CHAPTER 12.

AN ACT creating a department of public safety, to provide protection for the lives and property of the inhabitants of the state of West Virginia, providing for the appointment of a superintendent, officers and members thereof, defining their powers and duties and fixing their compensation, and creating a board of commissioners to hear and determine charges to be filed against any member of the department of public safety for misconduct in office.

[Passed March 12, 1919.]

1. Department of Public Safety created: superintendent, the successor and administrative head; appointed by the Governor; term of office; age requirement.
2. Assistant superintendent, the successor and administrative head; oath of office; providing suitable office for the several departments.
3. Appointment of superintendent; salary; clerk of the department; salary; appointment and reappointment.
4. Reassignment of superintendent; filling of vacancy.
5. Superintendent's duty in creating.

appointing and removing two or more officers of inferior grade, additional officers, members, corporals; their removal; bonds with security, to be approved by the Governor; duties of the superintendent.

T. Wildfire for superintendents; superintendents to appoint all members of the department; twenty-one days with compensation, other than the regular service.
4 of his duties in the penalty of ten thousand dollars, with or
5 bodily harm; such bond both as to form and security shall be
6 approved by the board of public works. Before entering upon
7 the duties of his office the superintendent shall subscribe to the
8 oath of office. If refused, such bond when approved and such
9 oath when duly subscribed and taken, shall be filed with the secre-
10 tary of state and preserved by him in his office.
11 The board of public works shall provide suitable and adequate
12 offices at the capital of the state for the use of the department of
13 public safety.

Sec. 3. The superintendent, with the advice and consent of
2 the governor, shall appoint a deputy who shall receive an annual
3 salary of two thousand dollars. The superintendent shall ap-
4 point one clerk who shall be a competent bookkeeper and who
5 shall receive an annual salary of fifteen dollars and also
6 appoint a competent stenographer who shall receive an annual sal-
7 ary of twelve hundred dollars.

Sec. 4. The superintendent may tender to the governor his
2 resignation as such at any time. The governor may accept the
3 same as soon as he can secure a person who is competent
4 and qualified to be appointed to fill the office. The super-
5 intendent in office shall continue as such and perform all of the
6 duties thereof until his successor is appointed and qualified.

Sec. 5. The superintendent shall create, appoint and equip
2 a department of public safety, which shall consist of two companies
3 or platoons. Each company or platoon shall be composed of one
4 captain who shall receive an annual salary of eighteen hundred
5 dollars, one lieutenant who shall receive an annual salary of six-
6 teen hundred dollars, one first sergeant who shall receive an annual
7 salary of twelve hundred dollars, four sergeants who shall receive
8 an annual salary of eleven hundred dollars each, four corporals
9 who shall receive an annual salary of one thousand dollars each
10 and such number of privates as the superintendent may decide to
11 be best, but such number of privates shall not at any time be less
12 than thirty nor more than fifty-five in any one company or platoon.
13 Each private shall receive an annual salary of nine hundred dol-
14 lars. Each member of the department of public safety, except the
15 superintendent, bookkeeper and stenographer, shall before entering
16 upon the discharge of his duties execute a bond with security in
17 the sum of thirty-five hundred dollars payable to the state of
18 West Virginia, conditioned for the faithful performance of his
duties as such, and such bond shall be approved, both as to form
and security, by the board of public works and the same shall be
filed with the secretary of state and preserved in his office.

Sec. 6. The governor may at any time when he deems it ad-
visable muster out or discharge any company or platoon. The of-
ficers and members of such company or platoon so discharged shall
be granted an honorable discharge signed by the superintendent
of militia. Any company or platoon mustered out or discharged, as here-
before provided, shall deliver to the superintendent all of the prop-
erty and equipment belonging to the state which was in the pos-
session of such company, or any member thereof, and the method
and manner of such delivery and receipt thereof shall be pro-
vided for by regulations prescribed by the superintendent.

