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## THE LEGAL ASPECTS OF STANDARD TIME

THE passage by Congress of the "Daylight Saving and Standard Time Act,"<sup>1</sup> while bringing about a most desirable condition for efficiency, is likely to lead to some unfortunate legal entanglements until the various states adjust their time laws to coordinate with the federal statute.

The powers possessed by the federal government are delegated and are enumerated in the constitution. The constitutionality of this act rests on the power of Congress<sup>†</sup> to pass laws regulating the commerce "among the several states."

That the provisions of this Act relate to intrastate common carriers, to contracts made in conformity with state laws, to hours for such state regulated events as elections, court sessions, writs or process, and countless other matters in which time is a vital factor, no one would have the hardihood to contend. Particularly would this be true in states having statutory definitions of time as presently to be noted.

Most of the court holdings in states having no statutes on this subject have been in favor of the use of local sun time rather than standard time. A frequently quoted decision was given by the supreme court of Georgia<sup>2</sup> as follows: A question raised was on the hour of court action, it being 11:52 P. M., Saturday, by local sun time but 12:20 A. M., Sunday, by standard time:

"Local custom cannot change Sunday into Saturday. To expect courts of justice, officers of the law and the public generally, especially that large class of the population who do not live in cities or at railroad stations, to go to the railroads for the time which is to guide them in the performance of their duties under the law, when they have in the heavens above them a certain standard by which to ascertain or regulate the time, or to permit them at will to follow two standards of time, would be highly impracticable, and would be productive of great uncertainty and confusion in the administration of the law. Thus the legality of elections might be made to depend upon conflicting proof of local custom; for what might be considered a legal election in one precinct might be regarded as illegal in the next precinct, because of the time of

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<sup>1</sup> Act of Congress Mar. 19, 1918. See Adv. Sheets 247 Fed. Rep. No. 7.

<sup>†</sup> U. S. Constitution, Art. I, Sec. 8, Clause 3.

<sup>2</sup> *Henderson v. Reynolds*, (1889) 84 Georgia 159, 10 S. E. 734, 7 L. R. A. 327.

opening or closing the polls; or the people of a precinct might differ among themselves as to this. And so with regard to the enforcement of the criminal law. The law requires the railroads to cease running their freight trains by eight o'clock on Sunday mornings. To allow the railroads to fix the standard of time would be to allow them at pleasure to violate or defeat the law. Even in cities where it is insisted the adoption of railroad time has become general, the same difficulties might exist, for instance, in the city of Augusta in this state which is at the dividing line of two railroad standards, the railroads which enter the city from the east having one standard of time, and the railroads which enter from the west another standard, an hour different, both different considerably from the meridian or sun standard."

At the present time the only Georgia statute<sup>3</sup> bearing on the subject would indicate that local time rather than standard time would still hold. "A policy of life insurance runs from midday of the date of the policy, and the time must be estimated accordingly if the policy is limited to a specific number of years."

Local time is the only time recognized by the courts according to the American and English Encyclopaedia of Law:<sup>4</sup>

"The only standard of time recognized by the courts is the meridian of the sun, and an arbitrary standard set up by persons in business will not be recognized."

In Nebraska<sup>5</sup> a summons was made returnable in justice court at 10:00 o'clock. At that hour, standard time, defendant failed to appear and judgment was given. Before 10:00 o'clock by the local sun time defendant appeared. The court would not recognize sun time. The circuit court held for local sun time. The supreme court upheld the circuit court. "If standard time is intended, the justice should so designate it in the summons. In the absence of proof to the contrary, the presumption is that common time was intended."

At the beginning of a session of court in Texas<sup>6</sup> the judge set the courthouse clock and his watch by a sundial, about 36 minutes slower than standard time. A verdict in a murder case was brought in before Saturday midnight by the local time but after the time for the legal expiration of the session of court according to standard time. The court held for sun time and the judgment was affirmed.

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<sup>3</sup> Code of 1910, Sec. 2501 (Sec. 2119).

<sup>4</sup> Vol. 26, p. 10.

<sup>5</sup> *Searles v. Averhoff*, (1890) 28 Nebraska 668, 44 N. W. 872.

<sup>6</sup> *Parker v. The State*, (1895) 35 Tex. Crim. App. 12, 29 S. W. 480, 790.

