

S 3. 155
compensation

January 27, 1953. **House File 141**
Military and Veterans Affairs. By BURROWS, LUCKEN and KOSEK.

Passed House, Date.....
Vote: Ayes..... Nays.....
Passed Senate, Date.....
Vote: Ayes..... Nays.....
Approved.....

A BILL FOR

An Act to repeal chapter twenty-nine (29), Code 1950, relating to the Military Code, and to enact a substitute therefor.

Be It Enacted by the General Assembly of the State of Iowa:

1 Section 1. The following words, terms, and phrases when
2 used in this Act shall have the respective meanings herein set
3 forth:

4 1. "Militia" shall mean the forces provided for in the
5 Constitution of Iowa.

6 2. "National guard" shall mean the Iowa units, detachments
7 and organizations of the national guard of the United
8 States and the air national guard of the United States
9 as such forces are defined in the National Defense Act
10 and acts amendatory thereto, the Iowa national guard
11 and the Iowa air national guard.

12 3. "Company" shall mean the smallest administrative
13 military unit and shall include a company of infantry,
14 engineers, signal corps, a flight of the air service,
15 a battery of field artillery, or any similar organization
16 in any branch authorized by federal law for this state,

17 including a permanent detachment.

18 4. "Battalion" shall mean two or more companies grouped
19 together by competent orders for command purposes
20 including battalions as shown in appropriate federal
21 tables of organization.

22 5. "Active state service" shall be understood and construed
23 to be service on behalf of the state, in case of public
24 disaster, riot, tumult, breach of the peace, resistance
25 of process, or whenever any of the foregoing is threatened,
26 whenever called upon in aid of civil authorities, or
27 under martial law, or at encampments whether ordered by
28 state or federal authority, or upon any other duty
29 requiring the entire time of the organization or person,
30 except when called or ordered into the federal service
31 of the United States.

32 6. "Federal service" shall mean service exclusively under
33 federal laws and regulations.

34 7. "On duty" shall mean and include drill periods, all other
35 training, and service which may be required under state
36 or federal law, regulations, or orders, and the
37 necessary travel of an officer or enlisted man to the
38 place of performance of such duty and return home after
39 performance of such duty, but shall not include federal
40 service.

41 8 "In service of the United States" and "Not in service of
42 the United States" used herein, shall have the same

43 meaning as such terms have in the national defense act
44 of congress (39 Stat. L. ch 134), approved June 3, 1916,
45 and amendments thereto.

46 9. "Officer" shall mean and include commissioned officers
47 and warrant officers.

48 10. "Law and regulations" means and includes state and
49 federal law and regulations.

50 11. "Advisory council" shall mean a board of officers
51 composed of the general officers, regimental commanders
52 and commanders of separate battalions of the Iowa
53 national guard and the senior commander of the Iowa air
54 national guard.

55 12. Except when otherwise expressly defined herein military
56 words, terms and phrases shall have the meaning commonly
57 ascribed to them in the military profession.

1 Sec. 2. There is hereby created the Iowa national guard and
2 the Iowa air national guard. The Iowa national guard shall be
3 composed of such organized land forces, individual officers,
4 state headquarters, and detachments, as may be prescribed from
5 time to time by proper authority. The Iowa air national guard
6 shall be composed of such organized air forces, individual officers
7 state headquarters, and detachments, as may be prescribed from
8 time to time by proper authority.

1 Sec. 3. The Iowa units, detachments, and organizations of
2 the national guard of the United States and the air national guard
3 of the United States shall consist of such units, detachments,

4 and organizations, as may be specified by the secretary of defense
5 with the approval of the governor, in accordance with law and
6 regulations.

1 Sec. 4. The organization, armament, equipment and discipline
2 of the national guard, and the militia when called into active
3 state service, except as hereinafter specifically provided, shall
4 be the same as that which is now or may be hereafter prescribed
5 under the provisions of federal law and regulations as to those
6 requirements which are mandatory therein, but as to those things
7 which are optional therein they shall become effective when an
8 order or regulation to that effect shall have been promulgated
9 by the governor.

1 Sec. 5. The national guard shall be subject to the provisions
2 of federal law and regulations relating to the government
3 discipline and uniforming thereof, and to the provisions of this
4 act, and to regulations published pursuant hereto.

1 Sec. 6. The military forces of the state of Iowa shall
2 consist of the national guard and the militia.

1 Sec. 7. The governor shall be the commander-in-chief of
2 the military forces, except so much thereof as may be in federal
3 service. The governor may employ the military forces of the
4 state for the defense or relief of the state, the enforcement of
5 its laws, and the protection of life and property therein and
6 he shall have the power, in cases of insurrection, invasion, or
7 breaches of peace, or imminent danger thereof, to order into
8 active state service such of the military forces of the state as

9 he may deem proper, under the command of such officer as he may
10 designate.

1 Sec. 8. The governor shall have the power to order into
2 active state service such of the military forces of the state as
3 he may deem proper, under command of such officer as he may
4 designate, for the purpose of aiding the civil authorities of any
5 political subdivision of the state in maintaining law and order
6 in such subdivision in cases of breaches of the peace or imminent
7 danger thereof, if the law-enforcement officers of such subdivision
8 are unable to maintain law and order, and the civil authorities
9 request such assistance.

1 Sec. 9. The governor may order the national guard into
2 camp for field training for such period or periods as he may
3 direct. He may, in his discretion, order such organizations or
4 personnel of the national guard, as he may deem proper, to active
5 state service, or duty, or to assemble for purposes of drill,
6 instruction, parade, ceremonies, guard and escort duty, and
7 schools of instruction, and prescribe all regulations and
8 requirements therefor.

9 The governor shall also provide for the participation of
10 the national guard, or any portion thereof, in field training at
11 such times and places as may be designated by the secretary of
12 defense.

1 Sec. 10. The governor may order such inspections of the
2 different organizations, units, and personnel of the national
3 guard as he may deem proper and necessary.

4 The form and mode of inspection shall be prescribed by the
5 adjutant general.

1 Sec. 11. There shall be an adjutant general of the state
2 who shall be appointed and commissioned by the governor upon
3 the recommendation of a majority of the advisory council. When
4 a majority of the members of the advisory council are in federal
5 service in time of war, said appointment shall be made by the
6 governor without such recommendation. The rank of the adjutant
7 general shall be at least that of brigadier general and he shall
8 hold office for a term of four years. At the time of his appoint-
9 ment he shall be a federally recognized commissioned officer of the
10 national guard with not less than ten years military service in the
11 armed forces of this state or of the United States, at least five
12 of which have been commissioned service, and who shall have reached
13 the grade of a field officer. He shall be removed only upon
14 conviction of a felony or upon conviction by a court-martial.

