

A misdescribed amendment **(Seas and Submerged Lands Act)**

No. 161 as amended

Supplement to compilation No. 5:

This compilation

This document operates as an Appendix to an imagined future compilation of the [Seas and Submerged Lands Act 1973](#), iterating submersion in the ongoing creation of unseen-unfixed-unmapped landmasses located at the seabed and ocean floor.¹ This compilation is undated; this Appendix referring specifically to those submerged lands by which in/undation is a given. Those submerged lands shaped by the extraction of others. The becoming-submerged of lands from elsewhere, sedimented and sedimenting in the continuous movements of ships and currents.

Uncommenced amendments

Compilations of law are aggregated in repetitive revisions; written together in fine-grained dumps. 'The effect of uncommenced amendments is not shown in the text of the compiled law.'² Such effects do not present themselves as the causal relations of commencement. Rather, they subsist in the not-yet-begun and the long-gone.

Modifications

Composed entirely of modifications, the following Appendix adjusts itself as it goes. Carved by the depositional arrangements of dredging, these modifications amount to a kind of material witness; a testimonial deposited and deposited in particulate configurations and bioturbations. The Appendix shifts in the water column, resuspended as a turbid cloud of sands and slag.

Self-repealing provisions

To necessitate a reversal/to induce a redress.

Note on Appendix:

Attached to this, and subsequent, Acts. A vestigial appendage formed in a flood of siltation. The allochthonous situ. Attachments are atrophied and through their wasting they are reimagined in the ongoing accumulative discharges of capital, conquest and trade.

1 Preamble

This Appendix refers directly to [‘The Spoil Grounds’](#), an offshore dumping site amassed by material dredged from the [Port of Newcastle](#), on the coast of New South Wales, Australia. Situated approximately 4 km southeast from the Port, ‘The Spoil Grounds’ has accumulated over 162 years of continuous clearing and deepening of the channel at the mouth of the estuary, facilitating the passage of coal ships up and down the East Coast. The residues of coal mining and steel smelting, along with discarded ship ballast and tidal sediment, is scraped from the riverbed and deposited in the growing sea-mound, beneath 30 m of water.

2 Interpretation

The Spoils of war: they strip and scrape back, they leave bare. The Spoils are the wealth collected in theft, in invasion. The Spoils are hoarded. They build. The Spoils accrue.

The Spoils waste: they disperse, sometimes they float. The Spoils are the remainders leftover by theft, by invasion. The Spoils are toxic. They collapse. The Spoils scatter.

The Spoils stain: marking their own dis/charged presence. The Spoils are metabolised and excreted in theft, in invasion. The Spoils leak. They bruise. The Spoils ruin.

3 Extensions (spatial, temporal, imagined)

The Appendix extends from Late Permian swamps, from fired earth, from razed mud. It extends towards new temporal configurations, erratic agitations and dreamt futures. Acts of law are the ‘legal imaginaries [that] partition lives, draw out the relations across bodies, materials, and zones and interpolate the vibrant existence of these into legal text.’³ As the Appendix sinks into the benthos, its ongoing submersion rewrites geochemical genealogies, rippling into position at the bottom of the ocean. The Appendix is asserted by the transmutation of coal into clinker and steel into slag, ‘so far as it extends from time to time.’⁴ Whereas time is demarcated in exacting order by industries of digging and burning, ‘The Spoil Grounds’ reimagine time through the continuities and discontinuities of submerged matter.