At Creston, Iowa, a fire occurred at 12:02½ P. M., standard time, or 11:44½ A. M., local sun time. At "twelve o'clock at noon" of that day the insurance policy on the burned building expired. The insurance company contended that standard time was meant, it being universally used in the state. The insured sued on the grounds that local sun time was meant. The court<sup>7</sup> decided that "as there is no statute requiring standard railroad time to be used in determining the time of day referred to in contracts, under a policy expiring at 12 o'clock at noon of a certain day, the exact time of noon will be determined by the common, or solar time, unless it is shown that a different time was intended."

Exactly the opposite was the holding in a Louisville, Kentucky, case of fire insurance policies which expired at noon, April 1, 1902. At 11:45 A. M. of that day, standard time, a fire broke out in the insured buildings. Central Standard time is based upon the ninetieth meridian but Louisville, being 4° 22½' east of that meridian, the sun had crossed the local meridian and it was 12:02½ o'clock P. M. by local sun time. The insurance companies claimed that local time was meant in the policies and hence they had expired. The court,<sup>8</sup> however, held for standard time and the insurance company had to pay. In the Iowa case the sun was "coming" to Creston at the time of the fire and hence before noon and the insurance company had to pay. In Louisville the sun was "going" and by the same token (and by every supreme court decision on the subject up to that time save one) the company should have been exempt from payment. Insurance companies, however, usually "get it both coming and going" and this was no exception to the rule.

The only supreme court decision of which the writer is aware in which the custom of using standard time was upheld prior to 1905 was in *State v. Johnson*.<sup>9</sup> Defendant was found guilty of keeping a saloon open after 11:00 P. M., the hour prescribed by statute for closing. The saloon closed at 11:20, standard time, but 10:54, local time. The court held for standard time. "The standard time adopted by the railroads in 1883 were soon adopted

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<sup>7</sup> *Jones v. German Insurance Co.*, (1899) 110 Iowa 75, 81 N. W. 188, 46 L. R. A. 860.

<sup>8</sup> *Rochester German Insurance Co. v. Peaslee-Gaulbert Co.*, (June 15, 1905) 120 Ky. 752, 87 S. W. 1115, 27 Ky. L. Rep. 1155, 1 L. R. A. (N. S.) 364.

<sup>9</sup> *State v. Johnson*, (1898) 74 Minn. 381, 77 N. W. 293.

by the people—in some parts of the country sooner than others—and have long since become the sole standards of time throughout the United States. Cent. Dict. tit. 'Time.' In Minnesota, Central time was promptly adopted, and long before 1889 was in general use, and established as the sole standard of time in both public and private business. No other is ever used or referred to." A similar decision was made in North Dakota<sup>10</sup> in the case of a mortgage foreclosure which took place at "2:00 o'clock P.M." The court took judicial notice that "standard" time in designating the hour of the day has been the universal usage in this state since territorial times.

One of the earliest of court decisions on this question was given in England in 1858. It was held that the time appointed for the sitting of a court must be understood as the mean solar time of the place where the court is held and not Greenwich time, unless it be so expressed, and a new trial was granted to a defendant who had arrived at the local time appointed by the court but found the court had met by Greenwich time and the case had been decided against him.

The parliament of the United Kingdom was the first to adopt a legal standard of time.

"A Bill to remove doubts as to the meaning of expressions relative to time occurring in acts of Parliament, deeds, and other legal instruments.

"Whereas it is expedient to remove certain doubts as to whether expressions of time occurring in acts of Parliament, deeds, and other legal instruments relate in England and Scotland to Greenwich time, and in Ireland to Dublin time, or to the mean astronomical time in each locality:

"Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords, spiritual and temporal, and Commons, in the present Parliament assembled, and by the authority of the same, as follows (that is to say):

"1. That whenever any expression of time occurs in any act of Parliament, deed, or other legal instrument, the time referred to shall, unless it is otherwise specifically stated, be held in the case of Great Britain to be Greenwich mean time and in the case of Ireland, Dublin mean time.

"2. This act may be cited as the statutes (definition of time) act, 1880."

Seventy-fifth meridian time was legalized in the District of Columbia by the following act of Congress:

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<sup>10</sup> Orvik and Olson v. John Casselman, (1905) 15 N. D. 34, 77 N. W. 1105.

"An Act to establish a standard of time in the District of Columbia.

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the legal standard of time in the District of Columbia shall hereafter be the mean time of the seventy-fifth meridian of longitude west of Greenwich.

"Section 2. That this act shall not be so construed as to affect existing contracts.

"Approved, March 13, 1884."

March 12, 1903, standard time was adopted in Germany by an imperial decree as follows:

"We, Wilhelm, by the grace of God, German Emperor, King of Prussia, decree in the name of the Empire, the Bundesrath and Reichstag concurring as follows:

"The legal time in Germany is the mean solar time of longitude 15° east from Greenwich."

