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HERMAN, CARL SMITH

A HISTORICAL AND LEGAL ANALYSIS OF THE ROLE OF SCHOOL BUS
DRIVERS IN THE PUPIL TRANSPORTATION PROGRAM OF NORTH
CAROLINA, 1911-1979

The University of North Carolina at Greensboro

Ed.D.

1980

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A HISTORICAL AND LEGAL ANALYSIS OF THE ROLE OF SCHOOL
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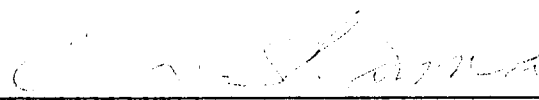
by

Carl S. Herman

A Dissertation Submitted to
the Faculty of the Graduate School at
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of the Requirements for the Degree
Doctor of Education

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1980

Approved by



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APPROVAL PAGE

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HERMAN, CARL SMITH. A Historical and Legal Analysis of the Role of School Bus Drivers in the Pupil Transportation Program of North Carolina, 1911-1979 (1980). Directed by: Dr. Chiranjilal Sharma. Pp. 261

This study of the historical and legal development of the role of school bus drivers in the pupil transportation program of North Carolina is relevant to a major administrative problem facing public school officials today--school bus safety and student bus drivers. In recent years, a drastic increase in fatal school bus accidents has alarmed and concerned citizens, legislators, and public school officials of the state. Many groups and individuals feel that the state's heavy reliance on student bus drivers is the major cause for the increase in fatalities. Critics claim that high school students as a group are too immature and unreliable to be entrusted daily with the lives of school children. They propose that the state should rely largely on adult school bus drivers. The major aim of this study was to place the "student driver - adult driver" debate in its proper historical and legal perspective.

The research procedures involved an investigation of those available sources that would yield a thorough and accurate reporting of the historical and legal development of the role of school bus drivers in the pupil transportation program of North Carolina since 1911. Every law enacted by the General Assembly of North Carolina since 1911 and relevant to school bus drivers was researched. Secondly, pertinent published and unpublished documents of the state were examined. An analysis was made of the articles and editorials of six major North Carolina newspapers in order to gain insight into the historical debate over the use of student bus drivers. An examination was made of every

court case heard by the North Carolina Court of Appeals and the State Supreme Court involving a tort claim against a local board of education or the State Board of Education for the negligent acts of school bus drivers. The input of representatives and employees of the North Carolina Division of Pupil Transportation, the State Highway Traffic Safety Research Center and the North Carolina Attorney General's office was gathered by personal interviews or phone conversations.

This historical and legal investigation of school bus drivers yielded the following major conclusions:

1. North Carolina has depended heavily on student school bus drivers since 1931.
2. Despite heavy criticism and several attempts to end the student bus driver policy in the last 50 years, the General Assembly and the State Board of Education have been reluctant to change or alter the policy.
3. Historically, North Carolina has operated one of the most efficient and economically sound pupil transportation programs in the nation. A major reason for this record has been the use of student bus drivers.
4. Research by national and state organizations on the comparative safety records of student and adult bus drivers has indicated that there is little significant difference in the safety records of the two groups.
5. Because of the state's large-scale use of high school students, North Carolina recognized early the importance of good driver training. The driver training program in North Carolina has been recognized historically as one of the best in the nation.

6. Obtaining competent adult school bus drivers has been difficult for school officials in the past because of low pay and inconvenient working hours.

7. Pupil transportation officials in the past have praised the overall performance of North Carolina's student bus drivers.

ACKNOWLEDGEMENTS

Appreciation is extended to Dr. Chiranji Lal Sharma and Dr. Joseph Bryson for their assistance in this study. A debt of gratitude is also owed to the other members of the committee: Dr. Dale Brubaker, Dr. Gary Hoover and Dr. John Humphrey.

This writer acknowledges with great appreciation the time and expertise offered by Mr. John Hardie and Mrs. Margaret Curl of the Division of Transportation of the State Board of Education and Mr. Bob Daniels and Dr. Patricia Waller of the North Carolina Highway Traffic Safety Research Center in Chapel Hill. Appreciation is also extended to other employees of the above agencies for their assistance in helping me compile needed data.

Lastly, I wish to thank my wife and two children who gave up a husband and a father while I worked on this study.

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CHAPTER I

INTRODUCTION

Everything in our world has a history, and the man who wants to understand any particular thing or field is well advised to inquire into its history.¹

John Herman Randall, Jr.
Columbia University

Historical research is often motivated by an interest in understanding, evaluating, and placing in perspective a problem of current concern. The problem of current concern for this study is the recent distressing increase in fatal school bus accidents in North Carolina.

During the 1978-1979 school year, ten persons (including eight school children) lost their lives in ten separate school bus accidents in the state.² The number of fatalities equalled the total number of persons killed in North Carolina school bus accidents in the preceding five school years.³ More startling is the fact that ten percent of the persons killed in school bus accidents in the nation died on North Carolina highways.⁴

¹Charles E. Silberman, Crisis in the Classroom, the Remaking of American Education (New York: Vintage Books, 1971), p. 329.

²"Bus Death Settled Out of Court," Greensboro Record, 30 March 1979, p. A-1.

³"School Bus Deaths Spur Action," Greensboro Daily News, 29 October 1978, p. A-1.

⁴"School Bus Death Rise a Mystery," Greensboro Daily News, 16 January 1979, p. B-1.

The despair and frustration felt by school officials in light of the recent school bus accident fatalities was perhaps best expressed by Louis Alexander, former Director of Pupil Transportation for North Carolina. Alexander reported, "I can't understand it. We feel alone. We feel frustrated and we feel helpless."⁵

The sobering accident statistics have forced those concerned with pupil transportation to reconsider the state's school bus safety program. The State Board of Education has adopted the following school bus safety policies:

1. Rule Number .0725 - "Instruction of School Bus Passengers"
The State School Board has instructed all principals to conduct school bus safety training sessions with all school children.
2. Rule Number .0726 - "Evaluation of Supervisory and Safety Practices" Area transportation coordinators have been instructed to evaluate annually the pupil transportation policies of every school in the state.
3. Rule Number .0727 - "Seating of School Bus Standees"
In order to comply with existing Federal standards, the State School Board has taken steps to eliminate standees on all school buses.⁶

The Division of Pupil Transportation in North Carolina has ordered the installation of the following safety equipment on all North Carolina school buses:

1. Mirrors: Cross-over and "blind spot" mirrors will enable school bus drivers to have better "visual access" to students as they approach and depart from school buses.

⁵"Bus Deaths Create Concern," Burlington (N.C.) Times-News, 15 January 1979, p. A-3.

⁶Louis Alexander, Memorandum to all school superintendents concerning rules approved by the State Board of Education, 1 March 1979.

2. "Walking Arms": Walking arms extend ten feet in front of school buses when the bus stops. The "arms" force students crossing the road in front of the bus to walk within eyesight of the bus driver.⁷

The North Carolina General Assembly has enacted several laws concerning school bus safety. In response to the "rash of fatalities and accidents," the North Carolina House of Representatives created a committee to study school bus accidents in the state.⁸ In addition, a joint resolution was passed authorizing the Legislative Research Commission to study the school bus drivers' programs of the state.⁹ The findings of the Commission are to be presented to the 1981 General Assembly.

The General Assembly passed An Act to Insure the Safety of Students on School Buses. The Act permits local school boards to employ safety assistants for school buses. Safety assistants are to "assist the bus drivers with the safety, movement, management and care of children boarding the bus, leaving the bus or being transported in it."¹⁰

In the opinion of many, the actions of legislators and school officials have not effectively dealt with the one aspect of school bus safety that deserves the most attention---student school bus drivers. North Carolina employs more student bus drivers than any

⁷"School Bus Dress for Fall," Greensboro Record, 6 June 1979, p. A-1.

⁸North Carolina, Department of Public Instruction, Report on Education Legislation of the 1979 General Assembly (Raleigh: Superintendent of Public Instruction, 1979), p. Studies-1.

⁹Ibid., p. Listed Bills-2.

¹⁰North Carolina, Session Laws (1979), Chapter 211, Section 3.

other state (87 per cent of the total number of school bus drivers in North Carolina are high school students).¹¹ Critics charge that this overreliance on student school bus drivers is a major cause of the recent increase in fatal school bus accidents. Student drivers are deemed too immature and irresponsible to be daily entrusted with the lives of school children.

The North Carolina Parent-Teacher Association is attempting to influence legislation requiring pupil transportation officials to use only "experienced" school bus drivers.¹² Hugh Morton, a leading businessman in the western part of the state, is recommending that only experienced adult school bus drivers should be used in the mountainous sections of North Carolina.¹³ Jim Betts, Chairman of the Greensboro City School Board, reported in 1978 that the Board was "under a lot of pressure to do away with student drivers in favor of adults."¹⁴ Tom Davis, Public Information Director for the North Carolina Department of Public Instruction, recently claimed that a major effort was underway to "do away with student drivers" in the state.¹⁵

¹¹North Carolina, Highway Patrol, "General Information on School Bus Safety," (Raleigh: Highway Patrol Traffic Safety Information Unit, 16 June 1976). (Mimeographed.)

¹²"Legislative Report," North Carolina Parent-Teacher Bulletin, 54 (March 1979): 3.

¹³"Board Urged to Spend Money for Road Repair," Greensboro Record, 7 July 1978, p. A3-2.

¹⁴"School Chiefs Backing Student Bus Drivers," Greensboro Record, 22 August 1978, p. B-1.

¹⁵"School Bus Death Rise a Mystery," Greensboro Daily News, 16 January 1979, p. B-1.

Pupil transportation officials in the state are defensive of student drivers. Bob Daniels, research assistant for the North Carolina Highway Traffic Safety Center, states that studies conducted by his organization indicate that student drivers are as safe as adult drivers.¹⁶ Robert L. Andrews, Assistant State Controller in charge of pupil transportation, feels that student school bus drivers are "just as safe as adult drivers."¹⁷

The "student driver - adult driver" debate outlined above is not a matter of recent conflict. North Carolina has employed student drivers on a large scale for over 50 years and has been criticized for that policy an equal number of years. In 1941, two Wake County school children were killed in two separate school bus accidents. The drivers of the school buses were high school students. In response to the growing criticism of student drivers, one writer stated:

The press and the fathers and mothers have been very insistent that something be done to further safeguard the children who ride school buses. . . .

Among those suggestions has appeared the hardy annual--- 'the adult driver'. South Carolina has adult drivers this year and they are killing the South Carolina school children four times as fast as the student drivers are killing North Carolina school children.¹⁸

¹⁶Interview, Bob Daniels, research assistant, North Carolina Highway Traffic Safety Center, Chapel Hill, 18 November 1979.

¹⁷"Altering of Speed Governors Cause for Firing Bus Drivers," Greensboro Daily News, 27 September 1978, p. D-1.

¹⁸"Eighteen Dead in School Bus Wrecks are Eighteen Too Many," Raleigh News and Observer, 25 May 1941, p. B-2.

In 1931, the State Board of Equalization officially sanctioned the use of student school bus drivers in North Carolina.¹⁹ Since that date, the use of student drivers has partly enabled the state to operate one of the most efficient and economical pupil transportation programs in the nation. Students have been used on a large scale because they were readily accessible, could be closely supervised and, more important, would work for lower wages than adults.

The historical use of student school bus drivers in the state is firmly established. Today, that practice is being challenged. No one denies the right to challenge that practice. But there is merit in suggesting that the system should be studied carefully from a historical viewpoint before condemnatory judgments are made.

A historical and legal analysis of the role of school bus drivers in the pupil transportation programs of North Carolina may indeed reveal practices that need to be removed. But it may also reveal established patterns that need to be retained or strengthened. That is the significance of this study.

QUESTIONS TO BE ANSWERED

The general objective of this study is to analyze the historical and legal development of the role of school bus drivers in North Carolina in an attempt to place in proper perspective the current debate over the use of student school bus drivers. In keeping with that objective, the following questions will be pursued:

¹⁹North Carolina, State Board of Equalization, Minutes, 18 August 1931.

1. What legislation affecting North Carolina school bus drivers has been enacted by the General Assembly since 1911?
2. Historically, what arguments have been presented by pupil transportation officials of the state favoring the use of student school bus drivers?
3. Historically, what arguments have been presented by opponents of the policy of using student school bus drivers in North Carolina?
4. What procedures for compensating the victims of school bus accidents have been established by the North Carolina General Assembly?
5. What have the courts of North Carolina ruled about the liability of North Carolina school bus drivers?

RESEARCH PROCEDURES

In order to establish a sound understanding of the development of pupil transportation in the United States, an examination of published books and articles and unpublished dissertations on the topic was made. A search of Dissertation Abstracts, the Reader's Guide to Periodical Literature, and the Education Index revealed numerous articles but only a limited number of dissertations on the topic. In addition, the early pupil transportation statutes of all the states were examined.

The Session Laws of the State of North Carolina, 1911-1979, were studied in order to determine what laws have been enacted in the last 68 years relative to school bus drivers. An examination of the reports, pamphlets, brochures, circulars, and unpublished writings of the various states agencies concerned with pupil transportation was essential to understanding the historical development of the role of school bus drivers. The published and unpublished documents of the

following states agencies were studied: Department of Public Instruction, Division of Transportation, North Carolina State Highway Patrol, State Board of Equalization and State School Commission.

Newspaper articles since 1931 were examined in order to understand public reaction to the use of student school bus drivers. Information gained in newspaper articles was an invaluable supplement to the often limited and self-serving data printed in official state documents. The major newspapers consulted were the Burlington (N. C.) Daily Times-News, the Durham Morning Herald, the Durham Sun, the Greensboro Daily News, the Greensboro Record, and the Raleigh News and Observer.

Every court case heard by the North Carolina Supreme Court and the North Carolina Court of Appeals involving a tort claim against a local board of education for the negligent acts of school bus drivers was searched. Citations from the North Carolina Reports were used.

Additional information about pupil transportation in North Carolina was obtained by personal interviews or phone conversations with representatives and employees of the Division of Transportation, the North Carolina Attorney General's Office, and the State Highway Traffic Safety Research Center.

DEFINITION OF TERMS

AFFIDAVIT - A written legal declaration made under oath. Under the North Carolina Tort Claims Act, a person filing a claim against a local school board or the State Board of Education is required to submit an affidavit to the North Carolina Industrial Commission stating the full particulars surrounding the claim.

CERTIORARI, writ of - A legal document removing a case from a lower court to a higher court. A writ of certiorari is often used when a party to a court action wishes to circumvent the normal appeal process.

CLAIMANT - A person or persons filing a legal claim against a second party or parties. For purposes of this study, claimants were persons seeking damages for injuries caused by the negligence of school bus drivers.

COMPENSATION - An award, usually monetary, sought by or made to a claimant in a civil court action.

CONTRIBUTORY NEGLIGENCE - One's injury was caused, at least in part, by one's own carelessness. Under the North Carolina Tort Claims Act, school bus drivers may use contributory negligence as a legal defense.

DEMURRER - A contention on the part of a defendant in a court case that even if the allegations against him are true, the facts do not warrant legal action. A demurrer is different from a denial of allegations.

DAMAGES - Compensation, usually financial, claimed or awarded as a result of negligence or breach of contract.

DUE PROCESS - The concept that the application of government powers must protect individual rights.

ESTOPPEL, writ of - A legal document used by a party to a civil court action to prevent the admission of certain evidence.

GOVERNMENTAL IMMUNITY - A common law principle that it is not in the public interest for the government to be the defendant in a civil suit. The North Carolina Tort Claims Act waived the governmental immunity of state agencies and allowed claimants to seek damages.

NEGLIGENCE - A lack of ordinary care in one's actions; failure to act as a reasonable and prudent person would in like circumstances.

PROXIMATE CAUSE - The reason, under the law, for injuries to a person or persons. Under the North Carolina Tort Claims Act, the Industrial Commission must establish that the injuries suffered by claimants was proximately caused by the negligence of school bus drivers.

REMAND - The return of a case from a superior court to a lower court. For purposes of this study, North Carolina superior courts, the North Carolina Court of Appeals and the North Carolina Supreme Court often "remanded" a case to the North Carolina Industrial Commission with the order that the Commission reexamine its original decision.

TORT - An actionable wrong on the part of one person or persons against another person or persons. Injury to school bus passengers caused by the negligence of school bus drivers is a tort.

ORGANIZATION OF THE STUDY

The remainder of the study is divided into three major parts. Chapter 2 concerns the growth of pupil transportation in the United States. Emphasis is placed on the similarity between the development of pupil transportation in North Carolina and that of the other states.

Chapter 3 analyzes pupil transportation legislation enacted by the North Carolina General Assembly between 1911 and 1979 as it applied to school bus drivers. Emphasis is placed on two aspects of the legislation: (a) the increasing role of the state in pupil transportation from its earliest beginnings to the present, and (b) the role of the various state and local agencies appointed by legislation to control and supervise the school bus driver programs of the state.

Chapter 4 presents the four historical arguments used by state and local pupil transportation officials since 1931 in defense of the use of student drivers. In contrast, the views of those opposed to student drivers are presented.

Chapter 5 deals with tort liability and North Carolina school bus drivers. The chapter gives a historical analysis of the procedures established by law that victims of school bus accidents have used in pursuing tort claims against local school boards or the State Board of Education for the negligent acts of school bus drivers.

Chapter 6 summarizes the material presented in Chapters 3 through 5 and presents conclusions relevant to the student school bus driver policy of North Carolina.

CHAPTER II
THE GROWTH OF PUPIL TRANSPORTATION
IN THE UNITED STATES

The history of school bus transportation shows that it is inseparably woven into the social, economic, and industrial development of our nation.¹

A school bus filled with children is a common sight in contemporary America. Transporting children to and from school at public expense is regarded as a necessary auxiliary service of public education.

Providing transportation for school children has not always been a public responsibility. From colonial times until the twentieth century, transporting children to and from public or private schools was a family matter.

The child who lived more than a walking distance from school, journeyed to and from school by whatever means his family or his neighbors could provide. In the main, transportation meant a long and tedious ride in a rough wagon which had been provided by some family in the neighborhood. However, in many instances, the child mounted his horse and rode to school; in other instances, a canoe or rowboat served as a means of travel.²

Before 1840, there is little evidence to suggest that education leaders considered making pupil transportation a matter

¹Nicholaus Mills, "Busing: Who's Being Taken for a Ride," Commonweal 96 (24 March 1972): 55.

²M. C. S. Noble, Jr., Pupil Transportation in the United States (Scranton, Pennsylvania: International Textbook Co., 1940), p. 1.

of public expense.³ Indeed, it was not until 1869 that the first state law providing for publicly supported pupil transportation was enacted.⁴

The manner in which American public education developed in the nineteenth century insured that publicly financed pupil transportation would be a part of the future. Before the 1820's, most schools in the United States were private schools. From 1820 until 1850, the growth of public education was phenomenal.

Between 1820 and 1850, financial appropriations for (public) schools were doubled; wages for male teachers increased sixty-two percent; women teachers' wages increased fifty-one percent; the relative number of women teachers increased fifty-four percent; the school year increased one month; ratio of private school expenditures fell from seventy-five percent to thirty-six percent; quality of supervision improved; fifty normal schools were established; the percent of children in school went up; and methods, discipline and educational spirit were much improved.⁵

As the growth of public education continued into the twentieth century, the nation committed itself more and more to extending equal educational opportunity to all citizens. For pupil transportation, this national commitment was very important. The extension of educational opportunity depended upon the ability of American educators to solve the logistical problem of bringing together those who would teach with those who would be taught. Publicly financed pupil transportation was deemed the most logical solution.

³Burton K. Farnsworth, "Basic Principles Must Be Established for Pupil Transportation," Nation's Schools 13 (August 1933): 39-40.

⁴Massachusetts, Acts and Resolves of the General Assembly of the Commonwealth of Massachusetts (1869), Chapter 132, Sections 1 and 2.

⁵James A. Johnson et al., Foundations of American Education (Boston: Allyn and Bacon, Inc., 1969), p. 228.

Alternatives to Pupil Transportation

Transporting public school children to larger and more centrally located schools is accepted as the most appropriate means of bringing together those who would teach with those who would be taught. Historically, providing pupil transportation was not the only solution offered by the public schools. Three alternatives to pupil transportation have been tried with mixed results: (1) correspondence instruction, (2) boarding schools, and (3) one-teacher schools.

Correspondence instruction

Teaching by correspondence has been tried and is still used in the United States although "far greater progress in the development of such means of education has been achieved in Canada and in Australia."⁶ In 1933, approximately 180 high schools in the United States used correspondence instruction either on an experimental or a permanent basis.⁷ Today, hundreds of public and private schools offer specialized training or high school equivalency programs by correspondence.

Correspondence instruction has met with some success but has failed as a method of meeting the educational needs of the majority of students. Its success has been limited primarily to secondary school students and those who live in remote areas of the country.

⁶Noble, Pupil Transportation, p. 107.

⁷United States, Department of the Interior, Office of Education, High School Instruction by Mail, by W. H. Gaumitz, Bulletin No. 13 (Washington, D. C.: Government Printing Office, 1933), p. 6.

During World War II, several school districts in remote parts of the country were forced to resort to a system of correspondence instruction. One such district was the Hill County School System of Montana. Wartime rationing of gasoline and rubber, poor roads, bad weather, and the isolation of farm families sharply curtailed the use of motor buses. In order to provide education for students who lived too far from public schools, lessons were mailed to the students. Completed lessons were returned to a supervising teacher who graded and returned the lessons. As often as possible, the supervising teacher visited the home for closer one-to-one instruction.⁸

The end of wartime rationing, improved roads, and better transportation methods ended the need for correspondence instruction for the remote Hill County schools. Miss Marian Bainbridge, Superintendent of the Hill County School System, reported on the Hill County plan of correspondence instruction:

I would not like to give the impression that we recommend this type of work in preference to formal schooling, rather, that we turned to it in our desperate need of education for children in districts with closed schools or those where the teachers resigned during the term. Children must be given formal schooling wherever and whenever possible; they need the socializing influence, association with other children of their same age and grade, the discipline and atmosphere of a regular school. As stated in the beginning, supervised correspondence study was offered as an alternative, not as a substitute for formal education. We feel that in some instances it has been an excellent thing while in others it has not.⁹

⁸Montana, Department of Public Instruction, The Hill County Plan for the Use of Elementary Extension Education, by Rex and Sylvia Haight (Helena: Department of Public Instruction, 1943), pp. 1-10.

⁹Ibid., p. 75.

Boarding schools

Boarding schools have traditionally been the domain of private education. Yet, as early as 1922 there were 225 public secondary boarding schools in the United States.¹⁰ Today, there are over 100,000 public boarding schools providing instruction for exceptional and handicapped children.¹¹

At least one state provides boarding expenses for students in lieu of transportation to school. South Dakota's legislature directs local school boards to "furnish room and board for children living too far from school to be transported daily."¹²

Many school systems in the United States have provided boarding expenses in lieu of transportation in certain situations. However, courts have historically opposed such arrangements whenever the parents of the children involved were forced to accept boarding expenses. The earliest court ruling in such a case was handed down in 1904. In this case, the Reno School System of Pennsylvania opted to pay for the room and board of several students instead of providing transportation. One parent challenged the idea of boarding her children against her will. The court upheld her challenge.¹³

¹⁰Noble, Pupil Transportation, p. 113.

¹¹United States, National Center for Educational Statistics, Digest of Educational Statistics, 1976-1977 (Washington, D. C.: Government Printing Office, 1977), p. 6.

¹²Glenn H. Kelly, "The Constitutional and Legal Basis of Transporting Pupils To and From School," The American School Board Journal 75 (December 1927): 65.

¹³Harold H. Punke, Law and Liability in Pupil Transportation (Chicago: University of Chicago Press, 1943), p. 69.

Public boarding schools have had limited appeal for American parents. In the main, American society is family oriented; boarding schools require family separation. In addition, the public expense involved far outweighs that of providing transportation to and from school.¹⁴

One-teacher schools

The one-teacher school was rural America's answer to the problem of providing education for children without depending on correspondence instruction, boarding schools, or public pupil transportation.

Punke writes:

One might presume that no transportation need be provided if enough schools are maintained so every child in the district is within (walking) distance from school.¹⁵

The problems involved in building enough schools within walking distance of every child were enormous. As early as 1838, Horace Mann recognized the impossibility of having a school "located near the homes of all pupils."¹⁶ Yet, the idea persisted. By 1900, over 200,000 one-teacher schools dotted the rural landscape of America.¹⁷

In the one-teacher school, a single teacher instructed children of all grades and ages in every subject. The schools served an

¹⁴Noble, Pupil Transportation, p. 113.

¹⁵Punke, Law and Liability, p. 62.

¹⁶The Encyclopedia of Education (New York: MacMillan and Company, 1971), p. 276.

¹⁷Franklin M. Reck, The Romance of American Transportation, rev. ed. (New York: Thomas Y. Crowell Company, 1962), p. 245.

area of two or three miles---or farther if students could find transportation. During the nineteenth century and the early twentieth century, the one-teacher school served the communities of rural America well. However, the demands of economy in education, improving the curriculum and the desire for providing equal educational opportunity to all children spelled the end of the one-teacher school.¹⁸ As early as 1913, educators were recognizing the wisdom of ending this American educational venture. One author wrote in that year:

The little red schoolhouse is all well enough as a matter of tradition and history. It has served its purpose and no amount of sentiment for its past achievements can make it a thing acceptable to the present generation. Time was when the one-room schoolhouse was quite as well built and furnished as the dwellings from which the children came, but that is past and there is no gainsaying that the one-room district school is generally unsightly, illy ventilated and meagerly equipped. Moreover, the few children, many classes, formal bookish instruction and inadequately trained teachers make it altogether unsatisfactory.¹⁹

The replacement of one-teacher schools with larger and more centrally located schools became an accepted part of American education after the 1920's. In 1923 (the first year for which accurate figures are available), there were 165,417 one-teacher schools.²⁰ By 1975, the number had dwindled to 1,247.²¹

¹⁸W. G. Reeder, The Administration of Pupil Transportation (Columbus, Ohio: The Educators' Press, 1939), pp. 1-3.

¹⁹Mary A. Grupe, "How the Problems of the Rural Schools are Being Met," Popular Science Monthly 83 (November 1913): 484.

²⁰David T. Blose, "Some Consolidation Statistics," School Life 21 (April 1936): 224.

²¹National Center for Educational Statistics, Digest, 1976-1977, p. 62.

The Consolidation Movement and the
Growth of Pupil Transportation

According to Reeder, consolidation is "the abandonment of two or more smaller schools, usually one-teacher schools, and the bringing together of their pupils into a single larger school."²² By the turn of the twentieth century, the consolidation movement was a prominent part of the American educational scene. From 1885 until 1919, 36 states passed laws calling for the consolidation of public schools. The 12 remaining states had passed similar legislation prior to 1885.²³ In addition, every state had passed a compulsory school attendance law by 1918.²⁴ These actions were indicative of the growing national acceptance of the responsibility for expanding educational opportunity.

The consolidation movement had obvious implications for pupil transportation. Closing one-teacher schools and consolidating their services in larger schools meant that the distance from the newly formed schools increased for the majority of students. Barring the use of correspondence instruction, boarding schools, and the one-teacher school, publicly financed pupil transportation became the means of providing educational opportunity to students in remote areas. Pupil transportation became a moral, philosophical and legal obligation for responsible public officials. Lambert wrote:

²²Reeder, Administration of Pupil Transportation, p. 1.

²³United States, Department of the Interior, Bureau of Education, Consolidation of Schools and Transportation of Pupils, by J. F. Abel, Bulletin No. 41 (Washington, D. C.: Government Printing Office, 1923), pp. 21-22.

²⁴Johnson et al., Foundations of American Education, p. 238.

Legally, the state sets up the school . . . determines the program of the school, its location, the form of its organization, and its time schedule. For its own welfare, as well as for the good of the child, the state requires him to attend school; but it is not the state's prerogative to fix the location of his dwelling. The state . . . cannot put a school within easy walking distance of every dwelling, nor can it permit the child to remain away from school. And since the state has not undertaken to fix for the parent the location of his dwelling, the distance that separates the dwelling from the school is a fact that must be overcome by the action of the state. . . . The child whose home, wisely or unwisely, is located upon the borders of the settlement and in isolated places is still a school child of the state. . . . Wherever the school is inaccessible with respect to distance, time, and hazards of travel, action of the state in one form or another is required to reduce this remoteness.²⁵

The consolidation of schools and the growth of pupil transportation were parallel movements in the history of American education. Table 1 indicates the year of the enactment of the first consolidation law in each state and that of the first pupil transportation law. The table indicates that 32 states enacted consolidation laws before enacting pupil transportation laws. In 15 states, pupil transportation laws and consolidation laws were passed in the same year. The remaining three states passed consolidation laws after pupil transportation laws.

Few forces in public education were "more responsible for the rapid growth of (pupil) transportation than the rural consolidated school."²⁶ As school systems across the nation terminated one-teacher schools and built larger and more centrally located schools, the growth of pupil transportation was inevitable.

²⁵Asael C. Lambert, School Transportation (Stanford, California: Stanford University Press, 1938), p. 3. (emphasis mine)

²⁶Noble, Pupil Transportation, p. 31.

TABLE 1

FIRST TRANSPORTATION LAW AND FIRST CONSOLIDATION LAW:
YEAR OF ENACTMENT FOR ALL STATES

State	Year of First Transportation Law	Year of First Consolidation Law
Alabama	1915	1910
Alaska	1933	1933
Arizona	1912	1907
Arkansas	1911	1911
California	1901	1901
Colorado	1909	1909
Connecticut	1893	1839
Delaware	1919	1861
Florida	1889	1889
Hawaii	1919	1919
Georgia	1911	1911
Idaho	1913	1900
Illinois	1911	1905
Indiana	1899	1873
Iowa	1897	1873
Kansas	1899	1897
Kentucky	1912	1908
Louisiana	1916	1902
Maine	1880	1854
Maryland	1904	1904
Massachusetts	1869	1839
Michigan	1903	1843
Minnesota	1901	1901
Mississippi	1910	1910
Missouri	1907	1901
Montana	1903	1913
Nebraska	1897	1889
Nevada	1915	1913
New Hampshire	1885	1857
New Jersey	1895	1886

TABLE 1 - Continued

State	Year of First Transportation Law	Year of First Consolidation Law
New Mexico	1917	1907
New York	1896	1853
North Carolina	1911	1885
North Dakota	1899	1899
Ohio	1894	1847
Oklahoma	1905	1903
Oregon	1903	1903
Pennsylvania	1897	1901
Rhode Island	1898	1898
South Carolina	1912	1896
South Dakota	1899	1913
Tennessee	1913	1903
Texas	1915	1893
Utah	1905	1896
Vermont	1876	1844
Virginia	1903	1903
Washington	1901	1890
West Virginia	1908	1908
Wisconsin	1897	1856
Wyoming	1919	1913

SOURCES: United States, Department of the Interior, Bureau of Education, Consolidation of Schools and Transportation of Pupils, by J. F. Abel, Bulletin No. 41 (Washington, D. C.: Government Printing Office, 1923), pp. 21-22. Information for Alaska and Hawaii was added to the table. Sources: Alaska, Compiled Laws of Alaska (1933), Chapter 26 and Hawaii, Laws of the Territory of Hawaii (1919), Number 126.

Table 2 vividly contrasts the yearly increase in pupil transportation services and the corresponding decrease in one-teacher schools from 1923 to 1975. Between those years, the number of students transported at public expense increased every year. The cost of providing that transportation increased every year with the exception of three Depression Years, 1931-1934.

Highway and Transportation Improvements and the
Growth of Pupil Transportation, 1890-1920

If the consolidation movement insured that public school pupil transportation would be a part of the educational programs of the nation's schools, the development of motorized transportation and improved roads intensified that growth. In 1920, P. P. Claxton, Commissioner of the United States Bureau of Education, reported:

The improvement and consolidation of rural schools and the use of such schools as rural social centers have a marked influence upon the prosperity and intellectual development of the people who live in the country. The movement in this direction has only begun and its continued progress is dependent in a large measure upon the improvement of highways and highway transportation. Better roads are essential to better rural schools.²⁷

Although the chief means of public pupil transportation before 1920 was a horse-drawn wagon pulled over dirt roads, movements were afoot as early as 1890 to bring about improvement.

In 1891 . . . New Jersey enacted the first state-aid law for highways. Two years later---in 1893---Massachusetts created the first state highway department. By 1909, a

²⁷Firestone Tire and Rubber Company, Consolidated Rural Schools and the Motor Truck, Bulletin No. 6 (Akron, Ohio: Firestone Ship by Truck Bureau, July, 1920), p. 3.

TABLE 2

NUMBER OF ONE-TEACHER SCHOOLS, NUMBER OF PUBLIC
SCHOOL STUDENTS TRANSPORTED, AMOUNT OF PUBLIC
EXPENDITURES FOR PUPIL TRANSPORTATION:
UNITED STATES, 1923-24 to 1974-75

School Year	Number of One-Teacher Schools	Number of Public School Students Transported	Amount of Public Expenditures for Pupil Transportation (in thousands)
1923-1924	165,417	837,361	29,627
1925-1926	161,531	1,111,553	35,052
1927-1928	153,306	1,250,574	39,952
1929-1930	148,282	1,902,826	54,823
1931-1932	143,391	2,419,173	58,078
1933-1934	139,166	2,794,724	53,908
1935-1936	131,101	3,250,658	62,653
1937-1938	121,178	3,769,242	75,637
1939-1940	113,600	4,144,161	83,283
1941-1942	107,692	4,503,081	92,922
1943-1944	96,302	4,512,412	107,754
1945-1946	86,563	5,056,966	129,756
1947-1948	75,096	5,854,041	176,265
1949-1950	59,652	6,947,384	214,504
1951-1952	50,742	7,697,130	268,827
1953-1954	42,865	8,411,719	307,437
1955-1956	34,964	9,695,819	353,972
1957-1958	25,341	10,861,689	416,491
1959-1960	20,213	12,225,142	486,338
1961-1962	13,333	13,222,667	576,361
1963-1964	9,895	14,475,778	673,845
1965-1966	6,491	15,536,567	787,358
1967-1968	4,146	17,130,873	981,006
1969-1970	1,815	19,474,355	1,507,830
1971-1972	1,416	20,189,997	1,666,746
1973-1974	1,365	21,347,039	1,858,141
1974-1975	1,247	22,757,316	2,371,814

SOURCES: Blose, "Some Consolidation Statistics, 224.;"
National Center for Educational Statistics, Digest,
1976-1977, pp. 41, 62.

majority of the states had adopted state-aid for highways and by 1911 a majority of the states had established state highway departments.²⁸

From 1904 until 1941, the surfaced road mileage in the United States increased by 79.4 per cent---from 143,600 miles to 1,373,000 miles.²⁹

Surfaced road mileage (asphalt or concrete) in the United States today is estimated to be over 3,500,000 miles.³⁰

The national enthusiasm for bicycling prompted an interest in improved roads in the 1880's. The development of the automobile in the 1890's heightened that interest. In 1895, only four motor vehicles were registered in the United States. By 1900, that figure increased to 8,000; by 1920, the total was 8,131,523.³¹

Pre-1910 automobiles enabled many families to transport their children to school. However, the automobile was not feasible for mass pupil transportation. The development of the motorized school bus was an outgrowth of urban motorized transportation.

Shortly before and during World War I, urban dwellers who owned automobiles began to realize the potential profit available from transporting their urban counterparts from place to place.

²⁸M. C. S. Noble, Jr., "War-Time Pupil Transportation," paper presented at the National Highway Users Conference, Washington, D. C., February, 1944, p. 10.

²⁹Ibid.

³⁰Motor Vehicle Manufacturer's Association, Motor Vehicle Facts and Figures (Detroit: Statistics Department, Motor Vehicle Manufacturer's Association, 1978), p. 47.

³¹Ward's Communications, Inc., Ward's Automobile Yearbook, 39th ed. (Detroit: Ward's Communications, Inc., 1977), p. 153.

Many urban motorists enlarged the bodies of their automobiles to accommodate more passengers. These early buses or "jitneys" proved to be more popular than streetcars since they were not confined to tracks and thus had more mobility.³²

The rise of the motor bus as an intercity passenger carrier was paralleled by the rise of the school bus. As early as 1909, West Norristown, Pennsylvania, used a motor bus to transport pupils.³³

The first motorized vehicle used for pupil transportation in North Carolina was purchased by the Pamlico County Schools in 1917. In September of that year, T. B. Attmore, Superintendent of the Pamlico County Schools, drove the "school truck" to Raleigh for a showing. His arrival in Raleigh was reported as follows:

The Pamlico Superintendent drove into Raleigh yesterday morning with the truck that will be used by the Oriental Consolidated School District for carrying the school children who live within a radius of two and (one-) half miles of the schoolhouse to and from their studies. On arrival he (Mr. Attmore) gathered Governor Bickett, Superintendent Joyner, State Treasurer Lacy, Editor Clarence Poe and a trio of newspaper writers for a spin over the city. The truck is a product of the Corbett Company of Henderson (North Carolina) and was purchased for \$1,379.³⁴

The number of school buses has increased dramatically since 1920. In 1925 (the earliest year for which accurate figures are available), there were 26,685 school buses operating in the

³²"Jitney" was an urban slang word for nickel. Since the fare in this early "bus" was a nickel, the vehicles were called "jitneys".

³³David T. Blöse, "School Transportation," School Life 24 (June 1939): 278.

³⁴"Pamlico Motorizes Its School Traffic," Raleigh News and Observer, 5 September 1917, p. 8.



Historical Marker Notes the Operation of the First Motorized School Bus in North Carolina.

public schools of the United States.³⁵ Ten years later, 77,042 school buses were in service---almost three times the number in 1925.³⁶ Today, there are over 315,000 school buses transporting children to and from the public schools of the nation.³⁷

C. H. Skidmore, Superintendent of the Brigham City (Utah) School System, reported on the benefits of motorized transportation and its effect on pupil transportation in 1926:

The horse-drawn vehicle for school transportation is rapidly receding into the background. With the improvement of our roads, the automobile is able to cover greater distance in less time and with a great deal more comfort. The natural consequence of this is that the process of further consolidation can be carried on with marked success in rural sections which were once partly consolidated in the comparatively smaller central schools as well as in those districts which have not yet been consolidated. If the roads are good it is not at all difficult to transport pupils from ten to twelve miles. This makes it possible to establish larger central schools where, say two hundred to five hundred children may be cared for as well as if they were living in the city.³⁸

³⁵Noble, "War-Time Pupil Transportation," p. 10.

³⁶United States, Department of Transportation, National Highway Traffic Safety Administration, Pupil Transportation Safety Program Plan (Washington, D. C.: Government Printing Office, May, 1973), p. vii.

³⁷Motor Vehicle Manufacturer's Association, Motor Vehicle Facts and Figures, p. 46.

³⁸C. H. Skidmore, "Better Transportation and Further Consolidation," The American School Board Journal 72 (April 1926): 54.

The First State Pupil Transportation Laws,

1869-1919

Massachusetts: the first pupil
transportation law

It seemed only proper for Massachusetts to lead the way in the passage of public pupil transportation laws. Massachusetts had led the nation in other public ventures in education. In 1636, the citizens of Boston voted to establish and support the first Latin Grammar School, a college preparatory institution. In 1642, a Massachusetts law compelled the inspection of schools for their fitness to instruct pupils. In 1647, the General Court of Massachusetts required towns to support a system of free public education. Additionally, Massachusetts established the first state school board and the first normal school for the training of teachers.³⁹

In keeping with this trend, Massachusetts passed An Act Relating To The Conveying of Children To and From The Public Schools in 1869. The Act read as follows:

Any town in the Commonwealth may raise by taxation or otherwise, and appropriate money to be expended by the school committee in their discretion, in providing for the conveyance of pupils to and from the public schools.⁴⁰

³⁹Johnson et al., Foundations of American Education, pp. 243-244.

⁴⁰Massachusetts, Acts and Resolves of the Commonwealth of Massachusetts (1869), Chapter 132, Section 1.