1 Sec. 12. The adjutant general shall have control of the
2 military department, and perform such duties as pertain to the
3 office of the adjutant general under law and regulations. He
4 shall superintend the preparation of all letters and reports
5 required by the United States from the state, and perform all the
6 duties prescribed by law. He shall have charge of the state
7 military reservations, and all other property of the state kept
8 or used for military purposes. It shall be the duty of the
9 adjutant general to cause an inventory to be taken at least once
10 each year of all military stores, property and funds under his

11 jurisdiction. In each year preceding a regular session of the
12 general assembly he shall prepare a detailed report of the
13 transactions of his office, the expenses thereof, and such other
14 matters as shall be required by the governor for the period since
15 the last preceding report, and the governor may at any time
16 require a similar report.

17 The adjutant general shall make and preserve by counties a
18 permanent registry of the graves of all persons who shall have
19 served in the military or naval forces of the United States in
20 time of war, and whose mortal remains rest in Iowa.

21 The adjutant general is authorized to enter into an agreement
22 with the secretary of defense to operate the water plant at Camp
23 Dodge for the use and benefit of the United States, and the state
24 of Iowa upon such terms and conditions as shall be approved by
25 the governor.

1 Sec. 13. The adjutant general, with the approval of the
2 governor, is authorized to expend from the funds appropriated for
3 the support and maintenance of the national guard, and the
4 permanent Camp Dodge improvement fund, such amounts as he may
5 deem necessary for the purchase of additional land, constructing,
6 equipping, and improving state military reservations, installations,
7 and firing ranges, owned or leased by the state of Iowa or
8 the United States for the use and benefit of the national guard
9 and for the maintenance of all such facilities.

1 Sec. 14. The adjutant general shall have authority to operate
2 or lease any of the facilities at Camp Dodge. Any income or

3 revenue derived from such operation or leasing shall be deposited
4 with the state treasurer as a Camp Dodge permanent improvement
5 fund.

1 Sec. 15. The adjutant general, from the funds appropriated
2 for the support and maintenance of the national guard, shall
3 procure and issue to the members of the national guard, entitled
4 thereto, merit or service badges for such service and periods of
5 service under such regulations and according to the design and
6 pattern thereof, as may be determined by the adjutant general.
7 Members of the national guard who, by order of the president,
8 have served or shall serve in federal forces during national
9 emergency, shall be entitled to count the period of such federal
10 service toward the procurement of a service badge.

1 Sec. 16. There shall be an assistant adjutant general of the
2 state who shall be appointed by the governor, upon the recommen-
3 dation of the adjutant general. He shall have such rank as is
4 consistent with federal law and regulations and at the time of
5 his appointment shall be a federally recognized commissioned
6 officer of the national guard with not less than five years
7 service in the national guard or in the armed forces of the United
8 States, at least three years of which shall have been commissioned
9 service and he shall have reached the grade of captain.

10 The assistant adjutant general shall serve in the office of
11 the adjutant general and aid him by performing such duties as
12 the adjutant general may assign him. In the absence or disability
13 of the adjutant general he shall perform the duties of that office

14 as acting adjutant general.

1 Sec. 17. The military and naval staff of the governor shall
2 consist of the adjutant general, who shall be the chief of staff ;
3 the assistant adjutant general, who shall be the assistant chief
4 of staff and such aides, residents of the state, as the governor
5 may appoint, or may detail from the armed forces of the state.

6 The aides appointed shall be commissioned at a rank not
7 higher than the military rank of colonel or the naval rank of
8 captain, except in the case of a person who holds or has held a
9 higher rank in the armed forces of the state or nation in which
10 case the commission may issue for such higher rank.

1 Sec. 18. The governor, pursuant to federal authority, shall
2 detail, upon recommendation of the adjutant general, a federally
3 recognized commissioned officer of the national guard who shall
4 be property and disbursing officer of the United States for the
5 state of Iowa. Such officer may be removed upon the recommendation
6 of the adjutant general.

7 The property and disbursing officer shall receipt and account
8 for all funds and property belonging to the United States in
9 possession of the national guard, and shall make such returns and
10 reports concerning the same as may be required by the secretary
11 of defense. He shall render, through the department of defense,
12 such accounts of federal funds intrusted to him for disbursement
13 as may be required. Before entering upon the performance of his
14 duties as property and disbursing officer he shall be required
15 to give good and sufficient bond to the United States, the amount

16 thereof to be determined by the secretary of defense, for the
17 faithful performance of his duties and for the safe-keeping
18 and proper disposition of the federal property and funds
19 intrusted to his care. The said property and disbursing officer
20 may also be the quartermaster and property officer of the state.

1 Sec. 19. There shall be detailed a *federally recognized*
2 commissioned officer of the national guard to be the quarter-
3 master and property officer of the state, and as such, shall
4 have charge of and be accountable for, under the adjutant general,
5 all state military property, and who may be the United States
6 property and disbursing officer. He shall keep such property
7 returns and reports on the same and shall give such bond to the
8 state of Iowa as the governor may direct.

1 Sec. 20. Officers of the national guard shall be selected
2 from the classes of persons having the qualifications prescribed
3 by federal law and regulations. They shall be appointed by the
4 governor upon the recommendation of their superiors in the chain
5 of command, provided that they shall have successfully passed
6 such tests as to physical, moral, and professional fitness, as
7 shall be prescribed by law and regulations. Each officer shall
8 take an oath of office and shall hold office until he shall have
9 attained the maximum age of retirement that is prescribed by
10 federal law or regulations pertaining to officers of the armed
11 forces of the United States, unless his commission or warrant is
12 sooner vacated by resignation, death or as hereinafter provided.
13 In case the officer has no immediate superiors, within the state,

14 in the chain of command, he shall be appointed, as above provided,
15 upon the recommendation of the adjutant general. A commission
16 shall designate the arm or branch of service in which the officer
17 is commissioned.

1 Sec. 21. In addition to the powers and duties prescribed
2 in this Act, all officers of the national guard shall have the
3 same powers and perform like military duties as officers of
4 similar rank and position in the armed forces of the United
5 States insofar as may be authorized by law. Officers are
6 authorized to administer oaths in all matters connected with
7 the service.

1 Sec. 22. The moral character, capacity and general fitness
2 for the service of any national guard officer may be determined
3 at any time by an efficiency board as provided by federal law
4 and regulations. Commissions or warrants of officers of the
5 national guard may be vacated upon resignation, absence without
6 leave for three months, upon the recommendation of an efficiency
7 board, or pursuant to sentence of a court-martial. Any officer
8 permanently removing from the state shall resign his commission
9 or warrant upon request of the adjutant general or make application
10 to be placed upon the inactive list, and upon failure to do so,
11 his commission or warrant shall be revoked by the governor.
12 Officers rendered surplus by the disbandment of their organization
13 shall be disposed of as provided by law and regulations. Subject
14 to the approval of their superior commanders and the adjutant
15 general officers may, upon their own application, be placed on

16 the inactive list, as such list may be authorized by law and
17 regulations.

