

The Eastern oyster (*Crassostrea virginica*), a tasty bivalve mollusk, has been harvested in North American waters since prehistoric times. Native American shell piles in coastal North Carolina attest to its ubiquitousness and popularity among the area's first inhabitants. Early colonists soon discovered the virtues of the oyster, using it for both food and construction material.

Although they initially harvested oysters by hand, European settlers soon began fashioning oyster tongs, scissor-like instruments with wooden handles 15 feet or more in length, with metal rakes attached. Employed from flat-bottom boats, the rakes were lowered into relatively shallow estuaries and used to pluck oysters from their underwater beds. Oystermen in the Chesapeake Bay eventually learned to gather oysters with dredges, large handle-less rakes with "baskets" attached, that could be dragged along the bottom from sailing vessels.

North Carolina law in the early 19th century prohibited taking oysters from state waters in any fashion except by hand or tongs. By 1855, the limited use of dredges was permitted on privately managed bottoms. At that time, North Carolina had no laws in place to regulate the establishment or use of private oyster beds. "Squatter's rights" and the concept of "first come, first served" decided "ownership" of oyster bottoms.

In 1858 the state assembly passed a law establishing a procedure for legally obtaining rights to create private, clearly delineated, oyster beds in coastal Carolina waters. The Clerk of Superior Court in each county was authorized to grant, at no charge, licenses for the harvesting of oysters in bottoms up to two acres. In 1873 the law was amended to allow ten acre sites. No individual could hold more than one grant, and no "natural" shellfish bed could be enclosed. Surveys were sometimes required before a license was issued. By the late 1800s there were 250 such licenses in North Carolina.

In order to protect both the interests of resident North Carolina oystermen and the fragile oyster breeding areas, all forms of oyster dredging were banned in 1882. Two years later Lt. Francis Winslow, Jr. (1851-1908), USN, approached the Fishermen's Convention in Raleigh with a proposal to encourage a more robust, privately controlled oyster industry in the Tarheel State.

Winslow's proposal met with sympathetic ears at the State Board of Agriculture, and in April, 1886 he commenced a survey to evaluate the state's oyster producing habitat. Limited to larger estuaries, particularly Pamlico Sound, Lt. Winslow's survey examined oyster harvests and interviewed working watermen. It was the most complete and accurate oyster bottom survey ever completed.

Winslow's 135 page "Report on the Sounds and Estuaries of North Carolina, with Reference to Oyster Culture" was published in 1889 in Bulletin No. 10 of the United States Coast and Geodetic Survey.

In 1887, two years prior to the publication of his report, Lt. Winslow secured the passage of a loophole in North Carolina law that allowed out-of-state watermen to dredge for oysters in areas of Pamlico Sound greater than eight feet in depth.

Although Winslow's report called the North Carolina oyster industry weak and insignificant (only 170,000 bushels of the popular bivalves were harvested in 1880), and the public bottoms unimportant and in poor condition, his observations were seen as disingenuous in light of his later actions.

Sometime between the publication of his report in January, 1889 and October, 1889 Lt. Winslow became General Manager of the Pamlico Oyster Company, "and as such entered the best of the oyster lands for his company, and took advantage of the knowledge obtained in the survey to get the first selection of the choicest beds.... The people said that his relation as an officer, both of the State and Federal government, was such that he had no right to avail himself of this information thus obtained for the purpose of his own private gain."

It was alleged that, instead of working natural beds in order to transplant oysters for propagation (and the future betterment of North Carolina estuaries), Winslow was dredging and selling those oysters to dealers for personal profit.

On October 6, 1889 Winslow's Oyster Company ran an advertisement in the Daily Journal (New Bern, North Carolina):

Wanted, Oysters!

The Pamlico Oyster Company desires Oysters, culled, rough culled and unculted, delivered at the Company's wharf, Ocracoke.

Also, wanted, several vessels of one thousand bushels capacity and upwards, for use as lighters.

For additional particulars apply to the undersigned at Ocracoke.

