

# An Examination of the Ohio Law of Holidays

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The word "holiday" does not convey a precise meaning as either a lay<sup>1</sup> or a legal<sup>2</sup> concept. A frank recognition that holidays exist for divers purposes may be of some value in approaching a study of the subject. For example, Sundays are generally regarded as holidays but, whether so regarded or not, it is widely agreed that one of their main purposes is rest and there are fairly precise statutory enunciations of the meaning and significance to be accorded to Sundays.<sup>3</sup> These take the form of a prohibited list of activities and occupations.<sup>4</sup> Few courts have considered the problem but a sound view is that a statutory declaration that a particular day shall be a legal holiday, standing alone, is insufficient to assimilate the status of that day to Sunday.<sup>5</sup> This article is limited to an examination of holidays other than Sundays.

At least three broad mutually overlapping purposes of holidays may be readily perceived. First are holidays viewed from the standpoint of commemoration of religious or historical events or individuals. Second are holidays as planned periods of rest and change from the routine occupations followed by the people of Ohio. Sunday, a day of religious significance to many, is also a day of variation from the regular daily pursuits. Third are those holidays which are enumerated for the purpose of computing time allowed for the protest and payment of negotiable instruments. In addition to these three there are also special purpose holidays.

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<sup>1</sup> WEBSTER'S NEW INTERNATIONAL DICTIONARY (2nd ed. 1948) defines "holiday" in part as follows:

1. HOLIDAY a. Now Rare.
2. Any day of exemption from labor or work; a festival day; hence, a period of recreation or rest.
3. A day fixed by law for the suspension of business in whole or in part; a legal holiday . . . . ."

<sup>2</sup> BLACK'S LAW DICTIONARY (3rd ed. 1933) defines "legal holiday" as "A day designated by law as exempt from judicial proceedings, service of process, demand and protest of commercial paper, etc."

<sup>3</sup> OHIO GEN. CODE §§ 13044, 13049 (1948). Exceptions to the general provisions are to be found in §§ 13045, 13046.

<sup>4</sup> *Id.*

<sup>5</sup> *Manning v. Young*, 210 Wis. 588, 247 N. W. 61 (1933); *Spalding & Bros. v. Bernhard*, 76 Wis. 368, 44 N. W. 643 (1890).

## LINCOLN'S BIRTHDAY AND COLUMBUS DISCOVERY DAY

The most comprehensive listing of holidays in the Ohio Statutes is found under the general heading "Negotiable Instruments."<sup>6</sup> It should be noted that the final subdivision in the listing refers generally to "the purpose of this division" but that such purpose is nowhere expressly defined. The purpose must therefore be taken to prescribe holidays for the purpose of the Negotiable Instruments Law which is the subject of the division. The section is entitled "Legal holidays" but there is no definition of the expression. Of the holidays which may fall on any day of the week, all except Lincoln's Birthday (the twelfth day of February) and Columbus Discovery Day (the twelfth day of October) are observed on the following Monday when they fall on Sunday.<sup>7</sup> Therefore, for the purposes of the Negotiable Instruments Law these two holidays are roughly equivalent to Sunday when they fall on Sunday.<sup>8</sup> It is clear that Section 8301, General Code, to the extent that it has any significance beyond the Negotiable Instruments Law, treats Lincoln's Birthday and Columbus Discovery Day as holidays of lesser importance. Similar treatment is accorded these two holidays by Section 4838-1, General Code, which provides that boards of education "may" dismiss the schools under their control on certain enumerated days. The enumeration

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<sup>6</sup> OHIO GEN. CODE § 8301 is quoted in full:

"Legal holidays.—The following days, viz.:

1. The first day of January, known as New Year's day;
2. The twenty-second day of February, known as Washington's birthday;
3. The thirtieth day of May, known as Decoration or Memorial day;
4. The fourth day of July, known as Independence day;
5. The first Monday of September, known as Labor day;
6. The twelfth day of October, known as Columbus Discovery day;
7. The eleventh day of November, known as Armistice day;
8. The twenty-fifth day of December, known as Christmas day;
9. Any day appointed and recommended by the governor of this state or the president of the United States as a day of fast or thanksgiving;
10. The twelfth day of February, known as Lincoln's birthday; and
11. Any day which may hereafter be made a legal holiday, shall for the purpose of this division, be holidays. But if the first day of January, the twenty-second day of February, the thirtieth day of May, the fourth day of July, the eleventh day of November or the twenty-fifth day of December be the first day of the week, known as Sunday, the next succeeding secular or business day shall be a holiday."

<sup>7</sup> See *Puritan Chocolate Co. v. Samuel*, 42 Ohio App. 376, 182 N.E. 322 (1932) to the effect that when New Year's Day fell on Sunday, the second day of January was the legal holiday.

<sup>8</sup> Of course, Lincoln's Birthday and Columbus Discovery Day are different from other Sundays when they fall on Sunday in that they are also days of historical commemoration.

is the same as that in Section 8301, General Code, except that it excludes Lincoln's Birthday, and Columbus Discovery Day and includes "the days approved by the board of education for teacher's attendance at an educational meeting" in place of "any day which may hereafter be made a legal holiday" found in the last subsection of Section 8301, General Code. The significance of this lesser degree of importance accorded to Lincoln's Birthday and Columbus Discovery Day poses a troublesome problem for there are in fact few guideposts to assist in the formulation of an evaluation.

In answer to a question as to whether the departments of the state were required to observe the following Monday as a holiday because February 12, 1928, fell on Sunday, the Attorney General of Ohio held that Lincoln's Birthday was only a holiday for the purposes of the Negotiable Instruments Law. "The fact that the Legislature amended the first part of Section 8301 and did not change paragraph 10 thereof so as to include Lincoln's birthday is a clear indication that when the 12th day of February falls on Sunday the next succeeding secular or business day is not to be a holiday."<sup>9</sup> In *King v. Paylor*<sup>10</sup> the question presented involved the effective filing date of a paper left in the office of a trial court clerk on Lincoln's Birthday with a notation to the clerk stating that the paper was to be regarded as filed on February 12. However, the clerk's office was not functioning on the holiday and the clerk did not know of the existence of the paper until the following day. In these circumstances it was held that such action did not constitute a filing on February 12th. The appellate court said that, "While Lincoln's birthday is made a legal holiday by Section 8301, General Code, as that phrase is used in the Negotiable Instruments Act, it has not been made a holiday for all purposes, or for the purpose of procedure or the computation of time in which a procedural act should be done."<sup>11</sup> It is submitted that this decision limits the significance of Lincoln's Birthday narrowly to the purposes of the Negotiable Instruments Law.

Columbus Discovery Day has, very properly in the opinion of the writer, been accorded treatment similar to Lincoln's Birthday. The holding by the Supreme Court of Ohio in *Norman v. State*<sup>12</sup> is succinctly summarized in the fourth paragraph of the syllabus as follows:

4. The 12th day of October, by virtue of Section 8301, General Code, is made a legal holiday for the purposes of

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<sup>9</sup> 1928 OPS. ATT'Y GEN. (Ohio) No. 1694, p. 343, 345.

<sup>10</sup> 69 Ohio App. 193, 43 N.E. 2d 313 (1942).

<sup>11</sup> *Id.* at 195, 43 N.E. 2d at 314.

<sup>12</sup> 109 Ohio St. 213, 142 N.E. 234 (1924), *cert. denied*, 264 U.S. 595 (1924).

the "Negotiable Instruments Act," but a trial and verdict of conviction in a criminal case are not rendered invalid because taking place on that day.

