

MAY 20, 1952.

HON. PERCY A. MILLER, JR., *Commissioner,*  
*Department of Labor and Industry,*  
State House,  
Trenton, New Jersey.

## FORMAL OPINION—1952. No. 8.

DEAR SIR:

I am in receipt of your recent communication requesting an opinion on the following questions:

Is a plant which prints daily, weekly, semi-weekly and other newspapers subject to the supervision of the Department of Labor and Industry under R. S. 34:6-1; 34:6-14; 34:6-20; 34:6-62 and 34:6-63?

If such a plant is within the meaning of the sections referred to, does the Department of Labor and Industry have the power to enforce the provisions thereof if the violations are found to exist? Obviously, this question requires no answer if the first question is answered in the negative.

As to the first question, it is my opinion that an establishment or plant which prints *only* daily, weekly, semi-weekly and other newspapers is not subject to the supervision of the Department of Labor and Industry as to maintaining fire escapes and fire protection, supervision of fire alarms and sprinkling systems, prohibiting smoking, machine guards on machinery and meal-time for employees, as more particularly set forth in R. S. 34:6-1; 34:6-14; 34:6-20; 34:6-62 and 34:6-63.

The several sections of the Revised Statutes referred to repose in the Department of Labor and Industry supervision of every factory, workshop, mill or place where the manufacture of goods of any kind is carried on. The point to be considered is whether or not a newspaper plant which prints newspapers only is a factory, workshop, mill or place where the manufacture of goods of any kind is carried on.

A newspaper plant is not a place where the manufacture of goods of any kind is carried on. In the case of *Evening Journal Association vs. State Board of Assessors*, 47 N. J. L., page 38, Justice Depue, speaking for the Supreme Court, held that,

“Neither in the nature of things nor in the ordinary signification of language, would a newspaper be called a manufactured article or its publisher a manufacturer.”,

and he said that insofar as it referred to the question of taxation and the exemption from said taxation, newspaper plants were not manufacturers. On the other hand, however, if this same newspaper were to conduct and prosecute the business of book printing and job printing, engraving, electrotyping and lithographing, then in that case it would be engaged in the manufacturing business. The ruling in this case has been sustained in the subsequent decision in *Press Printing Company vs. State Board of Assessors*, 51 N. J. L., page 75.

A newspaper plant is not a factory or a workshop. Our New Jersey Supreme Court, in the case of *Griffin vs. Mountain Ice Co.*, 74 N. J. L., page 272, defines factories and workshops to be places where machinery is employed in the work of fabrication. In this case the court held that machinery must be employed in the making or manufacturing of something.

We have already observed in the case of *Evening Journal Association vs. State Board of Assessors*, *supra*, that a newspaper plant was not considered such a place that made or created something. Justice Depue, in speaking for our court in that case said:

"A newspaper has intrinsically no value above that of the unprinted sheet. \* \* \* Its value to its subscribers arises from the information it contains, and its profit to the publisher is derived, in a great measure, from the advertising patronage it obtains by reason of the circulation of the paper induced by the enterprise and ability with which it is conducted. Neither in the nature of things nor in the ordinary signification of language, would a newspaper be called a manufactured article or its publisher a manufacturer."

See *Capital Publishing Co.*, 18 Nat. Bank. Reg. 319, and *Somers Lumber Co. vs. State Board of Taxes and Assessment*, 9 Misc., page 248.

Although the foregoing cases concern exemption from taxation, nevertheless they express a clear and definite view of the courts that newspaper plants are not manufacturing plants and are not productive so far as they apply to the printing of newspapers.

In R. S. 34:6-141 our Legislature has distinguished between a factory, workshop or manufacturing plant and a newspaper plant or printery. Under the original act, laws of 1904, chapter 64, it was provided that every corporation, firm or person, after it began to occupy a factory, workshop, mill or place where the manufacture of goods of any kind is carried on, was to notify the department of such occupancy. This law was amended by chapter 117 of the laws of 1925 so as to include not only factory, workshop, and mill, but also newspaper plants, printeries and commercial laundries. This amendment would not have been necessary if a newspaper plant or printery was considered to be a factory, workshop, mill or manufacturing plant.

It becomes unnecessary to answer the second question in as much as the first one has been answered in the negative.

Very truly yours,

THEODORE D. PARSONS,  
*Attorney General.*

By: LOUIS S. COHEN,  
*Deputy Attorney General.*

LSC/LL