Part II—Division 4—The Indivisible:

~~32° 56.0990' S, 151° 48.9355' E~~

~~32° 55.7731' S, 151° 49.4000' E~~

~~32° 56.1648' S, 151° 49.7865' E~~

~~32° 56.4908' S, 151° 49.3219' E~~

Article 1

Submerged Lands as Irreducible Acts

Iron-stained sands mix with ambient sediment in their ‘convective descent,’ adding to the 130 million cubic metres of landmass discarded since 1859.⁵ In the decades following invasion—and continuing today—the mining and burning of coal has been instrumental in establishing the penal colony of NSW under British rule, and the creation and implementation of a violently enduring national material economy. Through extraction, ‘the logics of white possession and the disavowal of Indigenous sovereignty are materially and discursively linked,’ traded on ships and charted in separations of land and water.⁶ Dredged continuously to maintain navigable depths for bulk cargo ships carrying coal, the spoils of extractive acts accumulate below the currents in arrangements that exceed such logics, winnowing into a sunken landmass with no economic worth and a complicated sense of geologic time. ‘The Spoil Grounds’ is an island without a shore, no edge by which to navigate or claim, unstable in its submerged surfacing. It is a landmass that spreads at the meeting of waves generated from the southern Coral Sea, the Tasman Sea and the Southern Ocean.⁷ It is geomorphologised and geomythologised as an unlocatable collection of elsewheres. ‘Extractive zones contain within them the submerged perspectives that challenge obliteration.’⁸ Here, submersion builds in trace metal enrichments and anoxic harbour sediments, mingling along the seabed to ‘pierce through the entanglements of power to differently organise the meanings of social and political life.’⁹ Inhabited by sponges, bryozoans and filamentous algae, ‘The Spoil Grounds’ is ontologically recomposed in its submersive formations as a renarrativising force of extraction.

Article 2

Toxic Amalgams and Transformative Reminders

The Grounds are comprised of mud clasts, gravel and sand, along with elevated concentrations of manganese, lead, cobalt, iron, zinc, copper, nickel and cadmium.¹⁰ No ongoing environmental management scheme is necessary, as anything at risk of dying is already dead.¹¹ Contaminant dispersal reaches 5 km north, 7 km south, and to a depth of 100 m. The normative material economies of mining produce trails of loose ends, with wasted materials ‘mapping the coercivities and leakages of the dominant ones.’¹² The Spoils ground toxicity as a navigating medium through which to dis/orientate; away from scales of purity and productivity, towards an obfuscating sludge. This submerged landmass resists definition not only horizontally in the rejection of borders, but also

vertically as an ongoing volumetric clouding in the event of newly dumped sediment. Constant redistributions of trace metals and mud recompose the Grounds five times a day, as an abject spoiling of ‘negativity, marginality, and subject-object confusions.’¹³ Through particulate distributions, ‘The Spoil Grounds’ counters material rationality as wayfinding device, replacing it with the irrational, the hidden, the desirous and the perplexing.

Article 3

The Cartographic Fiction

Submerged lands imagine borders differently. Their edges are not defined by the imposition of shorelines. They are a fiction, unimaged. Attempting classification within a cartographic realm that registers territories by way of separation from what they’re not, submerged lands are mapped according to their relation to the closest chart datum—a line drawn from water’s relativity to astronomical leveling. The chart datum is calculated by gravitational forces exerted on the ocean by the sun and the moon, and the register of a median low tide from which to measure. This cosmic cartography of tidal plays renders the submerged landmass invisible, and it is ‘only by forgetting the movement forms these lines embody, the composite spatial history they aphoristically trace, [that it is] possible to mistake them for facts.’¹⁴ Submerged lands are defined by their position as hidden, and their resistance to both surfacing, and surficial representations. In the case of ‘The Spoil Grounds’, continual shifts in bathymetry produce an ‘unpredictability [that] exceeds full knowability/mappability.’¹⁵ The Spoils operate as a fiction that simultaneously reveals the ‘speculative and imaginative nature of colonial mapmaking,’ while also physically forming an unmapped navigational hazard beneath the water’s surface, posing risks ‘including grounding or damage to vessels, and altered wave conditions and currents.’¹⁶ The Spoils *ground*; acting as an unpredictable sandbar off the coast that threatens a hypothetical grounding of coal ships passing through the dredged channel during rough surf. Unable to be seen (a condition of being submerged) and unable to be mapped (a condition of continuous accumulation) ‘The Spoil Grounds’ lurk in the waves as an ever-present possibility of disruption.

