

ENROLLED BILL

House Bill No. 257

(By Mr. Fagendaker)

Passed March 2, 1931

In Effect Ninety days from Passage

Originated in the House
Takes effect
Ninety days from Passage.
Clerk of the House of Delegates.

CORRECTLY ENROLLED

Chairman Senate Committee
Chairman House Committee

ENROLLED BILL

(H. B. No. 257)

[Passed March 2, 1931: in effect ninety days from passage.]

AN ACT to amend and re-enact sections thirty and thirty-one, chapter eighty-nine, of the acts of the legislature of West Virginia, of one thousand nine hundred thirteen, passed on the third day of February, one thousand nine hundred thirteen; and known as the charter of the city of Keyser, relating to the authority of the city clerk, the city treasurer, collector and police judge; and repealing all acts and parts of acts inconsistent with this act.

Be it enacted by the Legislature of West Virginia:

That sections thirty and thirty-one, of chapter eighty-nine, of the acts of the legislature of West Virginia of one thousand nine hundred thirteen, passed on the third day of February, one thousand nine hundred thirteen, be amended and re-enacted so as to read as follows:

Section 30. The city clerk shall serve for a term of two 2 years, unless sooner removed for cause. He shall, before enter-

James D. Smith

Chairman Senate Committee

Samuel M. Adams

Chairman House Committee

ing upon the discharge of his duties as such clerk, take and
 subscribe to the oath of office prescribed in section fifteen of
 this act, and shall execute such bond covering his duties as
 clerk, treasurer, collector and police judge as shall be fixed by
 council which bond shall be approved by council and filed with
 the cashier of one of the banks in the city, known as a depository
 therefor, and a record showing the execution, approval and
 filing of said bond shall be spread upon the minute books of
 the city.

In addition to all the other duties prescribed in this act, the
 city clerk shall keep the records of the council, and he, or his
 deputy, shall be present at all regular and special meetings
 of that body. It shall be his duty to properly record in a well-
 bound book all the proceedings of council as well as a complete
 record of all ordinances, franchises, bonds, permits and reso-
 lutions adopted or passed by council, and to properly index the
 same, for the convenience and inspection of the council, or any
 city official or taxpayer.

Before any business at any regular meeting of the council is
 undertaken it shall be the duty of the clerk to read publicly
 to the council the minutes of all regular or special meetings

CORRECTLY ENROLLED

Joseph D. Smith

Chairman Senate Committee

Bruneet Madsen

Chairman House Committee.

Enrolled H. B. No. 257] 3

24 of that body, not theretofore read or approved, and upon
25 approval of same by council, the signatures of the mayor and
26 clerk shall forthwith be affixed. All records of council so
27 approved and signed, or duly authenticated copy thereof,
28 signed by the clerk and under the seal of the city, shall be
29 admitted as evidence in any proper case in any court in this
30 state.

31 The city clerk, except as may be otherwise herein provided,
32 shall be the custodian of the records and papers of the city
33 and the seal of the city, which shall be kept by him at
34 his office, and the records and papers shall be open to public
35 inspection at all proper hours. He shall, acting under existing
36 laws, insofar as they are not in conflict with this act, perform
37 such duties relating to all city elections held under this act,
38 as the clerks of the circuit or county courts perform, under
39 state laws, in relation to the holding of general or special
40 elections; and he shall likewise be the custodian of all regis-
41 tration books, ballot boxes, ballots, tally sheets, etc., pertaining
42 to all municipal elections.

43 The city clerk shall have power within the municipality to
44 administer oaths and take acknowledgments of deeds and other

CORRECTLY ENROLLED

Joseph D. Smith

Chairman Senate Committee.

Samuel M. Reed

Chairman House Committee.

45 instruments required by law to be acknowledged, in the same
46 manner and with like effect and under the same penalties as
47 notaries public, justices of the peace and other officers of the
48 state are authorized to administer oaths, or take acknowledg-
49 ments, under state laws.

