

INTERSTATE SCHOOL BUS OPERATIONS: AN ADMINISTRATIVE LAW STUDY

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The problems which have arisen and which will continue to arise as a result of the school population explosion are varied and numerous. They cover the full spectrum of the traditional disciplines of law.¹

The solution of these problems is not only of interest from a professional standpoint, but also as citizens and parents.

One problem area which has arisen co-extensively with the multitude of others is that regarding school bus operations.²

One of the fundamental areas of law which governs the conduct of school bus operations involves the Motor Carrier Act of 1935³ and the administrative rules and regulations promulgated thereunder.⁴

This article shall focus attention on this legislation in an endeavor to familiarize members of the legal profession with basic issues, the acquaintance of which is warranted.

The Statutory Exemption

Although interstate motor carriers of passengers normally require specific authorization under the Act to conduct operations,⁵ school bus operators are partially exempt from regulation⁶ if certain requirements are met.

The partial exemption is one of entry into the field and the territorial

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1. See, for example, Comment, *Governmental Immunity in Illinois: The Molitor Decision and the Legislative Reaction*, 54 NW. U.L. Rev. 588 (1949) (School Bus Tort Liability) and McKenna, *The Transportation of Private and Parochial School Children at Public Expense*, 35 TEMP. L.Q. 259 (1962) (Constitutional Law).

2. One expert asserts that ". . . school transportation usually causes more headaches for school boards and administrators than does any other part of the school program." Featherston, *School Transportation—The Things a Board Should Know*, 157 THE AMER. SCHOOL Bd. J. 15, 16 (1969).

3. 49 Stat. 543 (1935), as amended, 49 U.S.C. § 301-327 (1964). Hereinafter referred to as the Act.

4. See Title 49 of the Code of Federal Regulations.

5. 49 Stat. 544 (1935), as amended, 49 U.S.C. §303(c) (1964).

6. 49 Stat. 544 (1935), as amended, 49 U.S.C. §303(b)(1) (1964). An examination of the events surrounding the enactment of this subsection sheds no light on Congress' reasons for including the exemption in the original scheme of motor carrier regulation.

scope of operation thereunder. A bus operator is still subject to the safety rules, hours of service regulations, and standards of equipment.⁷

The exemption reads as follows:⁸

. . . (b) Nothing in this part [Part II of the Interstate Commerce Act], except the provisions of section 204 relative to qualifications and maximum hours of service of employees and safety of operation or standards of equipment shall be construed to include (1) motor vehicles employed solely in transporting school children and teachers to or from school; . . .

The basic requirements in order for a trip to qualify under the exemption are:⁹

- (1) The trip must be directly connected with and contribute to the education development of school children;¹⁰
- (2) The trip must be sponsored and supervised by school authorities;¹¹ and,
- (3) The trip must be performed in school buses employed solely in the transportation of school children and their teachers or bona fide chaperones.

Although the above requirements seem to be clear and unequivocal their application in specific factual situations have caused problems.

School Related Activities

A trip is not exempt merely because the passengers are school children. The exemption only applies to a given movement if it is directly connected with the classroom activities of the children who will take the trip.¹²

In deciding whether a trip is directly connected to a school related

7. 49 Stat. 544 (1935), *as amended*, 49 U.S.C. §303(b) (1964).

8. *Ibid.*

9. *Pat & Gordon, Inc.—Charter*, 102 M.C.C. 533, 557 (1966).

10. The term "school children" refers to students up to and including high school students. *Fox River Bus Lines, Inc., Investigation of Operations*, 110 M.C.C. 423 (1969). *Contra, Dorsey Bus Company, Inc.—Investigation of Operations and Practices*, MC-C-6258, pending on Exceptions. Joint Board No. 5, in a Report served March 23, 1970, found the term "school children" to include college level students.

11. The term "school" means an institution primarily devoted to the education development of children and possessed of some of the educational indicia usually associated with the formal education of children, such as established curricula, scheduled classes, regular teachers, tutors, classrooms, and the like. *Fox River Bus Lines, Inc., Investigation of Operations*, 110 M.C.C. 423 (1969).

