

MAINE STATE LEGISLATURE

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NINETY - EIGHTH LEGISLATURE

Legislative Document

No. 1023

H. P. 719 House of Representatives, February 27, 1957.
Referred to Committee on Natural Resources. Sent up for concurrence and
1500 copies ordered printed.

HARVEY R. PEASE, Clerk.

Presented by Mr. Brewer of Caribou.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FIFTY-SEVEN

AN ACT Providing for Clean Waters in Maine.

Be it enacted by the People of the State of Maine, as follows :

Sec. 1. R. S., c. 78-A, additional. The Revised Statutes are hereby amended by adding thereto a new chapter to be numbered 78-A to read as follows :

Chapter 78-A.

Water Improvement Commission.

Sec. 1. Water improvement commission; organization. The Water Improvement Commission, as heretofore established and hereinafter in this chapter called the "Commission," shall consist of the Commissioner of Health and Welfare who shall serve during his term of office and 8 members appointed by the Governor with the advice and consent of the Council, 2 of whom shall represent manufacturing interests of the State, 2 of whom shall be representatives of municipalities, 2 of whom shall represent the public generally and 2 of whom shall represent conservation interests. The members appointed by the Governor shall be appointed for a term of 3 years and until their successors are appointed and duly qualified.

The members appointed by the Governor shall receive \$10 per day for their services at meetings or hearings and all members shall receive necessary traveling expenses for attending any meetings of the Commission or for any other travel in connection with the official business of the Commission and under the specific authority of the Commission, which traveling expenses shall be paid out of the general fund.

Meetings of the Commission shall be held at such time and place as shall be determined by the Commission but not less than 2 meetings per year shall be held. The Commission shall organize in October of each year by electing one of its members as chairman but in his absence any other member of the Commission shall be elected to act as chairman. The Commission shall also at the same time elect a secretary who need not be chosen from among the members of the Commission. Six members of the Commission shall constitute a quorum.

The Commission may employ, subject to the provisions of the personnel law, and prescribe the powers and duties of such employees and consultants as may be necessary to carry out the provisions of this chapter. Technical services shall be performed in so far as practicable by personnel of the Department of Health and Welfare and by other state departments, agencies and offices.

It shall be the duty of the Commission to study, investigate and from time to time recommend to the persons responsible for the conditions, ways and means, so far as practicable and consistent with the public interest, of controlling the pollution of the rivers, waters and coastal flats of the State by the deposit therein or thereon of municipal sewage, industrial waste and other substances and materials in so far as the same are detrimental to the public health or to animal, fish or aquatic life, or to the practicable and beneficial use of said rivers, waters and coastal flats.

General Provisions and Public Policy.

Sec. 2. Definitions. The following words or phrases, unless the context clearly indicates otherwise, shall have the following meanings:

“Commission” shall be construed to mean the Water Improvement Commission or its duly constituted successor.

“Establishment” shall be construed to include any industrial establishment, mill, factory, tannery, paper and pulp mill, garage, oil refinery, oil well, boat, vessel, mine, quarry, and each and every 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 manufacturing or from any industry, or establishment.

“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, town, township, school or other 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 State 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 purpose, or for recreation. The Water Improvement Commission shall establish standards whereby it can be reasonably ascertained whether any discharge does or does not constitute pollution as herein defined.

“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 State” shall be construed to include any and all rivers, coastal waters, streams, creeks, rivulets, lakes, damned water, ponds, springs, and all other bodies of surface and underground water, or parts thereof, whether natural or artificial, within or in the boundaries of this State.

Sec. 3. Discharge of sewage and industrial wastes not a natural use. The discharge of sewage or industrial or any noxious and deleterious substances into the waters of this State, 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.

Sewage Pollution.

Sec. 4. Prohibitions 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 State any sewage, except as hereinafter provided in this chapter.

Sec. 5. Extent of applicability of chapter to existing sewage discharges. Any municipality discharging sewage from any sewer system owned or maintained by the municipality, and any person discharging sewage into or in such manner as to cause pollution of the waters of this State whether by virtue of a permit of the State or a political subdivision thereof shall discontinue the discharge of sewage into or in such manner as to cause pollution of the waters of this State upon the order of the Commission, issued pursuant to the provisions of this chapter, at such time as the Commission 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 or license heretofore granted by legislative or other authority to such municipality or person for the discharge of sewage into the waters of the State shall be deemed to be revoked and annulled.

