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ENROLLED BILL

(REGULAR SESSION, 1933)

House Bill No. 266

(By Mr. Petters)

Passed February 21, 1933

In Effect From Passage

Originated in the..... Takes effect..... passage
Geo. S. Sisco
Clerk.
Geo. S. Sisco
Clerk of the House of Delegates.

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James L. Smith
Chairman House Committee.
James L. Smith
Chairman Senate Committee.

ENROLLED BILL

(H. B. No. 266)

[Passed February 21, 1933; in effect from passage.]

AN ACT to amend and reenact an act of the legislature of West Virginia, passed on the eighth day of March, one thousand nine hundred twenty-nine, known as house bill number three hundred seventeen, relating to the charter of the city of Logan, and being chapter twenty of the acts of the legislature of West Virginia, one thousand nine hundred twenty-nine, relating to municipal charters.

Be it enacted by the Legislature of West Virginia:

That the act of the legislature of West Virginia, passed March eighth, one thousand nine hundred twenty-nine, known as house bill number three hundred seventeen, relating to the charter of the city of Logan and being chapter twenty of the acts of the legislature of West Virginia of one thousand nine hundred twenty-

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nine, relating to municipal charters be, and the same hereby is, amended and reenacted to read as follows:

Section 1. That the inhabitants of that portion of Logan
2 county in the state of West Virginia, included within the
3 boundary lines of the present city of Logan, as such boundary
4 lines are already fixed and established by the acts of the legis-
5 lature of West Virginia, shall continue to be a body politic
6 and corporate under the name, "The City of Logan," and as
7 such shall have perpetual succession; may use a corporate seal;
8 may sue and be sued; plead and be impleaded; contract and be
9 contracted with; acquire property for municipal purposes in
10 fee simple, or lesser interest or estate, by purchase, gift, devise,
11 appropriation, lease, or lease with the privilege to purchase,
12 either within or without the city limits, subject to the rights of
13 other affected municipal corporations; may sell, lease, hold,
14 manage and control such property, and make any and all rules
15 and regulations, by ordinance or resolution which may be re-
16 quired to carry out fully all provisions of any conveyance, deed
17 or will, in relation to any gift or bequest, or the provisions of
18 any lease by which it may acquire property; after the first
19 election under this charter, may acquire, construct, own, lease

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20 and operate light, heat, power and water plants, may grant
21 public franchises to be exercised within the city; may assess,
22 levy and collect taxes for general and special purposes on all
23 the subjects or objects within the boundaries which the city may
24 lawfully tax; may borrow money for permanent improvements
25 and public works on the faith and credit of the city by the
26 issue or sale of bonds or notes of the city, and in the issuance
27 and sale of said bonds the said city shall be governed by the
28 restrictions and limitations of the constitution and laws of the
29 state relating to the issuance and sale of bonds, so far as said
30 state laws are not in conflict with the provisions of this act;
31 may pave, repave, curb, grade, regrade, sewer, re sewer, or
32 otherwise permanently improve any street, alley, or roadway
33 within the city limits, and assess the entire cost thereof, exclud-
34 ing the cost of intersections with interest, or any part thereof,
35 against the owners of the abutting or benefitted properties
36 in accordance with an ordinance that shall permit the payment
37 of said assessments in annual installments and may in antici-
38 pation of the levying of said assessments, issue and sell its
39 bonds, as hereinbefore provided, to the estimated amount of the
40 cost of said improvements, and apply said assessments as same

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41 are paid to the liquidation of said bonds and interest thereon;
42 may appropriate the money of the city for all lawful purposes;
43 may create, provide for, construct, regulate, and maintain all
44 things of the nature of public works and improvements; may
45 direct the laying out of lots and opening of streets and road-
46 ways; may license and regulate persons, corporations and asso-
47 ciation engaged in any business, occupation, profession or trade;
48 may define, prohibit, abate, suppress and prevent all things
49 detrimental to the health, morals, comfort, safety, convenience
50 and welfare of the inhabitants of the city, and all nuisances
51 and causes thereof; may regulate the construction, height
52 and materials used in all buildings and structures of every
53 kind, and the maintenance, occupancy and use ^{there} thereof; may
54 regulate and control the use, for whatever purpose, of the
55 streets and other public places; may make and enforce local
56 police, sanitary and other regulations, and prescribe, impose
57 and enforce reasonable fines and penalties including imprison-
58 ment, and shall have the right to use the jail of said county
59 when necessary; and may pass such ordinances and resolutions
60 as may be expedient or necessary for maintaining and pro-
61 moting the peace, good government and welfare of the city, and

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62 for the performance of the functions thereof. The city of
63 Logan as constituted by this act, shall retain, keep and suc-
64 ceed to all rights, privileges, property, interest, claims and de-
65 mands heretofore acquired by, vested in or transferred to the
66 said city as heretofore constituted and shall have all powers
67 that now are or hereafter may be granted to municipalities
68 by the constitution or laws of West Virginia; or that are
69 herein by implication conferred, or are necessary to or con-
70 sistent with the purposes of this act; and all such powers,
71 whether expressed or implied, shall be exercised and enforced
72 in the manner prescribed by this act, or where not prescribed
73 herein, in such manner as shall be provided by ordinances or
74 resolutions of the governing body herein provided for.

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Sec. 2. The municipal authorities of the said city of Logan
2 shall consist of a mayor and five councilmen, who shall con-
3 stitute the council of said city, in the corporate name of said
4 city, unless otherwise provided by state law or municipal ordi-
5 nance.