50 It shall be the duty of the city clerk, who shall be the as-
51 sessor, to make an assessment of the property within the city
52 subject to taxation, substantially in the manner and form in
53 which assessments are made by the assessor of the county, and
54 return the same to the council on or before the first day of
55 August in each year, and for the purpose he shall have all
56 powers conferred by law on county assessors. He shall list
57 the number of dogs in the city and the names of the persons
58 owning the same, which list shall be returned to the council.
59 In order to aid the said council in ascertaining the property
60 and tithables subject to taxation by said city, the city clerk
61 (who shall act as assessor) of said city shall have access to all
62 books and public records of Mineral county without expense to
63 said city or assessor, and he shall also have the same power and
64 be subject to the same penalties in ascertaining and assessing
65 the property and subjects of taxation in said city as are grant-

CORRECTLY ENROLLED

Jacob D. Smith

Chairman Senate Committee.

Samuel M. Mearns

Chairman House Committee.

Enrolled H. B. No. 257]

5

66 ed and imposed upon the county assessors throughout the state
67 by the general state law, and the council shall also have author-
68 ity to prescribe by ordinance such other rules and regulations
69 as may be necessary to enable and require such assessor to as-
70 certain and properly assess all property and tithables liable to
71 be taxed by said city so that such assessment and taxation shall
72 be uniform, and to enforce such ordinance by reasonable fines
73 and penalties. And the said city assessor, making the valuation
74 for assessment shall make the same assessment for both real and
75 personal property as the assessor of said county for the assess-
76 ment year assessed by the county assessor. The city clerk shall
77 have an office in the city hall, council chamber or such other
78 place as the council may designate and provide. He shall keep
79 his office open for at least three consecutive hours in the fore-
80 noon and afternoon of each day.

81 In addition to the duties hereinbefore set out and other-
82 wise provided in this act, the city clerk shall by virtue of his
83 office be the police judge of the city, and his oath of office and
84 the conditions of his bond shall extend to and cover his duties
85 and obligations as police judge. The city clerk, shall, as such
86 police judge, be ex officio a justice of the peace with authority

CORRECTLY ENROLLED

Joseph D. Smith

Chairman Senate Committee.

Brucet Madsen

Chairman House Committee.

87 to issue warrants or other process for all offenses within the
88 police jurisdiction of the city, of which a justice of the peace
89 has jurisdiction under state laws, and for all violations of any
90 city ordinance. In order to preserve the peace and good order
91 of the city and protect the persons and property therein, riot-
92 ous and disorderly persons in the city may be arrested and
93 detained before issuing any warrant therefor. He shall hold
94 daily session of his said court, Sundays excepted. He shall
95 have and exercise all of the civil jurisdiction conferred by law
96 upon justices of the peace, and before proceeding to act in
97 such capacity, he shall file with the clerk of the county court
98 of Mineral county, a certificate from the mayor of said city
99 showing his appointment and qualifications as city clerk, and
100 shall thereupon take the oath and execute the bond required
101 to be taken and executed by justices of the peace.

102 The police judge may commit persons charged with felony
103 or misdemeanor to jail or take bond for their appearance be-
104 fore the grand jury, but he shall receive no fees or other com-
105 pensation for such services; he shall have power to issue ex-
106 ceptions for all fines, penalties and costs imposed by him, and
107 he may require the immediate payment thereof, and in de-

Joseph D. Smith

Chairman Senate Committee

Benjamin M. Madsen

Chairman House Committee.

Enrolled H. B. No. 257]

7

108 fault of such payment may commit the person so in default
109 to jail, until the fine and penalty and costs shall be paid or
110 satisfied, and anyone so committed may be required to work
111 during imprisonment, as required by council.

112 If any person is sentenced to imprisonment, or any person
113 or corporation is assessed with a fine of ten dollars or more,
114 such person or corporation shall be allowed an appeal from
115 said decision of the police judge to the circuit court of Min-
116 eral county, upon the execution of an appeal bond with surety
117 deemed sufficient and approved by the police judge in a pen-
118 alty double such fine and costs conditioned that the person or
119 corporation proposing to appeal will perform and satisfy any
120 judgment which may be rendered against him or it by said
121 court on such appeal; and in no case shall a fine of less than
122 ten dollars be given by the police judge, if the defendant, his
123 agent or attorney request that the fine be made as much as ten
124 dollars.

