

period. This was recognized by the FAA witnesses in the 1966 hearings on the (predecessor) bill, when it was testified that FAA normally needs about five years to implement a regulation, and that any regulation under the bill would be prospective, and of no effect on aircraft "on the drawing boards now".

Since it appears that the certification authority of H.R. 3400 is not in terms confined to future aircraft, it would present a question of the most serious *economic policy* to authorize the Secretary of Transportation (or the FAA Administrator)—as opposed to the Civil Aeronautics Board—to require the retrofitting for noise abatement of existing air transport fleets. This question we shall discuss in more detail.

In all events, it would be reasonable to expect that any noise certification authority would be utilized at the outset only as to newly-designed aircraft. Considering the well-known time lag between drawing board and production, it is apparent that the effect of the initial noise certification would not be felt for a significant period of time.

All of these considerations make plain that noise certification of civil aircraft will not be a panacea. Nor should anyone fancy that it will be. Nevertheless, aircraft noise certification appears to be a desirable and useful tool in promoting noise abatement, and the airlines industry supports such authority in the Federal Government, provided that it is made mandatory, that it is limited to *type* certification of the integral aircraft as an operating entity, and that the Federal Government makes use of its existing authority to complement the certification process with appropriate flight rules, so as to preclude conflicting state and local attempts to regulate aircraft noise.⁶

In particular, we would stress again the crucial importance of the correlative objective of controlling the use of land around airports. The extent of noise reduction through technological improvement of aircraft and engines is definitely limited under the present state of knowledge. But virtually no effort has been made by either Federal or local authorities to stem the continued encroachment of residential developments upon public airports in which taxpayers have invested literally billions of dollars.⁷

Let us now look at the specific provisions of H.R. 3400.

LEGISLATIVE THEORY OF THE BILL

The Administrator's forwarding letter states that the intent of H.R. 3400 is to expand the present authority under Title VI of the Federal Aviation Act, which is limited to *safety* considerations only, so as to empower the *Secretary of Transportation* to establish and enforce noise standards on the same basis that the Administrator enforces safety standards under Title VI.

It is notable that the predecessor bill, H.R. 16171, would have vested the expanded noise regulatory authority in the *Administrator*, rather than the *Secretary of Transportation*. Presumably, the change in H.R. 3400 was intended to reflect the intervening passage of the Department of Transportation Act, under which the Secretary of Transportation is charged with responsibility for research and development relating to transportation, including noise abatement generally and aircraft noise particularly. (section 4(a), P.L. 89-760).

However, although transferring the Federal Aviation Agency to the Department of Transportation, P.L. 89-760 reinstated in the Administrator all of his former duties relating to certification for safety and the regulation of air traffic and flight of aircraft. Since H.R. 3400 is intended to add Noise Certification authority to the existing safety certification authority contained in Title VI of the Aviation Act, which is exercised by the Administrator, it would be a more rational legislative scheme to vest the new certification authority also in the Administrator. Otherwise, two certificates apparently would have to be issued under Title VI for each aircraft type: one from the Administrator based on *safety* considerations, and one from the Secretary based on *noise* considerations, and with no express provision in the statute as to procedures or principles by

⁶ More detailed consideration of Federal vs. local jurisdiction is given in Appendix A, *Regulation by Law of Aircraft Noise Levels From the Viewpoint of the United States Airlines*, a paper presented by John E. Stephen, General Counsel of the Air Transport Association, before the International Conference on the Reduction of Noise and Disturbance Caused by Civil Aircraft.

⁷ The several aspects of airport-compatible land use are fully considered in Appendix B, *Legal, and Related, Aspects of Airport Land Use Planning*, a companion paper presented by Lyman M. Tondel, Jr., of New York City on behalf of the Air Transport Association before the U.K. Noise Conference.