Sec. 6. 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 or certified 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.

In the case of a person, orders to discontinue existing discharge of sewage shall be by notice in writing, served personally on such person or by registered or certified mail addressed to the last known post-office address of the person discharging the sewage, and such notice shall specify a reasonable time, to be fixed by the Commission 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 chapter.

Sec. 7. Penalty. Any person who shall continue to discharge sewage or permit the same to flow into the waters of the State, contrary to the preceding provisions of this chapter, or after the expiration of the time fixed in any notice from the Commission to discontinue an existing discharge of sewage into the waters of the State, shall, upon conviction thereof be punished by a fine of not less than \$100 and not more than \$1,000 for each offense, and a further fine of \$1,000 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 the provisions of this chapter, shall be punished by imprisonment for one day for each dollar of fine and costs unpaid. Said imprisonment, however, shall be less than one year.

Sec. 8. Reports of existing municipal sewage. It shall be the duty of the corporate authorities, having, by law, charge of the sewer system of each municipality in the State from which sewage is being discharged into any of the waters of the State, to file with the Commission, from time to time, upon the written demand of said Commission, a report of such sewer system, which shall comprise such plans, facts and information as the Commission may require. Such report shall be filed within a time specified by the Commission in its written demand. No municipal sewer system shall be exempt from the provisions of this chapter prohibiting the discharge of sewage into the waters of the State for which a satisfactory report shall not have been filed with the Commission 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.

Sec. 9. Applications for permits for the discharge of sewage. Upon application duly made to the Commission by the corporate authorities having by law the charge of the sewer system of any municipality, or by any person, the Commission shall consider the case of any sewer system, of the extension of any existing sewer system otherwise prohibited by this chapter from discharging sewage into any of the waters of the State, 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 State may be permitted. Such permit before being operative shall be recorded in the office of the registry 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 Commission 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 State, or by any decree, order, sentence or judgment of any court, or by the ordinance of any municipality, or by the rules and regulations of any water company supplying water to the public, or by laws relative to navigation.

Sec. 10. Approval of plans, designs, and relevant data by the Water Improvement Commission. All plans, designs, and relevant data for the construction of any new sewer system, or for the extension of any existing sewer system, by person or 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 Commission for its approval before the same are constructed or erected or acquired. Any such construction or erection or acquisition which has not been approved by the Commission by written permit, or any treatment works not operated or maintained in accordance with the rules and regulations of the Commission, is hereby also declared to be a nuisance and abatable as herein provided.

Sec. 11. 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 sewer under the provisions of sections 9 and 10 shall be revocable or subject to modification and change by the Commission 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.

Sec. 12. 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 Commission, the discharge of sewage into any waters of the State or treated sewage from treatment works shall cease and terminate, and the prohibition of the provisions of this chapter 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.

Sec. 13. Municipal financing of pollution abatement. Any municipality upon whom an order of the Commission 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 sewage system or sewage treatment works, or both, or for the repair, alteration, extension or completion of an existing sewage system or sewage treatment works, or both, as may be necessary for the treatment of its sewage, in compliance with

the order of the Commission. The cost of the acquisition, construction, repair, alteration, completion or extension of the sewage 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 fund 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. 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 State, then, and in that event, the necessary bonds may be issued as a direct obligation of such bonds, if the electors of the municipality shall vote in favor of the increase in indebtedness. 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 by the Commission 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 which the municipality is hereby empowered to impose by ordinance, by which the users of sewers or sewer systems of said municipality shall be assessed a charge for the use of said sewers or sewer systems in such an amount as bears a reasonable relation to the cost to the municipality of the services rendered to said users. Each municipality may by ordinance define the person or persons, firm, corporation, partnership, individual, assignee, trustee or other person upon whom such charge shall be assessed, and may adopt such other ordinances, rules or regulations as may be necessary to properly effect the assessment aforesaid, and may impose a penalty or penalties for any violation of such ordinance, rule or regulation. This chapter is not to be construed as revoking or amending any provisions of law for sewer assessment now lawfully used by any municipality, municipal authority, or district, or agency thereof, but it is to be construed as authorizing a charge for the use of said sewers or sewer systems for disposal purposes in pursuance of the objectives and purposes of this chapter, and in addition to all other sewer assessments now lawfully imposed by such municipality, municipal authority, or district, or agency thereof, under the provisions of any general, public or special law, charter, act or resolve, and any ordinance now in effect. This chapter shall not impair any existing or future agreement between municipalities, with reference to sewage disposal. 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 Commission. If the municipality refuses or does not within a reasonable time take such action as requested by the Commission, the Attorney General, at the instance of the Commission may enforce this provision of this chapter by action of mandamus.

