D. 1937.

GEORGE H. EARLE

No. 394

AN ACT

To preserve and improve the purity of the waters of the Commonwealth for the protection of public health, animal and aquatic life, and for industrial consumption, and recreation; empowering and directing the creation of indebtedness or the issuing of non-debt revenue bonds by political subdivisions to provide works to abate pollution; providing protection of water supply; providing for the jurisdiction of courts, magistrates, aldermen and justices of the peace in the enforcement thereof; and providing additional remedies for abating pollution of waters; imposing certain penalties; and repealing certain acts.

ARTICLE I

GENERAL PROVISIONS AND PUBLIC POLICY

Definitions.

Section 1. Definitions.—Be it enacted, &c., That the following words or phrases, unless the context clearly indicates otherwise, shall have the meanings ascribed to them in this section.

“Board” shall be construed to mean the Sanitary Water Board in the Department of Health, or its duly constituted successor.

“Establishment” shall be construed to include any industrial establishment, mill, factory, tannery, paper or pulp mill, garage, oil refinery, oil well, boat, vessel, mine, quarry, and each and every other industry or plant or works in the operation of which industrial wastes are produced.

“Industrial waste” shall be construed to mean any liquid, gaseous or solid substance, not sewage, resulting from any manufacturing or industry.

“Institution” shall include healing, preventive,* mental, health, educational, correctional and penal institutions, almshouses, and county and city homes operated by the State, or any political subdivision thereof, and whose sewage is not admitted to a public sewer system.

“Municipality” or “municipal” shall be construed to include any county, county authority, municipal authority, city, borough, town, township, school district and institution, as above defined.

“Person” shall be construed to include any person, copartnership, association or private corporation.

“Pollution” shall be construed to mean noxious and deleterious substances rendering unclean the waters of the Commonwealth to the extent of being harmful or inimical to the public health, or to animal or aquatic life, or to the use of such waters for domestic water supply, or industrial purposes, or for recreation.

“Sewage” shall be construed to include any substance that contains any of the waste products or excrementitious or other discharge from the bodies of human beings or animals.

“Waters of the Commonwealth” shall be construed to include any and all rivers, streams, creeks, rivulets, lakes, dammed water, ponds, springs, and all other bodies of surface and underground water, or parts thereof, whether natural or artificial, within or on the boundaries of this Commonwealth.

Section 2. Interpretation of Act.—A. The provisions of this act are severable, and if any of its provisions shall be held unconstitutional, the decision of the court shall not affect or impair any of the remaining provi-

* “preventative” in the original.

sions of this act. It is hereby declared to be the legislative intent that this act would have been adopted had such unconstitutional provisions not been included herein.

B. Section headings shall not be taken to govern or limit the scope of the sections of this act. The singular shall include the plural, and the masculine shall include the feminine and neuter.

Section 3. Discharge of Sewage and Industrial Wastes Not a Natural Use.—The discharge of sewage or industrial waste or any noxious and deleterious substances into the waters of this Commonwealth, which is or may become inimical and injurious to the public health, or to animal or aquatic life, or to the uses of such waters for domestic or industrial consumption, or for recreation, is hereby declared not to be a reasonable or natural use of such waters, to be against public policy and to be a public nuisance.

ARTICLE II

SEWAGE POLLUTION

Section 201. Prohibition Against Discharge of Sewage.—No person or municipality shall place or permit to be placed, or discharge or permit to flow, or continue to discharge or permit to flow, into any of the waters of the Commonwealth any sewage, except as hereinafter provided in this act.

Section 202. Extent of Applicability of Act to Existing Sewage Discharges.—Any municipality discharging sewage from any sewer system owned and maintained by the municipality, and any person discharging sewage into or in such manner as to cause pollution of the waters of this Commonwealth, without regard to the fact that such discharge began prior or subsequent to the twenty-second day of April, one thousand nine hundred and five, or whether such continued discharge has been by virtue of or without a permit issued by the Secretary of Health, the Commissioner of Health or the board, in accordance with the provisions of an act, approved the twenty-second day of April, one thousand nine hundred and five (Pamphlet Laws, two hundred sixty), entitled "An act to preserve the purity of the waters of the State for the protection of the public health," shall discontinue the discharge of sewage into or in such manner as to cause pollution of the waters of this Commonwealth upon the order of the board, issued pursuant to the provisions of this act, at such time as the board shall be of opinion that such discharge of sewage is or may become inimical or injurious to the public health, animal or aquatic life, or to the use of the water for domestic or industrial consumption or recreation, and on such notice, any permit heretofore

