

ON THIS DAY IN WEST VIRGINIA HISTORY MARCH 30



Colonel Jackson Arnold, first superintendent
of the Department of Public Safety

On March 31, 1919, Governor John J. Cornwell signed legislation creating the Department of Public Safety, commonly known as the West Virginia State Police. Colonel Jackson Arnold of Weston was appointed the first superintendent.

CSO: SS.8.9, SS.8.24, ELA.8.1

Investigate the Document: (*West Virginia Historical Society, July 2003*)

1. What was the cause of three separate enactments of martial law between 1912-1913? What is martial law?
2. Why had the cooperation with coal operators ended after World War I?
3. Why did Governor Cornwell finally realize the need for a state police force?
4. What was the UMWA's main frustration?

Think Critically: Essay: (250-300 words) Define your understanding of the West Virginia Mine Wars. What were the significant issues unresolved between coal operators and miners? What were the working conditions like in early mines that eventually led to unionization? How did the creation of the West Virginia State Police play a role during this volatile time? What was the Battle of Matewan? Blair Mountain?



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“Mere Military Color”: The State Police and Martial Law

by **Merle T. Cole**

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When Governor Ephraim F. Morgan placed Mingo County under martial law in 1921, responsibility for enforcing the proclamation rested primarily on troopers of the West Virginia State Police (WVSP). In a landmark decision, the state supreme court invalidated police enforcement of the proclamation, creating turmoil at the very moment in the state’s history when prospects for savage industrial warfare were most threatening.

Martial law usually evokes images of heavily armed troops—state militia or federal regulars—forcibly reimposing

order in chaotic situations beyond the control of civil police agencies. This aspect of martial law had been demonstrated for West Virginians during the struggle over unionization of coal mines on Paint Creek and Cabin Creek. Three separate gubernatorial martial law proclamations were issued during 1912-1913 before relative calm was restored. Conditions remained sufficiently unsettled to require occupation of some areas by state militia companies until June 1914.

Under the proclamations, the adjutant general was granted wide ranging powers, including authority to try civilians for a variety of crimes as well as for offenses against the proclamations themselves. Hundreds were arrested, tried, and imprisoned, frequently receiving sentences more severe than could have been levied by civil courts under existing statutes.(1)

Three cases came before the state supreme court directly challenging the validity of martial law, the actions of military authorities in enforcing the proclamations, and related gubernatorial orders. In deciding each case, the justices relied on the "doctrine of conclusiveness," which held that the governor alone could determine the necessity for martial law. Further, his determination was not reviewable by the courts, regardless of constitutional questions raised by appellants.⁽²⁾ So adamant were the justices in refusing to entertain questions of gubernatorial authority that a noted martial law authority labeled their position "the West Virginia doctrine."⁽³⁾

Trouble had been brewing in the smokeless coal fields of southern West Virginia since before World War I. When the constraints of wartime labor-management cooperation evaporated, operator associations joined battle with the United Mine Workers of America (UMWA) in a final struggle to decide the question of organizing the state's richest coal producing region.

Governor John J. Cornwell realized he had no reliable means of maintaining law and order during the impending struggle. The organized state militia (national guard) had ceased to exist in August 1917 when it was drafted into federal service. Existing federal statutes providing for demobilization from the U.S. Army to constitute a complete release from all military service obligations; demobilized guardsmen reverted to civilian, not state militia, status. Due to uncertainties over

pending revisions of federal national guard statutes most states, including West Virginia, did not reconstitute their militia units immediately after the war.⁽⁴⁾

The obvious potential for unprecedented industrial violence combined with lack of state military forces, provided a potent rationale to support Cornwell's desire to create a state constabulary. After heated debate, in which organized labor provided the most strident opposition, the legislature passed a state police bill on 29 March 1919, which Cornwell signed into law on the 31st. The law would not take effect, however, until ninety days after passage. For reasons of "political correctness" the new agency's official name was "Department of Public Safety."⁽⁵⁾

Cornwell appointed Jackson Arnold superintendent of the new constabulary, with rank of colonel, on 29 June 1919. Arnold faced serious difficulties in recruiting an adequate number of qualified men to make his command operational. Not until late November, in fact, were enough men assembled to permit activation of the constabulary's two field companies.⁽⁶⁾

In the interim, additional proof of the need for effective law enforcement was provided by the "Miner's March" of September 1919. Rumors of brutal repression of UMWA organizers and miners by Logan County deputies prompted a gathering of sympathetic miners at Lens Creek, near Marmet in Kanawha County. Disregarding Cornwell's personal plea, some 2,000

miners set out to break into Logan County, a bastion of anti-unionism. Since he had no militia and the constabulary was not yet sufficiently staffed, the governor threatened to call in federal troops to disperse the marchers. This persuaded the state's UMWA leaders to exert their influence, and the march was disbanded shortly after it had reached a point on the Logan-Boone county line.(7)