Sec. 7. No person shall be appointed by the superintendent
as a member of the department of public safety unless he be a
citizen of the United States and of the state of West Virginia,
a bona fide resident of this state for the period of two years
next immediately preceding his appointment. He shall also be
a person not less than twenty-one nor more than forty-five years of
age, able to ride horseback, of sound constitution, of good moral
character, and he shall be required to pass such mental and physical
examinations as may be provided for by the rules and regulations
promulgated by the superintendent. No person shall be barred
from becoming a member of such department of public safety be-
cause of his religious or political convictions. All members of the
department of public safety, including the deputy, clerk and sten-
ographer, shall be appointed by the superintendent for the period
of two years and all the members of the department of public
safety, except the superintendent, deputy, captain, Lieutenant,
bookkeeper and stenographer, shall receive an increase of sixty
dollars per annum during continuous service after two years and
an additional increase of sixty dollars per annum during con-
tinuous service after four years. Provided, that not more than
21 two such increases shall be made.

Sec. 8. No member of the department of public safety may
withdraw or resign from the department of public safety force
without the consent of the superintendent. And in the event any
member should withdraw, resign or refuse to discharge the duties
imposed upon him by this act, after having been duly appointed
and qualified, without the consent in writing of the superintendent,
he shall be deemed guilty of a misdemeanor and upon conviction
8 thereof shall be fined not less than the sum of fifty dollars nor
9 more than the sum of one thousand dollars, or imprisoned in the
10 county jail for a period of not more than six months, or both.

Sec. 9. The superintendent shall re-appoint any member
2 of the department of public safety at the expiration of his term
3 of service if in the opinion of the superintendent it is proper so
4 to do; but no member of the department of public safety who has
5 been removed, suspended or discharged under the provisions of
6 this act shall be eligible to be again appointed to the department
7 of public safety unless the consent of the governor thereto in
8 writing is first had and obtained.

Sec. 10. No officer or member of the department of public
2 safety shall be eligible during his term of service, or within one
3 year thereafter, to hold any other office under the constitution and
4 laws of the state of West Virginia, whether such office be elective
5 or appointive.

Sec. 11. Subject to the written approval of the governor, the
2 superintendent may make and promulgate proper rules and reg-
3 ulations for the government, discipline and control of the depart-
4 ment of public safety and also proper rules and regulations for the
5 examination of all applicants for appointment thereto.
6 The members of the department of public safety shall be per-
7 mitted and allowed to carry such arms and weapons as may be
8 prescribed by the superintendent and no license shall be required
9 for such privilege.

Sec. 12. The superintendent shall provide the members
2 of the department of public safety with suitable arms and weapons,
3 and when and where he shall deem it necessary with suitably
4 equipped horses and other means of conveyance. He shall also
5 provide proper uniforms for all members of the department of
6-7 public safety.

8 The superintendent shall prescribe the kind, materials and
9 style of all uniforms both for the officers and privates. All uni-
10 forms and all arms, weapons and other property furnished to mem-
11 bers of the department of public safety by the state of West Vir-
12 ginia shall be and remain the property of the state.
13 The superintendent shall establish and maintain local head-
14 quarters at such places in West Virginia which are in his judgment
15 suitable and proper to render the department of public safety most
16 efficient for the purpose of preserving the peace, protecting property,
17 preventing crime, apprehending criminals and carrying into effect
18 all other provisions of this act. The superintendent shall provide
19 by lease or otherwise for housing and quarters for the accommo-
20 dation of the members of the department of public safety and shall
21 provide all equipment and supplies necessary for them in the per-
22 formance of the duties of their office.

Sec. 13. The jurisdiction of the department of public safety
2 shall extend anywhere in the state of West Virginia.