granted to such municipality or person for the discharge of sewage into the waters of the Commonwealth shall be deemed to be revoked and annulled: Provided, however, That the discharge of sewage into a stream impregnated with acid coal mine drainings be permitted when the discharge of sewage does not create a condition inimical to the public interest.

Section 203. Orders to Discontinue Existing Sewage Discharges; Nuisances.—In the case of a municipality, orders to discontinue existing discharges of sewage shall be by notice in writing (after investigation and hearing and an opportunity for all persons interested therein to be heard thereon), which notice shall be served personally or by registered mail on the corporate authorities of the municipality owning or maintaining and using the sewage system. The length of time, after receipt of the notice, within which the discharge of sewage shall be discontinued shall be stated in the notice, and shall in no case exceed two years.

In the case of a person, orders to discontinue existing discharges of sewage shall be by notice in writing, served personally on such person or by registered mail addressed to the last known post-office address of the person discharging the sewage, and such notice shall specify a reasonable time, not exceeding one year, to be fixed by the board within which the discharge of such sewage shall be discontinued.

The continued discharge of sewage by persons or municipalities, after the expiration of the time fixed in any such notice, is hereby declared to be a nuisance, and shall be abatable and punishable as provided in this act.

Section 204. Penalty.—Any person who shall continue to discharge sewage or permit the same to flow into the waters of the Commonwealth, contrary to the preceding provisions of this act, or after the expiration of the time fixed in any notice from the board to discontinue an existing discharge of sewage into the waters of the Commonwealth, shall, upon conviction thereof in a summary proceeding, be sentenced to pay a fine of not less than twenty-five dollars and not exceeding one hundred dollars for each offense, and a further fine of ten dollars for each day the offense is maintained, and, in default of the payment of such fine and costs, the person or the member or members of any association or copartnership, or the officer or officers of any corporation responsible for violation of this act, shall be imprisoned in the county jail one day for each dollar of fine and costs unpaid.

Section 205. Reports of Existing Municipal Sewers.—It shall be the duty of the corporate authorities, having, by law, charge of the sewer system of each municipality in the Commonwealth from which sewage is

being discharged into any of the waters of the Commonwealth, to file with the board, from time to time, upon the written demand of said board, a report of such sewer system, which shall comprise such plans, facts and information as the board may require. Such report shall be filed within a time specified by the board in its written demand. No municipal sewer system shall be exempt from the provisions of this act prohibiting the discharge of sewage into the waters of the Commonwealth for which a satisfactory report shall not be filed with the board in accordance with this section. The continued discharge of sewage from any such sewer system contrary to the provisions of this section is hereby also declared to be a nuisance and abatable as such.

Section 206. Applications for Permits for the Discharge of Sewage.—Upon application duly made to the board by the corporate authorities having by law the charge of the sewer system of any municipality, or by any person, the board shall consider the case of any sewer system or the extension of any existing sewer system otherwise prohibited by this act from discharging sewage into any of the waters of the Commonwealth, and shall, if it finds as a fact that the discharge of sewage is necessary and not injurious to the public health or animal or aquatic life, or for use for domestic or industrial consumption or recreation, stipulate, in a permit, the conditions and the time during which such discharge into the waters of the Commonwealth may be permitted. Such permit before being operative shall be recorded in the office of the recorder of deeds for the county wherein the outlet of said sewer system is located. And in case the municipality or person fails or neglects to record such permit, the board shall cause a copy thereof to be so recorded, and shall collect the cost of recording from the municipality or person. No such permit shall be construed to permit any act otherwise forbidden by any of the laws of the Commonwealth, or by any decree, order, sentence or judgment of any court, or by the ordinances of any municipality, or by the rules and regulations of any water company supplying water to the public, or by laws relative to navigation.

