Upon reading the Appropriation Act it becomes apparent that the Legislature made a double appropriation for the payment of these claims: the first, a general appropriation for payment of judgments in the Court of Claims which, through an error in drafting, was made to expire on June 30th, 1943; and the second, specific appropriations which in their total amount equal the general appropriation.

It is well settled in Indiana that in construing statutory provisions a construction should be adopted, if consistent with the language used, which will prevent defeat of the apparent legislative intent through mistake, errors or omissions.

State ex rel. v. Markey, 212 Ind. 59.

It is apparent that the Legislature intended to appropriate funds for the payment of valid judgments obtained against the state of Indiana, since at the time of filing the claims with the auditor the general appropriation for their payment had expired, it is nevertheless my opinion that in carrying out the manifest intent of the Legislature those judgments may be paid under the specific appropriation.

INDIANA STATE BOARD OF DENTAL EXAMINERS: Requirements of Dentists in the armed service with reference to license.

December 1, 1943.

Mr. C. A. Frech, D. D. S.,
Secretary-Treasurer Indiana
State Board of Dental Examiners,
Gary National Bank Building,
Gary, Indiana.

Dear Sir:

Your letter of November 24, 1943, received, which in part reads as follows:

"I would like your suggestion on the following subject:

"During the legislative session I was told that a bill had passed whereby persons in the armed forces
were given the privilege of allowing their fees for renewal certificates to lapse without penalty. I was further informed that these fees were not waived but were accumulative and must be paid within six months after an honorable discharge from service. However, the penalty was waived.

"I have just noted this act on page 838 of the 1943 Cumulative Pocket Supplement. As I interpret this the annual fees are waived as well as any fine or penalty.

"Since we are now issuing 1944 renewal certificates it is important that I know immediately whether or not to accept renewal fees from men in service. We have received and cashed the checks of sixteen service men to date and are holding the checks for an equal number until this question is answered: more are arriving daily."

This question is governed by Chapter 31, Acts of 1943, same being Clause 5 of the Appendix of Burns' 1943 Supplement. Section 2 of said Act is as follows:

"Any person who subsequent to July 1, 1940, has been or who shall hereafter prior to July 1, 1945, be lawfully inducted into military service, and who at the time of such induction was or is a licensee of the state of Indiana, may, within six (6) months after the termination of such military service by honorable discharge, apply for and be entitled to a renewal license without examination, re-examination, fine or penalty, notwithstanding the fact that his license or last previous renewal license shall have theretofore expired; and the officer, board or department empowered by law to issue such renewal license is hereby authorized to issue the same without examination, re-examination or the exaction of any fine or penalty. The issuance of such renewal license shall in all other respects be subject to the provisions of law relating thereto: Provided, however, That when any renewal license is issued after the beginning of the license year, the annual license fee shall be reduced by one-twelfth for each elapsed month of such year."
The above language is plain, concise and unambiguous and must be given a literal interpretation and construed to mean what it plainly says.

Pabst Brewing Co. v. Schuster et al., 55 Ind. App. 375;
Cheney v. State ex rel., 165 Ind. 121, 125;
Rogers v. Calumet National Bank, 213 Ind. 576.

Applying the above rule to your question, it is my opinion that the above statute does not waive the renewal fee of a licensee while in military service. The old license expires on failure to renew. The statute merely gives the licensee the right to have such license renewed within six months after the termination of such military service by honorable discharge, on application by the licensee, at which time such license shall be renewed without examination, re-examination or the exaction of any fine or penalty. Should the licensee fail to renew his license while in military service, the old license would expire and the person would be without a license until he renewed the same after leaving military service.

If a licensee desires his license to continue in full force and effect during his military service, it would be necessary for him to pay his renewal fee each year as though the above statute had not been enacted. However, his right to renew the license after leaving military service would not be prejudiced for a failure to keep in force the license during such service.

It is, therefore, my opinion that it is optional with the licensee as to whether or not he desires to keep his license in force during such service or desires to renew the same after leaving such military service, and that such licensee should be given an opportunity to make such an election.