

orders of the governor of the state of Ohio as the commander in chief, in case of the national guard and the naval militia, or competent authority in case of the officers' reserve corps, for periods not to exceed 15 days in any one calendar year."

The above quoted section is modeled after the federal statute on the same subject. Section 75, title 32, chapter 4, U. S. C. L., reads as follows:

"All officers and employees of the United States and of the District of Columbia who shall be members of the National Guard shall be entitled to leave of absence from their respective duties, without loss of pay, time, or efficiency rating on all days during which they shall be engaged in field or coast-defense training ordered or authorized under the provisions of this title."

It is a general rule of construction that where a statute is borrowed from another state and enacted into a law by the legislature the courts will presume that the legislative intent was to copy the statute with the interpretation which had been placed thereon by the courts of the state from which such statute was borrowed. See *Casualty Company vs. Nadler*, 115 O. S. 472. The federal government in construing the section above quoted holds that all employes of the federal government who are employed by the month or year are entitled to leave of absence with pay while called out on military duty. See 2 Comptroller-Gen. Dec., page 54; 2 Comptroller-Gen. Dec., page 30; Dig. Op.-Judge Adv. Gen. (1922), page 6. The federal officials have also ruled that where the employe is employed for a period at a per diem compensation merely as a measure of pay he is entitled to the benefits of such act. See 2 Comptroller-Gen. Dec. page 247. However, in such decision it is held that where one is employed merely from day to day by the federal government he is not entitled to the benefits of such act.

Like reasoning applied to the Ohio act would lead to the conclusion that any person who is in the regular employ of the State of Ohio, whether his compensation is by the year, month or day, is entitled to the leave of absence provided for in section 5273-2, General Code, without deduction from his regular salary or compensation by reason of such leave of absence. But when a person is not in the regular employ of the State of Ohio but is a mere incidental or occasional employe, he is not entitled to the benefits of such section.

Specifically answering your inquiry, I am of the opinion that where a state employe regularly employed by the state is a member of the National Guard, he is entitled to leave of absence from his duties during the time he is in attendance at the field training for a period not to exceed fifteen days and that he is entitled to his regular salary or compensation without deduction for such absence.

Respectfully,

GILBERT BETTMAN,

Attorney General.

4554.

APPROVAL, NOTES OF YOUNGSTOWN CITY SCHOOL DISTRICT,
MAHONING COUNTY, OHIO—\$330,000.00.

COLUMBUS, OHIO, AUGUST 8, 1932.

Retirement Board, State Teachers Retirement System, Columbus, Ohio.