1 Sec. 23. Any officer of the national guard who shall have
2 served as such officer for a period of not less than ten years
3 in the national guard, or who shall have served, for a period
4 of not less than ninety days, in the armed forces of the United
5 States during any war, and who is honorably discharged therefrom,
6 and who shall have served as such officer in the national guard
7 for a period of not less than five years, who resigns or is
8 retired, or who is now or may hereafter become disabled and
9 retired, may, upon his request in writing to the adjutant general,
10 stating his grounds therefor, be placed, by order of the commander-
11 in-chief, on a roll in the office of the adjutant general to be
12 known as the "roll of retired officers". Any officer registered
13 on the roll of retired officers is entitled to wear the uniform
14 of the rank last held by him on state or other occasions of
15 ceremony, when the wearing of such uniform is not in conflict
16 with federal law.

17 The adjutant general shall have the power, on good cause
18 shown, to retire any officer, as herein provided, in the next
19 higher grade than that held by said officer during his military
20 service.

1 Sec. 24. There shall be maintained in the office of the
2 adjutant general a list to be known as the unassigned list, to
3 which officers may be transferred, pending their resignation or
4 removal from the service. Any officer may be transferred by the

5 adjutant general to such unassigned list upon the recommendation
6 of his commanding officer, either immediate or remote. Before
7 such transfer is made the adjutant general shall notify the
8 officer, either in person or by registered letter mailed to his
9 last known address, of the intended transfer. The officer shall
10 have ten days from the date of mailing of said notice in which to
11 apply to the adjutant general for an efficiency board. Should the
12 officer fail to apply for an efficiency board, the transfer shall
13 be made upon the expiration of the ten-day period. If the officer
14 requests an efficiency board, the adjutant general will be governed
15 by the finding of such board. All officers transferred to such
16 unassigned list shall remain subject to military discipline and to
17 courts-martial for military offenses to the same extent and in
18 like manner as if upon the active list.

1 Sec. 25. All enlistments in the national guard shall be as
2 prescribed by federal law and regulations.

1 Sec. 26. The number and grade of officers and enlisted men
2 in the state headquarters and headquarters detachment shall be as
3 prescribed by federal law and regulations, but in case of war,
4 invasion, insurrection, riot or imminent danger thereof, the
5 governor may temporarily increase such force to meet such
6 emergency.

7 All officers appointed to the state headquarters and
8 headquarters detachment shall have had previous military experience
9 and shall hold their positions until they shall have reached the
10 age of retirement herein provided, unless retired prior to that

11 time by reason of resignation, disability, or for cause to be
12 determined by an efficiency board or a court-martial, as the
13 exigencies of the case may warrant, legally convened for that
14 purpose, and vacancies among said officers shall be filled by
15 appointment from the officers of the national guard.

1 Sec. 27. Officers and enlisted men while in active state
2 service shall receive the same pay and allowances as are paid for
3 the same rank or grade for service in the armed forces of the United
4 States. When in active state service, except when such service is
5 for the purpose of training, enlisted men shall receive additional
6 pay in the sum of three dollars per day; provided, however, that
7 no employee of the state who receives pay from the state as such
8 employee during said active state service shall receive the
9 additional pay herein provided for enlisted men.

10 In the event any officer or enlisted man shall be killed
11 while on duty or in active state service, in line of duty, or
12 shall die as the result of injuries received or as a result of
13 illness or disease contracted while on duty or in active state
14 service, in line of duty, his dependents, as defined by the
15 workmen's compensation law of the state, shall receive the
16 maximum compensation provided by the said law.

17 Any officer or enlisted man who suffers injuries or
18 contracts disease, in line of duty, while on duty or in active
19 state service, shall receive hospitalization and medical treatment,
20 and during the period that he is totally disabled from engaging
21 in any gainful occupation he shall also receive the pay and

22 allowances of his grade. In the event of partial disability, he
23 shall be allowed such partial pay and allowances as may be
24 determined by a board of three officers to be appointed by the
25 governor. At least one member of the board shall be a medical
26 officer.

27 Any claim for death, illness, or disease contracted in line
28 of duty while on duty or in active state service, shall be filed
29 with the adjutant general within six months from the date of
30 death or contraction of the illness or disease.

31 All payments herein provided for shall be paid on the approval
32 of the adjutant general by warrant drawn against any state funds
33 not otherwise appropriated.

34 In the event benefits for death, injuries, or illness are
35 paid in part by the federal government, the state shall pay only
36 the balance necessary to constitute the above designated amounts.

37 No payment received by any officer or enlisted man under the
38 provisions of this section shall bar the right of such officer
39 or enlisted man, or their heirs or representatives, to recover
40 damages from any partnership, corporation, firm or persons
41 whomsoever who otherwise would be liable, nor shall any such sums
42 received under the provisions of this section reduce the amount
43 of damages recoverable by such officer, enlisted man, or their
44 heirs or representatives, against any partnership, corporation,
45 firm or persons whomsoever who otherwise would be liable.

1 Sec. 28. All officials and employees of the state, or any
2 political subdivision thereof, who are members of the national

3 guard, or of the reserve components of the armed forces of the
4 United States, or who are or may be otherwise inducted into the
5 military service of this state or of the United States, shall,
6 when ordered by proper authority to active duty, be entitled
7 to a leave of absence from such civil employment for the period
8 of such active duty, without loss of pay during the first thirty
9 days of such leave of absence. The proper appointing authority
10 may make a temporary appointment to fill any vacancy created by
11 such leave of absence.

1 Sec. 29. When in active state service, the compensation of
2 officers and enlisted men and expenses of the national guard
3 and claims for death, injury and illness of the members thereof,
4 shall be paid out of any funds in the state treasury not otherwise
5 appropriated.

1 Sec. 30. An inactive national guard may be organized and
2 maintained in such manner as may be prescribed or authorized by
3 law and regulations.

1 Sec. 31. It shall be unlawful for any body of men, other
2 than the national guard and the troops of the United States, to
3 associate themselves together as a military organization within
4 the limits of this state without the written permission of the
5 governor, which he may at any time revoke, but this provision
6 shall not prevent civic, social, or benevolent organizations from
7 wearing uniforms and swords not in conflict with the other
8 provisions of this act.

1 Sec. 32. The sum of three hundred dollars annually or so

2 much thereof as is necessary, is hereby allowed to each company
3 or other unit of the national guard for the procurement, construc-
4 tion, and maintenance of a rifle or pistol range. The payments
5 herein provided shall be made from the funds appropriated for
6 the support and maintenance of the national guard.

1 Sec. 33. Each company or similar unit of the national guard
2 showing attendance and actual drill of those present for such
3 drills as are prescribed in compliance with the national defense
4 act or amendments thereto, or substitutes therefor, and such
5 regulations as may be prescribed from time to time by the
6 secretary of defense, pursuant thereto, shall receive an annual
7 allowance for military purposes, in the sum of five dollars per
8 capita, to be paid in semiannual installments on the basis of
9 two dollars and fifty cents per capita. For the purpose of
10 computing each semiannual installment the per capita strength
11 shall be the average enlisted strength of the unit, for that
12 semiannual period, provided however, that in the event the average
13 attendance of any unit during any semiannual period falls below
14 fifty per cent of the average enlisted strength of such unit in
15 that period, such allowance shall not be paid for that period.
16 The semiannual periods herein referred to shall begin January 1
17 and July 1. Such allowance shall be paid from the funds
18 appropriated for the support and maintenance of the national
19 guard, and the adjutant general shall prescribe regulations
20 governing its expenditure.