125 If the appeal be taken, the warrant of arrest, the transcript
126 of the judgment, the appeal bond and other papers of the case
127 shall be forthwith delivered by the police judge to the clerk
128 of the court to which such appeal is taken, and said court shall

Joseph D. Emery

Chairman Senate Committee

Bruneau Madison

Chairman House Committee

129 proceed to try the case as upon indictment or presentment and
130 render such judgment, including that of costs, as the law and
131 evidence may demand.

132 The police judge shall be authorized to suspend sentence or
133 parole any juvenile offender under the age of sixteen years,
134 who may be brought before him for the violation of any ordi-
135 nance of the city or charged with any misdemeanor under the
136 laws of the state; he shall prescribe the conditions of such
137 parole and enter them in his docket and may commit the of-
138 fender to the care and custody of any proper person with a
139 view to the correction and reformation of such offender, and
140 may take from such person such bond or security, conditioned
141 as he shall prescribe. The chief of police, or a policeman desig-
142-3 nated by him, shall attend all sessions of the police court and
144 perform such duties as may be required by ordinance or re-
145 quested by the police judge.

146 The police judge shall keep in a well-bound book a complete
147 record of all cases heard and considered by him, and he shall
148 account for all fines, as well as the fees of himself and other
149 officers, under salary, collected by him, and shall make month-
150 ly reports thereof, and of all other matters pertaining to his

CORRECTLY ENROLLED

Joseph D. Smith

Chairman Senate Committee

Bennett Meadows

Chairman House Committee

Enrolled H. B. No. 257]

9

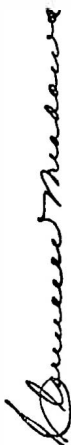
151 office to the council of the city. In the absence of the
152 police judge the mayor of the city shall sit as such police
153 judge with the same power and authority.

154 The police judge, if an attorney, shall not practice in said
155 police court as an attorney or counselor, in any case appealed
156 or removed therefrom, but shall have the right to practice law
157 as an attorney in other courts and cases.

158 In addition to the other duties to be performed by the city
159 clerk, he shall also be the city collector, charged with the duty
160 of collecting all taxes, levies, assessments, water rents and all
161 other funds due the city, including licenses; and as such collec-
162 tor shall have and exercise all of the rights, authority and pow-
163 ers conferred upon town sergeants by the general law of the
164 state with reference to the collection of taxes and funds of
165 cities, towns and villages, and upon sheriffs with reference to
166 the collection of state and county taxes and funds. He shall at
167 least once in each week, or oftener if the council so require,
168 account for all moneys received by him as such collector; he
169 shall before entering upon the duties of his office give the bond
170 hereinbefore required, payable to the city of Keyser in the pen-
171 alty of not less than five thousand dollars, conditioned for the



Chairman Senate Committee.




Chairman House Committee.

172 faithful performance of the duties of the office of city clerk,
 173 collector, treasurer and police judge and to account for and pay
 174 over as required by law, all moneys which may come into his
 175 hands by virtue of any and all of said offices, and shall be
 176 chargeable with all of the city taxes, levies, assessments, li-
 177 censes and water rents, from the time the bills therefor are re-
 178 quired to be made up and collected, and with all moneys of the
 179 city, including fines, fees and penalties, that may come into his
 180 hands. He shall receive no fees or commissions for the services,
 181 but shall account to the city for all fees received by him, except
 182 those received by him when acting in civil suits, taking deposi-
 183 tions or acknowledgments.

184 He shall at the first stated meeting of the council in each
 185 month make his report to the council of all moneys and credits
 186 coming to his hands as city clerk, treasurer, police judge and
 187 collector, and he shall compile a detailed itemized statement
 188 showing the receipts, expenditures and the financial condition
 189 of the city quarterly, for each year, the statements showing
 190 the receipts, expenditures and the financial condition of the
 191 city quarterly, for each year, the statements to be distributed
 192 to not less than three hundred responsible citizens of the city,



Chairman Senate Committee.