Section 207. Approval of Plans, Designs, and Relevant Data by the Sanitary Water Board.—All plans, designs, and relevant data for the construction of any new sewer system, or for the extension of any existing sewer system, by a municipality, or for the erection, construction, and location of any treatment works or intercepting sewers by a person or municipality, shall be submitted to the board for its approval before the same are constructed or erected or acquired. Any such construction or erection which has not been approved by the board by written permit, or any treatment works

not operated or maintained in accordance with the rules and regulations of the board, is hereby also declared to be a nuisance and abatable as herein provided.

Section 208. Revocation or Modification of Permits.—Every such permit for the discharge of sewage from a sewer system or extension, or for the erection and construction of any sewer system or treatment works or intercepting sewers under the provisions of sections two hundred six and two hundred seven of this act, shall be revocable or subject to modification and change by the board on due notice (after an investigation and hearing and an opportunity for all known to be interested therein to be heard thereon), being served personally on, or by registered mail addressed to, the last known post-office address of the corporate authorities of the municipality or the person owning, maintaining or using the sewer system, or the person or municipality operating the treatment works. The length of time, after the receipt of the notice, within which the discharge of sewage or the treatment of sewage in such treatment works shall be discontinued, shall be stated in the notice, but in no case shall it exceed two years in the case of a municipality, or a reasonable time, not exceeding one year, in the case of a person to be fixed by the board.

Section 209. Prohibition Against Discharge of Sewage, Et Cetera, after Revocation of Permit.—On the expiration of the period of time prescribed, after the service of a notice of revocation, modification or change of any such permit from the board, the discharge of sewage into any waters of the Commonwealth or treated sewage from treatment works shall cease and terminate, and the prohibition of this act against such discharge or treatment shall be in full force as though no permit had been granted, but a new permit may thereafter again be granted as hereinbefore provided. A continuation of the discharge of sewage or the treatment of sewage after revocation, or in violation of any modification and change of any such permit, is* hereby also declared to be a nuisance, and shall be punishable and abatable as herein provided.

Section 210. Municipal Financing of Pollution Abatement.—Any municipality upon whom an order of the board is served to abate its discharge of untreated or inadequately treated sewage, shall, unless said order to abate said discharge be reversed on appeal, take steps for the acquisition or construction of a sewer or sewerage system or sewage treatment works, or both, or for the repair, alteration, extension or completion of an existing sewer, sewerage system or sewage treatment works, or both, as may be necessary for the treatment of its sewage, in compliance with the order of the board. The

* "It" in the original.

cost of the acquisition, construction, repair, alteration, completion or extension of the sewer, sewerage system or sewage treatment works, as may be necessary to comply with said order, shall be paid out of funds on hand available for such purpose, or out of the general funds of such municipality not otherwise appropriated. If there be no sufficient funds on hand or unappropriated, then the necessary funds shall be raised by the issuance of bonds, such bond issue to be subject only to the approval of the Department of Internal Affairs. If the estimated cost of the steps necessary to be taken by such municipality to comply with such order is such that the bond issue, necessary to finance such project, would not raise the total outstanding bonded indebtedness of such municipality in excess of the constitutional limit imposed upon such indebtedness by the Constitution of this Commonwealth, then, and in that event, the necessary bonds may be issued as a direct obligation of such municipality and retired pursuant to general law governing the issue of such bonds, if the electors of the municipality shall vote in favor of the increase in indebtedness where the consent of the electors is required. If the amount of such bonds necessary to be issued would raise the total outstanding bonded indebtedness of such municipality above such constitutional limitation on such indebtedness, or if the consent of the electors cannot be secured, or if such municipality by its corporate authorities shall determine against the issuance of direct obligation bonds, then such municipality shall be requested to issue non-debt revenue bonds and provide for the payment of the interest and principal of such bonds from funds to be raised by imposing a sewer rental or charge, in accordance with and as authorized by the act, approved the eighteenth day of July, one thousand nine hundred and thirty-five (Pamphlet Laws, twelve hundred eighty-six), entitled "An act empowering cities (except cities of the first class), boroughs, incorporated towns, and townships to charge and collect annual rentals for the use of certain sewers, sewage systems, and treatment works, including charges for operation, inspection, maintenance, repair, depreciation, and the amortization of indebtedness and interest thereon," or other legislation relating to the imposition and collection of such rentals and charges.

