

its scientific sense, for by his skill and labor he adds to the intrinsic value of the materials used, which gives them a merchantable value in the market as merchandise.

We think that the Jersey City Printing Company is a manufacturing company within the exemption contained in the proviso."

In the case of *Press Printing Company vs. The State Board of Assessors*, 51 N. J. L. 75, the court followed the earlier rule recognized and applied by it to the effect that a corporation engaged in the business of printing and publishing a newspaper is not a manufacturing company but further held that "a company incorporated for the purpose of printing and publishing books and general job printing and publishing a newspaper, is a manufacturing company with respect to its business of printing books and job printing, and is exempt from taxation on so much of its capital as is invested in that branch of business". Likewise, in the state of Pennsylvania it has been held that a corporation organized for the purpose of manufacturing blank books and stationery, printing, lithographing, and in selling such products was within the meaning of a statute exempting from taxation corporations organized for manufacturing purposes, and carrying on manufacturing within the state. *Commonwealth vs. Wm. Mann Company*, 150 Pa. St. 64; *Commonwealth vs. J. B. Lippincott Company*, 156 Pa. St. 513.

In the light of these decisions, I am clearly of the view that the activities referred to in your communication may all be classified as those of a manufacturer within the meaning of the statutory provisions above referred to.

Respectfully,

GILBERT BETTMAN,  
*Attorney General.*

4255.

LEGAL SERVICES—RENDERED BY ATTORNEY AT REQUEST OF PROSECUTING ATTORNEY—COUNTY COMMISSIONERS MAY NOT COMPENSATE WHERE SUCH APPOINTMENT UNAUTHORIZED BY COMMON PLEAS COURT.

*SYLLABUS:*

*There is no legal authority for the commissioners of a county to pay an attorney for services rendered at the request of the prosecuting attorney of said county when the appointment of such attorney was not authorized by the court of common pleas of the county regardless of whether or not the litigation for which the attorney was appointed as special counsel actually resulted in the saving of money to the county, even though commissioners of said county are willing to pay the attorney for his services.*

COLUMBUS, OHIO, April 19, 1932.

HON. JOHN R. PIERCE, *Prosecuting Attorney, Celina, Ohio.*

DEAR SIR:—This is to acknowledge the receipt of your request for my opinion which reads as follows:

"Where the prosecuting attorney asks the assistance of another attorney in a particular case involving the interest of the county on a test

question which was carried to the supreme court and the judgment of the common pleas court was reversed, and where the common pleas court refused to appoint said attorney as special counsel and the litigation actually resulted in the saving of money to the county and where the commissioners are willing to pay said attorney for his services, would such payments be unlawful if paid?"

Section 2412, General Code, relative to the temporary employment of legal counsel to assist a prosecuting attorney in the conducting of a civil action, reads as follows:

"If it deems it for the best interests of the county, the common pleas court, upon the application of the prosecuting attorney and the board of county commissioners, may authorize the board of county commissioners to employ legal counsel temporarily to assist the prosecuting attorney, the board of county commissioners or any other county board or officer, in any matter of public business coming before such board or officer, and in the prosecution or defense of any action or proceeding in which such county board or officer is a party or has an interest, in its official capacity."

It would appear therefrom that the powers of authorization of employment of legal counsel to assist the prosecuting attorney is fixed in the common pleas court, and it follows that the court's approval of such employment would be necessary before any compensation can be legally paid to a person appointed as special counsel to aid the prosecuting attorney, regardless of whether such litigation would result or has resulted in a saving of money to the county.

In this respect your attention is called to an opinion of the Attorney General in 1927, page 622, in which it was held as disclosed by the syllabus:

"In the employment of legal counsel to assist the prosecuting attorney under authority of Section 2412 of the General Code, it is necessary to secure the authority of the common pleas court upon application of the prosecuting attorney and the board of county commissioners in office at the time such counsel is to be employed."

From a consideration of the above and in specific answer to your inquiry, I am of the opinion that there is no legal authority for the commissioners of a county to pay an attorney for services rendered at the request of the prosecuting attorney of said county when the appointment of such attorney was not authorized by the court of common pleas of the county regardless of whether or not the litigation for which the attorney was appointed as special counsel actually resulted in the saving of money to the county, even though commissioners of said county are willing to pay the attorney for his services.

Respectfully,

GILBERT BETTMAN,

*Attorney General.*