

ACTS AND RESOLVES
PASSED BY THE
GENERAL ASSEMBLY
OF THE
STATE OF VERMONT
AT THE
TWENTY-EIGHTH BIENNIAL SESSION
1925

SESSION COMMENCED JANUARY 7, 1925

ADJOURNED MARCH 20, 1925



PUBLISHED BY AUTHORITY

of the peace residing in such village, in the hands of the collector of taxes for the village. Such collector shall immediately collect such tax and pay the same into the hands of the treasurer, who shall pay such interest and principal with the proceeds of such tax.

SEC. 6. This act shall take effect from its passage.

Approved February 6, 1925.

No. 170.—AN ACT TO AUTHORIZE THE VILLAGE OF BRATTLEBORO TO OPERATE A WATER SYSTEM.

[H. 194]

It is hereby enacted by the General Assembly of the State of Vermont:

SECTION 1. The village of Brattleboro is hereby authorized and empowered to operate, maintain, enlarge, extend, add to, renew and repair the water system which said village purchased of the Brattleboro Water Works Company and to maintain and repair all extensions, additions and renewals to such system, for the purpose of supplying the village, the town of Brattleboro and the inhabitants thereof, with water for fire, domestic and mercantile purposes, and for such other purposes as the village through its board of commissioners may from time to time determine. The village may, from time to time, change its pipe lines in any street, common or highway and may for the purposes aforesaid dig up and open any street, common or highway and may occupy any public bridge, for the purpose of constructing and laying down aqueducts and pipe lines connected with said water system, and their necessary appurtenances, feeders, and extensions.

SEC. 2. The village may take and hold by gift, purchase or the right of eminent domain, within or without its corporate limits, real estate, ponds, springs, streams, water sources, water rights or easements in or over the land of individuals, associations or corporations, and divert water from natural channels into its water supply, on making compensation therefor; but the village shall not take, otherwise than by gift, purchase or devise, water or a spring of water which the owner or other person, having a vested right or interest therein, or in the use thereof, may reasonably require for domestic or agricultural purposes. If the owner of any real estate, pond, spring, stream, water source, water right, or easement in or over lands necessary for the enlargement and improvement of said system and land for the protection of the watershed of said system, refuses to convey the same to the village at a reasonable price, or refuses to convey to said village for a reasonable price the right to damage or affect his lands to such extent as may be needed in the acquirement, use or enjoyment of said water supply, the commissioners of said village may petition the selectmen of the town where said

real estate, pond, spring, stream, water source, water right, or easement is situated, setting forth that the taking of such real estate, pond, spring, stream, water source, water right, or easement in and over lands, is necessary for public use and benefit in connection with said water supply; whereupon said selectmen shall appoint a time and place of hearing and give at least ten days notice thereof in writing to all persons interested, either personally or by written notice left at the residence of the owner or occupant of such lands, and, on hearing, shall determine the necessity for such taking and shall ascertain the damages sustained by such interested persons, and the damages agreed upon or assessed by said selectmen, pursuant to said hearing, shall be paid or tendered to said persons before possession is taken by said village.

SEC. 3. Orders and proceedings of said selectmen, under the provisions of the preceding section, shall be recorded in the office of the clerk of the town in which the property, against which such orders are directed, is located.

SEC. 4. If the owner of such real estate, pond, spring, stream, water source, water right, or easement in or over lands does not accept the damage awarded by said selectmen, then said village commissioners may agree with such owner to refer the question of damages to one or more disinterested persons, whose award shall be made in writing and shall be final.

SEC. 5. If a person having an interest in such real estate, pond, spring, stream, water source, water right, or easement in or over lands or said village of Brattleboro is dissatisfied with the action of the selectmen, either as to the necessity for taking or as to the damages awarded therefor by them, such person or said village may apply by petition to the county court at its next stated term, if there is sufficient time for notice, and, if not, to the succeeding term; and any number of persons aggrieved may join in the petition. The petition, with a citation, shall be served on the commissioners of said village or such person at least twelve days before the session of court; and the court shall appoint three disinterested commissioners who shall inquire into the necessity for the taking of the real estate, ponds, spring, streams, water sources, water rights, or easements in or over lands, and as to the amount of damages sustained by the persons interested therein.

SEC. 6. Sections 4165, 4166 and 4167 of the general laws shall apply and control as to further proceedings in the premises.