It is not believed that the holding resulted either in a denial to the defendant of any right to which he was entitled or misconstrued the law concerning the holiday. In the same way it has been held by the Ohio Attorney General that Columbus Day is not a holiday for all purposes but is only one for the purposes of payment and protest of commercial paper.<sup>13</sup> The decision was buttressed by pointing out that the legislature, if it had so desired, could have made Columbus Day a holiday for all purposes in the same way that it made Labor Day a holiday for all purposes.<sup>14</sup> The result reached is sound but the argument proves too much as it fails to consider that a holiday may have significance in more than one respect and still fall short of obtaining the status of an all inclusive holiday.

Section 154-20, General Code, which is a part of the Administrative Code, prescribes certain hours of labor for state employees and then excepts Saturday afternoons, Sundays, "and days declared by law to be holidays."<sup>15</sup> It is small wonder that this ambiguity resulted in a question to the attorney general as to whether Lincoln's Birthday was a holiday. The answering opinion stated that there was no definition of legal holiday which would enable one to determine therefrom whether the fact that a given day was a legal holiday authorized the cessation of public work.<sup>16</sup> The opinion then pointed out some of the more obvious difficulties with the statutory law.<sup>17</sup> It concluded that state offi-

<sup>13</sup> 1917 OPS. ATT'Y GEN. (Ohio) No. 121, p. 289.

<sup>14</sup> OHIO GEN. CODE § 5977 (1948). See note 28 *infra*.

<sup>15</sup> OHIO GEN. CODE § 154-20 reads, in part, as follows:

"All employees in the several departments of the state service, except the state highway department, shall render not less than eight hours of labor each day, Saturday afternoons, Sundays and days declared by law to be holidays excluded, except in cases in which, in the judgment of the director, the public service will not [*sic*.] thereby be impaired . . ."

<sup>16</sup> 1929 OPS. ATT'Y GEN. (Ohio) No. 84, p. 118.

<sup>17</sup> "Your inquiry is whether Lincoln's Birthday is a holiday, and the implication is that your specific question is whether or not there is justification for a cessation of public business and the closing of public offices on that day. While, as I have before stated, Section 8301 of the Code does not itself even attempt to call Lincoln's Birthday, or any of the days therein enumerated legal holidays, but only holidays for the purpose of the negotiable instruments act, yet, if the statute did specifically state that these days should be legal holidays, we would be as much in the dark as to what significance to attach to this provision of law as we are by reason of the statute as it exists at present. This is so for the reason that there is no definition relating to legal holidays whereby it may be determined whether or not the fact that a day is

ces may, but are not required to, close on Lincoln's Birthday when in the judgment of the department head the public service will not be thereby impaired. It is clear that a result which either prohibited or compelled the recognition of Lincoln's Birthday by closing state offices would be without warrant in the statute. An identical result would be obtained by analogy in the case of Columbus Day. The two holidays receive the same statutory treatment and there is no evidence which would tend to show significant variations in their customary treatment. In the case of each the customary treatment is based on recognition of its importance as a day of historical remembrance and honor to the one for whom the day is named.

The analysis of the law pertaining to Lincoln's Birthday and Columbus Discovery Day reveals no instance in which either of the days have been regarded as significant for purposes other than those of the Negotiable Instruments Law. The statutory deemphasis on these two holidays further strengthens the conclusion that they are holidays for the purpose of the Negotiable Instruments Law only. To this conclusion must be added the common sense one that they are important days of historical commemoration. These two purposes must be taken to exhaust the potentialities of Lincoln's Birthday and Columbus Discovery Day under the Ohio law.<sup>18</sup>