The funds made available by the issuance of either direct obligation bonds or revenue bonds secured by rental charges as herein provided, shall constitute a sanitary fund, and shall be used for no other purpose than for carrying out such order or orders of the board.

The Attorney General, at the instance of the board, may enforce this provision of the act by action of mandamus.

Section 211. Revenue Bonds.—For the purpose of financing the cost and expense, or its share of the cost and expense, of constructing or acquiring or extending any sewer, sewer system or sewage treatment works, either singly or jointly with other municipalities, a municipality may issue non-debt revenue bonds secured solely by a pledge, in whole or in part, of the annual rentals or charges imposed for the use of such sewer, sewer system or sewage treatment works. Said bonds shall not pledge the credit, nor create any debt, nor be a charge against the general revenues, nor be a lien against any property of the municipality, but shall be a lien upon and payable solely from the annual rentals or charges for the use of the sewer, sewer system or sewage treatment works.

Section 212. Issuance and Sale of Revenue Bonds; Maturity; Interest.—When a municipality shall issue any non-debt revenue bonds, the corporate authorities thereof shall sell the same to the highest bidder after public notice by advertisement once a week for three weeks, in at least one newspaper of general circulation, published in the municipality or the county in which the municipality is situate. Where bonds shall be advertised for sale as herein provided, and no bids shall have been received, then it shall be lawful for such municipality to sell the same at private sale for not less than par and accrued interest.

All such bonds shall be payable in not more than thirty years from the date of their issue, shall be issued in series payable in equal annual installments, and shall bear interest at a rate not exceeding six per centum per annum.

Section 213. Other Methods of Financing Preserved.—Anything in this act to the contrary notwithstanding, any municipality shall have power to issue bonds, revenue certificates or other obligations to finance, in whole or in part, the carrying out of any order or direction of the board without regard to the restrictions, limitations or provisions of this act relating to the issuance of bonds, revenue certificates or other obligations: Provided, That such bonds, revenue certificates or other obligations are issued by the municipality in accordance with the provisions of any other law. This act shall be construed to provide an alternative method for the issuance of bonds, revenue certificates or other obligations by a municipality, and not an exclusive method therefor.

ARTICLE III

INDUSTRIAL WASTES

Section 301. Prohibition Against Discharge of Industrial Wastes.—No person shall place or permit to be placed, or discharged or permit to flow, or continue to

discharge or permit to flow, into any of the waters of the Commonwealth any industrial wastes, except as hereinafter provided in this act.

Section 302. Existing Industrial Waste Discharges.—All persons who, at the time of the passage of this act, are discharging industrial waste into any of the waters of the Commonwealth, shall discontinue the discharge of such industrial waste into said waters or into any municipal sewer system on notice from the board, when, after due investigation, the board shall declare the discharge* of such industrial waste is or may become inimical or injurious to the public health or to animal or aquatic life, or prevent the use of waters for domestic, industrial or recreational purposes: Provided, That any discharge that is inimical and injurious to the public health or to animal or aquatic life, or to the use of the water for domestic or industrial consumption or recreational purposes, shall nevertheless be deemed unlawful and a nuisance whether the board shall so declare or not.

Section 303. Information as to Kind and Character of Discharge.—Every person who, on the effective date of this act, shall be discharging or permitting to be discharged or has an establishment temporarily closed which, in the future, may discharge or permit to be discharged, any industrial waste into the waters of the Commonwealth, shall file with the board within ninety days after the effective date of this act, on forms prepared and supplied by the board, such information, under oath, as the board may require with regard to such industrial waste, including the kind, characteristics, and rate of flow thereof, and concerning the treatment works, if any, either in operation or in contemplation. It shall be the duty of such persons to apply to the board for the forms necessary to comply with this provision. The falsity of any of the information thus supplied is hereby declared to be perjury and punishable as such.