Sec. 14. The superintendent and deputy, respectively, and
2 each of the officers and members of the department of public safety,
3 are hereby authorized and empowered as follows:
4 First. To make arrests anywhere within the confines of
5 the state of any and all persons charged with the violation of
6 any law of this state, or of the United States, and when a wit-
7 ness to the perpetration of any offense or crime, or to the viola-
8 tion of any law of this state, or of the United States, may arrest
9 without warrant; to arrest and detain any and all persons sus-
10 pected of the commission of any felony or misdemeanor when-
11 ever complaint is made and a warrant is issued therefor for such
12 arrest, and any and all persons so arrested shall be forthwith
13 brought before the proper tribunal for examination and trial
14 in the county where the offense for which any such arrest has
15 been made, was committed.

16 Second. To serve criminal process issued by any court or
17 justice of the peace anywhere within this state; provided, how-
18 ever, that they shall not serve civil process.

19 Third. To co-operate with local authorities in detecting
20 crime and in apprehending any person or persons engaged in or
21 suspected of the commission of any crime, misdemeanor or of-
22 fense against the law of this state, or of the United States, or of
23 any ordinance of any municipality in this state.

24 Fourth. Members of the department of public safety shall be
25 and are hereby granted forest privileges, game and fish privileges
26 and deputy prohibition officers throughout the state to do and perform
27 any and all duties and exercise any and all powers of such officers,
28 and may apprehend and bring, before any court or justice of the
29 peace having jurisdiction of such matters, any one violating any
30 of the provisions of chapters thirty-two-a, sixty-two and one hun-
31 dred and fifty-three of Barnes’ code of one thousand nine hundred
32 and sixteen, and any and all amendments thereto; and the depart-
33 ment of public safety shall at any time be subject to the call of the
34 commissioner of prohibition to aid the prohibition department in
35 apprehending any person violating any of the provisions of chap.
36 ter thirty-two, they shall serve and execute warrants for the
37 arrest of any person and warrants for the search of any premises
38 issued by any properly constituted authority, and shall exercise
39 all of the powers conferred by law upon a sheriff, constable or
40 any other peace officer of this state, except that they shall
41 not serve any civil process or execute any of the powers of such
42 officers in matters of a civil nature.
43 Fifth. Any member of the department of public safety know-
44 ing or having reason to believe that any one has violated the law
45 may make complaint in writing before any court or officer having
46 jurisdiction and procure a warrant for such offender, execute the
47 same and bring such person before the proper tribunal having
48 jurisdiction. Members of the department of public safety shall
49 make return on all such warrants to said tribunals and his official
50 title shall be "member of department of public safety." Members
51 of the department of public safety may execute any summons or
52 process issued by any tribunal having jurisdiction requiring the
53 attendance of any person as a witness before such tribunal and
54 make return thereon as provided by law and any return by a
55 member of the department of public safety showing the manner
56 of executing such warrant or process shall have the same force and
57 effect as if made by a sheriff.

37 Sixth. The members of the department of public safety and
38 each of them when called by the sheriff of any county, or when the
39 governor by proclamation so directs, shall have full power and au-
40 thority within said county, or within the territory defined by the
41 governor, to direct and command absolutely the assistance of any
42 sheriff, deputy sheriff, constable, chief of police, policeman, town
43 marshal, game, and fish warden, deputy prohibition officer and
44 any and every peace officer of the state, or of any county or mu-
45 nicipality therein, or of any able-bodied citizen of the United
46 States to assist and aid in accomplishing the purposes expressed
47 in this act. When so called any officer or person shall, during the
48 time his assistance is required, be, and be considered to be, for
49 all purposes a member of the department of public safety force
50 and subject to all the provisions of this act.