1 Sec. 34. The commanding officer of a company receiving

2 clothing or equipment for the use of his command shall distribute
3 same to the members of his command, taking receipts and requiring
4 the return of each article at such time and place as he shall
5 direct.

6 Upon the direction of any company commander it shall be
7 the duty of the county attorney to bring action in the name of
8 the state of Iowa against any person for the recovery of any
9 property issued by said company commander or his predecessor, or
10 for the value thereof as set forth in the price list promulgated
11 by the federal government.

12 All sums so collected shall be paid to such company
13 commander and used for the replacement of military property
14 charged to the organization.

1 Sec. 35. All arms, clothing, equipment, and other military
2 property furnished or issued by the federal government or the
3 state or for which an allowance has been made, shall be used for
4 military purposes only, and each officer and enlisted man upon
5 being separated from the military forces of the state, or upon
6 demand of his commanding officer, shall forthwith surrender such
7 military property in his possession to said commanding officer.
8 Any member of the national guard who shall neglect to return to
9 the armory of the unit, or place in charge of the commanding
10 officer of the organization to which he belongs, any arms,
11 clothing, equipment, or other military property or portion thereof,
12 belonging to the federal government or the state, upon being
13 notified by said commanding officer to do so, shall be guilty of

14 a misdemeanor.

1 Sec. 36. Every person who shall willfully or wantonly injure
2 or destroy any articles of arms, clothing, equipment, or other
3 military property furnished or issued by the federal government
4 or the state, and refuses to make good such injury or loss; or
5 who shall sell, dispose of, secrete or remove the same with
6 intent to sell or dispose of it, shall be punished by a fine of
7 not less than one hundred dollars nor more than five hundred
8 dollars, or be imprisoned in the county jail for not more than
9 four months, or by both such fine and imprisonment.

1 Sec. 37. Each officer responsible or accountable for property
2 for military use, or funds of the state or of the United States,
3 shall execute and deliver to the adjutant general a bond therefor,
4 with sureties to be approved by the governor, and payable to the
5 state, in such amount as may be fixed by the governor, conditioned
6 for the proper care, use, and return in good order, wear, use and
7 unavoidable loss and damage excepted, of all such state and United
8 States property, and the proper care and faithful disbursement
9 and accounting of all such funds coming into the hands of such
10 officer. Provided, however, that the adjutant general, with the
11 approval of the governor, may obtain an adequate indemnity bond
12 covering all or part of the officers so accountable or responsible,
13 in which case the officers so covered shall not be required to
14 furnish individual bonds as hereinbefore provided.

15 Upon the violation of any of the conditions of any bond
16 executed and delivered under the provisions of this section,

17 action thereon shall be brought by the adjutant general on behalf
18 of the state. It shall be the duty of the attorney general of
19 the state to prosecute all actions upon such bonds. No further
20 payments shall be made under any provision of this act to the
21 accountable officer of any organization or unit who does not fully
22 and satisfactorily account to the adjutant general for all moneys
23 theretofore paid to him under any provision of this act.

1 Sec. 38. Any officer or enlisted man of the national guard
2 who knowingly makes any false certificate of muster or false
3 return of federal or state property or funds in his possession
4 shall be guilty of a misdemeanor.

1 Sec. 39. Any officer or enlisted man of the national guard
2 who wilfully neglects or refuses to apply all money, in his
3 possession drawn from the state treasury, to the purpose for
4 which such money was appropriated or who fails or refuses to
5 account for or return any state or federal property or funds in
6 his possession shall be guilty of the crime of embezzlement by
7 bailee and punished accordingly.

1 Sec. 40. No member of the national guard shall wear the
2 uniform thereof while not on duty without permission from
3 competent authority. No person, firm, or corporation, other
4 than a military organization or the members of veterans of such
5 organizations organizing for the benefit of all its members,
6 shall incorporate under the name of, or adopt any trade name
7 which embodies the name or designation, officially or generally
8 recognized as the name of a military organization now or

9 heretofore in existence, or any distinctive part of such name.
10 Any person found guilty of a violation of any of the provisions
11 of this section shall be punished by a fine of not less than
12 fifty dollars nor more than one hundred dollars, or by imprison-
13 ment in the county jail not to exceed thirty days.

14 Any person who, without authority under the laws of the
15 United States or of one of the states, wears the uniform of, or
16 a distinctive part of the uniform of the armed
17 forces of the United States, shall be guilty of a misdemeanor,
18 and shall be punished as provided in this section.

1 Sec. 41. Every officer and enlisted man of the national
2 guard shall be exempt from jury duty. No member of the national
3 guard shall be arrested, or served with any summons, order,
4 warrant, or other civil process after having been ordered to any
5 duty, or while going to, attending, or returning from, any
6 place to which he is required to go for military duty. Nothing
7 herein shall prevent his arrest by order of a military officer
8 or for a felony or breach of the peace committed while not in
9 the actual performance of his duty. The articles of equipment
10 personally owned by such members shall be exempt from seizure
11 or sale for debt. Every member of the national guard who has
12 faithfully served the full term of his commission, warrant or
13 enlistment, shall, upon application, be entitled to an honorable
14 discharge, exempting him from military duty except in time of
15 war or public danger.

1 Sec. 42. Any person who shall trespass upon any military

2 reservation, camp, or armory, in violation of the orders of
3 the commander thereof, or officer charged with the responsibility
4 therefor, or shall molest, or interfere with any member of the
5 national guard, in the discharge of his duty, shall be guilty
6 of a misdemeanor. The commanding officer of such force may
7 order the arrest of such person and cause him to be delivered
8 to a peace officer or magistrate.

1 Sec. 43. No person, firm, or corporation, shall discriminate
2 against any officer or enlisted man of the national guard because
3 of his membership therein. No employer, or agent of any employer,
4 shall discharge any person from employment because of being an
5 officer or enlisted man of the military forces of the state, or
6 hinder or prevent him from performing any military service he may
7 be called upon to perform by proper authority. Any person
8 violating any of the provisions of this section shall be punished
9 by a fine of not to exceed one hundred dollars, or by
10 imprisonment in the county jail for a period of not to exceed
11 thirty days.

1 Sec. 44. Whenever the national guard is called into service
2 under proclamation of the governor for the performance of any
3 duties contemplated in this act any person who wilfully assaults,
4 or fires at, or throws any dangerous missiles at, against, or
5 upon any member or body of the national guard so engaged, or
6 civil officer or other persons lawfully aiding or assisting
7 them in the discharge of their duties, shall be deemed guilty
8 of a felony and upon conviction shall be imprisoned in the

9 state penitentiary for not more than two years.