The major intent of the Massachusetts law was to allow communities to transport older students from rural areas to a centrally located town high school. After 1875, towns began to take advantage of the law to close smaller outlying schools and transport students to schools in town regardless of age.⁴¹

Other than being the first pupil transportation law, the Massachusetts Act of 1869 is important in the history of pupil transportation for three reasons. First, the law demonstrated that programs of consolidation and pupil transportation had to be offered jointly if a school system was to operate efficiently. Second, the actions of Massachusetts school officials in implementing transportation programs served as models for other states. Last, pupil transportation was recognized for the first time as "a legitimate part of the community's tax program."⁴²

The first community in the United States to transport students under state law was Greenfield, Massachusetts. In 1869, Greenfield consolidated three small schools as a "saving of \$175 accomplished after paying \$127.50 for the conveyance of pupils."⁴³

⁴¹Ellwood P. Cubberley, An Introduction to the Study of Education and to Teaching (Boston: Houghton Mifflin Company, 1925), p. 393.

⁴²Roe Lyell Johns, State and Local Administration of School Transportation, Contributions to Education No. 330 (New York: Columbia University Press, 1928), p. 2.

⁴³Massachusetts, Department of Education, Consolidation of Schools and Transportation of Pupils at Public Expense in Massachusetts, Bulletin No. 6, Whole No. 115 (Boston: n. p., 1920), p. 8.

In 1874, Quincy, Massachusetts, followed the lead established by Greenfield.

There in 1874, a school with less than a dozen children was closed and the pupils carried to another one-teacher school, the union making a school not too large for one teacher. The district abandoning its school, after paying tuition and transportation expenses, found that its outlay was less than the amount which would have been required to maintain the old school.⁴⁴

The Quincy town council spent \$521.12 during the first year to transport children to and from school. The consolidation of schools and transporting students to a centrally located school was proving to be an economically sound idea in its infancy.⁴⁵

In 1875, three one-teacher schools around Montague, Massachusetts, were abandoned and the students were transported to a larger school in town. Seymour Rockwell, a member of the Montague School Committee for thirty years, attested to the wisdom of the consolidation process and pupil transportation in the following letter to the Massachusetts Board of Education:

Montague, Massachusetts
December 6, 1893

Mr. G. T. Fletcher

Dear Sir: --For Eighteen years we have had the best attendance from the transported children, no more sickness among them and no accidents. The children like the plan exceedingly. We have saved the town

⁴⁴ Louis W. Rapeer, The Consolidated Rural School (New York: Charles S. Scribners Sons, 1920), p. 13.

⁴⁵ Shirley Cooper, "Why Do We Transport Children to School?," School Executive 69 (April 1950): 11.

at least \$4,600 a year. All those children now attend school in a fine house at the center well equipped. The schools are graded. Everybody is converted. We encountered all the opposition found anywhere, but we asserted our sensible and legal rights and accomplished the work. I see no way to bring up the country schools but to consolidate them making them worth seeing; then the people will be more likely to do their duty by visiting them.

Yours truly,

Seymour Rockwell⁴⁶

Other towns in Massachusetts and other states began to develop programs of consolidation and pupil transportation. The influence of the 1869 pupil transportation law of Massachusetts was stated in a report made to the National Education Association in 1897:

It was Massachusetts that led the way in developing the district system, and it is Massachusetts that is leading the way in consolidation. An act that dates from 1869 authorizes any town in the Commonwealth to raise money by taxation to enable the school committee in its discretion, to provide for the conveyance of pupils to and from public schools at public cost. . . .

The movement has extended beyond Massachusetts and reached every one of the New England States. In these states many hundreds of schools have been consolidated and with the most gratifying results.⁴⁷

Pupil transportation laws, 1876-1895

In 1876, Vermont became the second state to enact a law providing for the transportation of school pupils. The state

⁴⁶Massachusetts, State Board of Education, Fifty-Seventh Annual Report of the Board of Education and Secretary of the Board (Boston: Wright and Patter Printing Company, 1894), pp. 203-204.

⁴⁷National Education Association, Journal of Proceedings and Addresses of the Thirty-Sixth Annual Meeting (Chicago: University of Chicago Press, 1897), pp. 427-428.

gave the prudential committee of each school district the authority to call for a vote of the citizens of the district on the matter of pupil transportation. If two-thirds of the voters of a district agreed, the prudential committee could allocate "a reasonable sum for the transportation of such scholar or scholars to and from school."⁴⁸

Maine enacted a pupil transportation law in 1880. The Maine statute enabled local school boards to consolidate schools whenever "the number of scholars in any district becomes too few for the profitable expenditure of the money appropriated (to the school)."⁴⁹ Up to one-half of the money formerly appropriated to an abandoned school could be used by the local school board to cover the expenses of pupil transportation.

The early pupil transportation laws of Massachusetts, Vermont, and Maine simply gave the local governing school bodies the authority to provide transportation. There was no compulsion to do so. New Hampshire had earlier committed the state to a policy of consolidating schools within the boundaries of towns. In connection with this policy, the 1885 law required the expenditure

⁴⁸Vermont, Laws of the State of Vermont (1876), No. 45, Section 1. The prudential committee was the governing board of local school districts in Vermont. Such governing boards were called by different terms in other states, e. g., school visitors, district committees, school boards.

⁴⁹Maine, Acts and Resolves of the State of Maine (1880), Chapter 181, Section 1.

of up to 25 per cent of local school monies "for the purpose of conveying scholars to and from . . . schools."⁵⁰

In 1889, Florida became the first southern state to provide pupil transportation. Florida's situation was unique at that time. Although state legislation specifically calling for pupil transportation was not enacted, the discretionary power given to county school boards was the basis used by two Florida counties (Duval and Citrus) for providing transportation. By 1899, Citrus County had closed three small schools and transported the 20 pupils to a school four miles away. The cost of the consolidation and the subsequent transportation of students averaged \$1.50 per child per month. Duval County consolidated 14 schools in 1899 and transported the 176 students to larger schools at a total cost of \$303.00 per month.⁵¹

In 1893, Connecticut enacted a law allowing the local school visitors to provide pupil transportation.⁵² In 1894, Ohio became the first state west of the Appalachian Mountains to pass a pupil transportation law. The 1894 Ohio law was unique at that time because it allowed students to be transported from one school district to another if the neighboring district's school was closer to a student's home than the in-district school. In addition, Ohio was the first state to establish a limit on the number of miles

⁵⁰New Hampshire, Laws of the State of New Hampshire (1885), Chapter 43, Section 6.

⁵¹A. A. Upham, "Transportation of Rural School Children at Public Expense," Educational Review 20 (October 1900): 245.

⁵²Connecticut, Public Acts of the State of Connecticut (1893), Chapter 96, Sections 1 and 2.

a student could live from a school and expect transportation services from the local administrative unit.⁵³

By 1895, seven states had enacted pupil transportation laws, and school systems within those states were actively transporting students to and from school at public expense. In that same year, the Education Council of the National Education Association appointed the Committee of Twelve to study the problems of rural schools in the United States and to propose means for their improvement. The final report was presented at the associational meeting in 1897. The Committee of Twelve recommended the following in reference to pupil transportation:

One of the greatest hindrances to the improvement of the rural school lies in its isolation and its inability to furnish to the pupil that stimulative influence which comes from contact with others of his own age and advancement. The committee therefore recommends collecting pupils from small schools into larger and paying from public funds for their transportation, believing in this way better teachers can be provided, more rational methods of instruction adopted, and at the same time the expense of the schools can be lessened.⁵⁴

The Committee of Twelve's study and subsequent report did much to increase the national interest in consolidation of schools and pupil transportation. The precedents established by earlier pupil transportation laws were influential in prompting other states in that direction.

⁵³Ohio, Laws of the State of Ohio (1894), No. 99, Section 4022a.

⁵⁴National Education Association, Journal of Proceedings, p. 398.

Characteristics of early pupil
transportation laws: 1895-1919

A review of the first pupil transportation laws of the various states reveals legislation as varying in content as the states themselves. Many states simply issued a one-sentence statement authorizing local officials to provide transportation. Others were very specific, going so far as to describe the type of vehicle in which pupils could be transported in many cases.

The most dominant characteristic of early pupil transportation legislation was the wide discretionary power given by states to local school officials. Garber reports:

Most of the earliest legislation in this field was intended to clothe boards of education with authority necessary to transport pupils. Much of it was permissive in character---i.e., it permitted school boards to provide transportation whenever, in their judgment, it was thought necessary, but it did not as a rule, require them to do so.⁵⁵

There were notable exceptions to the above. New Hampshire's requirement that local boards had to provide pupil transportation has already been mentioned. Legislation in the state of Washington required local boards to levy taxes for pupil transportation if the board abandoned a school in favor of consolidation.⁵⁶ Nevada enacted similar legislation in 1915.⁵⁷

⁵⁵Lee O. Garber, "Several Principles of Law Affect Pupil Transportation," Nation's Schools 62 (August 1958): 41.

⁵⁶Washington, Session Laws of the State of Washington (1901), Chapter 177, Section 4.

⁵⁷Nevada, Statutes of the State of Nevada (1915), Chapter 29, Section 6.

Several states required local special elections by members of a school district before students could be transported at public expense. The legislatures of Kentucky (1912), Michigan (1903), New York (1896), and Oregon (1903) required that a simple majority of school district voters had to approve any local pupil transportation program.⁵⁸ In Missouri (1907), Nebraska (1897), North Dakota (1899), and Vermont (1876), a two-thirds majority vote by specially registered voters of a school district was required.⁵⁹ An Arizona statute (1912) required that a petition from 15 per cent of the registered voters of a school district had to be submitted to the district school board before an election involving pupil transportation could be held.⁶⁰

The concern over what was acceptable walking distance from school for students was expressed in the early pupil transportation legislation of nine states. North Carolina (1911) authorized transportation if a student lived "too far from the schoolhouse to attend without transportation."⁶¹

⁵⁸ Kentucky, Acts of the General Assembly of the Commonwealth of Kentucky (1912), Chapter 117, Section 8; Michigan, Public Acts of the Legislature of the State of Michigan (1901), No. 190, Sections 1 and 2; New York, Laws of the State of New York (1896), Chapter 264, Section 1; Oregon, General Laws of the State of Oregon (1903), No. 58, Sections 1 and 2.

⁵⁹ Missouri, Laws of the State of Missouri (1907), No. 615, Section 1; Nebraska, Laws, Joint Resolutions and Memorials of the State of Nebraska (1897), Chapter 64, Sections 1 and 2; North Dakota, Laws of the Legislative Assembly of the State of North Dakota (1899), Chapter 81, Section 704; Vermont, Laws of the State of Vermont (1876), No. 45, Section 1.

⁶⁰ Arizona, Acts, Resolutions, Memorials of the State of Arizona (1912), Chapter 77, Section 44.

⁶¹ North Carolina, Session Laws of the State of North Carolina (1911), Chapter 135, Section 1(A).

Pennsylvania law (1897) stated that pupil transportation could be provided if students were placed at "a greater distance or a greater inconvenience" because of the consolidation of schools.⁶² Nebraska's statute (1897) provided transportation to and from school if the "distance from such school shall render it impractical for said pupils to attend without transportation."⁶³

Other states were more specific about the distance pupils could reside from school and expect transportation. Oklahoma (1905) and Wisconsin (1897) established a mile and one-half limit while Oregon (1903) and Delaware (1919) required a two-mile limit.⁶⁴ Kansas (1899) required students to reside at least three miles from school before transportation was provided.⁶⁵ Delaware (1919) imposed a three-mile limitation but only for students in the sixth grade or above.⁶⁶

The legislative bodies of six states never specifically directed local school units to provide pupil transportation. However, the

⁶² Pennsylvania, Laws of the General Assembly of the State of Pennsylvania (1897), No. 149, Sections 1 and 2.

⁶³ Nebraska, Laws, Joint Resolutions and Memorials of the Legislative Assembly of the State of Nebraska (1897), Chapter 64, Sections 1 and 2.

⁶⁴ Oklahoma, Session Laws of the Territory of Oklahoma (1905), Chapter 33, Section 4; Wisconsin, Laws of the State of Wisconsin (1897), Chapter 354, Section 1; Oregon, General Laws of the State of Oregon (1903), No. 58, Section 1; Delaware, Laws of the State of Delaware (1919), Chapter 157, Article 3, Section 1.

⁶⁵ Kansas, Session Laws of the State of Kansas (1899), Chapter 117, Section 12.

⁶⁶ Delaware, Laws of the State of Delaware (1919), Chapter 157, Section 1.

discretionary power of local boards was such that pupil transportation could be provided at the option of the board. For example, Texas legislation stated that local school funds could be expended for "purposes necessary in the conduct of the public schools to be determined by the board of trustees."⁶⁷ Florida (1899), Louisiana (1916), Nex Mexico (1917), Wyoming (1919) and Utah (1905) had similar legislative provisions.⁶⁸

The following states provided financial aid for pupil transportation to local school units: Maine (1880), Michigan (1903), Minnesota (1901), Pennsylvania (1897), Rhode Island (1898), South Carolina (1912), Texas (1915), Vermont (1876) and Wisconsin (1897).⁶⁹ Rhode Island's legislation provided the largest amount--\$100 per child if consolidation forced a student to attend another school.⁷⁰

⁶⁷United States, Department of the Interior, Bureau of Education, Consolidation of Schools and Transportation of Pupils, by J. F. Abel, Bulletin No. 41 (Washington, D. C.: Government Printing Office, 1923), p. 17.

⁶⁸Ibid.

⁶⁹Maine, Acts and Resolves of the State of Maine, Chapter 181, Section 1; Michigan, Public Acts of the Legislature of the State of Michigan (1903), No. 190, Sections 1 and 2; Minnesota, General Laws of the State of Minnesota (1901), Chapter 262, Section 6; Pennsylvania, Laws of the General Assembly of the State of Pennsylvania (1897), No. 149, Sections 1 and 2; Rhode Island, Acts and Resolves of the State of Rhode Island (1898), Chapter 544, Section 8; South Carolina, General and Permanent Laws of the State of South Carolina (1912), No. 497, Section 5; Abel, Consolidation and Transportation, p. 17; Vermont, Laws of the State of Vermont (1876), No. 45, Section 1; Wisconsin, Laws of the State of Wisconsin (1897), Chapter 354, Section 1.

⁷⁰Rhode Island, Acts and Resolves of the State of Rhode Island (1898), Chapter 544, Section 8.

The statutes of Arkansas, Hawaii, and Oklahoma described the types of vehicles that could be used by local school units for the transportation of school children. The Arkansas law stated that vehicles "shall be comfortable and safe."⁷¹ The Hawaiian statute required that only "suitable transportation" was to be used for transporting students.⁷² The Oklahoma law was more specific, stating that students were to be transported

in suitable vehicles of ample size, with comfortable seats arranged to conform to the sizes of the pupils to be carried with an adjustable cover for the comfort and protection of the pupils, drawn by stout, gentle teams and driven by adult persons of good moral character, who shall have control of said pupils during their transportation.⁷³

Early state pupil transportation laws reflected other concerns of legislators. Although most states provided pupil transportation regardless of the age or grade of children, Nebraska (1897) and Michigan (1903) authorized transportation for high school students only.⁷⁴ Pennsylvania's legislators were concerned about potential corrupt practices of local school officials. As a result, the pupil transportation law of Pennsylvania forbade school board members from hiring out teams, wagons or drivers for school conveyances.⁷⁵

⁷¹Arkansas, Public Acts of the State of Arkansas (1911), Act 116, Section 15.

⁷²Hawaii, Laws of the Territory of Hawaii (1919), No. 126, Section 1.

⁷³Oklahoma, Session Laws of the Territory of Oklahoma (1905), Chapter 33, Section 4.

⁷⁴Nebraska, Laws, Joint Resolutions and Memorials of the Legislative Assembly of Nebraska (1897), Chapter 64, Sections 1 and 2; Michigan, Public Acts of the Legislature of the State of Michigan (1903), No. 190, Sections 1 and 2.

⁷⁵Pennsylvania, Acts Passed by the General Assembly of the State of Pennsylvania (1897), No. 149, Sections 1 and 2.

As stated earlier, the Louisiana Legislature never specifically enacted a pupil transportation law. However, the 1916 Legislature provided that any student in the public schools of the state was entitled to "free right of passage over all public ferries, bridges and roads" between the hours of 7:00 a.m. and 9:00 a.m. and 3:00 p.m. and 6:00 p.m.⁷⁶

Other concerns of legislators were reflected in early state pupil transportation laws. The laws of four states sought to insure that the drivers of school conveyances were responsible people. North Dakota's law (1899) required local units to hire only "responsible parties" as drivers.⁷⁷ Arkansas (1911), Colorado (1909), and Minnesota (1901) directed local units to demand "suitable bonds" from all potential school vehicle drivers.⁷⁸

Kansas was not empowered to maintain a system of pupil transportation. Rather, local school bodies were authorized to pay to parents or guardians a per diem rate in lieu of providing transportation. The parents or guardians of students who lived more than three miles from a school were allowed the sum of "15¢ per day not to exceed 100 days in each school year."⁷⁹

⁷⁶ Louisiana, Acts Passed by the General Assembly of the State of Louisiana (1916), No. 120, Section 10.

⁷⁷ North Dakota, Laws of the Legislative Assembly of the State of North Dakota (1899), Chapter 81, Section 704.

⁷⁸ Arkansas, Public Acts of the State of Arkansas (1911), No. 116, Section 15; Colorado, Session Laws of the State of Colorado (1909), Chapter 204, Section 1; Minnesota, General Laws of the State of Minnesota (1901), Chapter 262, Section 6.

⁷⁹ Kansas, Session Laws of the State of Kansas (1899), Chapter 117, Section 12.

A similar provision was found in the legislation of South Dakota (1913). In lieu of providing transportation for students, the state authorized district boards to pay the room and board of a student if the cost was less than that required to transport the student to school.⁸⁰

By 1919, every state in the union had enacted a pupil transportation law. In the fifty years from 1869 until 1919, pupil transportation became a necessary part of the educational programs of the nation.⁸¹ In the words of one writer, publicly financed pupil transportation grew from "an infant unwanted by many people . . . to vigorous adulthood."⁸²

"Getting to School," 1869-1979

Pre-1910 transportation

Before the advent of motor-driven vehicles, publicly financed pupil transportation usually meant riding in a horse-drawn carriage. The first school wagons manufactured specifically for pupil transportation were developed in Richmond, Indiana, during the 1880's. The wagons were equipped with curtains to protect the students from wind, rain and snow. Some of the wagons were equipped with heaters designed to burn either coal, wood or corncobs.⁸³

⁸⁰South Dakota, Enabling Act and Constitution and the Laws of the State of South Dakota (1913), Chapter 112, Section 1.

⁸¹United States, Department of the Interior, Bureau of Education, Transportation of Pupils at Public Expense, by John C. Muerman, Rural School Leaflet No. 2 (Washington, D. C.: Government Printing Office, April, 1922), p. 1.

⁸²Reeder, Administration of Transportation, p. 12.

⁸³"Evolution of the School Bus," Nation's Schools 65 (May 1960): 85-87.

As the early school wagons improved, rubber tires replaced metal wheels in order to increase the comfort of the passengers. Glass windows replaced curtains and the floor was covered with a rug or straw. In areas where cold weather was prevalent, lap robes were provided for the students. The improved wagons were designed with room inside for the driver who previously rode on a seat outside the enclosed part of the wagon.⁸⁴ To aid in boarding or alighting from the wagon, steps were provided at the rear.⁸⁵

Early school wagons were usually owned by the schools. However, the horses as well as the drivers were supplied mainly by local farmers on a contract basis.

It was impractical for boards of education to own horses for the early horse-drawn service. Horses were owned by the farmers. Arrangements were made between farmers and school officials whereby teams were supplied under contract for the purpose of drawing wagons and home-built bodies that might be owned by either the farmers or the schools.⁸⁶

A 1901 report from the school district of Buffalo Centre, Winnebago County, Iowa, is indicative of early horse-drawn pupil transportation:

⁸⁴United States, Department of the Interior, Bureau of Education, Consolidation of Rural Schools and Transportation of Pupils at Public Expense, by A. C. Monahan, Bulletin No. 30 (Washington, D. C.: Government Printing Office, 1914), p. 46.

⁸⁵"Evolution of the School Bus," 85.

⁸⁶Clayton D. Hutchins, "School Ownership of Buses," Nation's Schools 36 (October 1945): 44.

When the roads are very muddy the drivers begin to collect children as early as 7:15 to 8:15 a.m., returning them to their homes at 4:45 p.m. to 5:45 p.m. The contractors are held to careful restrictions. They must furnish suitable covered vehicles, safe and strong, with comfortable seats; strong, safe, and quiet teams, with proper harnesses; warm, comfortable blankets or robes sufficient for the protection and comfort of each and all of the pupils to and from the public school building and their respective homes---all to be subject to the inspection and approval of the school board. . . . They (contractors) must personally drive and manage their own teams; they may not drive faster than a trot, or race with others; they must conduct themselves properly, refrain from improper language in the presence of pupils, and from the use of liquor or tobacco; and they must keep order and report improper conduct on the part of scholars. Each contractor, except one who receives twenty-five dollars, receives thirty dollars per month, and half a month's pay is retained to insure the fulfilment of the details of the contract.⁸⁷

In 1899, Henry County, Indiana, reported the following conditions of transportation in the school district:

We insist on the very best hack service that can be had, good wagons with springs, weather-proof top, door at rear and window to admit light, cushioned seats and back; carpet on the floor, and four heavy lap robes. Heaters could be used, but we have never had occasion to use them. Good teams are essential. All our roads are gravelled, and the hacks run on schedule time as closely as a railway train. I (superintendent) make it a point to employ the very best men I can find to drive and care for the children.⁸⁸

⁸⁷Clarence E. Blake, "The Consolidation of Schools and the Conveyance of Children," Forum 33 (December 1902): 105-106.

⁸⁸Upham, "Transportation of Rural School Children," 247.

Modes of pupil transportation other than
motorized school buses: 1910 to 1979

The motorized school bus has been the chief means of pupil transportation since the 1920's. Yet, a variety of other vehicles have been used in the past, and are still used today.

In 1926, the Box Elder School District of Utah was transporting 258 students by horse-drawn wagon in areas where automobiles could not "be used during a large part of the year."⁸⁹ Government statistics indicate that over 12 percent of the vehicles used for public school pupil transportation in the United States during the 1927-1928 school year were horse-drawn.⁹⁰ A survey of over half the states in 1930 revealed that 5,961 horse-drawn carriages were used by school districts for pupil transportation in those states.⁹¹

A 1935 study conducted by Frank W. Cyr, an early authority on pupil transportation, showed that ten states had "legal provisions covering horse-drawn vehicles; and fourteen states had legal provisions covering rail transportation."⁹² A 1937 study of urban pupil transportation indicated that even city children were being transported by vehicles other than motorized buses. Table 3 presents the results of that study.

⁸⁹Skidmore, "Better Transportation and Consolidation," 96.

⁹⁰Mills, "Busing," 56.

⁹¹"Consolidation of Schools and Transportation of Pupils," Elementary School Journal 30 (April 1930): 572.

⁹²Noble, Pupil Transportation, p. 25.

TABLE 3

Means of Pupil Transportation in 230 Cities
With Populations of Over 25,000:
United States, 1936-1937

Type of Transportation	Number of Cities Having Each Type of Transportation
1. motor bus	188
2. horse-drawn vehicle	1
3. private car	6
4. public car	2
5. railroad	5
6. steamboat	1
7. streetcar	73
8. subsidy to parent	21
9. taxi	67

SOURCE: Noble, Pupil Transportation, p. 132.

Geographic and road conditions in the various states dictate the use of other pupil transportation vehicles. In Louisiana, numerous waterways and canals often separate a student's home from the school. As a result, Louisiana depends on motorized "school boats".⁹³ In rural Vermont, many of the schools serve sparsely settled areas. Gathering the children from these areas by large school buses is impractical; thus, Vermont school officials rely on station wagons and pickup trucks to transport most of the rural children.⁹⁴

⁹³"State's School Buses Operate Economically," Greensboro Daily News (4 August 1960), p. B2.

⁹⁴Ibid.

In 1964, 15,400,000 school children were transported to and from school in 190,000 school buses and over 12,000 "assorted vehicles". Gus Crenson, information specialist for the Bureau of Elementary and Secondary Education at the time, wrote:

'Assorted vehicles' can mean a station wagon for use at the tail end of a long trip and on side trips where the going is rough for large buses, but the term can also mean, and does mean in some places, unusual carriers, such as pickup trucks, railroad trains, airplanes, and even boats.⁹⁵

The growth of motorized school bus transportation

From 1910 until 1930, the manufacture and sale of motorized school buses became a major enterprise in the United States. Several manufacturing firms began producing school buses--generally in connection with the manufacture of other vehicles, e. g., farm tractors, trucks, airplanes, boats. As a result, there was very little standardization in the size, style or mechanical performance of school buses.⁹⁶ In 1923, the school system of Montgomery, Alabama, noted the variety of school buses in its fleet:

Seventeen (school buses) have Wayne bodies mounted on them, seven have International bodies and eight have bodies made by a local firm.⁹⁷

⁹⁵Gus A. Crenson, "How to Move 15,400,000 Children," American Education 7 (July 1965): 10.

⁹⁶D. P. Culp and E. Glenn Featherston, Pupil Transportation: State and Local Programs (New York: Harper and Row Publishers, 1965), pp. 83-84.

⁹⁷T. L. Head, "Administration of Transportation in Montgomery County, Alabama," American School Board Journal 66 (March 1923): 36.

A greater concern for specialization in the manufacture of school buses came about in the 1930's. Manufacturers began to develop better bus bodies and increase the production of same. The business of buying and selling school buses became highly competitive and an important part of the economy of the nation.⁹⁸ The number of buses purchased by the public schools doubled in the five years from 1926 to 1931. In 1926, over 27,000 school buses were purchased; in 1931, over 55,000.⁹⁹

In 1939, need for a more uniform bus design was a major concern of the first National Conference on School Transportation held at Teachers College of Columbia University. This very important conference was directed by Frank W. Cyr, leading authority on pupil transportation and Associate Professor at Teachers College; M. C. S. Noble, Jr., author of many works on pupil transportation; and Frederick H. Dutcher, one of the ranking mechanical engineers of the time. Representatives of the 48 state departments of education were present as well as representatives from 31 manufacturers of school buses.

Noting that purchases from school bus manufacturers totalled over 10,000 buses per year at an average cost of over \$2,000 per bus, the conference leaders felt that some means of standardized school bus manufacture had to be developed. The Conference reported:

⁹⁸Culp and Featherston, Pupil Transportation, pp. 83-84.

⁹⁹"The School Bus," School and Society 33 (9 May 1931): 623.

The cost of pupil transportation may be considered as an addition to the ordinary cost of a satisfactory school program and in that sense it can be considered as a deduction from the total funds that might be available for superior school plant facilities and instructional programs. In view of this situation it is highly desirable that all possible economies consistent with pupil safety be attained and practiced in the construction and operation of school buses.¹⁰⁰

Speaking of the increasing cost of school bus transportation, the Conference declared:

This excessive cost has occurred because the differences in standards among the states have forced manufacturers to approximate custom-built jobs, thereby making it impossible for the schools to benefit by such economies as would result if national uniform standards were adopted by the states.¹⁰¹

The 1939 Conference adopted standards for school bus chassis and school bus body construction. The standards for chassis construction included detailed specifications for axles, batteries, brakes (foot and emergency), bumpers, exhaust pipes, frames, gasoline tanks, generators, governors (for controlling speed), length (maximum length--33 feet), passenger loads, power, speedometers, steering gear, tires and weight distribution.¹⁰²

A few details will be illustrative of the safety consciousness of the Conference members. Specifications called for bus ceilings to be "free of all projectiles likely to cause injury to pupils."¹⁰³

¹⁰⁰ National Conference on School Transportation, Minimum Standards for School Buses (Scranton, Pa.: International Textbook Co., 1939), p. 5.

¹⁰¹ Ibid., p. 6.

¹⁰² Ibid., pp. 11-19.

¹⁰³ Ibid., p. 20.

Doors were to be manually operative only by the driver and located on the right side of the driver's seat. (Many earlier bus models had two doors at the front of the bus and no rear emergency doors.) Fire extinguishers and first-aid kits were recommended for all buses. For identification purposes, buses were to be painted a uniform color--thus, the origin of today's familiar "school bus orange."¹⁰⁴

The detailed specifications for school bus manufacture were adopted in part or completely by all of the states within ten years after the 1939 Conference. The National Conference on School Transportation has been held every four years since 1939. Recommendations on school bus construction made by subsequent conferences have generally become a part of the transportation policies of the states.¹⁰⁵

School bus safety

Notwithstanding the efforts of such organizations as the National Conference on School Transportation, the National Highway Safety Bureau and the National Motor Vehicle Safety Advisory Council for making school bus transportation safer, the construction and operation of school buses have come under heavy attack since World War II. Educators, safety officials, concerned citizens and others have spoken against the lack of safety features on school buses and school bus safety methods in general.

¹⁰⁴National Conference on School Transportation, Minimum Standards, pp. 20-27.

¹⁰⁵William A. Horn, "It's Safer on the Bus," American Education 4 (October 1968): 2.

Phares E. Reeder of the West Virginia Education Association

noted in a 1950 article:

A big bus built to seat ninety pupils is jammed with youngsters; youngsters seated on others' laps, standing in the aisles. Can this be right? We spend billions of dollars to fight wars to make the world safe for our children. Yet we crowd them into busses, gravely endangering their lives.¹⁰⁶

Frank W. Cyr called for better bus driver training during the 1940's and 1950's. Cyr quipped, "A great many bus drivers I've seen in the last few years would be disreputable even on the bowery."¹⁰⁷

Echoing Cyr's sentiment, Dr. Seward E. Miller, Director of the National Institute of Industrial Health, wrote in 1961:

Presently, the physical requirements for school bus drivers are almost nonexistent, or expressed in general terms. Possession of a commercial-vehicle license and freedom from communicable disease are the most common requirements.¹⁰⁸

A disgruntled school official of Saint Louis, Missouri, noted in the same year that "in many cases more consideration is given to the safe transportation of animals to market than to the transportation of children to school."¹⁰⁹

¹⁰⁶Phares E. Reeder, "Children Riding School Buses," Elementary School Journal 101 (November 1950): 123-124.

¹⁰⁷Murray Teigh Bloom, "Do You Really Know Anything About The Man Who Drives Your Child To School?," Woman's Home Companion 78 (September 1951): 44.

¹⁰⁸William and Ellen Hartley, "The Slaughter of the Innocents," Good Housekeeping 152 (January 1961): 136.

¹⁰⁹Ibid.

In 1966, the Institute of Transportation and Traffic Engineering of the University of California at Los Angeles noted that most school buses lacked the very basics in safety features. In line with that finding, the Institute recommended the addition of the following safety equipment to school buses:

- (a) high back seats. The improved seat should be at least 28 inches high, have well-padded back and arm rests and be strong enough to withstand a violent front or rear-end collision.
- (b) seat belts. The driver and all passengers should wear seat belts, but . . . school buses with low-back seats should not have passenger seat belts unless the low-back seats are replaced by high-back seats.
- (c) collision-resistant structures. The buses should install collision-resistant structures at both passenger car and truck bumper height to prevent a colliding vehicle from penetrating or driving under the school bus.¹¹⁰

Noting that over 1,300 children suffer from facial and dental injuries every year as a result of school bus accidents, the American Society of Oral Surgeons recommended that padded cushion covers be placed over all seats.¹¹¹ Colman McCarthy, self-appointed "Ralph Nader of school bus safety," recently criticized General Motors for manufacturing faulty, ill-equipped and unsafe school buses. McCarthy stated:

It is unlikely that any GM executive ever sends out memos to his staff saying things like, 'Make the exhaust systems out of cheaper metal this year', or 'Order a lower-grade iron for the engine mounts.'

¹¹⁰"The Growing Concern About School Buses," Good Housekeeping (October 1967): 201.

¹¹¹"Perils of the School Bus," Newsweek 78 (18 October 1971): 84.

Yet in many cases he might as well, for underlings in the auto industry are quick to divine the intentions of their superiors.¹¹²

McCarthy claimed that at least six deaths and twelve serious injuries were attributed to serious bus defects in General Motor's 1972 model school buses.¹¹³

The National Highway and Traffic Safety Council recently charged that school bus bodies were not riveted properly. The criticism came after a school bus accident in Congers, New York. Five students were killed and 45 injured when "approximately the rear one-third of the bus was separated" from the rest of the vehicle after a collision with a train.¹¹⁴

In 1974, the National Highway and Traffic Safety Council undertook a major study of school bus safety. Among the school bus construction standards recommended by the Council were recommendations for fully padded seats, fully padded stanchions and crossbars, high back seats, seat belts and improved braking systems. In addition, the Council recommended that structural panels in school buses needed to be riveted more carefully in order to insure the strength of the bus body. At the time of the 1974 Council report, school bus manufacturers used approximately

¹¹²Colman McCarthy, "The Faulty School Buses," Saturday Review (11 March 1972): 51.

¹¹³Ibid., p. 52.

¹¹⁴"School Buses Must Be Safer!," Changing Times 27 (March 1973): 13.

3,000 rivets per bus. Today, most buses are held together by over 10,000 rivets.¹¹⁵

The yearly increase in school bus accidents since 1961 has concerned many school administrators and safety experts. Table 4 displays the increase in school bus accidents from 1961 until 1977 in the United States.

Despite the criticism of the safety of school bus transportation, the National Highway Traffic Safety Administration contends that it is "one of the safest available modes of transportation; it is approximately eight times safer than the family passenger car."¹¹⁶ This conclusion has been recently confirmed by other studies in the field of pupil transportation.¹¹⁷ Notwithstanding the relative safety of school bus transportation, as long as children are killed or injured on school buses, the American public can expect more studies and more recommendations from concerned public and private groups or individuals.

¹¹⁵National Highway Traffic Safety Administration, Transportation Safety Plan, pp. 16-25. See also "New Ways to Make School Buses Safe," McCall's 150 (September 1974): 12.

¹¹⁶National Highway Traffic Safety Administration, Transportation Safety Plan, p. v.

¹¹⁷North Carolina, Highway Safety Research Center, School Bus Accidents and Driver Age, by Judith McMichael (Chapel Hill: University of North Carolina Press, 1974), p. ix.

TABLE 4

Number of School Bus Accidents, Fatalities and Injuries,
United States: 1961-1977

Year	Number of Accidents	Number of Fatalities	Number of Injuries
1961	9,279	65	2,153
1962	9,249	102	4,262
1963	9,969	78	4,599
1964	10,700	90	4,800
1965	32,000	130	5,000
1966	34,000	130	5,000
1967	33,000	120	4,000
1968	37,000	140	5,000
1969	39,000	140	5,400
1970	42,000	140	5,400
1971	47,000	150	5,600
1972	45,000	180	6,000
1973	42,000	210	6,000
1974	43,000	200	6,500
1976	51,000	220	7,200
1977	58,000	180	7,200

SOURCES: National Safety Council, Accident Facts, editions 1961-1974 and 1976-1977 (Chicago). It should be noted that all states vary in their procedures for reporting school bus accidents. Many states, e. g., North Carolina, report every minor collision and every minor injury; other states are not as precise. In addition, a few states do not report their statistics with regularity to the National Safety Council. As a result, the above statistics are "reliable estimates." See United States, Department of Transportation, National Highway Safety Bureau, School Bus Safety: Operator Age in Relation to School Bus Accidents, by David M. Promisel et al., No. HS 800209 (Darien, Connecticut: a synopsis of the National Highway Safety Bureau's study issued by Dunlap and Associates, Inc., 7 March 1970), p. 3.

Indices of the Growth of Pupil Transportation

The growth of pupil transportation in the United States has been steady and upward from its earliest beginning. Since the recording of accurate statistics in the 1920's, the number of buses, pupils transported and dollars spent on pupil transportation have increased every year. The following three tables demonstrate the growth of pupil transportation in the United States since the 1920's.

- (a) TABLE 5: The Number of School Buses, United States, 1925-1977 (selected years)
- (b) TABLE 6: The Number of Pupils Transported and the Percent of the Total Pupil Population Transported at Public Expense, United States, 1929-1930 to 1976-1977 (selected school years)
- (c) TABLE 7: The Total Public Expenditure and Per Pupil Expenditure, United States, 1923-1924 to 1976-1977 (selected school years).

School buses

The following conclusions may be drawn from a study of the yearly increase in the numbers of school buses in the United States since 1925 (Table 5):

- (a) The total number of school buses increased by 271,488 from 1925 until 1977
- (b) The percentage of increase in America's school bus fleet from 1925 until 1977 was 1017%
- (c) There was a decrease of 4007 school buses used for pupil transportation from 1940 to 1945. Wartime demands decreased the number of school buses available during this period
- (d) From 1925 until 1975, American schools increased their total bus fleet by an average of 22,613 buses every five years.

TABLE 5

The Number of School Buses,
United States,
1925-1977 (selected years)

Year	Number of Buses
1925	26,685
1930	48,775
1935	77,825
1940	93,306
1945	89,299
1950	116,197
1955	154,057
1960	179,780
1965	206,000
1970	239,973
1975	282,834
1977	298,173

SOURCES: Noble, "War-Time Pupil Transportation," pp. 9-10; National Highway Traffic Safety Administration, Transportation Safety Plan, p. vii; North Carolina Department of Public Instruction, Division of Transportation, (phone conversation, July 25, 1979).

Pupils transported at public expense

Table 6 reveals the following about pupils transported at public expense from 1929 to 1977:

- (a) The percentage of pupils transported by school bus has increased every school year since 1929
- (b) The number of pupils transported at public expense increased by 21,253,180 pupils from school years 1929-1930 to 1976-1977
- (c) The percentage of increase in pupils transported at public expense from school years 1929-1930 to 1976-1977 was 1116%

TABLE 6

The Number of Pupils Transported and the Percentage of the Total Pupil Population Transported at Public Expense, United States, 1929-1930 to 1976-1977.
(selected school years)

School Year	Total Public School Pupils	Pupils Transported at Public Expense	
		Number	% of Total
1929-1930	25,678,015	1,902,826	7.4
1931-1932	26,275,441	2,419,173	9.2
1933-1934	26,434,193	2,794,724	10.6
1935-1936	26,367,098	3,250,658	12.3
1937-1938	25,975,108	3,769,242	14.5
1939-1940	25,433,542	4,144,161	16.3
1941-1942	24,562,473	4,503,081	18.3
1943-1944	23,266,616	4,512,412	19.4
1945-1946	23,299,941	5,056,966	21.7
1947-1948	23,944,532	5,854,041	24.4
1949-1950	25,111,427	6,947,384	27.7
1951-1952	26,562,664	7,697,130	29.0
1953-1954	25,643,871	8,411,719	32.8
1955-1956	27,740,149	9,695,819	35.0
1957-1958	29,722,275	10,861,689	36.5
1959-1960	32,477,440	12,225,142	37.6
1961-1962	34,582,340	13,222,667	38.1
1963-1964	37,405,058	14,475,778	38.7
1965-1966	39,154,497	15,536,567	39.7
1967-1968	40,827,965	17,130,873	42.0
1969-1970	41,934,376	18,198,577	43.4
1971-1972	42,254,272	19,474,355	46.1
1973-1974	41,438,054	21,347,039	51.5
1975-1976	41,274,308	22,757,316	55.1
1976-1977	40,867,493	23,156,006	56.0

SOURCES: National Center for Educational Statistics, Digest, 1977-1978, p. 41; North Carolina, Department of Public Instruction, Division of Transportation (phone conversation, July 25, 1979).

TABLE 7

The Total Public Expenditure and Per Pupil Expenditure
for Pupil Transportation, United States,
1923-1924 to 1976-1977 (selected school years).

Year	Total Expenditures (in thousands)	Per Pupil Expenditures
1923-1924	29,627	35.38
1925-1926	35,052	31.53
1927-1928	47,517	29.99
1929-1930	54,823	28.81
1931-1932	58,078	24.01
1933-1934	53,908	19.29
1935-1936	62,653	19.27
1937-1938	75,637	20.07
1939-1940	83,283	20.10
1941-1942	92,922	20.64
1943-1944	107,754	23.88
1945-1946	129,756	25.66
1947-1948	176,265	30.11
1949-1950	214,504	30.88
1951-1952	268,827	34.93
1953-1954	307,437	36.55
1955-1956	353,972	36.51
1957-1958	416,491	38.34
1959-1960	486,338	39.78
1961-1962	576,361	43.59
1963-1964	673,845	46.55
1965-1966	787,358	50.68
1967-1968	981,066	57.27
1969-1970	1,218,066	66.96
1971-1972	1,507,830	77.43
1973-1974	1,858,141	87.04
1975-1976	2,371,814	104.22
1976-1977	2,666,446	115.10

SOURCES: United States, Department of the Interior, Office of Education, "One-Room Schools and Transportation of Pupils, 1937-1938," by David T. Blose, Circular No. 195 (Washington, D. C.: Government Printing Office, n. d.), p. 17; National Center for Educational Statistics, Digest, 1977-1978, p. 41.

