T046

Walking to school

The decision of the House of Lords in ***Rogers v Essex County Council*** (Law Report, 17th October) is disturbing. Reversing the earlier decision of the Divisional Court, it holds that a route of nearly three miles is an 'available route' for a twelve-year old schoolgirl to walk between home and school notwithstanding that part of it is an isolated, unlighted track 'of considerable danger for a young girl' (to use the words of Lord Ackner who, in accordance with the questionable new practice, delivered the only full speech).

The conclusion is that the girl's parents are guilty of the criminal offence of not ensuring her attendance at school unless they allow her to incur danger, or one of them takes or accompanies her to and from school, or they pay her bus or taxi fare. Yet the Act of Parliament in question clearly contemplates that such a burden should be placed on parents only where the nearest route is less than three miles and is 'available'. Common sense, which has often been held applicable to statutory interpretation, says that a route cannot possibly be 'available' to a young child if it places her in danger.

Nor is it right by a sidewind to impose on parents who do not run a car, and cannot afford buses or taxis, an imputed statutory duty of walking some eleven miles a day in order to accompany the child to and from school. There are no words in the Act to suggest an intention by Parliament to create such an unreasonable imposition. In a comment on the Divisional Court decision in *The All England Law Reports Annual Review for 1985* I observed that it was in line with the presumption that Parliament intends to safeguard the welfare of minors. It is much to be regretted that the House of Lords has not seen fit to uphold this sensible, and I believe legally correct, decision.[1]

[1] *The Times*, 22 October 1986.