

the city on any such claim or account to the payment of such delinquent taxes, and the satisfaction of such taxes on the public records, in whole or in part. If any person shall, upon demand of the city controller, refuse to enter into any such agreement, the city controller shall have power to continue to further withhold his approval of the payment of such claim or account against the city, or any part thereof, and advise such person that the city has a set-off against his claim or account, or the part thereof not approved, for delinquent taxes, and that payment thereof will be refused until such delinquent taxes are paid or provision for their payment made.

Inconsistent
acts repealed.

Section 4. All acts and parts of acts inconsistent with this act are hereby repealed.

When effective.

Section 5. This act shall become effective immediately upon final enactment.

APPROVED—The 8th day of April, A. D. 1937.

GEORGE H. EARLE

No. 64

AN ACT

Providing for the appropriation of certain waters of the Commonwealth to the Commonwealth for the benefit of the people thereof; declaring void certain condemnations and appropriations of waters by municipalities, corporations, copartnerships or persons; providing for ascertainment of the validity and the filing of the records of certain condemnations and appropriations of water by municipalities, corporations, copartnerships or persons, and appeals therefrom; conferring jurisdiction on the court of common pleas of Dauphin County in relation thereto; providing for future condemnations and appropriations of waters by and allocation of waters to municipalities, corporations, copartnerships or persons, and for compensation for waters hereafter to be taken for public water supply purposes; and conferring powers and imposing duties upon the Water and Power Resources Board.

Preamble.

Whereas, An adequate supply of water is a matter of primary concern affecting the life, health and comfort of the people of this Commonwealth, and the supervision and equitable allocation thereof is an essential part of the police power of the Commonwealth which no Legislature could rightfully impair or barter away; and

Whereas, All of the flowing water of the Commonwealth by right belongs to the Commonwealth in trust for the benefit of all the people thereof, and all uses of such flowing water must be regarded as subject to this sovereign right; and

Whereas, The increase of the population of the Commonwealth makes it necessary that the available supply

of water be apportioned equitably and allocated for the best interests of all concerned.

Section 1. Be it enacted, &c., That all of the flowing water, other than private springs or private water supplies, of this Commonwealth now unappropriated by any municipality, corporation, copartnership or person, is hereby declared to be appropriated to the Commonwealth for the benefit of all of the people of this Commonwealth, subject only to such existing rights and uses as may now be lawful, and no municipality, corporation, copartnership or person, whether heretofore or hereafter created, or which may now possess the right to take, condemn, and appropriate by eminent domain the waters of this Commonwealth, shall hereafter take, condemn or appropriate any water, except as provided in this act.

Appropriating certain waters.

Section 2. Any condemnation or appropriation of waters heretofore made by any municipality, corporation, copartnership or person heretofore authorized to condemn water, which appropriation has not been followed by an actual taking, of the larger part of the low water flow thereof, heretofore or within a period of two (2) years after the effective date of this act, is hereby declared null and void and of no effect, except as to that part thereof actually taken. Where condemnation proceedings are pending in any of the courts of this Commonwealth at the date when this act becomes effective, the actual taking of the larger part of the low water flow of the water shall be within one year following the final determination of such proceeding, otherwise the condemnation shall be null and void and of no effect, except as to that part thereof actually taken.

All condemnations are void after 2 years from the effective date of this act, unless there has been an actual appropriation.

Section 3. No condemnation or appropriation of water heretofore made under the power of eminent domain claimed by any municipality, corporation, copartnership or person authorized to condemn and appropriate water, shall be valid or binding, unless, within twelve (12) months or such further time as the board may grant after the date of approval of this act, said municipality or corporation shall produce the record upon which such appropriation or condemnation is founded or prove to the satisfaction of the Water and Power Resources Board that such condemnation was lawfully made in accordance with law at the time said condemnation and appropriation was made, and shall thereafter file a transcript or certificate of the resolution or record upon which said condemnation or appropriation is claimed, duly acknowledged by the secretary and president of the municipality, corporation, copartnership or person, in the office of the Water and Power Resources Board. In cases where water has been acquired otherwise than by condemnation, the municipality, corpora-

No condemnation is valid unless the municipality, corporation, etc., shall produce the record of the condemnation.

tion, copartnership or person shall file with the board a statement setting forth the manner in which the water has been acquired, or on what its claim therefor is based. Any party aggrieved* by a decision of the Water and Power Resources Board may, within sixty (60) days, appeal therefrom to the court of common pleas of Dauphin County, and the taking of such appeal shall operate as a supersedeas.