Sec. 3. All the corporate powers and functions pertaining
2 to said city shall be exercised by its council, or under its au-

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Sec. 4. The two political parties polling the highest vote
2 for governor at the last preceding general election shall, at
3 least fifteen days before, and not more than thirty days before,
4 any municipal election, nominate by a mass convention candi-
5 dates for mayor and councilmen, to be voted upon at said elec-
6 tion. It shall be the duty of the chairmen of the two dominant
7 political parties of said city to call and preside at the said
8 conventions of their respective parties. The candidates thus
9 nominated by each of said political parties receiving the largest
10 vote in the ensuing city election shall be declared elected. On
11 the Thursday next following any election hereunder, the coun-
12 cil shall meet and canvass, ascertain, declare, and record the
13 results of such election. The results of the first election of
14 officers held hereunder shall be so canvassed, ascertained, de-
15 clared, and recorded by the board of commissioners now in
16 office, except as herein otherwise provided, the general elec-
17 tion laws governing the ascertainment and declaration of the
18 results of elections of county officers, and relating to appeals
19 and proceedings for review or reversal of decisions of the
20 board of canvassers concerning the same, are hereby made ap-
21 plicable to all elections of officers, held under this act.

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Sec. 5. The first election of officers under this charter shall
2 be held on the first Tuesday in April, one thousand nine hun-
3 dred thirty-three; and on the first Tuesday in April in every
4 second year thereafter, an election for all elective officers under
5 this charter shall likewise be held. The officers elected at such
6 elections shall take their offices and enter upon the discharge
7 of their duties on the first day of May following their election.
8 Any special election authorized hereunder shall be held as pro-
9 vided in the order of the council calling the same. All gen-
10 eral and special elections held hereunder shall be held at
11 places already designated as voting places and used as voting
12 places in national and state elections, namely: Logan graded
13 school building, Logan junior high school building, Logan court-
14 house, Logan fire station, and Logan senior high school build-
15 ing; unless said voting precincts are changed by the city coun-
16 cil.

Sec. 6. Every person residing in said city shall be entitled
2 to vote for all officers elected under this act; but no person who
3 is a minor, or of unsound mind, or pauper, or who is under
4 conviction of treason, or bribery in an election, or who has not
5 been a resident of this state for one year and of said city for

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Sec. 8. Every person elected or appointed to any office under this charter before proceeding to exercise any of the duties of such office, shall make oath or affirmation that he or

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4 she will support the constitution of the United States and the
5 constitution of this state and will faithfully and impartially
6 discharge the duties of his or her office to the best of his or
7 her skill and judgment. Said officers shall be paid a monthly
8 salary, the amount of which except as herein otherwise pro-
9 vided, shall be fixed by said council as soon as may be after
10 the councilmen thereof have entered upon the duties of their
11 office, except that the members of said council shall receive
12 no salary other than a salary of five dollars apiece for each
13 regular monthly meeting of said council, attended by such
14 members.

Sec. 9. Vacancies in the office of the council, including
2 mayor, shall be filled by the remaining members of the council,
3 who shall appoint to such vacancy a person having the same
4 politics as the member whose office is vacant.

Sec. 10. Immediately after their induction into office said
2 council shall meet and organize. The mayor shall preside at
3 all meetings and shall sign the minutes and records required
4 to be kept by the council. Three members of the council shall
5 constitute a quorum to do business and the mayor shall have no

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Sec. 11. The city solicitor shall be an attorney-at-law, authorized to practice law in the courts of Logan county, and he shall be the legal adviser of the city and of all its officers respecting legal matters. He shall prosecute all suits, actions and proceedings instituted on behalf of the city, and defend all suits, actions and proceedings against the city, and when requested in writing shall give his written opinion to any officer of the city upon such legal questions affecting the interest of the city or the duties of such officer as may be referred to him for an opinion. He shall also perform such other duties as may be required by the council, or mayor. It shall be his duty to attend the sessions of the council, and to attend and prosecute all trials of civil and criminal actions pending in the municipal court of said city. Said solicitor shall receive as compensation for his services the sum of fifty dollars per month. In all criminal prosecutions conducted by the city solicitor wherein there is a conviction of the defendant, there shall be taxed as a part of the costs of the suit, a fee of not less than five dollars nor more than ten dollars, which shall be col-

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20 lected, paid into the city treasury, and by it disbursed for the
21 general expenditures of the city.

22 The mayor, with the consent of the council, shall appoint
23 and employ a secretary to the mayor. The salary of the sec-
24 retary to the mayor shall be fixed by the council and shall not
25 exceed the sum of sixteen hundred dollars per year. The coun-
26 cil shall cause to be kept by the secretary to the mayor in a
27 well bound book to be called "minute book," an accurate record
28 of all its proceedings, ordinances, acts, orders, and resolu-
29 tions, and in another to be called "ordinance book," accurate
30 copies of all general ordinances adopted by the council; both
31 of which shall be accurately indexed and open to the inspec-
32 tion of any one required to pay taxes in the city, or who may
33 be otherwise interested therein. All oaths and bonds of offi-
34 cers in the city, and all papers of the council shall be endorsed,
35 filed and securely kept by the secretary to the mayor. The
36 bonds of officers shall be recorded in a well-bound book to be
37 called "records of bonds."