An interesting standard time regulation exists in Portugal. The time is based upon the Meridian of Lisbon. Clocks on railway station platforms and those regulating the running of trains are required to be five minutes slow.

#### STATE STATUTES.

A number of states have statutes providing for standard time. The following are examples:

*Minnesota*: "The mean solar time of ninety degrees longitude west from Greenwich, being commonly called 'central time,' shall be the standard time for all purposes."<sup>11</sup>

*New Jersey*: "That the standard time of the state of New Jersey shall be the time of the seventy-fifth meridian west from Greenwich, and that the time named in any of the statutes of this state and in public proclamations, in the rules and orders of the senate and general assembly, in the decrees and orders of the courts and in all notices and advertisements in any legal proceedings, shall be deemed and taken to be the standard time aforesaid."<sup>12</sup>

*Maryland*. "The standard time throughout the state shall be that of the seventy-fifth meridian of longitude west from Greenwich, by which all courts, banking institutions and public offices and all legal or official proceedings shall be regulated."<sup>13</sup>

<sup>11</sup> Minn. G. S. 1913, Sec. 9412 (20).

<sup>12</sup> Gen. Stat. (1884), Vol. 3, p. 3132.

<sup>13</sup> Pub. Gen. Laws (1888), Vol. 2, p. 2068.

*Michigan*: "The people of the State of Michigan enact, That standard time, central division, based on the ninetieth meridian of longitude west from Greenwich, shall be legal time within this state."<sup>14</sup>

#### CHANGES NEEDED.

It should be apparent from the foregoing that states having standard time laws should as speedily as possible modify them to meet the federal requirements and those having no statutes should pass adequate laws on the subject. One problem that should not be overlooked is some automatic adjustment for the shifting hours as provided by Congress. It is unfortunate that "legislation by reference" cannot be adopted by a state<sup>15</sup> or a state cannot waive its rights to regulate the matter of time save through constitutional amendment.

In an appendix to this paper, the writer submits a draft of proposed law suitable for a state which has an existing law and which lies in two standard time zones. It will be noted that provision is made for complete articulation with federal regulations, both as to division points for time change and the shifting of the time to "save daylight."

WILLIS E. JOHNSON.

ABERDEEN, S. D.

#### APPENDIX\*

##### *A Bill*

For an Act amending Chapter 46 of the Session Laws of the State of South Dakota of 1909, Providing for a Standard of Time in the State of South Dakota.

*Be It Enacted by the Legislature of the State of South Dakota:*

That Chapter 46 of the Session Laws of the State of South Dakota of 1909, be and the same is hereby amended to read as follows:

Section 1. That whenever the term "twelve o'clock" "noon," or other designation of time occurs in any legislative bill, reso-

<sup>14</sup> Compiled Laws (1897), Vol. 1, Sec. 1753, p. 614 (Act 5, 1885, p. 5).

<sup>15</sup> Commonwealth v. Dougherty, (1909) 39 Pa. Sup. Ct. 338.

\*Italics indicate matter not appearing in the present statute. In 1909 a railroad using central time extended into Gregory county. That railroad now extends into Tripp county also. The Chicago, Milwaukee and St. Paul from Chamberlain to Rapid City (west of the Missouri river) since 1909 has adopted Central time. If this time use is confirmed by the Interstate Commerce Commission it would be an easy matter for the State Board of Railway Commissioners to adopt a similar ruling.

lution or statute; city ordinance or court record; deed, insurance policy or other contract; or other instrument, record or proceeding; unless otherwise expressly stipulated in writing, the time understood shall be, for *Tripp county and Gregory county* and for portions of the state east of the center of the main channel of the Missouri river, *United States Standard Central Time*, or the mean solar time of ninety degrees west of Greenwich; and for other portions of the state *United States Standard Mountain Time*, or the mean solar time of one hundred five degrees west of Greenwich.

Section 2. *That the State Board of Railway Commissioners of South Dakota by an order may change the boundary between the standard time belts as provided in Section One of this Act, having regard for the convenience of commerce and the junction points and division points of common carriers whose time is or may be regulated by provisions of Federal law or by the Interstate Commerce Commission acting under authority of Federal law.*

Section 3. *That the State Board of Railway Commissioners of South Dakota may by an order advance or retard the standard of time as provided in Section One of this Act during certain seasons of the year, having regard for the convenience of the general public and of common carriers whose standard is or may be regulated by Federal law.*

Section 4. All Acts and parts of Acts in conflict with this Act are hereby repealed.