F. WINSLOW,
Gen. Manager.

Oystermen from Core Sound, as well as from Virginia and Maryland, were moving into

Pamlico Sound with dredges and oyster sloops, also called skipjacks (single masted sailboats specifically designed for oystering).

Ocracoke oystermen had for generations been working only with tongs in relatively shallow waters. With access to more productive, never before exploited, beds in deeper water, the intruders were able to harvest as many oysters in an hour as a tonger could collect in a day.

The influx of “foreign” fishermen into Pamlico Sound fomented considerable unrest. On January 30 Lt. Winslow arrived in Pamlico Sound on a small schooner with a work force from Core Sound, intending to dredge for oysters. Earlier, he had been warned by Ocracoke oystermen that they would defend their beds with weapons.

The situation was volatile, and a rebellion erupted.

The Wilmington [NC] Messenger, described the situation in an article titled, “Civil War in Hyde County,” published Wednesday, February 5, 1890.

“Ocracoke Island,” it said, “is in arms. Lieutenant Winslow and his negro oyster men have been driven from the waters before the muzzle of shot guns.

“It appears that Lieutenant Winslow, representing his company has been paying a certain price [5 cents per tub] for oysters. The Virginia pirates came in and offered higher prices [8 cents per tub]. Lieut. Winslow went to New Bern and hired a corps of negro oystermen [rather than pay higher prices to Ocracoke watermen]. When they arrived the natives of Ocracoke Island, who have always considered the grounds theirs and have jealously guarded their prerogative went out with shot guns and drove the lieutenant and his negro workman [sic] from the waters. It is said the lieutenant remarked that he never saw the muzzle of a shot gun look so large.”

On January 31, the people of Ocracoke sent a petition to the Governor requesting state protection against the trespassers and their depredations. They specifically desired protection from “Lieut. Winslow, his dogs and his negroes” who were attempting to cheaply harvest oysters that Ocracokers considered their rightful property.

The petition alleged that Lt. Winslow “because we refuse to sell him OUR oysters to his company for 5 cents a tub, which makes only about three cents per bushel, landed on our island a band of negroes to work OUR beds which OUR fathers, OUR grandfathers, and OURSELVES have ALWAYS looked to for support.”

Lieutenant Winslow appealed to the sheriff of Hyde County, who attempted to arrest the

Ocracokers who had threatened him, but they resisted. Everyone on the island absolutely refused to assist the sheriff. Even residents of the mainland refused, saying it was no fight of theirs.

Attorney S. T. Beckwith, at the request of Sheriff Roper wrote to the Governor on February 4. "These Ocracoke oystermen," he said, "as a time honored custom, have recognized the right of each particular body to oyster upon certain rocks, conceded by all to each without interruption, until these people have concluded that they are proprietors of the public oyster grounds; that for so long a time **THEY HAVE DEFENDED AGAINST THEIR NEIGHBORS AND UNMOLESTED HAVE OYSTERED UPON**,...they believe from the depth of their hearts that they are grossly wronged people."

On February 6 Hyde County Sheriff J. R. Roper personally contacted Governor Daniel Fowle for advice in settling the matter, even asking the Governor to send troops to suppress the "rebellion."

Governor Fowle refused to send troops, and insisted that the incident must be settled by the courts. "Under the advice of the Attorney General, the Governor, on the 6th, after receiving their petition, sent an agent, with a letter prepared by him, in which the Governor said that he was aware how important it was that their occupancy should not be interfered with - that he had been informed of their continuous claim of the oyster beds by them and their ancestors for more than fifty years; that he was not prepared to say that their occupancy had conferred any title upon them by pre-emption. 'But,' said the Governor, 'men of Ocracoke know that the courts of our State is the tribunal in which your rights will receive careful investigation, and full justice will be done you.'"

At the same time the Governor telegraphed Sheriff Roper an urgent message: "BLOODSHED MUST BE AVOIDED IF THE LAW CAN BE EXECUTED WITHOUT IT."

Lt. Winslow, irate that Governor Fowle failed to defend him with troops, published a "five column attack upon the Governor," "charging him with being in sympathy with law-breakers."