38 The secretary to the mayor shall perform such other duties
39 as by ordinance of the council may be prescribed. The tran-
40 script of ordinances, acts, orders, and resolutions certified by

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41 the secretary to the mayor under the seal of the city shall be
42 admissible in evidence in any court or before any justice.

Sec. 12. In case of temporary vacancy in the office of mayor,
2 for any cause whatsoever, the said mayor shall select one of the
3 members of the council to serve in the capacity of mayor during
4 the said temporary vacancy.

Sec. 13. Said mayor and councilmen shall be elected by the
2 qualified voters of the said city, and shall serve for a term of
3 two years, and thereafter until their successors in office shall
4 have been elected and qualified. No person shall be eligible to
5 the office of mayor or councilman except a qualified voter of said
6 city, who has resided therein for at least one year next before
7 his or her election.

Sec. 14. The salary of the mayor shall be fixed by the coun-
2 cil and shall not exceed the sum of three thousand dollars per
3 year. The duties of the mayor shall be:

4 (a) To see that the laws and ordinances of the city are en-
5 forced;

6 (b) To appoint all officers of the city, subject to the approval
7 of the council, except the city solicitor and members of the
8 council, and to employ, or cause to be employed, all such em-

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9 ployees of the city as may be found necessary to properly per-
10 form the functions and duties required but all appointments
11 and employments so made by said mayor shall be made upon
12 merit and fitness alone, and approved by the council;

13 (c) To exercise supervision and control over all depart-
14 ments and divisions created herein or that may be hereafter
15 created by the council, except over the city solicitor;

16 (d) To attend all meetings of the council with the right to
17 take part in its discussions, but without the right to vote, except
18 in case of a tie vote;

19 (e) To recommend to the council for adoption such meas-
20 ures as he may deem necessary or expedient;

21 (f) To keep the council fully advised as to the financial con-
22 dition and needs of the city;

23 (g) To supervise and conduct the performance of their du-
24 ties by all officers and employees by the city except city solici-
25 tor;

26 (h) Determine and decide on the plan and program for
27 paving, sewerage, and otherwise improving the different streets
28 and alleys in the city, and fix and determine the time in which

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29 such streets and alleys shall be paved, sewerred and otherwise
30 improved;

31 (i) Determine and decide upon the kind and make of pave-
32 ment, sidewalks, curbs, sewers and other improvements which
33 shall be constructed and made upon and in any of the streets
34 and alleys of the city;

35 (j) Act as purchasing agent and purchase all supplies and
36 materials for all departments of the city government: *Provided*,
37 *however*, That he shall not make any contract or purchase in-
38 volving an expenditure in excess of three hundred dollars, with-
39 out first obtaining the assent of the council so to do;

40 (k) Make and execute on behalf of the city all writings,
41 contracts, deeds and agreements, the making of which shall be
42 authorized by this charter, or by any ordinance, resolution or
43 statute;

44 (l) To call attention of the council and the city solicitor to
45 the violation of any law or ordinance that may come to the
46 knowledge of said city mayor;

47 (m) To perform and carry out all other duties that may be
48 assigned to him.

Sec. 15. The mayor by and with the consent of the said

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2 council may direct the county assessor to make all assessments
3 within the corporate limits of said city according to the laws
4 and regulations governing assessments in general throughout
5 the county, and the county assessor shall be paid a fee out of
6 the city treasury to be fixed by the council, but not to exceed
7 three hundred dollars annually: *Provided, however,* That the
8 council of the said city of Logan may adopt and use their own
9 method of collecting the municipal taxes insofar as the salary
10 for collecting such taxes does not exceed four hundred dollars.

Sec. 16. On the same day that the law requires county courts
2 to meet and make up their estimates under the provisions of
3 article eight, chapter eleven of the code of West Virginia, the
4 council of the city of Logan, acting in conjunction with the
5 mayor, shall meet and make up a similar estimate, in a similar
6 manner, pertaining to fiscal affairs of the said city of Logan,
7 and shall publish said estimates in the same manner and for the
8 same length of time as the said county courts are required to
9 publish their estimates. At the same time that county courts
10 are required to meet and lay the various county levies upon
11 taxable property for county purposes, the council shall in like
12 manner meet and lay a levy upon all taxable property, both real

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13 and personal, situated within and subject to taxation within the
14 said city of Logan, including property assessed by the board of
15 public works.

16 The rate of levy, however, shall not exceed fifty cents on each
17 one hundred dollars' valuation of the taxable property in said
18 city, unless a higher rate of levy be authorized by a two-thirds
19 vote of the voters of said city of Logan, in an election held for
20 that purpose. At the same time said council shall levy a special
21 annual tax of three dollars on each female dog, and of one dol-
22 lar on each male dog within said city over three months old at
23 the time said estimate is made, and the tax thus levied shall be
24 collected and paid into the city treasury for use in general cur-
25 rent expenses.

Sec. 17. There shall be a lien on all real estate within said
2 city for the city taxes assessed therein, and for all fines and
3 penalties assessed against or imposed upon the owners thereof
4 by the authorities of the city, including expenses for making,
5 maintaining, repairing, paving or macadamizing sidewalks,
6 drain^s, gutters and streets from the time the same are assessed
7 or imposed, which lien shall have priority over all other liens,
8 except taxes due the United States and the lien for taxes due

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9 the state, county and district, and such lien may be enforced in
10 the name of the city upon order of the council or the order of
11 the mayor in the manner provided by law for the enforcement
12 of liens upon real property for county taxes.