12. *Pat & Gordon, Inc.—Charter*, 102 M.C.C. 553, 557-558 (1966).

activity, the determinative factor is the primary purpose of the trip, i.e., whether it is an educational endeavor.¹³

The above requirement does not preclude trips which involve secondary recreational aspects so long as the educational endeavors of the trip outweigh the recreational aspects.¹⁴

The normal type of trips which have been considered and found to be directly connected with school related activities have been field and sightseeing trips to points of historical and cultural interest in order to provide the students with a first hand knowledge of places, events, and techniques studied in the classroom.¹⁵

On the other hand, it has been found that trips in the nature of fund raising activities or civic functions to be apart from regular school activities and thus to be without the exemption.¹⁶

The requirement that the trip must be directly connected with and contribute to the educational development of school children also seemingly precludes trips related to extra curricular activities. It would appear that extra curricular activities, although of an educational value are basically designed for recreational purposes and therefore not directly related to or connected with classroom or educational activity.

The precise issue, however, has not been formally before the Interstate Commerce Commission¹⁷ although the Commission has issued an informal opinion finding, in part, that extra curricular activities not specifically related to any formal class activity would bring the activity without the scope of the exemption.¹⁸

In *Fox River Bus Line, Inc., Investigation of Operations*,¹⁹ the issue of extra curricular groups was also raised. One of the operations under investigation involved the movement of members of a high school ski club to ski resorts on weekends and during school vacations. The Commission did not discuss whether such trips satisfied the requirement here under

13. *Id.* at 558.

14. *Ibid.*

15. See, *Keller Common Carrier Application*, 83 M.C.C. 330 (1960), *aff'd*, 94 M.C.C. 238 (1963), *aff'd National Bus Association v. United States*, 212 F. Supp. 659 (E.D. Ill. 1962), *aff'd per curiam*, 382 U.S. 369 (1966).

16. *Pat & Gordon, Inc.—Charter*, 102 M.C.C. 553, 559 (1966).

17. Hereinafter referred to as the Commission.

18. Informal Opinion of T.J. Delaney, Associated Chief, Section of Motor Carriers, Interstate Commerce Commission, dated April 10, 1969.

19. 107 M.C.C. 673 (1968), *modified*, *Fox River Bus Lines, Inc., Investigation of Operations*, 110 M.C.C. 423 (1969), *appeal docketed Fox River Bus Lines, Inc. v. United States*, 68-C-390 (E.D. Wis. 1968).

discussion, but found such trips to be without the exemption on the grounds the trips were not sponsored or supervised by school officials.²⁰

School Sponsorship and Supervision

The requirement that exempt trips must be sponsored by the school and under its supervision contemplates that the trip actually be arranged for and supervised by school authorities although it is not necessary that the school authorities pay all or a portion of the transportation costs.²¹

Thus, in regard to extra curricular groups, such movements would be without the scope of the exemption because they are arranged for by the students themselves, a faculty member acting on behalf of the students or a faculty adviser as opposed to school officials.²²

In cases in which the Commission has formally considered and found certain trips exempt, the school board and/or principal specifically sponsored and authorized the trips and assumed responsibility for the children on the trip.

In those cases where the administrative agency has found the exemption to be inapplicable, the general sponsorship and supervision of the trip has been under organizations such as the P.T.A., the Y.M.C.A., the local police or similar groups.²³

Regular School Buses

The third requirement which relates specifically to the buses which must be used and the passengers which may be carried appears to be the most clear and unequivocal. It is, in fact, however, one which leaves many unanswered questions.

Although it is clear that the Commission considers a reasonable number of parents acting as chaperones to be within the statutory terminology "school children and their teachers",²⁴ its position in respect to the equipment which must be used is not entirely clear.

In *Fox River Bus Lines, Inc., Extension—Charter Operations*,²⁵ the Commission addressed itself to the issue.

20. *Fox River Bus Lines, Inc., Investigation of Operations*, 110 M.C.C. 423, 427 (1969).