In a subsequent letter to the Governor, Winslow explained that his workmen had been "driven from the labors assigned them and fled to town for protection." He further alleged that "an employee of the company was driven from the island by threats of personal violence, that the mail carrier was threatened with assault if his boat carried anyone connected with the company...that he was served with notice not to take oysters; that his employees could not traverse the highways in safety, and slept at nights behind bolted

doors; that he complained to the magistrates and they would do nothing worthy of the name; that while attempting to take oysters he and his employees were assaulted by forty men with armed guns....”

On February 8 Governor Fowle’s Attorney General dispatched a reply to Lt. Winslow. He assured the Lieutenant that the situation at Ocracoke had given the Governor “the greatest concern” and that he was “fully aware of the serious condition of things.” Nevertheless, the Attorney General had advised caution since the information they had was “deficient in some important particulars.”

John H. Blount, Esq., Solicitor of the first judicial district, was directed to proceed to Ocracoke as soon as practical to “vigorously employ all the powers of his office for the purpose of restoring order, and the protection of persons and property.” The Ocracoke oystermen were put on notice that they must “submit themselves and their rights to the courts and their process” and not defy the officers of the law.

Not wishing to prolong armed rebellion, the Ocracoke oystermen “surrendered to the civil powers” and “gave bond for their appearance at court.”

Nevertheless, the controversy continued for months. On April 26 The State Chronicle (Raleigh, NC) re-published a statement from the Elizabeth City Economist, lamenting the continuing “infernal Virginia oyster thievery from the lower sounds.” The editor called on Governor Fowle to appoint him as Deputy Governor for Eastern Carolina with headquarters at Coinjock, and branches at Hatteras and Ocracoke, so they could “nick every son-of-a-gun of ‘em that tried to pass.”

On May 13, 1890 the case of Lt. Winslow against five Ocracoke oystermen (B. B. [Bazzell Burrus] Bragg, Samuel Bragg, Isaac O’Neal, Robert O’Neal and Warren O’Neal) who, with about 35 other Ocracokers, had driven him off the oyster beds with shot guns, came up at Hyde County court, Judge Spier Whitaker presiding. Contrary to media coverage, testimony from both the plaintiff and the defendants indicated that only three of the defendants had weapons (Samuel Bragg, a muzzle loader; Isaac [Ike] O’Neal, a gun; and Warren O’Neal, a horse pistol).

Lt. Winslow held a pistol. His companion, Thomas McQuinn, brandished a gun. And one of the four negroes on board the schooner had a crowbar. Although tensions were running high, and the Ocracokers were clearly confrontational (10 boats carrying 40 angry men, four or five of whom were armed, approached Winslow’s schooner), testimony at court indicated that Winslow and McQuinn drew their weapons first. Both parties pleaded self defense.

After a two day hearing, during which the Ocracokers testified that they “were not making an attack,” but only “seeking a peaceable interview” (asking Lt. Winslow to pay 8 cents a tub, rather than 5 cents), the jury deliberated “all night” and acquitted the islanders. Judge Whitaker expressed surprise at the verdict, and severely rebuked the jurors.

The situation for Ocracoke natives continued to be fraught. Chesapeake Bay oystermen had depleted the most productive beds in Maryland and Virginia, and in early 1891 they were dredging in Pamlico Sound. North Carolinians were at the mercy of large numbers of armed men in oyster sloops.

Appeals were sent to the Governor and State legislators. On June 24 the first meeting of the newly established Shell Fish Commission was held at Ocracoke. Col. W. H. Lucas, J. A. Holmes, and Adam Warner were appointed commissioners.

Before the end of 1891 the Commission succeeded in having a law passed that prohibited the harvesting of North Carolina oysters by dredging on public beds. A patrol boat and inspectors were employed to enforce the law. As a result, more than 300 out-of-state oyster sloops (“oyster pirates”) finally left North Carolina waters.