Expenditures for pupil transportation

Like school buses and pupils transported, the expense involved in pupil transportation has increased steadily since the 1920's. Table 7 indicates the following:

- (a) Total expenditures for pupil transportation increased by over \$750,000,000 from school years 1923-1924 to 1976-1977
- (b) The percentage of total expenditure increase for pupil transportation from school years 1923-1924 to 1976-1977 was 8900%
- (c) The average expenditure per child for pupil transportation from school years 1923-1924 to 1976-1977 was \$42.66.

Pupil transportation is the largest auxiliary service in public education today. Despite the declining public school enrollment in recent years, the number of students requiring transportation to and from school has increased steadily. All indications point to a continuation of the phenomenal growth experienced by pupil transportation since the 1920's.

CHAPTER III
LEGISLATION AFFECTING NORTH CAROLINA
SCHOOL BUS DRIVERS, 1911-1979

What we're looking for in a school bus driver is a paragon---a diplomat, a public-relations man, a nursemaid, a Prussian general for discipline. He must be able to keep both eyes on the road, watch for traffic situations with much more care than the average motorist, and control 50 or so squirming, yelling, energetic, hell-bent kids.¹

Walter W. Gordon, Director
of Pupil Transportation,
Baltimore City Schools

Since 1911, the pupil transportation programs of the various North Carolina school systems have been subject to legislation enacted by the General Assembly. Prior to 1931, pupil transportation in the State was largely a matter of local concern and the General Assembly passed few bills that challenged local control. Since that year, the major responsibility for financing and controlling pupil transportation has been assumed by the State.

Chapter III will deal with General Assembly legislation enacted between 1911 and 1979 that concerned school bus drivers. School bus drivers in North Carolina are employees of one of the largest pupil transportation systems in the United States.² Since 1911, and

¹"Getting to School," Newsweek (18 April 1960): 108.

²North Carolina operates the eighth largest pupil transportation system in the United States. Motor Vehicles Manufacturer's Association, Motor Vehicle Facts and Figures (Detroit: Communications Division, Motor Vehicles Manufacturer's Association, 1978), p. 46.

particularly since 1931, the General Assembly has passed numerous laws directly related to school bus drivers. Chapter III will trace the development of the role of school bus drivers in the pupil transportation programs of North Carolina by analyzing those laws.

North Carolina Pupil Transportation Legislation
1911 to 1933

The first pupil transportation law and
the growth of pupil transportation in
North Carolina, 1911-1933

In 1911, the General Assembly of North Carolina passed the state's first pupil transportation law. The law read as follows:

Upon the consolidation of two or more school districts into one by the county board of education, the said county board of education is authorized and empowered to make provision for the transportation of pupils to said consolidated school district that reside too far from the schoolhouse to attend without transportation, and to pay for the same out of the apportionment to said consolidated district: PROVIDED, that the daily cost of transportation per pupil shall not exceed the daily cost per pupil of providing a separate school in a separate district for said pupils.³

North Carolina was the thirty-third state to enact pupil transportation for the first time. Six Southern states enacted legislation before North Carolina's action in 1911.⁴

³North Carolina, Session Laws of the State of North Carolina (1911), Chapter 135, Section 1(a). Hereafter, reference will be made to the title as Session Laws.

⁴United States, Department of the Interior, Bureau of Education Consolidation of Schools and Transportation of Pupils, by J. F. Abel, Bulletin No. 41 (Washington, D. C.: Government Printing Office, 1923), pp. 21-22.

Like most early pupil transportation legislation, the North Carolina statute was permissive. Local school administrative units were under no compulsion to provide transportation for pupils attending the public schools. Education in general and pupil transportation in particular were concerns of local governments in North Carolina prior to 1933 when the state took control of the public schools. One account states:

In North Carolina, as in other states, pupil transportation at public expense began rather sporadically and on the initiative of local units. . . . Because of poor roads and other factors, there was no rush to take advantage of this permissive legislation (1911 pupil transportation act). . . . (T)he administration, supervision, and responsibility of providing funds for transportation was an obligation of each county board of education.⁵

The 1911 pupil transportation law of North Carolina was similar to early transportation laws of other states in another respect. As in other states, the 1911 Act linked pupil transportation to the consolidation of schools. As early as 1900, smaller schools in the state were phased out in favor of larger and more centrally located schools. Students who resided an inconvenient distance from the newly formed schools were placed at a great disadvantage. Local school units and the state felt an obligation to meet the transportation problems of these students. Thus, publicly financed pupil transportation programs in the various school districts of North Carolina were an outgrowth of the consolidation movement.⁶

⁵North Carolina, State Educational Commission, Report on Education in North Carolina, Today and Tomorrow (Raleigh: Edwards and Broughton Company, 1948), pp. 319-320.

⁶Nationwide consolidation movements were discussed in Chapter II.

The 1911 pupil transportation law was a recognition on the part of North Carolina that without pupil transportation legislation, the consolidation efforts of the state's school systems would be impeded. State School Superintendent J. Y. Joyner wrote in September of 1911:

Consolidation of districts has possibly not kept pace with some other phases of our educational progress because it was necessarily limited to reasonable walking distance from the schoolhouse until the amendment of the school law in 1911 provided specifically for transportation of pupils.⁷

Despite the permissive nature of the 1911 pupil transportation law, pupil transportation in North Carolina grew rapidly from 1911 to 1933. By 1923, 93 counties in North Carolina were transporting pupils to school at public expense. By 1928, every county had established a pupil transportation system.⁸ Table 8 shows the growth of pupil transportation in North Carolina from 1914 until 1933 using two indicators of growth: number of school buses and number of pupils transported.

⁷North Carolina, Department of Public Instruction, Consolidation of Schools and Public Transportation of Pupils, by L. C. Brogden, Educational Publication No. 17 (Raleigh: issued by the Office of the Superintendent of Public Instruction, 1911), p. 7.

⁸North Carolina, State Department of Archives and History, Records Center, "State Department of Public Instruction; Statistical Services and Financial Reports, 1915-1924," Box 14, Row 10B AND 1924-1929, Box 15, Row 10B. In school year 1928-1929, Alleghany County became the last county in North Carolina to provide pupil transportation at public expense.

TABLE 8

The Growth of Pupil Transportation in
North Carolina, 1914-1933

School Year	Number of Vehicles Used Daily	Number of Pupils Transported Daily
1914-1915	6	150
1919-1920	247	7,936
1921-1922	528	20,359
1922-1923	858	31,544
1923-1924	1,318	48,251
1924-1925	1,909	69,295
1925-1926	2,317	87,283
1926-1927	2,876	111,725
1927-1928	3,258	136,980
1928-1929	3,716	165,328
1929-1930	4,046	181,494
1930-1931	4,240	200,416
1931-1932	4,418	225,814
1932-1933	4,502	244,147

SOURCES: North Carolina, Department of Public Instruction, Education in North Carolina, Educational Publication No. 101 (Raleigh: Office of the Superintendent of Public Instruction, 1925), p. 13; "Transportation of School Children," State School Facts I (July 1925): 1; "Cost of School Transportation," State School Facts XV (January 1943): 1.

Pupil transportation
legislation, 1919-1923

From 1911 until 1919, no pupil transportation legislation was enacted by the General Assembly of North Carolina. The school systems in the state that took advantage of the 1911 pupil transportation law were left to their own inclinations in implementing the program.

In an extra session of the 1920 General Assembly, the 1911 pupil transportation law was amended for the first time. The following section of the law was deleted:

. . . and to pay for the same out of the apportionment to said consolidated district. PROVIDED, that the daily cost of transportation per pupil shall not exceed the daily cost per pupil of providing a separate school in a separate district for said pupils.⁹

The following lengthier provision replaced the deleted section:

An amount sufficient to cover the actual expense of such transportation of pupils may be included in the county school budget submitted to the county board of commissioners on the first Monday in May of each year, and when so included by the county board of education it shall be deemed a necessary part of the operating expenses of the school to be paid out of the incidental building funds, and it shall be the duty of the county board of commissioners to provide the funds . . . but nothing in this section shall prevent the county board of education from arranging with any district committees to pay a reasonable part of this expense.¹⁰

In 1923, the General Assembly extended the 1911 pupil transportation act and the 1920 amendment by adding the following provision:

The cost of trucks and automobiles and all necessary repairs and operating expenses shall be a legitimate item in the budget.¹¹

The impact of the 1920 and 1923 amendments to the 1911 pupil transportation law was significant for pupil transportation in the state in two ways. First, the amendments made pupil transportation

⁹North Carolina, Session Laws (1911), Chapter 135, Section 1(a).

¹⁰North Carolina, Session Laws (1920, Extra Session), Chapter 91, Section 7.

¹¹North Carolina, Session Laws (1923), Chapter 136, Section 81.

a legitimate and necessary expense for county boards of commissioners to assume. Heretofore, pupil transportation was not a specific item in county budgets. Individual schools within the counties paid pupil transportation costs out of the total funds appropriated by the counties. Secondly, the amendments eliminated consolidation as a prerequisite to the provision of pupil transportation. The original pupil transportation law held that students could be transported only when two or more school districts consolidated. In accordance with the amendments, local school boards could provide pupil transportation if it was recognized as a legitimate and necessary expense and the county commissioners appropriated the money.

The amendments mentioned above were indicative of the growing state interest in pupil transportation. With the passage of other legislation during the 1920's, the state moved closer to the ultimate complete takeover of pupil transportation in 1933. For school bus drivers, the increasing volume of legislation coming from the General Assembly meant that the source of their supervision and control was gradually moving away from the local unit and closer to Raleigh.

The growing state control of pupil transportation, 1923-1929

During the 1920's, the North Carolina General Assembly enacted legislation increasing the state's role in pupil transportation in the following areas:

1. Financial - state funds were appropriated to local administrative units specifically for pupil transportation
2. Regulatory - state education agencies were given authority over certain aspects of local pupil transportation programs

3. Traffic safety - school bus safety laws were enacted to insure uniform compliance statewide

Financial. In 1921, the General Assembly directed that "all trucks or automobiles owned or controlled by county boards of education for transporting pupils to school" were exempt from taxation.¹² This indirect financial aid was reinforced by other legislation during the 1920's aimed at increasing the financial responsibility of the state for pupil transportation.

In 1923, the General Assembly authorized the spending of state funds specifically for pupil transportation. For the first time, the State Board of Education was allocated \$30,000 from the State Equalizing Fund "with which to assist the counties in paying for the transportation of pupils."¹³

From 1923 until 1933, the General Assembly appropriated state funds for pupil transportation. The amounts varied from year to year. The manner in which the money was distributed to the counties was determined by the State Board of Education until 1927.¹⁴ In that year, the General Assembly charged a new agency, the State Board of

¹²North Carolina, Session Laws (1921), Chapter 179, Section 3.

¹³North Carolina, Session Laws (1923), Chapter 141, Section 5. The State Equalizing Fund was a special fund set aside by the General Assembly in 1901. The General Assembly recognized that because of varying local conditions, some school districts in the state were better able to support the public schools than others. Using certain formulas and the budgets submitted by local school boards, the State Board of Education allocated monies to local units based on need. No doubt some funds distributed to local units from 1911 until 1922 were spent for pupil transportation. The 1923 legislation allocated funds specifically for that purpose.

¹⁴North Carolina, Session Laws (1923), Chapter 141, Section 5.

Equalization, with the task of distributing state funds for pupil transportation.¹⁵

As stated earlier, the General Assembly of 1920 recognized pupil transportation as a legitimate and necessary expenditure for local school units. In 1927, the General Assembly required local boards of education to include pupil transportation expenses in their budgets.

The legislation prescribed the following:

The May budget prepared by the county board of education shall provide three school funds: (a) a current expense fund, (b) a capital outlay fund, and (c) a debt service fund.¹⁶

The current expense fund was divided into six parts, one of those being "auxiliary services." The operating costs of pupil transportation was to be included as an auxiliary service.¹⁷ In addition, state law required that the "acquisition of trucks and other vehicles for the transportation of pupils" was to be a part of the capital outlay fund.¹⁸

Prior to 1929, state funds for pupil transportation were distributed to local school units on the basis of a dollar amount per school truck.¹⁹ In 1929, the General Assembly enacted legislation that provided funds on a per pupil basis. The legislation stated:

¹⁵North Carolina, Session Laws (1927), Chapter 261, Sections 2 and 3.

¹⁶North Carolina, Session Laws (1927), Chapter 239, Section 1(a).

¹⁷"Current Expense Distribution," State School Facts 1 (15 September 1928): 1.

¹⁸North Carolina, Session Laws (1927), Chapter 239, Section 1(b).

In counties in which consolidation has necessitated transportation of pupils the salary cost shall also be increased by such sum as was actually expended the previous year in transportation of pupils, not however, to exceed the sum of eight dollars per pupil transported during said six months' period. The State Board of Equalization may upon proper showing increase the amount in excess of eight dollars, (\$8.00) per pupil, but not, however, in any event, to exceed fifteen per cent of the salary cost.²⁰

State financial aid to local school units for pupil transportation was opposed by some state leaders. Archibald Allen, State Superintendent of Public Instruction (1923-1934), was a staunch supporter of such financial aid. Under his leadership, state aid for pupil transportation was continued and increased during the 1920's. Superintendent Allen wrote in 1924: "The State should encourage (pupil) transportation by contributing to its support."²¹ In 1926, the Superintendent wrote: "When we get a little further from this marvelous development (pupil transportation), it will, in my opinion, be regarded as a remarkable educational development."²²

Regulatory. As state financial aid to local school units for pupil transportation expenses increased during the 1920's, the regulatory authority exercised by state agencies did likewise. From 1923 until 1927, the State Board of Education allocated funds to the

²⁰North Carolina, Session Laws (1929), Chapter 245, Section 7(c).

²¹North Carolina, Department of Public Instruction, Biennial Report of the Superintendent of Public Instruction, 1922-1924, Educational Publication No. 83 (Raleigh: State Superintendent of Public Instruction, n. d.), p. 14

²²North Carolina, Department of Public Instruction, Biennial Report of the Superintendent of Public Instruction, 1924-1926, Educational Publication No. 109 (Raleigh: State Superintendent of Public Instruction, n. d.), p. 16.

local administrative units.²³ In 1927, the General Assembly appointed the State Board of Equalization as the responsible agency.²⁴ The State Board of Equalization apportioned funds to local units until 1933.

The State Board of Education and the State Board of Equalization were granted broad authority in making rules and regulations for the proper disbursement of state funds.²⁵ In 1929, the General Assembly strengthened the regulatory power of the State Board of Equalization. The General Assembly was concerned about the increasing costs of pupil transportation in the state. As a result, the 1929 legislation directed the Board of Equalization to take steps that would lead to greater economy and efficiency. The legislation directed the State Board of Equalization to perform the following:

Supervise and direct the methods used in the administration of transportation facilities for school children, including the purchase of trucks and busses as well as the upkeep thereof; and shall provide as nearly uniform as possible an amount to be set up in each school budget to repurchase and keep in proper condition all facilities of transportation, including the setting up of a standard and fixed schedule of charges for the repairs of busses and fixed schedule of charges for trucks, in so far as it is possible to do so, and the establishment of county garages, if the repairs and upkeep of transportation facilities can thereby be reduced.²⁶

The role of school bus drivers in the pupil transportation programs of the state was greatly affected by the 1929 legislation

²³North Carolina, Session Laws (1923), Chapter 141, Section 5.

²⁴North Carolina, Session Laws (1927), Chapter 261, Section 2.

²⁵North Carolina, Session Laws (1923), Chapter 141, Section 5; North Carolina, Session Laws (1927), Chapter 261, Section 3.

²⁶North Carolina, Session Laws (1929), Chapter 245, Section 4(b).

described above. In order to economize, the state began to seriously consider the large scale use of high school students as school bus drivers. By 1933, the state would commit itself fully to that end.

Traffic safety. Only two legislative enactments concerning school bus safety were passed by the General Assembly during the 1920's. Both laws were passed in 1925 and both are in effect as of this writing. The two acts are important for this study since they directly affected the driving behavior of school bus drivers. The first law stated:

Any person operating a bus carrying school children to and from the schools in the state who shall travel at a greater rate of speed than twenty-five miles per hour along any public street or public highway in the state of North Carolina shall be guilty of a misdemeanor and shall be punished by a fine not in excess of the sum of fifty dollars.²⁷

The second law required motorists in both lanes of traffic to come to a complete stop when a school bus was "taking on or putting off school children."²⁸

As stated earlier, the state eventually took complete control over pupil transportation in North Carolina in 1933. The legislation described in the preceding three subsections indicated a movement in that direction by 1929. In that year, a national catastrophe prompted the state to hasten that movement--the Great Depression.

²⁷North Carolina, Session Laws (1925), Chapter 297, Section 1.

²⁸North Carolina, Session Laws (1925), Chapter 265, Section 1.

Pupil transportation, school bus drivers,
and the General Assembly of 1931

The General Assembly in 1929 was faced with the task of holding down the cost of education in general and pupil transportation in particular. The importance of that task was magnified by early 1930 while the state, like the rest of the nation, was struggling through the greatest economic depression in American history.

By 1931, the public schools in North Carolina were not only faced with troubled economic times but the clear possibility existed that the schools might have to close. Clyde Erwin, State Superintendent of Public Instruction (1934-1952), recalled the period and the situation facing the General Assembly of 1931:

The General Assembly of 1931 faced a much more difficult situation than that faced by the 1929 body. Although the legislature of 1929 had made an effort to decrease the cost of public education, it had been successful only in halting it to some extent. Therefore, in 1931, due to the fact that local taxes could not be collected and teachers and other employees in many instances were unpaid for a part of their services, complaints against the high cost of education and high taxes were even more pronounced than they were in 1929. The operation of the schools . . . was largely dependent upon property taxes, local and county, and during the two year period from 1929 to 1931, land values had continued their descent. This situation naturally brought forth candidates for the General Assembly, who not only were in favor of reducing taxes on such property, but who were also ready to lay the axe severely to public education, some even advocating the closing of the schools for a year or two.²⁹

²⁹North Carolina, Department of Public Instruction, Biennial Report of the Superintendent of Public Instruction, 1932-1933 and 1933-1934: Part I, Summary and Recommendations, Educational Publication No. 181 (Raleigh: State Superintendent of Public Instruction, n. d.), p. 31.

A Special Educational Commission was established in 1931 to study ways of bringing economy to public education in light of the distressing economic times. The Commission held hearings with the Tax Relief Association of North Carolina, the North Carolina Education Association, the State Tax Commission and "a number of county and city superintendents." In its report to Governor O. Max Gardner and the General Assembly, the Commission recommended that "the State should participate in a larger percentage of the necessary current operating costs of the public schools."³⁰

Regarding pupil transportation in the state, the Commission reported the following:

Transportation has come to be very expensive, much of it on account of duplication and of unnecessary transportation. Two trucks run along the same highway to haul pupils to different schools because the public road happens to be the division line between the districts. Trucks drive up in sight of a great city high school and haul pupils many miles into the country, where they are meagerly cared for. Trucks haul rural children right through the streets of cities many miles into the country. All of this entails unnecessary expense on the tax payer.³¹

In response to the recommendations of the Special Educational Commission, the General Assembly of 1931 passed An Act to Provide for the Standardization of Transportation Systems for School Children and to Provide for the Economical Operation of the Same. The Act authorized the State Board of Equalization to begin "at once a

³⁰North Carolina, Special Educational Commission, Report of the Educational Commission, Submitted to Governor O. Max Gardner and the General Assembly of 1931 (Raleigh: Edwards and Broughton Company, 1931), pp. 3-4.

³¹Ibid., p. 56.

thorough study of the several systems now in operation for the transportation of public school children to ascertain possible economies."³²

In addition, the State Board of Equalization was directed specifically to

collect information bearing on the salaries of truck drivers, mechanics and helpers, and formulate as rapidly as possible rules and regulations governing the qualifications and compensations of such employees.³³

For the first time, a state agency was given authority to establish qualifications and wages for school bus drivers. Pursuant to the 1931 Act and with specific reference to school bus drivers, the State Board of Equalization recommended that high school students should be used in the pupil transportation programs of the state. The Board felt that students could be employed more economically than adult drivers. The Board established a maximum wage of \$9.00 per school month for school bus drivers to be paid from state funds.³⁴

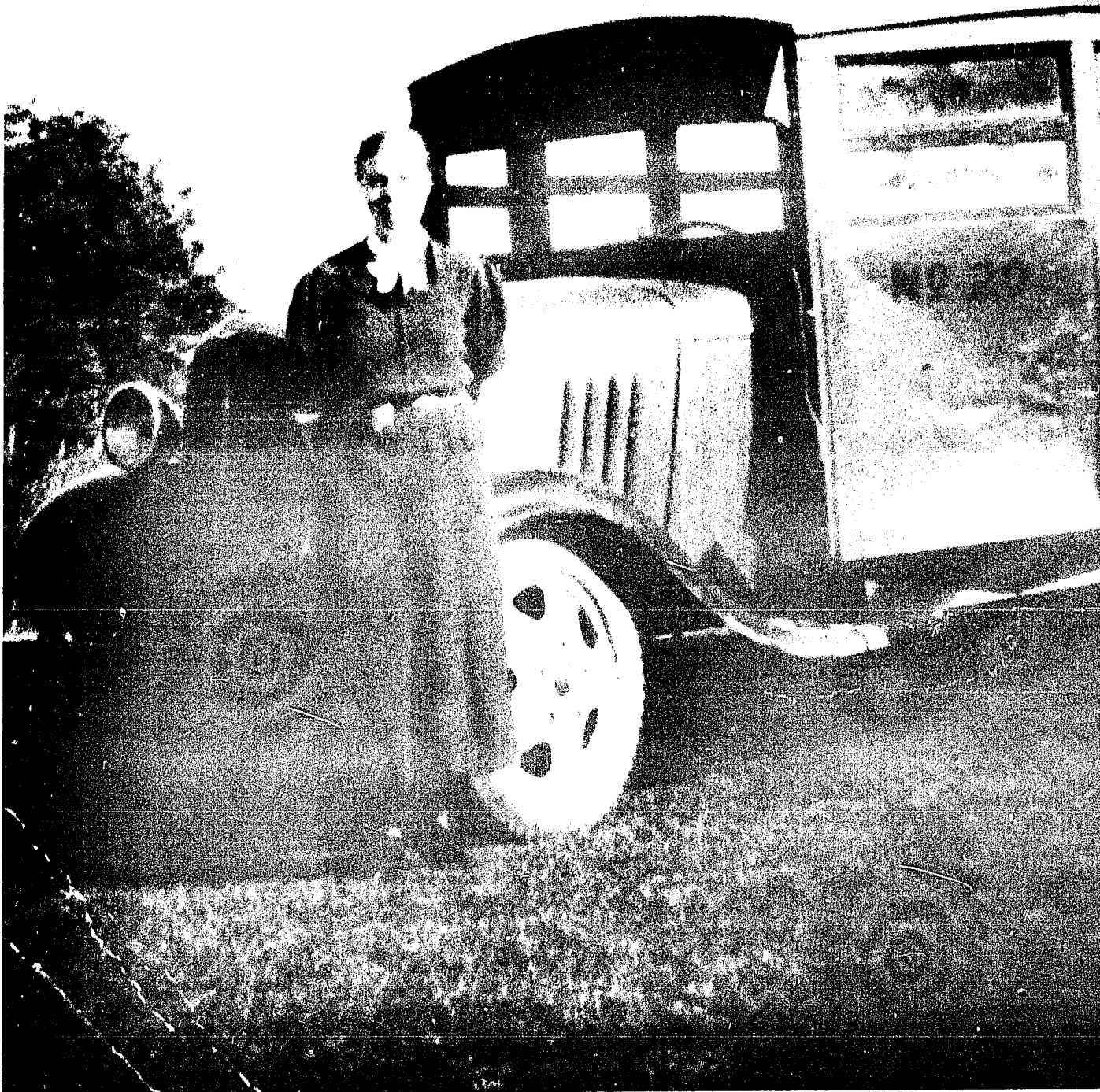
From the standpoint of this study, the 1931 Act of the General Assembly relating to pupil transportation was a milestone in the school bus driver programs of the North Carolina public schools. The decision to recommend the use of high school students as school bus drivers was born out of the economic realities of the Depression years. Since 1931, North Carolina has relied heavily on students to drive the state's school buses.

³²North Carolina, Session Laws (1931), Chapter 937, Section 1.

³³Ibid., Section 3.

³⁴North Carolina, State Board of Equalization, Minutes, 19 August 1931.

Early North Carolina School Bus (circa 1935)



Legislation Affecting North Carolina

School Bus Drivers, 1933-1955

Reference has been made to the economic difficulties facing local school units from 1929 to 1931. With the Depression depleting the financial resources of local public school units, the need for uniformity and greater state financial responsibility for public education was evident. In 1933, the General Assembly enacted the Public School Law of 1933. The legislation provided for state control of public education in North Carolina.

The Public School Law of 1933 created the State School Commission as the fiscal control agent of the public school funds of the state. The Commission replaced the State Board of Equalization. The School Commission was composed of the Governor (as Chairman, Ex Officio), the Lieutenant Governor, the State Treasurer, the State Superintendent of Public Instruction, and one member appointed by the Governor and approved by the General Assembly from each of the state's eleven congressional districts.³⁵

The State School Commission was given "broad and plenary powers" over the administration of the public schools of North Carolina.³⁶ Concerning pupil transportation, the Commission was given control and management of all facilities for the transportation of public school children in the state. The Public School Law of 1933 authorized the State School Commission to obtain ownership over " all school

³⁵North Carolina, Session Laws (1933) Chapter 1061, Section 2.

³⁶"The Outstanding Features of the New Public School Law," North Carolina Teacher (May 1933): 324.

transportation equipment, material, and supplies of every kind and all such property as may have been used in connection with school transportation."³⁷

The 1933 Public School Law provided for the selection and salary of school bus drivers.

The authority for selecting and employing the drivers of school busses shall be vested in the principal or superintendent of the school at the termination of the route, subject to the approval of the school committeemen or trustees of said school: PROVIDED, that each driver shall be selected with a view to having him located as near the beginning of the truck route as possible; and it shall be lawful to employ student drivers whenever such is deemed advisable. The salary paid each employee in the operation of the school transportation system shall be in accordance with a salary schedule adopted by the State School Commission for that particular type of employee.³⁸

The only other specific reference to school bus drivers in the Public School Law of 1933 concerned the Workmen's Compensation Act. School bus drivers injured while performing their official duties were eligible for compensation under the Workmen's Compensation Act of 1933.³⁹

State agencies responsible for
pupil transportation, 1933-1955

From 1933 until 1943, the State School Commission was responsible for pupil transportation in North Carolina. In 1943, the General Assembly abolished the commission and assigned all its powers and duties to the newly created State Board of Education.⁴⁰ The 1943

³⁷North Carolina, Session Laws (1933), Chapter 1061, Section 27.

³⁸Ibid., Section 29.

³⁹Ibid., Section 24.

⁴⁰North Carolina, Session Laws (1943), Chapter 1221, Preamble.

legislation provided a comptroller to supervise and manage the fiscal affairs of the State Board of Education.⁴¹

The comptrol-er was given authority to select employees to help in the administration of the fiscal affairs of the State Board of Education.⁴² In line with that authority, the Division of Transportation was established as a division of the State Comptroller's Office.

From 1943 until 1945, confusion existed about the role of the State Comptroller and the Superintendent of Public Instruction. To clarify that confusion, the General Assembly of 1945 passed a law "to provide a clarification of the various agencies administering the public schools."⁴³ Under the 1945 law, the controller (new spelling), under the direction of the State Board of Education, was given authority over "all school bus transportation matters."⁴⁴ From 1945 until the present, the Division of Transportation, under the direction of the State Controller, has carried out the duties and responsibilities assigned to the controller by laws passed by the General Assembly or by rules and regulations adopted by the State Board of Education.

⁴¹North Carolina, Session Laws (1943), Chapter 1221, Section 4. The term "comptroller" was changed to "controller" by the 1945 General Assembly. North Carolina, Session Laws (1945), Chapter 1030, Section 12.

⁴²North Carolina, Session Laws (1943), Chapter 1221, Section 8.

⁴³North Carolina, Session Laws (1945), Chapter 1030, Preamble.

⁴⁴Ibid., Section 10.

Selection, supervision, training and salaries of school bus drivers, 1933-1955

From 1933 to 1955, the authority for selecting and supervising school bus drivers was vested jointly in three persons or groups by the General Assembly: the principal or superintendent of individual schools, the school committeemen or trustees of individual schools and the superintendent of individual administrative school units. The principal or superintendent of a school selected a school bus driver. The principal or superintendent's choice had to receive the approval of the school committeemen or trustees and the superintendent of that school's administrative unit.⁴⁵

The requirements for school bus drivers in North Carolina from 1933 to 1955 were established mainly by means other than legislation of the General Assembly. Because of their vested power of selection, principals, school committeemen and superintendents were able to subject potential school bus drivers to varying requirements. In addition, the rules and regulations adopted by the State Controller and the Division of Transportation and subject to the approval of the State Board of Education had a bearing on established requirements for school bus drivers.

General Assembly legislation from 1933 to 1955 concerning the requirements of school bus drivers was general, permissive, and at times, vague. A specific request by the General Assembly was that a

⁴⁵North Carolina, Session Laws (1933), Chapter 1062, Section 29; North Carolina, Session Laws (1935), Chapter 955, Section 27; North Carolina, Session Laws (1939), Chapter 357, Section 27.

school bus driver "shall be selected with a view to having him located as near the beginning of the truck route as possible."⁴⁶ Economy prompted this requirement. Drivers located near the beginning of a bus route would use less gasoline driving to their first stop in the morning.

The reference to "him" in the legislation above would appear to indicate that the General Assembly required school bus drivers to be males. However, grammatical references to "him" at the time indicated a neuter gender. At any rate, during World War II, female drivers were employed to drive school buses. In school year 1942-1943, eighty-two girls were trained to drive school buses in North Carolina.⁴⁷ In school year 1944-1945, 980 girls were among the 7,055 school bus drivers certified to operate school buses.⁴⁸ Evidence further indicates that females were used as school bus drivers in the early 1930's.⁴⁹

No specific mention of an age requirement was made by the General Assembly in legislation from 1933 to 1955. The General Assembly did state that "it shall be lawful to employ student drivers whenever such is deemed advisable."⁵⁰ This statement indirectly

⁴⁶North Carolina, Session Laws (1933), Chapter 1062, Section 29.

⁴⁷"Under the Dome," The Raleigh News and Observer, 21 June 1943, p. 1.

⁴⁸Z. E. Helms, "Driver Training is Reason for This Splendid Bus Safety Record," School Management (November 1946): 19.

⁴⁹"High School Boys Set Record as Safe Drivers," Greensboro Daily News, 1 May 1938, p. 2A.

⁵⁰North Carolina, Session Laws (1933), Chapter 1062, Section 29.

set the age limit at sixteen since that was the minimum age requirement for obtaining a driver's license in North Carolina.

Additional requirements for school bus drivers were stated in General Assembly legislation from 1933 to 1955. In 1937, legislation required that school bus drivers had to be "fully trained in the operation of motor vehicles."⁵¹ School bus drivers were further required to be "fit and competent person(s) to operate or drive a school bus over the public roads of the State."⁵² Attainment of these two requirements was to be certified by representatives of the State Highway Patrol or the State Highway Commission.

Prior to 1937, there was no state-wide required training program for school bus drivers in North Carolina or any other state. In that year, North Carolina became the first state to establish such a training program.⁵³ By state law, every potential school bus driver in North Carolina had to be examined and certified by representatives of the North Carolina State Highway Patrol.⁵⁴ The 1937 law was amended in 1941 requiring the chief mechanic in charge of school buses in every county to examine and certify all school bus drivers in the chief mechanic's county.⁵⁵

⁵¹North Carolina, Session Laws (1937), Chapter 397, Section 1.

⁵²North Carolina, Session Laws (1937), Chapter 397, Section 1.

⁵³North Carolina, Report on Education in North Carolina, Today and Tomorrow, p. 332.

⁵⁴North Carolina, Session Laws (1937), Chapter 397, Section 1.

⁵⁵North Carolina, Session Laws (1941), Chapter 21, Section 1.

In 1945, a further amendment to the 1937 law mentioned above stated that a "representative duly designated by the Commissioner of Motor Vehicles" could certify school bus drivers in lieu of the representative from the State Highway Patrol.⁵⁶ After 1945, the Department of Motor Vehicles gradually assumed the responsibility for examining and certifying school bus drivers in the state.

Prior to 1933, school bus drivers in North Carolina were paid by local school units. In 1931, the State Board of Equalization directed that school bus drivers were to be paid a maximum wage of \$9.00 per month from the State Equalizing Fund.⁵⁷ However, it was not until school year 1933-1934 that drivers were actually paid from state funds. The State School Commission replaced the State Board of Equalization as the chief fiscal agent for the public schools in 1933 and established a salary of \$7.50 per month for school bus drivers.⁵⁸

From 1933 until 1943, the State School Commission determined the salary of school bus drivers, subject to the availability of state funds.⁵⁹ From 1943 until 1955, the State Controller with the approval of the State Board of Education and subject to the availability of state funds determined the salary of school bus drivers.⁶⁰

⁵⁶North Carolina, Session Laws (1945), Chapter 216, Section 1.

⁵⁷North Carolina, State Board of Equalization, Minutes, 19 August 1931.

⁵⁸"Provide Adult Drivers for State School Buses," Raleigh News and Observer, 28 June 1935, p. 5.

⁵⁹North Carolina, Session Laws (1933), Chapter 1062, Section 1.

⁶⁰North Carolina, Session Laws (1943), Chapter 1221, Section 8.

State wages for school bus drivers in North Carolina rose from \$7.50 per month in 1933 to \$22.00 per month in 1955.⁶¹ Nothing in the North Carolina statutes has prohibited local units from supplementing the salaries of school bus drivers. As of this writing, many North Carolina counties do supplement the salaries of school bus drivers.

School bus safety laws, 1933-1955

In 1925, the General Assembly enacted two laws relative to school bus safety. The laws established a 25 miles per hour speed limit and prohibited traffic from passing a stopped school bus. Between 1933 and 1955, three amendments were made to the above laws.

In 1937, the General Assembly raised the maximum speed limit for school buses to 35 miles per hour. School bus drivers violating the speed limit were subject to a fine of \$50.00 or 30 days imprisonment.⁶² The 35 miles per hour limit is in force as of this writing.

In 1943, the General Assembly rewrote the 1925 law requiring motorists in all lanes of traffic to come to a complete stop whenever a school bus was discharging or loading passengers. The new law required motorists to stop only if the words SCHOOL BUS were clearly visible on the front and rear of the bus in letters not less than five inches in height.⁶³

⁶¹"State Boasts Largest School Bus Fleet and Some of World's Prettiest Drivers," Greensboro Daily News, 26 December 1954, p. B2.

⁶²North Carolina, Session Laws (1937), Chapter 397, Section 2.

⁶³North Carolina, Session Laws (1943), Chapter 1267, Section 1.

The 1943 law stated above was further amended in 1953. This legislation required school buses to display "flashing stop signals" on the front and rear of the vehicle.⁶⁴ Additional legislation by the 1953 General Assembly authorized the use of red lights on school buses. This legislation was necessary since prior to that year, only ambulances and police cars had been permitted to use flashing red lights.⁶⁵

The General Assembly of 1945 addressed itself to another school bus safety problem--pupil misbehavior. Misbehavior on school buses has been a major concern of school officials for years. In 1938, a nation-wide survey of school superintendents revealed that the greatest number of disciplinary problems for school officials occurred on school buses.⁶⁶

The General Assembly of 1945 concluded that one means of controlling pupil misbehavior on school buses was the assignment of monitors to those buses. Legislation provided that "the superintendent or principal of every public school to which students are brought by school bus or school busses may appoint a monitor for every bus."⁶⁷ Monitors were authorized to "keep order and do other things necessary for the safe transportation of children in public school busses in North Carolina."⁶⁸ "Other things" necessary for safe transportation included escorting pupils across roads and helping pupils while boarding or alighting from a bus.

⁶⁴North Carolina, Session Laws (1953), Chapter 1340, Section 1.

⁶⁵North Carolina, Session Laws (1953), Chapter 354, Section 1.

⁶⁶M. C. S. Noble, Jr., Pupil Transportation in the United States (Scranton, Pennsylvania: International Textbook Co., 1940), p. 408.

⁶⁷North Carolina, Session Laws (1945), Chapter 1170, Section 1.

⁶⁸Ibid, Section 2.

Tort liability laws, 1933-1955

Prior to 1935, parents or guardians of students injured or killed as a result of a school bus accident received no compensation from the state. Parents or guardians could seek relief through the courts. However, the governmental immunity doctrine was invoked by courts where boards of education were sued: "Action cannot be maintained against board(s) of education for negligence in transporting pupils."⁶⁹ If school boards acted maliciously while performing an official act-- e. g., hiring an incompetent bus driver-- relief through the courts could be obtained.⁷⁰

The difficulty experienced by parents or guardians in seeking compensation for injuries to or the death of their children as a result of school bus accidents came to the attention of the 1935 General Assembly after several school bus accidents in Surry County. The legislators were moved by the extent of the injuries suffered and the inability of the parents to pay the necessary medical and hospital bills.⁷¹ As an expression of their concern, the General Assembly passed An Act to Provide Compensation for School Children Killed or Injured While Riding on a School Bus to and From the Public Schools of the State.⁷²

Under the provisions of the above law, the maximum amount that could be paid to the parents, guardians or administrators of a child

⁶⁹Benton v. Cumberland County Board of Education, 201 N. C. 653 (1931).

⁷⁰Betts v. Jones, 208 N. C. 410 (1935).

⁷¹North Carolina, Session Laws (1935), Chapter 958, Preamble.

⁷²North Carolina, Session Laws (1935), Chapter 245, Preamble.

killed or injured in a school bus accident was \$600.00⁷³ Parents, guardians or administrators of students injured were required to submit claims within one year of the accident.⁷⁴ The heirs of a student killed in a school bus accident were allowed one year from the date of death to submit a claim.⁷⁵

Awards made to claimants under the 1935 legislation were paid regardless of whether there was negligence on the part of the school bus driver. If a separate award was recovered by a claimant as a result of a civil suit, money awarded by the State School Commission was to be returned.⁷⁶

In 1949, the General Assembly enacted special legislation authorizing the North Carolina Industrial Commission to hear and pass on 179 claims against "the State Board of Education and other State departments, institutions and agencies." Most of the cases involved claims of negligence against school bus drivers. The Industrial Commission was directed to pay claimants up to \$6,000.00 if state employees were found negligent in the performance of their duties and there was no contributory negligence on the part of the claimant.⁷⁷

The 1949 legislation paved the way for passage of the Tort Claims Act of 1951. The North Carolina Industrial Commission was appointed as a permanent court for hearing and passing upon tort claims against the

⁷³North Carolina, Session Laws (1935), Chapter 245, Section 2.

⁷⁴Ibid., Section 3.

⁷⁵Ibid.

⁷⁶Ibid., Section 5.

⁷⁷North Carolina, Session Laws (1949), Chapter 1138, Section 1.

employees of state agencies. The Industrial Commission was authorized to pay a claimant up to \$8,000.00 if a state employee was found guilty of negligence and there was no contributory negligence on the part of the claimant.⁷⁸ The 1935 Act and the Tort Claims Act of 1951 will be discussed more fully in Chapter V.

Pupil Transportation Legislation in
North Carolina, 1955-1979

On May 17, 1954, the United States Supreme Court issued a legal brief stating that segregated public schools were "inherently unequal."⁷⁹ The famous Brown v. Board of Education decision marked the beginning of the end for segregated public school systems in the United States.

The far-reaching implications of the Brown decision have been discussed in volumes of literature on the subject. The decision is mentioned here only to illustrate the situation that North Carolina legislators faced when the General Assembly convened on January 5, 1955. The possibility that the segregated school systems of North Carolina were about to be dismantled was "the paramount problem facing the legislators."⁸⁰

In response to the Supreme Court ruling, the General Assembly of 1955 unanimously resolved:

⁷⁸North Carolina, Session Laws (1951), Chapter 1059, Section 1.