21. *Pat & Gordon, Inc.—Charter*, 102 M.C.C. 553, 558 (1966).

22. See, Note 18, *supra*, and *Keller Common Carrier Application*, 94 M.C.C. 238, 242 (1963), *aff'd.* 83 M.C.C. 339 (1960), *citing with approval, Van Galden Common Carrier Application*, 53 M.C.C. 816 (1961).

23. See, e.g., *Van Galden Common Carrier Application*, 53 M.C.C. 816 (1961) and *Pat & Gordon, Inc.—Charter*, 102 M.C.C. 553 (1966).

24. *Pat & Gordon, Inc.—Charter*, 102 M.C.C. 553, 558 (1966).

25. 107 M.C.C. 672 (1968), *modified, Fox River Bus Lines, Inc., Investigation of*

The school children in the above case were transported, in charter operations, in buses which were used to transport various other groups such as fraternal organizations, college students, Boy Scouts, and a minor league football team.

The Commission stated:²⁶

Here . . . the vehicles to be used in the proposed services are used to transport various commercial interests, and as such, the partial exemption embodied in section 203(b)(1) is not applicable.

The case report did not disclose what percentage of the time the buses were engaged in school related activities as opposed to non-school activities and seemingly it appeared that it did not make a difference.

On reconsideration, the Commission took the position that the existing status of the law was that a single use of a bus for non-school activities would preclude its subsequent use in exempt operations and that the exemption did not apply unless the vehicle employed was used exclusively in exempt school bus operations.²⁷

In support of the above position, the Commission cited three prior decisions.²⁸ A fair reading of those cases, however, seemingly would lead to the conclusion that the Commission's past interpretation of the law was different from that now stated in the *Fox River Bus Lines* case.

In *Pat & Gordon, Inc.—Charter*, for example, it was stated:²⁹

. . . the overall use to which the vehicle is regularly put seems the only logical referent of that word ["solely"].

The above would indicate that the Commission, in the past, had applied the statute as though it read "regularly" and that the occasional use of a bus for non-school activities would not preclude its operation under the exemption.

The *Pat & Gordon* case also seemingly decided the issue of whether the exemption was to be applied on the basis of the particular movement

Operations, 110 M.C.C. 423 (1969), *appeal docketed, Fox River Bus Lines, Inc. v. United States*, 68-C-390 (E.D. Wis. 1968).

26. 107 M.C.C. at 675. The Commission also stated that the type bus utilized was of no consequence and it did not distinguish between intrastate and interstate movements.

27. *Fox River Bus Lines, Inc., Investigation of Operations*, 110 M.C.C. 423, 430 (1969).

28. The cases cited were *Keller Common Carrier Application*, 83 M.C.C. 339 (1963) *aff'd*, 94 M.C.C. 238 (1960), *aff'd*, *National Bus Traffic Association v. United States*, 212 F. Supp. 659 (E.D. Ill. 1962), *aff'd per curiam, National Bus Traffic Association v. United States*, 328 U.S. 369 (1966); *Brunswick Transp. Co., Inc.—Revocation of Certificate*, 91 M.C.C. 899 (1963); and *Pat & Gordon, Inc.—Charter*, 102 M.C.C. 553 (1966).

29. *Pat & Gordon, Inc.—Charter*, 102 M.C.C. 553, 556 (1966).

being made by the bus or the basis of the overall use to which the bus is regularly put. In reaching the conclusion that the overall use to which the bus is put was the determinative factor, the Commission stated:³⁰

An interpretation that the exemption covers particular movements of vehicles employed for a single trip in transporting school children and teachers would be possible in the absence from the statute of the word "solely", but the overall use to which the vehicle is regularly put seems the only logical referent of that word.