Section 304. Water Surveys.—The board shall have power to make a complete survey of the waters of the Commonwealth in order to ascertain the extent of pollution in each of said waters, and the remedies to be employed to purify said waters. It shall have power to adopt, prescribe, and enforce such rules and regulations, not inconsistent with this act, as may be deemed necessary for the protection of the purity of the waters of the Commonwealth, or parts thereof, and to purify those now polluted, and to assure the proper and practical operation and maintenance of treatment works approved by it. A violation of which rules and regulations, after notice, shall also constitute a nuisance under this act.

Section 305. Investigations and Research.—In addition to any powers now possessed, the board shall investi-

*"discharge" in the original.

gate and ascertain, as far as practicable, all facts in relation to the pollution of the waters of the Commonwealth by industrial waste. Its agents may enter upon lands, buildings, and premises as may be necessary for its investigations. It shall conduct scientific experiments and researches under its personal supervision or in colleges and universities for the purpose of ascertaining reasonable and practical means for the treatment of industrial waste, so that when the same has been treated the effluent thereof, when discharged into the waters of the Commonwealth, shall not be injurious to the public health or to animal or aquatic life, or prevent the use of the water for domestic, industrial or recreational purposes.

Section 306. Protection of Clean Waters.—After the effective date of this act, no municipality or person shall ever discharge, drain or permit to be washed into the clean waters of this State any sewage or industrial waste. "Clean waters" are hereby defined to mean waters which are, at the effective date of this act, unpolluted and free from any discharge or drainage of industrial waste and from any authorized discharge or drainage of sewage, but the Sanitary Water Board may permit discharge into such waters of sewage or industrial waste that has been completely treated.

Section 307. Regulation of Establishments Erected or Opened or Reopened in the Future.—No person shall hereafter erect, construct or open, or reopen or operate, any establishment which, in its operation, results in the discharge of industrial wastes which would flow or be discharged into any of the waters of the Commonwealth and thereby cause a pollution of the same, unless such person shall first provide proper and adequate treatment works for the treatment of such industrial wastes, approved by the board, so that if and when flowing or discharged into the waters of the Commonwealth the effluent thereof shall not be inimical or injurious to the public health or to animal or aquatic life, or prevent the use of water for domestic, industrial or recreational purposes, except when, in the opinion of the board, such industrial waste is not inimical or injurious to the public health or to animal or aquatic life, or to the use of the water for domestic, industrial or recreational purposes, and shall grant a permit for the discharge of such industrial waste into the waters of the Commonwealth. But no permit shall ever be issued by the board authorizing the discharge of untreated industrial waste into the clean waters of the State as above defined. Public notice of every application for a permit under this section shall be given by notice published in a newspaper of general circulation, published in the county where the permit is applied for, once a week for four weeks. But any such

permit shall be revocable or subject to modification and change by the board at any time thereafter upon reasonable notice, served personally or by registered mail addressed to the last known post-office address of the holder of the permit, and the owner or operator of such establishment may be required to install treatment works, approved by the board, for the treatment of such industrial waste, or for the deposition of solids in such industrial waste in the manner and to the extent as the board may require. The discharge of industrial waste into any of the waters of the Commonwealth from any such establishment contrary to the provisions of this section, or without a permit, or after the time fixed in the notice of the board when a permit is revoked, or in violation of any modification thereof, is hereby declared to be a nuisance and to be punishable and abatable as herein provided. The provisions of this section shall not apply to establishments existing at the date of the approval of this act which may hereafter be temporarily closed for a period not exceeding six months.

Section 308. Approval of Plans, Designs, and Relevant Data by the Sanitary Water Board.—All plans, designs, and relevant data for the erection and construction of treatment works by any person for the treatment of industrial wastes shall be submitted to the board for its approval before the works are constructed or erected. Any such construction or erection which has not been approved by the board by written permit, or any treatment works not maintained or operated in accordance with the rules and regulations of the board, is hereby declared a nuisance and to be punishable and abatable as herein provided.

Section 309. Penalties.—Any person who shall discharge any industrial wastes into the waters of the Commonwealth after the board shall have given notice to discontinue the same as provided in section three hundred two, shall, upon conviction thereof in a summary proceeding, be sentenced to pay a fine of not less than one hundred dollars nor more than five hundred dollars, and a further fine of ten dollars per day for each day the offense is continued, and, in default of the payment of such fine and costs, the person, or if such person be an association or copartnership, then the members thereof, or if such person be a corporation, then the officers thereof, may be imprisoned in the county jail for a period not exceeding sixty days.

