

CALL TO GUARD WAS NOT ORDER FOR FIELD DRILL

Ruling of Treasury's Legal Adviser Reveals Peculiar Situation in Capitol

Because the National Defense Act of June 3 provides that all officers and employes of the United States government who are members of the National Guard shall be entitled to pay during the time they are engaged in field or coast-defense training ordered by the act, and the comptroller of the treasury has ruled that the president's calling guardsmen to arms June 18 was not an order or authorization to engage in field or coast-defense training, but a call to actual service, a peculiar situation has resulted.

Copies of the comptroller's decision, reprinted by the War Department, reached National Guard and Hawaiian Department headquarters here this week. Local National Guard authorities believe Congress may be called on to pass a special provision granting such employes pay after a time equal annual leave granted them by law has expired.

The treasury department has already taken action granting all employes who are in the guard and on border duty their salaries and keeping their positions for them. Copies of this order reached Honolulu last week.

The comptroller of the treasury's decision is in part as follows:

"While the employes referred to are not entitled to military leave under the provisions of section 80 of the act of June 3, 1916, or the act of March 1, 1889 (25 Stat., 779), as amended by the act of July 1, 1902 (32 Stat., 615), I see no reason why they should not be paid their regular salaries as Treasury Department officers or employes for such period to their actual muster into the service as would be covered by annual leave granted to them in accordance with law.

"And even after actual muster into the service of the United States enlisted men may continue to receive pay as officers or employes of the department until the expiration of the leave granted (5 Comp. Dec., 9), provided the combined pay of the military and civil positions does not exceed \$2000 per annum. If it does exceed \$2000 payment of any compensation as a civilian officer or employe would be prohibited under the provisions of section 6 of the act of May 10, 1916 (Pub. No. 73).

The War Department order quoting this decision adds that "The president has directed that employes of the executive departments who are mustered into the military service of the United States under the recent order to the National Guard are to be restored to their positions upon their return from this military service."