



1958

Time - Solar or Standard - Constitutionality of Statute Requiring Exclusive Display of Standard Time in Places of Business

Joseph R. Maichel

[How does access to this work benefit you? Let us know!](#)

Follow this and additional works at: <https://commons.und.edu/ndlr>



Part of the [Law Commons](#)

Recommended Citation

Maichel, Joseph R. (1958) "Time - Solar or Standard - Constitutionality of Statute Requiring Exclusive Display of Standard Time in Places of Business," *North Dakota Law Review*. Vol. 34: No. 1, Article 13. Available at: <https://commons.und.edu/ndlr/vol34/iss1/13>

This Case Comment is brought to you for free and open access by the School of Law at UND Scholarly Commons. It has been accepted for inclusion in North Dakota Law Review by an authorized editor of UND Scholarly Commons. For more information, please contact und.common@library.und.edu.

TIME — SOLAR OR STANDARD — CONSTITUTIONALITY OF STATUTE REQUIRING EXCLUSIVE DISPLAY OF STANDARD TIME IN PLACES OF BUSINESS. — Plaintiff displayed daylight saving time outside his place of business, thereby violating a state statute requiring that only standard time be observed within the state of Tennessee. Plaintiff contended that enforcement of the statute was an arbitrary exercise of the state police power in violation of the 14th amendment to the Federal Constitution.¹ On appeal the court *held*, one justice dissenting, that the operation of many businesses on different time standards results in such inconvenience, confusion and conflict as to bring the regulation of time within the interpretation of "health, safety, and morals."² *Phillips v. Tennessee*, 304 S.W.2d 614 (Tenn. 1957).

The courts are in agreement that the application of the police power varies with the changing times.³ The earlier cases placed a narrow construction on the terms "health, safety, and morals" of the people.⁴ This phrase is now broadly interpreted and includes the general prosperity,⁵ comfort,⁶ necessity,⁷ and convenience⁸ as well as the good order⁹ and general welfare¹⁰ of the people.

Courts universally hold that a statute will be presumed to be constitutional unless the contrary clearly appears.¹¹ In case of doubt every presumption is to be made in favor of the legislation.¹² A statute is a valid exercise of the police power if it bears a reasonable relation to the public interest.¹³

The courts and legislatures recognize that the use or display by a business establishment of any time other than statutory standard time creates confusion and causes inconvenience to the public.¹⁴

1. U.S. Const. amend. XLV, §1.; "No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty or property without due process of law"

2. ". . . health, safety, and morals" includes "the domestic peace, private happiness or comfort of the people."

3. See *Miller v. Board of Public Works of Los Angeles*, 195 Cal. 477, 234 Pac. 381 (1925); *Sieber v. Laawe*, 33 N.J. 115, 109 A.2d 470 (1954); *Schmidt v. Board of Adjustments of Newark*, 9 N.J. 405, 88 A.2d 607 (1952); *Streich v. Board of Education of Aberdeen*, 34 S.D. 169, 147 N.W. 779 (1914).

4. *Bacon v. Walker*, 204 U.S. 311 (1907); *Sieber v. Laawe*, 33 N.J. 115, 109 A.2d 470, 472 (1954) (dictum).

5. *Bacon v. Walker*, 204 U.S. 311 (1907); *Schmidt v. Board of Adjustment of Newark*, 9 N.J. 405, 88 A.2d 607 (1952).

6. See *Commonwealth v. Plymouth Coal Co.*, 232 Pa. 97, 81 Atl. 148 (1911); *Streich v. Board of Educ. of Aberdeen*, 34 S.D. 169, 147 N.W. 779 (1914); *Harbison v. Knoxville Iron Co.*, 103 Tenn. 421, 53 S.W. 955 (1899).

7. See *Escanaba Co. v. Chicago*, 107 U.S. 678 (1882).

8. See *Nashville C. & St. Ry. v. Walters*, 294 U.S. 405 (1935); *Bacon v. Walker*, 204 U.S. 311 (1907); *Sieber v. Laawe*, 33 N.J. 115, 109 A.2d 470 (1954); *Akron v. Public Utilities Comm'n*, 149 Ohio St. 374, 78 N.E.2d 890 (1948).

9. See *Commonwealth v. Plymouth Coal Co.*, 232 Pa. 97, 81 Atl. 148 (1911).

10. See *Nashville C. & St. Ry. v. Walters*, 294 U.S. 405 (1935); *Miller v. Board of Pub. Works of Los Angeles*, 195 Cal. 477, 234 Pac. 381 (1925); *Akron v. Public Utilities Comm'n*, 149 Ohio St. 347, 78 N.E.2d 890 (1948); *Davidson County v. Rogers*, 184 Tenn. 327, 198 S.W.2d 812 (1947).

11. *E.g.*, *Cady v. Detroit*, 289 Mich. 499, 289 N.W. 805 (1939); *Tennessee Enamel Mfg. Co. v. Hoke*, 183 Tenn. 615, 194 S.W.2d 468 (1946).

12. *E.g.*, *Lawrence Baking Co. v. Michigan Unemployment Compensation Comm'n*, 308 Mich. 498, 13 N.W.2d 260 (1944); *Cady v. Detroit*, 289 Mich. 499, 286 N.W. 805 (1939).

13. *E.g.*, *State ex rel. Loser v. National Optical Store Co.*, 189 Tenn. 433, 225 S.W.2d 263 (1949).

14. *Connecticut v. Bossett*, 100 Conn. 430, 123 Atl. 842 (1924); *Louisville v. Louisville Livestock Exchange Inc.*, 302 Ky. 536, 195 S.W.2d 76 (1946); *Wisconsin v. Bodate*, 241 Wis. 496, 6 N.W.2d 220 (1942).

A state statute establishing daylight saving time has been held valid and not inconsistent with federal time statutes.¹⁵ If a state has the "home-rule" amendment in its constitution a municipality may establish daylight saving time for local municipal affairs.¹⁶

There is no statute in North Dakota designating a standard of time for the state as a whole, nor is there a statute specifically authorizing a municipality to adopt a standard of time.¹⁷ Standard time has been the universal usage in this state since territorial days,¹⁸ and the courts have taken judicial notice of such usage.¹⁹

A number of cities in North Dakota enacted ordinances establishing daylight saving time during the summer months.²⁰ It would seem that such ordinances are valid and legally establish a standard of time for local and municipal affairs of those cities only. All other matters which are not local in character will be governed by the standard of time of the state.

JOSEPH R. MAICHEL

15. *Massachusetts State Grange v. Benton*, 272 U.S. 525 (1926).

16. North Dakota has no home-rule amendment. (For a discussion of home-rule amendments see I McQuillin, *Municipal Corp.* §850 (3d ed. 1949).

17. 1954-56 Ops. Att'y Gen. 27 (1955).

18. Except when war time was established in April 1943 for the duration of World War II.

19. *Orvik v. Casselman*, 15 N.D. 34, 105 N.W. 1105 (1905) (A sale of land advertised for two o'clock presumes that sale will be held on standard time.)

20. E.g., Fargo, Grand Forks, Minot, Dickinson, and Mandan.