Sec. 14. Revenue bonds. For the purpose of financing the cost and expense, or its share of cost and expense, of constructing or acquiring or extending any

sewer system or sewage treatment works either singly or jointly with other municipalities, which joint participation is hereby authorized, 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 annual rentals or charges for the use of the sewer, sewer system or sewage treatment works.

Sec. 15. 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 3 weeks, in at least one newspaper of general circulation, published in the municipality or the county in which the municipality is situated. 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 30 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 6% per annum.

Sec. 16. Other methods of financing preserved. Anything in this chapter 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 Commission without regard to the restrictions, limitations or provisions of this chapter 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 chapter 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.

Industrial Wastes.

Sec. 17. 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 State any industrial wastes, except as hereinafter provided in this chapter.

Sec. 18. Existing industrial waste discharge. All persons who, at the time of the effective date of this act, are discharging industrial waste into any of the waters of the State, shall discontinue the discharge of such industrial waste into said waters or into any municipal sewer system on notice from the Commission, when after due investigation, the Commission 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 Commission shall so declare or

not, any permit or license heretofore granted by legislative or other authority to the contrary notwithstanding.

Sec. 19. 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 State, shall file with the Commission within 90 days after the effective date of this act, on forms prepared and supplied by the Commission, such information, under oath as the Commission 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 Commission 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 punished as such.

Sec. 20. Water surveys. The Commission shall have the power to make a complete survey of the waters of the State 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 chapter, as may be deemed necessary for the protection of the purity of the waters of the State, 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 the said rules and regulations, after notice, shall also constitute a nuisance under this chapter.

Sec. 21. Investigations and research. In addition to any powers now possessed the Commission shall investigate and ascertain, as far as practicable, all facts in relation to the pollution of the waters of the State 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 State, shall not be injurious to the public health or to animal or aquatic life, or prevent the use of the waters for domestic, industrial or recreational purposes.

Sec. 22. 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 of drainage of industrial waste and from any authorized discharge of sewage, but the Water Improvement Commission may permit discharge into such waters of sewage or industrial waste that has been completely treated.

Sec. 23. 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 State 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 Commission, so if and when flowing or discharged into the waters of the State the effluent thereof shall not be inimical or injurious to the public health or to animal or to aquatic life, or prevent the use of water for domestic, industrial or recreational purposes, except when, in the opinion of the Commission, 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 untreated industrial waste into the waters of the State. But no permit shall ever be issued by the Commission 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 4 weeks. But any such permit shall be revocable or subject to modification and change by the Commission 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 Commission, for the treatment of such industrial waste, or for the disposition of solids in such industrial waste in the manner and to the extent as the Commission may require. The discharge of industrial waste into any of the waters of the State 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 Commission when a permit is revoked, or in violation of any modification thereof, is hereby declared to be a nuisance and to be punished and abated as herein provided. The provisions of this section shall not apply to establishments existing at the effective date of this act which may hereafter be temporarily closed for a period not exceeding 6 months.

Sec. 24. Approval of plans, designs and relevant data by the Water Improvement Commission. 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 Commission for its approval before the works are constructed or erected. Any such construction or erection which has not been approved by the Commission by written permit, or any treatment works not maintained or operated in accordance with the rules and regulations of the Commission, is hereby declared a nuisance and to be punished and abated as herein provided.