The UMWA national leadership was frustrated over failure to achieve wage and hour demands. They called a nationwide strike, which was promptly enjoined by a federal judge. Federal troops were dispatched to Charleston, Beckley, and Clothier in November-December 1919 to enforce the injunction.(8) But continued nonunionization of the smokeless fields threatened the UMWA's very existence, and organizing efforts were not diminished by the prospect of federal intervention.(9)

In 1920 the focus of the unionization dispute shifted to Mingo County. Prounion miners clamored for organization, causing their eviction from company-owned housing. The reaction was predictable. After completing a series of evictions, a group of Baldwin-Felts Detective Agency men were ambushed while waiting for a train at Matewan. Ten men were killed in the famous "Matewan Massacre" of 19 May 1920.(10) The UMWA called a strike for recognition in the Mingo field on 1 July, touching off scattered violence over the next several months. At Cornwell's request, federal infantrymen were

dispatched to mines throughout Mingo County from late August until early November. Under threat of a statewide strike, the governor acceded to UMWA demands to withdraw the troops.(11)

Violence promptly erupted again, claiming the lives of state trooper Ernest L. Ripley (killed 18 November near Vulcan) and three strikers among its victims. Declaring that "the time for temporizing is past" Governor Cornwell again requested federal troops, to be accompanied this time by a martial law proclamation. Displeased with the president's resistance to the latter action, Cornwell issued his own proclamation, placing Mingo County under martial law effective 27 November 1920. A federal infantry contingent arrived in Williamson, the county seat, the following day. Its commanding officer in turn issued a proclamation of "limited martial law" prohibiting parades, demonstrations, public assembly, and unauthorized possession of firearms and explosives. While the soldiers maintained order, state constabulary strength was growing. The last federal unit withdrew on 17 January 1921, and martial law was terminated the same day.(12)

Responsibility for maintaining law and order in Mingo County was shared by the sheriff and state police Captain James R. Brockus, who had brought 45 troopers with him when he replaced Thomas W. Norton as Company B commander. An uneasy calm prevailed throughout the early months of the new year, but latent violence surfaced dramatically in the "Three Days Battle."

Beginning on 12 May 1921 strikers on both shores of the Tug River commenced sniping at houses, trains, automobiles, and persons in the open. Cooperative patrolling by authorities in Mingo and Pike County, Kentucky, was largely ineffective in capturing the gunmen. Ephraim F. Morgan, who had succeeded Cornwell as governor on 4 March, ordered Colonel Arnold to deploy the entire constabulary force to Mingo County. He then joined the Kentucky governor in submitting a joint plea for imposition of federal martial law. President Harding actually signed proclamations for both states, but withheld issuance until additional information on the situation was available. Conditions in Kentucky improved as state forces concentrated in Pike County. Truces were arranged on both sides of the border.(13)

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In West Virginia, despite a similar decline in shootings, tensions remained high. There were reports of weapons being smuggled into Mingo County from state UMWA headquarters in Charleston. This was particularly ominous in view of the approaching anniversary of the "Matewan Massacre"—a day when widespread striker violence was expected. On 16 May, Morgan prevailed upon Kentucky's governor for another joint plea for federal intervention. But he was informed the next day that "on the representations thus far made, the President is not convinced that West Virginia has exhausted all its own resources...."(14) Troops would be held

in readiness but would not be dispatched unless widespread violence recurred.

Faced with the president's refusal to intervene and under tremendous pressure from coal operators, county officials passed responsibility on to the state police. On 18 May, Sheriff A. C. Pinson issued a warrant commanding Captain Brockus to assume responsibility for law enforcement in Mingo County, citing the imminent threat of riot and circumstances beyond the control of county agencies. The warrant was delivered to Colonel Arnold, who immediately directed Brockus to comply.(15)

Pinson's warrant invoked a section of the WVSP creative act which specifically vested all constabulary members with *posse comitatus* authority:

When called by the sheriff of any county or when the governor by proclamation directs, [members] shall have full power and authority... to direct and command absolutely the assistance of any sheriff, deputy sheriff, constable, chief of police, policeman, town marshal, game and fish warden, deputy prohibition officer and any and every peace officer of the State... or of any able-bodied citizen of the United States to assist and aid in accomplishing the purposes of this act. [Any persons so commanded become] for all purposes, members of the department of public safety and subject to all provisions of this act.(16)