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a legal holiday authorizes the cessation of public work. At the same time, however, it is somewhat significant that the Legislature, in amending Section 8301 of the Code, supra, to include Lincoln's Birthday therein, did so by an act entitled 'To amend Section 8301 of the General Code, making the twelfth day of February, known as Lincoln's Birthday, a legal holiday.' Thus it will be seen that the Legislature, while intending to make Lincoln's Birthday a legal holiday, did not in fact so state in the body of the act itself. This fact is in itself of some significance as indicating that the Legislature regarded all of the days enumerated in Section 8301 of the Code as legal holidays, with all of the attributes which legal holidays have. This is obviously true of such days as New Year's Day, Christmas Day and Independence Day, which, as a matter of long established custom, have been regarded as days upon which public business should not be transacted. It was evidently the purpose of the Legislature to place the other days in this section in exactly the same category, for it would be ridiculous for me to hold that there was no authority for the closing of public offices on Christmas Day, for instance, and yet there is no more legal justification therefor than there is for the closing of offices on Lincoln's Birthday. As a matter of fact, the legislation on the subject of holidays generally is in need of clarification." *Id.* at p. 119.

<sup>18</sup> Of the "legal holidays" in Ohio it is interesting to note that The Ohio State University observes all except Lincoln's Birthday and Columbus Discovery Day by the dismissal of classes. This should not be taken to mean that these two holidays are not observed as, it is submitted, there may be other modes of observation than the dismissal of classes. The University's custom in requiring the attendance of students and the performance of usual services by faculty and staff on these two holidays is, in itself, a strong argument as to its legality.

LABOR DAY, NEW YEAR'S DAY, INDEPENDENCE DAY, THANKSGIVING  
DAY AND CHRISTMAS DAY

We have found that Lincoln's Birthday and Columbus Discovery Day receive little statutory recognition. At the opposite pole is Labor Day which receives seemingly unequivocal recognition. The portion of Section 5977, General Code, which concerns Labor Day reads as follows:

The first Monday in September of each year shall be known as "Labor Day" and for all purposes shall be considered as the first day of the week.

It is noteworthy that Labor Day is the only holiday which is expressly stated to be "for all purposes."

One would suppose that the phrase "for all purposes" is all inclusive. However, when the question of the validity of a proceeding to advertise and sell a state aid road on Labor Day was presented to the Attorney General of Ohio, he answered that the act was valid though one to be deprecated as a violation of that which was intended to be established by Section 5977, General Code.<sup>19</sup> It is difficult to understand why the legislature should not have succeeded in its attempt to make Labor Day a holiday "for all purposes." It would seem that an ordinary business act such as effectuating a sale is most clearly the type of activity sought to be prevented by the Labor Day legislation.

In *State v. Thomas*,<sup>20</sup> the court was confronted with the problem as to whether an indictment returned by a grand jury impaneled and sworn on Labor Day was valid. In view of the statute previously enacted which concerned times of holding terms and which placed no limitation on the impaneling and swearing of grand juries on Labor Day,<sup>21</sup> the court found no difficulty in holding that the indictment was valid. It is submitted that this result is correct notwithstanding the broad language of the Labor Day statute. The Labor Day statute is simply inapplicable because of the existence of the statute which expressly covers the fact situation involved.

In *Cincinnati Traction Co. v. Krauss*,<sup>22</sup> the court's holding was summarized in paragraph two of the syllabus as follows:

2. Where last day for filing bill of exceptions under Section 11564, General Code, fell on Labor Day, it was permissible to file exceptions on the day following, under Section 5977, which provided that Labor Day, for all purposes, shall be considered as the first day of the week,

<sup>19</sup> 1911-1912 OPS. ATT'Y GEN. (Ohio) No. A 334, p. 840.

<sup>20</sup> 61 Ohio St. 444, 56 N.E. 276 (1900).

<sup>21</sup> OHIO GEN. CODE § 1533 (1948). The previous statute was OHIO REV. STAT. § 457.

<sup>22</sup> 28 Ohio App. 205, 161 N.E. 563 (1927).

and Section 10216, which requires exclusion of Sundays in computing time for doing acts required by law; the first day of the week being interpreted as Sunday under Section 13044.

This result is clearly correct. It could not have been based upon Section 8298, General Code.<sup>23</sup>

In *Spiedel Grocery Co. v Armstrong*<sup>24</sup> it was held that a judgment rendered on Labor Day was void. In the absence of a particularly applicable statute it seems proper to hold the general provisions of the Labor Day statute applicable.