Sec. 18. The council may by ordinance impose special li-
2 cense tax in all cases where the state of West Virginia imposes
3 such license tax, except that no license tax shall be levied in
4 said city under clauses (s), (t), and (y) of section one, article
5 twelve, chapter eleven of the code of West Virginia.

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6 The council shall prescribe by ordinance the time and manner
7 in which license of all kinds shall be applied for and granted,
8 and shall require the payment of the taxes thereon to the city
9 treasurer on the delivery to the person applying therefor, which
10 tax shall include the same fees for the issuing of the license as
11 are charged for similar services for state and county officers,
12 and which fees shall be paid into the city treasury. The council
13 may for good cause refuse to issue any license applied for, and
14 for like good cause may revoke any license granted by it. But
15 the person holding such license must first have reasonable notice
16 of time and place of hearing and adjudicating the matter as
17 well as the cause alleged, and shall be entitled to be heard in

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18 person or by counsel in opposition to such revocation. The term
19 for which any license provided for in this charter shall be
20 granted shall be governed by the general laws providing for
21 state license and the rate of such license tax shall be fixed by the
22 council, but shall not be greater than the state license for similar
23 purposes.

Sec. 19. The judicial power of the city shall be vested in a
2 municipal court to be presided over by the mayor, and the word
3 "mayor" shall be taken to include and mean the words "mu-
4 nicipal judge" whenever the same are used in this act. Said
5 court shall have exclusive jurisdiction over all criminal pro-
6 ceedings for the violation of any city ordinance, and for the col-
7 lection of any license or tax imposed by any city ordinance,
8 and shall have concurrent jurisdiction with justices of the peace
9 of Logan county, of the following offenses committed within said
10 city, to-wit, petit larceny, assault and battery, breaches of the
11 peace, rioting, wilful injury to property, and all misdemeanors
12 committed within said city which are made punishable by fine
13 or imprisonment or both, under the general laws of this state:
14 *Provided*, That the punishment for such misdemeanors, unless
15 herein otherwise provided, shall be the same as that fixed for a

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16 conviction of such misdemeanors following a trial before a jus-
17 tice of the peace or a trial in the circuit court of Logan county :
18 *And provided further*, That the accused may demand a trial by
19 jury on all such misdemeanor charges as he would be entitled
20 to have tried by a jury in said circuit court or by a jury before
21 such justice of the peace. A conviction or acquittal on such
22 misdemeanor charges in said municipal court shall operate as a
23 bar to further prosecution on the same charges before any jus-
24 tice or the circuit court of Logan county.

25 The municipal judge shall be a conservator of the peace
26 within the limits of said city, and shall also have the same power
27 to issue attachments in civil suits as a justice of the peace has,
28 although the cause of action arose outside of the city. Said
29 attachments shall be returnable to and all issues thereon tried
30 before some justice of the county of Logan. Said municipal
31 judge shall, upon proper complaint and information on oath
32 made before him, have authority to issue warrants for the ar-
33 rest of any persons for any class of offenses over which said
34 municipal judge is herein given jurisdiction, and said warrants
35 may be executed anywhere within the limits of this state. If
36 said warrants are executed by the officer to whom directed, or by

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37 any member of the department of public safety, no endorsement
38 or other authentication thereof shall be required than the signa-
39 ture of the municipal judge issuing same. Said municipal
40 judge shall have power to issue executions for all fines, penal-
41 ties and costs imposed by him, or he may require the immediate
42 payment thereof, and in default of such payment he may com-
43 mit the party in default to the jail of Logan county, until such
44 fine, penalties and costs are paid or bonded, but the term of
45 imprisonment for fine and costs alone shall not exceed thirty
46 days. The expense of maintaining any person committed to the
47 county jail by the municipal judge shall be borne by the city,
48 except as to any person who shall be bound over to await the
49 action of the grand jury of the circuit court of Logan county,
50 in which event the expense of maintaining such person shall be
51 borne by the county of Logan. The municipal judge shall not
52 receive any money belonging to the city or to individuals, unless
53 he shall give bond and security as is required by justices of the
54 peace, and all provisions of chapter fifty of the code of West
55 Virginia, relating to monies received by justices shall apply in
56 like manner to said municipal judge.

57 He shall have authority to sentence male offenders over the

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58 age of sixteen years to labor upon the streets and public works of
59 the city of Logan during the term of their imprisonment, and
60 thereafter until the fine and costs imposed upon the offender
61 are paid or bonded. The compensation for said labor shall be
62 paid to the offender's dependents, if any, in conformity with
63 such regulations as the council may by ordinance provide. The
64 municipal judge may also sentence offenders to labor upon the
65 public roads of Logan county in like manner and with like ef-
66 fect as such offenders may now be sentenced to work upon said
67 public roads by the circuit court of Logan county, West Vir-
68 ginia. In case such offender so sentenced by said municipal
69 judge shall be worked upon said public roads under the direc-
70 tion of the county court of Logan county, or the county road
71 engineer of said county, or of some officer designated by said
72 county court, the cost of maintaining such prisoners in jail shall
73 be borne by the county of Logan for such period as they are
74 worked upon said public roads, and such compensation as shall
75 be allowed said prisoners by said county court shall be paid to
76 offender's dependents, if any, and if no dependents, then such
77 compensation shall be credited upon said offender's fine and
78 costs, including the cost of boarding said offender while in jail.

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79 Appeals shall lie from the judgment of said municipal court
80 to the circuit court of Logan county in accordance with law in
81 the same manner as appeals are allowed from the judgment of
82 justices of the peace.