The issue, however, was resurrected in *Fox River Bus Lines, Inc. Investigation of Operations*.³¹

The respondent in the above case asserted that a requirement that the vehicle be used "exclusively" in exempt school bus operations would, for all practical purposes, put an end to exempt operations. It urged the Commission to recognize the carrier's right to operate interstate under the exemption with motor vehicles that are being used *at the time of operation* "solely in transporting school children to or from school".³²

The Commission, deciding that the interpretation given the exemption in the *Pat & Gordon* case was made without reference to congressional intent or the practical effect of such an interpretation on the motorbus industry, found that the assertion of the respondent warranted further consideration.³³

A rulemaking proceeding in which the desirability of adopting a rule or rules interpreting the phrase "motor vehicles employed solely" was ordered.³⁴ The Commission intends to formulate an interpretation that will best serve the interest of regulated carriers, carriers operating under the exemption, and the public at large.³⁵

Until the conclusion of the rulemaking proceeding and the promulgation of rules to the contrary, it should be assumed that the use of a bus for non-school transportation activities save on rare occasions will cause the exemption to be inapplicable.

30. *Ibid.*

31. 110 M.C.C. 423 (1969).

32. *Id.* at 426-427.

33. *Id.* at 430.

34. *Vehicles Employed Solely in Transporting School Children and Teachers*, Ex Parte No. MC-78. Public Notice appeared in the 34 Federal Register No. 199 (Oct. 16, 1969 at Page 16559).

35. *Fox River Bus Lines, Inc., Investigation of Operations*, 110 M.C.C. 423, 431 (1969). The lawfulness of certain of the operations under investigation was held open pending final determination of the rulemaking proceeding.

Non-Exempt Operations

If operations cannot be conducted under the statutory exemption, a school bus operator must secure authority to conduct such operations from the Commission.³⁶

The Act created two classes of motor carriers *i.e.*, common carriers and contract carriers.³⁷

A common carrier under the Act is one which holds itself out to the general public on non-discriminatory terms,³⁸ while a contract carrier is one which operates under continuing contracts with one person or a limited number of persons and furnishes its service through the assignment of motor vehicles for a continuing period of time to the exclusive use of each person served or by designing its service to meet the distinct need of each individual customer.³⁹

The Act also recognizes two distinct categories of common carriers of passengers, (1) those engaged in operations generally over regular routes and between fixed termini and, (2) those engaged in special or charter operations without regard to any regular route or fixed termini operations.⁴⁰

Bus operators have sought and acquired authority as common carriers and contract carriers.⁴¹

36. 72 Stat. 574 (1958), 49 U.S.C. §303(c) (1964).

37. A carrier's status, whether common or contract, is not necessarily the same under Federal regulation as it is under State or foreign law. *Motor Haulage Co., Contract Carrier Application*, 46 M.C.C. 167 (1946), *aff'd*, *Motor Haulage Co. v. United States*, 70 F. Supp. 17 (E.D. N.Y. 1947), *aff'd* 331 U.S. 784 (1947), and *Nadeau Transp. Ltd., Conversion Proceeding*, 82 M.C.C. 541, 544 (1960).

38. 54 Stat. 920 (1940), 49 U.S.C. §303(a)(14) (1964).

39. 71 Stat. 411 (1957), 49 U.S.C. §303(a)(15) (1964).

40. The Act refers to "special or charter operations." 49 Stat. 551 (1935), 49 U.S.C. §307 (1964). The term is not defined in the Act. Special or chartered parties is defined in the applicable regulation as ". . . a group of persons who, pursuant to a common purpose and under a single contract, and at a fixed charge for the vehicle in accordance with the carrier's tariff, lawfully on file with the Commission, have acquired the exclusive use of a passenger-carrying motor vehicle to travel together as a group to a specified destination, or for a particular itinerary, either agreed upon in advance or modified by the chartered group after having left the place of origin." 49 C.F.R. §1054.2. A distinction between "special" and "chartered" parties has developed by case law.

41. As of June 30, 1967, 23 contract and 1,998 common passenger carriers have received authority from the Commission. 81 Annual Report of I.C.C. 105 (1967). All, however, are not engaged in school bus operations.

Contract Carriage

Contract carrier authority is particularly suited for school bus operators. Normally such operators serve only a few schools or a single school district and the services it offers would be designed to meet a distinct need.

