“Acts 1913, page 17, Burns 1926, section 2798, regarding the hunting with ferrets reads as follows: ‘It shall be unlawful for any person to hunt, attempt to hunt, catch or in any manner take any rabbit or other species of game anywhere in this state with or by means of any ferret at any time.’ The question arises as to whether or not the words ‘any ferret’ would apply to a mechanical ferret.”

Webster’s New International Dictionary contains no definition of the word “ferret” as a noun, the use of which would be at all applicable to the subject matter of the act under inquiry, except that which defines a “ferret” as an animal belonging to the weasel family. No reference is made to any mechanical device.

It is a general rule of statutory construction, well recognized in this state, that words in common use are to be given their natural, plain, ordinary, and commonly understood meaning, in the absence of any statutory or well established technical meaning, unless it is plain from the statute that a different meaning was intended.

Smith v. State, 172 N. E. (Ind.) 911;
Hammell v. State, 198 Ind. 45.

There is nothing, either in the title or body of the act under consideration, to show that the legislature intended the use of the word other than in its commonly understood meaning. It is apparent that application of the term “ferret” to a mechanical device is a trade usage or vernacular usage of the term, and not the proper or common usage thereof.

Your question is answered in the negative.

ADJUTANT GENERAL: Validity of claims of William T. Morganson, Ervine Aebker and Bertha Emmick—use of military fund and contingent funds.

November 13, 1933.

Hon. Elmer F. Straub,
The Adjutant General,
State of Indiana;
Indianapolis, Indiana.

Dear Sir:

I am in receipt of your letter of November 1, 1933, which reads as follows:
"We are attaching herewith three claims, presented by three different individuals covering loss of time sustained through injury and medical services rendered as a result of injury in connection with Indiana National Guard troops.

"There seems to be some question on the part of the board of accounts as to which funds these claims should be allowed from. Further, it is questionable whether or not the claims can be paid from any funds. We were of the opinion that one of the claims could be paid out of the statutory account, however, after further consideration of this fund we believe only payment for claims can be paid from this fund wherein the legislature has acted upon them.

"Will you please render your opinion in duplicate, so that we may file one copy with the auditor's office and one copy with the board of accounts, in order to obtain approval and payment of the above mentioned cases?"

The claim of William T. Morganson recites that it is filed under the provisions of "Section 42" of the Military Laws of Indiana, Acts of 1923. This is obviously a clerical error, as chapter 142 of the Acts of 1923, referred to, contains only thirty-eight sections. The claim shows on its face, moreover, that it is presented under the provisions of section 32 of the act. (Chapter 142, Acts 1923.) This section reads in part as follows:

"A member of the national guard or naval militia who shall, when on duty or assembled therefor, in case of riot, tumult, breach of peace, insurrection or invasion, or whenever ordered by the governor, the commanding general of the national guard, or the commanding officer of the naval militia, or called (to the) aid of civil authorities, receive any injury, or incur or contract any disability or disease, by reason of such duty or assembly therefor, or shall, without fault or neglect on his part, be wounded or disabled while performing any lawfully ordered duty, which shall temporarily incapacitate him from pursuing his usual business or occupation, shall, during the period of such incapacity, receive the pay to which he was entitled while on or assembled for such duty, and actual neces-
sary expenses for care and medical attendance. * * * The adjutant general of the state may appoint a medical examiner or a board of three officers, at least one being a medical officer, to inquire into the merits of any claim arising under this section, or he may, in his discretion, determine any claim without appointing a medical examiner or board and fix the amount to be allowed under this section. * * * The amount found due such member by said medical examiner or board to the extent that the findings are approved by the adjutant general of the state, shall be paid by the state, in like manner as other military accounts are paid."

It would appear from the statements submitted with the claim, that claimant Morganson is entitled to pay for the period of disability set out in the claim under the provisions of this section; but this question is chiefly a question of fact with reference to the circumstances surrounding the injury, to be determined finally by the adjutant general. It will be noted that the section provides that a member of the national guard may be entitled to pay for disability under its provisions shall, during the period of incapacity, "receive the pay to which he was entitled while on or assembled for such duty, and actual necessary expenses for care and medical attendance."