83 It shall be the duty of the municipal judge and the city solici-
84 tor to see that all fines, costs and penalties imposed upon offend-
85 ers are collected and paid into the city treasury to be used for
86 the city purposes in the same manner as monies raised by said
87 city through taxation are used. However, said city solicitor and
88 municipal judge shall assume no personal liability for the col-
89 lection of any fines, costs or penalties which they are unable to
90 collect through the exercise of reasonable diligence.

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91 At the expiration of his term of office the municipal judge
92 shall make an ^caccount and settlement for all monies coming into
93 his hands, and an annual audit shall be made of his books, rec-
94 ords and accounts, as provided by chapter ten-(a) of the code
95 of West Virginia. His books and records shall be at all times
96 open for inspection by the board of commissioners and the city
97 manager.

98 A well-bound book indexed and denominated "police docket"
99 shall be kept in the office of the municipal judge, in which shall

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100 be noted each case brought before or tried by him, together
101 with the proceedings therein, including the statement of the
102 complaint, the warrant or summons, the return, the fact of
103 appearance, or nonappearance, the defense, the hearing, the
104 judgment, the amount of fine and costs separately stated, and
105 in cases of conviction, the action taken to enforce the same.
106 The record of each case shall be signed by the municipal judge
107 and the original papers thereof, if no appeal be taken, shall be
108 kept together and preserved in his office.

Sec. 20. The mayor shall also be ex officio treasurer of the
2 said city and it shall be the duty of the treasurer to collect the
3 city taxes, license, levies, assessments, and other such city claims
4 as are placed in his hands for collection by the council, and he
5 may distrain and sell therefor in like manner as a sheriff may
6 distrain and sell for state taxes; and he shall, in all other re-
7 spects, have the same power as a sheriff to enforce the payment
8 and collection thereof. The mayor, as treasurer, and the cus-
9 todian of the moneys and funds of the city, shall keep faithful
10 and accurate records and accounts thereof, in such manner as
11 to show the true status of said accounts at all times, and shall
12 exhibit his said records to the council at each of their regular

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13 meetings. Such records shall also at all times be open to the
14 inspection of any taxpayer of the city.

15 No money shall be disbursed from the city treasury except
16 upon order of the council, and a complete record showing the
17 purpose, name of payee, and the amount shall be kept by the
18 mayor's secretary in a permanent record for the council. All
19 drafts on the treasury shall be signed by the mayor and at least
20 three members of the council. It shall be the duty of the sec-
21 retary to the mayor to keep a record of such drafts, which shall
22 be open to the inspection of the public at all times. A perma-
23 nent record shall also be kept of all drafts drawn on the treas-
24 ury, and at each meeting of the council such records shall be
25 laid before it, and an examination be made of all drafts drawn,
26 or expenditures incurred since the last preceding meeting.
27 The mayor, as collector of taxes and as treasurer of the muni-
28 cipal corporation, shall be required to settle annually with the
29 council at the same time, and in the same manner as is pre-
30 scribed by general law for the settlement of their accounts with
31 the county court by the sheriffs as treasurers of the several
32 counties of the state.

Sec. 21. The mayor shall also be superintendent of streets

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Chairman House Committee.
George A. Byrnes
Chairman Senate Committee.

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2 and within the limits of the money provided for such work all
3 public streets and alleys shall be kept clean and in constant
4 repair, and all sewers within the city shall be kept in good re-
5 pair and operating condition. All garbage of the city shall
6 be removed and burned or otherwise disposed of as directed
7 by the mayor, and full authority is hereby conferred upon
8 him to purchase, subject to the approval of the council, or to
9 acquire by lease or otherwise a site or location within or with-
10 out the city of Logan on which to deposit and dispose of all
11 city garbage. The police of the city of Logan shall have full
12 and complete authority to prevent camping or trespassing upon
13 any location acquired for the disposal of such garbage, whether
14 such location be within the city limits or not.

Sec. 22. The mayor, who before entering upon the dis-
2 charge of his duties as such, shall take and subscribe before a
3 notary public, or other person competent to administer an oath,
4 and file same with city council, an oath that he will support
5 the constitution of the United States and of the state of West
6 Virginia, that he will faithfully account for, as required by
7 law, all moneys, funds and properties which shall come into
8 his custody or under his control by virtue of his office, and

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Chairman House Committee.

9 that he will faithfully perform the duties of mayor to the
10 best of his skill and judgment. He shall also, before entering
11 upon the discharge of his duties, execute and file with the
12 city council a bond in the penalty of at least fifty thousand
13 dollars, and in such greater amount as the council may direct,
14 with some solvent and responsible surety or bonding company,
15 authorized to do business in this state as surety thereiu, con-
16 ditioned that he will faithfully perform the duties of his said
17 office. The premium on such bond shall be paid by the city
18 out of the funds in the city treasury, and when said bond is de-
19 livered to the council they shall record the same and then de-
20 liver it to the clerk of the county court of Logan county, who
21 shall record it in his office in the same book in which the bonds
22 of county officers are recorded. A certified copy of said bond
23 as recorded by either the said mayor or said clerk shall be ad-
24 mitted and considered in evidence the same as the original
25 could be in all courts and before all public bodies in this
26 state.

Sec. 23. At the expiration of his term of office the mayor shall make an account and settlement for all monies coming into his hands, and an annual audit shall be made of his books, rec-

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D. H. Hays

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4 ords, and accounts, as provided by general law respecting county
5 offices. His books and records shall be at all times open for
6 inspection by the council. The mayor shall make a monthly
7 report to the council of all arrests and fines, which reports
8 shall be examined and approved before the salary of said official
9 is paid for such month.