Municipalities or corporations desiring to condemn water must make application to the Water and Power Resources Board.

Section 4. Hereafter no condemnation or appropriation of streams, or the waters thereof, for public water supply shall be made by any municipality or corporation possessing the power of eminent domain, except as follows:

Any such municipalities or corporations, desiring to condemn or appropriate new or additional water for public supply purposes for present and future needs, shall first make application to the Water and Power Resources Board for leave to acquire designated waters appropriated to the Commonwealth by this act setting forth—

1. The present source or sources from which water is now taken, listing the streams and the quantity of water appropriated therefrom, designating, as near as may be, the point or points from which water is taken or used, and the amounts of water stored.

2. The necessity for such new or additional source of supply, and the river, stream or other body of water from which it is proposed to be taken.

3. The location and the population needing the supply.

4. The amount of water which it is proposed to take.

5. The plans for development of the water resources of the streams to maintain the stream flow and to utilize flood runoff, including the capacities of any proposed impounding reservoirs.

6. The names and addresses of the lower riparian owners who may be affected by the proposed developments.

7. Such other provisions as the Water and Power Resources Board* shall deem necessary.

The board shall investigate and hold hearings.

Section 5. The Water and Power Resources Board* shall, upon such application, make such investigation as may be necessary, and grant such hearing as may be required.

Board may grant permits.

The Water and Power Resources Board is hereby given authority upon such application to grant leave to acquire such part of the waters appropriated to the Commonwealth by this act to any such municipality or corporation as said application and the investigation thereon may show to be reasonably necessary to the purpose of the application.

* "aggrieved" in the original. * "broad" in the original.

Section 6. All permits to acquire such waters of this Commonwealth appropriated by this act hereafter granted by the Water and Power Resources Board, under this or any other law of this Commonwealth, for public water supply purposes, shall be for such term or terms, and shall embody such conditions and stipulations as the board may deem necessary and proper to protect the present and future interests of the Commonwealth and its people in the use and distribution of its water resources.

Permits shall contain provisions protecting the public.

The board shall have the further power to revoke any such permit in case the source of water supply applied for is not developed in the manner set forth in the application or required by the permit of the board, or if the work is not begun or completed within the time fixed by the board.

Board shall have the power to revoke permits.

Section 7. The Water and Power Resources Board shall further have the power to impose by the permit a reasonable charge for the water so permitted to be condemned or acquired, pursuant to a grant or allocation of water for public water supply purposes made after the effective date of this act, at a rate not exceeding one dollar (\$1.00) per million gallons, and provide for the collection of the same, and to impose such terms and conditions as may be reasonably necessary, bearing in mind the character and navigability of the stream and the need of water for other purposes. All moneys collected from such charges shall be paid into the State Forests and Waters Fund by and through the Department of Revenue.

Board shall have the power to impose a reasonable charge.

Section 8. The provisions of this act are severable, and if any of the provisions shall be held unconstitutional, the decision of the court shall not affect or impair any of the remaining provisions of this act. It is hereby declared to be legislative intent that this act would have been adopted had such unconstitutional provisions not been included therein.

Constitutional provision.

Section 9. This act shall become effective immediately upon its final enactment.

When effective.

APPROVED—The 8th day of April, A. D. 1937.

GEORGE H. EARLE

No. 65

AN ACT

To amend section eight hundred seventy-four of the act, approved the second day of May, one thousand nine hundred and twenty-nine (Pamphlet Laws, one thousand two hundred seventy-eight), entitled "An act relating to counties of the second,