It must be recognized, however, that the school bus operator under a Permit⁴² would still be limited in its services by the contract requirement. For example, a contract carrier with a Permit authorizing service under bilateral contracts with a school district could not carry extra curricular school groups unless the service was performed under the sponsorship of the school district who would have to be a signator to the contract.

The basic advantage a school bus operator would experience by securing a Permit is that he could utilize his school buses and commercial buses interchangeably when serving the schools under contract.

A Permit authorizing contract carrier operations shall issue to any qualified applicant if it appears that the applicant is fit, willing and able to properly perform the service of a contract carrier by motor vehicle and otherwise conform to the rules and regulations of the Commission and, further, that the proposed operations are consistent with the public interest and national transportation policy as expressed in the Act.⁴³

Regular Route Common Carriage

Regular route common carriage⁴⁴ is not normally involved in school bus operations. This type of service contemplates serving the general public on a regularly scheduled basis between fixed termini. It is the basic ground transportation upon which the traveling public depends for its day-to-day transportation needs irrespective of its purpose or purposes for which a trip or trips are made.

It must also be noted that under normal circumstances schools or school districts utilizing school bus service will not draw their students

42. The term "permit" refers to the document issued by the Commission evidencing the right to conduct operations as a contract carrier. 49 Stat. 544 (1935), *as amended*, 49 U.S.C. §303(a)(6) (1964).

43. 49 Stat. 552 (1935), *as amended*, 49 U.S.C. §309(b) (1964). See Sullivan, "Contract Carriers—Issues and Proof—Consistent with Public Interest", Papers and Proceeding, 1968 Transportation Law Institute, 357 (Bobbs-Merrill Company, Inc. 1969).

44. Common carriers involved in the transportation of property may also be irregular route carriers, *i.e.*, their operations are not confined to specialized service routes or between fixed termini. They may operate over any or all routes within their operational territory. Motor carriers of passengers, however, are not issued irregular route authority save in charter or special operations. 49 Stat. 551 (1935), 49 U.S.C. §307(a) (1964).

from a second state and thus it would only be in unusual circumstances where interstate commerce would be involved.⁴⁵

Likewise, if the school bus operator were interested in extra curricular movements, special or charter authority would be more responsive to the demonstrated need.

If an operator, however, finds himself in a position where interstate transportation of pupils can be effectively and efficiently combined with the transportation of other members of the public, a Certificate of Public Convenience and Necessity shall issue if the operator is found fit, willing and able to perform the service proposed and to conform to the rules and regulations of the Commission and if the proposed service is or will be required by the public convenience and necessity.⁴⁷

Special or Charter Operations

The same criteria are used in determining whether a Certificate of Public Convenience and Necessity should issue authorizing special and/or charter service.⁴⁸

Special operations involve a type of bus service which is performed over the authorized routes of a carrier or within its authorized territory and consists of the transportation of a group of passengers gathered together by the carrier wherein the passengers pay individual fares and are given exclusive occupancy of the bus upon the purchase of a specific number of fares.⁴⁹

45. This could occur in serving private schools or where the public school is located in a town contiguous or near a state border and as a matter of normal routing, the bus transverse routes which cross the state borders from origin to destination.

46. The term "Certificate of Public Convenience and Necessity" refers to the document which the Commission issues evidencing authority to conduct operations as a common carrier. 49 Stat. 544 (1935), *as amended*, 49 U.S.C. §303(5) (1964).

47. 49 Stat. 551 (1935), 49 U.S.C. §307(a) (1964). See Proctor, "Common Carrier Issues and Proof—Fit, Willing and Able", Paper and Proceeding, 1968 Transportation Law Institute, 249 (Bobbs-Merrill Company, Inc. 1969), and Silver, "Common Carrier Issues and Proof—Public Convenience and Necessity—Meaning and Basis of Grants and Denials", *supra*, 263.

48. *Id.* Prior to 1967, a carrier which was issued a Certificate of Public Convenience and Necessity had the automatic right to engage in special or chartered parties under regulation of the Commission as an incident to its regular route operations. 49 Stat. 552 (1935). This was changed and specific authority for such transportation is now obtainable only by proof of a need for the service. 80 Stat. 154 (1966), 49 U.S.C. §308(c) (Supp. III 1964). See Corber, *Interstate Charter Rights for Carriers of Passengers*, 34 I.C.C. PRACT. J. 221 (1967).