Sec. 24. The mayor, councilmen, and city solicitor may be
2 removed for the same causes and in the same manner as pro-
3 vided by general law for the removal ^{OF} ~~for~~ county officers. All
4 other officers or agents appointed hereunder may be removed
5 at the pleasure of the mayor, without cause, subject however,
6 to the approval of the majority vote of the council at their
7 next regular meeting, whenever the mayor deems such re-
8 moval for the best interest of the city.

Sec. 25. The city shall construct, keep repaired and main-
2 tain its own roads, streets and alleys and by reason thereof
3 the property located within the limits of said city shall not be
4 subject to district road levies for the magisterial district in
5 which said city is located except levies to pay the bonded in-
6 debtedness, if any, of the county of Logan, and of the magis-
7 terial district of Logan, now outstanding.

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Sec. 26. The city shall provide for and maintain as required
2 by law all poor persons and paupers within the city limits, and
3 shall by reason thereof be released from paying any county or
4 district levies for the maintenance of the poor or paupers.

Sec. 27. The city is hereby authorized to issue its bonds
2 in the manner provided by general law, and in that way be-
3 come indebted for the following purposes only, to-wit:

4 (a) For the acquisition of a site and the construction
5 thereon of a city incinerator complete;

6 (b) For the paving, repaving, curbing, recurbing, grading,
7 regrading, sewerage, resewerage, or otherwise permanently im-
8 proving any street or alley or roadway within the city limits
9 or the acquisition of land ^{or} ~~the~~ rights-of-way for the establish-
10 ment of new streets, alleys or roadways or rights-of-way for the
11 building of city sewers;

12 (c) For the construction and installing of a water plant
13 or works to supply the city of Logan and the residents thereof
14 with water, or for the acquisition of the water plants or works
15 now installed in said city, and the improving, reconstruction
16 or rebuilding of the same.

17 But the city shall not become indebted in any manner or for

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James A. Higgins

James L. Smith

Chairman Senate Committee.

Chairman House Committee.

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18 any purpose to an amount, including existing indebtedness, in
19 the aggregate, exceeding five percent on the valuation of the
20 taxable property therein to be ascertained by the last assess-
21 ment for state, county and municipal taxes, previous to the
22 incurring of such indebtedness; nor without at the same time
23 providing for the collection of a direct annual tax sufficient
24 to pay annually the interest on such debts and the principal
25 thereof, within, and not to exceed thirty-four years: *Pro-*
26 *vided*, That no debt shall be contracted under this section
27 unless the question connected with the same shall have first
28 been submitted to a vote of the people, and have received three-
29 fourths of all the votes cast for and against the same.

Sec. 28. The city through its officers, shall have plenary
2 power to construct, maintain and keep in constant repair, all
3 streets, alleys, roadways, sidewalks, gutters, and sewers of the
4 city, and to lay out, construct and maintain, and keep in re-
5 pair, new streets, alleys, roadways, sidewalks, gutters, and
6 sewers, and to apportion such amount of monies raised by tax-
7 ation to that purpose as may be requisite: *Provided, however,*
8 That such construction and repair, as is herein mentioned, can-
9 not be made by the county court upon an agreement regarding

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H. B. No. 266

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10 said construction and repair, and cost of same, by the said
11 county court, the mayor, and the city council.

Chairman House Committee.

Sec. 29. It shall be the duty of the owner of any real prop-
erty abutting on or next adjacent to or on any sidewalk, foot-
way, or gutter; to lay and construct proper sidewalks, and to
curb, recurb, pave, repave, or repair, and keep the same in
constant good and clean condition in the manner and within
the time required by the council. And if any owner of any such
real estate shall fail or refuse to lay and construct such sidewalks,
and to do such curbing, recurbing, paving, repaving, or repair-
ing, or to keep the same constantly in good condition and clean,
in the manner and within the time required by the said council,
it shall be the duty of the said council to cause the same to be
done at the expense of the city, and to assess the amount of
such expense against said property, and upon the owner there-
of, and the amount so assessed against said property shall
constitute a lien thereon and shall be collected by the city treas-
urer in the same manner and at the same time that city taxes
on property assessed within the city are collected. If the owner
of the property upon which such lien exists fails to pay the
same within six months after said lien is perfected, then such

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Sec. 30. The council shall have the right in the name of the
2 city of Logan, to institute and prosecute in the circuit court of
3 Logan county, West Virginia, condemnation proceedings for the
4 purpose of condemning real estate for streets, alleys, roadways,
5 drains, sewers, market grounds, city halls, incinerator plants and
6 other city purposes. Said condemnation proceedings shall con-
7 form to and be governed by the general laws of West Virginia
8 relating to condemnation of real estate for public uses.

Sec. 31. Public utility franchises shall be granted for a 2 period of not exceeding twenty-five years, and it shall be pro- 3 vided in every franchise that upon the annexation of new ter- 4 ritory to the city, said franchise shall also apply within said 5 annexed territory. No exclusive franchise or monopoly shall be 6 granted, and all franchises or privileges for the occupation or 7 use of the streets, alleys and roadways of the city shall be con- 8 strued strictly in favor of the city. All such franchises shall be 9 granted subject to the right of the city to control by resolution

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Henry R.
Chairman Senate Committee

Chairman Senate Committee.