⁷⁹Brown v. Board of Education of Topeka, 347 U. S. 483 (1954).

⁸⁰Hugh Talmadge Lefler and Albert Ray Newsome, North Carolina: The History of a Southern State (Chapel Hill: University of North Carolina Press, 1963), p. 651.

The mixing of races in the public schools within the State cannot be accomplished and if attempted would alienate public support of the schools to such an extent that they could not be operated successfully.⁸¹

With this resolve, the 1955 General Assembly began a process of decentralizing the system of public education in the state. The School Code of 1955 devoted 105 pages to rewriting, amending, rearranging and renumbering legislation relevant to the educational system of the state.⁸²

The 1955 School Code provided four basic changes in the structure of public education in North Carolina:

1. elimination from the law of any reference to race;
2. transfer of authority over enrollment and assignment of pupils from the State Board of Education to local boards;
3. transfer of ownership, operation, and control of the State's 7,200 school buses to local units; and
4. substitution of yearly contracts for teachers and principals in lieu of continuing contracts.⁸³

As mentioned in the last section, the 1933 General Assembly established a system of public education that was administered and controlled mainly by the state. The Great Depression had forced the state to establish a more uniform and economical system of public education. In 1955, a new national "crisis" forced a reversal of this policy--desegregation of the public schools.

⁸¹North Carolina, Session Laws (1955), Resolution 29.

⁸²North Carolina, Session Laws (1955), Chapter 1372, pp. 1527-1632.

⁸³Lefler and Newsome, North Carolina, p. 651.

The School Code of 1955 and pupil transportation

The 1955 School Code emphatically divorced the state from responsibility for pupil transportation. The Code stated that the State Board of Education

shall have no authority over or control of the transportation of pupils and employees upon any school bus owned and operated by any county or city board of education.⁸⁴

In addition, the State Board of Education was placed under no obligation to "supply transportation to any pupil or employee enrolled or employed in any school."⁸⁵

As in the first pupil transportation law of 1911, the 1955 School Code made the provision of pupil transportation at public expense a purely voluntary act of local school units. Legislation stated that the State Board of Education was not liable

for the failure or refusal of any county or city board of education to furnish transportation . . . or for any neglect of action of any county or city board of education or any employee of any such board, in the operation or maintenance of any school bus.⁸⁶

The system of public school pupil transportation established by the General Assembly of 1955 remains virtually intact as of this writing. Of course, new laws have been passed; others have been amended, repealed or even declared unconstitutional.

⁸⁴North Carolina, Session Laws (1955), Chapter 1372, Subchapter 9, Article 21, Section 2.1.

⁸⁵Ibid., Section 2.2.

⁸⁶North Carolina, Session Laws (1955), Chapter 1372, Subchapter 9, Article 21, Section 2.2.

State and local governmental agencies
responsible for pupil transportation
in North Carolina, 1955-1979

The legislation enacted in 1955 and subsequent legislation by the General Assembly of North Carolina essentially entrusted control of pupil transportation in the state to four groups--the State Board of Education, county and city school boards, superintendents of local school units, and principals of individual schools. In order to clearly define the legal and administrative framework within which school bus drivers operate, a description of the duties and responsibilities of these four groups is in order. As the duties and responsibilities outlined are in force today, the present tense is used.

The State Board of Education. The intent of the School Code of 1955 was to entrust local school boards with the control and administration of pupil transportation. Local boards of education, however, are still subject to rules and regulations established at the discretion of the State Board. In addition, the State Board of Education provides over 90% of the financial support for pupil transportation.⁸⁷

Specifically, the State Board of Education has the authority and duty to perform the following:

1. To adopt rules and regulations concerning the "construction, equipment, color and maintenance of school buses, the number of pupils who may be permitted to ride at the same time upon any bus, and the age and qualifications of drivers of school buses."

⁸⁷North Carolina, State Highway Patrol, Traffic Safety Information Unit, "General Information on School Bus Safety," (Raleigh: 1977), p. 3. (Mimeographed)

2. To advise local school boards (when requested to do so by the local boards) on any matters "which arise in connection with the organization and operation of school bus transportation"
3. To allocate to local school units all funds appropriated by the General Assembly for pupil transportation
4. To establish a fund from which to compensate "the parent, guardian, executor or administrator of any pupil" killed or injured while being transported by a school bus
5. To replace buses or service vehicles destroyed "by fire, collision or otherwise"
6. To adopt rules and regulations concerning the qualifications of local transportation supervisors
7. To inspect activity buses purchased by county or city school units.⁸⁸

County and city school boards. The governmental body most directly responsible for the operation of pupil transportation systems in the state is the local school board. Duties and responsibilities conferred upon local school boards by General Assembly legislation since 1955 include the following:

1. To act as a hearing agent for parents or guardians wishing to appeal the assignment of their children to a bus by a school principal
2. To employ school bus drivers and assign such drivers to particular schools
3. To purchase school buses needed by the school unit in addition to those allocated by the state
4. To provide "adequate buildings and equipment for the storage and maintenance of all school buses and service vehicles"

⁸⁸(1) North Carolina, Session Laws (1955), Chapter 1372, Subchapter 9, Article 21, Section 2.4; (2) Ibid., Section 2.5; (3) Ibid., Section 2.6; (4) Ibid., Article 22, Section 1; (5) Ibid., Section 9.6; (6) North Carolina, Session Laws (1977), Chapter 314; (7) North Carolina, Session Laws (1975), Chapter 150, Section 1.

5. To provide financial aid in lieu of transportation to pupils whose houses cannot be serviced by school buses
6. To contract with firms or corporations for pupil transportation in lieu of providing a fleet of public school buses
7. To authorize the use of school buses by the North Carolina State Guard or the National Guard in time of emergency
8. To establish procedures, rules and regulations for the use of school buses by senior citizens' groups
9. To purchase activity buses and maintain same in county garage
10. To provide, at its discretion, safety assistants (monitors) to assist school bus drivers with school bus safety
11. To obtain, at its discretion, liability insurance for protection against claims by persons injured or killed on school buses or activity buses.⁸⁹

Superintendents. As the chief professional administrator of a school system, the superintendent has many specific duties and responsibilities regarding pupil transportation. Those duties and responsibilities include the following:

1. To allocate and assign school buses to the individual schools within the school unit
2. To supervise the use of all school buses within the system
3. To designate the number of pupils that may ride in a school bus if the bus travels to two or more schools
4. To alter bus routes if deemed advisable
5. To supervise the inspection of all school buses at least once a month

⁸⁹North Carolina, Session Laws (1955), Chapter 1372, Subchapter 9, Article 21, Section 5.4 and 5.5; (2) Ibid., Section 6.1; (3) Ibid., Section 9.1; (4) Ibid., Section 9.5; (5) Ibid., Section 10.2; (6) Ibid., Section 11; (7) Ibid., Section 11; (8) North Carolina, Session Laws (1977), Chapter 1282, Section 1; (9) North Carolina, Session Laws (1975), Chapter 150, Section 1; (10) North Carolina, Session Laws (1979), Chapter 770, Section 3; (11) North Carolina, Session Laws (1955), Chapter 1256.

6. To order the correction of defective school buses
7. To supervise the inspection of activity buses and order the correction of defective activity buses
8. To keep school bus drivers informed of all policies adopted by the State Superintendent of Public Instruction or the State Board of Education.⁹⁰

Principals. Principals are regarded as the single most important group in the pupil transportation programs of the state.⁹¹ Principals have more direct day-to-day contact with pupil transportation than any other group. Legislation enacted since 1955 has entrusted principals with the following duties and responsibilities:

1. To designate all school bus stops in the school zone
2. To authorize the use of school buses to transport pupils or employees to medical facilities in times of emergency
3. To assign pupils to school buses
4. To assign school bus drivers to school buses
5. To appoint monitors to school buses
6. To supervise proper pupil behavior on school buses
7. To establish all school bus routes within the school zone
8. To supervise all school bus drivers assigned to the principal.⁹²

⁹⁰(1) North Carolina, Session Laws (1955), Chapter 1372, Subchapter 9, Article 21, Section 3; (2) Ibid., Section 4; (3) Ibid., Section 5.2; (4) Ibid., Section 7; (5) Ibid., Section 8.1; (6) Ibid., Section 8.2; (7) North Carolina, Session Laws (1955), Chapter 150, Section 2; (8) North Carolina, Session Laws (1975), Chapter 1372, Article 6, Section 4.

⁹¹"Teacher Prefers Students for Driving School Buses," Durham Sun, 13 April 1977, p. 2.

⁹²(1) North Carolina, Session Laws (1955), Chapter 1372, Subchapter 9, Article 21, Section 5.1; (2) Ibid., Section 4.2; (3) Ibid., Section 5.1; (4) Ibid., Section 6.1; (5) Ibid., Section 6.2; (6) Ibid., Section 6.4; (7) Ibid., Section 7.1; (8) Ibid., Section 6.2.

Other state agencies and groups
responsible for pupil transportation
in North Carolina, 1933-1955

In addition to the four government bodies and groups just discussed, the General Assembly of North Carolina has enacted legislation concerning the responsibilities and duties of other state agencies and personnel. Those agencies and personnel include transportation supervisors, the North Carolina Industrial Commission, the Attorney General of North Carolina, the Department of Motor Vehicles and the State Controller.

Transportation supervisors. Every county school system in the state has a transportation supervisor. The county school system directs the pupil transportation program for all public school students within the county even though several counties have two or more distinct school systems within one county.

Prior to 1977, the transportation supervisor was generally referred to as the chief mechanic. General Assembly legislation provided for only one specific duty of the chief mechanic--certification of school bus drivers.⁹³

The General Assembly of 1977 created the job of pupil transportation supervisor for each of the county school systems.⁹⁴ The duties and responsibilities of the transportation supervisor are as follows:

1. To permit no mechanical work on privately owned equipment at any county bus garage or to permit no private use of any "tires, oils, gasoline or other accessories purchased by the state or any county or any institutional agency of the state"

⁹³North Carolina, Session Laws (1941), Chapter 21, Section 1.

⁹⁴North Carolina, Session Laws (1977), Chapter 314.

2. To keep local Highway Commission officials informed of undesirable bus route road conditions and request needed assistance for improvement of those conditions
3. To see to the proper maintenance of all school buses
4. To insure that all speed governors on school buses do not exceed a maximum speed of 35 miles per hour
5. To work with the Purchase and Control Division of the Department of Administration in making all purchases relevant to pupil transportation
6. To report to the superintendent of the administrative unit on the condition of all school buses
7. To examine all candidates for school bus driver
8. To inspect all school buses at least once a year.⁹⁵

North Carolina Industrial Commission. The Industrial Commission acts as a court of original jurisdiction in all tort claims against state agencies and employees. Regarding pupil transportation, the Industrial Commission hears and passes on all tort claims against county or city boards of education resulting from alleged mechanical and other defects of school buses, negligent acts of school bus maintenance personnel, and negligent acts of school bus drivers.⁹⁶

The Attorney General of North Carolina. The Attorney General may represent county or city boards of education whenever a tort

⁹⁵North Carolina, Public School Laws (Charlottesville, Virginia: The Michie Company, 1978), Chapter 14, Article 31, Section 248; (2) Ibid., Chapter 136, Article 2 Section 18; (3) Ibid., Chapter 115, Article 5, Section 52; (4) Ibid., Article 22, Section 181 (d); (5) Ibid., Chapter 20, Article 7, Section 218; (6) Ibid., Chapter 115, Article 22, Section 187 (a); (7) op cit. (8) Ibid., Chapter 20, Article 5, Section 183.2(a).

⁹⁶North Carolina, Public School Laws, Chapter 143, Article 31, Section 300.1(a).

claim against the bodies "is of sufficient import to require and justify such appearance."⁹⁷ The Attorney General is authorized to represent school bus mechanics or school bus drivers in civil court action involving their alleged negligence while in performance of their official duties.⁹⁸

The Department of Motor Vehicles. Representatives of the Department of Motor Vehicles are responsible for certifying school bus drivers. The school bus driver training representatives are appointed by the Commissioner of Motor Vehicles.⁹⁹ Currently, there are 77 school bus driver training representatives in the state.¹⁰⁰

The State Controller. The fiscal affairs of the Division of Transportation of the Department of Public Instruction are handled by the State Controller. The Controller's office prepares and administers the pupil transportation budget, handles claims made under the provisions of the Workmen's Compensation Act, processes sick leave requests, and issues all salary vouchers for pupil transportation personnel.¹⁰¹

⁹⁷North Carolina, Public School Laws, Chapter 143, Article 31, Section 300.1(a).

⁹⁸Ibid., Section 300.1(d).

⁹⁹Ibid., Chapter 20, Article 7, Section 218(a).

¹⁰⁰Interview, Glenn Rose, School Bus Driver Training Representative for Alamance County (9 September 1979).

¹⁰¹North Carolina, Public School Laws, Chapter 115, Article 4, Section 17.

The 1979 General Assembly and
School Bus Drivers

Public school pupil transportation was very much on the minds of state legislators when they convened in Raleigh in January of 1979. Concern centered around two immediate problems--school bus driver strikes and school bus safety.

School bus driver strikes

During the 1978-1979 school year, school bus drivers in seven North Carolina public school systems threatened to strike unless their demands for higher pay were allowed. School bus drivers in Greensboro, Guilford County, Watagua County, Lincoln County, Burke County, Wake County, and Caldwell County asked for an increase in the hourly wage for school bus drivers from \$2.62 to \$3.50.¹⁰²

Representative James Edwards of Caldwell County introduced a bill granting the drivers' demands. The bill was introduced at a time when concerned groups and individuals across the state were asking the public schools to employ only adult school bus drivers. Representative Edwards argued that the public schools were having enough trouble finding "students who are willing to work for what we pay."¹⁰³

Representative Edward's bill was defeated. The General Assembly instead appropriated sufficient funds to increase the hourly wage to \$3.00 per hour.

¹⁰²"Panel Endorses Driver Pay Hike," Greensboro Record, 23 January 1979, p. B 16.

¹⁰³"Bill Seeks Increase in Bus Drivers' Pay," Greensboro Record, 17 January 1979, p. A 8.

School bus safety

In the five school months prior to the convening of the 1979 General Assembly, nine school children were killed in school bus accidents.¹⁰⁴ In response to the "rash of fatalities and accidents," the North Carolina State House of Representatives created a committee to study school bus accidents in the state.¹⁰⁵ In addition, a joint resolution was passed authorizing the Legislative Research Commission to study drivers' education and the school bus drivers' programs of the state. The Legislative Research Commission is to present its report to the 1981 General Assembly.¹⁰⁶

An acceptable school bus driver age was considered by the 1979 General Assembly. Concerned groups such as the North Carolina Congress of Parents and Teachers were pressuring the General Assembly to enact legislation providing for "experienced and high quality" school bus drivers.¹⁰⁷ Representative Gus Economos of Mecklenburg County introduced a bill requiring at least one year of driving experience of all state school bus drivers. The bill has been sent to the Transportation Committee for further study.¹⁰⁸

¹⁰⁴"School Bus Deaths Rise a Mystery," Greensboro Daily News, 16 January 1979, p. B 1.

¹⁰⁵North Carolina, Department of Public Instruction, Report on Education Legislation of the 1979 General Assembly (Raleigh: Superintendent of Public Instruction, 1979), p. Studies-1.

¹⁰⁶Ibid., p. Listed Bills-2.

¹⁰⁷North Carolina Congress of Parents and Teachers, "Legislative Information Capsule," Leaflet issued by the North Carolina Congress of Parents and Teachers, 6 February 1979.

¹⁰⁸North Carolina, Report on Education Legislation, p. CO-1.

The only legislation passed by the General Assembly regarding school bus safety was entitled An Act To Insure The Safety Of Students On School Buses. The Act permitted local boards of education to employ safety assistants for school buses. The safety assistants were to "assist the bus drivers with the safety, movement, management and care of children boarding the bus, leaving the bus or being transported in it."¹⁰⁹ Safety assistants were to be either adults or certified student drivers who were available as substitute drivers.¹¹⁰

¹⁰⁹North Carolina, Session Laws (1979), Chapter 211, Section 3.

¹¹⁰Ibid.

CHAPTER IV
STUDENT SCHOOL BUS DRIVERS IN
NORTH CAROLINA, 1931-1979

By 1930, the public schools of North Carolina were feeling the economic hardships of the Great Depression. Public schools in the state were supported largely by property taxes. As property values declined, the economic base of support for public schools eroded. The high unemployment rate further decreased the ability of citizens to pay their taxes. Faced with these conditions, the state took action to hold down the cost of public education.¹

In an attempt to decrease the cost of pupil transportation, the General Assembly of 1931 passed An Act To Promote The Standardization of Transportation Systems For School Children And To Provide For The Economical Operation Of The Same.²

The 1931 Act paved the way for the total takeover of pupil transportation by the state in 1933.³

The 1931 Act directed the State Board of Equalization to study the various pupil transportation programs of the state

¹North Carolina, Department of Public Instruction, Biennial Report of the Superintendent of Public Instruction for the Scholastic Years 1932-1933 and 1933-1934, Part I: Summary and Recommendations, Educational Publication No. 181 (Raleigh: Superintendent of Public Instruction, n. d.), p. 17.

²North Carolina, Session Laws (1931), Chapter 437, Preamble.

³North Carolina, Session Laws (1933), Chapter 562.

"looking towards the standardization of the transportation systems and the economical operation of the same."⁴ On August 20, 1931, the State Board of Equalization was ready with several recommendations. One recommendation urged the hiring of high school students as school bus drivers. The Board reasoned that student drivers could be employed for a lower cost than adult drivers.⁵

Although the use of students as school bus drivers was officially sanctioned by the state for the first time in 1931, available evidence indicates that students were employed as school bus drivers prior to that time.⁶ One report stated:

The use of high school boys--and a few girls--as bus drivers did not start with the state's taking control of schools in 1933. Counties had already found that, in most instances, students made better drivers--were more cautious, more dependable, took greater interest in the children--than most adult drivers.⁷

Since the early 1930's, North Carolina has relied heavily on high school students as school bus drivers. The North Carolina State School Commission reported in 1938 that over 90 percent of all

⁴North Carolina, Session Laws (1931), Chapter 437, Section 1.

⁵North Carolina, State Board of Equalization, Minutes, 20 August 1931.

⁶North Carolina, Department of Archives and History, Records Center, "Transportation Reports of the Department of Public Instruction of the State Board of Education, 1929-1930," Raleigh: Box 11, Row 62A. The first motorized school bus in North Carolina was driven by a student named Zeb Brinson. Mr. Brinson drove the bus for the Oriental School District of Pamlico County during the 1917-1918 school year. "Marker Notes First Tar Heel School Bus," Raleigh News and Observer, 16 December 1967, p. 21.

⁷"High School Boys Set Record as Safe Drivers," Greensboro Daily News, 1 May 1938, p. A-3.

school buses in North Carolina were driven by students.⁸ In 1949, 87 percent of the school bus drivers in North Carolina were students; in 1959, 91 percent; in 1967, 90 percent.⁹ Currently, approximately 90 percent of the school buses in the state are operated by high school students.¹⁰

Using high school students as school bus drivers in North Carolina has drawn praise and criticism since 1931. Opponents have charged that the responsibility for transporting children to and from school is too great for students. However, state and local school officials have remained adamant in their defense of student drivers. Historically, the following four reasons have been cited for continuing the use of student school bus drivers in North Carolina:

1. Economy. The use of student drivers has enabled North Carolina's pupil transportation programs to operate more economically than those in most other states.
2. Suitability of students. The part-time job nature of school bus driving has caused school officials great difficulty in finding adult drivers; yet, the job is ideal for high school students.
3. Efficiency. The use of high school students as school bus drivers has enabled school officials to operate the transportation programs of the state more efficiently than if adult drivers were used.

⁸North Carolina, Report of the State School Commission for the Scholastic Years, 1938-1939 and 1939-1940 (Raleigh: Edwards and Broughton Company, 1940), p. 37.

⁹"Carolina School Buses Roll Again," Raleigh News and Observer, 19 September 1949, p. 18; W. T. Edgren, "Need for Uniform Operating Procedures, Laws," Nation's Schools (May 1960): 83; "School Bus Safety Record Excelled by Adult Drivers in Other States," Raleigh News and Observer, 15 January 1967, p. A-1.

¹⁰Interview, Mr. John Hardie, Division of Transportation, Department of Public Instruction, 28 December 1979.

4. Safety. There has been no conclusive evidence to suggest that adult drivers are safer school bus operators than high school students.

Chapter 4 will define and clarify these four reasons as they have been presented by advocates of student drivers and challenged by opponents.

Economic benefits of the North Carolina student bus driver policy, 1931-1979

The economical operation of North Carolina's pupil transportation programs has been a source of pride for public school officials since 1931. In 1935, the State School Commission reported:

It should be of interest to all North Carolinians to know that this State is transporting one-seventh of all children being transported to schools in the nation; that the walking distance required is below the average; that the service provided compares most favorably; and that the operating costs are far below those in any other state.¹¹

State School Facts, an early newsletter of the Department of Public Instruction, glowingly reported on the economical operation of the pupil transportation programs of the state in 1938:

Even after including the (bus) replacement costs, the per-pupil expenditure for transportation service in North Carolina is the lowest, \$6.65 annually, in the nation. Based on a 160 day school term, this is an average cost of slightly more than four cents a day per pupil.¹²

During the early 1940's, the pupil transportation system of the state received national attention for "pioneering" the use of

¹¹North Carolina, Report of the State School Commission for the Scholastic Years 1933-1934 and 1934-1935 (Raleigh: Edwards and Broughton Company, 1935), p. 14. (emphasis mine)

¹²"Pupil Transportation," State School Facts (2 March 1938): 1.

high school students as school bus drivers. Observers from many states were interested in the state's unique driver training program and the exceptional safety record of the student drivers. Officials noted that in 1942, North Carolina saved over \$2,500,000 a year by hiring student drivers.¹³

In 1948, North Carolina was praised for its pupil transportation programs by the National Education Association. Robert W. Eaves, Secretary of the Safety Education Division of the National Education Association, commented on the economical and safe manner in which pupil transportation operated in the state. At the time, North Carolina was one of only twelve states with a school bus driver training program. Mr. Eaves noted: "North Carolina not only has a remarkable safety record but her economy record is astonishing."¹⁴

National attention was focused on North Carolina's pupil transportation programs in 1951 as a result of a study conducted by Phillip S. Ambrose of the University of New Mexico. Ambrose's study compared the driving records of student and adult school bus drivers in Alabama, Iowa, North Carolina, Virginia and Wyoming. North Carolina was the only state of the five that recruited a majority of its drivers from the ranks of high school students.¹⁵

¹³"For the Safety of 360,000 Children," Raleigh News and Observer, 19 July 1942, p. A-1.

¹⁴"Safety Expert Says School Bus Drivers are of Poor Calibre," Durham Morning Herald, 19 September 1948, p. C-10.

¹⁵Murray Teigh Bloom, "Do You Really Know Anything About The Man Who Drives Your Child To School," Woman's Home Companion (September 1951): 120.

Ambrose commended North Carolina's student drivers for their excellent safety record. The study noted that from 1941 until 1946, adult school bus drivers in North Carolina were involved in over 25 percent of the school bus accidents despite the fact that only 17 percent of the total number of drivers in the state were adults. Ambrose noted that the economy derived by the use of student drivers and the excellent safety record were the two important positive characteristics of North Carolina's pupil transportation programs.¹⁶

In school year 1958-1959, North Carolina led the nation with the lowest per-pupil expenditure for pupil transportation. Overview, a national publication, reported in that year that the per-pupil expenditure for pupil transportation in North Carolina was \$15.00. The average per-pupil expenditure for the United States was \$37.00. Overview attributed the state's low pupil transportation costs to three factors: the centralized system of pupil transportation, the wholesale buying of school buses, and the use of student bus drivers.¹⁷

Glen Featherston of the United States Department of Education and author of several books and articles on pupil transportation remarked on the "economic success" of North Carolina's pupil transportation programs at a meeting of the National Association of School Business

¹⁶Bloom, "Do You Know . . . Who Drives Your Child To School," 120.

¹⁷"State's School Buses Operate Economically," Greensboro Daily News, 4 August 1960, p. B-2.

Officials in 1960. Featherston suggested to the national gathering that pupil transportation programs of other states might benefit from using student bus drivers.¹⁸

The economic benefits experienced by North Carolina in pupil transportation over the years have been partly attributable to the low wages the state paid to student drivers in comparison with the wages that adult drivers would have required. The state has been responsible for paying the wages of school bus drivers since 1933. The monthly salary of school bus drivers in that year was \$7.50.¹⁹ Complete information about the salaries of school bus drivers in the state prior to 1933 is not available. However, as early as 1914, many drivers earned as much as 30 to 40 dollars per month.²⁰

In 1938, the Fair Labor Standards Act of the United States provided a minimum wage scale for American workers. The minimum wage in 1938 was twenty-five cents per hour. The minimum wage was increased to forty cents per hour in 1945; to seventy-five cents in 1950; to one dollar in 1955; to one dollar and twenty-five cents in 1961.²¹

School bus drivers in North Carolina were part-time employees and the state was not compelled to pay the minimum wage until

¹⁸Association of School Business Officials of the United States and Canada, Proceedings of the 46th Annual Meeting (St. Louis, Missouri: n. p., 1960), p. 224.

¹⁹"Transportation," Raleigh News and Observer, 6 January 1936, p. 2.

²⁰S. S. Alderman, "Consolidation and Transportation in North Carolina," North Carolina Education (March 1914): 4.

²¹American Peoples Encyclopedia, 1969 edition, "Fair Labor Standards Act."

February of 1967.²² Table 9 presents the salaries of North Carolina school bus drivers since 1933 compared with the estimated salary an adult driver would have earned if he or she were paid the minimum wage. The adult drivers' salaries reflect a 60-hour work month (normal driving time for an average school bus route). This hypothetical comparison illustrates the savings enjoyed by the state as a result of its student driver policy.

North Carolina public school officials "have found the State school transportation program safe, practicable, serviceable and economical."²³ The economical aspect of that statement can be illustrated by comparing the state's yearly per-pupil cost for pupil transportation with the yearly average national per-pupil cost. Table 10 presents those statistics.

Table 10 reveals that North Carolina has consistently operated the pupil transportation system for a much less per-pupil cost than the national average. A major reason for this economical operation has been the large-scale use of student drivers.

The economical manner in which the state has operated the pupil transportation programs has not impressed critics of student bus drivers. Just one year after the 1931 decision of the State Board of Equalization to use student drivers, the policy became a major campaign issue in the gubernatorial election of 1932.

²²"Drivers Get 80% Pay Hike," Raleigh News and Observer, 22 January 1967, p. A-1.

²³North Carolina, Department of Public Instruction, Biennial Report of the Superintendent of Public Instruction for the Scholastic Years 1966-1967 and 1967-1968, Part I, Summary and Recommendations, Educational Publication No. 402 (Raleigh: Superintendent of Public Instruction, n. d.), p. 121.

TABLE 9

A Comparison of the Salaries of North Carolina School
Bus Drivers and Possible Minimum Salaries of Adults:
Selected Years, 1933-1966

School Year	State Salaries Paid		Possible Minimum Wages of Adult Employees
	Student Drivers	School Bus	
1933-1934	\$7.50 per month		NA
1935-1936	\$8.50 per month		NA
1937-1938	\$9.50 per month		\$15.00 per month
1939-1940	\$9.50 per month		\$15.00 per month
1942-1943	\$12.00 per month		\$15.00 per month
1945-1946	\$13.50 per month		\$24.00 per month
1950-1951	\$20.00 per month		\$45.00 per month
1952-1953	\$22.00 per month		\$45.00 per month
1954-1955	\$22.00 per month		\$60.00 per month
1956-1957	\$25.00 per month		\$60.00 per month
1958-1959	\$25.00 per month		\$60.00 per month
1960-1961	\$25.00 per month		\$80.00 per month
1965-1966	\$30.00 per month		\$80.00 per month

SOURCES: "Transportation," Raleigh News and Observer, 6 January 1936, p. 2; "High School Boys Set Record as Safe Drivers," Greensboro Daily News, 1 April 1938, p. 11; "State is Leader in School Buses," Raleigh News and Observer, 24 February 1940, p. 12; "Bill Would Provide Adult Drivers for School Buses," Durham Morning Herald, 6 February 1947, p. 1; "Student Bus Drivers Account for Low Transportation Costs," North Carolina Public School Bulletin (May 1943): 4; North Carolina, Report of the State School Commission for the Scholastic Years 1935-1936 and 1936-1937 (Raleigh: Capital Printing Company, 1937), p. 13.

North Carolina, Department of Public Instruction, Biennial Report of the Superintendent of Public Instruction for the Scholastic Years 1952-1953 and 1953-1954: Part I, Summary and Recommendations, Educational Publication No. 297 (Raleigh: Superintendent of Public Instruction, n. d.), p. 117; Ibid., Scholastic Years 1960-1961 and 1961-1962, Educational Publication No. 358, p. 358; Ibid., Scholastic Years 1962-1963 and 1963-1964, Educational Publication No. 384, p. 26; Ibid., Scholastic Years 1964-1965 and 1965-1966, Educational Publication No. 402, p. 29; Ibid., Scholastic Years 1966-1967 and 1967-1968, Educational Publication No. 402, p. 21.

TABLE 10

Per-Pupil Cost of Pupil Transportation in North Carolina
and Average Per-Pupil Cost Nationwide:
Selected Years, 1933-1978

School Year	Per-Pupil Cost of Pupil Transportation in North Carolina	Per-Pupil Cost of Pupil Transportation in the United States
1933-1934	\$6.50	\$19.29
1935-1936	7.33	19.27
1937-1938	8.35	20.07
1939-1940	7.23	20.10
1941-1942	7.06	20.64
1943-1944	8.67	23.88
1945-1946	11.97	25.66
1947-1948	18.94	30.11
1949-1950	15.40	30.88
1951-1952	17.46	34.93
1953-1954	16.07	36.55
1955-1956	16.04	38.51
1957-1958	18.07	38.34
1959-1960	18.07	39.78
1961-1962	18.68	43.59
1963-1964	18.86	46.55
1965-1966	18.09	50.68
1967-1968	22.89	57.27
1969-1970	32.95	66.96
1971-1972	38.17	77.43
1973-1974	43.21	87.04
1975-1976	51.84	104.22
1977-1978	66.81	NA

SOURCES: North Carolina, Department of Public Instruction, Biennial Report of the Superintendent of Public Instruction for the Scholastic Years 1966-1967 and 1967-1968: Part I, Summary and Recommendations, Educational Publication No. 402 (Raleigh: Superintendent of Public Instruction, n. d.), p. 119; North Carolina, Department of Public Instruction, Controller's Office, Statistical Profile of North Carolina Public Schools, School Year 1973-1974 (Raleigh: Division of Management Information Systems, n. d.), p. I-56 and I-57.

TABLE 10 - Continued

SOURCES: North Carolina, Department of Public Instruction, Controller's Office, Statistical Profile of North Carolina Public Schools, School Year 1974-1975 (Raleigh: Division of Management Information Systems, n. d.), p. I-62 and I-63; Ibid., School Year 1975-1976, p. I-61 and I-62; Ibid., School Year 1976-1977, p. I-61 and I-62; North Carolina, State Board of Education, Division of Transportation, "Summary of School Transportation Statistical Data, 1977-1978," (mimeographed); United States, Department of the Interior, Office of Education, "One-Room Schools and Transportation of Pupils, 1937-1938," by David T. Blose, Circular No. 195 (Washington, D. C.: Government Printing Office, n. d.), p. 32; United States, National Center for Educational Statistics, Digest of Educational Statistics, 1977-1978 (Washington, D. C.: Government Printing Office, 1979), p. 41; "Statistics on School Transportation," School Bus Fleet, December/January 1979, p. 66.

A. J. Maxwell, a candidate for governor, was critical of the pupil transportation programs of the state in general. In May of 1932, Maxwell challenged the state's decision to use student drivers. Maxwell stated: "The parents of the children would much prefer experienced adult drivers to high school students. Many live in anxiety for their safety."²⁴

Maxwell felt that adult employees of the State Highway Department should operate the school buses. The suggestion was never seriously considered by state officials.²⁵

School officials and legislators of the early 1930's argued that the extra expense involved in hiring adult school bus drivers could not be justified in light of a lack of evidence proving that students

²⁴"Safety and Economy," Raleigh News and Observer, 18 January 1935, p. 4.

²⁵Ibid.

were unsuitable drivers. Superintendent of Public Instruction, Clyde Erwin, wrote in 1935:

The question of men drivers has been agitated frequently, but unless the State is in a position to provide sufficient funds with which to employ the best types of men drivers, I am of the opinion that a quick-sitted high school boy is preferable.²⁶

Historically, public displeasure with student school bus drivers was expressed after a fatal bus accident. In April of 1936, a school bus accident near Carthage left one dead and 17 injured. The coroner's inquest into the accident condemned the state for using student drivers.

We find that Earl Calloway (the fatally injured student) came to his death by a school bus leaving the highway and striking a tree. While the (coroner's) jury does not feel that the driver is wholly inculpable, it feels that blame lies with the school system for employing school boys as drivers.²⁷

Frank Smethurst, editor of the Raleigh News and Observer, criticized the state's argument that using student drivers was economically sound:

Meanwhile, the educational administration in the State may call itself lucky beyond reason that thus far its abortive sense of economy has cost the lives of only three children. School statisticians may still think they can balance a pretty budget over the dead bodies of three children.²⁸

²⁶North Carolina, Department of Public Instruction, Biennial Report of the Superintendent of Public Instruction for the Scholastic Years 1934-1935 and 1935-1936: Part I, Summary and Recommendations (Raleigh: Office of the Superintendent of Public Instruction, n. d.), p. 13.

²⁷"In My Opinion," Raleigh News and Observer, 9 May 1936, p. 4.

²⁸Ibid.

In early 1941, two students were killed in Wake County school bus accidents in less than a month's time. The buses were driven by high school students. The public outcry was so great that Governor Melville Broughton ordered the State School Commission to conduct an investigation into ways of achieving greater school bus safety.²⁹

In compliance with the Governor's request, the State School Commission appointed a task force to "conduct a full and complete investigation of all available methods of safety now in use in this and other states."³⁰ The investigation and subsequent recommendations of the task force led to many significant changes in the pupil transportation programs of North Carolina--the purchase of more modern and safe school buses, laws allowing safety monitors for buses, and most important, the development of a very comprehensive driver training program. However, the task force made no recommendation favoring the use of adult drivers.

Even before the task force made its initial investigation, Governor Broughton publicly stated his support for student school bus drivers "on the theory that boys would be more alert than older men."³¹ At the hearings conducted by the task force, only one school official expressed opposition to the use of student school bus drivers. T. C. Robertson, Superintendent of Bucombe County Schools, reported

²⁹"Directs School Commission to Take All Possible Measures for Children's Safety," Raleigh News and Observer, 16 April 1941, p. 1.

³⁰"School Commission Names Committee to Study Improved Safety Methods," Raleigh News and Observer, 18 April 1941, p. 1.

³¹"Committee Plans Bus Safety Move," Raleigh News and Observer, 23 April 1941, p. 1.

that his parents would "riot" if students were hired as drivers in Buncombe County. Robertson stated that Buncombe County used only adult drivers and paid them \$14.00 more per month than the state base salary.³²

Attempts have been made by North Carolina legislators to increase the age limit for school bus drivers. In 1947, Representative Burl Hardeson of Craven County and Bruce Hunter of Onslow County introduced legislation raising the minimum age limit for North Carolina school bus drivers to 21. Representative Hardison noted wryly: "The State will not allow anyone under 21 to drive a criminal to prison but we allow 16-year-old students to drive our children to and from school."³³

The proposed legislation would have cost the state approximately \$1,500,000 in increased salary costs for the adult drivers. Hardison argued that the increased cost would be recovered by the lower maintenance costs that would accrue if only adult drivers were employed. Adult drivers would take better care of the school buses than student drivers.³⁴

The legislation introduced by Representatives Hardison and Hunter was defeated. The legislators took economic considerations into account. The high cost of hiring adult drivers was too prohibitive.

³²"School Safety Committee Hears Criticism of Buses," Raleigh News and Observer, 1 May 1941, p. 11.

³³"Bill Would Provide Adult Drivers for School Buses," Durham Morning Herald, 6 February 1947, p. 1.

³⁴Ibid.



North Carolina Student School Bus Driver
Alamance County
1979

An extensive study of the public schools of North Carolina by the State Education Commission in 1948 recommended that the state should continue using student drivers.

Suppose it is agreed that, on the average, adult drivers are in some degree more satisfactory than student drivers. These adult drivers will be paid an average of \$25 to \$50 more per month than student drivers. For a county with 50 buses and a nine-month term this could amount to \$10,000 to \$20,000 per year. The fundamental question which must be considered is whether this additional investment of \$10,000 to \$20,000 in drivers' salaries will yield as much return to the boys and girls of the county as it would have if it had been invested in the educational program of the county.³⁵

The Commission's findings were soon brought to task by another tragic school bus accident. In October of 1949, six children were killed in a Nash County school bus accident.³⁶ The tragedy prompted nationwide attention. Myron Stearnes of Parade magazine wrote that "the most dangerous drivers in the country are boys and girls."³⁷

In light of the Nash County accident, increased pressure was put on school officials to hire adult school bus drivers. Again, the proposal met with little success. An editor for the Raleigh News and Observer commented:

While the Nash County tragedy caused parents of bus riding children undue alarm, it has served the useful purpose of setting more minds to thinking upon the problem of transporting

³⁵North Carolina, State Education Commission, Education in North Carolina, Today and Tomorrow: Report of the State Education Commission to the General Assembly of 1947 (Raleigh: Edwards and Broughton Company, 1948), p. 436.

³⁶"A Tragedy But An Exception," The Asheville Citizen, 7 October 1949, p. 1.

³⁷Ibid.

school children and perhaps of convincing more voters that a better system will take more money.

They (North Carolina citizens) are getting now just what they have indicated their willingness to pay for. It (school bus transportation in North Carolina) is the cheapest system in the country.³⁸

In 1967, Paul T. Stewart of the National Safety Council strongly criticized North Carolina and other states that used student drivers. Stewart wrote:

Never should our system of selecting school bus drivers have been allowed to degenerate to the level that drivers are employed simply because they are willing to work for a low salary.³⁹

The argument that student school bus drivers permitted a more economically efficient pupil transportation system was tempered somewhat by events in 1967. In that year, the state was forced by federal legislation to pay the minimum wage to school bus drivers. At the time, drivers were paid a flat rate of \$30.00 per month. After February 1, drivers received \$1.00 per hour. The increase in salary meant that the average school bus driver in 1967 earned approximately \$54.00 per month--an 80 percent increase in pay from the previous year.⁴⁰

Although paying the school bus drivers a minimum wage meant the state had to increase its budget to accommodate the higher

³⁸"School Bus System Gets Critical Appraisal," Raleigh News and Observer, 6 November 1949, p. 2.

³⁹Paul T. Stewart, "Types, Causes and Results of Accidents," American School Board Journal (February 1967): 31.

⁴⁰"Drivers Get 80% Pay Hike," Raleigh News and Observer, 22 January 1967, p. A-1.

salaries, North Carolina continued to have a much smaller per-pupil expenditure than the national average. The real problem for North Carolina presented by the federal legislation came in another form.

An amendment to the Fair Labor Standards Act of 1967 declared that driving a school bus was a hazardous occupation. Under the terms of the Act, only those 18 years of age or older could operate a school bus.⁴¹ The Act threatened the state's heavy reliance on student drivers.

On January 20, 1967, North Carolina Governor Dan K. Moore and State Superintendent of Public Instruction Charles Carroll travelled to Washington, D. C., to confer with United States Secretary of Labor Willard Wirtz about the effects of the Fair Labor Standards Act on the state's student bus drivers. Secretary Wirtz agreed to suspend temporarily Hazardous Occupation Order Number 2 as it applied to the student drivers.⁴² The order has never been reinstated.

Despite the increases in the salaries of North Carolina school bus drivers since 1967, the state has continued to have difficulty recruiting an adequate and competent number of school bus drivers-- student or adult.⁴³ In 1967, the Governor's Study Commission on the public schools accurately predicted that problem.