Sec. 15. No member of the department of public safety
2 shall in any way interfere with the rights or property of any per-
3 son except for the prevention of crime.
4 No member of the department of public safety shall in any

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5 way become active or take part in any political contest or at any
6 time participate in any political party caucus, committee, primary,
7 assembly or convention or in any general or special election what-
8 ever except to cast his ballot.
9 No member of the department of public safety shall be de-
10 tailed or ordered to duty at or near any voting precinct where
11 any election or convention is held on the day of such election or
12 convention; nor shall any member thereof remain in, about or near
13 such voting precinct or place of convention, except to cast his
14 vote. After voting he shall forthwith retire from such voting
15 precinct. No member of the department of public safety shall act
16 as an election official. If any member of the department of public
17 safety be found guilty of violating any of the provisions of this
18 section he shall be dismissed from the force by the superintendent
19 as hereinafter provided.
20 No officer or member of the department of public safety shall,
21 while on duty, be quartered in any property in the possession or
22 control of any person, firm or corporation which is an employer
23 of labor and employs more than twenty-five persons at one time
24 unless no other quarters are reasonably available for their housing.
25 No officer or member of the department of public safety shall,
26 in any labor trouble or dispute, between employer and employee
27 aid or assist either party thereto, but shall in such cases see that
28 the statutes and laws of the state of West Virginia are enforced
29 in a legal way and manner.

Sec. 15. The superintendent and each of the other members
2 of the department of public safety before entering upon the dis-
3 charge of his duties shall take and subscribe to an oath which
4 shall be of the form and effect as follows, to wit:
5 "State of West Virginia,
6 County of ........................................, to-wit:
7 I, ..........................................., do solemnly
8 swear that I will support the constitution of the United States;
9 the constitution of the state of West Virginia; and I will hon-
10 estly and faithfully perform the duties imposed upon me under
11 the provisions of this act as a member of the department of public
12 safety to the best of my skill and judgment.
13 ..................................................
14 To ........................................, subscribed and sworn to before me, this the........
15 day of ..................................
16 .................................................."
All such oaths, except that of the superintendent, shall be filed and preserved in the office of the department of public safety.

Sec. 17. It shall be the duty of all officers of the state, or of any county or municipality thereof, or jailers having the charge and custody of any jail or place of detention to receive any and all prisoners arrested by any officer or member of the department of public safety and to detain them in custody until ordered released by a tribunal of competent jurisdiction, and any such officer, jailer or person having custody of any jail or place of detention who shall fail or refuse to receive and detain such prisoners to be deemed guilty of a misdemeanor and upon conviction thereof be punished by a fine of not less than twenty-five dollars nor more than two hundred dollars, or by imprisonment in the county jail for a period not exceeding sixty days, or by both such fine and imprisonment.

Sec. 18. Any person who shall at any time intercept, molest or interfere with any officer or members of the department of public safety while on duty, or any state, county or municipal officer or person then under the charge and direction of some officer or member of the department of public safety while on duty, or who shall refuse upon request to give any such officer or member any information possessed by him, relating to any offense or crime committed, or about to be committed, or of any riot, uprising or disturbance existing or threatened shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than twenty-five dollars nor more than two hundred dollars or imprisoned in the county jail for a period not exceeding sixty days, or by both such fine and imprisonment; preceding, nothing in this section contained shall be construed to require any person to give information tending to incriminate himself or the husband or wife of such person.

Sec. 19. Any person who shall falsely represent himself to be an officer or member of the department of public safety, or to be under the order or direction of any officer or member of the department of public safety, or who shall, unless an officer or member thereof, wear or display the uniform, badge or other insignia adopted or used by the public safety department, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than twenty-five dollars nor more than two hundred dollars, or by imprisonment in the county jail.
for a period not exceeding six months, or by both such fine and
imprisonment.