Chairman House Committee.

10 or ordinance the operation of said franchise, whether so ex-
11 pressed in the franchise or not.

Sec. 32. The council of the city shall have power by ordi-
2 nance to control and regulate the construction and repair of all
3 houses and other structures or buildings within the city, and
4 provide for the granting of building permits; to cause the re-
5 moval of all unsafe walls or buildings and may upon the pe-
6 tition of any person or persons owning the greater amount of the
7 frontage of the lots abutting on any street between any two cross
8 streets, or in any square in said city, prohibit the crection on
9 such street, or in such square, of any building or any addition
10 to any building unless the outer walls thereof be made of brick
11 and mortar or other fireproof material, and to provide for the
12 removal at the expense of the owner, of any building or ad-
13 ditions which shall have been erected contrary to such prohi-
14 bition.

Sec. 33. In order to carry into effect all the specific and im-
2 plied powers conferred upon the city of Logan by this charter
3 or any other or general law, the said council shall have and pos-
4 sess full power and authority to make all needful ordinances,
5 by-laws, orders and resolutions not repugnant to the laws and

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James L. Smith

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6 constitution of the United States and of this state, and to pro-
7 vide for the proper enforcement of the same by fines, penalties
8 and imprisonment.

Sec. 34. The city of Logan under this charter shall succeed
2 to all the rights and liabilities of the city of Logan, under the
3 charter granted by the acts herein amended, or repealed, and it
4 shall be liable for all the debts and obligations of said city, the
5 same as if said indebtedness or liability were created or incurred
6 by the city of Logan under this charter.

Sec. 35. All ordinances, by-laws, orders and resolutions of
2 the city of Logan in force at the time this act goes into effect,
3 so far as they are not inconsistent with this charter, shall con-
4 tinue in force as ordinances, by-laws and resolutions of the city
5 of Logan, until amended or repealed by the council of said city.

Sec. 36. The provisions of chapter eight of the code of West
2 Virginia, so far as the same are not repugnant to the provisions
3 of this chapter, or to any by-laws or ordinance passed by the
4 council under powers conferred upon them by this charter, shall
5 be applicable to the said city of Logan.

Sec. 37. At the time they hold their mass convention for the
2 purpose of nominating candidates to be voted for as mayor and

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Anna D. Hyatt

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Chairman House Committee.

3 councilmen under the provisions hereof, the voters of the re-
4 spective political parties may select a city executive committee
5 to represent them. Such committees shall consist of a chairman,
6 a secretary, and six other members; and the powers and duties
7 of such chairman, secretaries and committees, as respects mu-
8 nicipal conventions, elections, affairs and matters, shall be the
9 same as are respectively held and performed by county execu-
10 tive committees, chairman and secretaries of said political par-
11 ties, in respect to county conventions, elections, affairs and mat-
12 ters.

Sec. 38. The regular meetings of the council shall be pub-
2 licly held at such time and in such places in the city as they
3 shall from time to time ordain and appoint; and it shall be
4 lawful for the council by ordinance to vest in any officer of the
5 city, or in any member, or number of members of its own body
6 the authority to call special meetings and prescribe the mode in
7 which notice of such special meetings shall be given; if a ma-
8 jority of the members of the council do not attend any regular
9 or special meetings, those in attendance shall have authority
10 to compel the attendance of absent members under such rea-
11 sonable penalties as they may think proper to impose by ordi-

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Chairman House Committee.

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12 nance. All questions put to vote, except such matters as are
13 herein otherwise provided for, shall be decided by a majority
14 of the members present.

Sec. 39. The mayor, with the consent of the council, shall
2 appoint and employ a chief of police and such other police of-
3 ficers as shall be necessary, who shall be ex officio constables
4 within the corporate limits of the city and as such may execute
5 any writ or process issued by the mayor, or by any justice of
6 the peace in any place in Logan county; said police shall have
7 all the powers, rights and privileges within the corporate limits
8 of the city in regard to the arrest of persons, the collection of
9 fines, and the execution and return of process, that are vested
10 by law in a constable of a magisterial district, and shall be liable
11 for all fines, penalties and forfeitures that a constable of a mag-
12 isterial district is liable to, to be recovered in the same manner,
13 and in the same court that fines, penalties and forfeitures may
14 be recovered against such. All other police officers employed
15 by said city shall perform their duties under the several direc-
16 tion of the chief of police, and they shall be charged with the
17 same duties and shall have and possess the same powers as the
18 chief except insofar as they are hereinf placed under the super-

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H. H. Hays
Chairman Senate Committee.

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19 vision of said chief of police: *Provided, however,* That all police
20 officers, other than that of chief of police, necessary for the
21 protection and safety of the inhabitants of the city of Logan,
22 cannot be made by the sheriff of the county upon an agreement
23 regarding the duties and cost of same, by said sheriff, mayor
24 and city council. On special occasions, the council may desig-
25 nate and appoint additional policemen to act temporarily and
26 they shall be charged with the same duties and clothed with the
27 same powers as regular police officers hereunder. All police of-
28 ficers appointed hereunder shall before entering upon the dis-
29 charge of their duties execute a bond in the penalty of at least
30 five thousand dollars, conditioned for the faithful discharge of
31 their duties as such officers, that they will account for and pay
32 over as required by law all moneys which shall come into their
33 hands by virtue of their office and further conditioned for the
34 payment of all damages sustained or incurred by anyone by
35 reason of injury through the wilful illegal use of any weapons
36 which said police are authorized to carry. Upon the execution
37 of such bond such chief of police and other police shall be
38 authorized to carry anywhere within the limits of the said city
39 of Logan, and anywhere else within the limits of the state of

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James D. Higgins

James L. Smith

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Chairman Senate Committee.