⁴¹"Drivers Get 80% Pay Hike," Raleigh News and Observer, 22 January 1967, p. A-1.

⁴²North Carolina, Department of Archives and History, Messages, Addresses and Public Papers of Daniel Killian Moore, Governor of North Carolina, 1967-1969, Memory F. Mitchell, ed. (Raleigh: State Department of Archives and History for the Council of State, 1971), p. 649.

⁴³Interview, Benjamin Norfleet Gardner, North Carolina School Transportation Area Coordinator, 18 November 1979.

In the future, the question of using students or adults (as school bus drivers) will become secondary to that of securing sufficient qualified drivers from both sources.⁴⁴

North Carolina Senator Eugene M. White reported recently that the state would have to increase the salaries of school bus drivers in order to continue to attract qualified employees. White stated:

I suspect that the low salary we have been able to pay has caused principals to sometimes go to the bottom of the barrel to get drivers.

They (principals) just don't have the selectivity because a student can go to a supermarket and work as a bag boy and make more money with less harassment.⁴⁵

Evidence presented in this section indicated that the pupil transportation programs of North Carolina have operated very economically since 1933 in comparison with other states. The heavy reliance on student school bus drivers has been a major reason for that enviable record. Public school officials in North Carolina have shown little interest in abandoning student drivers in favor of the high cost of employing only adult drivers.

The part-time nature of driving a school bus

Other than low salary, the recruitment of adults as school bus drivers in North Carolina has been hampered by the part-time nature of the job. Most school bus routes in the state occupied a driver's time no more than three hours a day. The average adult driver had to find

⁴⁴North Carolina, A Child Well Taught: The Report of the Governor's Study Commission on the Public School System of North Carolina (Raleigh: North Carolina State University Print Shop, 1968), p. 210.

⁴⁵"Bus Safety Studies Find Multitude of Problems," Raleigh News and Observer, 27 May 1979, p. 2.

additional work to supplement wages received as a school bus driver. Finding another job was difficult since the hours required of bus drivers by the public schools--7:00 a. m. to 8:30 a. m. and 2:30 p. m. to 4:00 p. m.-- dominated a good portion of a normal workday.

Historically, the problem outlined above has been recognized by those concerned with pupil transportation across the nation.

One public official stated in 1932:

It is often impractical to employ adults to drive buses because this job requires the services of a driver only about an hour and a half in the morning and perhaps two hours in the afternoon. During the rest of the day it is impossible to find profitable work sufficient to pay the wages of a grown man.⁴⁶

The Report of the State School Commission in 1942 recommended against hiring adults as part-time school bus drivers. The Commission felt that it would be economically disastrous to employ adults at a "full-time salary for a few hours work done before and after the school day."⁴⁷

Testifying before a 1941 school bus safety committee, one North Carolina principal stated that he "preferred an alert sixteen-year-old (school bus driver) than a man willing to work for \$9.50 a month."⁴⁸ C. C. Brown, former Director of the Division of Transportation for the State Board of Education, commented in 1949 that "student drivers

⁴⁶"Safety and Economy," Raleigh News and Observer, 18 January 1935, p. 4.

⁴⁷North Carolina, Report of the North Carolina School Commission for the Scholastic Years 1940-1941 and 1941-1942 (Raleigh: State School Commission, n. d.), p. 37.

⁴⁸"School Safety Committee Hears Criticism of Buses," Raleigh News and Observer, 1 May 1941, p. 11.

generally are more desirable than the adults who can be obtained" on a part-time basis.⁴⁹

Murray Teigh Bloom was instrumental in attempting to get her home state of Ohio to consider the possibility of hiring student drivers. Bloom was critical of the many "unsavory" adults who were willing to work part-time as school bus drivers. Bloom wrote:

The split-day nature of school bus driving makes it hard for a man to hold an additional job, so his total income is likely to be between 50 and a hundred and twenty-five dollars a month, with the higher figure fairly rare. The average income is about seventy-five dollars a month. What competent responsible adult could you hire in your community for that kind of money.⁵⁰

The recommendations of the National Conference on School Transportation on pupil transportation matters have generally been accepted by the several states. The 1964 Conference was dedicated almost exclusively to the selection, instruction, and supervision of school bus drivers. The Conference recognized the desirability of hiring adult drivers, but noted that hiring only adult drivers was not always feasible. The Conference reported:

Age is not always an indication of maturity. . . . The limiting factors of school bus driving make it necessary to deviate frequently from the most desirable age group.⁵¹

⁴⁹"School Bus System Gets Critical Appraisal," Raleigh News and Observer, 6 November 1949, p. 2.

⁵⁰Bloom, "Do You Really Know. . . Who Drives Your Child to School," p. 120.

⁵¹National Conference on School Transportation, Selection, Instruction and Supervision of School Bus Drivers, rev. ed., 1964 (Washington, D. C.: National Education Association, 1965), p. 8.

Obtaining competent part-time adult drivers at a satisfactory wage has been a problem for school officials in other states.

Featherston wrote:

It is perhaps unfortunate that school bus driving is often a part-time job, and is thus not very attractive to able, ambitious people except when the driving can be fitted into work schedules in other fields. . . .

Students are frequently used as drivers because driving offers no essential conflict with school attendance.⁵²

For reasons of efficiency and economy, it is likely that students will continue to be the major source of school bus drivers in the state. The North Carolina Highway Patrol presented the problem involved in a pupil transportation program dependent on adult drivers:

Driving a school bus is a part-time job whose hours are inconvenient to most adults. However, the part-time nature of this job and the distribution of the working hours conveniently fit into the schedule of most high school students.

It is not financially feasible for adults to work at a part-time job for an hourly wage that is lower than that for most other jobs. The wage is, however, more than adequate to meet the more limited financial needs of high school students.⁵³

The above arguments of the State Highway Patrol and similar arguments of public school officials have not gone unchallenged. The National Association of School Business Officials has consistently recommended against using student school bus drivers. In 1970, the Association declared:

⁵²D. P. Culp and E. Glenn Featherston, Pupil Transportation: State and Local Programs (New York: Harper and Row Publishers, 1965), p. 73.

⁵³North Carolina, State Highway Patrol, Safety Information Units, "General Information on School Bus Safety," (mimeographed).

The position of bus driver can no longer be regarded as a part-time job. The complexities of today's school system require much more than transportation to and from school. . . . We must make demands of our personnel that will up-grade the position thereby up-grading the driver.⁵⁴

Advocates of adult school bus drivers stated that the use of student drivers required "continuous recruitment." Students were available for only two years of employment generally. Public schools had to operate training sessions continuously in order to keep school buses staffed, but adults could be depended on for lengthier employment.⁵⁵

Proponents of student drivers dismissed the above argument. They argued that adults as well as students considered driving a school bus as only temporary employment. When more desirable job opportunities arose, most adult school bus drivers resigned-- leaving school officials with the same problems of recruitment and training as when student drivers graduated from high school.⁵⁶

As Featherston reported:

The use of students frequently gives bus management access to the best of an entire age group, whereas a selection of adults somewhat lowers the range of sheer ability available in the bus-driving market.⁵⁷

⁵⁴ Association of School Business Officials of the United States and Canada, Proceedings of the Fifty-Sixth Annual Meeting (Seattle, Washington: n. p., 1970), p. 264.

⁵⁵ Theo A. Sorenson, "Key Person, the Bus Driver," Nation's Schools, (May 1960): 84-85.

⁵⁶ Culp and Featherston, Pupil Transportation, p. 73.

⁵⁷ Ibid., p. 74.

In North Carolina, opponents of student drivers claimed that the state has ignored a large and available supply of adult drivers. They contended that school cafeteria workers, school custodians, teachers, parent volunteers and housewives were potential bus drivers. Work schedules were not a problem for volunteers or housewives and those of cafeteria workers, custodians and teachers could have been altered.⁵⁸ Currently, 90 percent of the adult school bus drivers in North Carolina fall into one of the five categories outlined above.⁵⁹

In the early 1930's, it was suggested that highway maintenance workers could be used to drive school buses. The workers could have driven school buses in the morning, returned to their highway sections during the day, and transported children home from school in the afternoon. The suggestion was never implemented because of the objections of highway maintenance officials.⁶⁰

The recruitment of adult school bus drivers from existing school or government programs has been used with varying degrees of success in North Carolina and other states. However, most officials agree that it is impractical to rely totally on such sources. A large transportation program such as that of North Carolina would find it difficult to operate its 12,000 school buses in such a manner.⁶¹

⁵⁸Interview, Bob Daniels, Research Assistant, North Carolina Highway Traffic Safety Research Center, Chapel Hill, 12 November 1979.

⁵⁹Ibid. and Interview, Joel Bass, Transportation Supervisor, Alamance County Schools, 18 December 1979.

⁶⁰"Safety and Economy," Raleigh News and Observer, 18 January 1935, p. 4.

⁶¹Interview, Bob Daniels, 12 November 1979.

Efficient operation as a reason for
North Carolina's reliance on student
school bus drivers, 1933-1979

By law, North Carolina public school principals have been responsible for the immediate supervision of school bus drivers.⁶² Since most school bus drivers in North Carolina have been students, supervision has been a considerably easier task for principals than it would have been if adults were the major source of school bus drivers.

Principals were familiar with the students and, in many cases, knew their families. This familiarity enabled the principal to be selective in hiring. Once a driver was selected, the principal used his familiarity with the student, family and community as an invaluable supervisory aid.⁶³

The use of high school students as school bus drivers has enabled pupil transportation officials

to be more selective in employing bus operators, require more intensive operator training, maintain an adequate number of qualified operators, exercise close supervision over the pupil transportation system and maintain a good safety record at a reasonable cost.⁶⁴

C. C. Brown, former Director of the North Carolina Division of Pupil Transportation, reported in 1949:

⁶²North Carolina, Public School Laws of North Carolina (Charlottesville, Virginia: The Michie Company, 1978), Chapter 115, Article 22, Section 185(b).

⁶³North Carolina, Highway Traffic Safety Research Center, School Bus Accidents and Driver Age, by Judith McMichael (Chapel Hill: University of North Carolina Press, 1974), p. 1.

⁶⁴Ibid.

In fact the majority of superintendents in the State contend that student drivers generally are more desirable than the adults who can be obtained. For one thing, the youths are always at school ready to start promptly at the end of the day's session. For another, they are accustomed to school routine and generally will cooperate better with school authorities in carrying out instructions given them.⁶⁵

In 1977, the Associated Press surveyed school officials in North Carolina about the use of student drivers. The survey indicated a strong preference for student drivers over adult drivers. The following reasons for that preference were given:

1. Students are generally known by school officials and therefore can be screened carefully
2. Students are more responsive to adult school officials than adults
3. School officials have access to students at all times during the school day
4. Since students park buses at school during the day, servicing and maintenance of school buses are accommodated.⁶⁶

Critics of student drivers have been hard-pressed to find fault with the operational efficiency inherent in hiring student drivers. In 1975, a group of parents conducted an investigation of the Chapel Hill-Carrboro School System's pupil transportation program. The parents had been concerned about a recent rash of school bus accidents. A task force worked with the North Carolina Highway Traffic Safety Research Center during the investigation.

⁶⁵"School Bus System Gets Critical Appraisal," Raleigh News and Observer, 6 November 1949, p. 2.

⁶⁶"Teachers Prefer Students for Driving School Buses," Durham Sun, 13 April 1977, p. A-3.

The task force's report recommended against using student school bus drivers. However, the report was highly favorable of one aspect of the system's pupil transportation program. The use of student drivers enabled school officials in the Chapel Hill-Carrboro School System to effectively supervise the program. Since students were at school during the day, the principal could have regular meetings to discuss transportation problems with bus drivers.⁶⁷

Comparative safety records of student drivers
and adult drivers in North Carolina

Since 1931, public school pupil transportation officials in North Carolina have staunchly defended the state's student driver policy. The most serious charge by critics of student drivers alleged that students were not as safe as adult drivers. Two characteristics of that criticism have remained fairly constant since the 1930s: (a) criticism has generally come from politicians, parent groups, and newspaper writers in the state, and school officials in states that do not use student school bus drivers; and, (b) criticism has been particularly acrimonious after a fatal school bus accident in which the driver was a high school student.

During the 1930's, North Carolina was a pioneer in the use of student school bus drivers. Critics of student drivers condemned the policy despite the fact that from school years 1933-1934 to 1939-1940 only six students were fatally injured in school bus

⁶⁷Florence Soltys, "Report of the Task Force on School Bus Safety to the Chapel Hill-Carrboro Board of Education," Chapel Hill, 1975. (Mimeographed)

accidents.⁶⁸ Only one of those deaths was attributed directly to the negligence of a student school bus driver.⁶⁹

One political leader charged in 1932 that many parents in North Carolina lived in "anxiety" for the safety of their children while they were in the custody of student school bus drivers.⁷⁰ A newspaper column warned in 1935 that the low fatality rate for school bus accidents in the state was mere "luck" and that ensuing years would see a drastic increase in fatalities.⁷¹

In 1937, the Chapel Hill Weekly condemned the state's lack of concern for the victims of school bus accidents.

As recompense for the life of a child whom it has killed with one of its ramshackle buses, operated by young and careless drivers, the State of North Carolina pays only the medical and funeral expenses--not exceeding \$600--and at the same time appropriates \$1,500,000 for free textbooks.⁷²

State leaders and pupil transportation officials ignored the advice of such critics and continued the use of student drivers. Claude Gaddy, Assistant Secretary to the State School Commission during the 1930's, declared: "The State school bus system has the best accident record of any large school system in the country."⁷³ A favorable

⁶⁸"High School Boys Set Record as Safe Drivers," Greensboro Daily News, 1 May 1938, p. 11. and "School Commission Names Committee to Study Improved Safety Methods," Raleigh News and Observer, 18 April 1941, p. 1.

⁶⁹"In My Opinion," Raleigh News and Observer, 9 May 1936, p. 4.

⁷⁰"Safety and Economy," Raleigh News and Observer, 18 January 1935, p. 4.

⁷¹"In My Opinion," Raleigh News and Observer, 9 May 1936, p. 4.

⁷²"A Matter of State Policy," Chapel Hill Weekly, June 1937, p. 2.

⁷³"Transportation," Raleigh News and Observer, 6 January 1936, p. 2.

newspaper article in the Greensboro Daily News reported in 1938:

"So far as available records show, there is no highway transportation record equal to this one set by North Carolina's tight-lipped, keen-eyed young drivers."⁷⁴

Clyde Erwin, State Superintendent of Public Instruction from 1934 to 1952, professed support for student drivers in his biennial report to the General Assembly. Erwin wrote: "The transportation statistics of the State indicate a remarkable record of safety on the part of these student drivers."⁷⁵

Governor John Ehringhaus of North Carolina commended student drivers in the state and praised their overall safety record in a speech before the New York State Chamber of Commerce on November 21, 1935.

We are also transporting to and from school each day over 270,000 children--about one seventh of all transported in the United States. And in this largest of all transportation enterprises only five children were injured last year--none fatally. Five casualties out of over eighty million child trips--how is that for a safety record?⁷⁶

In early 1941, the praise of school officials for student drivers was quieted in the wake of two fatal accidents in less than thirty days. On March 22, 1941, seven-year-old Richard Kearney was killed and nineteen other students were injured when a school bus driven

⁷⁴"High School Boys Set Record as Safe Drivers," Greensboro Daily News, 1 May 1938, p. 11.

⁷⁵North Carolina, Biennial Report of Superintendent, 1934-1935 and 1936-1937, p. 13.

⁷⁶David Leroy Corbett, ed., Addresses, Letters and Papers of John Christopher Blucher Ehringhaus, Governor of North Carolina, 1933-1937 (Winston-Salem: Winston Printing Company, 1950), p. 199.

by nineteen-year-old Cecil Sears crashed into a tree near Cary.⁷⁷ On April 16 of the same year, sixteen-year-old Patsy Newman was killed in a Wake County school bus accident.⁷⁸ That both buses were driven by students greatly alarmed the citizens of North Carolina.

Governor J. Melville Brought wrote the following letter to Superintendent of Public Instruction Clyde Erwin and Lieutenant Governor R. L. Harris:

The shocking and tragic instance of another death of a school child resulting from a school truck accident as reported in today's papers is of course quite disturbing to all who are charged with responsibility of school administration as well as to the public generally. I realize that accidents cannot be wholly eliminated and that even with the utmost care they will sometimes occur.

However, we have a notable record of safety in this State and I am gravely disturbed to see this record being so seriously impaired in these recent days.⁷⁹

A five-member committee was established by the State School Commission to "conduct a full and complete investigation of all available methods of safety now in use in this and other states."⁸⁰ The Safety Committee was defensive of the state's safety record from the outset of the investigation. Citing the various safety measures taken by the state during the 1930's, the resolution of

⁷⁷"Wake School Boy Killed by Backing Bus," Raleigh News and Observer, 23 March 1941, p. 1.

⁷⁸"Another Bus Tragedy," Raleigh News and Observer, 17 April 1941, p. 4.

⁷⁹"Directs School Commission to Take All Possible Measures for Children's Safety," Raleigh News and Observer, 16 April 1941, pp. 1-2.

⁸⁰"School Commission Names Committee to Study Improved Safety Methods," Raleigh News and Observer, 18 April 1941, p. 1.

the Safety Committee pointed out that "2,400,000 children were transported over 200,000,000 miles in the past eight years with only eight fatalities."⁸¹

The Safety Committee visited five neighboring states, held hearings on school bus safety and reported its findings in February of 1942. The Committee reported no adverse criticism of student drivers, thereby insuring the continuation of the state's student driver policy. However, most of the safety recommendations made by the Safety Committee eventually became a part of established policy for pupil transportation in the state. Those recommendations included the following:

1. The use of school bus safety monitors for loading and unloading children
2. Equipping school buses with back-up signals and stop arms
3. Making the appointment of school bus drivers subject to the approval of the Chief Mechanics of the various counties .
4. Providing all school buses with speed governors
5. Purchasing 218 additional buses with all steel chassis and frame (Many previous buses were equipped with composite--wood and steel--bodies and chassis
6. Erecting highway signs cautioning motorists of bus movements
7. Establishing an intensive bus driver training program.⁸²

⁸¹"School Commission Names Committee to Study Improved Safety Methods," Raleigh News and Observer, 18 April 1941, p. 2.

⁸²(1)North Carolina, Session Laws (1945), Chapter 670, Section 1; (2)North Carolina, Session Laws (1943), Chapter 767, Section 1; (3)North Carolina, Session Laws (1941), Chapter 21, Section 1; (4)"School Safety Committee Hears Criticism of Buses," Raleigh News and Observer, 1 May 1941, p. 11; (5)"New Buses Asked to Insure Safety," Raleigh News and Observer, 16 May 1941, p. 1; (6) Ibid.; (7)"Systematic Training of School Drivers in This State Draws National Attention," Greensboro Daily News, 12 July 1942, p. 4.

The single most important action taken by pupil transportation officials following the 1941 accidents was the establishment of a training program for school bus drivers. Today, the program is recognized as one of the most comprehensive school bus driver programs in the nation.⁸³

Two major school bus accidents during the 1940's caused another chorus of criticism of student drivers in the state. In March of 1946, a student driver allowed an unlicensed and inexperienced driver to operate his bus. The inexperienced driver lost control of the bus near Perry's Pond in Franklin County. Four children were killed and twenty-three injured.⁸⁴

In October of 1949, six Nash County children were killed and twenty injured in a school bus accident.⁸⁵ The Franklin and Nash County accidents prompted a new dimension to the student driver debate. Citizens in three North Carolina counties took legal steps to obtain adult drivers for school buses.

In 1946, citizens of Avery County demanded that the County Commissioners provide adult drivers for the more mountainous bus routes in the county. The Commissioners asked the North Carolina General Assembly for special legislation allowing them to raise taxes for the

⁸³Interview, Patricia Waller, Research Associate, North Carolina Highway Traffic Safety Research Center, Chapel Hill, 12 November 1979.

⁸⁴"School Head Asks Support in 'Safe Bus Operation'," Raleigh News and Observer, 8 March 1946, p. 1.

⁸⁵"A Tragedy But an Exception," The Asheville Citizen, 7 October 1949, p. 2.

purpose of providing additional salaries for adult school bus drivers. The 1947 General Assembly provided such legislation.⁸⁶

The 1947 General Assembly also permitted Currituck County to raise taxes for the purpose of hiring adult drivers. The legislation called for all bus drivers in the county to be at least 21 years of age.⁸⁷ It is interesting to note that the legislation was repealed by a Special Act of the 1949 General Assembly.⁸⁸

In 1951, Macon County followed the lead of Avery and Currituck. The General Assembly authorized the Macon County Commissioners to tax its citizens for the purpose of raising money for adult school bus drivers. The legislation authorized a maximum salary of \$60.00 per month for Macon County drivers.⁸⁹ The base salary for school bus drivers in 1951 was \$20.00 per month.⁹⁰ The Macon County legislation was repealed by a Special Act of the 1955 General Assembly.⁹¹

The passage of such special legislation was indicative of the attitude of many state citizens toward student school bus drivers. Yet, school officials remained convinced that the use of student

⁸⁶North Carolina, Session Laws (1947), Chapter 338, Sections 1 and 2.

⁸⁷North Carolina, Session Laws (1947), Chapter 372, Section 1; North Carolina, Session Laws (1947), Chapter 1036, Section 1.

⁸⁸North Carolina, Session Laws (1949), Chapter 154, Section 1.

⁸⁹North Carolina, Session Laws (1951), Chapter 954, Section 1.

⁹⁰North Carolina, Biennial Report of the Superintendent, 1952-1953 and 1953-1954, p. 117.

⁹¹North Carolina, Session Laws (1955), Chapter 997, Section 1.

drivers was the proper course of action for the state. A 1951 survey of school officials in five states (including North Carolina) that employed student school bus drivers revealed the following:

1. Almost all of the officials questioned rated student drivers the same or better than adult drivers
2. Almost all of the school officials rated the students as more physically fit than adults
3. Eighty percent of the school officials stated that students kept safety in mind as well or better than adults
4. Seventy-five percent of the school officials felt that students were equal to or better than adults in emotional maturity
5. The majority of the school officials rated the students as better or equal to adults in adverse driving situations.⁹²

Critics of student school bus drivers charge that they are too immature to handle adequately the responsibilities of driving a school bus. The Public Health Service reported in 1967 that a "16-or 17-year-old driver may not have sufficient judgment or responsibility to drive a school bus."⁹³ In 1959, the National Parent Teacher Association released a report recommending that public schools should employ only adult drivers. The Association concluded: "Only persons who are known to be careful, skilled, competent drivers should be employed to operate school buses."⁹⁴ The Management Research Committee of the

⁹²Bloom, "Do You Really Know . . . The Man Who Drives Your Child to School," p. 120.

⁹³"The Growing Concern About School Buses," Good Housekeeping (October 1967): 201.

⁹⁴William L. Roper, "How Safe Are Your School Buses," National Parent Teacher (February 1959): 53.

Association of School Business Officials recommended in 1961 that adult drivers should be used since "maturity is an important qualification for bus drivers."⁹⁵

Supporters of student drivers responded that maturity was a relative concept since many adults acted "immaturely". According to one writer, the age of a school bus driver was "important only in relation to capacity to carry the responsibility of the position."⁹⁶

Pupil transportation officials in North Carolina argued that the selection process and the driver training program were effective in securing mature, competent and responsible school bus drivers. The driver training program of North Carolina was acclaimed by the National Committee on Safety Education in 1967.

The leadership which has gone into the development of the school transportation program in North Carolina has had its impact upon the progress made in other states, including those states that are not in agreement with all aspects of the plan of operation of that state.⁹⁷

It was not until the 1960's that serious attention was given to compiling data on the comparative safety records of student and adult school bus drivers. In 1964, researchers from the Automotive Crash Injury Research Division of the Cornell University Aeronautical Lab in Buffalo, New York, conducted a study of school bus accidents in

⁹⁵"Apply the Facts for Better School Transportation," Nation's Schools (October 1961): 73.

⁹⁶Harold H. Punke, "School Busses, Drivers, Trips and Loads," The School Review (November 1940): 681

⁹⁷National Committee on Safety Education, Study of School Bus Safety (Washington, D. C.: National Committee on Safety Education, 1967), p. 131.

North Carolina. The researchers studied 898 school bus accidents involving death or injuries to passengers that occurred in the state during the 1962-1963 school year.⁹⁸

During the year in question, North Carolina's 7,825 student drivers drove 54,172,773 miles. Student drivers were involved in 130 accidents resulting in death or injury to passengers. The accident rate for student drivers was 2.4 accidents for every one million miles of travel.⁹⁹

The 754 adult school bus drivers were involved in 12 accidents during the 1962-1963 school year. The total miles driven by adult drivers was 5,837,668. The accident rate for adult drivers was 2.1 accidents involving death or injury for every one million miles driven.¹⁰⁰

The Cornell study concluded:

Results indicate that the accident rate for student drivers was not different from the adult drivers to a statistically significant degree.¹⁰¹

The Cornell study did find "slightly significant" differences in the concentration of accidents in the following three areas:

1. Slightly more students than adults were involved in accidents resulting from following too closely

⁹⁸B. J. Campbell, J. K. Kiltberg, and Susan Lieberman, School Bus Accidents in North Carolina, Cal. Report # VJ-1823-R-6 (Buffalo, New York: Cornell Aeronautical Lab, Inc., 1964), p. 1.

⁹⁹Ibid., p. 2.

¹⁰⁰Ibid., p. 3.

¹⁰¹Ibid., p. i.

2. Slightly more student accidents than adult accidents were "associated with situations in which the driving task seems more demanding, such as: 1. on curved roads, 2. in winter, 3. on the homeward-bound leg of the trip (driver fatigue, boisterous students, darkness in winter days)"
3. A relatively high proportion of adults to students were involved in angular collision accidents, failure to yield, or speeding. The report stated that this finding was "consistent with the experienced, confident adult driver who, in a given situation, might take a bolder action.¹⁰²

In 1969, the Highway Traffic Safety Bureau of the United States Department of Transportation conducted an investigation into the relationship of school bus driver age to accidents. The Bureau analyzed data on school bus accidents from all 50 states. The following conclusions were offered:

1. Sixteen-to eighteen-year-old male drivers had a better safety record than the eighteen-to twenty-one-year-old male drivers
2. Twenty-one-year-old male drivers and those drivers over the age of sixty-three had the worst safety records
3. Safety performances of male drivers below the age of twenty-one was generally as good as that of male drivers above the age of twenty-one
4. Sixteen-year-old female drivers had as good a safety record as thirty-five-year-old female drivers
5. The safety performance of female drivers over twenty-five years of age was generally worse than that of female drivers below twenty-five years of age
6. There was no significant difference between the overall accident rate of male and female drivers.¹⁰³

¹⁰²Campbell et al., School Bus Accidents in North Carolina, p. 2.

¹⁰³North Carolina, School Bus Accidents and Driver Age, p. 2.

The Highway Safety Bureau recommended against the establishment of "uniform national school bus driver age limits."¹⁰⁴ The general conclusion of the Bureau's report was that "age is quite incomplete as a predictor of accident rates."¹⁰⁵

The North Carolina Highway Traffic Safety Research Center at the University of North Carolina at Chapel Hill has been particularly active in school bus accident studies in recent years. In 1974, Judith McMichael released a study on school bus accidents and driver age. McMichael's study analyzed North Carolina school bus accident data for the school year 1971-1972. Data were obtained from three sources: accident reports, driver and mileage data and a questionnaire administered to a sample of school bus drivers.¹⁰⁶

McMichael undertook the study because of doubts she had about the findings of the National Highway Safety Bureau's study. (see above) The Bureau's study concluded that there was no significant difference between the safety records of school bus drivers under 21 years of age and those over 21 years of age. McMichael reported:

There was some feeling that circumstances had changed in the interim and that schools were no longer likely to be able to get such good student drivers.¹⁰⁷

¹⁰⁴United States, Department of Transportation, National Highway Safety Bureau, School Bus Safety: Operator Age in Relation to School Bus Accidents, by David M. Promisel et al., No. HS 800209 (Darien, Connecticut: a synopsis of the National Highway Safety Bureau's study as issued by Dunlap and Associates, Inc., 7 March 1970), p. 4.

¹⁰⁵Ibid., p. 3.

¹⁰⁶North Carolina, School Bus Accidents and Driver Age, p. 2.

¹⁰⁷Ibid.

The McMichael study reported that school bus driver training representatives of the Division of Motor Vehicles were having difficulty obtaining the high caliber of student driver that had been possible in past years. The representatives stated:

There appears to be general agreement that the students on the whole are no longer so select a group as was the case several years ago. The reasons given for this are, first, that many of the best students are now involved in extra-curricular activities and thus not available for driving a bus. A second reason given is that with the increase in consolidated high schools the school principal, who makes the initial selection of school bus trainees, does not know the students as well as was once the case. Previously the principal was likely to have known the student and his family since the student was a small child. Now the selections are made on the basis of much more limited information. Therefore it was deemed advisable to take another look and a more intensive look at school bus drivers in North Carolina.¹⁰⁸

The McMichael study considered the involvement of various ages in three accident categories: all accidents, traffic accidents and police report accidents. All accidents included accidents on school grounds, private areas or driveways. Traffic accidents were accidents occurring on public roads. Police report accidents involved accidents reported to and investigated by law enforcement officials. Table 11 presents the results of McMichael's study.

McMichael's study revealed that school bus drivers in age group 16 through 20 had a higher accident rate than drivers in the 21-and-over age group. However, the higher accident rate for the younger group was attributed largely to the poor driving record of

¹⁰⁸ North Carolina, School Bus Accidents and Driver Age, pp. 2-3.

TABLE 11

ACCIDENT INVOLVEMENT FOR TYPES OF ACCIDENT REPORTS
(The Number of Accident Drivers Divided By
The Number of Operating Drivers in Each Age
Group).

Age	All Accidents	Traffic Accidents	Police Report Accidents
16	0.305	0.270	0.205
17	0.182	0.162	0.128
18	0.128	0.115	0.096
19	0.171	0.154	0.123
20	0.286	0.231	0.209
21-24	0.262	0.248	0.172
25-54	0.131	0.119	0.084
55 and over	<u>0.178</u>	<u>0.151</u>	<u>0.110</u>
All drivers	0.183	0.163	0.128
16-20	0.187	0.167	0.132
21 and over	<u>0.142</u>	<u>0.128</u>	<u>0.091</u>
All drivers	0.182	0.162	0.127

SOURCE: North Carolina, School Bus Accidents and Driver Age, p. 24.

16-year-old drivers. When the accident record of 16-year-old drivers was isolated, the record of 17-, 18- and 19-year-old drivers compared favorably with all other age groups.¹⁰⁹

The most significant finding of the McMichael study was the poor driving record of 16-year-old drivers. McMichael concluded:

In view of these results, it may be worthwhile to experiment with licensing more school bus drivers at age 17 years rather than age 16, provided they have had a full year of driving experience at that time.¹¹⁰

¹⁰⁹North Carolina, School Bus Accidents and Driver Age, pp. 19-20.

¹¹⁰Ibid., p. 19.

The recommendation of the McMichael study went unheeded until 1977. In April of that year, an accident in Yancey County caught the attention of the state. Fifteen-year-old Lisa Haney was permanently paralyzed from the waist down as a result of the accident.¹¹¹

The cause of the accident was brake failure and not driver error. In fact, Jim Edwards, the 17-year-old driver, was commended for his handling of the accident situation. However, General Assembly Representatives Mary Nesbitt and James Clarke introduced legislation prohibiting 16-year-olds from operating school buses. The proposed legislation was not passed; but, the State Board of Education urged counties to use 16-year-old drivers sparingly.¹¹²

Since 1961, statistics of the National Safety Council have placed North Carolina among those states with a high number of school bus accidents and injuries as a result of those accidents. Table 12 indicates the national ranking of the state in three categories: number of pupils transported, number of accidents and number of injuries.

Pupil transportation officials in the state downplayed the significance of the National Safety Council statistics. They contended that the high accident and injury rate in the state was a reflection of North Carolina's very rigid accident-reporting system. Many states did not include minor accidents in their official reports. In contrast, North Carolina reported every accident regardless of

¹¹¹"Crash Sparks School Bus Safety Drive," Durham Sun, 11 April 1977, p. 1.

¹¹²Ibid.

TABLE 12

Statistics and National Ranking of North Carolina's
Pupil Transportation System In Numbers of Pupils
Transported, Accidents and Injuries:
School Years 1961-1962 To 1976-1977

School Year	Pupils Transported Daily/ Nat'l Rank	Accidents/ Nat'l Rank	People Injured/ Nat'l Rank
1961-1962	548,000/5th	497/7th	NA
1962-1963	561,000/5th	866/2nd	422/1st
1963-1964	575,516/6th	584/3rd	136/11th
1965-1966	592,721/6th	357/11th	465/1st
1968-1969	610,760/6th	1237/3rd	444/12th
1969-1970	629,953/6th	1324/2nd	601/1st
1970-1971	683,413/5th	1673/3rd	553/1st
1971-1972	722,714/6th	1878/2nd	531/1st
1972-1973	724,199/7th	1768/1st	785/1st
1973-1974	726,158/6th	1885/1st	1100/1st
1975-1976	744,760/6th	1077/6th	569/2nd
1976-1977	751,907/10th	1185/8th	NA

SOURCES: National Safety Council, Accident Facts, 1961 (Chicago: National Safety Council, 1961), p. 91; Accident Facts, 1962, p. 91; Accident Facts, 1963, p. 93; Accident Facts, 1964, p. 93; Accident Facts, 1965, p. 93; Accident Facts, 1967, p. 93; Accident Facts, 1970, p. 93; Accident Facts, 1971, p. 93; Accident Facts, 1972, p. 93; Accident Facts, 1973, p. 93; Accident Facts, 1974, p. 93; Accident Facts, 1975, p. 93; Accident Facts, 1977, p. 93; Accident Facts, 1978, p. 93.

the severity. Louis Alexander, former Director of the Division of Pupil Transportation in North Carolina, stated: "All accidents are reported. Even those where they (school bus drivers) go over a bump in the road. If the pupil even complains, it's an accident."¹¹³

The above reasoning of pupil transportation officials in North Carolina was supported by researchers who tried to make comparisons between the accident rates of the various states. B. J. Campbell of Cornell University was unable to make valid comparisons between the accident rates of North Carolina school bus drivers and those of other states. Campbell stated: "It is difficult to relate these figures to the accident rate of the national scene. . . . There are no nationwide injury rates that are exactly comparable."¹¹⁴

David Promisel of the National Highway Safety Bureau expressed a similar frustration.

The absence of uniformity among local districts or states in the kinds of (accident) data collected and the techniques used hinders efforts to investigate pupil transportation systems.¹¹⁵

Researchers concerned with school bus safety in North Carolina and other states have arrived at only one damaging conclusion about the use of high school students as school bus drivers. That conclusion was a part of the 1974 McMichael study regarding the

¹¹³"Expert Says School Bus Safest Way," Greensboro Record, 12 April 1976, p. A-1.

¹¹⁴Campbell et al., School Bus Accidents in North Carolina, p. 2.

¹¹⁵United States, Highway Safety Bureau, School Bus Safety, p. 3.

poor safety record of 16-year-old drivers. Other than that report, studies indicated that there was no significant difference between the safety records of student drivers and adult drivers.¹¹⁶

During 1979, the State Board of Education took several measures to improve school bus safety in North Carolina. The Board directed the Division of Pupil Transportation to undertake an annual evaluation of the total pupil transportation policies of the various administrative units of the state. The Board hoped that the annual evaluation would improve the current practices of recruiting and training school bus drivers. In addition, better communication between principals and school bus drivers has been encouraged.¹¹⁷

Other efforts of the State Board of Education included the following:

1. Eliminating overcrowded buses
2. Instructing school bus passengers on proper bus safety practices
3. Requiring local units to adopt a uniform procedure for the recruitment and selection of school bus drivers
4. Equipping all school buses with "walking arms" (Walking arms extend ten feet in front of a school bus when the bus stops to dismiss passengers. The walking arms force passengers to walk within eyesight of the school bus driver.)
5. Equipping all school buses with additional mirrors.¹¹⁸

¹¹⁶Interview, Patricia Waller, Research Associate, North Carolina Highway Traffic Safety Research Center, Chapel Hill, 12 November 1979.

¹¹⁷Louis W. Alexander, Memorandum to all School Superintendents Concerning Rules Approved by the Board of Education of North Carolina, 1 March 1979.

¹¹⁸"Bus Safety Studies Find Multitude of Problems," Raleigh News and Observer, 27 May 1979, p. 20; Louis W. Alexander, Memorandum, 1 March 1979.

Historically, the State Board of Education, the Division of Transportation and local administrative units in North Carolina have shown a willingness to adopt needed school bus safety measures. However, pupil transportation officials in the state have been reluctant to abandon that policy which has drawn the most consistent criticism-- the use of high school students as school bus drivers.

For years school officials have argued that the pupil transportation programs of North Carolina have operated efficiently, economically and safely with student drivers. The use of adult drivers would impair the efficient and economical operation of pupil transportation in the state with no concrete assurance that school bus safety would be improved.

CHAPTER V
TORT LIABILITY AND NORTH CAROLINA
SCHOOL BUS DRIVER, 1931-1979

Since pupil transportation has developed into one of the most important, costly and hazardous of the auxiliary services of the schools, it is not surprising that it should be the subject of much legislation and frequent litigation.¹

Edward C. Bolmeier
Duke University

In 1898, the Commissioner of Education for the State of Massachusetts reported to the State Board of Education on the pupil transportation system. With reference to the drivers of school wagons, Commissioner G. I. Fletcher noted:

Nearly all of the drivers are reported to be trustworthy. Some are said to be as good as we can get. Some are of doubtful qualifications.²

A director of pupil transportation in any school system in the nation might make that same observation today. No such director would deny that every effort was made to secure the most competent persons available to transport children to and from school. Regardless of that effort, school bus mishaps occur and many of those accidents are a result of the negligence of school bus drivers.

¹E. C. Bolmeier, "Legal Issues in Pupil Transportation," Law and Contemporary Problems 20 (Winter 1955): 45.

²John B. Murray and Louise R. Murphy, "Auxiliary Services Now Cost Millions," American School Board Journal 148 (June 1964): 34.

The body of tort law holds that persons may seek an action for damages in the courts for wrongs committed against them.³ The parents or guardians of North Carolina school children killed or injured in school bus accidents as a result of the negligence of school bus drivers have had that same privilege. This chapter will analyze legislation enacted by the North Carolina General Assembly to accommodate tort claims against school bus drivers. In addition, court litigation involving tort claims against school bus drivers will be examined.

Tort Liability and North Carolina
School Bus Drivers, 1931-1951

In 1951, the North Carolina General Assembly waived the doctrine of governmental immunity by enacting the Tort Claims Act. The Act allowed claimants to bring suit against the state and its various institutions and agencies for damages resulting from the negligence of state employees.⁴

School bus drivers were employees of local school boards, a political subdivision of the state responsible for the education of its citizens. In addition, school bus drivers were paid from state

³Edward C. Bolmeier, The School in the Legal Structure (Cincinnati: The W. H. Anderson Company, 1968), p. 110.

⁴North Carolina, Session Laws (1951), Chapter 1059, Section 1. "Briefly, the doctrine of governmental immunity provides that no governmental agency or official shall be required to answer in damages for torts committed in the process of or as a result of making official policy decisions." North Carolina, Institute of Government, Pupil Transportation in North Carolina, by Allan W. Markham (Chapel Hill: University of North Carolina, Institute of Government, 1966), p. 16.

funds. For these reasons, school bus drivers in North Carolina came under the provisions of the Tort Claims Act.

Prior to passage of the Tort Claims Act of 1951, the doctrine of governmental immunity effectively insulated local school boards and state agencies institutions from tort claims.⁵ Although the state and its various agencies and institutions were protected by governmental immunity from tort claims prior to 1951, no such immunity was afforded to school bus drivers or any other individual employee of the state. The North Carolina Supreme Court ruled in a 1944 case:

The suggested (governmental) immunity has never been extended to a mere employee of a governmental agency upon this principle. . . . The mere fact that a person charged with negligence is an employee of others to whom immunity from liability is extended on grounds of public policy does not thereby excuse him from liability for negligence in the manner in which his duties are performed, or for performing a lawful act in an unlawful manner.⁶

The ruling of the North Carolina Supreme Court was applied more specifically to school bus drivers in a 1951 case. The Court ruled:

Undoubtedly the county board of education, as an agency or instrumentality of the state, enjoys immunity to liability for injury or loss resulting from the negligence of the driver of its school bus. But the driver of the school bus, who is a mere employee performing a mechanical task, is personally liable for his own actionable negligence.⁷

⁵Benton v. Board of Education of Cumberland County, 201 N. C. 653 (1931).

