

the operation of the aircraft, and in the land use, and no one of the solutions by itself will solve the whole problem and it is a matter of doing the three simultaneously as far as possible.

Mr. WATSON. Yes, sir. The chairman has handed me a question and perhaps we can get it right down to the final point here.

Do you believe that the courts or any governmental agency should be subject to claims by property owners for noise problems who have moved into or adjacent to the airport facility after substantial jet noise already exists over the airspace in which this resident has moved?

Do you understand my question?

Mr. BURNARD. Yes, sir. Congressman, that is a legal question that the courts have decided both ways. In some cases, the least number of cases, they have decided that the property owner who moved in after the airport was there had no cause of action.

Mr. WATSON. Had no cause of action if he moved in after the airport itself?

Mr. BURNARD. But there are also cases which go the other way.

Mr. WATSON. Well, I am not familiar with the facts in the *Griggs* or *Allegheny County* case. What are the facts? Was a resident in there subsequent to or at the time the airport was established?

Mr. BURNARD. I think the plaintiff was there at the time the airport was constructed.

Mr. WATSON. I can see a little more validity in that argument, a little more substance, if the airport moved into where he was, but where is the case that has been decided that the property owner has a cause of action where he moved into the airport vicinity after the airport was established?

Mr. BURNARD. A number of plaintiffs have recovered in the Seattle, Wash., area and I don't think there was any distinction made. Just let me check a moment. There was no distinction made by the court as to who moved in before or after.

Mr. WATSON. What was that case? Do you recall it or does counsel recall it?

Mr. BURNARD. Yes. It is the *Martin* case.

Mr. WATSON. What is it?

Mr. BURNARD. *Martin versus Port of Seattle*. We can get a citation on that. [1964, 64 Wash. 2d 309, 391 Pac. 2d 540; cert. den., 1965, 379 U.S. 989, 85 S. Ct. 701.]

Mr. WATSON. If you could I think it would be helpful to try to find out the reasoning of the court. I agree with the chairman here. I think we have to move forward in both areas, noise abatement within the limitations of safety, and, secondly, control by way of zoning to keep these people from voluntarily moving in.

As a basic proposition the law has an assumption of risk and I believe when you move in next to an airport you assume the risk of the noise problem. One final question here that comes to mind.

I had a little notion about getting heliports rather than every city going out there and joining in the mad rush for jet airports and such as that. We would have regional jet ports to take care of the supersonic transport and then have these accelerated helicopters to serve the metropolitan area and highly urbanized areas and feed into one way out in the middle of the country where we won't even bother the cows and horses.