It provides further, that the amount found to be due shall be paid "in like manner as other military accounts are paid." It is my opinion that payment of the claim, if allowed, should be made from the general military fund, out of the appropriation made by the legislature for the current fiscal year for operating expense under the general heading of "administration and land militia." (Chap. 88, Acts 1933, p. 599.)

The other two claims submitted with your letter, are claims filed in behalf of two girls, Ervine Aebker, age 14, and Bertha Emmick, age 18, on account of expenses incurred for medical attention as a result of injuries suffered when said claimants are alleged to have been struck by an automobile belonging to the State of Indiana, bearing license number I. N. G. 14. The automobile was driven and occupied by two enlisted men of the National Guard, returning the vehicle from the annual encampment at Camp Knox, Kentucky, to its home station at Gary, Indiana, under proper orders.
The injured parties obviously were not members of the militia, and are not within the provisions of section 32, chapter 142, *supra*. Neither, in my opinion, can either of these claims be paid out of the statutory fund.

With regard to the custody and management of the aforementioned fund the law contains the following provisions:

"The military fund shall remain in the state treasury, and shall be drawn on the warrant of the governor for such *expenses* as may accrue under this law, and to pay the *expenses* of all encampments ordered or approved by the governor, inspections, courts martial, boards of inquiry, inspection, examination and survey, pay of officers and soldiers, all allowances for rent of armories and bandrooms, and for headquarters’ expenses of the several organizations of the national guard."

(Section 9984, Burns Annotated Indiana Statutes, Revision of 1926. My italics.)

"The governor shall have the authority, by general order, to provide for the disbursement of the military fund for the proper organization of the militia, and the promotion of its discipline, instruction and military efficiency. * * *"

(Section 9985, Burns Annotated Indiana Statutes, Revision of 1926. My italics.)

There is no legal liability on the part of the State of Indiana to compensate an individual for damages sustained by the tort of its agents, officers or employees. Clearly the two claims referred to are not legitimate "expenses" as enumerated in section 9984, *supra*, nor are they within the purposes for which the fund may be disbursed under the provisions of section 9985, *supra*. I find no statutory authority for payment of this class of claims out of any fund whatsoever.

Whether or not claims of this nature may be paid out of the governor's contingent funds, in the absence of any designation in the appropriations themselves as to the purposes for which disbursements therefrom shall be made, is a matter left largely to the discretion of the executive. Such appropriations are under the control only of the legislature, and the pro-
priety of the charges allowed are not a subject of judicial inquiry. Expenditures from these funds, of course, should be made only for such purposes as are incidental to, or properly connected with, the functions of government. A full discussion of this question will be found in an opinion from this office under date of February 28, 1930, addressed to A. N. Bobbitt, former auditor of state. (Opinions, Attorney General, 1929-1930, p. 215.)

PRISON, INDIANA STATE: Additional sentence and commitment of convict serving time in state prison—when term of imprisonment commences.

November 14, 1933.

Mr. H. C. Crosby, Chief Clerk,
Indiana State Prison,
Michigan City, Indiana.

Dear Sir:

I have before me your letter of November 9, 1933, which reads in part as follows:

“Clyde Steinbarger, Register No. 13500 was paroled and discharged on October 28, 1932, to begin a new sentence. The commitment under which he began to serve his new sentence was dated October 24, 1931, and the sentence was ten years, determinate. On May 12, 1933, this sentence was commuted by Governor Paul McNutt to an indeterminate sentence of two to ten years, which sentence he is now serving as No. 15724.

“The question with which the board is confronted at this time, is whether the sentence which Steinbarger is now serving, two to ten years, dated from date of commitment, October 24, 1931, or from date of parole and discharge October 28, 1932, and whether this time is the same as to minimum and maximum sentence.”

The law provides that “The term of service and imprison-
ment of every convict shall commence from the day of his conviction and sentence.” (Section 12355, Burns Annotated Indiana Statutes, Revision of 1926. My italics.) The law is the same, as to both minimum and maximum sentence.

In the case of the prisoner, Clyde Steinbarger, the term of