

# ACTS AND RESOLVES

PASSED BY THE

GENERAL ASSEMBLY

OF THE

# STATE OF VERMONT,

AT THE

TWELFTH BIENNIAL SESSION, 1892.

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*Verm. P.*

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No. 117.—AN ACT IN ADDITION TO AND IN AMENDMENT OF THE CHARTER OF THE VILLAGE OF BRATTLEBORO.

## SECTION.

1. Corporation authorized to construct reservoirs, etc., and acquire water supply.
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4. Description of water rights taken, to be deposited in town clerk's office.
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## SECTION.

8. Further power of corporation in respect to water department.
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10. Water commissioners, how elected, term of office; vacancies, how filled.
11. Powers and duties of water commissioners.
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13. Bonds, how issued, what to contain.
14. Ordinances, regulations and by-laws.
15. Majority vote required to be held under this act.
16. Acts inconsistent with this act repealed.
17. When to take effect.

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

SECTION 1. The corporation of the village of Brattleboro, in its corporate capacity is hereby authorized and empowered to construct, maintain and repair a reservoir or reservoirs, pumps, engines and apparatus, take, purchase and acquire in the manner hereinafter mentioned, any ponds, springs, streams, water sources, real estate, water rights, flowage rights and easements necessary for its purposes within the limits of the towns of Brattleboro, Marlboro, and Dummerston, in the county of Windham, together with such lands surrounding and adjacent to the same as may be reasonably necessary for protecting and preserving the purity of the water in such ponds, springs and streams, and may enclose such ponds, springs and streams by suitable fences for the purpose of such protection; and to enter in and upon any land or water for the purpose of making surveys, may take and construct dams and reservoirs, lay pipes and aqueducts, and connect the same with the main aqueduct as may be necessary to convey the water taken as aforesaid to the reservoirs of said village, and distribute the same through said village for the purpose of supplying the inhabitants of said village with water for fire, domestic and other purposes; but said corporation shall not take otherwise than by purchase, water or a spring of water, which the owner or lessee or other person having a vested right or interest in said water or the use thereof, may reasonably require for domestic use, or the watering of animals on the premises where such water may be in use.

SEC. 2. Said corporation for the purposes aforesaid may enter upon and use any land and enclosure over or through which it may be necessary for an aqueduct or pipes to pass and may thereon dig, place, lay and construct such pipes, aqueducts, reservoirs, appurtenances and connections as may be necessary for the com-

plete construction and repairing of the same from time to time, may open the grounds in any streets, lanes, avenues, highways and public grounds for the purpose of laying down, and repairing such pipes, aqueducts, reservoirs and appurtenances, as may be necessary for conducting the water and the purposes aforesaid; *provided* that such streets, lanes, avenues, highways, and public grounds shall not be injured, but shall be left in as good condition as before the laying of said pipes, aqueducts, reservoirs and appurtenances.

SEC. 3. Said corporation, by its bailiffs, or other officer duly authorized for that purpose may agree with the owner or owners of any property, franchise, easement or right which may be required for the purposes of this act, as to the amount of compensation to be paid for the same, and in case of failure to agree as to such compensation, or as to the amount of damages which ought to be awarded to any person claiming to be injured by the doings of said corporation, or in case any such owner shall be an infant or insane or absent from this State, or unknown, or the owner of a contingent or uncertain interest, a judge of the supreme court, may on the application of either party cause such notice to be given of such application as such judge may see fit to prescribe, and after proof thereof, may appoint three disinterested persons to examine such property to be taken for, or damaged by, the doings of said corporation, who, being duly sworn, shall upon due notice to all parties concerned, view the premises, and hear the parties in respect to such property, and as to just damages. And shall assess and award to such owners and persons so interested just damages for the taking of such property, franchise, easement or right, or for any injury sustained as aforesaid and make report in writing to such judge, who may thereupon accept such report, unless just cause is shown to the contrary and order said corporation to pay the same in such time and manner as such judge may prescribe, in full compensation for the property taken, or the injury done by said corporation, and on compliance with such order said corporation may proceed with the construction of its work without liability for further claim for damages; or said judge may reject or recommit said report if the ends of justice so require.

Such judge may award costs in such proceeding in his discretion. Any person whose rights to the flowage of water are thus taken may apply as aforesaid, within one year from the time such water is actually taken or diverted, and not thereafter; and no suit for injury done under this act shall be brought after one year from the alleged date of the receipt of the injury.

SEC. 4. Said corporation shall within sixty days after the taking of any property, franchise, easement or right under the provisions of this act file in the town clerk's office in the town where the same is situated, a description of any land, water or water rights so taken, sufficiently accurate for identification.

SEC. 5. Said corporation is hereby authorized and empowered to contract with the town of Brattleboro, any school or fire dis-

strict now, or hereafter situated within said town, corporations and individuals to supply water for the protection of any property, and for domestic and any other purposes.

SEC. 6. The owner and occupant of any tenement, house or building, who shall take the water of said corporation shall be liable for the rent or price of the same, and the officers and agents of said corporation intrusted with the care and superintendence of the water may at all reasonable times enter all premises so supplied to examine the pipes and fixtures and prevent any unnecessary waste, and if any person or persons without the consent of said corporation shall use any of said water, an action of tort under this statute may be maintained against such person, by said corporation for the recovery of damages therefor.