Any person who shall continue to discharge any industrial waste into any of the waters of the Commonwealth contrary to the provisions of this act after conviction in a summary proceeding as above provided, shall be guilty of a misdemeanor, and, upon conviction thereof in the court of quarter sessions, shall be sentenced to

pay a fine of not less than five hundred dollars nor more than one thousand dollars, and the person, or if such person be an association or copartnership, then the members thereof, or if such person be a corporation, then the officers thereof, may be imprisoned in the county jail for a period of not more than one year.

Section 310. Acid Mine Drainage and Silt.—The provisions of this article shall not apply to acid mine drainage and silt from coal mines until such time as, in the opinion of the Sanitary Water Board, practical means for the removal of the polluting properties of such drainage shall become known.

ARTICLE IV

PETTY POLLUTION

Section 401. Petty Pollutions Prohibited.—It shall be unlawful for any person to put or place into any of the waters of the Commonwealth any explosive, or to put or to allow any substance of any kind or character injurious or inimical to the public health or to animal or aquatic life, or to the uses of water for industrial purposes or for recreation, to be turned into or to run or flow or wash or to be emptied into any of the waters of the Commonwealth.

Any person violating the provisions of this section shall, upon conviction thereof in a summary proceeding, be sentenced to pay a fine of not less than one hundred dollars nor more than five hundred dollars, and, in default of the payment of such fine and costs of prosecution, the person, or if such person be an association or copartnership, then the members thereof, or if such person be a corporation, then the officers thereof, shall be imprisoned in the county jail for a period of sixty days.

Any person who shall continue to violate the provisions of this section, after conviction in a summary proceeding as above provided, shall be guilty of a misdemeanor, and, upon conviction thereof in the court of quarter sessions, shall be sentenced to pay a fine of not less than five hundred dollars nor more than one thousand dollars, and such person, or if such person be an association or copartnership, then the members thereof, or if such person be a corporation, then the officers thereof, shall be imprisoned in the county jail for a period of not less than three months nor more than one year. Each day during which this section is violated shall constitute a separate offense.

Nothing contained in this section shall be construed to apply to any sewage or industrial waste the discharge of which is regulated or prohibited by the preceding sections of this act, but this section shall apply to explosives, and to all other substances injurious or inimical

to the public health or animal or aquatic life, or to the use of the water for domestic, industrial or recreational purposes, and to any sewage or industrial waste the discharge of which is not regulated or prohibited by the preceding sections of this act. This section shall not be construed to prohibit the use of explosives for engineering purposes when a written permit has been given therefor by proper National, State or municipal authorities.

Section 402. Abatement of Petty Pollutions.—The violation of any of the provisions of the preceding section of this act is hereby declared to constitute a nuisance and to be abatable as herein provided.

Section 403. Powers of Board.—The board shall have power to adopt and promulgate reasonable rules and regulations for the purpose of preventing petty pollutions, and to provide for and regulate the installation and maintenance of septic tanks or other methods of treatment whenever deemed necessary by the board.

ARTICLE V

DOMESTIC WATER SUPPLIES

Section 501. Protection of Domestic Water Supplies.—In addition to the powers and authority hereinbefore granted, power and authority is hereby conferred upon the board, after due notice and public hearing, to make, adopt, promulgate, and enforce reasonable orders and regulations for the protection of any source of water, approved by the Commissioner of Health or the Department of Health, for present or future supply to the public, and prohibiting the pollution of any such source of water, so approved, rendering the same inimical or injurious to the public health or objectionable for public water supply purposes.

Section 502. Penalty.—Any person violating any of said orders and regulations of the board, or refusing or omitting to comply with any direction or stipulation of the Secretary of Health made in accordance with said orders and regulations after thirty days' notice thereof, shall, upon conviction in a summary proceeding, be sentenced to pay a fine of not less than one hundred dollars nor more than five hundred dollars, and, in default of the payment of such fine and costs of prosecution, the person, or if such person be an association or copartnership, then the members thereof, or if such person be a corporation, then the officers thereof, shall be imprisoned in the county jail for a period of sixty days.