Sec. 20. If any officer or member of the department of pub-
lic safety shall hire himself to any person, firm or corporation to
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guard his private property, or shall demand or receive from any
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person, firm or corporation any money or other thing of value
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as a consideration for the performance of, or the failure to per-
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form his duties under the rules and regulations made by said
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superintendent and the provisions of this act, he shall be deemed
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guilty of a felony and upon conviction thereof shall be confined
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in the penitentiary for a term of not less than one year nor more
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than five years, and any such officer or member of the department
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of public safety who shall violate any other of the provisions of
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this act, unless herein otherwise expressly provided for, shall be
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denied guilty of a misdemeanor and upon conviction thereof
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shall be punished by a fine of not less than twenty-five dollars nor
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more than two hundred dollars or by imprisonment in the county
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jail for a period not exceeding four months, or by both such fine
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and imprisonment.

Sec. 21. If any person, firm or corporation shall give or
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offer to give any money or other thing of value to any officer
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or member of the department of public safety as a considera-
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tion for the performance of, or the failure to perform, any duty of
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such officer or member of the department of public safety under
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the rules and regulations of the superintendent and the provisions
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of this act, he or it shall be deemed guilty of a felony, and if a
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person, upon conviction thereof, shall be confined for a term in
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the penitentiary of not less than one nor more than five years,
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and if a firm or corporation shall be fined not less than three
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thousand dollars nor more than ten thousand dollars.

Sec. 22. The superintendent may suspend or remove from
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the service any member of the department of public safety for any
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of the following causes, to wit: Refusing to obey the orders of his
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superior officer, neglect of duty, drunkenness, immorality, ineffi-
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ciency, abuse of his authority, interference with the lawful right of
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any person, participation in political primaries, conventions or
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elections or any other cause that may in the opinion of the superin-
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tendent be necessary for the good of the service. The superin-
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tendent shall act when notice of such causes shall be brought to
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his attention or upon charges in writing filed by any one and sup-

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11 ported by proper affidavit. In the event the superintendent shall 
12 fail to suspend or dismiss any such officer or member after such 
13 matters have come to his knowledge, or such charges and proof 
14 thereof has been made and filed with him, by any person or per- 
15 sons, an appeal may be had to the board of commissioners to be 
16 hereinafter created for such purpose and all of the original papers 
17 in such cases shall be delivered by the superintendent to the board 
18 of commissioners who shall decide such cases in the manner here- 
19 inafter provided.

Sec. 33. The governor, by and with the consent of the sena- 
20 ate shall appoint two persons who shall be residents of this state 
21 as members of the board of commissioners. The governor shall 
22 appoint one member from each of the two political parties which at 
23 the last preceding general election cast the most votes for the 
24 office of governor. The term of office of each of such commission- 
25 ers shall be for the period of two years beginning on the first day 
26 of July, 1919, and none of said commissioners shall hold any other 
27 office either elective or appointive in this state, and their succes- 
28 sors shall be appointed by the governor at the end of said period of 
29 two years. The two persons so appointed shall constitute the 
30 board of commissioners whose duty it shall be to review all cases 
31 of appeal from the findings of the superintendent on charges filed 
32 against any such member of the department of public safety or 
33 in all cases of dismissal or suspension of any member of the de- 
34 partment of public safety by the superintendent as hereinbefore 
35 provided. Charges may be preferred and filed in writing before 
36 the board of commissioners against any officer or member of the 
37 department of public safety, including the superintendent and 
38 his deputy, for any neglect of duty, inefficiency, immorality, 
39 pecuniary activity in political campaigns, contests, conventions, 
40 primaries or elections, abuse of authority, or for any other mis- 
41 conduct in office without first filing such charges before the su- 
42 preintendent as hereinbefore provided. When such charges are 
43 so filed the board of commissioners shall hear, try and determine 
44 the same according to the rules and regulations governing such 
45 bearing as may be adopted by the board and according to law.
46 When charges are filed against any member of the depart- 
47 ment of public safety before the board of commissioners a copy of 
48 such charges shall be served upon the accused who shall within a 
49 reasonable time, to be fixed by the board, be required to answer 
50 the same, and the board shall give notice in writing to the accused
35 of the time and place when the said charges will be heard and
34 considered by it. It shall be the duty of the board to adopt proper
33 rules and regulations prescribing the manner of procedure of such
32 hearings and so far as possible the board shall be governed by the
31 rules of legal procedure relating to the admissibility of evidence.
30 When such charges are filed before the board, either originally
29 or on appeal, and are supported by reasonable proof by affidavit
28 against any officer or member of the department of public safety,
27 the board shall as soon as possible consider the same, and if one or
26 more members of the board shall be of the opinion that said
25 charges and proof supporting the same constitute proper grounds
24 for suspension, the accused shall be suspended from the depart-
23 ment of public safety until a fair trial may be had upon such
22 charges.