Sec. 25. Penalties. Any person who shall discharge any industrial wastes into the waters of the State after the Commission shall have given notice to discontinue the same as provided in section 18, shall, upon conviction thereof be punished by a fine of not less than \$100 nor more than \$1,000, and a further fine of \$1,000 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 shall be punished by imprisonment for not more than 60 days.

Any person who shall continue to discharge any industrial waste into any of the waters of the State contrary to the provisions of this chapter after conviction thereof shall be punished by a fine of not less than \$100 nor more than

\$5,000, 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, agents, servants and employees thereof, who are in any way responsible for such discharge, shall be punished by imprisonment for not more than 11 months.

Petty Pollution.

Sec. 26. Petty pollution prohibited. It shall be unlawful for any person to put or place into any of the waters of the State any explosives, 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 use 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 State.

Any person violating the provisions of this section shall upon conviction thereof be punished by a fine of not less than \$100 nor more than \$5,000 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 punished by imprisonment for not more than 60 days.

Sec. 27. Powers of Commission. The Commission shall have power to adopt and promulgate reasonable rules and regulations for the purpose of preventing petty pollution, and to provide for and regulate the installation and maintenance of septic tanks or other methods of treatment whenever deemed necessary by the Commission.

Domestic Water Supplies.

Sec. 28. Protection of domestic water supplies. In addition to the powers and authority hereinbefore granted, power and authority is hereby conferred upon the Commission 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 and Welfare, 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.

Sec. 29. Penalty. Any person violating any of said orders and regulations of the Commission, or refusing or omitting to comply with any direction or stipulation of the Commissioner of Health and Welfare made in accordance with said orders and regulations after 30 days notice thereof shall, upon conviction be punished by a fine not less than \$100 nor more than \$500, 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 punished by imprisonment for not more than 60 days.

Any person who shall continue to violate the orders and regulations of the Commission, or refuse or omit to comply with any direction or stipulation of the Commissioner of Health and Welfare, after conviction shall be guilty of a misdemeanor, and upon conviction thereof in the said court shall be sentenced to pay a fine of not less than \$500 nor more than \$1,000, 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, shall be punished by imprisonment for not less than 3 months nor more than 11 months.

Sec. 30. Public nuisance. A violation of the orders and regulations adopted by the Commission, pursuant to section 28, 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 chapter.

Abatement Procedure.

Sec. 31. Abatement of pollution. All pollution hereinbefore declared to be nuisance or maintained contrary to the provisions of this chapter, shall be abatable in the manner now provided by law or equity for the abatement of public nuisance. In addition, suits to abate pollution of any of the waters of the State may be instituted in equity or at law in the name of the State upon relation of the Attorney General, or upon relation of any county attorney of any county, or upon relation of the counsel of any municipality affected, after notice has first been served upon the Attorney General of the intention of the county attorney or counsel to so proceed. Such proceedings may be prosecuted in the Superior Court 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 upon such courts. Provided, however, that no action shall be brought by such county attorney or counsel against any municipality discharging sewage under a permit of the Commission heretofore issued or hereafter issued under this chapter. Except in cases of emergency where, in the opinion of the courts, the exigencies of the case require immediate abatement of said nuisance, the court may, in its decree fix a reasonable time during which the person or municipality responsible for the nuisance may make provision for the abatement of the same.

Sec. 32. Preliminary injunctions. In cases where the circumstances require it or the public health is endangered, a special injunction may be issued upon the terms prescribed by the court, notice of the application therefor having been given to the defendant where required by the rules of equity practices and in any such case the Attorney General, the county attorney or the counsel of any municipality shall not be required to give bond.

Sec. 33. Municipal court proceedings. All municipal court proceedings under the provisions of this chapter may be brought before any municipal court 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 municipal court, subject to appeal from such conviction in the manner provided by law for appeals from municipal court conviction; it shall be the duty of the county attorney of the county to represent the interests of the State in such appeals.

Sec. 34. Complaints; investigations. Upon complaint made in writing by any responsible person to the Commission, it shall be the duty of the Commission through its agents to investigate any alleged source of pollution of the

waters of the State, and to institute appropriate proceedings under the provisions of this chapter, to discontinue any such pollution if the offense complained of constitutes a violation of the provisions of this chapter.