Any person who shall continue to violate the orders and regulations of the board, or refuse or omit to comply with any direction or stipulation of the Secretary of Health, after conviction in a summary proceeding as above provided, shall be guilty of a misdemeanor, and,

upon conviction thereof in the court of quarter sessions, shall be sentenced to pay a fine of not less than five hundred dollars nor more than one thousand dollars, and the person, or if such person be an association or co-partnership, then the members thereof, or if such person be a corporation, then the officers thereof, shall be imprisoned in the county jail for a period of not less than three months nor more than one year.

Section 503. Public Nuisances.—A violation of the orders and regulations adopted by the board, pursuant to section five hundred and one of this act, shall constitute a nuisance, and whenever such a pollution shall be maintained or continued contrary to such orders and regulations, the same may be abatable in the manner provided by this act.

ARTICLE VI

PROCEDURE

Section 601. Abatement of Pollutions.—All pollutions hereinbefore declared to be nuisances or maintained contrary to the provisions of this act, shall be abatable in the manner now provided by law or equity for the abatement of public nuisances. In addition, suits to abate pollution of any of the waters of the Commonwealth may be instituted in equity or at law in the name of the Commonwealth upon relation of the Attorney General, or upon relation of any district attorney of any county, or upon relation of the solicitor of any municipality affected, after notice has first been served upon the Attorney General of the intention of the district attorney or solicitor to so proceed. Such proceedings may be prosecuted in the court of common pleas of Dauphin County, or in the court of common pleas of the county where the nuisance has been or is being committed, or of any county through which or along the borders of which flows the water into which such pollution has been discharged at any point above, and to that end jurisdiction is hereby conferred in law and equity upon such courts: Provided, however, That no action shall be brought by such district attorney or solicitor against any municipality discharging sewage under a permit of the board heretofore issued or hereafter issued under this act: And provided further, That, except in cases of emergency where, in the opinion of the court, the exigencies of the cases require immediate abatement of said nuisances, the court may, in its decree, fix a reasonable time during which the person or municipality responsible for the nuisances may make provision for the abatement of the same.

Section 602. Preliminary Injunctions.—In cases where the circumstances require it or the public health is endangered, a mandatory preliminary injunction or

special injunction may be issued upon the terms prescribed by the court, notice of the application therefor having been given to the defendant in accordance with the rules of equity practice, and in any such case the Attorney General, the district attorney or the solicitor of any municipality shall not be required to give bond.

Section 603. Summary Proceedings.—All summary proceedings under the provisions of this act may be brought before any magistrate, alderman or justice of the peace of the county where the offense occurred or the unlawful discharge of sewage, industrial waste or pollution was maintained, or in the county where the public is affected, and to that end jurisdiction is hereby conferred upon said magistrates, aldermen or justices of the peace, subject to appeal by either party in the manner provided by law. In the case of any appeal from any such conviction in the manner provided by law for appeals from summary conviction, it shall be the duty of the district attorney of the county to represent the interests of the Commonwealth.

Section 604. Complaints; Investigations.—Upon complaint made in writing by any responsible person to the board, it shall be the duty of the board through its agents to investigate any alleged source of pollution of the waters of the Commonwealth, and to institute appropriate proceedings under the provisions of this act to discontinue any such pollution if the offense complained of constitutes a violation of the provisions of this act.

Section 605. Appeals.—Any order, decision, rule or regulation made by the board shall be subject to appeal to the court of common pleas of Dauphin County, within thirty days from its entry, by any person or municipality, but in such appeal, the decision, rule or regulation of the board shall be prima facie evidence of the correctness thereof, and the burden to establish the incorrectness thereof shall be upon the appellant. Said court may affirm or modify any such order, decision, rule or regulation if it be established by the appellant that the discharge of sewage or industrial waste, or the erection, maintenance or operation of any treatment works, is not nor likely to become inimical or injurious to the public health or to animal or aquatic life, or to the use of the water for domestic, industrial or recreational purposes, and if the court so finds, it may set aside such order, decision, rule or regulation of the board. Any order (other than an order to discontinue the discharge of industrial waste), decision, rule or regulation appealed from shall not be superseded by the appeal, but shall be in force until the order of the court is made, as above provided. The setting aside of any order or decision of the board by the court upon

any such appeal shall not prevent or preclude said board from again instituting subsequent proceedings against the same person or municipality when, in its opinion, the public health is endangered, or animal or aquatic life destroyed, or water rendered unfit for domestic, industrial or recreational purposes, subject to appeal as above provided.