Sec. 31. In all cases before a trial shall be had the accused
21 shall be served with a copy of the charges and given a reasonable
20 opportunity to defend himself against such charges, and if on the
19 hearing of such charges the members of the board shall be equally
18 divided then the accused shall be suspended until a further trial
17 is had with a third member present as hereinafter provided for.
16 If upon any trial two members of the board shall be of opinion
15 that the accused is guilty of the charge preferred then he shall be
14 discharged from the service without further trial.

13 If at any trial the board should be equally divided as here-
12 inbefore stated and the accused suspended, the board at such time
11 shall fix a day for the final hearing and on said final hearing the
10 governor of this state shall be, and is hereby created, the third
9 member of the board and shall preside at the hearing of such
8 charges against the accused and if in case the board should again
7 be equally divided in their finding, the governor shall cast the de-
6 ciding vote on all hearings on charges preferred against any officer
5 or member of the department of public safety where the board
4 has been equally divided. It shall require the votes of at least
3 two of the members of the board to suspend any member on charges
2 preferred and the votes of three of the members of the board to
1 dismiss the accused.

Sec. 35. Each member of the board of commissioners ex-
0 cept the governor, shall be allowed the sum of ten dollars per
3 day for each and every day necessarily employed in the discharge
2 of his duties as a member thereof, and in addition thereto he
5 shall be paid his necessary actual expenses in attending any 6 meetings thereof.

Sec. 26. The board of control shall make and prescribe 2 rules and regulations respecting the payment of the expenses 3 of the officers and members of the department of public safety, 4 as well as for the necessary equipment and all of the other ex- 5 penditures provided for in connection therewith and the board 6 of control shall approve the expenditures of the department of 7 public safety as they are authorized by law to do for other state 8 institutions and all expenditures of such department shall be 9 studied in the same way and manner as the expenditures of other 10 state departments.

Sec. 27. All salaries authorized herein to be paid to the 2 officers and members of the department of public safety shall be 3 paid monthly upon proper requisitions and warrants.

Sec. 28. Whenever any officer or member of the department 2 of public safety shall present evidence of his official character to 3 any railroad conductor, manager or officer of any corporation 4 engaged in the business of transporting passengers, such con- 5 ductor, manager or officer shall upon demand transport such 6 officer or member of the department of public safety anywhere 7 in the state of West Virginia without making any charge therefor, 8 and such conductor, manager or officer shall also transport any and 9 all prisoners in the charge of or custody of members of the depart- 10 ment of public safety, and all claims for such transportation of 11 any prisoners shall be presented to, examined, audited and allowed 12 by the superintendent and shall be paid as other claims against the 13 state are paid.

Sec. 29. The superintendent of the department of public 2 safety is authorized from time to time to collect statistics and dis- 3 tribute information throughout the state, and in this co-operate 4 with the state superintendent of public schools and other educa- 5 tional agencies of the state, to secure the naturalization and 6 Americanization of all foreign-born inhabitants; to employ all 7 agencies in his power to secure a harmonious feeling and under- 8 standing between the employers of labor and their employees; 9 and to secure this end he may call upon the educational and 10 other state institutions for public speakers and is authorized to 11 hold public meetings at any point in the state where, in his 12 judgment, such meetings will be of advantage to carry out the 13 spirit of this law.