

# ACTS and RESOLVES

Passed by the

## GENERAL ASSEMBLY

of the

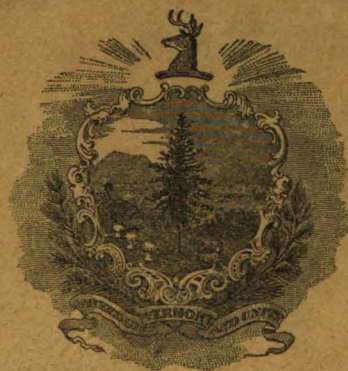
## STATE OF VERMONT

at the

### TWENTIETH BIENNIAL SESSION

### 1908

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No. 261.—AN ACT IN SUBSTITUTION FOR NO. 117 OF THE ACTS OF 1892, ENTITLED "AN ACT IN ADDITION TO AND IN AMENDMENT OF THE CHARTER OF THE VILLAGE OF BRATTLEBORO," AND IN SUBSTITUTION OF NO. 263 OF THE ACTS OF 1906, ENTITLED "AN ACT IN SUBSTITUTION OF NO. 117 OF THE ACTS OF 1892, ENTITLED "AN ACT IN ADDITION TO AND IN AMENDMENT OF THE CHARTER OF THE VILLAGE OF BRATTLEBORO."

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

SECTION 1. The corporation of the village of Brattleboro is hereby authorized and empowered to acquire, own, construct, maintain and renew, and from time to time when required extend and enlarge a water system for the purpose of furnishing and supplying said village and the inhabitants thereof with water for fire, domestic and other purposes; and for this purpose may construct and maintain reservoirs, dams, engines and boilers, pumps and other apparatus and such buildings and other structures as may be required. And said corporation, for the purposes aforesaid, may acquire by gift or purchase, and if necessary may take the same as hereinafter provided by the right of eminent domain, and hold any and such ponds, springs, streams and waters thereof, water courses, water rights, rights, privileges, easements, lands and real estate, or any interest therein, and rights of way in the towns of Brattleboro, Marlboro, Dummerston, Newfane and Guilford in the county of Windham, as may be necessary for the purposes aforesaid, together with such lands surrounding and adjacent to the same, as may be reasonably necessary to preserve the purity and quantity of the waters thereof, and for like purpose, when necessary, may enclose the same with fences; and may also as part of its water system lay, extend, erect and maintain as hereinafter provided, such pipes, aqueducts, hydrants, appliances and connections as may be necessary to convey the water taken as aforesaid to its reservoirs, and to distribute it through said village for the purposes aforesaid. But said corporation shall not take, otherwise than by gift or purchase, water or a spring of water which the owner or lessee, or other person having a vested right or interest therein, or in the use thereof, may reasonably require for domestic use or watering stock.

SEC. 2. Said corporation, for the purposes aforesaid, may enter upon any of the lands and real estate which it may for that purpose, take or acquire, as aforesaid, and thereon construct, maintain, renew and repair from time to time such reservoirs, dams, engines, boilers, pumps, connections and apparatus, buildings and structures, as it may reasonably re-

quire and be necessary for its said water system; and it may enter upon or use and acquire if necessary, any private lands and enclosures over or through which it may be necessary for its aqueducts and pipes to pass, and may thereon dig and open the grounds and place, lay and extend therein such pipes and aqueducts, connections and appliances as may be necessary for the construction, maintenance, operation, repair and renewal from time to time of its water system; and it may also open the grounds of any streets, lanes, avenues, highways and public grounds for the purpose of laying down, erecting and from time to time renewing, repairing and extending such pipes and aqueducts, hydrants and appliances, connections and attachments as may be necessary for conducting water and distributing, furnishing and supplying the same as aforesaid. Provided that such streets, lanes, avenues, highways and public grounds shall not be unnecessarily injured but shall be left in as good condition as reasonably can be done.

Said corporation may from time to time enter upon any land or water when necessary and in a proper manner for the purpose of making preliminary surveys for its water system.

SEC. 3. Said corporation may, after the passage of this act, at a special meeting duly called for that purpose, vote to accept the provisions thereof, and to construct in whole or in part and maintain a water system for said village, and may at said meeting, or at some other meeting duly called for that purpose, elect a water board consisting of not more than twelve and not less than five members, which shall have power, subject to the control and direction of said corporation, to construct for it a water system; and for this purpose to cause necessary surveys to be made; to negotiate and make contracts for, and purchase and take conveyances to said corporation of land, real estate interests, waters, ponds, springs, streams and water rights and sources, easements and other interests, proper and necessary for the construction and maintenance of such water system, including all necessary rights and privileges mentioned in section 2 of this act; and when necessary may take such steps and institute such proceedings as may be necessary, for acquiring the same under provisions of this act, and may employ for these purposes, such counsel, engineers and assistants as may be required; and may, subject to the general direction and control of said corporation, purchase all necessary materials and supplies and employ necessary labor; and may, if so authorized by said corporation, at a meeting duly called for that purpose, let by contract the construction of said water system, or any part or section thereof.