Chairman House Committee.

Enrolled H. B. No. 257]

11

193 either by mail, or in any manner to be directed by the city
 194 council. The second financial statement shall be a semi-annual
 195 statement, the third statement shall refer only to the transac-
 196 tions occurring within the three months constituting the third
 197 quarter of the fiscal year, and the fourth statement shall be
 198 an annual statement setting forth the financial condition of the
 199 city for the entire fiscal year, and it shall not be required that
 200 any of such financial statements shall be published in a news-
 201 paper.

202 In addition to the duties of the city clerk hereinbefore enu-
 203 merated, he shall act in the capacity and be the treasurer for
 204 said city and perform the duties as prescribed in section thirty-
 205 one hereof.

206 The city clerk may appoint such deputies and assistants with
 207 the approval of the council, as the duties of his office render
 208 necessary. The deputies shall take the oath required of the city
 209 clerk, and shall give such bond as he may require, but such
 210 deputies or assistants shall not perform any judicial duty of
 211 the police judge.

Sec. 31. The treasurer shall be the same person who is ap-
 2 pointed city clerk and shall receive and account for all moneys

CORRECTLY ENROLLED

Joseph D. Smith

Chairman Senate Committee.

Amos M. Adams

Chairman House Committee.

12

[Enrolled H. B. No. 257

3 from all sources of municipal revenue. All license taxes and
4 fees shall be paid to him direct by the person to whom such
5 license is issued, and no license shall be valid without the re-
6 ceipt of the treasurer for such tax and fees endorsed thereon.
7 All officers and agents of the city, authorized to receive money
8 for the city, or revenues thereof, from any source whatsoever,
9 shall pay over to the treasurer such money and revenues
10 within one week after the receipt thereof or sooner if required
11 by the council.

12 He shall keep the funds of the city in some bank or banks
13 within the city, which shall pay to the city two per centum or
14 more per annum interest on such deposits, payable quarterly,
15 based on the average daily balance on such funds in all accounts.
16 If no bank within the city is willing at any time to receive de-
17 posits of the treasurer, and to pay such interest thereon, the
18 treasurer shall report this fact to council, which shall there-
19 upon designate a bank or banks in which he shall deposit such
20 funds for the time being, and until some bank in the city will
21 receive deposits at the rate of interest so fixed.

22 Said bank or banks shall give bond in the penalty prescribed
23 by council, and with sureties to be approved by council, con-

CORRECTLY ENROLLED

Joseph D. Smith

Chairman Senate Committee

Benjamin M. Madsen

Chairman House Committee.

Enrolled H. B. No. 257]

13

24 ditioned for the prompt payment, whenever lawfully required,
25 of all public moneys, or parts thereof, which may be deposited
26 with them.

27 The treasurer shall pay all warrants, or other proper orders
28 legally drawn and presented, out of the moneys at the time in
29 the fund on which such warrant or order is drawn, but no money
30 shall be paid by him except as the same shall have been ap-
31 propriated by the council and upon an order signed by the
32 mayor, the city clerk and the commissioner of finance. The
33 treasurer shall perform any other duties which council may
34 from time to time prescribe and which are not inconsistent with
35 the general scope of his duties.

36 All acts and parts of acts inconsistent with this act are here-
37 by repealed.

CORRECTLY ENROLLED

Jacob D. Smith
Chairman Senate Committee.

James W. McSparran
Chairman House Committee.

R. H. Kidd
Clerk of the House of Delegates.

J. Alfred Taylor
Speaker of the House of Delegates.

W. H. White
President of the Senate.

M. S. Hodges
Clerk of the Senate.

The within is *Approved*
this *10th* day of *March* 1931.

W. G. Taylor
Governor.

Filed in the office of the Secretary of State
of West Virginia **MAR 11 1931**
GEORGE W. STARR,
Secretary of State.