which conflict with the conclusions that follow. A person in the military service, on leave in time of war, is subject to the civil law, and may be subjected to arrest for felony or misdemeanor not committed in the performance of his duties. However, upon demand by the proper military authorities, it would seem that such authorities would be entitled to the custody of such person in time of war, such as the present.

It is my opinion that the same rule would apply to persons in the naval service.

This rule seems to me to have the support of sound reasoning. If a person in the military service, charged with violation of state law, is released to the military authorities upon their demand, made in what they deem to be the best interests of the military service, there is no denial of any right. If a wrong has been done, the military authorities are amply able to punish such offenders. If they do not, as was said by the Court in the Wulzen case, supra, "it does not necessarily follow that at a proper time * * * the parties in interest may not be without their remedy."

It would seem to be excellent practice for all enforcement officials, when a person in any of the military services is arrested for violation of state laws, in time of war, to notify such person's military superiors as soon as practicable.

You will note by my answer to your question that it is directed to the situation in time of war, and that I have not attempted to discuss the rule properly applicable in times of peace.

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INDIANA STATE POLICE: Drunken Driving—Whether the drunken driving statute is applicable to roadways in military reservations.

September 21, 1942.

Mr. Don F. Stiver,
Superintendent,
Indiana State Police,
Indianapolis, Indiana.

My dear Mr. Stiver:

This will acknowledge receipt of your letter of recent date in which you ask whether a civilian operator of a motor
vehicle in an army camp is subject to arrest under Indiana
law for driving under the influence of intoxicating liquor.
The particular statute applicable to the offense involved
reads:

"Any person who drives a vehicle while such per-
son is under the influence of intoxicating liquor or of
narcotic drugs is guilty of a criminal offense."

ed.; Section 52(b), Chap. 48, Acts of 1939.

The same Act contains this further provision:

"The provisions of this act relating to the operation
of vehicles refer exclusively to the operation
of vehicles upon highways except:

1. Where a different place is specifically referred
to in a given section.

2. The provisions of Articles IV and V shall apply
upon highways and elsewhere throughout the state."

Section 47-1822, Burns' Ind. Stat. Ann., 1933

The section of the act making driving under the influence of
intoxicating liquor a criminal offense is a part of Article V.

While I do not believe that a roadway in an army camp is
a public highway within the meaning of the Act, because
such a roadway is, ordinarily, not "open to the use of the
public for purposes of vehicular travel," it is my opinion that
the General Assembly has ample power to declare that the
operation of a vehicle while under the influence of intoxicating
liquor, at any place within the state, is a criminal offense.

Therefore the answer to your question would depend upon
the existence of one further fact. If the roadway is in an
army camp occupying territory within the state which has
been ceded to the Federal Government, and over which terri-

tory, under the terms of cession, the Federal Government has
acquired exclusive jurisdiction, it is my opinion that the so-
called drunken driving statute is inoperative so far as such
territory is concerned. If the territory occupied by the camp
has not been ceded to the Federal Government by the State,
it is my opinion that a prosecution for violation of the above-quoted section could be maintained against a civilian who operates a vehicle upon a roadway within said camp while under the influence of intoxicating liquor.

SUPERINTENDENT OF PUBLIC INSTRUCTION: County Superintendent—Whether entitled to the benefits of Chapter 99 of the Acts of 1941.

COUNTY SUPERINTENDENT: Whether wife of county superintendent inducted into military service may be appointed to fill the vacancy where legal qualifications are absent.

September 23, 1942.

Hon. Clement T. Malan,
State Superintendent of Public Instruction,
Indianapolis, Indiana.

Dear Sir:

I have before me your request for an official opinion in reply to the following questions:

"A county superintendent of schools is inducted into the military service. Does this county superintendent qualify as a teacher under Chapter 97, Acts of 1941, an act concerning public school teachers, etc.?

"A county superintendent of schools is inducted into the military service. May his wife, who is not properly licensed be appointed by the county board of education to act during the absence of the county superintendent?"

Chapter 97 of the Acts of 1941 is entitled: "An Act concerning public school teachers who have entered or who shall enter the military service or services auxiliary thereto, of the United States of America."

An examination of this Act discloses very clearly that it deals with contract rights of public school teachers rather than official rights of elected or appointed officers. The county superintendent of schools does not occupy a contractual rela-