Article 4

Sensu Excedere

In the sense of excess, ‘The Spoil Grounds’ are the unaccounted-for remainders of extraction that rewrite their own substratum in the sinking, swallowing, excitations of the ocean. They are the energetic sediments tossed in waves and rearranged by currents. They are ‘the *states of excitation*, which are comparable to toxic states, [and] can be defined as the illogical and irresistible impulse to reject material or moral goods that... would have been possible to utilise rationally.’¹⁷ They are a disorientating and reorientating of matter discarded by the mining, burning, and transporting of coal; a surplus generated by global economies and displaced by localised theft. This ‘disorientation occurs when... the “ground” itself is disturbed, which also disturbs what gathers “on” the ground,’ and subsequently what is disturbed “by” the ground.¹⁸ Such disorientation represents a spatio-temporal failure to cohere in a unitary moment, ‘The Spoil Grounds’ instead agitating histories through fragmentations and particulations that reimagine their own mattered extents. The Spoils are the expended energies that persist, threatening to re-emerge in disastrous outbursts that destroy the conditions of their own formation. In the sense of excess, ‘The Spoil Grounds’ are a refusal to balance. A refusal to surface.

¹ Office of Parliamentary Counsel, *Seas and Submerged Lands Act 1973* (Canberra: Parliament of Australia, 2019).

² *Ibid*, 2.

³ Susan Reid, "Solwara 1 and The Sessile Ones," in *Blue Legalities: The Life & Laws of the Sea*, eds. Braverman, I. & Johnson, E.J., (Durham: Duke University Press, 2020), 32.

⁴ Office of Parliamentary Counsel, *Seas and Submerged Lands Act 1973*, 7.

⁵ Newcastle Port Corporation, *2012-2022 Ten Year Maintenance Dredging Sea Disposal Permit for Newcastle Port: Long Term Monitoring and Management Plan* (Newcastle: Port of Newcastle, 2013), 33.

⁶ Aileen Moreton-Robinson, *The White Possessive: Property, Power, and Indigenous Sovereignty* (Minneapolis: University of Minnesota Press, 2015), xiii.

⁷ Newcastle Port Corporation, *2012-2022 Ten Year Maintenance Dredging Sea Disposal Permit for Newcastle Port: Long Term Monitoring and Management Plan*, 26.

⁸ Marcarena Gómez-Barris, *The Extractive Zone: Social Ecologies and Decolonial Perspectives* (Durham: Duke University Press, 2017), 12.

⁹ *Ibid*, 11.

¹⁰ Gavin Birch, "Dispersion of dredge spoil dumped on a high energy continental margin (southeastern Australia)," in *Journal of Marine Environmental Engineering*, vol.6, (2000): 2.

¹¹ Newcastle Port Corporation, *2012-2022 Ten Year Maintenance Dredging Sea Disposal Permit for Newcastle Port: Long Term Monitoring and Management Plan*, 29.

¹² Mel Chen, *Animacies: Biopolitics, Racial Mattering, and Queer Affect*, (Durham: Duke University Press, 2012), 29.

¹³ *Ibid*, 207.

¹⁴ Paul Carter, *Dark Writing: Geography, Performance, Design*, (Honolulu: University of Hawai'i Press, 2008), 52.

¹⁵ Tiffany Lethabo King, *The Black Shoals: Offshore Formations of Black and Native Studies*, (Durham: Duke University Press), 116.

¹⁶ *Ibid*, 116. & Newcastle Port Corporation, *2012-2022 Ten Year Maintenance Dredging Sea Disposal Permit for Newcastle Port: Long Term Monitoring and Management Plan*, 35.

¹⁷ Georges Bataille, *The Accursed Share: An Essay on General Economy*, (New York: Zone Books, 1988), 42.

¹⁸ Sara Ahmed, *Queer Phenomenology: Orientations, Objects, Others*, (Durham: Duke University Press, 2006), 189.