1 Sec. 45. When a military district is established under
2 martial law, the chief justice or an associate justice of the
3 supreme court may, upon written agreement of the parties or
4 their attorneys, on good cause being shown, order any civil
5 or criminal case on file in the office of the clerk of any
6 court of record within the military district transferred to
7 any court of record outside of the military district. The said
8 cause shall be docketed without fee and proceed in all respects
9 with the same force and effect as though transferred on a change
10 of venue. When the said military district is dissolved, the
11 cause and all proceedings in connection therewith may be re-
12 transferred by the supreme court to the original court, where
13 it shall be redocketed without fee.

1 Sec. 46. The governor may establish within such military
2 district a military court or commission to take jurisdiction
3 and cognizance of all public offenses against the peace and
4 dignity of the state, and the violation of ordinances and
5 military rules and regulations which are now, or may hereafter
6 be, promulgated or enacted for the preservation of law and
7 order and the public safety.

8 The military court or commission may make such orders,
9 judgments, and decrees in civil cases as may be agreed upon
10 by the litigants or their attorneys, or as may be necessary
11 because of an emergency or to prevent waste, with the same
12 force and effect as though made and entered by a judge of the

13 district court in regular term time. The said court or
14 commission shall have full power and authority to issue all
15 necessary process for the conduct of its proceedings, and
16 like power to compel the attendance of witnesses therein as
17 are exercised by civil courts of the state.

1 Sec. 47. Troops occupying a military district established
2 under martial law, may, if necessary, pursue, arrest and subpoena
3 persons wanted in said military district, anywhere within the
4 state of Iowa.

5 All peace officers of the state shall serve process and
6 execute the orders of a military court in the same way and to
7 the same extent as corresponding instruments of civil courts.

1 Sec. 48. In default of payment of any fine imposed by any
2 military court acting under martial law, or by any courts-martial,
3 the offender shall be committed to any county jail designated
4 by any court of this state for a period equal to one day for
5 each three dollars of fine imposed and unpaid.

1 Sec. 49. The keepers and wardens of all county jails or
2 state institutions are required to receive and confine all
3 military offenders or other persons when delivered to them,
4 under a certificate of commitment of a military court or
5 commanding officer, for and during the term of sentence or
6 confinement as set forth in said commitment.

1 Sec. 50. The commanding officer and members of any of the
2 military forces engaged in the suppression of an insurrection,
3 the dispersion of a mob, or the enforcement of the laws, shall

4 have the same immunity as peace officers.

1 Sec. 51. In the event any suit or proceeding shall be
2 commenced in any court by any person against any officer of
3 the military forces for any act done by such officer in his
4 official capacity in the discharge of any duty under this act,
5 or against any enlisted man acting under the authority or
6 order of any such officer, or by virtue of any warrant issued
7 by him pursuant to law, it shall be the duty of the attorney
8 general or state judge advocate, upon the request of the
9 adjutant general, to defend any member of the military forces
10 of the state against whom any such suit or proceeding has been
11 instituted. The costs of such defense shall be paid out of
12 any funds in the state treasury not otherwise appropriated.
13 Before any suit or proceeding shall be filed or maintained
14 against any officer or enlisted man as herein provided, the
15 plaintiff shall be required to give security, to be approved
16 by the court in a sum not less than one hundred dollars to
17 secure the costs. If the plaintiff fails to recover judgment,
18 such costs shall be taxed and judgment rendered therefor
19 against him and his sureties. When troops are called into
20 active state service by the governor under martial law or as
21 aid to the civil authorities, in addition to his other duties,
22 any judge advocate on duty with such troops may be appointed
23 by the attorney general as an assistant attorney general,
24 without pay for his services for acting in such capacity.

1 Sec. 52. No action or proceeding shall be maintained

2 against any officer appointing a military court or against
3 any member of a military court or commission, officer or agent
4 acting under its authority, or reviewing its proceedings, on
5 account of the imposition of a fine or penalty or for the
6 execution of a sentence of any person, unless it be shown that
7 such officer, member or agent has acted from motives of malice.

1 Sec. 53. Whenever the United States is invaded or in danger
2 of invasion from any foreign nation, or of rebellion against the
3 authority of the government of the United States, or the president
4 is unable, with the regular forces at his command, to execute
5 the laws of the union, it shall be lawful for the president to
6 call forth such number of the national guard as he may deem
7 necessary to assist in repelling such invasion, suppressing
8 such rebellion, or to assist in enabling him to execute such
9 laws, and to issue his orders for that purpose, through the
10 governor to such officers of the national guard as he may think
11 proper; and the president may specify, in his call, the period
12 for which such service is required, and the guard so called
13 forth shall continue to serve during the terms so specified,
14 either within or without the territory of the United States,
15 unless sooner relieved by order of the president.

16 Whenever the president shall require, in any of the
17 designated instances, more troops than can be supplied by the
18 national guard, the governor shall, in his discretion, organize
19 forthwith such other national guard forces as he may deem
20 necessary, or order into the service of the United States so

21 many of the unorganized militia of the state as is required,
22 designating the same by draft if a sufficient number do not
23 volunteer, and shall commission officers therefor.

24 Officers and enlisted men called into federal service
25 through the national guard shall upon completion of such service
26 continue to serve the balance of their enlistment period the
27 same as though it had not been interrupted by such service.

1 Sec. 54. The senior line commander of troops of the Iowa
2 national guard shall receive an annual expense allowance in
3 the sum of one thousand eight hundred dollars, payable during
4 each calendar year, in such sums and at such times as requested
5 by the said commander, provided however, that no payment shall
6 be made during such time as the Iowa national guard is in
7 federal service.

1 Sec. 55. The adjutant general is hereby authorized to
2 procure insurance against the liability of officers and enlisted
3 men of the national guard, and employees of the adjutant general
4 by reason of claims for bodily injuries, death, or property
5 damage, made upon such officers, enlisted men and employees
6 resulting from their operation of a motor vehicle while in
7 the performance of their duties.

1 Sec. 56. The adjutant general is hereby authorized to
2 appoint a claims board or boards each composed of not less
3 than three nor more than five officers of the national guard,
4 to consider, investigate and settle claims to be paid out of
5 funds not otherwise appropriated, on account of damage to or

6 loss or destruction of private property, both real and personal,
7 or personal injury or death, when such damage, loss, destruction,
8 injury or death is caused as an incident to the training,
9 practice, operation or maintenance of the national guard where
10 the amount of such claim does not exceed one thousand dollars;
11 provided, that no claim shall be considered unless presented
12 within one year after the occurrence of the accident or
13 incident out of which such claim arises; provided further, that
14 any such settlements made by such boards shall be subject to
15 approval (1) by the adjutant general and (2) by the executive
16 council; provided further, that any such settlements made by
17 such boards, approved by the adjutant general and approved by
18 the executive council shall be final and conclusive for all purposes,
19 notwithstanding any other provision of law to the contrary; provided
20 further, that no claim shall be allowed hereunder arising from
21 accident or incident occurring while the unit, detachment, or
22 organization of the Iowa national guard involved is in federal
23 service.

