



OFFICE OF THE ATTORNEY GENERAL OF TEXAS

AUSTIN

GERALD C. MANN  
ATTORNEY GENERAL

Honorable Bert Ford  
Administrator  
Texas Liquor Control Board  
Austin, Texas

Dear Mr. Ford:

Opinion No. 0-4390  
Re: Section 25, Article I, of the  
Texas Liquor Control Act, re-  
specting hours of sale as  
affected by Federal H.R. 6314,  
the Daylight Saving Law.

Your request for an opinion from this Department with respect to the above subject matter is as follows:

"Will you please advise this office whether under state law the time establishing opening and closing hours for the sale of liquor must be the customarily recognized time of our respective time zones or whether the time must be in accordance with the proclamation of the President establishing time to be observed for specific areas?

"If it is your advice that the time shall be in accordance with the President's proclamation under federal law, are the various courts in which judicial proceedings are in progress, either criminal or civil, empowered to take judicial knowledge of the time established by the President proclamation."

It is the opinion of this Department that the hours of opening and closing with respect to the sale of liquor under the Texas Liquor Control Act means the hours according to standard time in the respective zones, and moreover that standard time is that established by the Congress, of which congressional act or acts all courts, civil and criminal, will take judicial notice.

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The opinions of the courts of this State have not been uniform upon the question but the latest expression and withal the soundest conclusion, we think, respecting the matter is found in *McFarlane v. Whitney*, 134 S. W. (2d) 1047, opinion by Judge Smedley, adopted by the Supreme Court, January 3, 1940. In the course of his opinion Judge Smedley said:

" . . . Standard time, however, as now known and used, is that which was established as the standard time for the United States by the Act of Congress of March 19, 1918 (15 U.S.C.A., Sections 261-265). By that act provision was made for dividing the territory of the United States into five zones and a standard time for each zone was fixed, based on the mean astronomical time of a specified degree of longitude. Texas has been placed in the second zone, the standard time of which zone is designated by the act as United States standard central time.

"It has been held that this act of Congress makes the standard of time 'applicable only (1) to the movement of common carriers engaged in interstate and foreign commerce; (2) to its own officials and departments; and (3) to all acts done by any persons under Federal statutes, orders, rules and regulations.' *Massachusetts State Grange v. Benton* (U.S.D.C.) 10 Fed. (2d) 515, 516; *Id.* 272 U.S. 525, 47 Sup. Ct. 189, 71 L. Ed. 387. But even though the act does not by its terms provide a standard of time for all persons subject to the jurisdiction of the United States, such has been its practical effect. Very soon after the act went into effect the standard of time established by and under it was adopted and came into general use by the people throughout the United States. Such fixed single standard was found to be not only beneficial but necessary in the operation of railroad trains and other means of transportation and in conducting business, governmental and private, and social affairs. These facts are so generally known that the courts may and should take judicial knowledge of them. *Reynolds v. McKee Oil & Gas Company* (Gen. App.), 11 S. W. (2d) 778, 784; *Salt Lake City v. Robinson*, 39 Utah 260, 116 Pac. 442, 35 L.R.A. (N.S. 610, 617;

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20 American Jurisprudence, pp. 50, 49, Sec. 18. The court judicially knows that in 1931 when the trustee's sale was made central standard time was the time generally used in Crane County. The undisputed evidence establishes the same fact. The court also knows judicially that central standard time was the time generally used in that county in 1922 when the deed of trust was executed and that the same standard of time was in general use in Texas when the Revised Civil Statutes of 1925 containing Article 3810 were enacted. We conclude that the trustee's sale made on April 7, 1931, before the courthouse of Crane County between the hours of 10 A.M. and 4 P.M. according to central standard time, was made within the time intended by the parties to the deed of trust and within the time intended by the statute."

The recent federal act (H.R. 6314 is not available for citation, but we take from the debate of the resolution the following quotation, which serves our point:

"Mr. Lea: Mr. Chairman, I call the attention of the House to the provisions in the bill before you so that no one may be misled as to its terms. In substance, this bill has only a few provisions, all of which are very plain.

"The first is that twenty days after the enactment of this act the standard time of each time zone shall be advanced 1 hour. That makes the bill uniform and nation wide in its application, \* \* \*

"There is a provision that after the termination of this temporary (six months) legislation the country will return to standard time as it exists today. Standard time is defined by the Act of 1918, and the bill does not propose to change the meaning of standard time as we know it today." Cong. R. - H. 1942, p. 291, 2nd col.

While the matter is beyond the scope of your special inquiry, it is not amiss to say the reasons underlying our reply obtain with respect to legal time in many other respects,

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such as opening and closing of terms of court, notices when required by law, filing of appeal bonds, applications for writs of error, sales under a power, and the like.

Trusting that the foregoing sufficiently answers your inquiry, we are

Yours very truly

ATTORNEY GENERAL OF TEXAS

By

/signed/  
Ocie Speer  
Assistant

GE:AMM

APPROVED FEB. 7, 1942  
/s/ Grover Sellers  
FIRST ASSISTANT  
ATTORNEY GENERAL

APPROVED  
OPINION COMMITTEE  
By /s/B.W.B., Chairman