What is the net result of the law applicable to Labor Day? The statutory language is the strongest applied to any "legal holiday" in Ohio. It is believed that a sound interpretation of the statute requires an effectuation of the holiday "for all purposes" except where an unequivocal and specific statute requires different treatment.

New Year's Day, Independence Day, Thanksgiving Day, and Christmas Day are generally conceded to be important holidays both within and without Ohio. They are all listed in Section 8301, General Code, as legal holidays for purposes of the Negotiable Instruments Law and each is observed on the following business day when it falls on Sunday. In the same way, all are listed in Section 4838-1, General Code, as days upon which school boards may dismiss the schools under their control. The statutory statement of these holidays standing alone does not require the treatment which the holidays receive. What, then, is the basis upon which the recognition of these days as important holidays is founded? It would appear that custom stabilized over a long period of time establishes the place of these four holidays.<sup>25</sup> In 1918 the Attorney General of Ohio aptly stated the situation by saying that ". . . it would be ridiculous for me to hold that there was no authority for the closing of public offices on Christmas Day, for instance, and yet there is no more legal justification therefor than there is for the closing of offices on Lincoln's Birthday."<sup>26</sup> It is believed that the only reason that such a holding would be ridiculous is that the customary recognition accorded to Christmas Day as a religious holiday and as a day of change from the usual pursuits of the people would prevent state employees and others from rendering their usual services or performing their usual occupa-

<sup>23</sup> OHIO GEN. CODE § 8298 (1948) is applicable only to the computation of time for the purpose of the Negotiable Instruments Law.

<sup>24</sup> 4 Ohio C.D. 498, 8 Ohio C.C. 489 (1894), *aff'd*, 53 Ohio St. 657, 44 N.E. 1130 (1895).

<sup>25</sup> See note 17, *supra*, for an indication of the customary recognition accorded to New Year's Day, Independence Day, and Christmas Day. Thanksgiving Day is not included in the group.

<sup>26</sup> See note 17, *supra*.

tions on Christmas Day. This is not to say that the individual, if he chose, could not work on Christmas Day or that exceptions must not be recognized in order to maintain a flow or a reservoir of essential public and private services. It does say that it would run so contrary to the general acceptance of Christmas Day as a holiday that it would be without warrant in law to generally require the rendition of usual work and labor on Christmas Day. It is believed that the argument applies equally to New Year's Day, Independence Day, and Thanksgiving Day. New Year's Day and Independence Day are different from Christmas Day in the kind of popular recognition they receive but are also among the most significant holidays. It is believed that to require the rendition of usual work on either of these two days would be without warrant in law. Certainly, the legislature must be presumed to have been aware of the customary importance of all four of those holidays.

One of the primary purposes of Thanksgiving Day, as proclaimed by the President or by the Governor of Ohio, is to provide a day of rest from one's usual labors in which to celebrate Thanksgiving Day in the traditional American way. The elimination of the day of rest and change from one's usual occupation would effectively destroy the possibility of traditional celebration of the day. Therefore, Thanksgiving Day, along with New Year's Day, Independence Day and Christmas Day, should because of long customary recognition be placed in the same status which Labor Day has achieved by statutory enactment.

#### WASHINGTON'S BIRTHDAY, MEMORIAL DAY, AND ARMISTICE DAY

These three holidays receive statutory recognition similar to Lincoln's Birthday and Columbus Day in that they are days on which school boards may dismiss schools<sup>27</sup> and stronger recognition in that each of the three is to be observed on the next business day when it falls on Sunday.<sup>28</sup> Armistice Day has received additional statutory sanction of a character which strengthens it generally but which leaves much to be desired as far as precise definition is concerned.<sup>29</sup> Enunciation of the status of Armistice Day as "a legal holiday"<sup>30</sup> is the beginning of the problem of the

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<sup>27</sup> OHIO GEN. CODE § 4838-1 (1948).