40 West Virginia while engaged in the actual performance of their
41 duties as such, any weapons now authorized by law to be carried
42 by the sheriff of Logan county. Said chief of police and other
43 policemen appointed hereunder shall be paid such compensa-
44 tion as is fixed by the mayor and approved by the council, which
45 compensation shall be paid out of the city treasury monthly.

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Sec. 40. The mayor, with the consent of the council, shall
2 appoint a chief of fire department and such number of firemen
3 as in its opinion are necessary to the creation and maintenance
4 of a fire-fighting force sufficient for the needs of the said city of
5 Logan; the mayor, with the consent of the council, shall pre-
6 scribe the duties and fix the compensation of said chief and
7 other firemen and shall promulgate and adopt such rules and
8 regulations for the government of said fire-fighting force, and
9 for the use, maintenance and care of the city's fire-fighting
10 equipment, as may, in his opinion, be necessary or needful.
11 The chief of the fire department, and each fireman so appointed,
12 shall, while in the necessary performance of their duties, or
13 while going to or returning from any fire, be vested with the
14 same powers of arrest as are conferred upon the chief of police
15 by this charter. The council may by ordinance also promulgate

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Chairman House Committee.
Henry D. Rogers
Chairman Senate Committee.

16 and enforce such rules and regulations governing traffic over
17 a street on which fire-fighting equipment is being moved to the
18 scene of a fire, as will in its opinion properly safeguard and
19 expedite the moving of such equipment. The chief of the fire
20 department shall be an ex officio constable within the corporate
21 limits of the city and shall qualify as such in the manner pro-
22 vided herein for police officers. While engaged as such police
23 officer he shall serve under the direction of the chief of police.

Sec. 41. The mayor may appoint a city engineer subject to
2 approval of the council, whose duty it shall be to perform such
3 engineering services as are required of him from time to time by
4 order of the council or the mayor. And in case any permanent
5 improvements are being made upon any of the existing streets
6 or alleys, or to any sewers of the city, or in case any new streets
7 are hereafter planned, laid out or dedicated for the public use
8 of the city, or any new sewer lines are hereafter planned, laid
9 out or put in use in said city, before the same are dedicated
10 and laid out they shall be correctly surveyed by such engineer
11 and a map and plan of the same filed with the mayor as a part
12 of the records of said city. In case the city should install a
13 waterworks or a water plant, or purchase the one now in op-

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Henry D. Hyre

Chairman House Committee.

Chairman Senate Committee.

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14 eration in said city (either or any of which the said city is
15 hereby authorized to do), all the lines installed by the city for
16 carrying water, and all improvements made to said plant, shall
17 first be submitted to the city engineer, and approved by him
18 and the mayor before the same shall be acted upon by the coun-
19 cil.

Sec. 42. All contested elections shall be heard and deter-
2 mined by the council in existence at the time the election is
3 held, and the contest shall be made and conducted in the manner
4 as provided for in contests for county and district officers, and
5 the council by their proceedings in such cases shall as nearly
6 as practicable, conform with like proceedings of the county
7 court in such cases.

Sec. 43. The mayor shall sign, execute and acknowledge, for
2 and on behalf of the city, all deeds, releases, writings, and
3 documents not herein required to be signed, executed and ac-
4 knowledged by some other official.

5 All election officers, who perform their services under the
6 provisions of this charter, shall be paid the same compensation
7 as is provided by law for similar services performed by election

James L. Smith

Chairman Senate Committee.

Sec. 44. No member of the council, including the mayor, the
2 secretary to the mayor, and the city solicitor shall be entitled
3 to hold any other office in the city government.

Sec. 45. No person holding a lucrative or appointive office
2 under this state, or the county of Logan, shall be eligible to
3 hold the office as mayor of the city of Logan.

Sec. 46. All officers of the city of Logan shall remain in
2 office and hold their offices and discharge the duties thereof
3 under the provisions of the present charter of the city of Logan
4 until the first day of May, one thousand nine hundred thirty-
5 three, and thereafter, until their successors are qualified, and
6 all existing offices not provided by this act shall be abolished as
7 of the first day of May, one thousand nine hundred thirty-three.

See. 47. The act of the legislature of West Virginia passed 2 March eight, one thousand nine hundred twenty-nine, known 3 as house bill number three hundred seventeen, relating to the 4 charter of the city of Logan, and being chapter twenty of the 5 acts of the legislature of West Virginia, one thousand nine hun-

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Chairman House Committee.

James A. Dwyer

Chairman Senate Committee.

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6 dred twenty-nine, relating to municipal charters, and all acts

7 and parts of acts inconsistent with this act, are hereby repealed.

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William A. Sykes
 Chairman Senate Committee.

R. M. Shiner
 Speaker of the House of Delegates.

Geo. S. Hall
 Clerk of the House of Delegates.

A. B. Mainwaring
 President of the Senate.

Charles D. Smith
 Clerk of the Senate.

James L. Smith
 Chairman House Committee.

The within is.....

this.....day of....., 1933.

.....
 Governor.

Filed in the office of the Secretary of State
 of West Virginia **MAR 1 1933**
GEORGE W. SHARP,
 Secretary of State.