And said corporation, if it decides so to do at a meeting thereof duly called and holden for that purpose, may purchase any existing water system or any in process of construction, if the owner or owners are willing to sell the same, and in that event if the parties cannot agree upon the price to be paid,

they may agree to submit the price to be paid therefor to arbitrators; and in that event, the said water board shall have power, subject to the control and direction of said corporation, to complete a contract for such arbitration and sign an agreement of submission in behalf of said village and any award made in pursuance of such submission shall be binding upon both parties.

SEC. 4. If said corporation shall be unable to agree with the owners of such lands, ponds, springs, streams, rights and interests, or with any person damaged by the taking thereof, as to the damage sustained by reason of the taking of the same for the purposes aforesaid, or as to the necessity of taking, or in case any such owner or person damaged is a minor, insane or out of the state, or otherwise incapacitated to sell or convey, the necessity of taking such lands and such damages shall, upon hearing, be ascertained and fixed by three commissioners who shall be appointed by the assistant judges of Windham county court upon application of the bailiffs of said corporation, or upon the application of the person so sustaining damage or disputing the necessity of taking such lands, ponds, streams, or springs; and in case said corporation or any such owner or person is dissatisfied with the decision of said commissioners, an appeal therefrom may be had to the county court within and for the county of Windham by petition in writing to said county court, and the proceedings upon the said appeal shall be as provided in sections 3835 to 3838 inclusive of the Public Statutes, providing such appeal shall not be allowed unless taken within sixty days after said commissioners shall have made report in writing to the bailiffs of said village, or to the person sustaining such damage, or disputing the necessity of taking the property aforesaid.

A person whose rights to the flowage of water are taken under this act may apply, as aforesaid, within one year from the time such waters are 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. The selectmen of the town of Brattleboro may discontinue any highway or part thereof in said town and may lay out a highway therein in lieu thereof when necessary to do so on account of the building and location of any reservoir or dam for said water system.

SEC. 5. Said corporation shall, within sixty days after the taking of any property, property right, privilege or easement under the provisions of this act, file in the town clerk's office in the town where the same is situate a description of any land, water rights, rights, privileges or easements so taken sufficiently accurate for identification.

SEC. 6. For the purpose of acquiring, constructing and establishing its water system or any part thereof, and for making such additions and extensions as may be necessary from

time to time, said corporation is authorized and empowered to make, issue and sell its negotiable bonds to an amount not exceeding four hundred thousand dollars, par value, in such sum and payable at such times and places and at such rate of interest as may be deemed advisable; 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 paying current indebtedness, incurred in connection with its water system; and for such purpose may also levy and collect such taxes upon the polls and ratable estate of the corporation as may be necessary; provided, however, that all bonds made, issued or sold, all loans authorized and all taxes laid shall be made, issued and sold, authorized and laid only by virtue of a majority vote of the voters of said corporation present and voting at a meeting duly warned and holden for such purposes.

SEC. 7. Every bond issued by said corporation for water purposes, in pursuance of this act, shall be signed by the board of bailiffs and the treasurer of said corporation, and shall bear the certificate of the clerk thereof, and shall state on the face thereof the purpose for which said bond is issued. 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 or negotiating bonds as aforesaid, exceeding four hundred thousand dollars in amount, par value.

SEC. 8. After said corporation has voted to make, issue and sell its said bonds, said water board may, when it becomes necessary to pay for the construction, establishing and acquiring of said water system or any part or portion thereof, or for carrying out any contract in relation thereto, make all necessary arrangements for the issuing by said corporation, from time to time or at one time, of its bonds sufficient for such payment or payments, not to exceed, however, in the aggregate, the amount specified in this act, and shall prepare such bonds ready for the signature of the officers hereinbefore mentioned, for signing and countersigning the same; and it shall thereupon become the duty of such officers to sign and countersign said bonds as hereinbefore mentioned; and said water board may thereupon negotiate and sell said bonds, or sufficient thereof for the purposes aforesaid, to the best advantage possible for said corporation, and use the avails thereof for the purposes aforesaid, and place any balance remaining from such sale in the treasury of said village. When said village shall have acquired or constructed a water system complete and in good condition for use, the duties of said water board shall cease, and thereafter said village shall not elect a water board, but the board of water commissioners hereinafter provided for shall thereafter have charge of said water system as hereinafter provided.