<sup>28</sup> OHIO GEN. CODE § 8301 (1948).

<sup>29</sup> OHIO GEN. CODE § 5977 (1948) makes Labor Day a holiday "for all purposes" and then prescribes Armistice Day in the following language: "The eleventh day of November shall be known as Armistice day and is hereby declared to be a legal holiday, and if said day falls on Sunday the following Monday shall be the legal Armistice holiday."

<sup>30</sup> *Id.*

significance to be accorded to the day rather than its end.<sup>31</sup> An opinion by the attorney general that Armistice Day is a legal holiday and that boards of education have the legal power to dismiss schools on that day does not provide the needed clarity.<sup>32</sup> The power of a board of education to dismiss school is found in the statute allowing boards to dismiss school on certain enumerated days<sup>33</sup> and it is not believed that the Armistice Day statute<sup>34</sup> adds anything to that power. It could be argued that the existence of a separate Armistice Day statute tends to lend strength and importance to the status of the day as a holiday. However, the context of the Armistice Day provisions, which immediately follow provisions making Labor Day a holiday "for all purposes,"<sup>35</sup> clearly diminishes the status of Armistice Day in comparison with that of Labor Day. It should require no argument to show that Armistice Day is not a holiday "for all purposes."

What then is the meaning of Armistice Day as a "legal holiday"? There is certainly substantial support for the day because of its significance as a day of commemoration of the ending of the first World War. In a sense the day is one of rejoicing at the cessation of a terrible human conflict but in a larger sense it is a day of reverence and commemoration. The celebration of Armistice Day does not require those modes of rejoicing asso-

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<sup>31</sup> An example of the ambiguous status of Armistice Day is shown by the following quotation from 1929 OPS. ATTY. GEN. (Ohio) No. 1171, p. 1752 at 1753:

"Quite evidently it was the intention of the Legislature to make Armistice day, and the succeeding Monday in cases where Armistice day falls on Sunday, a legal holiday. Just what significance attaches to this, however, is not at all clear.

"It will be noted that Section 8301 of the Code is found in the group of laws relating to negotiable instruments, and it has been held by this office on several occasions that its force only extends so far as is necessary in the application of the law of negotiable instruments. Attention should further be directed to the fact that subdivision 11 provides 'any day which may hereafter be made a legal holiday, shall for the purpose of this division, be holidays.' Apparently, therefore, the section only purports to make the various days therein enumerated holidays for the limited purpose of negotiable instruments.

"The provisions of Section 5977, *supra*, make it clear, however, that Armistice day is to be treated as a legal holiday generally. There is, however, no statute defining just what significance must be attached to the declaration of the Legislature in this respect. Nowhere is the statement to be found that public work shall cease, although by custom the authority of proper officials to provide for cessation of work on those days is well established."

<sup>32</sup> 1929 OPS. ATTY. GEN. (Ohio) No. 1171, p. 1752.

<sup>33</sup> OHIO GEN. CODE § 4838-1 (1948).

<sup>34</sup> OHIO GEN. CODE § 5977 (1948).

<sup>35</sup> See note 28, *supra*.

ciated with holidays such as New Year's Day, Independence Day and Christmas Day. It would be equally fallacious to state categorically that the law did or did not require the observance of Armistice Day as a day of rest from usual work and labor. Until the statute law is clarified we must recognize the ambiguous status of the day and allow its observance or non-observance as a day of rest to be left to private action.<sup>36</sup>

As has been indicated, Washington's Birthday and Memorial Day receive the same statutory treatment as does Armistice Day except that they do not receive separate additional statutory sanction. However, the separate Armistice Day statute is so equivocal that it is submitted there is no substantial difference between these two days and Armistice Day. Certainly Washington's Birthday and Memorial Day are also accorded substantial historical and commemorative significance. The customary recognition of the three days now under consideration is primarily along the lines of historical understanding and appreciation rather than the modes of outward and visible celebration recognized as appropriate for some of the other holidays. The citizen who would be highly offended at the thought of performing his usual labor or services on Christmas Day is at least less disturbed by the possibility of performing services on any of these three days. Private action is also a suitable mode for determining whether Washington's Birthday and Memorial Day should be observed as holidays. The legislature has instructed neither the citizenry nor the various branches and agencies of the state as to the effect to be given to Washington's Birthday, Memorial Day, and Armistice Day. The silence of the legislature with regard to these three days makes the matter purely one of discretion.