SEC. 7. If any person or persons shall willfully, wantonly or maliciously divert the water or part thereof, of any of the ponds, springs, streams, aqueducts, water courses, or reservoirs which shall be taken, used or constructed by said corporation, or shall corrupt the same or make it impure, or commit any nuisance therein, or shall bathe therein, or within the limits that may be taken or prescribed by said corporation pursuant to the provisions of this act, or maliciously injure or destroy any dam, embankment, aqueduct, pipe, reservoir, conduit, hydrant, structure, pump, machinery or other property held, owned or used by said corporation under the provisions of this act, shall be liable to said corporation, in treble damages therefor, to be recovered in action on the case founded on this statute, and any such person on conviction of either of the malicious acts aforesaid, shall be punished by a fine not exceeding one hundred dollars, or imprisoned in the house of correction not exceeding six months.

SEC. 8. Said corporation shall have power to organize and establish a water department for the purpose of supplying said village with water as aforesaid, and may purchase and hold all necessary, real and personal estate for that purpose, and may issue its corporation bonds to carry out the provisions of this act and to secure any present or future indebtedness for the establishing and operating of its water department.

SEC. 9. Said corporation may, for the purpose of aiding in the support and maintenance of its water department, and to insure the payment of the interest on its water bonds, and to provide for the payment of said bonds, establish rates of annual rents to be charged and paid at such times and in such manner as may be determined by said corporation, for the supply of water to the inhabitants of said village and others, and may from time to time alter, modify, increase or diminish such rates, and extend them to any description of property or use as said corporation may deem proper. Such rates or rents may be ordered to be paid in advance and all necessary orders and provisions may be made and enforced by said corporation, relating to the supply or stoppage of water, as they may deem necessary to insure such advance payments.

SEC. 10. Said corporation, at a meeting called for that purpose, after this act shall take effect, shall elect three commissioners, who shall constitute a board of water commissioners, who shall hold their offices as follows: The first commissioner so chosen shall hold his office three years; the second two years, and the third one year, from the next annual meeting after such election, unless such first election takes place at an annual meeting, and in such case from the time of such election; and at every subsequent annual meeting said corporation shall elect one water commissioner to fill the vacancy occasioned by the then expiring term, who shall hold his office three years from his election and until his successor shall be chosen as above provided; and in case of death, resignation or removal of a commissioner, the vacancy may be filled at a special meeting duly warned and holden for that purpose.

SEC. 11. The water commissioners under the direction of said corporation shall have the supervision of the water department, and shall make and establish all needful rules and regulations for the control and operation of the same, and the bailiffs upon application of the water commissioners may draw orders on the treasury for the necessary expenses of the same. The commissioners may appoint or remove a superintendent at their pleasure; may establish rates for the use of water and provide for the collection of the same, and generally take charge of the water department, subject to the control, order and direction of the corporation. The rents and receipts for the use of the water shall first be used and applied to pay the interest, as it becomes due, upon the water bonds of said corporation, and any excess therefrom, after paying said interest and the expense of repairs and management of the water works, shall be set apart by the commissioners, and used in payment of the bonds as they become due, and invested in the name of said corporation to be used in the purchase of said bonds, so that the same shall be used and applied solely for the payment or purchase of said bonds until the whole shall be paid.

SEC. 12. For the purpose of successfully establishing and operating its water works, and making such improvements as may be necessary from time to time, said corporation is authorized and empowered to purchase, take and hold real and personal estate to the amount of two hundred thousand dollars, and may levy and collect such taxes upon the polls and ratable estate of the corporation as may be deemed necessary for the payment of corporation expenses, and its present and future indebtedness, and may issue its negotiable bonds in such sums, and payable at such times and places as may be deemed advisable, for the purpose aforesaid only, and may borrow money from time to time, as may be necessary, to enable the water department to carry on and complete the work of supplying the village with water, and pay current indebtedness; provided that all taxes laid, and all loans authorized and all bonds negotiated, shall be laid, authorized and negotiated by virtue of a majority vote of the voters of said corporation at a meeting duly warned and holden for that purpose.

SEC. 13. Every bond issued by said corporation for water purposes, in pursuance of this act, shall be signed by the chairman of the board of bailiffs, and the treasurer of said corporation, and shall have the certificate of the clerk of said corporation that said bond is one of a series authorized by said corporation, and the records of said corporation shall be so kept as to show the issue of the bonds, the amounts and dates of the same, when due, and the time of their payment; said corporation is hereby prohibited from issuing and negotiating bonds as aforesaid, exceeding one hundred and twenty-five thousand dollars in amount.

SEC. 14. Said corporation shall have power to make, establish, alter, amend, or repeal ordinances, regulations and by-laws relating to the matters contained in this act and not inconsistent with law, and to impose penalties for the breach thereof, and enforce the same.

SEC. 15. Any action taken by said corporation under the provisions of this act, or relating to the matters therein set forth, shall be by vote of the majority of the legal voters of said village at a meeting duly warned and holden.

SEC. 16. All acts or parts of acts inconsistent with this act are hereby repealed.

SEC. 17. This act shall take effect from its passage.

Approved November 22, 1892.

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No. 118.—AN ACT EXTENDING THE TIME FOR ACCEPTING AN ACT TO INCORPORATE THE VILLAGE OF BRISTOL, APPROVED NOVEMBER 23, 1886.

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

SECTION 1. An act to incorporate the village of Bristol, approved November 23, 1886, shall take effect upon its acceptance by a majority of the legal voters of said proposed village present at any meeting thereof to be held in some public place within the limits of said proposed village on or before the first Tuesday in May A. D. 1894. The town clerk of the town of Bristol shall at any time within the time limited by this act, upon petition in writing signed by ten legal voters residing within the limits of said proposed village, call a meeting or meetings to see if the inhabitants of said proposed village who are legal voters will accept the provisions of said act, in the same manner as is provided in said act, and the doings of said meeting or meetings shall be of legal effect the same as if called and held prior to this date.

SEC. 2. This act shall take effect from its passage.

Approved November 15, 1892.