49. See, e.g., *Fordham Bus Corp. Common Carrier Application*, 29 M.C.C. 293 (1941), and *Liederbach Common Carrier Application*, 41 M.C.C. 595 (1942).

Charter service, on the other hand, involves the chartering or contracting for of a bus to a preformed group at a fixed charge for the exclusive use of the group for a particular itinerary.⁵⁰

Either type of authority seems particularly suited for school bus operations which do not fall within the exemption.

Safety Rules and Regulations

As previously noted, all interstate school bus operations, whether exempt or non-exempt, are subject to the safety rules and regulations, hours of service regulations, and standards of vehicles.⁵¹ These rules and regulations deal with such diverse subjects as qualifications of drivers, driving regulations, accident reporting, and the inspection, equipping and maintenance of vehicles.⁵²

The rules and regulations are quite detailed and a school bus operator is required to have knowledge of and comply with such regulations.

The federal regulations do not differentiate between school buses or other buses. Each safety rule and regulation governing motor carrier of passengers or the equipment utilized in such carriage is applicable to school bus operators.

School bus operators, however, may be subject to special safety rules and regulations under the laws of the state or states in which operations are conducted.⁵³

It is specifically provided in the Act that the safety rules and regulations do not preclude a state or subdivision thereof from establishing or enforcing State or local laws relating to safety provided that compliance with such State or local laws would not prevent compliance with the federal rules and regulations.

The rules and regulations of the various States vary and must be individually consulted. Compliance must be made with the rules and regulations of each state in which operations are conducted.

In some instances, it may be found that the rules and regulations of the state may effectively preclude exempt interstate school bus operations.

In *Pat & Gordon, Inc.—Charters*,⁵⁴ for example, the school bus operator could not use its school buses on the proposed trips because the

50. *Michaud Bus Lines, Inc., Extension Tours*, 100 M.C.C. 432 (1966), and *Regulations, Special or Chartered Party Service*, 29 M.C.C. 25 (1941).

51. 49 Stat. 544 (1935), as amended, 49 U.S.C. §303(b) (1964).

52. See generally Title 49 of the Code of Federal Regulations Parts 390-398.

53. Brief summaries of these rules and regulations are compiled in the CCH State Carrier Guide.

54. 102 M.C.C. 553 (1966).

state authorities prescribed different physical specifications for charter buses than those for school buses.

The fact that the State required charter buses to be used on the proposed trips did not waive the statutory requirement that school buses had to be utilized if the operations were to be conducted under the exemption.⁵⁵

The Department of Transportation is vested with the duties of administering and enforcing the safety rules and regulations⁵⁶ and state officials by cooperative agreements, may also assist in this regard.⁵⁷

The enforcement program is quite extensive and it is important that all school bus operators, whether operating under the exemption or otherwise, comply with the safety rules and regulations as their observance relates directly to and are a chief contribution to the safety of the children being transported.

Violations: Penalties and Remedies

A school bus operator knowingly and willingly conducting non-exempt operations under the guise of their being exempt operation, is subjecting himself to a fine⁵⁸ and/or the issuance of an appropriate writ or other process precluding future or continuing operations.⁵⁹ This is also true in respect to operations in violation of the terms of any Certificate or Permit issued for non-exempt operations, the tariffs or schedule of rates published to cover such operations, or the safety rules and regulations.

School officials and other individuals dealing with school bus operations must also ascertain the legality of a proposed operation as any person who knowingly and willingly assists, suffers or permits a carrier to

55. *Id.* at 557. Significantly, the Commission specifically noted that it was not considering the issue of whether the regulations of the State interfered with interstate commerce so as to cause a violation of the U.S. Constitution.

56. Department of Transportation Act, 80 Stat. 950 (1966), 49 U.S.C. §1655(e) (Supp. III, 1964).

57. 49 C.F.R. Part 388. Under such cooperative agreements, Federal officials will also help enforce state laws. The latest reported figures show that 34 states have entered into agreements with the Department of Transportation. CCH State Carrier Cases, Par. 21,998.

