

Memo to: Joseph Allen Esquire
City Solicitor

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August 25, 1966.

that a state prisoner, who was injured, while employed as a state road laborer under the direction of the State Highway Commission at the rate of 75¢ per day, could recover under the Workmen's Compensation Law for injuries sustained. The Court commented that the employee-employer relationship cannot arise within the prison walls but that there was a distinct difference between the status of a convict within and one without the prison walls. The court noted that there was no provision in the California Workmen's Compensation Law which "directly includes or excludes" prisoners.

In the case of Johnson vs. Industrial Commission, 356 P.2d 1021 (Arizona - 1960), a prisoner was permitted to recover under the Workmen's Compensation Law based on the following factual situation: Some county jail prisoners were loaned to a private corporation to work at its plant under its direction and control. They received no monetary award but were provided with food, lodging, sundries and cigarettes. They were also given three days' credit on their sentence for each day of work performed. The Court held that this case was distinguishable from those wherein the inmate was working on a prison project under the constant supervision of law enforcement officials. The Court further stated that the fact that the prisoner "was working in exchange of service for favors, does not make the contract for hire any less legal or effective", and that all the essential elements of a contract for hire were present.

Inasmuch as the prisoners involved in this matter are under the control and direction of the Bureau of Purchases while performing the services required, and are workmen performing manual labor for wages, it is my opinion that if the prisoners are injured while performing extra-hazardous work, they would be entitled to the benefits afforded by the Workmen's Compensation Law of Maryland, and it follows that the City has the legal responsibility of providing proper coverage in connection therewith.

While it is realized that the following is not pertinent to the present question, it was thought that you may be interested in knowing that it has been held, in absence of