SEC. 9. Said corporation is hereby authorized and em-

powered to contract with the town of Brattleboro or any school, fire district or village corporation now or hereafter situated within said town, or with corporations and individuals in said town, to supply water for the protection of any property from fire, and for domestic and other purposes.

SEC. 10. 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 a person without the consent of said corporation shall use any of said water, an action on the case founded on this statute may be maintained against such person, by said corporation for the recovery of damages therefor.

SEC. 11. If a person shall willfully, wantonly or maliciously divert the water or parts 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 a 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, such person shall be liable to said corporation in treble damages therefor, to be recovered in an action on the case founded on this statute and such person, on conviction of any of the malicious acts aforesaid, shall be fined not more than one hundred dollars, or be imprisoned in the house of correction not more than six months.

SEC. 12. Said corporation shall have power to organize and establish a water department for the purpose of supplying said village with water from said system as aforesaid, and may purchase, take and hold all necessary real and personal estate for that purpose.

SEC. 13. Said corporation may, for the purpose of the support and maintenance of its water department, and to insure the payment of the interest on its said water bonds, and to provide for the payment of said bonds, establish rates of annual rents for the supplying of water to the inhabitants of said village, and others, and to corporations, and make rules and regulations as to the collection of the same, 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 it may deem necessary to insure payments and save from waste or pollution the waters of its system.

SEC. 14. Said corporation shall, at a meeting called for that purpose and after acquiring or constructing a water system, elect three commissioners, who shall constitute a board of water commissioners, one of whom shall hold office for three years, one for two years and one for 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. 15. 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 a superintendent and remove him at their pleasure; and generally take charge of the water department, subject to the control, order and direction of the corporation.

The rents shall be used to pay the interest, as it becomes due, upon said water bonds, and any excess therefrom, after paying said interest and the expense of repairs and management of said water works, shall be set apart by the commissioners and invested in the name of said corporation to be used in the purchase of said bonds, or in payment thereof when they become due, and the same shall be used and applied solely for the payment or purchase of said bonds until the whole shall be paid.

SEC. 16. 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. 17. 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 present and voting at a meeting duly warned and holden.

SEC. 18. This act shall be of no force and effect unless the village of Brattleboro shall, on or before February 1, 1909, purchase or offer to purchase the water systems and all the property, real and personal, including all rights, privileges and easements of the Chestnut Hill Reservoir Company and of the Sunset

Lake Water Company, including all water rights and rights to turn water and other rights and privileges now owned and held by George E. Crowell for said corporation or intended for said system, for the sum of two hundred sixty thousand dollars, together with such expenses as have been incurred by the said companies for any work done upon or additions to the plants of said companies at the request of or with the approval of the bailiffs of said village of Brattleboro, since December 19, 1906, and, at the time of purchase, the principal sum or sums with accrued interest of any mortgage, mortgages or liens resting upon said property shall be deducted from said purchase price and assumed by the village without recourse to said Crowell. Any new work done upon or addition to the plants of the said companies after the passage of this act shall be with the approval of the bailiffs of said village, and the expenses thereof shall be added to the purchase price as above fixed.

SEC. 19. If said village shall avail itself of the provisions of section 18 of this act, then all acts or parts of acts inconsistent with this act are hereby repealed.

SEC. 20. This act shall take effect from its passage.

Approved January 7, 1909.

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No. 262.—AN ACT IN AMENDMENT OF AND IN ADDITION TO AN ACT ENTITLED, "AN ACT TO INCORPORATE THE VILLAGE OF BRATTLEBORO."

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

SECTION 1. The corporation of the village of Brattleboro is hereby authorized and empowered to acquire by gift or purchase a piece or parcel of land within or without the corporate limits of said village to be held by it and used as a public playground for the children of said village. Said corporation of the village of Brattleboro is also authorized and empowered to acquire by gift or purchase a piece or parcel of land within or without the corporate limits of said village to be used by it and its inhabitants as a common dumping ground for refuse.

SEC. 2. For the purpose of purchasing pieces or parcels of land for the objects aforesaid and to pay for the same said village is hereby authorized to levy and collect such taxes upon the polls and ratable estate of the corporation as may be necessary and may borrow money to apply toward such purchase price, provided that all taxes laid and all loans authorized shall be only by virtue of a majority vote of the voters of said cor-