Licenses for “entry” to hundreds of private “oyster gardens” were still available from the government. No individual could hold more than one grant, and no party was permitted to enter more than ten acres. However, in an attempt to evade the spirit of the law, larger companies, undoubtedly including among others those managed by Lt. Winslow and M. Makely, partner in the oyster processing firm of Montgomery and Makely, hired “agents” to buy up the entries. They then claimed the right to dredge on their own private oyster beds. According to a January 19, 1891 article in the Greensboro Daily Workman, the conflict between oyster interests escalated to the point where M. Makely killed a man who was dredging on his oyster beds.

Blatant evasion of the law raised a “great hue and cry” from the oystermen of Ocracoke who demanded enforcement of the law. Chief Commissioner, W. H. Lucas consulted with Governor Thomas Holt, who decided that wholesale entries to oyster beds were illegal, and reiterated that dredging would not be permitted.

Conflict persisted. In February, 1892 Lieut. Winslow’s Pamlico Oyster Company still controlled extensive oyster grounds at Ocracoke where he continued to dredge in spite of efforts to curtail that activity. Larger commercial interests claimed that “the inspection law was supposed to be for the benefit of the oyster beds but it seems to be worked for revenue only.”

In early 1892 Francis Winslow and M. Makely brought formal charges against Commissioner W. H. Lucas and Adam Warner. Lucas was accused of making inflammatory speeches to the oystermen, suggesting violent, illegal and improper actions on their part against the entry and survey of private oyster grounds. Winslow and Makely further stated that Lucas threatened violent and arbitrary action against private oyster growers should they employ dredges. Warner was accused of unlawfully advising oystermen to take oysters from private grounds.

An August 9th letter to the Weekly Economist (Elizabeth City, NC), clearly advocating for interests such as Winslow and Makely, alleged that Col. Lucas was “a constant and consistent enemy of every person and branch of business connected with the oyster industry” in large part because he “stopped dredging in a most senseless manner.”

On August 17, 1892 the North Carolina Oyster Convention met once more on Ocracoke. Nine resolutions were unanimously adopted, including the following:

- Firm opposition to dredging of any manner on public oyster grounds citing evidence that dredging opened the door to monopoly, and oppressed and ruined the oysterman as well as destroyed the State’s oyster grounds.
- Support for repeal of the 1887 law that allowed non-residents access to certain state oyster beds.
- Unwavering support for the “noble and patriotic” Governor Holt; the “untiring” W. H. Lucas, Chief Shell fish Commissioner; and the “zealous” Capt. Adam Warner, Associate Commissioner.

In July, 1893 another letter to the Weekly Economist continued to trumpet earlier sentiments about the “odious oyster law” that prohibited out of state trade in oysters which destroyed all of the markets except New Bern, and “[threw] numbers of people out of employment.”

As late as September, 1893 the Weekly Economist published a three-column screed on page 2 attacking the “Lucas blight,” and accusing the Commissioner of destroying the economy of Elizabeth City by forcing thirteen oyster factories to close. The paper decried the “miserably mismanaged oyster business” and claimed that Lucas “stimulated popular cupidity by leading ignorant men to believe that oysters were like the air, free, God-given, and belonged to the bankers of Hyde county and not to the State of North Carolina.”

There never was any doubt among Ocracoke islanders that Pamlico Sound oyster beds belonged to them, and should remain protected from large scale commercial dredging

companies who would have gained financially, at least in the short term, but would have quickly depleted the oyster populations with minimal benefit to native oystermen.

Ocracoke islanders continued to harvest oysters with tongs from natural “oyster rocks,” although the issuance of local oyster licenses indicated there were attempts to plant oysters in artificial “gardens.”

By late 1899 Lt. Winslow had been out of the state for several years, having been appointed secretary of the Nicaragua Canal Commission.

The controversy had effectively ended.

In a song he composed some years later, island native James Horatio Williams, Jr. remembered (with a bit of exaggeration) the victory of Ocracoke islanders in the 1890 Oyster Wars:

*It was just about night,
They sank the ships out of sight,
And drove the Core Sounders away.*