#### SPECIAL PURPOSE HOLIDAYS

Each year election day is made a holiday.<sup>37</sup> The statutory declaration standing alone is not a model of clarity<sup>38</sup> but the obvious purpose of making the day a holiday gives content to the statute. This is indicated by the following quotation from an opinion of the attorney general:

Even without the legislative history . . . , the purpose of

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<sup>36</sup> There is no reason for a uniform result to be expected or desired. For example, many who would think that the transaction of business for profit as usual on Armistice Day was inappropriate would regard it as singularly fitting observation of the day for institutions of higher learning to remain open.

<sup>37</sup> OHIO GEN. CODE § 5976 (1948).

<sup>38</sup> OHIO GEN. CODE § 5976 reads as follows: "The first Tuesday after the first Monday in November of each year, between the hours of twelve o'clock noon, central standard time, and five thirty o'clock p.m. central standard time, shall be a legal part holiday."

Section 5976 is manifest. The object of the legislature was to make it possible for the citizens of the state to be relieved from their ordinary duties, for a sufficient period of time to enable them to perform their more important duty of participating in the conduct of the affairs of their government. The section was and is a statute pertaining to elections.<sup>39</sup>

As long as the purpose of the statute is considered there should be no difficulty in construing it.

"V-J Day"<sup>40</sup> is an example of a special purpose holiday which does not recur periodically. The spontaneity of the occasion guided by the purpose as stated in the proclamation is usually sufficient to afford adequate information as to the purpose and effect of the special holiday. Of course, the problem would be complicated if the non-recurring special purpose holiday fell on other than a Sunday.

### CONCLUSION

It is perfectly clear that a precise evaluation of the so-called "legal holidays" in Ohio must await the substitution of legislative precision in place of the present ambiguity. It is believed that the following summary is as definite an evaluation of the law of holidays in Ohio as the present legislation permits:

1. For purposes of the NIL:
  - a. Lincoln's Birthday.
  - b. Columbus Discovery Day.
2. For purposes as determined by private action (or public action in the case of public employees):
  - a. Washington's Birthday.
  - b. Memorial Day.
  - c. Armistice Day.
3. "For all purposes:"
  - a. Labor Day (express statutory sanction).
  - b. New Year's Day.
  - c. Independence Day.
  - d. Thanksgiving Day.
  - e. Christmas Day.

The legislature could easily clarify the law of holidays by making a separate listing in one section of all the holidays "for all purposes." Some such definition as the following suggested one would result in substantial clarification:

Holidays for all purposes are days on which the performance of usual public or private work, labor, service, or other employment or occupation shall not be required. Nothing in this section shall operate to prohibit the performance of such work which of necessity must be per-

<sup>39</sup> 1927 OPS. ATT'Y. GEN. (Ohio) No. 1158, p. 2042 at 2044.

<sup>40</sup> 3 CODE FED. REGS. PROCLAMATION No. 2660 (1945 Supp.). "V-J Day" was Sunday, August 19, 1945.

formed on such holiday. It is the intention of this section to establish each of the holidays hereinafter enumerated as an extra day of rest. When any holiday for all purposes falls on Sunday (the first day of the week) the next succeeding day, which would otherwise not be a holiday, shall be the holiday for all purposes.

The legislature would in all probability wish to enumerate all the holidays "for all purposes" as summarized. It might be desirable to include some or all of those which are now subject to determination by private action.