⁶Miller v. Jones, 224 N. C. 783 (1944).

⁷Hansley v. Tilton, 234 N. C. 3 (1951).

That victims of North Carolina school bus accidents could bring suit against the driver but not the governments involved was of little consolation to the parents of school children prior to 1951. School bus drivers and their families were often insolvent and ill-prepared to pay large tort claims.

As early as 1931, courts across the nation were expressing their growing distaste for the doctrine of governmental immunity.

One such court reported:

The whole doctrine of governmental immunity from liability for torts rests upon a rotten foundation. It is almost incredible that in the modern age of comparative sociological enlightenment and in a republic, the medieval absolutism supposed to be implied in the maxim, 'the king can do no wrong,' should exempt the various branches of government from liability for their torts, and that the entire burden of damages resulting from the wrongful acts of the government should be imposed upon the single individual who suffers the injury, rather than distributed among the entire community, constituting the government, where it could be borne without hardship upon the individual, and where it justly belongs.⁸

In the 1930's many school officials and political leaders in North Carolina were becoming aware of the wisdom of the above opinion.

From 1933 until 1951, the General Assembly of North Carolina gradually came to the realization that a fair and equitable means would have to be found to compensate the parents or guardians of children injured or killed as a result of the negligence of school bus drivers. The cloak of governmental immunity became too fragile an excuse and too politically damaging to answer the growing number of potential tort claims.

⁸Hoffman v. Bristol, City of, 113 Conn 386, 155 Atl 499 (1931).

Special Acts of the General Assembly for
the relief of school bus accident victims

The involvement and attention of the General Assembly of North Carolina was drawn to the matter of compensating the victims of school bus accidents by the deaths of three children and injuries to many others between 1933 and 1935. In each of the accidents, the General Assembly passed a Special Act to compensate the parents of the individuals injured or killed. Such Special Acts waived the state's governmental immunity in specific situations only.

The reasoning of the General Assembly in enacting Special Acts to compensate school bus accident victims was stated in the Preamble to one such Act in 1935:

Whereas, the transportation of children, by motor bus, to and from schools within the state has been a necessity under the systems of schools obtaining (sic) in this state for a number of years; and

Whereas, it is mandatory that children of given age must be by their parents sent to school, and the consolidation of schools within the state has made it necessary that a large number of the children within school age be transported; and

Whereas, injuries have occurred of serious nature within the last school year to many children in Surry County, and in most cases their parents are not financially able to pay the hospital and medical bills incurred in their treatment;

Now, therefore. . . .⁹

The Act following the above Preamble directed the State School Commission to pay the hospital and medical bills of all Surry County children injured in school bus accidents during the 1934-1935 school

⁹North Carolina, Session Laws (1935), Chapter 458, Preamble.

year. The compensation was to be paid from the State Emergency Fund. The amount of compensation per child was not to exceed six hundred dollars.¹⁰

Two other school bus accidents were considered by the 1935 General Assembly. The first accident occurred on March 22, 1934, while a Montgomery County school bus was en route to Uwharrie Public School. The bus collided with a truck. Roy McIntyre, aged 10, and James Everett Hamilton, aged 9, were killed as a result of the accident. In addition, George McIntyre received "serious injury to the body, limbs"; Pauline Hamilton received "numerous cuts, bruises and lacerations, leaving her permanently injured"; Alta Christenburg lost her right leg and Louise Christenburg "received internal injuries as well as external injuries to her body and limbs."¹¹

The General Assembly concluded that the accident was a result of the negligence of the school bus driver and the poor condition of the school bus. They sympathized with the inability of the parents to "defray the cost of burial expenses, hospital bills and medical attention" for the children.¹²

As there was no "remedy at law" for the parents of the Montgomery County school children, the General Assembly directed the State School Commission to pay six hundred dollars to the fathers of the two dead children and to pay the medical and hospital bills of

¹⁰North Carolina, Session Laws (1935), Chapter 458, Section 1.

¹¹North Carolina, Session Laws (1935), Chapter 303, Preamble.

¹²Ibid.

the remaining children. Payment to the parents of the children was to be made from the State Emergency Fund.¹³

The second fatal accident considered by the 1935 General Assembly occurred in Hoke County. Eva Wood was riding in a school bus from Raeford Public School to her home. The "old and dilapidated" bus skidded on the road and turned over on its side. The weight of the children against the roof of the bus tore the top from the bus body sending all the occupants, including Eva Wood, to the ground. Eva was killed instantly.¹⁴

The General Assembly concluded that the Hoke County Board of Education was negligent in allowing a defective school bus to transport school children. The driver was held to be innocent of any negligence. As Eva Wood's father was unable to pay the burial expenses for his daughter and there was no "remedy at law", the State School Commission was directed to pay \$250.00 to Mr. Wood.¹⁵

The three Special Acts discussed above led the 1935 General Assembly to enact An Act To Provide Compensation For School Children Killed Or Injured While Riding On A School Bus To And From The Public Schools Of The State: And To Authorize The State School Commission To Set Aside Certain Funds For That Purpose Out Of Which Medical And Hospital Expenses And Death Claims Shall Be Paid.¹⁶

¹³North Carolina, Session Laws (1935), Chapter 303, Section 1.

¹⁴North Carolina, Session Laws (1935), Chapter 351, Preamble.

¹⁵Ibid., Preamble, Section 1.

¹⁶North Carolina, Session Laws (1935), Chapter 245. Hereafter referred to as the Certain Claims Compensatable Act.

The maximum amount allowed a claimant under the Certain Claims Compensatable Act was \$600.00. Payments were made by the State School Commission regardless of whether the death or injury to school children was caused by the negligence of school bus drivers.¹⁷

The full particulars of the Certain Claims Compensatable Act will be discussed later. It is mentioned here because the Act had an influence on limiting the number of Special Acts passed by the General Assembly from 1935 until 1951. In fact, from 1935 until 1947, no Special Acts for the compensation of school bus accident victims were passed. Special Acts were not needed since awards made to claimants under the Certain Claims Compensatable Act were sufficient to satisfy all parties involved in most cases.

In the late 1940's the General Assembly considered three important questions regarding the liability of school bus drivers for accidents involving them while in the performance of their duties. The questions were as follows:

1. Should the state pay claims against school bus drivers for damages to personal property?
2. Should the state pay claims without establishing negligence on the part of school bus drivers as provided by the Certain Claims Compensatable Act?
3. Are the limitations established by the Certain Claims Compensatable Act fair and equitable to all concerned?

All three questions were eventually addressed by the Tort Claims Act of 1951. However, the General Assemblies of 1947 and 1949 answered the questions individually with more Special Acts.

¹⁷North Carolina, Session Laws (1935), Chapter 245, Sections 2 and 5.

Special Acts were passed by the 1949 General Assembly awarding damages to two individuals for personal property loss incurred in a school bus accident. E. T. Blanton was compensated from state funds for "injuries to his property."¹⁸ Likewise, the General Assembly came to the aid of Harry C. Harwell. Harwell received damages from state funds for injuries to his automobile as a result of a school bus accident.¹⁹

A Special Act of the 1947 General Assembly allowed 84 claimants to seek damages allegedly caused by the negligence of employees of the State Board of Education or various agencies and departments of the Board. The individual claims sought compensatory relief from the state for bodily injury and property damage sustained in motor vehicle accidents with employees of the State Board of Education. Most of the employees were school bus drivers.²⁰

The 1947 Act differed from other Special Acts mentioned. In other Acts, the members of the General Assembly investigated the individual accidents and made awards. The 1947 Act directed the State Board of Education to investigate each case.²¹

The State Board of Education was given specific directions in settling the claims mentioned in the 1947 Act. Awards were to be made only if there was negligence on the part of the state

¹⁸North Carolina, Session Laws (1949), Chapter 1241, Section 1.

¹⁹North Carolina, Session Laws (1949), Chapter 1282, Section 1.

²⁰North Carolina, Session Laws (1947), Chapter 1092, Section 1 (c).

²¹Ibid., Section 1 (a).

employee. In addition, the claimant had to be found free of contributory negligence.²²

Several of the claims listed in the 1947 Act exceeded \$600.00.²³ As such, they could not be awarded under the terms of the Certain Claims Compensatable Act. The fact that these claims were considered by the General Assembly indicated a feeling among legislators that the state should extend its monetary liability in certain tort claims.

Property damage claims were considered in the 1947 Act. Property damage claims against school bus drivers had not been allowed in any Special Act prior to 1947 or in the Certain Claims Compensatable Act. Extending liability to include property damage indicated another new feeling of responsibility on the part of the state for tort claims against its employees.

The 1949 General Assembly passed another Special Act that agreed to hear the claims of 158 individual cases against employees of the State Board of Education. Like the 1947 Act, most of the claims were filed as a result of school bus accidents and involved both property damage and bodily injury. Eleven cases were in excess of \$600.00.²⁴

²²North Carolina, Session Laws (1947), Chapter 1092, Section 1(b).

²³Ibid., Section 1(c).

²⁴North Carolina, Session Laws (1949), Chapter 1138, Section 4.

Unlike the 1947 Act, which directed the State Board of Education to hear and pass on tort claims, the 1949 Act appointed the North Carolina Industrial Commission as the hearing body. Hearing officers of the Industrial Commission were directed to investigate each claim and determine the award--if any was due. A claimant who was dissatisfied with the findings of the hearing officer could appeal to the Full Commission. No award could exceed \$6,000.00.²⁵

Before an award could be made by the Industrial Commission, evidence had to indicate that negligence on the part of the employee was the proximate cause of the injury or damage. In addition, the Industrial Commission had to be satisfied that there was no contributory negligence on the part of the claimant.²⁶

By the time the 1951 General Assembly convened, it was apparent that the legislators were ready to consider the passage of a far-reaching tort claims bill. The need for such a bill was great. The growing number of tort claims against state employees (especially school bus drivers) could no longer be adequately handled on a year-to-year basis by Special Acts. A mechanism for handling such claims would have to be devised.

The 1935 Certain Claims Compensatable Act

The passage of the 1935 Certain Claims Compensatable Act by the General Assembly made the state a limited self-insurer for claims arising from school bus accidents. The Act served the state well from

²⁵North Carolina, Session Laws (1949), Chapter 1138, Section 1.

²⁶Ibid.

1935 until the passage of the Tort Claims Act of 1951. The Tort Claims Act was needed as a supplement to the rather limited coverage afforded by the 1935 Act. Both Acts remain a part of the state's methods of compensating tort claimants.

The Certain Claims Compensatable Act has been amended only slightly since 1935. In fact, since the General Assembly recodified the public school laws in 1955, no amendments have been passed. The provisions of the Certain Claims Compensatable Act and subsequent amendments are outlined below.

1. The State School Commission was authorized to establish a fund for the purpose of compensating the families of school children killed or injured as a result of a school bus accident.²⁷ In 1943, this authority (along with all other duties and responsibilities of the State School Commission) was transferred to the State Board of Education.²⁸

2. Awards made from the established fund were to be paid to the "parents, guardians, executors or administrators of any school child, who may be injured and/or whose death results from injuries received while such child is riding on a school bus to and from the public schools of the State."²⁹ The total award was not to exceed \$600.00 and was to be applied only toward the payment of medical, surgical, hospital and funeral expenses.³⁰

²⁷North Carolina, Session Laws (1935), Chapter 245, Section 1.

²⁸North Carolina, Session Laws (1943), Chapter 721, Section 1.

²⁹North Carolina, Session Laws (1935), Chapter 245, Section 2.

³⁰Ibid.

In 1939, the Certain Claims Compensatable Act was amended to allow compensation to be paid for accidents that occurred during the ninth month of school.³¹ Prior to 1939, only eight months of school attendance was required of public school children in North Carolina. The provisions of the 1939 amendment directed the individual counties of the state to set aside a fund for the purpose of compensating accident victims injured or killed during the ninth month of school.³²

An amendment to the Certain Claims Compensatable Act in 1941 allowed compensation to students in the twelfth grade.³³ Prior to 1941, public school students graduated after the eleventh year of school. The 1941 amendment also invalidated the provision of the 1939 amendment calling for local governments to compensate accident victims injured or killed in a school bus accident during the ninth month of school. The State School Commission was directed to pay all awards from state funds.³⁴

3. The Certain Claims Compensatable Act allowed claimants one year from the date of an accident to file claims with the State School Commission (State Board of Education after 1943). If death resulted from the accident, the administrators for the deceased were allowed one year from the date of death to file a claim.³⁵ These provisions have never been amended.

³¹North Carolina, Session Laws (1939), Chapter 267, Section 1.

³²Ibid.

³³North Carolina, Session Laws (1941), Chapter 267, Section 9.

³⁴Ibid.

³⁵North Carolina, Session Laws (1935), Chapter 245, Section 3.

4. The State School Commission (State Board of Education) had full authority to investigate each claim and decide the total amount awarded. The decision of the Commission (Board) was final.³⁶ A claimant who persisted in receiving compensation over \$600.00 had to pursue the matter in the courts or seek passage of a Special Act of the General Assembly. After 1951, appeal could be made to the North Carolina Industrial Commission under the provisions of the Tort Claims Act.

5. Claims honored by the Commission (Board) were paid regardless of whether an accident was due to the negligence of the school bus driver.³⁷ This provision differed significantly from provisions of the 1947 Special Act and the 1949 Special Act mentioned before. These later Acts required the State Board of Education and the North Carolina Industrial Commission (respectively) to award claims only if the driver was found negligent and there was no contributory negligence on the part of the claimant. The Tort Claims Act of 1951 required similar verifications of negligence and contributory negligence.

If the family of a child injured or killed in a school bus accident received additional compensation from any "person, firm or corporation" as a result of civil action in the courts, the award paid by the Commission (Board) had to be returned.³⁸

³⁶North Carolina, Session Laws (1935), Chapter 245, Section 4.

³⁷Ibid., Section 5.

³⁸Ibid.

6. The state was not liable for "sickness, disease, and for personal injuries sustained while not actually riding on the bus to and from the school" under the provisions of the Certain Claims Compensatable Act as passed in 1935.³⁹ The 1955 General Assembly amended this provision. Under the 1955 amendment, the parents, guardians, executors or administrators of a child injured or killed in a school bus accident could receive compensation if the accident occurred while the child was "boarding, riding on, or alighting from a school bus."⁴⁰ The 1955 amendment was more specific in stating that a claimant could receive compensation if the school bus accident occurred on the school grounds.⁴¹ The 1935 Act awarded claims only if the accident occurred while riding to and from school. The 1955 amendment provided that no awards could be allowed if injury or death resulted from the "operation of any activity bus as distinguished from a regular school bus."⁴²

Court cases involving tort claims against North Carolina school bus drivers, 1931-1951

Special Acts of the General Assembly and the Certain Claims Compensatable Act were two methods victims of school bus accidents in North Carolina could pursue in order to obtain compensation for damages. Another avenue was available--court action.

³⁹North Carolina, Session Laws (1935), Chapter 245, Section 6.

⁴⁰North Carolina, Session Laws (1955), Chapter 1372, Article 22, Section 1.

⁴¹Ibid.

⁴²Ibid.

Only three cases dealing with tort liability in connection with pupil transportation in North Carolina were tried or heard by either a state superior court or the Supreme Court of North Carolina prior to 1951. Those three cases are discussed below.

BENTON v. BOARD OF EDUCATION OF CUMBERLAND COUNTY, 201 N. C. 653 (1931). Benton v. Board of Education was a case heard by the North Carolina Supreme Court on appeal from the August, 1931 Term of the Cumberland County Superior Court. A. B. Benton was the administrator for Woodrow Brafford, aged 12, who was killed in a school bus accident in early 1931. Benton took action to recover damages for the death of his son from the Board of Education of Cumberland County, the Great National Insurance Company, J. E. Reaves, W. T. Reaves and J. L. Reaves. The Great National Insurance Company was the insurer for the Cumberland County Board of Education "against loss by reason of liability for bodily injuries or death accidentally suffered by the operation of (a) school bus."⁴³ J. E. Reaves and W. T. Reaves were sureties on a \$1,000 bond given by J. L. Reaves, the school bus driver in this case, as a condition to the "faithful" performance of his duties.⁴⁴

The school bus accident in question occurred while Woodrow Brafford was being transported from his home to Long Hill School. Superior court testimony stated that the bus was overcrowded and

⁴³Benton v. Board of Education of Cumberland County, 201 N. C. 653 (1931), p. 654.

⁴⁴Ibid., p. 655.

Woodrow had to stand "near a door of the bus."⁴⁵ Woodrow "was pushed against this door which suddenly opened because of a defective latch." Woodrow fell to the ground and was fatally injured.⁴⁶

Benton claimed that the Cumberland County School Board and the school bus driver were negligent in allowing an overcrowded and defective school bus to operate. He further claimed that the school board could not claim governmental immunity as a defense. A writ of estoppel, a legal document designed to stop the admission of certain evidence into a legal proceeding, was filed. The writ stated that the school board waived governmental immunity when it purchased liability insurance from the Great National Insurance Company.

Benton further claimed that he was entitled to the \$1,000 bond issued by the school bus driver and suretied by J. E. Reaves and W. T. Reaves.

The Cumberland County Board of Education, W. T. Reaves, J. E. Reaves and J. L. Reaves "demurred to the complaint, on the ground, among others, that the facts . . . are not sufficient to constitute a cause of action against them."⁴⁷ The Great National Insurance Company petitioned the court to allow the case to be heard in the Federal District Court for the Eastern District of North Carolina.

⁴⁵Benton v. Board, p. 654.

⁴⁶Ibid.

⁴⁷Ibid., p. 655.

The court denied the motion of the Great National Insurance Company. The demurrers filed by the Cumberland County Board of Education, W. T. Reaves and J. E. Reaves were allowed. That of the school bus driver, J. L. Reaves was denied.

J. L. Reaves asked that the case against him be separated from that of the Great National Insurance Company. This meant that Benton would have to seek two actions--one against the insurance company and one against the bus driver. The court granted J. L. Reaves' request.

Benton appealed the ruling of the superior court to the Supreme Court of North Carolina. He claimed that the lower court erred in the following ways: denying his writ of estoppel, allowing J. L. Reaves to separate his case, and denying payment to him of the \$1,000 bond.

The Supreme Court invoked the doctrine of governmental immunity in its decision on behalf of the Cumberland County Board of Education. The Court cited statutes that required county boards of education "to provide an adequate school system for the benefit of all children of their respective counties."⁴⁸ As part of that requirement, county boards of education were authorized and empowered to "make provisions for the transportation of pupils."⁴⁹ Therefore, county boards of education were exercising a governmental function as an agency of the state. The Court concluded:

⁴⁸Benton v. Board, p. 657.

⁴⁹Ibid.

No action can therefore be maintained against a county board of education to recover damages for a tort alleged to have been committed by the board in the transportation of pupils to and from the school which they are required to attend or which they do attend.⁵⁰

Concerning the lower court's denial of the writ of estoppel issued by Benton, the Court ruled:

The principle of estoppel cannot be invoked against a county board of education, in order to hold the board liable in an action, which, in the absence of a statute, cannot be maintained against it.⁵¹

Regarding Benton's claim to the \$1,000 bond, the Court maintained that the bond was payable to the Cumberland County Board of Education and not to Benton. Citing Gorrell v. Water Supply Company, the Court concluded that Benton "was not a party or privy to said bond, nor was he a beneficiary of the bond."⁵²

The dismissal of the claims against the Cumberland County Board of Education, W. T. Reaves, and J. E. Reaves was upheld. The decision to separate the case against J. L. Reaves and the Great National Insurance Company was likewise upheld. No error in the judgment of the Cumberland County Superior Court was found by the State Supreme Court.

BETTS v. JONES, 203 N. C. 590 (1932). Betts v. Jones was heard by the North Carolina Supreme Court on appeal from the September, 1932 Term of the Anson County Superior Court. The plaintiff in this case was

⁵⁰Benton v. Board, p. 657.

⁵¹Ibid.

⁵²Ibid.; Gorrel v. Water Supply Company, 124 N. C. 328 (1893).

Laura Betts, mother and administrator of the estate of Eddie Pearl Betts, who was killed in a school bus accident on March 10, 1932. Betts sought to recover damages for her daughter's death from Wilson Jones, driver of the school bus, and Shepherd Jones, Luther Brown, and Richard Crowder, school committeemen of Peachland High School in Anson County.

Court testimony stated that on March 10, 1932, at 8:00 a.m., Wilson Jones was operating a school bus with about 40 passengers on a sand-clay road about three miles from Peachland, North Carolina. Eddie Pearl Betts was a passenger on the bus. Wilson allegedly operated the bus at "a high and reckless rate of speed."⁵³ Wilson lost control of the bus and it left the road and plunged into six feet of water in Brown Creek. Eddie Pearl was thrown from the bus, painfully injured and died a few hours after being rescued from the waters.

Betts contended that the school bus driver was wilfully negligent. In addition, the conduct of the three school committeemen "in selecting Wilson Jones (son of Shepherd Jones) as driver of the bus was wilful, wrongful, malicious and corrupt."⁵⁴ The committeemen selected Wilson Jones "over the protest of many of the patrons of the school who regarded him as reckless and unfit for the position."⁵⁵

⁵³Betts v. Jones, 203 N. C. 590 (1932), p. 596.

⁵⁴Ibid., p. 590.

⁵⁵Ibid., p. 591.

The school committeemen demurred to the complaint on the grounds that in "employing a driver for the bus they exercised a governmental function and performed a public duty as an agency of the State for which they are not liable in damages."⁵⁶ Wilson Jones demurred to the complaint "on the ground that in driving the bus he was acting for the committee and was likewise in the exercise of a governmental function for which he cannot be held liable."⁵⁷

The Superior Court of Anson County overruled the demurrer of the defendants. The defendants appealed the decision to the Supreme Court of North Carolina. The bus driver and the school committeemen claimed that the lower court erred in denying them the use of governmental immunity as a defense.

The Supreme Court held that by demurring to the complaint, the school bus driver and the committeemen admitted their negligence in the matter. By demurring to and not denying the charges, the committeemen admitted that they hired Wilson Jones over the protests of school patrons who charged that he was "unfit, unsafe, non-dependable and reckless."⁵⁸

The Court was careful to point out the difference between public duties which are "ministerial in character and those which require the exercise of judgment or discretion."⁵⁹

⁵⁶Betts v. Jones, p. 591.

⁵⁷Ibid.

⁵⁸Ibid.

⁵⁹Ibid.

The Court has held that as a rule a private action for tort cannot be maintained against an agency of the State, but for the negligent breach of a public duty which is administrative and imposed entirely for the public benefit an officer may be held individually liable to a person who has been injured by his negligence if the statute creating the office or imposing the duty makes provision for such liability.

It has also been held that where the powers conferred upon a public officer involves the exercise of judgment or discretion he is not liable to a private person for neglect to exercise such powers or for the consequences of the lawful exercise of them if he acts within the scope of his authority and without malice or corruption.⁶⁰

The decision of the lower court to deny governmental immunity as a defense for the school bus driver and the three committeemen was upheld. In 1935, Wilson Jones and the three committeemen appealed once more to the North Carolina Supreme Court. The 1935 decision of the Court was basically the same as in 1932.⁶¹

HANSLEY v. TILTON, 234 N. C. 3 (1951). Hansley v. Tilton was heard on appeal from a jury trial held in Forsythe County Superior Court in October, 1950. Fred J. Hansley brought suit in the superior court to recover damages sustained in a school bus accident. Hansley's son, Hubert, was killed as a result of the accident and damage was done to his automobile. Mr. Hansley charged negligence on the part of the Forsythe County Board of Education and Jack Tilton, the school bus driver.

⁶⁰Betts v. Jones, p. 591.

⁶¹Betts v. Jones, 208 N. C. 410 (1935).

The superior court dismissed the action against the Forsythe County Board of Education citing the Board's rightful claim to governmental immunity. The case against Jack Tilton was allowed.

Court testimony stated that the school bus accident occurred just after dark on September 19, 1949, on a narrow bridge over Muddy Creek in Forsythe County. A school bus driven by Tilton approached the bridge at the same time as the automobile driven by Hubert Hansley. The bridge was 15 feet 4 inches wide. The road approaches to the bridge were straight and the bridge was visible for over 76 feet. The road was clearly marked with signs warning of the narrow bridge. The school bus was 95 inches wide and the automobile was 66 inches wide for a combined width of 13 feet 5 inches. The bus was being driven at 37 miles per hour. The speed of the automobile was from 60 to 65 miles per hour.

The testimony offered was based mainly on observations made by Fred Hansley, who was in the car with his son at the time of the accident, and on extrajudicial admissions made by Jack Tilton at the scene of the accident. A review of the testimony revealed the following pertinent details:

1. Hansley's automobile entered the bridge first
2. The bus clearance lights were not operating
3. The bus driver was admittedly familiar with the narrowness of the bridge and the abnormal width of a school bus
4. Since the bus displayed no clearance lights, the automobile driver had no way of knowing that he would experience any difficulty competing with another vehicle on the bridge. It was only after entering the bridge that the vehicle was identified as a bus

5. After entering the bridge, the school bus driver accelerated rather than braked. The driver felt that he could "beat him (deceased Hansley) across the bridge."⁶²
6. The school bus driver could have made a safe move by pulling closer to the rail as the automobile driver did
7. After striking the car, the school bus continued up the road for about 375 feet.

The superior court jury found Tilton negligent in the following respects:

- (1) That he failed to keep a reasonably careful lookout. . .
- (2) that he failed to keep the school bus under reasonable control. . .
- (3) that he drove the school bus on the highway at a speed greater than was reasonable and prudent under the conditions then existing. . .
- (4) that he drove the school bus, which had a width in excess of eighty inches, on the highway during the nighttime without displaying burning clearance lights thereon as required by statute. . .
- (5) that he failed to yield the right of way on the bridge to the intestate's automobile, the vehicle entering the bridge first, which he knew, or by the exercise of reasonable care would have known, that the bridge was too narrow for both of the vehicles to pass safely. . .
- (6) that. . . he failed to pass the automobile to the right, giving it at least one-half of the main-traveled portion of the roadway as nearly as possible.⁶³

The superior court jury found that Hubert Hansley was not contributorily negligent. The jury awarded Fred Hansley \$7,500 in damages for the death of his son and \$400 for damages to his automobile.

Tilton appealed the case to the Supreme Court of North Carolina on the grounds that the lower court committed four errors of law.

1. Tilton charged that Hubert Hansley was guilty of negligence or, at least, contributory negligence. The evidence offered by Tilton

⁶²Hansley v. Tilton, 234 N. C. (1951), p. 6.

⁶³Ibid., p. 7.

was contradictory to that of Hansley. Tilton claimed that Hansley's automobile entered the bridge first at a speed of 60 to 65 miles per hour. In addition, Hansley turned his automobile into the path of the school bus. Tilton charged that the jury did not properly consider the evidence presented by him.

The Court held that the question of negligence on the part of either Tilton or Hansley was a matter for the jury to decide. The jury made a decision based on its good judgment. No error of law was found in the jury's verdict.

2. Tilton claimed that the lower court should have dismissed the case on the basis of governmental immunity even if the evidence against him was incriminating. Tilton offered the following logic:

The county board of education is an agency or instrumentality of the State. As such, it is not liable for injury or loss resulting from the negligence of its officers, agents, or employees. Inasmuch as the defendant was driving the school bus for the county board of education, he is clothed with the governmental immunity of the board, and in consequence, is exempt from liability to the plaintiff in the instant action.⁶⁴

The Court overruled the second charge of error offered by Tilton. The Court cited the Benton case and stated:

Undoubtedly the county board of education, as an agency or instrumentality of the State, enjoys immunity to liability for injury or loss resulting from the negligence of the driver of a school bus. . . . But the driver of the school bus, who is a mere employee performing a mechanical task, is personally liable for his own actionable negligence.⁶⁵

⁶⁴Hansley v. Tilton, p. 7.

⁶⁵Ibid., p. 8.

3. Tilton charged that the lower court erred in not allowing the testimony of James Malcolm, a defense witness who testified that the clearance lights on the bus were operating three days prior to the accident. Tilton cited the evidential rule that "proof of the existence at a particular time of a fact of a continuous nature gives rise to an inference, within logical limits, that it exists at a subsequent time."⁶⁶

The Court overruled the third objection of Tilton. In the opinion of the Court, evidence clearly stated that the lights were not connected to any electrical source. "Such evidence certainly disclosed a change in the mechanical condition of the clearance lights, and in that way rebutted any possible inference of any continuation of their former state."⁶⁷

4. Tilton stated that the judge erred in his charge to the jury. The judge told the jury that Tilton was to be found negligent if he operated a school bus during nighttime without clearance lights. Tilton claimed that it was the school board's responsibility for allowing a defective school bus to operate.

The Court upheld the judge's charge to the jury. Tilton was unable to show why the board of education was more negligent than he in failing to see to the correction of the defective lighting system.

⁶⁶Hansley v. Tilton, p. 8.

⁶⁷Ibid., p. 9.

Tort Liability and North Carolina
School Bus Drivers, 1951-1979

In 1955, the North Carolina General Assembly recodified the public school laws of the state. In the Preamble to an act which rewrote the Tort Claims Act of 1951, the General Assembly alluded to the political pressure, the concern, and the frustration that legislators experienced while dealing with tort claims in earlier years.

Whereas, the North Carolina General Assembly, in enacting Article 31 of Chapter 143 of the General Statutes, (Tort Claims Act of 1951) followed the current trend of legislative policy throughout the Nation in abandoning the age-old doctrine of sovereign immunity; and

Whereas, the North Carolina General Assembly felt that negligent injuries inflicted by its employees or agents, when the claimant was free from contributory negligence, should be compensated for as if inflicted by a private individual or corporation; and

Whereas, it was the intent and purpose of the General Assembly to relieve itself of the judicial function of passing upon such tort claims, which had become the practice in the State prior to the adoption of said Article. . . .⁶⁸

The 1951 General Assembly could ill afford to continue the policy of handling tort claims by Special Acts. In addition, the Certain Claims Compensatable Act was too limited to allow for larger claims. Action had to be taken in light of the growing number of claims, the pressure to abrogate the doctrine of sovereign immunity, and the general suffering of those victimized by the negligent acts of state employees.

The experience of the General Assembly with tort claims from 1931 until 1951 led the legislature to enact the Tort Claims Act of 1951. The Act ended the doctrine of governmental immunity from

⁶⁸North Carolina, Session Laws (1955), Chapter 400, Preamble.

tort claims and allowed citizens to seek compensatory relief through fairer and less cumbersome methods than those afforded prior to 1951.

The North Carolina Industrial Commission as a court of original jurisdiction in tort claims

The 1951 Tort Claims Act constituted the North Carolina Industrial Commission as "a court for the purpose of hearing and passing upon tort claims against the State Board of Education, the State Highway and Public Works Commission and all other department, institutions and agencies of the State."⁶⁹ Such tort claims could be filed "as a result of a negligent act of a State employee while acting within the scope of his employment."⁷⁰

School bus drivers were employees of local school boards. Local school boards were agents of the State Board of Education, which paid the salaries of school bus drivers. For these reasons, school boards were liable for the negligent acts of school bus drivers under the provisions of the Tort Claims Act.

The General Assembly defined the role of a school bus driver and his employer more clearly in a 1955 amendment to the Tort Claims Act. The amendment was in the form of an addition to the Tort Claims Act and dealt entirely with tort claims against school boards for the negligent acts of school bus drivers. The amendment stated:

⁶⁹North Carolina, Session Laws (1951), Chapter 1059, Section 1.

⁷⁰Ibid.

The North Carolina Industrial Commission shall have jurisdiction to hear and determine tort claims against any county board of education or any city board of education, which claims arise as a result of any alleged negligent act or omission of the driver of a public school bus who is an employee of the county or city administrative unit of which such board is the governing board, and which driver was at the time of such alleged negligent act or omission operating a public school bus in the course of his employment by such administrative unit or such board.⁷¹

The 1955 amendment to the Tort Claims Act concerning school bus drivers was a part of the general recodification of the North Carolina public school laws undertaken by the General Assembly in that year. The recodification of the Tort Claims Act originally stated that a state employee could be held liable for a "negligent act or omission."⁷² An amendment during the same session of the General Assembly eliminated the words "or Omission" from the above wording.⁷³ The same wording was allowed to remain in the section of the recodification dealing with school bus drivers. The wording remains in the North Carolina Statutes as of this writing.⁷⁴

Under the general provisions of tort law, a person may be held liable for his negligent act or his failure to act. The North Carolina Tort Claims Act exempts all state employees from liability for failure to act--school bus drivers excluded.⁷⁵

⁷¹North Carolina, Session Laws (1955), Chapter 1283, Section 1(a).

⁷²North Carolina, Session Laws (1955), Chapter 400, Section 1/

⁷³North Carolina, Session Laws (1955), Chapter 1361, Section 1.

⁷⁴North Carolina, Public School Laws, Chapter 143, Article 31, Section 300.1.

⁷⁵See *Flynn v. North Carolina State Highway and Public Works Commission*, 244 N. C. 617 (1956).

In Huff v. Board of Education of Northampton County, the Supreme Court of North Carolina ruled:

An award against a county board of education under the provisions of the Tort Claims Act may not be predicated on the negligent act or omission of a school principal or the county board of education, but if an award is made it must be based on the negligent act or omission of the driver of a public school bus who was empowered at the time by the county or city administrative unit of which such board was the governing body.⁷⁶

Negligence, contributory negligence and proximate cause

Before a claimant could receive a monetary award from the Industrial Commission for damages resulting from the negligent act or omission of a school bus driver, the Commission's investigation had to reveal the following:

1. The school bus driver was negligent while operating the school bus
2. The proximate cause of the damage was the negligence or omission of the school bus driver
3. There was no contributory negligence on the part of the claimant⁷⁷

In general, negligence as defined by the North Carolina Supreme Court in dealing with tort claims has been of two types--ordinary negligence and wilful negligence.⁷⁸ Ordinary negligence inferred

⁷⁶Huff v. Board of Education of Northampton County, 259 N. C. 75 (1963).

⁷⁷North Carolina, Public School Laws, Chapter 143, Article 31, Section 291. The three provisions have been a part of the Tort Claims Act since 1951.

⁷⁸North Carolina, Public School Laws, (1978), p. 439.

that a person "should have known the probable consequence of his act."⁷⁹
 Wilful negligence rested upon the assumption that "one knew the
 probable consequences, but was recklessly, wantonly or intentionally
 indifferent to the results."⁸⁰

An often cited definition of negligence was cited in Biddle v. Mazzacco.

Negligence in the absence of statute is defined as the doing of that thing which a reasonably prudent person would not have done, or the failure to do that thing which a reasonably prudent person would have done in like or similar circumstances; it is the failure to exercise that degree of care and prudence that reasonably prudent persons would have exercised in like or similar circumstances.⁸¹

In cases heard by the North Carolina Supreme Court and the North Carolina Court of Appeals, school bus drivers have been found negligent for the following acts:

1. Failing to "supervise the activity" of school children while they crossed the road after leaving the bus ⁸²
2. Driving a school bus at 10 miles per hour "toward and by (a) group of approximately 50 unsupervised children despite the icy conditions which were existing."⁸³
3. Backing a school bus "without first seeing that such movement could be made in safety"⁸⁴

⁷⁹Braswell v. North Carolina A & T State University, 5 N. C. App 1 (1969).

⁸⁰Ibid.

⁸¹Biddle v. Mazzacco, 284 P 2d 364 (1955).

⁸²Trust Company v. Board of Education of Wilson County, 251 N. C. 603 (1959).

⁸³Mitchell v. Board of Education of Guilford County, 1 N. C. App 373 (1968).

⁸⁴Parsons v. Board of Education of Alleghany County, 4 N. C. App 336 (1969).

4. Operating a school bus without "due care and caution" when approaching school children waiting for the bus."⁸⁵

After a determination of negligence on the part of the school bus driver, the Industrial Commission must be satisfied that the negligence of the driver was the proximate cause of the injury to the claimant. One legal definition of proximate cause stated: "A natural and continuous sequence, unbroken by any efficient intervening cause, which produces the injury and without which the result would not have occurred."⁸⁶

According to the Tort Claims Act and rulings of the State Supreme Court, the negligent act of a school bus driver did not have to be the sole proximate cause of an injury or death. In one case, the State Supreme Court held that a school bus driver was partly responsible for the death of a six-year-old child who was struck by a passing car when she crossed the road after leaving the bus. The Court contended that the driver was negligent in not keeping a "proper lookout" for the child. The Court ruled:

It is not necessary to cite authorities in support of the fact that in a tort action the negligence of a private person need not be the sole proximate cause of the injury, but, in the absence of contributory negligence, such party, is liable if his negligence was one of the proximate causes of such injury. In our opinion, it was not the intent of the Legislature to limit liability under the Tort Claims Act to situations where the negligence of an employee was the sole proximate cause of the injury or damages inflicted.⁸⁷

⁸⁵Brown v. Board of Education of Charlotte-Mecklenburg, 269 N. C. 669 (1966).

⁸⁶Warren F. Thomas, "Tort Liability of Teachers and Principals," National Association of Secondary School Principals, Bulletin 62 (February 1978): 51.

⁸⁷Trust Company v. Board, p. 605

Contributory negligence inferred that the person injured was partly negligent because the negligence of that person contributed to his own injury. Since those most likely to be injured by the negligence of a school bus driver were school children, the age of a claimant was important in determining whether the child was capable of contributory negligence.

In Huff v. Board of Education, the Court denied an award of damages to a student who was injured in a school bus fight with another student. The Court ruled:

As I read the record, claimant on her own testimony was guilty of contributory negligence in voluntarily entering into the fight on 25 May 1960 in which she was cut, and therefore by her own showing she is barred of any recovery under our State Tort Claims Act.⁸⁸

Because of the circumstances and the claimant's age (16), the Supreme Court ruled that she was capable of contributory negligence.

Where younger children were injured or killed in school bus accidents, the Industrial Commission and the courts have been reluctant to accept a defense of contributory negligence on the part of the school bus driver.

In Crawford v. Board of Education of Wayne County, evidence showed that a six-year-old girl was seriously injured when she ran in front of a school bus to recover a shoe. The driver was found negligent for driving at an unsafe speed--although he braked immediately upon seeing the child. The driver asserted that he made an effort to avoid hitting the child; furthermore, the girl

⁸⁸Huff v. Board of Education of Northampton County, 259 N. C. 75 (1963).

was contributorily negligent by running "wildly" into the road. The Court rejected the driver's claims.

This Court has not in the past held that the language of the State Tort Claims Act requires a departure from our substantive case law concerning a minor's capability for negligence. We do not hold so now. Claimant, a six-year old child, is incapable of contributory negligence as a matter of law.⁸⁹

The courts of North Carolina have considered the facts of the case as well as the age of the child in determining contributory negligence. In Holder v. Moore, the State Supreme Court ruled:

The degree of care owed a child is proportionate to the accountability of a child in view of his or her age, maturity and intelligence to foresee and avoid the perils which may be encountered, if those perils are such as have become apparent to or should have been discovered by the operator of a motor vehicle in the exercise of ordinary care under all the circumstances.⁹⁰

In Holder v. Moore, a thirteen-year-old girl was found contributorily negligent for failing to exercise caution in crossing a four-lane highway after getting off a bus.⁹¹ In Smith v. Board of Education, a fourteen-year-old girl was found contributorily negligent when she suddenly jumped from a bus after being assaulted by a male student.⁹² However, in Brown v. Board of Education, a twelve-year-old was "presumed incapable of contributory negligence."⁹³

⁸⁹Crawford v. Board of Education of Wayne County, 275 N. C. 354 (1969).

⁹⁰Holder v. Moore, 22 N. C. App 134 (1974).

⁹¹Ibid.

⁹²Smith v. Board of Education of Cumberland County, 241 N. C. 305 (1954).

⁹³Brown v. Board of Education of Charlotte-Mecklenburg, 269 N. C. 667 (1967).