1 Sec. 57. The governor shall appoint an armory board which
2 shall consist of the adjutant general, at least two officers from
3 the active commissioned personnel of the national guard, and at
4 least one other person, who is a citizen of the state of Iowa,
5 of good moral character. One member of such board shall have
6 had at least five years experience in the building construction
7 trade. The board shall meet at such times and places as are
8 ordered by the governor. The members, so appointed, shall serve

9 at the pleasure of the governor. Civilian members of the board
10 shall receive compensation of ten dollars and actual expenses
11 for each day actually employed under the provisions of this act.

12 The board shall be empowered to acquire land or real
13 estate by purchase, contract for purchase, gift, bequests or
14 condemnation and to acquire, own, contract for the construction
15 of, erect, purchase, maintain, alter, operate, and repair armories
16 when funds for the same are made available by the federal government,
17 the state of Iowa, municipalities, corporations or individuals.

18 The title to such property so acquired shall be taken in the
19 name of the state of Iowa and such real estate may be sold by
20 the executive council, upon recommendation of the board, when no
21 longer needed for the purpose for which it was acquired.

22 In carrying out the provisions of this section, the armory
23 board may:

- 24 1. Borrow money.
- 25 2. Mortgage any real estate acquired and the improvements
26 erected thereon when purchasing or improving the same.
27 in order to secure necessary loans.
- 28 3. Pledge the rents, profits, and income received from any
29 such property for the discharge of obligations executed.

30 No obligation created hereunder shall ever be or become a
31 charge against the state of Iowa, but all such obligations, including
32 principal and interest, shall be payable solely:

- 33 1. From the net rents, profits, and income arising from the
34 property so pledged or mortgaged.

35 2. From the net rents, profits, and income which have not
36 been pledged for other purposes arising from any other
37 armory or like improvement under the control and management
38 of said board, or,

39 3. From the income derived from gifts and bequests for armory
40 purpose under the control of the armory board.

41 All property, real or personal, acquired by, and all bonds,
42 debentures or other written evidences of indebtedness, given as
43 security by said board, shall be exempt from taxation.

44 When property acquired by the armory board, under the provisions
45 of this law, shall be free and clear of all indebtedness, the
46 title of such property shall pass to the state of Iowa.

47 There shall be no liability to the state of Iowa under the
48 provisions of this section. No member of the armory board and
49 no member of the state executive council shall be held to any
50 personal or individual liability for any action taken by them
51 under the provisions of this act.

52 The board shall fix the amount to be paid to commanding
53 officers of each division, brigade, regiment, battalion, company,
54 or other unit of the national guard for headquarters expenses and
55 shall provide by regulation how the same shall be disbursed by
56 such commanding officers. The actions of the armory board shall
57 be subject to the approval of the governor.

58 The allowances made by the armory board shall, when approved
59 by the governor, be paid from the funds appropriated for the
60 support and maintenance of the national guard.

1 Sec. 58. The armory board as lessee, may lease property to
2 be used for armory purposes. Leases may be made for any term not
3 to exceed twenty years. Rents under such leases shall be paid from
4 funds appropriated for the support and maintenance of the national
5 guard.

6 Leases made under the provisions of this section may provide
7 for an option to purchase the leased property and may make provision
8 for the application upon the purchase price of rental payments
9 made under the lease.

1 Sec. 59. All action of the armory board in connection with
2 the acquiring of land or real estate, or improvements thereon,
3 or the disposal of same, or the creation of any indebtedness, shall
4 be with the approval of the state executive council.

1 Sec. 60. All personal and real property held and used for
2 armory or military purposes shall be exempt from taxation; and it
3 shall be lawful for any county or city or town which owns public
4 utilities to grant to any organization or unit of the national
5 guard, which is stationed in such place, the free use of such
6 public utilities.

1 Sec. 61. The system of discipline of the national guard shall
2 conform generally to that of the armed forces of the United States
3 and all personnel on duty or in active state service shall be
4 subject to the punitive and disciplinary provisions of this act.
5 Trial and punishment by civil authorities shall not bar trial and
6 punishment or dismissal from the service by court-martial for any
7 military offense involved.

1 Sec. 62. Under such regulations as the adjutant general may
2 prescribe, the commanding officer of any detachment, company, or
3 higher command may, for minor offenses, impose disciplinary punish-
4 ment upon officers and enlisted men of his command without inter-
5 vention of a court-martial, unless the accused demands trial by
6 court-martial.

7 The disciplinary punishment for officers authorized by this
8 section may include admonition, reprimand, withholding privileges,
9 restrictions to certain specified limits for not to exceed one week
10 and if imposed by a general officer, forfeiture of not to exceed
11 one-half of the officer's pay for a period not to exceed two weeks.

12 For enlisted personnel the disciplinary punishment authorized
13 by this section may include admonition, reprimand, withholding of
14 privileges not exceeding one week and when in field training may
15 in addition include extra fatigue for not to exceed one week and
16 restrictions within certain specified limits for not to exceed one
17 week, but shall not include forfeiture of pay or confinement under
18 guard

1 Sec. 63. The following delinquencies, as defined by the Uniform
2 Code of Military Justice of the United States, are hereby declared
3 to be military offenses for which an offender will be punished
4 according to law as a court-martial may direct, within the
5 limitations set forth by the Table of Maximum Punishments of the
6 Uniform Code of Military Justice.

- 7 1. Fraudulent enlistment. (Art. 83)
- 8 2. False official statement. (Art. 107)

- 9 3. Absence without leave. (Art. 86)
- 10 4. Disrespect toward or insulting national or state officials.
11 (Art. 88)
- 12 5. Disrespect toward a superior officer in the execution of
13 his office. (Art. 89)
- 14 6. Assaulting or disobeying a superior officer in the
15 execution of his office. (Art. 90)
- 16 7. Insubordinate conduct toward a non-commissioned officer
17 in the execution of his office. (Art. 91)
- 18 8. Mutiny or sedition. (Art. 94)
- 19 9. Releasing a prisoner without proper authority. (Art. 96)
- 20 10. Drunkenness on duty. (Art. 112)
- 21 11. Conduct unbecoming an officer and a gentleman. (Art. 133)
- 22 12. Conduct to the prejudice of good order and military
23 discipline. (Art. 134)
- 24 13. Frauds against the Government. (Art. 132)
- 1 Sec. 64. Any member of the national guard may prefer charges
2 against any other person subject to the provisions of this act.
- 1 Sec. 65. Apprehension is the taking into custody of a person.
2 Any person authorized under regulations governing the national
3 guard to apprehend persons subject to this act or to trial there-
4 under may do so upon reasonable belief that an offense has been
5 committed and that the person apprehended committed it.
- 1 Sec. 66. Arrest is the restraint of a person by an order not
2 imposed as a punishment for an offense directing him to remain
3 within certain specified limits. Confinement is the physical

4 restraint of a person.