Sec. 35. Appeals. Any order, decision, rule or regulation made by the Commission shall be subject to appeal to the Superior Court of Kennebec county within 30 days from its entry, by any person or municipality, but in such appeal, the decision, rule or regulation of the Commission 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 Commission. 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, rule or regulation of the Commission by the court upon any such appeal shall not prevent or preclude said Commission 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.

Sec. 36. Proceedings where waters polluted from many sources. Nothing contained in the laws of the State shall stop the State from proceeding under the provisions of this chapter against any particular municipality or person discharging sewage or industrial waste or other noxious or deleterious substance into the waters of the State even though said waters are, at the time polluted from other sources.

Sec. 37. Public records; evidence. All papers, records and documents of the Commission, and applications for permits pending before the Commission, shall be public records open to inspection during business hours and copies of all such public records and the rules and regulations of the Commission certified by its secretary shall be received in evidence in all courts and elsewhere.

Sec. 38. Existing rules, regulations and orders. All rules and regulations heretofore adopted by the Commission and all orders made and actions taken by the Commission or the Commissioner of Health and Welfare under the provisions of law repealed by this chapter, 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 Commission, in order to comply with the provisions of this chapter.

Sec. 39. Application and permit fees. The Commission is hereby authorized to fix and collect from persons and municipalities a reasonable filing fee for applications filed and for permits issued.

Municipal Court Procedure.

Sec. 40. Service; how to be made.

I. Service of respondents in cases under this chapter shall be accomplished by having an attested copy of the complaint and order thereon served by a police officer, sheriff or deputy sheriff, constable or member of the State Police, by leaving said copy at any business office of the respondent or by serving said copy in hand on an individual respondent, or on one of the members of an association, or on one of the partners of a partnership, or one of the officers of a corporation, or by leaving said copy at the last and usual place of abode of said individual respondent, partner, member or officer, as the case may be.

II. At the discretion of the court, the proceedings may be initiated by notice as in subsection I, or by warrant as follows. When the court requires the physical presence of an individual respondent, or one or more or all of the members of an association, or one or more or all of the partners of a partnership, or one or more or all of the officers of a corporation, the court may issue a warrant as in criminal cases ordering the arrest of said individual respondent, member or members of an association, partner or partners of a partnership, or officer or officers of a corporation. Said warrants may be issued naming one or more persons to be so arrested. In cases where service of a respondent is ordered by arrest by virtue of a warrant, it will not be necessary to serve also an attested copy of the complaint and order thereon as set forth in subsection I.

In the event that a case is before the court as the result of the service of an attested copy of the complaint and order thereon, on the individual respondent, member, partner or officer, the court may, while the case is pending, issue a warrant or warrants against an individual respondent, one or more or all of the members of an association, or one or more or all of the partners of a partnership, or one or more or all of the officers of a corporation. The failure to procure the arrest of one or some of the members of an association, or one or some of the partners of a partnership, or one or some of the officers of a corporation, shall not invalidate the arrest of any other member, partner or officer.

Scope and Purpose.

Sec. 41. Existing rights and remedies preserved. The collection of any penalty under the provisions of this chapter shall not be construed as estopping any State, or any county attorney or counsel of a municipality, from proceeding in courts of law or equity to abate pollution forbidden under this chapter, or abate nuisances under existing law. It is hereby declared to be the purpose of this chapter to provide additional and cumulative remedies to abate the pollution of the waters of this State and nothing in this chapter 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 chapter, or the granting of any permit under this chapter, or any act done by virtue of this chapter, be construed as estopping the State, 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

abate nuisances, or to abate any pollution now or hereafter existing or enforce common law or statutory rights for the abatement of nuisances.

It is the intent of the Legislature that this chapter provide a means for gradual, progressive abatement of the pollution problem and that the Water Improvement Commission exercise with moderation the authority and discretion invested in it to the end that no person, municipality or industry suffer grave or irreparable injury.'

Sec. 2. R. S., c. 79, repealed. Chapter 79 of the Revised Statutes, as amended, which relates to the Water Improvement Commission, is hereby repealed.