Monetary awards allowable under the
North Carolina Tort Claims Act

The maximum amount allowable under the provisions of the Tort Claims Act of 1951 was \$8,000.⁹⁴ The General Assembly has increased the maximum amount over the years. The 1955 General Assembly increased the maximum award to \$10,000.⁹⁵ In 1965, the maximum award was increased to \$15,000; in 1967, to \$18,000; in 1971, to \$20,000; in 1973, to \$30,000.⁹⁶ The current provisions of the Tort Claims Act regarding monetary awards limits claims to \$100,000.⁹⁷

Procedures for filing claims under
the Tort Claims Act, 1951-1967

Prior to 1955, all claims filed against a county or city school board for damages resulting from the negligent acts of a school bus driver were initiated when the claimant filed an affidavit with the Industrial Commission stating the following:

- (a) The name of the Claimant.
- (b) The name of the department, institution or agency of the State against which the claim is asserted, and the name of the State employee upon whose alleged negligence the claim is based.
- (c) The amount of damages sought to be recovered.
- (d) The time and place where the injury occurred.

⁹⁴North Carolina, Session Laws (1951), Chapter 1059, Section 1.

⁹⁵North Carolina, Session Laws (1955), Chapter 1102, Section 1.

⁹⁶North Carolina, Session Laws (1965), Chapter 256, Section 1; North Carolina, Session Laws (1967), Chapter 1206, Section 1; North Carolina, Session Laws (1971), Chapter 893, Section 1; North Carolina, Session Laws (1973), Chapter 1225, Section 1.

⁹⁷North Carolina, Session Laws (1977), Chapter 529, Section 1.

(e) A brief statement of the facts and circumstances surrounding the injury and giving rise to the complaint.⁹⁸

The 1955 amendment to the Tort Claims Act modified the requirements of the affidavit as it specifically applied to school bus drivers. The Act stated that the affidavit should contain the following:

. . . the name and address of such board, the name of the employee upon whose alleged negligent act or omission the claim is based, and all other information required by Section 143-297 in the case of a claim against the State Board of Education.⁹⁹

The Tort Claims Act of 1951 required the Industrial Commission to schedule a time for the hearing of the claim after receiving the affidavit. The hearing was to be held in "the county where the injury occurred" unless the parties agreed or the Commission directed a different location.¹⁰⁰

A copy of the affidavit was delivered to the Attorney General of North Carolina.¹⁰¹ The Attorney General was directed by the Tort Claims Act to represent all state agencies except the State Highway and Public Works Commission if, in the opinion of the Attorney General, the tort claim was "of sufficient import to require and justify" his appearance.¹⁰²

⁹⁸North Carolina, Session Laws (1951), Chapter 1059, Section 1.

⁹⁹North Carolina, Session Laws (1955), Chapter 1283, Section 1(a).

¹⁰⁰North Carolina, Session Laws (1951), Chapter 1059, Section 9.

¹⁰¹Ibid.

¹⁰²Ibid., Section 10.

The 1955 amendment to the Tort Claims Act redirected the affidavit in the case of a tort claim against a school bus driver. The Industrial Commission was to deliver a copy of the affidavit to the superintendent of the county or city school system that hired the bus driver. The superintendent, in turn, sent the document to the school system's attorney for a reply.¹⁰³

The 1955 amendment to the Tort Claims Act specifically exempted the Attorney General from any responsibility for defending a county or city board of education unless the State Board of Education was named in the same tort claim.¹⁰⁴

Under the Tort Claims Act, the attorney for a city or county school board could negotiate a settlement with the claimant. However, any settlement had to be approved by the Attorney General.¹⁰⁵ The 1955 amendment did not take exception to this procedure.

However, a 1961 amendment to the Tort Claims Act required the school board for a city or county school system to defend "in good faith and with the assistance of an attorney" any claim involving over \$1,000. If the school board did not seek to honorably defend itself in such a claim, an award made by the Industrial Commission was to come from local funds and not the state.¹⁰⁶ As allowed before, the school board's attorney could negotiate

¹⁰³North Carolina, Session Laws (1955), Chapter 1283, Section 1(a).

¹⁰⁴Ibid., Section 1(b).

¹⁰⁵North Carolina, Session Laws (1951), Chapter 1059, Section 5.

¹⁰⁶North Carolina, Session Laws (1961), Chapter 1102, Section 2.

a settlement with a claimant, but any negotiated settlement had to be approved by the Industrial Commission.¹⁰⁷

A 1963 amendment to the Tort Claims Act required the attorney for local school boards to file an answer to a tort claim against a school bus driver within 30 days of receipt of the affidavit mentioned above. The answer to the affidavit had to state the defense the school board intended to use in the case. No other defense would be allowed at the time of the hearing before the Industrial Commission.¹⁰⁸

A first hearing of a tort claim against a school board for the negligent act of a school bus driver was held before a single Hearing Commissioner (assuming that the school board attorney had not negotiated a settlement). An appeal from the findings and award of the Hearing Commissioner to the Full Commission could be made within seven days of the Hearing Commissioner's decision.¹⁰⁹

The Full Commission could "set aside, or strike out the decision of the Hearing Commissioner and . . . issue its own findings of fact and conclusions of law."¹¹⁰ A decision of the Full Commission in all cases involving less than \$500.00 was final.¹¹¹ In all cases involving an appeal from the Hearing Commissioner to the Full Commission, the loser paid the costs involved.¹¹²

¹⁰⁷North Carolina, Session Laws (1961), Chapter 1102, Section 2.

¹⁰⁸North Carolina, Session Laws (1963), Chapter 1063, Section 1.

¹⁰⁹North Carolina, Session Laws (1951), Chapter 1059, Section 2.

¹¹⁰Ibid.

¹¹¹North Carolina, Session Laws (1955), Chapter 770, Section 1.

¹¹²North Carolina, Session Laws (1955), Chapter 1102, Section 2.

Appeals from a decision of the Full Commission could be made to the superior court of the "county in which the claim arose" within thirty days of the date of the Full Commission's decision.¹¹³ An appeal to the superior court could be for "errors of law" only. The record of the Industrial Commission's findings were considered conclusive provided such evidence was competent.¹¹⁴

Time limitations on claims filed with the Industrial Commission

A claim against a school board for the negligent acts of a school bus driver was to be filed with the Industrial Commission within two years of the date of the accident. If death resulted from a school bus accident, the heirs or administrators had to file a claim within two years of the date of death.¹¹⁵

Payment of awards under the provisions of the Tort Claims Act, 1951-1975

After an award was made by the Industrial Commission, the school board requisitioned payment from the State Board of Education. Neither the State Board of Education nor a local school board was responsible or liable for paying an award in excess of that awarded by the Industrial Commission.¹¹⁶

¹¹³North Carolina, Session Laws (1951), Chapter 1059, Section 3.

¹¹⁴Ibid.

¹¹⁵Ibid., Section 11.

¹¹⁶North Carolina, Session Laws (1955), Chapter 1283, Sections 1(c) and 1(d).

Procedures for filing claims under
the Tort Claims Act, 1967-1979

Two major changes were effected by amendments to the Tort Claims Act from 1967 until the present: elimination of the Superior Court as an appeals court from the Industrial Commission's decisions and the growing influence and control of the North Carolina Attorney General in tort claims against school boards for the alleged negligent acts of school bus drivers.

The Court of Appeals. In 1967, the North Carolina Court of Appeals was established as the legitimate court of appeals for claimants dissatisfied with the decisions of the North Carolina Industrial Commission. The appeals procedure after 1967 was as follows:

1. Appeals to the Court of Appeals were for "errors of law" only
2. The party appealing (appellant) prepared a statement of the case and presented a copy to the other party (respondent) within 45 days of the Industrial Commission's decision
3. The respondent answered within 20 days of the receipt of the statement
4. If the respondent approved the statement or failed to respond within 20 days, the case was filed with the Court of Appeals
5. If the respondent objected or excepted to the statement or filed a counter case, the appellant immediately requested the Chairman of the Industrial Commission to settle the disagreements
6. If the appellant did not request the Chairman to settle the disagreements within 15 days, the objections or exceptions to the statement of the case became a part of the record and the case was sent to the Court of Appeals. If the respondent filed a counter case and the appellant did not ask the Chairman to settle the disagreements within 15 days, the counter case became the case to be decided by the Court of Appeals

7. Within 20 days after filing all proper papers asserting exceptions or countercases to the Chairman, the Chairman settled and signed the statement of the case
8. Within 5 days after the appellant received a signed copy of the settled case from the Chairman, the case was filed with the Court of Appeals
9. If the appellant did not file the case with the Court of Appeals within 5 days, the respondent had the option of filing his own case
10. All time limits mentioned above could be waived with the common consent of the Chairman of the Industrial Commission, the appellant and the respondent.¹¹⁷

The Attorney General. The 1967 General Assembly relinquished the school board attorney of the responsibility for handling tort claims against the board for negligent acts of school bus drivers. A 1967 amendment to the Tort Claims Act stated:

The Attorney General shall be charged with the duty of representing the city or county board of education in connection with claims asserted against them pursuant to this section where the amount of the claim, in the opinion of the Attorney General, is of sufficient import to require and justify such appearance.¹¹⁸

The 1967 amendment instructed claimants against school boards for the negligent acts of school bus drivers to turn over affidavits to the superintendent. Instead of directing the claim to the school board attorney, the superintendent was to file the claimant's affidavit with the Attorney General and the State Board of Education.¹¹⁹

¹¹⁷North Carolina, Session Laws (1967), Chapter 655, Sections 1 and 2.

¹¹⁸North Carolina, Session Laws (1967), Chapter 1032, Section 1(b).

¹¹⁹Ibid., Section 1(b).

If the Industrial Commission awarded a claim, the school board requisitioned a payment from the State Board of Education. The 1967 amendment left intact the school board's power to negotiate settlements. Any negotiated settlement, however, had to receive the approval of the Attorney General and the State Board of Education.¹²⁰

Amendments made by the General Assembly after 1967 further strengthened the role of the Attorney General in tort claims against school boards for the negligent acts of school bus drivers. In 1975, the Attorney General was given the authority to negotiate a claim of less than \$1,000 without the approval of the Industrial Commission and without requiring a claimant to file an affidavit. This authority did not apply to claims involving minors. However, the Attorney General was authorized to settle any claim over \$1,000 as well as any claim involving a minor with the approval of the Industrial Commission.¹²¹

A second 1975 amendment relinquished the State Board of Education from any responsibility for paying awards made as a result of a successful tort claim against a school board for the negligent acts of school bus drivers.¹²² Awards made by the Industrial Commission were payable by the Attorney General's office. All funds appropriated to the State Board of Education for the purpose of paying claims were transferred to the Office of the Attorney General.¹²³

¹²⁰North Carolina, Session Laws (1967), Chapter 1032, Section 1(c).

¹²¹North Carolina, Session Laws (1975), Chapter 756, Sections 1 and 2.

¹²²North Carolina, Session Laws (1975), Chapter 916, Section 2(a).

¹²³*Ibid.*, Section 3.

TABLE 13

Tort Claims Heard and Settled by the
North Carolina Industrial Commission
1956-1978

School Year	Number Tort Claims	Damages Sought By Claimants	Awards Made By The Industrial Commission	Claims Heard By The Full Commission
1956-1957	292	\$292,629.99	\$61,730.37	17
1957-1958	325	218,026.90	79,841.31	12
1958-1959	348	137,261.84	100,026.95	13
1959-1960	396	275,534.84	92,462.42	11
1960-1961	226	272,333.96	107,618.56	12
1961-1962	153	233,525.21	99,093.94	13
1962-1963	295	359,630.22	113,278.43	13
1963-1964	271	384,352.02	191,695.90	18
1964-1965	277	190,660.18	153,654.18	24
1965-1966	222	584,432.97	34,514.24	22
1966-1967	241	429,423.31	290,945.01	25
1967-1968	264	424,764.46	215,733.57	21
1968-1969	189	352,685.68	207,976.34	23
1969-1970	148	869,964.94	364,129.19	11
1970-1971	288	650,984.41	344,151.97	16
1971-1972	366	977,239.43	617,995.55	37
1972-1973	216	384,484.05	219,642.00	26
1973-1974	141	978,464.00	552,963.00	13
1974-1975	137	1,229,099.00	684,122.00	25
1975-1976	168	1,516,052.00	342,417.00	17
1976-1977	162	5,934,710.00	411,020.00	26
1977-1978	165	1,080,096.00	562,213.00	35

SOURCES: North Carolina, Industrial Commission, Biennial Report(s) of the North Carolina Industrial Commission, 1956-1978, 15th through 25th Biennial Reports.

The 1975 amendment authorized the Attorney General to defend any school bus driver in cases appealed to the Court of Appeals. The Attorney General was given authority to defend the case or to employ private counsel for the driver.¹²⁴ A 1977 amendment authorized the Attorney General to negotiate a settlement in any civil case if he deemed it necessary.¹²⁵

Awards made by the North Carolina
Industrial Commission, 1956-1978

From 1956 until 1978, the North Carolina Industrial Commission heard and settled 5,290 tort claims against local school boards in cases involving school bus accidents and the alleged negligence of school bus drivers. The amount of damages actually sought by those filing claims totalled \$17,775,355.41. Awards made to those claimants during the time period totalled \$5,847,224.93.¹²⁶ Table 13 presents a yearly analysis of the damages sought by claimants and awards made by the Commission.

A Review of Court Cases Appealed From
The Industrial Commission
1951-1979

A review of North Carolina court cases involving tort claims against school bus drivers revealed that in the entire history of pupil transportation in the state, only twenty such cases have been

¹²⁴North Carolina, Session Laws (1975), Chapter 916, Section 2.

¹²⁵North Carolina, Session Laws (1977), Chapter 935, Section 1.

¹²⁶North Carolina, Industrial Commission, Biennial Reports of the North Carolina Industrial Commission, 1956-1978, 15th through 25th Annual Reports.

heard by a superior court, the North Carolina Court of Appeals, or the North Carolina Supreme Court. The doctrine of governmental immunity and the Tort Claims Act can be credited for the lack of litigation.

Prior to 1951, the doctrine of governmental immunity discouraged claimants from pursuing their claims in the state courts. After 1951, the Tort Claims Act established the North Carolina Industrial Commission as a court to hear tort claims against state employees. Settlements made by the Commission have relieved the state courts of the burden of dealing with tort claims against school boards for the negligent acts of school bus drivers.

In addition, most tort claims handled by the Industrial Commission are settled by negotiation between the claimant and the counsel for the school boards. Those cases which are appealed from the Industrial Commission to a higher court are mostly handled by negotiated settlement before they reach the court docket.¹²⁷

This section will review those cases which have been appealed from the Industrial Commission to a higher court in accordance with the Tort Claims Act of North Carolina.

GREENE v. BOARD OF EDUCATION, 237 N. C. 336 (1953)

Greene v. Board of Education was heard by the North Carolina Supreme Court on appeal from the September 1952 Term of the Superior Court of Mitchell County. Floyd Greene filed a claim against the

¹²⁷Interview, Herbert Lamson, North Carolina Attorney General's Office, 18 December 1979.

Mitchell County Board of Education and the State Board of Education in accordance with the provisions of the Tort Claims Act. Greene claimed that his daughter, Norma Lee Greene (aged 7), was killed in a school bus accident as a result of the negligence of a school bus driver named Dean Peake.

The investigation of the Industrial Commission revealed the following:

1. Peake, a substitute bus driver, was transporting school children home from school on April 29, 1951. This particular trip was the second trip of the afternoon.
2. The bus stopped on the opposite side of the road from the Greens's house to allow five children to disembark. Three of the children, Norma Lee included, had to cross the road in front of the bus in order to go home. Norma Lee was the first child to leave the bus.
3. Peake testified that he last saw Norma Lee when she was about one foot from the left front fender of the bus.
4. Passengers on the bus testified that they were unsure of Norma Lee's exact position when the bus pulled off. However, they recalled that Peake released the clutch and closed the door as soon as the last passenger left the bus.
5. As soon as the bus left, the children noticed that Norma Lee was "prostrate in the road, slightly to the left of the center."¹²⁸

¹²⁸Greene v. Board of Education of Mitchell County, 237 N. C. 336 (1953), p. 338.

6. From the time the bus stopped until Norma Lee was noticed in the road, no other vehicles were observed. "There was nothing on the bus to indicate that it came in contact with the body of the deceased."¹²⁹

7. Children on the bus testified that Peaks's actions were different from those of the regular driver. One of the Greene children testified:

That's what we ordinarily did, cross the road and got in the path before the bus pulled out. Before this time, the bus driver would stop and put out the flag until we crossed the road and until we got across the creek going up the road to our house.¹³⁰

Based on his investigation, the Hearing Commissioner of the Industrial Commission reached the following conclusion:

That it was the duty of the said Dean Peake to ascertain that the children who had been discharged from his bus were in positions of safety before proceeding, and in failing to do so he was negligent; that he drove away in a hasty manner while simultaneously closing the bus door, without keeping a proper lookout and without using due caution and circumspection, and in so doing struck and killed Norma Lee Greene; that his negligence was the proximate cause of the injury and death of the said Norma Lee Greene and that there was no contributory negligence on her part.¹³¹

The Hearing Commissioner awarded \$6,000 to Greene.

The Mitchell County Board of Education and the State Board of Education asked for a full review of the case by the Industrial Commission. The Full Commission affirmed the findings of fact and the award of the Hearing Commissioner.

¹²⁹Greene v. Board of Education, p. 338.

¹³⁰Ibid.

¹³¹Ibid., pp. 338-339.

The Mitchell County Board of Education and the State Board of Education appealed to the Mitchell County Superior Court. In their appeal, the defendants assigned no errors of law to the findings of the Industrial Commission as required by the Tort Claims Act.

The defendants asked the court to remand the case to the Full Commission for a complete hearing on the following:

1. A finding as to the specific acts of negligence on the part of Peake
2. A finding as to where Norma Lee was standing when the bus left and how long she had been standing there. The defendants argued that since Norma Lee was the first to leave the bus, she had time to clear the bus' path
3. A finding as to whether Norma Lee was in a position to be seen by the bus driver.

The court denied the requests.

The court also denied the defense's motion for a dismissal of the case and a request for a court reporter to record their objections to the findings of fact and conclusions of law of the Industrial Commission. Likewise, a motion to strike the Commission's findings from the record was denied.

The court entered judgment in the case and affirmed the findings and the award made by the Industrial Commission. The defendants appealed to the North Carolina Supreme Court.

The Supreme Court affirmed the rulings of the lower court in all situations. On the defense motion to remand the case to the Industrial Commission, the Court ruled:

the motion to remand for further findings is untenable. The Commission found all the essential facts. While it did not find just where the child was standing when she was struck by the bus or just what part of the bus struck her or whether she was in a position to be seen by the bus driver, these are, on the record, mere minor details which have no substantial bearing on the issues of fact the Commission was required to answer.¹³²

Concerning the refusal of the lower court to send for a court reporter so that the defense could enter objections to the findings of the Commission, the Court held that the court judge acted "in his sound discretion."¹³³ In denying the motion for dismissal and the move to have the Commission's findings struck from the record, the Court stated:

The facts found by the Commission are fully supported by the evidence and are therefore, under the terms of the statute (Tort Claims Act), binding on us. . . .

We have repeatedly held that the presence of children on or near a highway is a warning signal to a motorist. He must recognize that children have less capacity to shun danger than adults; are more prone to act on impulse, regardless of the attendant peril; and are lacking in full appreciation of danger which would be quite apparent to a mature person. . . .

The rules adopted by the N. C. Board of Education governing public school transportation as they relate to the operation of school buses expressly provide that the driver of a school bus must 'supervise the activities of children discharged from the bus until they have crossed the highway in safety or are otherwise out of danger' and 'shall not start the school bus until pupils are seen to be out of danger'. . . .

It is . . . clear that the unfortunate occurrence was proximately caused by the negligence of the bus driver. If he had merely taken time to glance to his left he could have ascertained that the little girl had not crossed the

¹³²Greene v. Board of Education, pp. 341-342.

¹³³Ibid., p. 342.

road. . . . Yet he made no effort to ascertain her whereabouts before he put his bus in motion. Such lack of due care toward a child of tender age under the circumstances leaves defendants in poor position to contest the issue of negligence.¹³⁴

SMITH v. BOARD OF EDUCATION OF CUMBERLAND COUNTY, 241 N. C. 305 (1954)

Smith v. Board of Education was heard by the North Carolina Supreme Court on appeal from the March, 1954 Term of the Cumberland County Superior Court. Maggie Tew Smith filed a claim against the Cumberland County Board of Education and the State Board of Education in accordance with the provisions of the Tort Claims Act. Smith claimed that her daughter, Edna Bernice Smith (aged 14) was killed in a school bus accident as a result of the negligence of the driver, James E. Williams.

The investigation of the Hearing Commissioner of the Industrial Commission revealed the following:

1. Williams was operating a school bus on the afternoon of October 23, 1950. The only passengers on the bus were Clifton Godwin, the school bus monitor, and Edna Bernice.
2. Edna Bernice was sitting midway of the bus when Godwin approached her and asked for a pencil.
3. When Godwin reached for the pencil, he touched Edna Bernice in a "familiar and unbecoming manner."¹³⁵
4. Edna Bernice "jumped up and rushed to the front of the bus, jerked the door of the bus open and jumped out while the bus was

¹³⁴Greene v. Board of Education, pp. 340-341.

¹³⁵Smith v. Board of Education of Cumberland County, 241 N. C. 305 (1954), p. 305.

traveling at a speed of about 28 miles per hour."¹³⁶ Edna Bernice was killed instantly.

5. Williams testified that he did not hear or see anything until he saw Edna Bernice "going out the door."¹³⁷

After considering the testimony and evidence offered, the Hearing Commissioner concluded:

. . . it was the duty of the bus driver to prevent students from leaving the bus while it was in motion; that, in failing to discover the assault and preventing Edna Bernice Smith from jumping from the bus, the driver was guilty of negligence which was the proximate cause of death.¹³⁸

The Hearing Commissioner awarded Smith \$5,000 in damages. The Cumberland County Board of Education and the State Board of Education asked the Full Commission for a complete review of the case. The Full Commission affirmed the conclusions of fact and the award made by the Hearing Commissioner.

The defendants appealed to the Cumberland County Superior Court. The defense declared that the driver's negligence was not the proximate cause of Edna Bernice's death. The actions of Godwin were described as equally incriminatory as a cause of the death of Edna Bernice. In addition, the defense stated that Edna Bernice was contributorily negligent. Being 14 years of age, Edna Bernice should have known the consequences of her actions.

¹³⁶Smith v. Board of Education, p. 305.

¹³⁷Ibid.

¹³⁸Ibid., pp. 305-306.

The Cumberland County Superior Court reversed the decision of the Industrial Commission. The court argued that although the bus driver was negligent, Edna Bernice was contributorily negligent. Under the provisions of the Tort Claims Act, Smith was not due an award.

Smith appealed the decision of the superior court to the North Carolina Supreme Court. The Court upheld the decision of the lower court; but, the decision modified the lower court's ruling. The Court held:

While the ruling of the court below on the defendants' exception with respect to the failure of the hearing commissioner and the Full Commission to find that the deceased was guilty of contributory negligence resulted in a verdict for the defendants, we affirm the result on the ground that the evidence does not support the finding of negligence on the part of the driver of the bus rather than upon the conclusion that the deceased was contributorily negligent. As regrettable as the death of this young girl may be, we can find no legal basis for sustaining an award in favor of the plaintiff.¹³⁹

JOHNSON v. BOARD OF EDUCATION OF CLEVELAND COUNTY, 241 N. C. 56 (1954)

Johnson v. Board of Education was heard by the North Carolina Supreme Court on appeal from the February, 1954 Term of the Cleveland County Superior Court. R. A. Johnson filed a claim against the Cleveland County Board of Education and/or the North Carolina Board of Education in accordance with the provisions of the Tort Claims Act. Johnson claimed that his son, Billy Joe Johnson, was killed in a school bus accident due to the negligence of a school bus driver.

¹³⁹Smith v. Board of Education, p. 306.

Testimony before the Hearing Commissioner revealed the following:

On the morning of 18 March 1952 the bus was being operated by a driver who had been transferred from another route. He was accompanied by the regular driver who was directed to familiarize him with the route, etc. Deceased (Billy Joe Johnson) and a girl were the first to board the bus. Deceased went towards the back of the bus and took a seat. A short distance ahead, the driver stopped and 'picked up' Annie Canipe. Deceased arose, went to the front of the bus, and put his books in the glove compartment. The driver and his companion both told him to sit down. He 'looked back and grinned.' The bus was then traveling slowly on a dirt road near or in a slight S-shaped curve--- first to the left of the driver and then to the right--- and deceased 'was standing right up where the door opens.'

As the bus went into the curve, deceased either caught hold of the door bar and applied sufficient pressure to cause the door to open or lost his balance and grabbed the bar to regain his balance. In any event, the door opened, and he fell out. The injuries he received caused almost instant death.¹⁴⁰

Based on the testimony offered, the Hearing Commissioner found the bus driver guilty of negligence and awarded Johnson \$8,000. The Hearing Commissioner concluded:

. . . at and before the time the bus started, after picking up the Canipe girl, the bus operator knew that deceased had not resumed his seat but was standing at the front of the bus near the door; that the bus was being driven more than twenty miles per hour; that this was faster than was reasonably prudent under the circumstances as they then existed; that by reason of the speed of the bus and its sudden turn to the left, the deceased lost his balance and fell; that driving and turning the bus in the manner described constituted negligence on the part of the driver of the bus; and that this negligence was a proximate cause of the death of the deceased.¹⁴¹

¹⁴⁰Johnson v. Board of Education of Cleveland County, 241 N. C. 56 (1954), p. 57.

¹⁴¹Ibid., pp. 57-58.

The Hearing Commissioner further concluded:

. . . the door control mechanism was not in proper repair, but that it was loose and out of adjustment to such an extent that pressure on the door bar caused the locking lever to dislodge and permit the door to open; that the driver knew of its loose condition, and that pressure on the locking lever would prevent the door from opening even against pressure on the door bar; that the driver did nothing to keep the door from opening; that in failing to do so, being aware of the presence of deceased in a place of potential danger, he failed to exercise that degree of care which a reasonably prudent person would have exercised under the same or similar circumstances; that this constituted negligence on the part of the driver of the school bus; and that this negligence was a proximate cause of the death of deceased.¹⁴²

The Cleveland County Board of Education and the State Board of Education took exception to the findings of the Hearing Commissioner and appealed to the Full Commission. The Full Commission affirmed the findings of fact, the conclusions of law and the award made by the Hearing Commissioner. The two boards appealed to the Cleveland County Superior Court.

The court reversed the decision of the Industrial Commission. The court held that the decision of the Industrial Commission was "unsupported by competent evidence." The case was remanded to the Full Commission for "clear cut findings of fact based on competent evidence and conclusions of law which do not conflict with the findings of fact."¹⁴³

After reviewing the case for a second time, the Full Commission adhered to its original conclusion. The Full Commission stated:

¹⁴²Johnson v. Board of Education, p. 58.

¹⁴³Ibid., p.58.

A majority of the Commission is of the opinion that the proximate cause of the death of this child was the conduct of the school bus driver originating with excessive speed and ending with his unexplained failure to reduce his speed and protect the door handle after discovering the perilous position occupied by the boy.¹⁴⁴

Johnson was again awarded the sum of \$8,000

On a second appeal to the Cleveland County Superior Court by the Cleveland County Board of Education and the State Board of Education, the court upheld the above conclusion of the Full Commission. The two boards appealed to the North Carolina Supreme Court.

The Supreme Court was upset with several aspects of the previous court proceedings. The Court viewed "with disfavor that the and/or method of naming the defendants in the captions to the summons and pleadings" was used. The Court felt that "more exactitude" was needed in naming the defendants.¹⁴⁵

The Court was disturbed that the Industrial Commission ignored the directions of the lower court when the case was remanded. The Court stated that the Industrial Commission had a duty "to bow to superior authority" and eliminate their original conclusions.¹⁴⁶ Instead, the Industrial Commission simply rephrased their original conclusions.

The Court ruled that the record was "devoid of any competent evidence tending to support the crucial findings made by the

¹⁴⁴ Johnson v. Board of Education, p. 59.

¹⁴⁵ Ibid.

¹⁴⁶ Ibid.

Commission concerning the question of negligence."¹⁴⁷ The case was remanded to the Industrial Commission with the Supreme Court's direction that the Commission deny the claim of Johnson.

WILLIAMS v. BOARD OF EDUCATION OF NORTH CAROLINA, 244 N. C. 599 (1956)

Williams v. Board of Education was heard by the North Carolina Supreme Court on appeal from the June, 1956 Term of the Wilson County Superior Court. Sam R. Williams filed a claim against the State Board of Education in accordance with the provisions of the Tort Claims Act. Williams claimed that his daughter, Judy Carol Gardner (aged 7) was killed in a school bus accident because of the negligence of a school bus driver named Lawrence Weeks.

Testimony before a Hearing Commissioner of the Industrial Commission revealed the following:

1. On March 18, 1955, Lawrence Weeks was transporting children home from school. He stopped his school bus on the opposite side of the road from the Williams' home. Seven children, including Judy Carol Gardner, alighted from the bus.

2. When Weeks pulled off, the right front wheel of the bus "ran over Judy."¹⁴⁸

3. Weeks testified:

It was seven got off and I thought I watched them all go round. I do not remember seeing Judy Carol in the group. . . . After I saw the group of children going up

¹⁴⁷Johnson v. Board of Education, p. 60.

¹⁴⁸Williams v. Board of Education of North Carolina, 244 N. C. 599 (1956), p. 600.

the path to my left, I closed the door, put the stop sign out, looked in front and went on. . . . I did not see anything. I went a little ways and felt a bump and I heard someone holler, and that's when I stopped.¹⁴⁹

The Hearing Commissioner found that "Judy Carol Gardner was killed as a proximate result of a negligent act on the part of the bus driver."¹⁵⁰ The Commissioner found no contributory negligence on the part of Judy Carol and awarded damages to Williams.

The State Board of Education appealed to the Full Commission for a review of the Hearing Commissioner's rulings. The Full Commission affirmed the findings and award made by the Hearing Commissioner.

The State Board of Education then appealed to the Wilson County Superior Court. The court affirmed the findings of fact and conclusions of law of the Full Commission.

In the final appeal to the North Carolina Supreme Court, the Court cited the principles of law stated in Greene v. Board of Education, a similar case. The Court concluded that there was "sufficient competent evidence before the Industrial Commission to support the findings of fact which in turn are sufficient to sustain the award."¹⁵¹

¹⁴⁹Williams v. Board of Education, p. 600.

¹⁵⁰Ibid.

¹⁵¹Ibid.

MICA COMPANY v. BOARD OF EDUCATION OF AVERY COUNTY, 246 N. C. 714 (1957)

Mica Company v. Board of Education was heard by the North Carolina Supreme Court on appeal from the April, 1957 Term of the Superior Court of Avery County. The English Mica Company and the Western Assurance Company filed a claim against the Avery County Board of Education under the provisions of the Tort Claims Act. The English Mica Company claimed that a tractor-trailer truck owned by the company sustained damages as a result of the negligence of Isaac Hughes, an Avery County school bus driver.

Testimony before a Hearing Commissioner of the Industrial Commission revealed the following:

1. On September 7, 1955, a tractor-trailer truck owned by the English Mica Company approached a bridge near Plumtree, North Carolina, at approximately 33 to 35 miles per hour. A school bus driven by Hughes approached the bridge from the opposite direction at approximately 25 miles per hour.
2. As the tractor-trailer truck entered the bridge, the school bus rounded a curve approximately 30 feet from the bridge. When the bus driver saw the tractor-trailer truck, he immediately applied the brakes, causing the rear wheels to lock.
3. The bus "skidded and bounced diagonally across the road in front of the tractor-trailer."¹⁵²
4. The truck driver thought the bus was loaded with children and pulled his truck to the right.

¹⁵²Mica Company v. Board of Education of Avery County, 246 N. C. 714 (1957), p. 715.

5. The rear of the school bus struck the tractor-trailer truck and caused it to turn over.

6. The driver of the school bus admitted his guilt during conversations at the scene of the accident.

7. Measurements indicated that both vehicles could have passed safely on the bridge at the same time. Both vehicles were approximately 8 feet in width. The bridge was over 18 feet in width.

A Hearing Commissioner for the Industrial Commission investigated the claim and concluded:

(1) That there was negligence on the part of the above-named employee of the defendant while acting within the scope of his employment and that such negligence was the proximate cause of the damages sustained by the plaintiffs. (2) There was no contributory negligence on the part of the plaintiffs or upon the part of the driver of the plaintiff's motor vehicle. (3) That as a result of the negligence of the employee of defendant, the plaintiffs were damaged in the total sum of \$2,000.73.¹⁵³

The Avery County Board of Education appealed to the Full Commission for a review of the case. The Full Commission affirmed the findings of law and conclusions of the Hearing Commissioner.

On appeal to the Avery County Superior Court, the court sustained every exception made by the Avery County Board of Education to the findings of the Industrial Commission. The court was of the opinion that there was not "sufficient evidence in the record to establish negligence or damages by the defendant."¹⁵⁴

¹⁵³Mica Company v. Board of Education, p. 716.

¹⁵⁴Ibid.

The court ordered the case remanded to the Industrial Commission for another investigation. The English Mica Company and the Western Assurance Company immediately appealed to the North Carolina Supreme Court.

The Court reversed the decision of the lower court. The Court based its decision on the fact that the lower court did not adhere to the provisions of the Tort Claims Act. The Tort Claims Act stated that appeals from the Industrial Commission to a superior court "shall be for errors of law only under the same terms and conditions as govern appeals in ordinary civil actions."¹⁵⁵

The specific error of law alleged by the Avery County Board of Education in its appeal to the superior court was that there was not competent evidence to support the conclusion of the Industrial Commission. The Court allowed that the above was a legitimate error of law that could be used in an appeal. However, the lower court erred in admitting into the record additional evidence and conclusions to that found by the Industrial Commission. The Court held that even though there may have been evidence "that would support a finding to the contrary," an appeals court was found to that evidence presented by the Industrial Commission as long as it was competent. The evidence found by the Industrial Commission was, in the opinion of the Court, sufficient to prove negligence on the part of the school bus driver.¹⁵⁶

¹⁵⁵Mica Company v. Board of Education, p. 717.

¹⁵⁶Ibid.

TRUST COMPANY v. BOARD OF EDUCATION OF WILSON COUNTY, 251 N. C. 603 (1959)

Trust Company v. Board of Education was heard by the North Carolina Supreme Court on appeal from the June, 1959 Term of the Wilson County Superior Court. Branch Banking and Trust Company filed a claim against the Wilson County Board of Education in accordance with the provisions of the Tort Claims Act. The Trust Company, administrator of the estate of Robert Alkie Williams (aged 9), claimed that Robert was killed in a school bus accident because of the negligence of Paul Douglas Lamm, a Wilson County school bus driver.

Testimony before a Hearing Commissioner of the Industrial Commission revealed the following:

1. On April 30, 1959, Lamm stopped his school bus on the opposite side of the road from the Williams home. Robert left the bus and proceeded to cross the road in front of the bus.

2. Robert was struck and killed by a car driven by Geraldine Buzby when the Buzby car illegally passed the stopped school bus.

3. The Branch Banking and Trust Company charged the following in its affidavit:

- a. He (Paul Douglas Lamm) failed to supervise the activity of Robert Alkie Williams when discharging him from the school bus until he was safely across the highway or otherwise out of danger. . . .
- b. He failed to direct the monitor on his school bus to assist Robert Alkie Williams off the bus and to escort him across the highway in safety
- c. He failed to keep a proper lookout for approaching cars.

- d. He permitted Robert Alkie Williams to alight from the bus when he knew or should have known an automobile operated by one Geraldine Buzby was approaching and might pass the bus and strike Robert Alkie Williams as he crossed the road.
- e. He failed to give adequate and timely warning to Robert Alkie Williams of the approaching Buzby automobile.
- f. He blew his horn in such a manner as to startle and confuse Robert Alkie Williams at a time just before the said Robert Alkie Williams was struck when he was immediately in front of the bus and in the act of crossing the highway.
- g. He discharged Robert Alkie Williams from his bus upon a heavily traveled highway without taking any precautions to enable the child to cross the highway in safety.¹⁵⁷

Based on the affidavit and an ensuing investigation, the Hearing Commissioner concluded that the alleged negligence on the part of the bus driver was "questionable."¹⁵⁸ In addition, the Hearing Commissioner concluded that the bus driver's negligence, if any, was not the sole proximate cause of the death of Robert Alkie Williams. Since Geraldine Buzby's automobile actually struck Robert, her negligence was equal to if not greater than that of the bus driver. The Commissioner held that the intervening negligence of Geraldine Buzby insulated the school bus driver from liability. No award for damages was made to the estate of the Williams child.

The Branch Banking and Trust Company appealed to the Full Commission. The Full Commission affirmed the decision of the Hearing Commissioner. An appeal to the Wilson County Superior Court likewise resulted in an affirmation of the Full Commission's ruling. The Trust Company appealed to the North Carolina Supreme Court.

¹⁵⁷Trust Company v. Board of Education of Wilson County, 251 N. C. 603 (1959), pp. 604-605.

¹⁵⁸Ibid., p. 607.

The Supreme Court reversed the decision of the lower court and ordered the case remanded to the Industrial Commission for a review. The Court struck down the two major defenses of the Wilson County Board of Education.

The Wilson County Board of Education claimed that the death of Robert Alkie Williams was at least partly due to the negligence of Geraldine Buzby. This being the case, the bus driver was insulated from a tort claim because of the intervening negligence of a third party. The Court ruled:

It is not necessary to cite authorities in support of the fact that in a tort action the negligence of a private person need not be the sole proximate cause of the injury, but, in the absence of contributory negligence, such party is liable if his negligence was one of the proximate causes of such injury. In our opinion, it was not the intent of the Legislature to limit liability under the Tort Claims Act to situations where the negligence of an employee was the sole proximate cause of the injury or damages inflicted.¹⁵⁹

Secondly, the Wilson County Board of Education noted that the charges against the school bus driver were based largely on his acts of omission and not on his acts of commission. The board cited Flynn v. Highway Commission which held that the state could not be held liable for acts of omission on the part of one of its employees but only for acts of commission.¹⁶⁰

The Court pointed out that the 1955 amendments to the Tort Claims Act stated that school bus drivers could be held liable for acts of omission and that, in fact, school bus drivers were the only state employees liable for acts of omission. The statute read:

¹⁵⁹Trust Company v. Board of Education, p. 609.

¹⁶⁰Flynn v. Highway Commission, 244 N. C. 617 (1956).

The North Carolina Industrial Commission shall have jurisdiction to hear and determine tort claims against any county board of education or any city board of education, which claims arise as a result of any alleged negligent act or omission of the driver of a public school bus who is an employee of the county or city administrative unit of which such board is the governing board, and which driver was at the time of such alleged negligent act or omission operating a public school bus in the course of his employment by such administrative unit or such board.¹⁶¹

HUFF v. BOARD OF EDUCATION OF NORTHAMPTON COUNTY, 259 N. C. 75 (1963)

Huff v. Board of Education was heard by the North Carolina Supreme Court on appeal from the October, 1962 Civil Term of the Northampton County Superior Court. Cleo Huff (aged 17) filed a claim against the Northampton County Board of Education and the North Carolina State Board of Education in accordance with the Tort Claims Act. Huff claimed that the negligence of the Northampton County Board of Education was the proximate cause of injuries sustained by him on a school bus.

The investigation of the Hearing Commissioner in the case revealed the following:

1. On October 15, 1959, James Broadnax was driving school bus number 45. Among the passengers on the bus were Cleo Huff and Odessie Sykes. Both were students at Gumberry High School.
2. While the bus was in operation, Sykes and Huff "had an argument and got into a fight."¹⁶² Sykes cut the left arm of Huff.

¹⁶¹Trust Company v. Board of Education, p. 610.

¹⁶²Huff v. Board of Education of Northampton County, 259 N. C. 75 (1963), p. 76.

3. Broadnax stopped the bus and broke up the fight. Contrary to his instructions as a school bus driver, Broadnax did not report the fight to the school principal.

4. On May 25, 1960, George Vincent was driving bus number 45 as a substitute for Broadnax. Broadnax was absent from school.

5. Vincent was normally the school bus monitor for bus number 45. Vincent was the appointed monitor on the day of the October 15 fight between Huff and Sykes. However, Vincent had left the bus before the fight occurred.