5 An enlisted man may be ordered into arrest or confinement by
6 any commissioned officer by an order, oral or written, delivered
7 in person or through other members of the national guard. A
8 commanding officer may authorize warrant officers, or non-commissioned
9 officers to order enlisted men of his command or subject to his
10 authority into arrest or confinement.

11 An officer subject to this act or to trial thereunder may be
12 ordered into arrest or confinement only by a commanding officer
13 to whose authority he is subject, by an order, oral or written,
14 delivered in person or by another officer. The authority to order
15 officers into arrest or confinement may not be delegated.

16 No person shall be ordered into arrest or confinement except
17 for probable cause.

18 Nothing in this section shall be construed to limit the
19 authority of persons authorized to apprehend offenders to secure
20 the custody of an alleged offender until proper authority may be
21 notified.

1 Sec. 67. Any person subject to this act charged with an
2 offense under this act shall be ordered into arrest or confinement,
3 as circumstances may require; but when charged only with an offense
4 normally tried by a summary court-martial, such person shall not
5 ordinarily be placed in confinement. When any person subject to
6 this act is placed in arrest or confinement prior to trial,
7 immediate steps shall be taken to inform him of the specific wrong
8 of which he is accused and to try him or to dismiss the charges and

9 release him.

1 Sec. 68. No provost marshal, commander of a guard, or master
2 at arms, shall refuse to receive or keep any prisoner committed
3 to his charge by an officer of the military forces of this state,
4 when the committing officer furnishes a statement, signed by him,
5 of the offense charged against the prisoner.

6 Every commander of a guard or master at arms to whose charge
7 a prisoner is committed shall, within twenty-four hours after such
8 commitment or as soon as he is relieved from guard, report to the
9 commanding officer the name of such prisoner, the offense charged
10 against him, and the name of the person who ordered or authorized
11 the commitment.

1 Sec. 69. The military courts of this state for the national
2 guard shall be:

- 3 1. Courts of inquiry
- 4 2. General courts-martial
- 5 3. Special courts-martial
- 6 4. Summary courts-martial

7 They shall be constituted like, and have cognizance of the
8 same subjects, and possess like powers, except as to punishments,
9 as similar courts provided for by the laws and regulations governing
10 the armed forces of the United States, and the proceedings of courts-
11 martial of the national guard shall follow the forms and modes of
12 procedure prescribed for said similar courts. The jurisdiction
13 of the courts herein provided is not limited to the geographical
14 area of Iowa.

1 Sec. 70. Courts of inquiry, to consist of one or more
2 officers, may, and on the request of any officer involved shall,
3 be instituted by the governor for the purpose of investigating
4 the conduct of any officer, or any accusation or imputation
5 against him, or any actions made the subject of military complaint.
6 Such court of inquiry shall, without delay, report a statement of
7 facts and, when required, the evidence adduced and an opinion with
8 recommendations thereon to the governor, who may, in his discre-
9 tion, thereupon order court-martial for the trial of the officer
10 whose conduct has been inquired into.

1 Sec. 71. General courts-martial may be convened by order of
2 the governor or any general officer and such courts shall have
3 the power to impose punishment for the commission of a misdemeanor
4 or felony in accordance with the statutory provisions of the
5 criminal code of Iowa relating to the misdemeanor or felony
6 involved; to sentence to forfeiture of pay and allowances; to
7 reprimand; to dismissal or dishonorable discharge from the service;
8 to reduction of non-commissioned officers to the ranks. Any two
9 or more of such punishments may be combined in the sentences im-
10 posed by such courts.

1 Sec. 72. The commanding officer of each garrison, fort, post,
2 camps, or station, brigade, regiment, detached battalion or other
3 detached command, may appoint special courts-martial; but such
4 special courts-martial may in any case be appointed by superior
5 authority when such authority deems it desirable. Special courts-
6 martial shall have power to try any person subject to military

7 law, except an officer, for any crime or offense made punishable
8 by this act. Special courts-martial shall have jurisdiction only
9 of misdemeanors and minor military offenses and punishment imposed
10 by such courts for misdemeanors shall be in accordance with the
11 statutory provisions of the criminal code of Iowa relating to the
12 misdemeanors involved.

1 Sec. 73. The commanding officer of each garrison, fort, post,
2 camp, or station, regiment, detached battalion, company, or other
3 detachment of the national guard may appoint for such place or
4 command a summary court to consist of one officer, who shall
5 have power to administer oaths and to try the enlisted men
6 of such place or command for breaches of discipline and violation
7 of laws governing such organizations; and said court, when
8 satisfied of the guilt of such enlisted man may impose fines
9 not exceeding twenty-five dollars for any single offense; may
10 sentence non-commissioned officers to reduction to the
11 ranks; may impose a forfeiture not to exceed two-thirds of his
12 pay for thirty days. The proceedings of such courts shall be
13 informal and the minutes thereof shall be the same as prescribed
14 for summary courts of the armed forces of the United States.

1 Sec. 74. All courts-martial, including summary courts, shall
2 have power to sentence to confinement in lieu of fines authorized
3 to be imposed; provided, that such sentences of confinement shall
4 not exceed one day for each three dollars of fine authorized.

1 Sec. 75. No sentence imposed by a general courts-martial
2 shall be ordered into execution until approved by the governor.

3 No sentence imposed by a special courts-martial shall be
4 ordered into execution until approved by the authority appointing
5 the court.

1 Sec. 76. Presidents of courts-martial and summary-court
2 officers shall have power to issue warrants to arrest accused
3 persons and to bring them before the courts for trial whenever such
4 persons shall have disobeyed an order in writing from the convening
5 authority to appear before such court, a copy of the charge or
6 charges having been delivered to the accused with such order, and
7 to issue subpoenas and subpoenas duces tecum and to enforce by
8 attachment attendance of witnesses and the production of books and
9 papers and to sentence for a refusal to be sworn or to answer as
10 provided in actions before civil courts.

11 Military personnel executing the provisions of this section
12 shall have all the powers and immunities of peace officers.

1 Sec. 77. Military courts are empowered to issue all process,
2 including writs and warrants necessary and proper to carry into
3 full effect the powers vested in said courts. Such process may
4 be directed to appropriate military personnel, the sheriff of any
5 county or other peace officer of the state and shall be in
6 such form as may, from time to time, be prescribed by the adjutant
7 general. It shall be the duty of all persons herein provided to
8 whom such process may be so directed to execute the same and
9 make return of their acts thereunder according to the requirements
10 of the same.

11 The keepers and wardens of all city or county jails and of

12 all other jails, penitentiaries or prisons, designated by the
13 governor or the adjutant general of the state, shall receive
14 the bodies of persons committed by the process of a military
15 court and confine them in the manner provided by law for civilian
16 offenders.