Section 606. Proceedings Where Waters Polluted from Many Sources.—Nothing contained in the laws of the Commonwealth shall estop the board from proceeding under the provisions of this act against any particular municipality or person discharging sewage or industrial waste or other noxious or deleterious substance into the waters of the Commonwealth even though said waters are, at the time, polluted from other sources.

Section 607. Public Records; Evidence.—All papers, records, and documents of the board, and applications for permits pending before the board, shall be public records open to inspection during business hours, and copies of all such public records and the rules and regulations of the board, certified by the Secretary of Health, shall be received in evidence in all courts and elsewhere.

Section 608. Existing Rules, Regulations, and Orders.—All rules and regulations heretofore adopted by the board and all orders made and actions taken by the board or the Secretary of Health under the provisions of law repealed by this act, shall continue in force with the same effect as if such laws had not been repealed, subject, however, to modification, change or annulment, as may be deemed necessary by the board, in order to comply with the provisions of this act.

Section 609. Application and Permit Fees.—The board is hereby authorized to fix and collect from persons and municipalities a reasonable filing fee for applications filed and for permits issued.

ARTICLE VII

SCOPE AND PURPOSE

Section 701. Existing Rights and Remedies Preserved.—The collection of any penalty under the provisions of this act shall not be construed as estopping the Commonwealth, or any district attorney or solicitor of a municipality, from proceeding in courts of law or equity to abate pollutions forbidden under this act, or abate nuisances under existing law. It is hereby declared to be the purpose of this act to provide additional and cumulative remedies to abate the pollution of the waters of this Commonwealth, and nothing in this act contained shall in any way abridge or alter rights of action or remedies now or hereafter existing in equity, or under the common law or statutory law, criminal or civil, nor shall any provision in this act, or the granting

of any permit under this act, or any act done by virtue of this act, be construed as estopping the Commonwealth, persons or municipalities, in the exercise of their rights under the common law or decisional law or in equity, from proceeding in courts of law or equity to suppress nuisances, or to abate any pollution now or hereafter existing, or enforce common* law or statutory rights.

ARTICLE VIII

REPEALER

Section 801. Repeal.—The following acts and parts of acts of Assembly are hereby repealed:

Sections four, five, six, seven, eight, nine, ten, and eleven of an act, approved the twenty-second day of April, one thousand nine hundred and five (Pamphlet Laws, two hundred sixty), entitled “An act to preserve the purity of the waters of the State for the protection of the public health.”

The act approved the fourteenth day of June, one thousand nine hundred and twenty-three (Pamphlet Laws, seven hundred ninety-three), entitled “An act to preserve the purity of the sources of public water supplies hereafter approved; authorizing the Advisory Board of the Department of Health to make orders and regulations therefor, and the Commissioner of Health to enforce the same; providing penalties for violation thereof, and for abatement of nuisances by injunction.”

All other acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

* “comon” in the original.

APPROVED—The 22d day of June, A. D. 1937.

GEORGE H. EARLE

No. 395

AN ACT

To amend the act, approved the ninth day of April, one thousand nine hundred twenty-nine (Pamphlet Laws, one hundred seventy-seven), entitled “An act providing for and reorganizing the conduct of the executive and administrative work of the Commonwealth by the Executive Department thereof and the administrative departments, boards, commissions, and officers thereof, including the boards of trustees of State Normal Schools, or Teachers Colleges; abolishing, creating, reorganizing or authorizing the reorganization of certain administrative departments, boards, and commissions; defining the powers and duties of the Governor and other executive and administrative officers, and of the several administrative departments, boards, commissions, and officers; fixing the salaries of the Governor, Lieutenant Governor, and certain other executive and administrative officers; providing for the appointment of certain administrative officers, and of all deputies and other