6. From October 15, 1959, until May 25, 1960, Huff and Sykes had not been involved in any misconduct on the bus.

7. On May 25, another fight occurred between Huff and Sykes. Huff was stabbed several times by Sykes.

8. Vincent claimed that he knew of no ill feeling between Huff and Sykes prior to the May 25 fight. On the day in question, he saw Huff move from her seat in the rear of the bus and approach Sykes who was seated at the front of the bus.

9. After the fight, Vincent administered first aid to Huff, left her at a store and called an ambulance.

Huff claimed that the school principal and the Northampton County Board of Education should have "reasonably foreseen" that the "ill will" between her and Sykes would lead to trouble. The principal and the board should have taken steps to prevent the impending trouble. As a result of their failure to do so, the principal and the school board were guilty of a negligent act of omission. Thus,

the injuries sustained by Huff at the hands of Sykes were compensatable under the Tort Claims Act.¹⁶³

The Hearing Commissioner found that neither the principal nor the Northampton County Board of Education were in a position to reasonably foresee the events that led up to the May 25 fight. Thus, they could not have taken action to prevent the occurrence of the incident in question. The claim of Huff was denied.

On appeal to the Full Commission, the Commission "adopted as its own the findings and the results reached by the Hearing Commissioner."¹⁶⁴ On appeal to the Northampton County Superior Court, the court affirmed the findings of the Full Commission.

Huff appealed to the North Carolina Supreme Court. The Court affirmed the decision of the lower court. The major conclusion of the Court centered around the provisions of the Tort Claims Act which allowed school bus drivers to be sued for negligent acts of omission but not a school board or a school principal. The Court ruled:

An award against a county board of education under the provisions of the Tort Claims Act may not be predicated on the negligent act or omission of a school principal or the county board of education, but if an award is made it must be based on the negligent act or omission of the driver of a public school bus who was employed at the time by the county or city administrative unit of which such board was the governing body.¹⁶⁵

¹⁶³Huff v. Board of Education, pp. 76-77.

¹⁶⁴Ibid., p. 77.

¹⁶⁵Ibid.

Additionally, the Court found that Huff was 17 at the time of the May 25 fight and therefore capable of contributory negligence.

The Court stated:

Claimant on her own testimony was guilty of contributory negligence in voluntarily entering into the fight on May 25, 1960, in which she was cut, and therefore by her own showing she is barred of any recovery under our State Tort Claims Act.¹⁶⁶

BROWN v. BOARD OF EDUCATION OF CHARLOTTE-MECKLENBURG, 267 N. C. 740 (1966) AND 269 N. C. 667 (1967)

Brown v. Board of Education was originally heard by the North Carolina Supreme Court on appeal from the September, 1965 Civil Term of the Superior Court of Mecklenburg County. Jennifer Brown, a 12-year-old school girl, filed a claim against the Charlotte-Mecklenburg Board of Education in accordance with the provisions of the Tort Claims Act. Brown claimed that she sustained injuries as a result of the negligence of Michael Chambers, a Charlotte-Mecklenburg school bus driver.

The Hearing Commissioner of the Industrial Commission found evidence of the following:

1. Chambers was driving his school bus on the morning of February 5, 1963. The bus approached two groups of students waiting for the bus at a heavily travelled intersection. The speed of the bus as it approached the students was approximately 2 miles per hour.
2. The group nearest the approaching bus was composed of boys; the other group, girls. Both groups were pushing and shoving each other as they awaited the bus.

¹⁶⁶Huff v. Board of Education, p. 81.

3. Brown was standing with one foot on the asphalt street and one foot on the curb as the bus approached.

4. As the bus passed the first group, the boys "started to pound on the door before the bus stopped."¹⁶⁷ Chambers was distracted by the pounding.

5. The bus continued to move forward and struck Brown. The right front wheel of the bus rolled over her head. The bus continued to move forward for approximately five feet.

The Hearing Commissioner found Chambers guilty of negligent conduct and awarded Brown \$7,500. The Hearing Commissioner based his decision on the following:

That the plaintiff herein sustained bodily injury which was occasioned by the negligence of the defendant driver's operation of a school bus without due caution and without due care in approaching the children gathered at the intersection; that the defendant's driver failed, when he saw the children at the intersection, to exercise that degree of care which applies with peculiar emphasis to the operator of a school bus, and this failure to exercise said caution and care proximately caused the plaintiff's injuries and damages.¹⁶⁸

The Charlotte-Mecklenburg Board of Education appealed to the Full Commission. The Full Commission concluded that there was "ample evidence to support . . . the hearing deputy commissioner's finding of fact, conclusions of law, and award."¹⁶⁹

The school board appealed to the Mecklenburg County Superior Court. The court reversed the decision of the Industrial Commission.

¹⁶⁷Brown v. Board of Education of Charlotte-Mecklenburg, 267 N. C. 740 (1966), pp. 741-742.

¹⁶⁸Ibid., p. 742.

¹⁶⁹Ibid., p. 743.

The court declared that the facts found by the Commission were not substantial enough to "constitute actionable negligence on the part of the driver of the school bus."¹⁷⁰ The case was dismissed and Brown was ordered to pay the necessary costs of court.

Brown appealed to the North Carolina Supreme Court. The Court ruled that the lower courts never specified whether Chambers was paid from the State Nine Month's School Fund. The Court cited General Statute 143-300.1, which stated:

The North Carolina Industrial Commission shall have jurisdiction to hear and determine tort claims against any county board of education or any city board of education, which claims arise as a result of any alleged negligent act or omission of the driver of a public school bus or school transportation service when the salary of such driver is paid from the State Nine Month's School Fund.¹⁷¹

On this technicality, the Court remanded the case to the Full Commission with the direction that the Commission "make a finding of fact as to whether or not Michael Chamber's salary as a school bus driver was paid from the State Nine Months School Fund."¹⁷²

When the Full Commission reopened the case as the Supreme Court directed, the stipulation that the bus driver was paid from the State Nine Months School Fund was properly entered on the affidavits. Whereupon, the Commission affirmed its original decision.

On appeal to the Mecklenburg County Superior Court, the court adhered to its original decision. The court stated:

¹⁷⁰Brown v. Board of Education (1966), p. 743.

¹⁷¹Ibid., p. 744.

¹⁷²Ibid., p. 745.

The Court concludes . . . that the essential facts found by the Commission are insufficient to support its ultimate findings and conclusions of law and that the facts found by the Commission do not constitute negligence on the part of the driver but negative the existence of negligence.¹⁷³

Brown appealed the case once more to the State Supreme Court.

The issue before the Court was whether the conclusions of the Industrial Commission "were sufficient to support its conclusion that the driver of the bus was negligent."¹⁷⁴ The Court found that the conclusions of evidence were sufficient. The Court stated:

No doubt, on this occasion, the attention of the driver was attracted by the boys who were pounding on the door of the bus. Having observed that some of the children were rather exuberant and unruly, reasonable care for the safety of his charges would require him to stop the bus before reaching the group or to swing it well out to the left, which he could have done in safety since there was no other traffic on the street and, in any event, all other traffic would be required to stop in obedience to his display of the "Stop" signal. To continue on until the bus struck down the plaintiff whom he had seen standing in the street was negligence.¹⁷⁵

In addition, the Court held that Brown, "being only twelve years of age, is presumed incapable of contributory negligence."¹⁷⁶ The Court ordered the lower court to reverse its findings and affirm the conclusions of law of the Industrial Commission.

MITCHELL v. BOARD OF EDUCATION OF GUILFORD COUNTY, 1 N. C. App 373 (1968)

Mitchell v. Board of Education was heard on appeal by the North Carolina Court of Appeals from an order of the Industrial Commission

¹⁷³Brown v. Board of Education of Charlotte-Mecklenburg, 269 N. C. 667 (1967), p. 670.

¹⁷⁴Ibid.

¹⁷⁵Ibid., p. 671.

¹⁷⁶Ibid.

of January 9, 1968. Carl Mitchell filed a claim against the Guilford County Board of Education in accordance with the provisions of the Tort Claims Act. Mitchell claimed that his son, Joseph P. (aged 11) was injured in a school bus mishap as a direct result of the negligence of Stephen Johnson Ingle, a Guilford County school bus driver.

Evidence offered before a Hearing Commissioner of the Industrial Commission revealed the following:

1. Joseph Mitchell and about 50 other students left Bessemer Junior High School on January 21, 1965, to board the bus.

2. The walkway and the roadway leading to the bus from the school were covered with ice.

3. "There were usually teachers or monitors present to supervise the loading of the children onto the school bus. However, on the occasion here involved there was no one present to assist or supervise the children in the loading even though the sidewalk and roadway were icy and slippery."¹⁷⁷

4. When the bus in front of a bus driven by Ingle moved forward, Ingle pulled up to the bus stop as Joseph Mitchell moved toward the bus.

5. Joseph Mitchell slipped on the ice and slid toward the bus. "His legs went under the bus and the rear wheels went across his legs."¹⁷⁸

¹⁷⁷Mitchell v. Board of Education of Guilford County, 1 N. C. App 373 (1968), p. 376.

¹⁷⁸Ibid.

The Hearing Commissioner concluded that the negligence of the school bus driver was the proximate cause of the injuries sustained by Joseph Mitchell. The Hearing Commissioner concluded:

(Stephen Ingle), by driving the school bus without warning and at approximately 10 miles per hour towards and by the group of approximately 50 unsupervised children despite the icy conditions which were existing, failed to do that which and did other than a reasonably prudent person would have done under the same or similar circumstances.¹⁷⁹

The major argument presented by the Guilford County Board of Education was that Joseph Mitchell was guilty of contributory negligence. The Hearing Commissioner rejected the argument and awarded damages sufficient to cover the ambulance, hospital, and medical costs of Joseph Mitchell.

The Guilford County Board of Education appealed to the Full Commission. The Full Commission affirmed the findings of the Hearing Commissioner. The Board appealed to the North Carolina Court of Appeals.

The North Carolina Court of Appeals affirmed the findings of law and conclusions of fact of the lower court. The Court stated:

The bus driver in this case had stopped his bus behind another bus while it loaded and moved away. After the other bus moved, the driver started his bus forward from its stopped position while the minor plaintiff and approximately fifty other children were either by the side of it or approaching it from the door of the school building. The driver testified that there was ice on the street and on the sidewalk and that the students were coming toward the bus as he was pulling up. It was the duty of the bus driver either to keep the bus where it was or before moving it forward under these circumstances, in the exercise of the high degree of caution in order to meet the standard of care required, to determine

¹⁷⁹Mitchell v. Board of Education, p. 377.

that the minor plaintiff and the other children by the side of or approaching the bus would not be placed in positions of danger by the movement of the bus. This he failed to do, and this was negligence. . . .

The plaintiff Joseph P. Mitchell was eleven years old. He is presumed to be incapable of contributory negligence. . . . There is no finding of and no evidence of contributory negligence in the record.¹⁸⁰

PARSONS v. BOARD OF EDUCATION OF ALLEGHANY COUNTY, 4 N. C. App 36 (1969)

Parsons v. Board of Education was heard by the North Carolina Court of Appeals on appeal from an award made by the Industrial Commission on September 23, 1968. Nannie Parsons filed a claim against the Alleghany Board of Education in accordance with the provisions of the Tort Claims Act. Parsons charged that she suffered bodily injury and sustained damages to her automobile as a result of the negligence of a school bus driver named John Church.

At a hearing on March 27, 1969, the Hearing Commissioner for the Industrial Commission made the following findings of fact:

1. On April 24, 1968, John Church stopped his bus to allow a student to disembark. The bus stopped just "over the North Carolina line in Virginia."¹⁸¹

2. As was his normal procedure, Church started backing his bus into a side road in order to return to North Carolina. The backing speed of the bus was 4 to 6 miles per hour.

¹⁸⁰Mitchell v. Board of Education, p. 376.

¹⁸¹Parsons v. Board of Education of Alleghany County, 4 N. C. App 36 (1969), p. 37.

3. While backing the bus, Church struck a car driven by Nannie Parsons. After the accident and a preliminary investigation by local police officers, Parsons continued on her way despite a pain in her back.

4. Examinations made by doctors after the accident revealed that Parsons was suffering from "an acute cervical and lumbar strain."¹⁸²

5. Parsons claimed that repair to her automobile cost \$473.07 and that her medical bills totalled \$531.90. In addition, the injury to her back caused her "pain and suffering."¹⁸³

The Hearing Commissioner found that Church was negligent in not keeping a proper lookout for Parson's automobile. By doing so, Church failed to do what "a reasonable person would have done under the same or similar circumstances."¹⁸⁴ Parsons was awarded \$4,500 by the Hearing Commissioner.

The Alleghany County Board of Education asked the Full Commission to review the case. The Board felt that the findings of fact by the Hearing Commissioner were "contrary to fact and applicable law."¹⁸⁵ Certain differences in North Carolina and Virginia traffic codes were cited. The Full Commission affirmed the decision and the award of the Hearing Commissioner.

¹⁸²Parsons v. Board of Education, p. 37.

¹⁸³Ibid.

¹⁸⁴Ibid., pp. 37-38.

¹⁸⁵Ibid., p. 38.

The board appealed to the North Carolina Court of Appeals. The appeal asserted the following:

1. The evidence offered against John Church was not sufficient for the Industrial Commission to base a conclusion of negligence on the driver's part.
2. Nannie Parsons was contributorily negligent. The Board cited Virginia cases which held that a driver had a duty to look out for the negligent acts of another driver.
3. The Industrial Commission's investigation was not extensive enough. The Commission made little effort to find evidence that would have cleared the bus driver of negligence. The Commission knew that the Tort Claims Act required an appeals court to rely only on evidence presented by the Industrial Commission in making a decision. By denying the entrance of additional evidence favorable to the board, the Commission acted "arbitrarily and capriciously"¹⁸⁶ to deny the board an opportunity to overturn the Commission's ruling on an appeal.

To the first allegation, the Court stated:

There was ample evidence to support the findings of fact of the Industrial Commission. The findings of fact reveal a violation by the defendant's bus driver of that portion of the Virginia Code 46.1-216 reading as follows: 'Every driver who intends to start, back, stop, turn or partly turn from a direct line shall first see that such movement can be made in safety. . .' A violation of this section constitutes negligence under the Virginia law.¹⁸⁷

¹⁸⁶Parsons v. Board of Education, p. 42.

¹⁸⁷Ibid., pp. 39-40.

The Court overruled the second charge because the board did not adhere to the procedures of the Tort Claims Act. The particular statute dealing with the Tort Claims Act cited by the Court stated:

The department, institution or agency of the State against whom the claim is asserted shall file answer, demurrer or other pleading to the affidavit within thirty (30) days after receipt of copy of same setting forth any defense it proposes to make in the hearing or trial, and no defense may be asserted in the hearing or trial unless it is alleged in such manner. . . .

(Since the board) did not file an answer setting forth contributory negligence as a defense, its contention that the Industrial Commission did not make any additional findings of fact as to contributory negligence is without merit.¹⁸⁸

To the third charge, the Court simply asserted:

We have carefully examined the entire record and are of the opinion and so hold that on this record there is nothing to indicate a desire on the part of the Industrial Commission to arbitrarily and capriciously deprive defendant of the successful chance to overturn its decision on appeal by intentionally excluding from its findings direct evidence which was believed, and that there is no violation of due process as contended by defendant.¹⁸⁹

CRAWFORD v. BOARD OF EDUCATION OF WAYNE COUNTY, 275 N. C. 354 (1969)

Crawford v. Board of Education was heard by the North Carolina Supreme Court on writ of certiorari to review a decision of the North Carolina Court of Appeals. Wayne Crawford filed a claim against the Wayne County Board of Education on behalf of his daughter, Mary V. Crawford (aged 6), in accordance with the provisions of the Tort

¹⁸⁸Parsons v. Board of Education, p. 42

¹⁸⁹Ibid.

Claims Act. Crawford claimed that his daughter was injured in a school bus accident as a direct result of the negligence of Roy Batten, a school bus driver for the Wayne County Board of Education.

The Crawford case was contested on appeals more for procedural reasons than for evidential reasons. Therefore, the facts as summarized by the Supreme Court will suffice. The Court wrote:

The facts of the case in respect to the accident were not in substantial controversy and tended to show the following: The claimant was a six-year-old first grade student at Pikeville School in Wayne County, North Carolina. The school had a half-circle driveway with the entrance at the north end and exit at the south end. Defendant's bus number 116 was driven by Milton LeRoy (Roy) Batten. When Batten arrived at the school, two other buses were there. The children riding on Batten's bus were lined up in front of bus No. 121. Batten drove to the left of the bus No. 121 with his left wheels off the edge of the 19-foot wide drive at a speed of about 15 miles per hour. As bus No. 116 neared the front of bus No. 121, the claimant ran into the path of bus No. 116 to retrieve his shoe. Batten applied the brakes of the bus when he saw the claimant but skidded some twelve feet over the claimant's left leg, severely tearing the muscle of the left calf. When the bus stopped, the front door of bus No. 116 was approximately even with the front end of bus No. 121.¹⁹⁰

Based on the evidence presented, the Hearing Commissioner found the bus driver negligent and awarded the Crawford family \$8,000.

The Full Commission review the case on appeal and concluded:

In operating defendant's school bus, as above set forth, on the school grounds, in close proximity to young children, Batten did that which a reasonably prudent person would not have done under the same or similar circumstances, and this constituted negligence on his part, which was a proximate cause of the minor plaintiff's injuries and damage.¹⁹¹

¹⁹⁰Crawford v. Wayne County Board of Education, 275 N. C. 354 (1969), p. 356.

¹⁹¹Ibid.

The Full Commission was adamant in asserting that there was "no contributory negligence on the part of the minor plaintiff."¹⁹²

On appeal to the North Carolina Court of Appeals, the findings of the Full Commission were affirmed. The decision of the three-judge panel was unanimous.

The Wayne County Board of Education applied for and received a writ of certiorari bringing the case before the North Carolina Supreme Court. The board alleged that the case against the driver should have been dismissed because of specific procedural errors on the part of the lower courts.

First, the board pointed out that the name of the bus driver was omitted from the affidavit submitted by Crawford to the Industrial Commission. The Tort Claims Act specifically stated that the name of the bus driver had to be entered on the affidavit. Although the name was placed on the record after the Industrial Commission started its hearings, the board argued that leaving the name off the original affidavit was "a jurisdictional defect and cannot be cured by amendment, but only by beginning the action anew."¹⁹³

The Court overruled the objection and pointed out that the counsel for the Wayne County Board of Education did not object when the name of the bus driver was added to the affidavit at the time of the hearing. The Court stated:

¹⁹²Crawford v. Board of Education, p. 356.

¹⁹³Ibid., p. 357.

We can find no case in our Reports precisely on all fours, but in our opinion, since defendant's counsel said he was not taken by surprise and expressed his willingness to stipulate that Roy Batten was an employee of the defendant and that Roy Batten was paid out of the nine months school fund, the court had jurisdiction, and the demurrer was bad.¹⁹⁴

The board's second objection centered around other procedural errors of the Industrial Commission. The facts showed that the evidence presented by the parties in the case were heard by one Hearing Commissioner; the decision claiming negligence on the part of the bus driver and awarding \$8,000 to Crawford was made by another Hearing Commissioner. The board asserted:

Defendant submits it is error for a Hearing Commissioner to write the Decision and Order when he is not present to hear the testimony given by the witnesses for the defendant, because courts may not use such procedure, such procedure violates the concept of fair play, and such procedure does not comply with the language of the applicable statute.¹⁹⁵

The Court overruled the second objection and ruled:

While a hearing before an administrative agency need not be as formal as that before a court, no essential element of a fair trial may be dispensed with. However, due process and the concept of a fair hearing require only that an administrative officer who was absent when the evidence was taken consider and appraise the evidence himself.¹⁹⁶

Thirdly, the board claimed that the Industrial Commission erred in not allowing the board to use contributory negligence on the part of Mary Crawford as a proper defense. The Industrial Commission had concluded that Mary Crawford was incapable of contributory negligence

¹⁹⁴Crawford v. Board of Education, p. 358.

¹⁹⁵Ibid.

¹⁹⁶Ibid., p. 360.

since she was only six years old. The board stated that "the defense of contributory negligence is available against all minors."¹⁹⁷

The Court pointed out that Green v. Board of Education held that a seven-year-old was incapable of contributory negligence and that Brown v. Board of Education stated likewise about an eleven-year-old. In contrast, Smith v. Board of Education illustrated an example of a fourteen-year-old who was capable of contributory negligence. Huff v. Board of Education was a case where a seventeen-year-old was determined capable of contributory negligence.

The Court overruled the third objection by concluding:

This Court has not in the past held that the language of the State Tort Claims Act requires a departure from our substantive case law concerning a minor's capability for negligence. We do not so hold now. Claimant, a six-year-old child, is incapable of contributory negligence as a matter of law.¹⁹⁸

SPARROW v. BOARD OF EDUCATION OF FORSYTHE COUNTY, 19 N. C. App 383 (1973)

Sparrow v. Board of Education was heard by the North Carolina Court of Appeals on appeal from an opinion made by the Industrial Commission on October 20, 1972. W. Warren Sparrow filed a claim against the Forsythe County Board of Education in accordance with the provisions of the Tort Claims Act. Sparrow claimed that his son, David Michael Chandler, was injured as a result of the negligence of a Forsythe County school bus driver named Mike Baugess.

¹⁹⁷Crawford v. Board of Education, p. 361.

¹⁹⁸Ibid., p. 363.

An investigation by a Hearing Commissioner revealed the following:

1. On January 15, 1970, Mike Baugess was transporting children home from Glenn Junior High School

2. While the bus was stopped to allow three children to get off the bus, David Michael Chandler left his seat and moved forward on the bus to occupy the seat vacated by the exiting children.

3. While Chandler was on the way to the seat at the front of the bus, Baugess proceeded down the road for 15 or 20 feet at approximately 5 to 7 miles per hour. Baugess did not notice the movement of Chandler.

4. While the action in numbers 2 and 3 above was taking place, someone threw a snowball through the window near Baugess.

5. Baugess was startled by the snowball and pressed the brake pedal. The bus came to a sudden stop.

6. Chandler fell forward, hit his head and chest on the back of a seat and eventually fell to the floor.

7. Not immediately noticing Chandler, Baugess got off the bus and threw a snowball at the person responsible for hitting him with a snowball.

8. Baugess returned to the bus and found Chandler. Chandler told Baugess that he was not hurt. Baugess resumed driving.

9. When Chandler arrived home he experienced "pain in his left shoulder and a severe headache, which persisted three months after the occurrence of the injury."¹⁹⁹

¹⁹⁹Sparrow v. Board of Education of Forsythe County, 19 N. C. App 383 (1973), p. 385.

After reviewing the facts above, the Hearing Commissioner found no negligence on the part of the school bus driver. The Commissioner concluded:

At the time that driver placed his foot upon the brakes of the bus and brought the bus to a sudden stop, he acted as a person of ordinary care and prudence would have acted under similar circumstances. The snowball being thrown into the bus in front of the driver brought about a sudden emergency which caused the driver to quickly stop the bus. There was, therefore, no negligence on the part of the driver in stopping his bus suddenly.²⁰⁰

Sparrow appealed to the Full Commission for a review of the case. Sparrow held that "the finding of fact of the Industrial Commission do not support the conclusions and opinions."²⁰¹ The Full Commission affirmed the findings of the Hearing Commissioner. Sparrow appealed to the North Carolina Court of Appeals.

The North Carolina Court of Appeals affirmed the conclusions of the Full Commission. The Court concluded:

The fact that subsequent to the stopping of the bus, the driver left the bus and threw a snowball at Mike Weaver is irrelevant to the sudden emergency that confronted him at the time the bus was brought to a sudden stop. The conduct of the driver after the sudden stop in no way contributed to plaintiff's injury.²⁰²

The Court further noticed that the school principal and the school bus driver had cautioned all bus-riding students about leaving their seats while a bus was in motion.

²⁰⁰Sparrow v. Board of Education, p. 385.

²⁰¹Ibid.

²⁰²Ibid., p. 386.

WITHERS v. BOARD OF EDUCATION OF CHARLOTTE-MECKLENBURG, 32 N. C. App 230 (1977)

Withers v. Board of Education was heard by the North Carolina Court of Appeals on appeal from an order made by the Industrial Commission on April 26, 1976. Roosevelt Withers, Jr., filed a claim against the Charlotte-Mecklenburg Board of Education in accordance with the provisions of the Tort Claims Act. Withers claimed that his truck was damaged by a school bus as a result of the negligence of a Charlotte-Mecklenburg school bus driver named Lynn Osborne.

An investigation by the Hearing Commissioner revealed the following:

1. On the morning of May 6, 1975, Lynn Osborne gave her bus keys to Kent Tolliver. Osborne instructed Tolliver to warm up the bus. Tolliver had performed this for Osborne before.

2. Osborne testified that she knew "that Tolliver was only 15, that he had no driver's license, and that on some occasions when she had given him the keys he had driven the bus from the place where she customarily parked it to her home."²⁰³

3. On this particular morning, Tolliver drove the bus into a truck owned by Withers.

The Hearing Commissioner found that Osborne was negligent in her conduct. The Commissioner concluded:

²⁰³Withers v. Board of Education of Charlotte-Mecklenburg, 32 N. C. App 230 (1977), p. 231.

Said driver, by giving the keys to a 15-year-old boy when she knew, or had reason to know, that he might attempt to drive the bus, 'did other than and failed to do that which a reasonably prudent person would have done under the same or similar circumstances.' Said conduct constituted negligence on her part and was the proximate cause of the accident and damages sustained by plaintiff. Plaintiff acted as a reasonably prudent person would have done under the same or similar circumstances, and there was no contributory negligence on his part.²⁰⁴

The Commissioner awarded \$7,500 to Withers to compensate for damages to his truck and the loss of the use of his truck.

Osborne appealed to the Full Commission. The Full Commission affirmed the basic conclusions of law and findings of fact of the Hearing Commissioner. However, the Full Commission denied the award on the grounds that Osborne was not operating the bus in the course of her employment. The Tort Claims Act stated that bus drivers were liable for their negligent acts while operating a bus in the performance of their duties.

Withers appealed to the North Carolina Court of Appeals. Withers contended that "operating" a school bus included "directing or instructing another to drive or operate the vehicle." Withers stated that the school bus driver was in effect operating the bus when she allowed a 15-year-old boy to drive the vehicle.²⁰⁵

The North Carolina Court of Appeals rejected the appeal of Withers and denied the award made to him by the Industrial Commission. The Court ruled:

²⁰⁴Withers v. Board of Education, p. 231.

²⁰⁵Ibid., p. 232.

The applicable statute (Tort Claims Act) is in derogation of sovereign immunity, therefore, it must be strictly construed and its terms must be strictly adhered to We fail to perceive how defendant's employee can be considered to have been operating the school bus when she did not have physical control of the vehicle or the ability to direct its operation. The 15-year-old boy was alone in the bus and, in fact, was returning from a personal errand when the accident occurred. Allowing a 15-year-old boy to drive a school bus may well constitute a negligent act, but, for defendant to be held liable, the negligent act or omission must occur while the salaried employee is operating the school bus in the course of her employment.²⁰⁶

²⁰⁶Withers v. Board of Education, pp. 232-233.

CHAPTER VI

SUMMARY, CONCLUSIONS AND RECOMMENDATIONS

The general objective of this study was to analyze historically and legally the role of school bus drivers in the pupil transportation programs of North Carolina. The study was prompted by an interest in placing in historical perspective the recent criticism of one of the long-standing policies of North Carolina public schools--the use of high school students as school bus drivers. Pursuant to this concern, five questions were posed in Chapter I.

A. The first question stated: What legislation affecting North Carolina school bus drivers has been enacted by the General Assembly since 1911? A study of the laws enacted by the North Carolina General Assembly since 1911 revealed three historical periods of legislation affecting school bus drivers.

1911-1933

The first state pupil transportation law was enacted in 1911. The law was a response to pupil transportation problems created by the school consolidation movement of the late nineteenth and early twentieth centuries. During that time, many small schools in North Carolina were closed and their services consolidated in larger and centrally located schools. Students who lived an inconvenient distance from newly located schools were placed at a great disadvantage. The 1911 Act authorized local school districts to establish publicly

financed pupil transportation programs when the consolidation of schools forced students to walk inconvenient distances to school.

From 1911 to 1933, pupil transportation in North Carolina was largely the responsibility of local school units. The selection, training, supervision, and salary of school bus drivers varied with local requirements and needs. However, as pupil transportation grew as an established and essential auxiliary service of public schools in the 1920's, the General Assembly passed laws providing for state involvement in three areas. First, the General Assembly appropriated state funds for the partial support of local pupil transportation programs. Secondly, state agencies were given a certain degree of control over local pupil transportation programs. Thirdly, laws were enacted concerning the safe operation of school buses on state highways.

The increasing volume of state pupil transportation legislation meant that the source of control and supervision of school bus drivers in North Carolina was moving away from the local administrative units and toward Raleigh.

By 1931, the public schools of North Carolina were facing distressing economic conditions. The Great Depression was seriously affecting the ability of local school districts to support public schools. In response to the impending collapse of public schools in the state, the General Assembly took steps to provide a state-controlled system of public education.

For pupil transportation, the growing state control came in the form of an enactment authorizing the State Board of Equalization

to establish rules and regulations necessary for the economical and standardized operation of pupil transportation in the state. One such rule directed local school districts to hire high school students as school bus drivers. The State Board of Equalization further directed that the salaries of school bus drivers would be paid from state funds. The Board felt that students could be hired for lower salaries than that required by hiring adult drivers.

The 1931 Act was important in the history of North Carolina school bus drivers. Since that date, the state has relied heavily on students to operate school buses. Seventy-five to ninety percent of North Carolina's school buses have been operated by high school students.

1933-1955

From 1933 until 1955, the General Assembly of North Carolina passed legislation giving complete control of pupil transportation to the state. A study of pupil transportation legislation as it related to school bus drivers during this period revealed the following:

1. The selection of school bus drivers was the responsibility of three groups: principals, local school committeemen, and local school boards. Principals nominated school bus drivers. Local school committeemen and school boards approved or disapproved the principal's recommendations.

2. The responsibility for supervising school bus drivers was delegated to local school principals.

3. The State Board of Education established rules and regulations pertaining to the requirements of school bus drivers.

4. Legislation during the period made no specific references to a minimum age for school bus drivers. However, the General Assembly authorized the use of student bus drivers if local boards deemed it advisable.

5. In 1937, the General Assembly established a specific training program for school bus drivers. North Carolina was the first state to require a special training program for school bus drivers. The training program has been recognized as one of the best in the nation.

6. School bus drivers were trained and certified by representatives of the Department of Motor Vehicles. In addition, the chief mechanic or transportation supervisor of each county approved every school bus driver who operated a school bus in that county.

7. Since 1933, the salaries of school bus drivers have been paid from state funds. Salaries for school bus drivers rose from \$7.50 per month in 1933 to \$22.00 per month in 1955.

8. Legislation from 1933 until 1955 focused on four areas of school bus safety--safety equipment for school buses, speed limits, school bus safety assistants or monitors, and laws requiring motorists to stop while school children boarded or alighted from a school bus.

1955-1979

A review of pupil transportation legislation since 1955 as it applied to school bus drivers in North Carolina revealed the following:

1. In 1955, the General Assembly enacted legislation turning over the responsibility for pupil transportation to the city and

county school boards of North Carolina. Titles to school buses and all other pupil transportation equipment and supplies became the property of local boards. The General Assembly absolved the state of any responsibility for providing transportation to the pupils or employees of the public schools.

2. Despite the 1955 Act, the state continued to finance the pupil transportation programs of the local units. Over 90 percent of the cost of pupil transportation in North Carolina came from state funds.

3. The State Board of Education adopted rules and regulations pertaining to the age and qualifications of school bus drivers.

4. The city and county boards of education employed school bus drivers and assigned them to particular schools.

5. Superintendents of local school units were charged with the responsibility of keeping school bus drivers informed of rules and regulations adopted by the State Board of Education and the Division of Pupil Transportation.

6. School principals were recognized as the single most important group for the recruitment, selection and supervision of school bus drivers.

7. Transportation supervisors were responsible for certifying school bus drivers.

8. The North Carolina Industrial Commission was charged with the responsibility for hearing and passing on tort claims against local school boards for the negligence of school bus drivers.

9. The Department of Motor Vehicles trained and certified school bus drivers.

10. The State Controller issued salary vouchers for school bus drivers and processed Workmens' Compensation claims.

11. Recent legislation by the North Carolina General Assembly concerned two major issues--school bus driver salaries and a minimum age requirement for drivers.

B. Question number two stated: Historically, what arguments have been presented by pupil transportation officials of the state favoring the use of student school bus drivers? Evidence revealed the following four arguments:

1. The use of high school students as school bus drivers has enabled the state to operate one of the most economical pupil transportation programs in the nation. From 1933 until 1978, the average per-pupil cost of pupil transportation in North Carolina was \$21.24; that of the nation was \$42.35. A major reason for the low operating cost was the use of student drivers who were willing to work for lower wages than their adult counterparts.

2. The part-time nature of driving a school bus did not appeal to competent adult drivers. The hours were inconvenient and the salary was too low. However, the job was perfect for high school students since the hours required complemented their schedule and the pay was satisfactory for their less demanding needs.

3. The use of high school students as school bus drivers has enabled pupil transportation programs in the state to operate more efficiently than if adult drivers were used. The principals of local schools could supervise their charges effectively since students were readily available. In addition, students could be subjected

to more intensive on-site training, were generally more cooperative than adults, and could be selected with more certainty about their qualifications.

4. Pupil transportation officials argued that there was no conclusive evidence that adults were safer school bus drivers than students. Officials argued that it would be foolish for the state to abandon the obvious economic advantages of using student drivers with no assurance that greater safety would result.

C. The third question stated: Historically, what arguments have been presented by opponents of the policy of using student school bus drivers in North Carolina? The arguments of opponents may be summarized as follows:

1. Driving a school bus was too responsible a position to be entrusted to inexperienced and immature high school students.

2. Economy in pupil transportation could be maintained if state officials took advantage of a ready and available supply of adult drivers. School cafeteria workers, custodians, teachers, housewives, and highway department workers could have been used to drive school buses.

3. Using student drivers required the state to maintain a continuous recruitment and training program. The money expended for this purpose could have been used to hire adult drivers who are already trained and experienced in the operation of motor vehicles.

4. Student drivers were available for only two or three years of employment. Adults were available for longer periods of time.

5. Competent national organizations such as the National Safety Council, the Association of School Business Officials, the National Conference on School Transportation, the National Parent Teacher Association and the Public Health Service have expressed serious doubts about the wisdom of using high school students as school bus drivers.

D. Question number four stated: What procedures for compensating the victims of school bus accidents have been established by the North Carolina General Assembly? Prior to 1935, the General Assembly enacted no legislation relating to the compensation of victims of school bus accidents. However, an analysis of legislation since that year revealed the following:

1. The Certain Claims Compensatable Act of 1935 permitted a payment from state funds of up to \$600.00 to the parents, guardians and administrators of children injured or killed in school bus accidents. The money was available regardless of whether the accident was due to the negligence of the school bus driver. The money could be used only to pay medical bills, hospital expenses, or funeral expenses.

2. Many claimants sought Special Acts of the Legislature as a means of obtaining compensation for injuries or death resulting from a school bus accident.

3. In 1951, the General Assembly enacted the Tort Claims Act. The Tort Claims Act waived the governmental immunity of the state departments and agencies from liability for tort claims. After this date, claimants could file a claim against a city or county board of

education or the State Board of Education for injuries or death resulting from the negligent acts of school bus drivers.

4. Under the provisions of the Tort Claims Act, claimants were awarded damages if (a) the school bus driver was negligent in the performance of his duties (b) the proximate cause of the injury or death was the negligence of the driver, and (c) the claimant was free of contributory negligence.

5. After filing an affidavit stating the nature of the complaint against a school bus driver, the claimant appeared before a single Hearing Commissioner from the North Carolina Industrial Commission. If the ruling of the Hearing Commissioner was unsatisfactory to either the claimant or the defending school board, the case could be appealed to the Full Commission. Subsequent appeals by the claimant or the defending school board were heard by the superior court of the county wherein the school bus accident occurred, the Supreme Court of North Carolina, or the North Carolina Court of Appeals.

6. Appeals to higher courts were made for errors of law only. Evidence heard by the Industrial Commission was the facts of the case to be considered, unless it was deemed to be incompetent by a higher court.

7. Most cases involving a tort claim against a school board for the negligent acts of school bus drivers were settled by negotiation between the claimant and the school board attorney or the North Carolina Attorney General.

E. The last question stated: What have the courts of North Carolina ruled about the liability of North Carolina school bus drivers? Since 1931, only 20 court cases involving the negligence of school bus drivers have been litigated in the courts of the state. This low incidence of court cases has been attributed to the fact that claimants for the most part were satisfied with awards made by the Industrial Commission or won as a result of negotiated settlement. A review of those cases that have been litigated in the courts revealed the following about the liability of school bus drivers:

1. Courts have generally been unwilling to allow school bus drivers to use contributory negligence as a defense. School children below the age of 13 or 14 were generally considered incapable of contributory negligence regardless of their actions. (Greene v. Board of Education, Williams v. Board of Education, Brown v. Board of Education, Mitchell v. Board of Education, and Crawford v. Board of Education). However, in Smith v. Board of Education a fourteen-year-old was held capable of contributory negligence and in Huff v. Board of Education a seventeen-year-old was considered capable of contributory negligence.

2. In Johnson v. Board of Education and Sparrow v. Board of Education, claims were denied by the courts because the school bus driver had previously warned passengers of certain impending dangers that later caused injury.

3. Six of the court cases reviewed involved school bus accidents where school children were killed or injured while crossing the road after leaving the bus, waiting for the bus, or approaching a moving

school bus. (Greene v. Board of Education, Williams v. Board of Education, Trust Company v. Board of Education, Brown v. Board of Education, Mitchell v. Board of Education and Crawford v. Board of Education). In all six cases, school bus drivers were found negligent for not "properly supervising" the activity of the children outside the school bus.

4. In Trust Company v. Board of Education, the Supreme Court ruled that a school bus driver could be found guilty of negligence even if his negligence was not the sole proximate cause of the injury sustained by a claimant.

5. In Huff v. Board of Education, the Supreme Court affirmed that school bus drivers were the only state employees who could be held liable for negligent acts of omission.

6. In Parsons v. Board of Education, the North Carolina Court of Appeals ruled that a school bus driver who backs a school bus without seeing that such a move can be made in safety is guilty of negligence.

Conclusions

The 1979 General Assembly considered seven major legislative proposals dealing with pupil transportation. Three of those proposals stemmed from the current controversy over the use of high school students as school bus drivers. It is likely that the 1981 General Assembly will devote an equally large share of its time to the student school bus driver issue.

Those considering the abandonment of North Carolina's student school bus driver policy should consider the following:

1. North Carolina has depended heavily on high school students as school bus drivers since 1931. Thus, the controversy is not a recent phenomenon.
2. Despite heavy criticism and several attempts to end the student driver policy, the General Assembly and the State Board of Education in past years have been reluctant to give in to the demands.
3. Historically, North Carolina has operated one of the most efficient and economically sound pupil transportation programs in the nation. A major reason for this record has been the use of student drivers.
4. Research by national and state organizations into the comparative safety records of student and adult school bus drivers has indicated that there is little difference in the safety records of the two groups.
5. Because of the state's large-scale use of high school students, North Carolina recognized the importance of good driver training at an early date. The driver training program in North Carolina has been recognized as one of the best in the nation.
6. Obtaining competent adult school bus drivers has been difficult for school officials in the past because of the low pay and inconvenient working hours.
7. Pupil transportation officials in the past have praised the overall performance of North Carolina's student school bus drivers.

Recommendations

The following recommended topics for further study surfaced during the course of this investigation of North Carolina school bus drivers:

1. The Development of the Motorized School Bus
2. A Comparative Analysis of the School Bus Driver Training Programs of the United States
3. The Economic Effects of the Great Depression on the Public Schools of North Carolina
4. Alternatives to Pupil Transportation in Light of the Impending Energy Crisis
5. A Comparative Analysis of the Causes of School Bus Accidents (e. g., discipline problems, driver error, road conditions, mechanical failure)
6. A Historical and Legal Analysis of the Role of School Principals in the Pupil Transportation Programs of North Carolina, 1911-1979

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