17 No public officer shall demand or be entitled to receive any
18 fees or charges for receiving, executing, returning, or rendering
19 any services in connection with any process of a military court,
20 or for receiving or confining a person in jail or custody under
21 such process.

1 Sec. 78. Fines may be paid to a court or to an officer
2 executing its process. The amount of any fine imposed may be
3 noted upon any state roll or account for pay of the delinquent
4 and deducted from any pay or allowance due or thereafter to
5 become due him, until said fine is liquidated. Any sum so
6 deducted from any state pay or allowance shall be turned into the
7 court which imposed the fine and shall be paid over by the officer
8 receiving the same in like manner as provided for other fines
9 and moneys collected.

10 The proceeds of all fines in summary, general, and special
11 courts-martial cases shall be paid to the adjutant general and paid
12 into the maintenance fund of the national guard, and all costs
13 of prosecution shall be paid out of the same fund.

1 Sec. 79. The president of a general or a special court-martial,
2 or a summary court officer may each appoint by warrant, and at any
3 time remove, one or more marshals, each of whom shall, before

4 entering upon his duties, execute a bond to the state in the penal
5 sum of one thousand dollars, with sufficient sureties, to be
6 approved by the president of the court or officer appointing him,
7 for the faithful performance of his duties and the prompt payment
8 of all moneys collected by him. Each marshal shall perform the
9 usual duties of such marshals and shall execute any process, or
10 order issued by such president or court or officer, and perform
11 all acts and duties by this section imposed on or authorized to
12 be performed by any sheriff, marshal, or constable. A bond given
13 as herein provided may be prosecuted for breach of the conditions
14 thereof, in the name of the state, by a judge advocate of the
15 national guard, and all moneys recovered shall be paid to the
16 maintenance fund of the national guard.

1 Sec. 80. No action or proceeding shall be prosecuted or
2 maintained against a member of a military court or officer or
3 person acting under its authority or reviewing its proceeding on
4 account of the approval or imposition or execution of any sentence
5 or the imposition or collection of a fine or penalty, or the
6 execution of any warrant, writ, execution, or process, of a military
7 court.

1 Sec. 81. The jurisdiction of the courts and boards
2 established by this act shall be presumed.

1 Sec. 82. All matters relating to the organization, discipline,
2 and government of the military forces not otherwise provided
3 for in this act, shall be decided by the custom, regulations,
4 and usage of the armed forces of the United States.

5 IOWA STATE GUARD

1 Sec. 83. Whenever any part of the national guard is in
2 federal service the governor may activate such part of the
3 unorganized militia, to be designated the "Iowa State Guard",
4 as he may deem necessary, subject to provisions of federal law
5 and regulations relating to such military organizations.

1 Sec. 84. The powers and duties of the governor, the adjutant
2 general and the assistant adjutant general, with relation to the
3 Iowa State Guard shall be the same as those powers and duties
4 prescribed in this act for such officers with relation to the
5 national guard.

1 Sec. 85. In the event the state headquarters of the national
2 guard is inducted into federal service, the governor shall appoint
3 a chief of staff for the Iowa State Guard.

1 Sec. 86. The provisions of this act pertaining to the
2 administration and employment of the national guard shall be
3 applicable to the Iowa State Guard. The rules and regulations
4 relating to, appointment of officers, enlistments, term and
5 conditions of service in, and discharge from, the Iowa State
6 Guard shall be such as are directed by the governor.

1 Sec. 87. The powers and duties of officers and enlisted men
2 of the Iowa State Guard shall be the same as those prescribed
3 in this act for officers and enlisted men of the national guard
4 and the punitive and disciplinary provisions of this act
5 relating to the national guard shall be applicable to the Iowa
6 State Guard.

9 in connection with any activity pertaining to or connected with
10 the prosecution of any war in which the United States is then
11 engaged, shall be revoked or terminated by the death of the
12 principal, as to the agent or other person who, without actual
13 knowledge or actual notice of the death of the principal, shall
14 have acted or shall act, in good faith, under or in reliance upon
15 such power of attorney or agency, and any action so taken, unless
16 otherwise invalid or unenforceable, shall be binding on the heirs,
17 devisees, legatees, or personal representatives of the principal.

18 Except as otherwise provided in this act no report or
19 listing either official or otherwise, of "missing" or "missing
20 in action" shall constitute or be interpreted as constituting
21 actual knowledge or actual notice of the death of such principal
22 or notice of any facts indicating the same, or shall operate to
23 revoke the agency.

1 Sec. 93. An affidavit, executed by an attorney in fact or
2 agent, setting forth that he has not or had not, at the time
3 of doing any act pursuant to the power of attorney, received
4 actual knowledge or actual notice of the revocation or
5 termination of the power of attorney, by death or otherwise, or
6 notice of any facts indicating the same, shall, in the absence of
7 fraud, be conclusive proof of the nonrevocation or non-termina-
8 tion of the power at such time. If the exercise of the power
9 requires execution and delivery of any instrument which is
10 recordable under the laws of this state, such affidavit (when
11 authenticated for record in the manner prescribed by law) shall

12 likewise be recordable.

1 Sec. 94. Sections 92 and 93 of this act shall
2 not operate to alter, invalidate, or in any manner affect any
3 express provision for revocation or termination contained in
4 any power of attorney.

1 Sec. 95. Chapter twenty-nine (29), Code 1950,
2 as amended is hereby repealed.

EXPLANATION OF H. F. 141

The Military Code of Iowa has become obsolete and in many respects impossible of execution as a result of changes in the Federal law. For example there are no provisions relating to an air arm but the United States Defense Department has assigned an air branch to Iowa. Under federal unification of the Armed Forces the Department of Defense has replaced the War Department. It is necessary to make appropriate provisions as a result thereof. Wherever in the present Code reference is made to the Secretary of War, it is now necessary to refer to the Secretary of Defense. Changes in the organization of the Armed Forces of the United States require similar changes in the Military Code of Iowa.

Other changes include the increase of state pay of enlisted men on "state duty" to \$3.00 per day. A serious problem was encountered when troops were called out for disaster duty as many of the men were from our farms and found it necessary to employ someone to do their farm work while on disaster duty. Their military pay plus their additional state pay was far from adequate to cover their expense in employing another. While the increase to \$3.00 per day will not make up this difference, it will help relieve the burden.

In many instances no substantive changes were effected but the language of the statutes was changed for the purpose of clarification.

The compensation of the Adjutant General, Assistant Adjutant General, and an expense allowance for the Commanding General of the 34th Division is provided.

Code sections were reorganized for the purpose of continuity. New provisions have been added relating to courts-martial. Experience has indicated a pressing need for these provisions as existing provisions are sketchy and in many instances raise serious questions.

The existing provisions relating to the Iowa State Guard are most inadequate. There are numerous serious questions under the existing provisions relating to the organization, powers and duties and administration of the State Guard. Provisions of this bill are designed to correct this situation.