mining of coal in Indiana defines the term “mine” as used in that Act to “include the working of every shaft, slope or drift which is used—in the mining or removing of coal from beneath the surface of the ground.” The Bureau of Mines and Mining confines its activities to mines as defined in this 1923 Statute.

It is my opinion, from a review of the Acts of 1935 and of the other mining laws referred to above, that the provisions of Chapter 130 of the Acts of 1935 do not apply to strip coal mining.

GENERAL ASSEMBLY: Validity of House Bill 431, to establish standard time.

TIME: Whether State may establish Standard Time.

February 11, 1943.

Hon. A. B. Thompson,
House of Representatives,
State House,
Indianapolis, Indiana.

Dear Mr. Thompson:

In your letter of February 9, you have asked for my opinion upon the following question:

“As the author of House Bill No. 431, which is now in our Public Safety Committee, we would appreciate a decision from you regarding the constitutionality of such a bill declaring central standard time to be the standard of time in Indiana.”

The answer to your inquiry depends upon the force and exclusiveness of two federal statutes relating to standard time.

The first, passed March 19, 1918 (it will be noted that this was during wartime) and now codified as Sec. 261 and following of Title 15 of the U. S. Code (40 Statutes at Large 451) provides for the establishment of “standard time of the United States.” The second, passed and approved January 20, 1942, reads in part:
“BE IT ENACTED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES OF AMERICA IN CONGRESS ASSEMBLED. That beginning at 2 o'clock ante-meridian of the twentieth day after the date of enactment of this Act, the standard time of each zone established pursuant to the Act entitled ‘An Act to save daylight and to provide standard time for the United States,’ approved March 19, 1918, as amended, shall be advanced one hour.”

Do those statutes preclude state action upon the same subject? As to the first Act, the U. S. Supreme Court, by Justice Holmes, in Massachusetts State Grange v. Benton (1926), 272 U. S. 525 has answered that question in the negative. That case affirmed a lower federal court’s decision that the 1918 Act applied 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. So construed the federal Standard Time Act is not exclusive of state action on the same subject-matter; * * *” 10 F. R. 2nd (1925).

As to the second, or 1942, Act (passed during wartime also and probably as a defense measure), its scope would seem to be limited by a definition of “standard time.” Since the 1942 Act refers to the “standard time” established by the 1918 Act, it would follow that the same “standard time” was intended. The “standard time” of the 1918 Act, having received judicial limitation as the time applicable only to federal activities and jurisdiction, the conclusion seems inescapable that the “standard time” referred to in the 1942 Act is subject to the same limitation and that there does remain state power to legislate concerning the time of state activities.

For a more exhaustive discussion of the same question, you are referred to the opinion of the Attorney General of Ohio rendered January 26, 1943 upon the same subject.