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Workmen's Compensation—Educational Corporation Employees

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also refer to medical impairment alone.⁶² The court's conclusion is a logical resolution of conflicting statutory language, and it follows the general policy of liberal construction of the Workmen's Compensation Act to avoid exemptions and exceptions.⁶³

Educational Corporation Employees

In *Knapp v. Syracuse University*,⁶⁴ claimant was employed as a painter in an office building owned by Syracuse University but not used for any educational function, and he sought an award for disability benefits under the Workmen's Compensation Law for disability outside the employment.

The Court *held* (4-3), reversing the Appellate Division⁶⁵ and the Workmen's Compensation Board, that employees of educational institutions are excluded from coverage under this section regardless of the type of duties performed.

Judge Desmond writing for the majority contends that by Workmen's Compensation Law § 203, a claimant must prove he is an employee in the employment of a covered employer to receive a disability award, but Workmen's Compensation Law § 201, subd. 6,⁶⁶ specifically excludes services performed for any educational corporation as "employment" under this article. By way of analogy, the Court notes that whatever the Legislature has deemed it advisable to make a distinction between educational and non-educational employees of an educational corporation, they have used clear language to this effect.⁶⁷ Therefore, they conclude that any inequities in this article should be left for Legislative amendment rather than judicial interpretation.⁶⁸

The dissent by Judge Fuld points out that Workmen's Compensation Law § 201, subd. 4,⁶⁹ defining employer does not exclude educational corporations.

62. *Schwick v. Bayer Company*, 272 N. Y. 217, 5 N. E. 2d 713 (1936).

63. *People, on Complaint of Cohen, v. Levine*, 160 Misc. 181, 288 N. Y. Supp. 476 (N. Y. County 1936).

64. 308 N. Y. 274, 125 N. E. 2d 425 (1955).

65. 284 App. Div. 184, 130 N. Y. S. 2d 529 (3rd Dep't 1954).

66. "Employment means employment in any trade, business or occupation carried on by an employer, except . . . the following . . . : services performed for a . . . fund or foundation organized and operated exclusively for religious, charitable, scientific, literary or educational purposes."

67. Workmen's Compensation Law, 3, subd. 1, group 18; Labor Law §715.

68. *Rossomanno v. Leon Decorating Co.*, 306 N. Y. 521, 119 N. E. 2d 367 (1954).

69. "Employer, except when otherwise stated, means a person, partnership, association, corporation, legal representative of a deceased employee . . . who has persons in employment as defined in subd. 6 of the section but does not include the state, a municipal corporation, local governmental agency, other political subdivisions or public authority."

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Their conclusion is thus that the Legislature intended that an educational corporation should be an employer, and § 201, subd. 6 excluding employment for an educational corporation means only employment in an educational capacity. Prior legislative distinctions between the activities carried on for an educational corporation⁷⁰ are said to evidence Legislative awareness that such distinctions should be made.

The disability benefits section is to be interpreted in the same manner as the Workmen's Compensation Law,⁷¹ and the policy governing interpretation should thus be to avoid exemptions and exceptions whenever possible.⁷² In light of these policy considerations and the purpose of the section to extend disability benefits to workmen for disability not incurred in their employment,⁷³ it is suggested that the dissenting opinion in the instant case will best further these objectives; the Legislature can clarify the statutory language if it wishes to achieve a different result.

70. Note 67, *supra*.

71. *Shapiro v. Central Poultry Corp.*, 284 App. Div. 309, 131 N. Y. S. 2d 716 (3rd Dep't. 1954).

72. *Matter of Emil Hubsch Post No. 596, V. F. W. of United States (Corsi)*, 278 App. Div. 460, 106 N. Y. S. 2d 727 (3rd Dep't 1951); *aff'd*, 303 N. Y. 682, 102 N. E. 2d 838 (1951).

73. Per Governor Dewey in approving the bill, L. 1949, ch. 600.