SEC. 7. Said village is further authorized to purchase of the Brattleboro Water Works all accounts, rates or rents due to said water works company for water service or other services previous to the taking over of said system by said village and may collect the same in the same manner as provided hereinafter for the collection of other rates or rents.

SEC. 8. The village at any legal meeting called in part or

whole for that purpose may enact and adopt by-laws and regulations concerning the management and use of its water system, including fixing of rates, tolls and charges for the same, the collection of such rates, tolls and charges and the exaction of bonds from the collector of said rates for the faithful discharge of his duty as it may deem expedient. Such rates, tolls or charges shall be chargeable to, and may be collected of, the owners of the property supplied with the same, unless otherwise agreed upon by the proper officers of said village with such owners, and all such rents, tolls and charges shall be a lien and charge upon the buildings, lots and other property so supplied, and may be collected in the same manner as any tax assessed by said village. Said village may make all necessary provisions and orders relating to the stoppage of water as it may deem expedient to insure the payment of such rents. The collector of such rates or rents shall have the same power in the collection of said rates or rents as the collector of said village has in the collection of taxes. Said village may also collect said rates or rents as provided by sections 917, 918, 919 and 920 of the general laws for the collection of taxes. Said rates or rents lawfully charged upon any real estate shall be a lien thereon, underlying all mortgages, attachments, liens or other incumbrances and underlying all estates for a term of a natural life or lives, for a term of years or for any other duration. Such liens shall remain in full force and effect until all rates or rents laid or assessed on such real estate have been fully paid, or otherwise discharged, and it may be enforced by an appropriate proceeding at law or in equity.

SEC. 9. If any person wilfully or maliciously diverts the water, or any part thereof, of any of the ponds, springs, streams, aqueducts, water courses or reservoirs which said village shall acquire, use or construct, or shall corrupt the same or make it impure, or commit any nuisance therein, or shall maliciously injure or destroy any dam, embankment, aqueduct, pipe, reservoir, conduit or hydrant, held, owned, or used by said village under the provisions of this act, such person shall be liable to such village in treble damages therefor, to be recovered in an action of tort founded on this statute, and any such person on conviction of either of the acts aforesaid shall be fined not more than one hundred dollars or be imprisoned not more than six months, or both.

SEC. 10. A person who taps pipes leading from the water system of said village with intent to take water therefrom, for service of any kind, for which he is not being already charged by said village or without permission from said village to make such connection, or who connects with said water system so that water may be used without passing through the meters used by said village for measurement, or who knowingly takes water without the knowledge and consent of said village shall be imprisoned not more than one year or fined not more than three hundred dollars,

or both; and such person shall also be liable to said village in treble damages therefor, to be recovered in an action of tort founded on this statute.

SEC. 11. The receipts for the use of water and all other receipts from the water system shall be kept by said village in a separate fund, known as the "water account," which shall first be applied in the payment of expenses in the repairs, care and management of such system; next in the payment of the interest on the bonded indebtedness for such system and retirement of bonds; next for reasonable extensions thereof each year, and the balance shall be invested by the treasurer and the officials of said village having charge of said water system, and set apart as a fund to be applied by said officials in meeting any contingencies that may arise in the development and maintenance of said system.

SEC. 12. The village shall pay from its general fund to the water department of said village the same rates for hydrant service as it has paid the Brattleboro Water Works Company, until such time as the bonded indebtedness for the purchase and improvements to said system are wholly liquidated.

SEC. 13. This act shall take effect from its passage.

Approved March 18, 1925.

No. 171.—AN ACT TO AMEND SECTION 4 OF NO. 308 OF THE ACTS OF 1912 RELATING TO THE CHARTER OF THE VILLAGE OF BRATTLEBORO.

[H. 195]

It is hereby enacted by the General Assembly of the State of Vermont:

SECTION 1. Section 4 of No. 308 of the Acts of 1912 is hereby amended by adding thereto a new subdivision to read as follows:

(t) The commissioners of said village shall have power to make, establish, alter, amend, or repeal ordinances, regulations and by-laws not inconsistent with the constitution or laws of the United States, or of this state for the following purposes; and to inflict penalties for the breach thereof.

1. To establish and regulate a market, and to regulate and license the selling or peddling of meat, fish and other provisions from vehicles about the village.

2. To restrain and prohibit all descriptions of gaming and for the destruction of all instruments and devices used for that purpose.

3. To regulate, license, tax or prohibit the exhibitions of common show men, circuses, menageries and shows of every kind not prohibited by law, and all plays, exhibitions or entertainments for money.