six months after he shall be discharged if discharged prior thereto."

The above statute must be construed in the light of its apparent purpose. State ex rel. Bailey v. Webb (1939), 215 Ind. 609, 21 N. E. (2d) 421. The purpose of the act was to exempt members of the armed forces from the payment of poll tax when they were in the service in time of war, and for a reasonable time thereafter. The statute seems perfectly clear, and the Legislature has stated the length of time the exemption is to continue. The present hostilities have not terminated. For a definition of "termination of hostilities" see 1945 Ind. O. A. G. p. 407, No. 103.

Therefore, it is my opinion that a member of the armed forces is entitled to the exemption provided by the statute until twenty-four months after termination of the present hostilities, but if he is discharged prior thereto, his exemption would only continue until six months after he has been discharged. A discharge prior to termination of hostilities may result in an exemption on the payment for a longer time than the six months period, since poll taxes as well as other taxes are due and payable the year after the time of assessment. See official opinion No. 17 to Hon. Clarence E. Ruston, State Examiner, under date of February 23, 1946.

OFFICIAL OPINION NO. 17
February 23, 1946.

Hon. Clarence E. Ruston,
State Examiner,
State Board of Accounts,
State House,
Indianapolis, Indiana.

Dear Sir:

I am in receipt of your letter of February 13th in which you ask my official opinion upon the following three questions:

"1. Is a former member of the armed forces of the United States exempt from the payment of poll taxes
which became due and payable within the year after he enters such services in the armed forces when such poll taxes were assessed for and during a time prior to such service.

"2. In the event that poll taxes which are exempt from payment under the provisions of Section 1 of said Chapter 2, Acts of 1944 (Special Session), have been charged on the tax duplicate, and such charge has not been removed by a certificate of exemption prior to six months after the discharge from service of the person so charged, can such tax duplicate charge be thereafter removed?

"3. In the event that poll taxes which are exempt from payment under the provisions of Section 1 of said Chapter 2, Acts of 1944 (Special Session), have been charged on the tax duplicate and paid, and such payment has not been refunded prior to six months after the discharge from service of the person so charged, can such refund be thereafter made?"

The statute to which you refer is Chapter 2 of the Acts of the First Special Session of the General Assembly 1944, appearing at page 6 of the acts of such special session as found with the 1945 Acts. The sections pertinent to your inquiries are as follows:

"Section 1. * * * That all members of the active militia of the State of Indiana, by whatever name the same may be designated, for and during the time they may be members thereof, and all persons who have been, now are, or shall hereafter be, members of the armed forces of the United States of America, and receiving pay therefor from the United States Government, are hereby declared to be exempted from the payment of any and all poll taxes assessed for, and during, the time of such service after January 1, 1941, until twenty-four months after termination of the present hostilities, or until six months after he shall be discharged if discharged prior thereto.

"Section 2. Whenever any such poll taxes shall have been paid for the period exempted, the same shall be
refunded by the respective counties out of funds not otherwise appropriated by the county auditor, who shall issue a warrant for the amount thereof to the county treasurer, who shall pay the same, and the respective taxing units assessing any part of said tax shall reimburse the county for its tax so collected. Any refund shall also include any penalty if collected.

“Section 4. In the event that any poll tax has been placed on the tax duplicate in the hands of the county treasurer against any person hereby exempted, if such poll tax has not been paid and evidence of exemption as provided in Section 3 hereof has been presented to the auditor, the county auditor shall issue to the treasurer his certificate of exemption, and the treasurer shall then strike from his tax records such poll tax assessment and he shall not be chargeable therefor.”

In construing the above statute, the intention of the legislature must be given effect if at all possible.


Without doubt the legislature had in mind that the men in the armed forces should not be required to pay a poll tax, nor be concerned with the inconvenience which would be occasioned by attempting to look after such matters when all were away from home, and many were thousands of miles away from the states.

Furthermore, statutes in aid of the armed forces are to be given a liberal construction in favor of the members thereof. In construing a statute providing for compensation of the Indiana National Guard, the Supreme Court of this State well stated this rule of liberal construction as follows:

“There is nothing confusing or uncertain about the statute when read in the spirit in which it was adopted. To cultivate patriotism, and induce our young men to assume the dangers incident to the public defense and the suppression of public disorder, the State must be liberal to those who put on the uniform in times of stress. It is unpatriotic and impolitic to invoke the
rule of strict construction against soldiers' compensation, which is but nominal at best. * * *"

State v. Dudley (1910), 173 Ind. 633 at 635.

The statute above set forth exempts:

"* * * all poll taxes assessed for, and during the time of such service after January 1, 1941, * * *"

Poll tax is assessed as of March 1st of each year and for payment the following year. We are not at liberty to ignore the word "for", and it would be superfluous if the legislature had intended the exemption to apply only to taxes which were assessed during the time of service.

(1) Therefore, in answer to your first question, it is my opinion that a member of the armed forces is exempted from the payment of poll taxes which may have been assessed during a year prior to the year in which service in the armed forces began, which would otherwise have been paid the year following the assessment when the taxpayer was in the armed forces.

(2-3) In reply to your second and third questions, you will note that neither Section 2 nor Section 4 relating to refunds of poll tax and removal of poll tax from the duplicate respectively contain any limitation of time as to when such refund or removal may be had, and I find no such time limitation expressed in any other statute in this regard. I see no way of implying any such time limitation into the act.

Therefore, in the event that poll taxes which are exempted from payment have been charged on the tax duplicate, such charge may be removed at any time thereafter. In the event that poll taxes which are exempt from payment under the provisions of such section have been paid, a refund of such payment may be claimed and made at any time thereafter.