58. 71 Stat. 352 (1957), 49 U.S.C. §322(a) (1964). The fine for the first offense is not less than \$100 nor more than \$500, and not more than \$500 for any subsequent offense. Each day of such violation is considered a separate offense.

59. 79 Stat. 649 (1965), 49 U.S.C.A. §322(b) (1969 Cum. Ann. Pocket Part). Any person injured by the violation or the Commission may apply to the District Court of the United States for any district in which the motor carrier operates to enforce obedience with the Act. The judicial proceeding may be stayed if the Commission notifies the Court that it intends to consider the matter on an administrative level.

conduct illegal operations is guilty of a misdemeanor and subjects himself to a monetary fine.⁶⁰

In addition to the above penalties and remedies, the Commission may upon complaint or its own initiative, after notice of hearing, suspend, charge, or revoke in whole or part, the Certificate or Permit of a carrier for willful failure to comply with the provisions of the Act or any lawful order, rule or regulations promulgated thereunder or with any terms or limitations of the Certificate or Permit.⁶¹

Apart from the above remedies, a carrier guilty of willful and knowing violations will also find that such violations will be considered in proceedings wherein a Certificate or Permit is sought.⁶²

In addition to the penalties and remedies which exist under the Act, persons concerned with school bus operations should also be cognizant of state legislation.

Conclusions

In 1935 when the Motor Carrier Act was passed, school bus operations were undoubtedly only a small part of the motor bus industry. Since 1935, however, it would appear that school bus operations have increased greatly and would now account for an increasingly larger share of passenger motor bus revenues.⁶³

If the Act is abused and non-exempt operations are conducted under the guise of their being exempt operations, regulated motor bus carriers will

60. 71 Stat. 352 (1957), 49 U.S.C. §322(c) (1964). The fine for the first offense is not less than \$200 nor more than \$500, and not less than \$250 nor more than \$2,000 for any subsequent offense.

61. 80 Stat. 943 (1966), 49 U.S.C.A. §312(a) (1969 Cum. Ann. Pocket Part). A proviso reads: "Provided, however, that no such certificate, permit, or license shall be revoked (except upon application of the holder) unless the holder thereof willfully fails to comply, within a reasonable time, not less than thirty days, to be fixed by the Commission, with a lawful order made as provided in Section 204(c) of this title, commanding obedience to the provisions of this part, or to the rule or regulation thereunder, or to the term, condition, or limitation of such certificate, permit or license, found by the Commission to have been violated by the holder"

62. *Baltimore-Solomons Bus Lines, Inc., Extension*, 108 M.C.C. 31 (1968).

63. In 1968, two out of every three public school children, 17,250,000, took the bus to school. The \$830 million spent during the 1967-68 school year for school transportation approximated 3.2 per cent of everything that was spent for public schools that year. One expert asserts that 75 percent of the growth in school bus operations has taken place since World War II. Featherston, *School Transportation—The Things a Board Should Know*, 157 THE AMER. SCHOOL BD. J. 15 (1969).

be denied revenue which is essential to the conduct of service for the general public.⁶⁴

If school bus operators are the logical carriers to be utilized in non-exempt, but school related operations, and other carriers cannot meet the needs of the schools in this regard, there should be no objection to their securing a Certificate or Permit under the Act.

Operations, whether exempt or non-exempt, however, should be conducted within the purview of the applicable portions of the statutes and regulations discussed herein.

The attorney as a professional, citizen, and parent should and must assure compliance by the schools in his community and by the carriers who might be his clients.

64. Revenue from regular route scheduled service accounts for an increasingly smaller share of motor bus carriers' total revenue. This is particularly true in respect to local and suburban schedules. 82 Annual Report of I.C.C. 78-79, 151 (1968). Encroachment of school bus operators into the regulated carriers' field of operations, particularly charter and/or special operations, could lead to the demise of regulated carriers and the community's local transportation system.