

only to waterfowl that now feed or rest in this shallow bay, but in the adjacent section where dredging will greatly alter existing depths. Unavoidable increases in turbidity, as well as disturbance by man, are likely to occur in neighboring waters.

"Most important foods for waterfowl are produced in shallow waters, or those that are clear enough to permit sunlight to penetrate to the bottom. Under the polluted conditions that now exist in the tidal Potomac for more than 30 miles downstream from our Nation's Capital, shallow depths, less than 5 feet, have become doubly important in the maintenance of waterfowl feeding grounds. Adequate light penetration facilitates feeding as well as being essential for plant growth. Submerged food plants have been destroyed in all but the shallowest zones. Fortunately, certain types of pollution-tolerant invertebrates such as midge larvae (Chironomidae), isopod crustaceans, and a few kinds of mollusks still furnish food for diving ducks. These foods, together with the protection supplied by the shallow, sheltered waters at the mouth of the cove, continue to attract many kinds of waterfowl. For example, last week, I had the pleasure of watching several hundred lesser scaups or "bluebills," and ruddy ducks, as well as smaller numbers of black ducks, mallards, common golden-eyes, buffleheads, oldsquaws, black-backed gulls, herring gulls, ring-billed gulls, and a whistling swan in this area although some sections were coated with ice."

Proponents of the fill have made much of the undeniable fact that the Potomac is polluted. Fortunately, as Mr. Uhler points out, the Hunting Creek estuary is still valuable for wildlife despite the pollution. But in any case, the presence of pollution is an argument for getting on with the job of cleaning up the Potomac, not a justification for additional steps to diminish the value of the river.

The Park Service has plans and initial funds of about \$100,000 for the development of a recreation area and park on Jones Point. Here we have a 50-acre tract located in the heart of the metropolitan area. It affords beautiful views up and down the Potomac. It is the location of a century-old lighthouse and of one of the original boundary markers of the District of Columbia. It has a great potential for boating, picnicking, and scenic walks. It could be a major recreational asset for the people of this region.

Preliminary plans for the park show a nature walk along the estuary. If the fill is permitted and the proposed high-rise apartment built, the principal outlook from the walk would be toward a line of apartment houses—in the area which was formerly part of the open waterways of the United States, inhabited by many varieties of interesting wildlife. In addition, an unattractive, stagnant backwater might well be created between the fill and Jones Point. These results of the fill are certainly contrary to the public interest.

Granting the fill permit would also squarely violate the Federal Government's laws and policies against discrimination in housing.

The civil rights statute of April 9, 1866, provides that:

"All citizens of the United States shall have the same right, in every State and territory, as is enjoyed by white citizens thereof, to inherit, purchase, lease, sell, hold, and convey real and personal property."

This law now appears as section 1978 of the revised statutes. In its amicus curiae brief to the Supreme Court in the case of *Jones v. Alfred H. Meyer Company*, the Justice Department in February 1968, argued that section 1978 is in full force and effect and "reaches both acts taken 'under color of law' and wholly private action."

The Justice Department goes on to support the proposition that:

"Section 1978 comes into play when official or unofficial action has the practical effect of so severely restricting Negroes or another racial class from renting or buying homes in an area that it may fairly be said that they no longer 'have the same right * * * as is enjoyed by white citizens * * * to * * * purchase and lease * * * real * * * property.'"

In addition, the Defense Department, of which the Corps of Engineers is a part, has pursued the very commendable policy of attempting to secure the right for military men to obtain housing in northern Virginia without racial discrimination. The Department rightly feels that the availability of open housing is crucial for the economic and social well-being and the morale of the members of the Armed Forces. The civil rights and industrial relations section under Brig. Gen. William Eckman has attempted to open apartments to servicemen of all races through persuasion and finally by the sanction of declaring certain apartments off limits.

The pending application must be considered in the light of this law and policy. The application are involved with the owners and/or managers of the